



Department
for Work &
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Our Ref: FOI2020/60946
8 December 2020

Dear John Slater,

Thank you for your Freedom of Information (Fol) request received on 13 October. You asked for:

"I refer the Department to my request for information ("RFI") of 08 July 2019 (see URL below)
https://www.whatdotheyknow.com/request/pip_contract_meetings_minutes_ch

Over a year later and after the involvement of the Information Commissioner the Department disclosed the meeting minutes I requested on 01 October 2020.

Please interpret my new RFI (see RFI1 at the bottom of this document) using the following guidance (please do not interpret my critique of the Department's reliance on exemptions in my earlier RFI as a request for an IRR):

* S.40 - Any personal information that is exempt under S.40 FOIA is to be considered out of scope for RFI1.

* S.38 – I consider the Department's reliance on S.38 for its disclosure of 01 October 2020 to be excessive. I accept the redaction of the location of meetings was reasonable. Therefore, the location of any meetings is out of scope for RFI1. Without location information there is no need to redact meeting dates, dates of future meetings and Action Point (AP) reference numbers. Therefore, the Department cannot rely on S.38 to redact this information in disclosures related to RFI1.

* S.43 – I consider the Department's reliance on S.43 for its disclosure of 01 October 2020 to be unjustified. Appendix 14 of the published PIP contract documents list the service credits in detail, including the financial value. Therefore, using the information that is already in the public domain it is possible to calculate an accurate estimate of the redacted information. I also believe it is firmly in the public interest for this type of information to be disclosed. If the Department relies on S.43 to redact the same information for RFI1 I will ask the Information Commissioner to make a decision under S.50 FOIA.

* ICO Guidance on interpretation – Please use the Information Commissioner's interpretation as described in the Department's response FOI2019/30040(ICO) of 01 October 2020.

I assume that the type of meetings (see below) described in the published PIP contracts, or the equivalent in the revised contracts, still take place.

"PART M - ONGOING CONTRACT AND PERFORMANCE MANAGEMENT

47.2. Engagement

47.2.1. Monthly meetings will be held between the representatives of the Authority and the Contractor. The Contractor will ensure that a suitably empowered representative attends these meetings. Such activity will be at no cost to the Authority.

47.2.2. The Contractor will attend strategic meetings to review the overall success of the Contract Lot at the frequency to be determined to discuss:

- operational strategies;
- efficiency opportunities.

47.2.3. The Contractor will attend a monthly contract management meeting to manage this contract and discussions will include but not be limited to:

- agreeing contractual change;
- reviewing contractual performance;
- resolving operational and contractual problems;
- transferring and exchanging information."

RFI1 – Please disclose the meeting minutes for the meetings prescribed in 47.2.1, 47.2.2 and 47.2.3 (or their current equivalent) between DWP and Capita and DWP and Atos that took place in 2019 and between 01 January 2020 to 31 August 2020.

RFI2 - If it is possible within S.12 costs limits please tell me how many change requests were agreed in 2019 & 2020 for the 3 PIP contracts."

DWP Response

We confirm that we hold the information you have requested.

Please find attached the Lot Performance Group (LPG) minutes for the period January 2019 to August 2020. Please note that LPG meetings were not held in March 2020 and the minutes between the department and Capita dated April 2020 are headed 'Independent Assessment Services', this is a typographical error. Some information has been removed as it is exempt under the following sections of the FoI Act:

Section 30 – Investigation and proceedings conducted by public authorities

The DWP takes its responsibility to prevent, detect and recover benefit fraud very seriously. As the money paid in benefits is taxpayer's money it is right that we ensure it is paid correctly and recover any money that is paid incorrectly. In order to protect the interest of the taxpayer, the department tackles benefit fraud efficiently and effectively. It is important that organisations and members of the public know that any doubt over an individual's entitlement to benefit will be robustly investigated. For these reasons the department has decided that this information cannot be disclosed in accordance with Section 30(1) of the FOI Act 2000.

The department has considered whether this is information that would be expected to be in the public domain in meeting the wider public interest. However, revealing specific information relating to the investigation may prejudice either a particular investigation or set of proceedings, or the investigatory and prosecution processes generally. We can see no

reason why a member of the public would reasonably expect this information to be placed in the public domain.

Section 38 – Health and Safety

The department considers that information relating to meeting dates, location(s), other organisations and Action Point (AP) reference numbers (which are based on the date the AP was raised and so give information relating to the recurring dates of future meetings) within the referred documentation, should not be disclosed. In accordance with Section 38(1) of the FOI Act 2000, information can be withheld if disclosure would, or would be likely, to put the physical or mental health or the safety of any individual at risk or greater risk.

We are continuing to see attacks by the media and other sources, concerning Welfare Reform and in particular against our assessment providers.

We recognise that there is a strong public interest in our claimants knowing that our providers are robustly managed, however, releasing information that would identify the location(s) and dates of previous/future meetings between the department and providers will result in us failing in our health and safety obligations to our/provider/other organisations' staff. It would never be in the public interest to endanger the physical or mental health of any individual and it is important that the emotional and psychological well-being of staff is protected.

Section 40(2) – Personal Information

You stated in your request 'Any personal information that is exempt under S.40 FOIA is to be considered out of scope for RFI1'. The department has redacted the names of individuals and contact details (including the name element of email addresses) within the referred documentation. But for completeness all the redacted names are those of non-senior civil servants and/or equivalent provider staff who are not in public facing roles. Releasing their names into the public domain would breach their right to privacy contrary to the first principle of the Data Protection Act 1998, Section 40(2) of the FOI Act refers. Alongside the attendee's names in the minutes are their respective job titles. Due to the limited number of individuals that could occupy these roles, and the possibility of related information already being in the public domain, we believe staff names may be identifiable, should their job role within their organisation be released. The Act seeks to protect personal data of a third party and release of this type of information may lead to a breach of the first data protection principle.

The department has considered whether both name and job role would be expected to be in the public domain in meeting the wider public interest. However, as you have stated that you are not seeking anything that is exempt under Section 40 and the department would not release anything that breaches a person's right to privacy, we can see no reason why an individual would reasonably expect this information to be placed in the public domain.

Section 43

The commercial interests of the DWP, its current providers IAS and Capita and future suppliers would be likely to be prejudiced by release of the requested information. Commercially sensitive information identified by DWP and its providers cannot be disclosed in accordance with Section 43 of the FOI Act 2000.

Providers develop and deliver initiatives that are unique to their own business strategy to deliver on contractual service level agreements.

PIP contracts are output based contracts which include a range of remedies for underperformance against a range of performance measures. Details of the value of any financial remedy applied under the contracts are commercially sensitive and the DWP considers that this information should not be disclosed in accordance with Section 43 of the FOI Act 2000. Releasing details of the applied financial remedies is likely to prejudice the providers' commercial interests.

Placing commercially sensitive financial aspects of their contracts into the public domain (including to their competitors) would or would be likely to disadvantage the providers competitive position in the marketplace.

The DWP has balanced the public interest in withholding the information against the public interest in disclosing the information and consider there is no overarching public interest argument in favour of releasing this information as the DWP is unable to prejudice neither its own commercial interests nor that of the providers.

The department considered that providing this information would be likely to contribute to its accountability for the spending of public monies and promote increased transparency. To support this transparency the DWP routinely publishes a range of statistics. The department has a full set of service level agreements setting out the department's expectations for service delivery, including quality of consultations and the number of days to provide advice to the department.

However, there is also a public interest in ensuring that there is effective competition for public sector contracts.

By protecting the commercial interests of the DWP and third parties, it protects the ability of a public authority like DWP to obtain goods or services on the best possible commercial terms and to protect the legitimate commercial interests of its suppliers.

In response to your RFI2 regarding the number of Personal Independence Payment (PIP) change requests, I can advise that in 2019, there were 31 and in 2020 (as of 16 October) there were 20.

If you have any queries about this letter, please contact me quoting the reference number above.

Yours sincerely,

DWP Central FoI Team
Department for Work and Pensions

Your right to complain under the Freedom of Information Act

If you are not happy with this response you may request an internal review by e-mailing freedom-of-information-request@dwp.gov.uk or by writing to DWP, Central FoI Team, Caxton House, Tothill Street, London SW1H 9NA. Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally, the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF
Web: https://ico.org.uk/Global/contact_us or telephone 0303 123 1113 or 01625 545745