

DWP Policy Group Freedom of Information Team

e-mail: freedom-of-information-request@dwp.gov.uk

Our Ref: FOI2019/29433

20 August 2019

Dear Sean Brawley,

Thank you for your Freedom of Information (Fol) request received on 6 August. You asked:

Please provide for each of the last 3 calendar years:

- The number of cases where the DWP has not attended a tribunal*
- The number of the above cases where the DWP has then gone on to challenge the ruling of the tribunal*
- The number of cases where the DWP has not provided documents as directed by a tribunal judge*

DWP Response:

I can confirm that we hold information falling within the description specified in your request. However, we estimate that the cost of complying with your request would **exceed the appropriate limit for central Government, set by regulations at £600**. This represents the estimated cost of one person spending 3½ working days in determining whether the Department holds the information, and locating, retrieving and extracting it.

Under section 12 of the Freedom of Information Act the Department is not therefore obliged to comply with your request and we will not be processing it further.

Under section 16 of the Act we should help you narrow your request so that it may fall beneath the cost limit.

Tribunals have a two-tier structure. The First tier Tribunal (FtT) hears first instance appeals, primarily (but not exclusively) against certain decisions made by Government departments or other public bodies). Cases can be progressed to the Upper Tribunal, the Court of Appeal and ultimately to the Supreme Court. The Upper Tribunal generally hears appeals from decisions of the FtT.

The Secretary of State for Work and Pensions (SoS) is the respondent in FtT. The SoS responds to Notices of Appeal in writing. Where the SoS is additionally represented, in person, it is usually by a Presenting Officer (PO). There are a small number of occasions when the SoS instructs counsel to represent her before the FtT. This information is not recorded separately.

With regards to Part 1 of your request, the Department holds data on the number of Personal Independence Payment (PIP) and Employment and Support Allowance (ESA) FtT hearings where a Presenting Officer did not attend. Data is available from 1st April 2016 to 31st March 2019. Equivalent information is not available on the number where a Presenting Officer did not

attend in relation to other DWP administered benefits. You may wish to resubmit your request requesting the specific information that the Department has available.

With regards to Parts 2 and 3 of your request, information is not available within the cost limit on the number of cases where a Presenting Officer did not attend and where the DWP has then gone on to challenge the ruling of the tribunal. Nor is information available within the cost limit on the number of cases where the DWP has not provided documents as directed by a tribunal judge. Therefore, the Department is unable to provide any of the information you seek at Parts 2 and 3 within the appropriate cost limit.

We will consider afresh any revised request however we cannot guarantee that any revised request will fall within the cost limit.

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

Yours sincerely,

DWP Policy Group Fol Team

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@dw.gov.uk or by writing to DWP, Central Fol Team, Caxton House, Tothill Street, 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: ico.org.uk/Global/contact_us or telephone 0303 123 1113 or 01625 545745