

# Freedom of Information Act 2000 (FOIA) Decision notice

Date: 1 November 2023

**Public Authority: Department for Work and Pensions** 

Address: Caxton House Tothill Street

London SW1H 9NA

# **Decision (including any steps ordered)**

- 1. The complainant has requested the equality impact assessments related to the policies included in the Transforming Support White Paper.
- 2. The Commissioner's decision is that section 35(1)(a) is engaged for the withheld information and the public interest lies in maintaining the exemption for the information relating to the Occupational Health Market reform but favours disclosure for the information relating to the removal of the Work Capability Assessment.
- 3. The Commissioner requires the Department for Work and Pensions (DWP) to take the following steps to ensure compliance with the legislation:
  - Disclose the requested information held regarding the decision to remove the Work Capability Assessment.
- 4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.



## **Background**

- 5. On 15 March 2023, the Secretary of State for Work and Pensions published the "Transforming Support: The Health and Disability White Paper" after presenting it to Parliament. This paper set out various policies intended to reform the support available to disabled people and people with health conditions to find and maintain employment.
- 6. The White Paper can be found on the GOV.UK website<sup>1</sup>.

## **Request and response**

7. On 16 March 2023, the complainant wrote to DWP and requested information in the following terms:

"Please provide me with the policy costings for the policy announced in yesterday's budget to scrap the work capability assessment, showing its impact on the exchequer.

Please also provide me with any equality impact assessment carried out on this policy, and other policies include [sic] in the Transforming Support white paper".

- 8. DWP provided its response on 18 April 2023 and confirmed that it held the requested information.
- 9. DWP confirmed that the information related to removing the Work Capability Assessment and Occupational Health Market Reform was being withheld under section 35(1)(a), formulation or development of government policy. DWP explained that this exemption protects the private space within which Ministers and their policy advisers can develop policies without the risk of premature disclosure. DWP explained that the details contained in the costings and equality impacts are being used to help shape government policy.
- 10. DWP provided its consideration of the public interest. It acknowledged that there is a public interest in greater transparency which makes government more accountable to the electorate and increases trust. It also recognised that there is a public interest in being able to assess the

<sup>1</sup> <a href="https://www.gov.uk/government/publications/transforming-support-the-health-and-disability-white-paper/transforming-support-the-health-and-disability-white-paper">https://www.gov.uk/government/publications/transforming-support-the-health-and-disability-white-paper</a>



quality of advice being given to ministers and subsequent decision making.

- 11. In contrast to this, DWP considered that good government depends on good decision-making and this needs to be based on the best advice available and a full consideration of all the options without fear of premature disclosure. DWP stated that if this public interest cannot be protected there is a risk that decision-making will become poorer and will be recorded inadequately.
- 12. DWP acknowledged that disclosure of the information could provide a greater understanding of the planned removal of the Work Capability Assessment as announced in Transforming Support: The Health and Disability White Paper.
- 13. DWP considered, however, that it has to balance this against the fact that the policy proposing the removal of the Work Capability Assessment is still in development. DWP explained that the policy will require primary legislation and will not be implemented until 2026 at the earliest, starting on a new claims only basis. DWP stated that it is important that the Government preserves its safe space to consider live policy issues and the information requested includes details that are still being used to develop policy.
- 14. In relation to the Occupational Health Market Reform, DWP recognised that disclosure could provide a greater understanding of the progress of Occupational Health policies, including financial incentives for Occupational Health, support for innovation in the Occupational Health market workplace development. DWP explained that this is an interconnected package of measures designed to increase access to Occupational Health Services and as such its equality impacts are assessed as a package. DWP explained that the information in this equality assessment will also be used to consider the newly announced Occupational Health measures at the Spring Budget to consult on uptake of Occupational Health and to expand the financial incentives test. DWP explained that, of the policies referenced, most are not yet in delivery and the information contained includes details that are being used to develop policy and delivery plans. DWP explained that it anticipates that the package of Occupational Health Market Reform policy will move in to delivery later in 2023.
- 15. DWP stated that it is important that it is able to consider the equality impacts of this work as a package and disclosure at the time of the request would prejudice its ability to do so. DWP considered that there is a strong public interest in DWP being able to carry out and use frank assessments, including unrestrained and candid contributions from business areas.



- 16. DWP confirmed that, on balance, it was satisfied that the public interest lay in maintaining the exemption outweighs the public interest in disclosure for both Work Capability Assessment removal and Occupational Health policies.
- 17. Regarding the other policies in the Transforming Support: The Health and Disability White Paper, DWP provided the equality impact assessments conducted. DWP confirmed that it was redacting officials' names from the documents under section 40(2).
- 18. DWP confirmed that the equality impact assessments for the extension of conditionality requirements to claimants in the Light Touch regime, which was announced at the Autumn statement 2022, was exempt under section 21 as it was reasonably accessible to the requester in the public domain<sup>2</sup>.
- 19. The complainant requested an internal review of the handling of their request on 21 April 2023 and DWP provided the outcome on 4 May 2023. DWP upheld its original position.

# Scope of the case

- 20. The complainant contacted the Commissioner on 5 May 2023 to complain about the way their request for information had been handled.
- 21. The complainant confirmed that they did not dispute DWP's use of sections 21 and 40(2).
- 22. The Commissioner therefore considers that the scope of the investigation is to determine whether DWP is entitled to rely on section 35(1)(a) to withhold the disputed information.

#### Reasons for decision

Section 35(1)(a): Formulation or development of government policy

23. Section 35(1)(a) of FOIA states that:

<sup>2</sup> <a href="https://www.gov.uk/government/publication/raising-the-administrative-earnings-threshold-equality-analysis">https://www.gov.uk/government/publication/raising-the-administrative-earnings-threshold-equality-analysis</a>



"Information held by a government department or by the Welsh Assembly Government is exempt information if it relates to –

- (a) the formulation or development of government policy"
- 24. Section 35 is a class-based exemption, therefore if information falls within the description of a particular sub-section of 35(1) then this information will be exempt, therefore is no need for the public authority to demonstrate prejudice to these purposes.
- 25. The Commissioner takes the view that the 'formulation' of policy comprises the early stages of the policy process where options are generated and sorted, risks are identified, consultation occurs and recommendations/submissions are put to a Minister or decision makers.
- 26. 'Development' may go beyond this stage to the process involved in improving or altering existing policy, such as piloting, monitoring, reviewing, analysing or recording the effect of existing policy.
- 27. Whether information is related to the formulation or development of government policy is a judgement that needs to be made on a case by case basis, focussing on the content of the information in question and its context.
- 28. The Commissioner considers that the following factors will be key indicators of the formulation or development of government policy;
  - the final decision will be made either by Cabinet or the relevant minister;
  - the Government intends to achieve a particular outcome of change in the real world;
  - the consequences of the decision will be wide-ranging.
- 29. Although 'relates to' is given a wide interpretation, as the Court of Appeal noted in Department for Health v The Information Commissioner and Mr Simon Lewis [2017] EWCA Civ 374, of the First Tier Tribunal's findings in that matter, the phrase "should not be read with uncritical liberalism as extending to the furthest stretch of its indeterminacy but instead must be read in a more limited sense so as to provide an intelligible boundary, suitable to the statutory context" and that a "mere incidental connection between the information and a matter specified in a sub-paragraph of s.35(1) would not bring the exemption into play; it is the content of the information that must relate to the matter specified in the sub-paragraph".



- 30. Therefore there must be a clear and tangible relationship between the content of the information withheld under this exemption and the process that is being protected (ie the formulation or development of policy).
- 31. The Commissioner's guidance on section 35(1)(a) sets out that information does not need to have been created as part of the formulation or development of government policy. Information may 'relate to' the formulation or development of government policy due to its original purpose when created, or its later use, or its subject matter.
- 32. This means that information can engage section 35(1)(a) because it was used to inform the policy position, even if in isolation the information does not obviously relate to government policy.
- 33. FOIA does not define 'government policy'. Section 35(5) states that it will include the policy of the Executive Committee of the Northern Ireland Assembly and the policy of the Welsh Government, but does not provide any further guidance.
- 34. The Commissioner's guidance on section 35 states:

"The Modernising Government White Paper (March 1999) provided a useful description of policymaking as: "the process by which governments translate their political vision into programmes and action to deliver 'outcomes', desired changes in the real world". In general terms, governmental policy can therefore be seen as a governmental plan to achieve a particular outcome or change in the real world. It can include both high-level objectives and more detailed proposals on how to achieve those objectives.

There is no standard form of government policy; policy may be made in various ways and take various forms.

The Cabinets of the UK and Welsh Governments and the Northern Ireland Executive Committee are the ultimate arbiters of their respective government policy. Within each administration, significant policy issues or those that affect more than one department are jointly agreed by Ministers. For example, within the UK government such issues are decided in Cabinet or Cabinet committee (although detailed policy



proposals may then be developed within one department.) See Chapter 4 of The Cabinet Manual ( $1^{st}$  edition October 2022)<sup>3</sup>.

However, not all government policy needs to be discussed in Cabinet or Executive Committee and jointly agreed by Ministers. Some policy is formulated and developed within a single government department, and approved by the Minister responsible for that area of government.

It is not only Ministers who are involved in making government policy. Civil servants – and, increasingly, external experts and stakeholders – are also involved at various stages of the policy process. The important point is that government policy is ultimately signed off by the Cabinet or Executive Committee or the relevant Minister. This is because only Ministers have the mandate to make policy. If the final decision is taken by someone other than by a Minister, that decision does not itself constitute government policy.

However, this does not mean that every decision made by a Minister is automatically a policy decision. Ministers may also be involved in some purely political, administrative, presentational or operational decisions".

## **DWP's position**

Occupational Health Market Reform

- 35. DWP confirmed that some of the withheld information related to the development of the Occupational Health Market Reform policy which had not yet been agreed.
- 36. DWP explained that the policy is currently still being developed and that the White Paper sets out the Government's broad intentions or disability benefits and OH reform. DWP considered that it was clear in the paper that this policy is still in development. DWP explained that there are still a significant number of policy decisions to be made and as a result there is likely to be a shift in the costings and impact assessment.

Removal of the Work Capability Assessment

37. DWP explained that the "Transforming Support: The Health and Disability White Paper" sets out the Government's plans for long-term reform of health and disability benefits, in particular the removal of the Work Capability Assessment (WCA) and replacing it with a Personal

<sup>3</sup> 



Independence Payment (PIP) passporting model that will enable claimants to receive additional financial support through Universal Credit (UC) as well as a new model of personalised health conditionality and support.

- 38. DWP explained that this policy was still in the development phase and the information requested is the costings and impact assessment of the policy to remove the WCA and introduce a new UC health element for people in receipt of PIP and UC.
- 39. DWP stated that it was clear in the White Paper that this policy is still in development and there are still a number of policy decisions to be made, and test and learn activity to undertake to develop its policy approach. DWP explained that these include how it supports claimants who do not have PIP, how it designs the tailored and personalised conditionality model. DWP stated that it had committed to rolling out this model with new claims first on a geographical basis to allow it to test and learn as it progresses. DWP explained that all of these decisions will have an impact on equality considerations and the overall cost. DWP explained that there is consequently no finalised costing and no costs have been included in the OBR forecasts as a result.

## The Commissioner's position

- 40. Having reviewed the withheld information and DWP's submissions, the Commissioner is satisfied that the withheld information relates to the development of the government policies regarding removing the Work Capability Assessment and Occupational Health Market Reform, and the wider government policy of reforming support for those with disabilities and health conditions.
- 41. Section 35(1)(a) is therefore engaged and the Commissioner will go on to consider the balance of the public interest.

#### **Public interest in disclosure**

Occupational Health Market Reform

42. DWP recognised that disclosure could provide a greater understanding of the progress of Occupational Health policies, including financial incentives, support for innovation and workforce development. DWP explained that this is an interconnected package of measures designed to increase access to Occupational Health Services and as such its equality impacts are assessed as a packaged. As set out in its refusal notice, DWP explained that the information in this equalities assessment will also be used to consider the newly announced Occupational Health measures at Spring Budget and to consult on the uptake of Occupational Health and to expand the financial incentives test.



## Removal of the Work Capability Assessment

- 43. DWP recognised that disclosure could provide a greater understanding of the planned removal of the Work Capability Assessment as announced in the White Paper. DWP announced that this could benefit claimants and stakeholders to help them understand what a reformed system may look like. However, DWP considered that this would be based on incomplete and in development information, and therefore this would limit the value of the information.
- 44. The complainant set out to the Commissioner:

"I believe the public interest in releasing the document far outweighs the 'protect the private space for discussions' argument they rely on. This is because the work capability assessment has been proved to be closely linked to the deaths of hundreds of disabled people and there are concerns that the plans to scrap it could also lead to the deaths of disabled benefit claimants. This is because they plan to use work coaches with no healthcare qualifications ... to decide whether disabled people claiming benefits should have to carry out work-related activity".

# Public interest in maintaining the exemption

## Occupational Health Market Reform

- 45. DWP explained that most of the policies are not yet in delivery and the information includes details that are being used to develop policy and delivery plans. DWP confirmed that it anticipated that the package of Occupational Health Market Reform policy will move into delivery later this year. DWP considered that it is important that it is able to consider the equality impacts of this work as a package and disclosure would prejudice its ability to do so.
- 46. DWP considered that there is a strong public interest in being able to carry out and use frank assessments, including unrestrained and candid contributions from business areas.

#### Removal of the Work Capability Assessment

- 47. DWP explained that it has to balance the argument for disclosure against the fact that the policy proposing the removal of the Work Capability Assessment is still in development.
- 48. DWP explained that the policy will require primary legislation, which it is now developing and will aim to bring forward in the next Parliament. DWP explained that it will not be implemented until 2026 at the earliest, starting on a new claims only basis.



- 49. DWP explained that it is important that the Government preserves its safe space to consider live issues and the information requested includes details that are still being used to develop policy.
- 50. DWP considered that, if this public interest cannot be protected, there is a risk that decision making will become poorer and will be recorded inadequately in light of the fact that the policy proposing the removal of the Work Capability Assessment is still in development.
- 51. DWP explained that disclosure could prejudice the Government's ability to consider and update this information to make policy as the policy and associated costings develop.

## The balance of the public interest

- 52. The Commissioner accepts that significant weight should be given to safe space arguments ie the concept that the Government needs a safe space to develop areas, debate live issues and reach decisions away from external interference and distraction where the policy making is live and the requested information relates to that policy making.
- 53. Whilst the Commissioner accepts that the public interest in maintaining the exemption will be strongest while the policy is still being formulated or developed, this does not convert the exemption to an absolute one where information will not be disclosed simply because of the stage that the policy process has reached. There will be occasions where the Government policy is at the formulation or development stage and the public interest in disclosure is sufficiently strong that the public interest in maintaining the exemption will not outweigh this.
- 54. The Commissioner's guidance on section 35(1)(a) states:

"The relevance and weight of the public interest arguments depends entirely on the content and sensitivity of the information in question and the effect of its release in all the circumstances of the case.

For the same reason, arguments that 'routine' disclosure of a particular type of information are not in the public interest are misconceived. Each case must be considered on its facts. Even if disclosure is ordered in one case, this does not mean that similar information must be disclosed in future.

Arguments must therefore focus on the effect of disclosing the information in question at the time of the request, rather than the effect of routine disclosure of that type of information.

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The exact timing of a request is very important. If the information reveals details of policy options and the policy process remains on going at the time of the request, safe space and chilling effect arguments may carry significant weight.

However, even if the policy process is still live, there may be significant landmarks after which sensitivity of information starts to wane.

For example, once a high-level policy objective has been announced (eg in a White Paper or framework bill), any information about that broad objective becomes less sensitive. The safe space to debate that high-level decision in private is no longer required, even if related debate about the details of the policy remains sensitive.

In some cases, the formulation or development of policy may not follow a linear path (ie where the policy becomes more and more settled as time goes on). There may be several distinct stages of active policy debate, with periods in between where policy is more settled. The importance of a safe space can wax and wane, depending on how fixed the policy is at the exact time in question.

Once a policy decision has been finalised and the policy process is complete, the sensitivity of information relating to that policy generally starts to wane, and the public interest arguments for protecting the policy become weaker. If the request is made after the policy process is complete, that process can no longer be harmed.

Tackling some policy issues may require a range of initiatives, implemented over a number of years. However, this does not mean that the policy thinking on each, individual initiative can still be considered live until the issue is finally resolved".

# Occupational Health Market Reform

- 55. As set out above, the Commissioner accepts that significant weight should be given to safe space arguments, ie the concept that the Government needs a safe space to develop ideas, debate live issues, and reach decisions away from external interference and distraction where that policy is live and the requested information relates to that policy development.
- 56. In the context of the request, the Commissioner accepts that the policy making process was live and ongoing at the time of the request.
- 57. The Commissioner considers that DWP's arguments regarding the public interest in maintaining the exemption are poor and fail to adequately explain its position. However, having reviewed the withheld information, the Commissioner accepts that disclosure would have a direct and



detrimental impact on the policy development process. Whilst the Commissioner cannot confirm the contents of the withheld information, he does note that it includes the considerations of policy options that had not been announced at the time of the request. In his view, the safe space arguments therefore need to be given significant weight.

- 58. With regard to attributing weight to the chilling effect arguments, the Commissioner recognises that civil servants are expected to be impartial and robust when giving advice and not easily deterred from expressing their views by the possibility of future disclosure. Nonetheless, chilling effect arguments cannot be dismissed out of hand and are likely to carry some weight in most section 35 cases. If the policy in question is still live, the Commissioner accepts that arguments about a chilling effect on those ongoing policy discussions are likely to carry significant weight.
- 59. Turning to the public interest arguments in favour of disclosure, in the Commissioner's view, the equality impact assessment carried out for the Occupational Health Market Reform policy is clearly of interest to the public. As a result, in the Commissioner's opinion, there is a significant public interest in the disclosure of information as it would aid the public's understand of policy considerations in these areas. Disclosure of the information would provide the public with sight of the analysis that DWP had considered as part of that policy development and therefore disclosure would make the policy making process more transparent. In addition, disclosure of the withheld information would also provide interested stakeholders with an insight into the analysis of the issues in question which they could use to engage with the Government.
- 60. Nevertheless, despite the benefits of disclosure, the Commissioner has concluded that the balance of the public interest favours maintaining the exemption. He has reached this conclusion given the significant weight that he considers should be given to the safe space arguments. In his view this, along with the smaller but still substantial weight that he thinks should be attached to the chilling effect arguments, means that the public interest favours withholding the information.

#### Removal of the Work Capability Assessment

61. Whilst the Commissioner accepts that the public interest in maintaining the exemption will be strongest while the policy is still being formulated or developed, this does not convert the exemption to an absolute one where information will be withheld simply because of the stage that the policy process has reached. There will be occasions where the government policy is at the formulation or development stage and the public interest in disclosure is sufficiently strong that the public interest in maintaining the exemption will not outweigh this.



- 62. In the specific circumstances of this case, the Commissioner acknowledges that the request was made the following day after the "Transforming Support" White Paper was published announcing the removal of the Work Capability Assessment.
- 63. The White Paper states the Government will:

"Legislate to remove the existing Work Capability Assessment so that in future there is only one health and disability functional assessment – the PIP assessment – improved by the changes we set out in chapters 2 and 3" (paragraph 17)

"We will transform the benefits system by removing the Work Capability Assessment. This will ensure that those who are able to, can progress in or towards work, without the worry of being reassessed and losing their benefits. The system will focus on what people can do, rather than the limitations of a disability or health condition".

- 64. DWP has set out that this policy will require primary legislation which is currently being developed and is not due to be implemented before 2026.
- 65. However, the Commissioner considers that, in line with his guidance set out above, this does not automatically mean that all information about the decision to remove the Work Capability Assessment should be withheld until the legislation is passed. Information about different stages of the policy development will wax and wane in sensitivity as the policy progresses.
- 66. The decision to remove the Work Capability Assessment had been taken and announced at the time of the request.
- 67. DWP has confirmed to the Commissioner that some of the information will be used in the development of the details of the removal of the Work Capability Assessment but has provided no indication of how much of the information may be used as such. The Commissioner therefore does not consider this argument carries much weight as it is not apparent to what extent the policy development process may be hindered.
- 68. The Commissioner considers that DWP has failed to consider the strength of the public interest in the timely understanding and scrutiny of the decision to remove the Work Capability Assessment.
- 69. In addition to the arguments in favour of disclosure set out above for the information relating to Occupational Health Market reform, there is a particularly strong public interest in disclosure of information relating to disability benefits reform.



- 70. The Institute for Fiscal Studies (IFS) issued a report on "The effects of reforms to the Work Capability Assessment for incapacity benefits" on 26 October 2023<sup>4</sup>. The IFS set out that the key findings were:
  - "1. More than 3 million working-age adults in the UK receive health-related benefits. The government has announced plans to first tighten, and then scrap entirely, the Work Capability Assessment one of the two assessments used for determining eligibility to those benefits.
  - 2. The short-term reform to tighten the Work Capability Assessment will mean some individuals who would previously have been judged as unable to work will lose out on £390 a month and have to carry out work-related activities to keep receiving benefits. This may deliver some savings for the government, although previous reforms of a similar nature have been less effective at doing this than expected.
  - 3. The proposal to scrap the Work Capability Assessment entirely is a more radical change. It would mean moving to a system without a benefit explicitly related to an individual's capacity for work. The idea is that breaking the link between ability to work and benefit entitlement will encourage individuals with health conditions to move into employment.
  - 4. As a result of this second reform, some working-age people currently receiving health-related benefits of having limited capability to work would lose them if they are not judged to have a disability that leads to extra costs associated with their daily living. Others who can work and are already receiving health-related benefits because they are judged to have such costs could qualify for additional benefits under the changes.
  - 5. We estimate that, before accounting for any change in behaviour, 320,000 individuals will see their entitlements rise, typically by £390 per month (£1.5 billion a year additional spending), and 520,000 will see them fall by the same amount (£2.4 billion a year less spending). Overall, this would be a £900 million spending cut. For context, official figures suggest that, in real terms, spending on benefits for working-age individuals with health conditions is forecast to rise by £11.9 billion from £61.6 billion in 2023-24 to £73.5 billion in 2027-28.
  - 6. Scrapping the Work Capability Assessment would change people's financial incentives to work with 1.8 million seeing their incentives strengthened and 440,000 seeing them weakened. Within Jobcentres,

<sup>4</sup> <u>https://ifs.org.uk/publications/effects-reforms-work-capability-assessment-incapacity-benefits</u>



work coaches would need to decide the extent to which individuals should engage in work-related activities as a condition of receiving their benefits. This could help more people into paid work, but it comes with the risk of requirements being inconsistently applied and the potential for hardship if they are applied inappropriately.

- 7. The reform would base benefit entitlement on the assessment of mobility and ability to do daily living tasks that is used for PIP eligibility the part of the system that has been growing most quickly for years. This runs the risk of faster growth in spending on health-related benefits in the future".
- 71. The Commissioner acknowledges that this report was not in the public domain at the time of the request, however, he considers that its findings are relevant to understanding the strength of the public interest in disclosure of information relating to the decision.
- 72. The disputed information provides insight and understanding of how the decision was arrived at, the factors considered and the quality of the information used to inform the decision. This public interest in disclosure is further strengthened by the fact that this decision will impact on those applying for and in receipt of disability benefits. This will impact on millions of people, including some of the most vulnerable in society. The Commissioner considers that the public is entitled to scrutinise a decision such as this at an early opportunity. As set out above, whilst the policy was being developed at the time of the request, the White Paper had already confirmed that this would go ahead.
- 73. The Commissioner does not accept DWP's argument that this scrutiny would be based on incomplete and in development information and is therefore not in the public interest. The Commissioner's established position is that incomplete information or the potential for misunderstanding is not an argument that carries weight. The Commissioner considers that public authorities would have the opportunity to confirm that the information is complete, or put it into context, at the time of disclosure. The Commissioner would only accept this as having weight where the public authority has demonstrated that it would not be possible or reasonable to provide this.
- 74. Whilst the Commissioner accepts that there is weight to the public interest arguments regarding allowing DWP the space to develop policy away from external interference, the Commissioner is not persuaded that this is sufficient to outweigh the strong public interest in disclosure.
- 75. DWP has not provided compelling arguments regarding how the specific policy named would be undermined by disclosure of the disputed information. Having reviewed the information, it is not apparent to the



Commissioner how the specific policy would be undermined other than the general safe space arguments presented. While the Commissioner accepts that section 35(1)(a) is intended to protect the policy process as a whole in addition to specific policies, the Commissioner is not persuaded that the public interest arguments presented are sufficient to outweigh the strong public interest in scrutiny of this policy decision.

- 76. The Commissioner does not consider that officials and ministers are easily deterred from doing the role they are in place to do, especially if disclosure occurs once the policy has been announced.
- 77. Having reviewed the withheld information, the Commissioner is not persuaded that DWP's public interest arguments in favour of maintaining the exemption are sufficient to outweigh the public interest in disclosure of the disputed information.
- 78. The Commissioner requires DWP to disclose the withheld information relating to the removal of the Work Capability Assessment.



# Right of appeal

79. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights) GRC & GRP Tribunals, PO Box 9300, LEICESTER, LE1 8DJ

Tel: 0203 936 8963 Fax: 0870 739 5836

Email: <a href="mailto:grc@justice.gov.uk">grc@justice.gov.uk</a>

Website: www.justice.gov.uk/tribunals/general-regulatory-

chamber

- 80. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
- 81. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

#### **Signed**

Victoria Parkinson Senior Case Officer Information Commissioner's Office Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF