

**To:** UC Programme Board Members      **From:** Sharmini Selvarajah  
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**Date:** 19/03/24

**Paper Title: Revised Universal Credit Programme Board Papers Publication Strategy**

**Issue: Change of Universal Credit Programme Board Publication Strategy in response to Recent First Tier Tribunal decision.**

**Recommendations/Decisions required:**

- **For Information / below the line paper.**

*No decision required*

**Timing:**

**Introduction**

1. DWP recently received a First Tier Tribunal decision that criticised our use of the section 22 (future publication) FOI act exemption to withhold Universal Credit Programme Board papers.
2. The key element of the decision concerned the DWP approach of considering redactions to papers in advance of publication.
3. We have revised the publication process and committed to publish all Universal Credit Programme Board papers unredacted in future.

**Summary**

This paper has been brought to this meeting because:

4. As part of the Universal Credit Transparency Agenda, the Programme introduced the Universal Credit Programme Board (UCPB) Publication Strategy, the Universal Credit Programme has routinely published Programme Board papers in 6 monthly batches twice a year since 2018.
5. Papers are scheduled for release in line with this Publication strategy. A letter was placed in the House of Commons library by Alok Sharma MP, the then Minister of State for Employment in 2018. This document set out our commitment to routinely publish UCPB papers going forward, as part of the UC transparency agenda, twice a year, once the papers are 2 years old.

6. Following an FOI request for Programme Board papers and an adverse Information Commissioners Decision, DWP appealed to the First Tier Tribunal to maintain the Universal Credit 2-year publication strategy. The appeal concerned UCPB papers from meetings held between January 2021 and August 2021.
7. In October 2023, the Tribunal ruled that the use of the FOIA exemption s22 (information planned for future publication) exemption was not engaged with regard to withholding the requested papers. The Tribunal ruled that DWP could not rely on s22 if it could not provide assurance that all information within the papers would be published when we planned to do so in line with the publication strategy.
8. This decision means that, without a review of the way in which we deliver this publication strategy, any future use of s22 exemptions, is highly likely to be challenged and any challenge is likely to be upheld by the ICO.
9. The publication strategy aims to meet the balance between being transparent in that DWP delivers UC, whilst maintaining a safe space for the Programme Board to have open and frank discussion. A decision has therefore been made to publish all the papers in full without any redaction (pending consideration of redacting the names of junior officials using section 40). In practice, we expect this to have minimal impact – indeed, in recent publications we have made extremely limited redactions, often limited to only s40.
10. We may still be challenged on the use of the s22 in future and the length of delay before publication going forward, given the high interest in Universal Credit. It should be noted that even if a Tribunal were to agree that s22 was engaged, a different judgment could be reached on the balance of the public interest test in any particular case. However, we are confident that this change addresses the specific issue raised by the First Tier Tribunal in this case and reinforces our commitment to transparency, which was praised by the Tribunal in the recent judgment.
11. Ministers have signed off the revised approach.

**Decision / Recommendation**

- Information only.