

To Mr John Slater  
C/o [request-130828-6c0a8eab@whatdotheyknow.com](mailto:request-130828-6c0a8eab@whatdotheyknow.com)

18 February 2013

Dear Mr Slater,

## **Freedom of Information Act - Request for Internal Review**

### **Our Reference: IR735**

Thank you for your email dated 4 November 2012 requesting a review of the Department for Work and Pensions (DWP) handling of your request Fibromyalgia – Guidelines for the Disability Analyst

The Freedom of Information (FoI) Internal Reviewing Officer, has read your letter and accepted this as a request for an Internal Review of FOI reference 3886-3684 dated 31 October 2012.

In your email you asked:-

*I am writing to request an internal review of Department for Work and Pensions's handling of my FOI request 'Fibromyalgia - Guidelines for the Disability Analyst'.*

*“1. Given that the DWP claim that evidence based medicine is key to WCA why was the last medical update for the “Fibromyalgia - Guidelines for the Disability Analyst (v5)” completed in July 2009, over 3 years ago?”*

*The revised document guide is nothing more than the original version 5 document having undergone minor cosmetic changes and therefore cannot be regarded as a medical update. Therefore, please provide the data originally requested:*

*Question 1 – Given that the DWP claim that evidence based medicine is key to WCA why was the last medical update for the “Fibromyalgia- Guidelines for the Disability Analyst (v5)” completed in July 2009, over 3 years ago?*

*Question 2 – The requested data hasn’t been supplied. Please tell me when the next medical update is scheduled for this guide?*

*“3. As the last update was completed by Dr \*\*\*\* what is his medical specialism (e.g. rheumatology)? This is not counted as personal data under the DPA as Doctors are required to provide their qualifications and GMC registration details upon request.”*

*Question 3 - In order to be sure that the appropriate data is obtained from the GMC website I need the unique GMC registration number for the Dr\*\*\*\* referred to. As Doctors are required to provide this data upon request please provide me with the GMC registration number.*

*DWP Answer to Q 4 “differential diagnosis is provided to enhance the HCPs understanding of the medical condition.”*

*Question 4 - Given that the DWP has claimed on numerous occasions in response to FOIA requests that HCP are not required to understand medical conditions or question their diagnosis why is the department making such a contradictory statement? The DWP is required to act truthfully in response to FOIA requests therefore it is appropriate to answer this question.*

*“8. Given that fibromyalgia is a distinct condition (included in ICD10) why does the above text refer to it as no more than a label? The only possible reason for using this tone is to diminish it in the eyes of the HCP.”*

*Question 8 - Please provide the data requested. The revised guide still refers to fibromyalgia as a label as previously described.*

*“9. Please provide me with the large number of studies that have assessed the possible association between FMS and major depressive disorder as stated in section 8.”*

*Question 9 – The response did not address this. Please provide me with the requested data.*

*In relation to questions 5,6,7 and 10, I note that the DWP has employed its usual ploy of FOIA responses not being for the purpose of explaining things or confirming whether assumptions are correct or not.*

*Question 5 – This is a reasonable question. However I accept that it does not fit with FOIA requests. I have reworded it below:*

*Please provide me with the documented QA assessment process employed by the DWP/Atos when producing documents such as the one subject to this FOIA request.*

*Questions 6 & 7 are linked.*

*Question 6 - This is a clear request for data please provide it. To avoid any misunderstanding I want the clinical evidence (this is usually published in peer reviewed journals) that proves CFS and fibromyalgia are the ‘clearest overlap’ using the listed characteristics.*

*Question 7 – This is reasonable question given the nature of the document. Perhaps I should reword the request:*

*Please provide me with any data held by the DWP that “CFS and fibromyalgia are the ‘clearest overlap’ using the listed characteristics” if it is unable to provide the data requested in question 6.*

*Question 10 – This is also a reasonable request, however I will re-word it for ease of understanding: Please provide me with the data held by the DWP that suggests that published guide could be used as evidence at a tribunal to demonstrate that the WCA was flawed.*

Firstly, please accept our sincere apologies for the delay in responding to your request. Please be assured that your request has been given our full consideration and that all aspects of your review were taken fully into account by an independent official of the Department, of the relevant grade and authority to carry out such requests.

In response to **Q1 & Q2** – As the FOI Act is about supplying recorded information held by the Department rather than explaining why a specific guide was updated over 3 years ago, this question cannot be answered. You should also note that the relevant guidance which was issued to Healthcare Professionals in August 2012, from which your original question was drawn, has already been provided to you.

In response to **Q3** - Under the FOI Act, Doctors' names, their unique General Medical Council (GMC) registration number or their specialism cannot be published on a public website such as WDTK. These details are exempt from release under Section 40 of the Freedom of Information Act. The section 40 exemption is applied on the basis that it is personal data about a third party and disclosure would breach data protection principles. Disclosure would breach that person's right to privacy under the Data Protection Act 1998. In applying this exemption the Department 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.

You can, if you wish request this information as a separate written request using a personal email address.

The attached link provides details of how to make a Freedom of Information request;  
<http://www.dwp.gov.uk/freedom-of-information/>

Primary qualifications are held in the public domain and appear on the GMC's website. Please refer to [www.gmc-uk.org](http://www.gmc-uk.org) then click on "check a doctor's registration" completion of the registration number is not a mandatory input field.

In response to **Q4** – The Internal Reviewing Officer considers the data has been provided and cannot get involved in a debate to respond to the question about "why is the department making such a contradictory statement".

In response to **Q5** - The information you have requested is not held by the Department as it relates to the internal QA process of Atos Healthcare and is therefore the property of Atos Healthcare.

In response to **Q6 & Q7** – Your request for any data held by the DWP where "CFS and Fibromyalgia (FM) are the 'clearest overlap' using the listed characteristics". The likely functional effects of CFS or FM are explained in the training and development learning set entitled Chronic Fatigue Syndrome and Fibromyalgia MED-CMEP-0087 version 4 dated June 2012.

In response to **Q8 & Q9** I maintain that the information to answer these questions has been provided, an explanation has been given in relation to your question regarding 'Fibromyalgia labels' and you have already been advised of the clinical references used in relation to the guide. I am satisfied that Section 21 of the Act has been applied appropriately in that the Department is not required to provide information reasonably available to you either through the internet or the facilities at your local library.

In response to **Q10** I have considered the response given to you regarding the original question and have also considered your rewording of the question. I maintain that you have again expressed your opinion and would reiterate that the FOI Act is about supplying information rather than to enter into a debate or confirm your views that "suggest that published guides could be used as evidence at a tribunal to demonstrate that the WCA was flawed " this is not a valid FOI request.

I therefore find that the original response dated 31 October 2012 was correct and that all the information that DWP are able to supply to you has been supplied.

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

Yours sincerely,  
DWP Business Management Team  
Health & Disability Assessments (Operations)  
e-mail: [freedom-of-information-xxxxxxx@xxx.xxx.xx](mailto:freedom-of-information-xxxxxxx@xxx.xxx.xx)

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### **Your right to complain under the Freedom of Information Act**

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 [www.ico.gov.uk](http://www.ico.gov.uk)