

DWP Central Freedom of Information Team

e-mail: [freedom-of-information-request@dwp.gov.uk](mailto:freedom-of-information-request@dwp.gov.uk)

Our Ref: FOI2019/25761  
8 August 2019

Dear Frank Zola,

Thank you for your Freedom of Information (Fol) request received on 10 July. You asked:

*The Information Commissioner (ICO) has contacted the DWP confirming that it needs to change the 'Declaration' sections of the ESA1 claim form and the ESA50 and UC50 Work Capability forms as they do not comply with the Data Protection Act 2018/GDPR.*

*This is in relation to claimant opt-in consent for the DWP to send claimant personal data to GPs by use of the DWP ESA65B letter.*

*ICO letter: "DWP has not complied with its data protection obligations, because its ESA1, ESA50 and UC50 forms do not provide a way for claimants opt in to the statement "I agree to my doctor or any doctor treating me, being informed about the Secretary of State's determination on limited capability for work, limited capability for work-related activity, or both..."*

*[https://pbs.twimg.com/media/D\\_CruU8WsAAU76Z?format=jpg&name=large](https://pbs.twimg.com/media/D_CruU8WsAAU76Z?format=jpg&name=large) of 9/7/19*

*Therefore, when does the DWP intend to review and amend the ESA1, ESA50 and UC50 forms 'Declaration' sections so they comply with the Data Protection Act 2018/GDPR.*

*To ensure GDPR compliance and prior to and subsequent to the Data Protection Act 2018/GDPR coming into force, please provide information on what actions the DWP has taken to review how it obtains and shares claimant personal data, for benefit claims, when the only basis to obtain and share the data is through opt-in claimant consent?*

#### **DWP Response:**

I can confirm that the Department holds this information.

The consent wording included in the declaration sections on ESA forms is being revised and will be removed from the declaration. The content has been reviewed by a number of internal and external stakeholders and will be amended so applicants:

- can give or refuse consent
- understand how their health information will be used
- know what will happen if they refuse consent, and are reassured that they can still claim the benefit if they do

- know how to change their mind later

Forms ESA1, ESA50, and UC50 will be amended as soon as possible and we are working with suppliers and providers to agree a delivery timetable.

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

Yours sincerely,

DWP Central Fol Team

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**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](mailto:freedom-of-information-request@dwp.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](http://ico.org.uk/Global/contact_us) or telephone 0303 123 1113 or 01625 545745