

To Miss Sarah Wiles  
C/o [request-133242-eda851ec@whatdotheyknow.com](mailto:request-133242-eda851ec@whatdotheyknow.com)

DWP Business Management Team

Our Ref: VTR 4007-4085

15 January 2013

Dear Miss Wiles,

Thank you for your Freedom of Information request dated 13 October 2012. I am sorry for the delay in responding to you.

*In your email you asked: I would like to request the following information please...*

- 1. can you send me a copy of the Atos contract in full?*
- 2. in the Atos contract is there any sections covering quality control, if there are can you send these sections?*
- 3. are there any quality control sections in the Atos contract? If there are please can you provide them?*
- 4. if quality levels are not maintained, can the Atos contract be terminated without a financial loss?*
- 5. is there any bonuses paid to Atos, if there are, what are they paid for and how much are they?*
- 6. does Atos get paid a financial incentive for declaring a claimant 'fit for work' if so, does Atos get to keep these even if a claimant successfully appeals Atos' decision?*
- 7. how much is the Atos contract worth?*
- 8. was the contract put out to tender before Atos won it.*
- 9. was it just Atos who put in a bid for the contract, if not which other organisations applied for the contract.*
- 10. why was Atos awarded the contract?*
- 11. how much have Atos been awarded so far.*
- 12. how much has been saved by claimants being taken off benefits?*
- 13. what is the longest time it has taken a claimant to get their benefits back after being declared 'fit to work' by Atos after going to appeal.*
- 14. Many people have successfully won their appeal after Atos has declared them 'fit to work'?*
- 15. how many people have committed suicide after being declared 'fit to work' by Atos.*
- 16. how many people have died after Atos declared them 'fit to work'?*
- 17. is there any provisions to set minimum qualification for Atos employees?*
- 18. are there any provision to make sure Atos staff have a minimum amount of experience?*
- 19. why was the contract awarded to Atos?*
- 20. when does the Atos contract end?*
- 21. did the government take into account that Atos is outlawed in several countries before awarding it the contract?*
- 22. how many countries is Atos outlawed in and which are they?*

23. *what percentage of people have gained employment after Atos has declared them fit to work?*
24. *what is the average amount of time it takes people to gain employment after being declared fit to work by Atos?*
25. *how many people have been declared 'fit to work' by Atos?*
26. *how many people have won their appeal after Atos has declared them fit to work?*
27. *how many disabled people does Atos employ?*
28. *how many people are employed by Atos to undertake their contract?*
29. *what is the average wage of an Atos employee?*
30. *will Atos be paying tax in the UK?*
31. *will Atos be using tax loop holes to reduce its tax burden?*
32. *how much tax pay in the last tax year?*
33. *did the government have any concerns about Atos before awarding Atos the contract, what where these concerns?*
34. *is there any compensation which is made available to claimants who successfully win their appeal after been declared 'fit to work' by Atos,*
35. *if there is, how much is this and do claimants automatically get it?*

The Freedom of Information Officer has read your 35 questions and has recognised that the Department is not under any legal obligation to answer all of your requests for information, however to be helpful, has provided answers and addressed your questions consecutively.

Firstly, it is important to advise that Section 12 (1) of the Freedom of Information Act prescribes that the Department is not obliged to comply with your request for information. This is because the Freedom of Information Officer estimates that the cost of complying with your request for overall numbers would exceed the appropriate limit of £600. The appropriate limit has been specified in regulations and for central Government it is set 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 the information.

In answer to **Q 1** an edited copy of the Medical Service Contract can be found using the following website <http://deposits.parliament.uk/>.

In the search box complete only the fields 'date range' and 'house', please input 14/09/2010 in both the date fields and select Lords from the House drop down menu. Click Go and then click on Dep2010-1704.zip from the search results. The relevant files are titled, Clauses.pdf, New Contract Index.pdf and Schedules 1 to 33.pdf. If you do not have access to the Internet at home, you may be able to use facilities at your local public library.

A copy of the Contract between DWP and Atos Origin IT Services UK Limited (Atos Healthcare) cannot be provided in its entirety. I have removed from this copy those parts that contain information exempt under Section 40 (third party personal information where disclosure would breach data protection principles) and 43 of the Freedom of Information Act 2000. Where information is exempt under Section 43 this is due to it being commercially sensitive and release of the information would prejudice the interests of Atos

Healthcare and the Department's future dealings with Atos Healthcare or other medical service providers.

The Medical Services Contract will in due course be re-let by means of a competitive procurement exercise. Releasing details of Atos Healthcare's underlying financial model, in particular details of the unit cost of each assessment that they have factored into the contract would, or would be likely to prejudice their commercial interests. It would reveal to their competitors commercially sensitive financial aspects of their contract which would disadvantage Atos Healthcare's competitive position in the marketplace. This in turn would prejudice the ability of the Department to secure best value for the taxpayer when the contract is re-tendered.

Release of this type of key financial information would also undermine the effectiveness of the Department's future dealings with Atos Healthcare or other service providers which is also not in the public interest.

REFERENCE	EDITED CONTENT	EXEMPTION
Clause 10.11.3.2	Limit of liability	Section 43 - Commercial sensitivity
Schedule 3	Contractor's proposal	Section 43 – Commercial Sensitivity
Schedule 12	Pricing and charging information Para 4.2 – 8.2.3 and Appendices	Section 43 – Commercial Sensitivity
Schedule 21	Key Personnel	Section 40 – Personal Information
Schedule 25	Liquidating damages including service credits Paras 4.2.14 – 4.2.19 Para 5 Appendix 1 Service Credits	Section 43 - Commercial sensitivity
Schedule 28	The following medical training guides listed within Schedule 28 are not available for public release: Reference numbers 370i, 451, 454P, 454A, 455L, 454P, 454AF, 454H, 454i, 454J, 450o, 450P and 450R	Section 43 – Commercial sensitivity
Schedule 31	Optional Services that may be called off at some future date dependent upon future policy	Section 43 - Commercial sensitivity

In response to **Qs 2 & 3**, the DWP Contracted Customer Services Directorate manages all aspects of Atos Healthcare's performance and service delivery. The current contractual agreement between DWP and Atos Healthcare contains numerous performance targets covering a wide range of features including throughput, claimant service and medical quality. Schedule 5 of the Contract details the service levels the DWP requires from Atos Healthcare.

When the time comes to renew the current Contract, as with all competitive procurement exercises, the detailed criteria against which all bidders will be judged will be published with the Invitation to Tender documentation.

In answer to **Q 4** the contractual performance of Atos Healthcare is monitored closely by DWP. The Contract cannot be terminated by either party without financial loss.

In reply to **Qs 5 & 6** Atos Healthcare does not have incentives or receive bonuses with regard to the number of people expected to qualify for Benefit.

Atos Healthcare provide the relevant reports for DWP Decision Makers but play no part in the actual decision making process and I can confirm that payment to Atos Healthcare for the services provided is not related in any way to the outcome of individual medical assessments.

In response to **Qs 7, 8, 9, 10, 19, & 20** following a comprehensive evaluation of bids, which balanced proposed operational solutions against value for money considerations, DWP re-awarded Atos Origin IT Services Ltd, trading as Atos Healthcare, a new Contract to provide Medical Services on behalf of the Department from 1 September 2005. The Department negotiated an extension to the contract to 31 August 2015 in order to allow for the completion of Incapacity Benefit (IB) to ESA migration with the exclusion of Disability Living Allowance from 2013, which has been put to competitive tender. .

The award criteria were based around the most economically advantageous tender in terms of the criteria as stated in the Contract. The total cost of these services amounts to approximately £100 million per annum.

The Medical Services Contract was re-let by means of a competition advertised in the Official Journal of the European Union (OJEU). The names of the bidders for the re-tendering process were Atos Origin (trading as Atos Healthcare), Capita, a company which currently delivers a large number of public sector contracts and Vertex (part of the United Utilities Group) who provide a wide range of services to a variety of claimants in the public sector.

In reply to **Q 11** the following table provides the actual costs incurred in each financial year for the DWP Medical Services Contract.

Financial Period	£ million
1 September 2005 to March 31 2006	73.3
2006/2007	60.2
2007/2008	70.2
2008/2009	111.8
2009/2010	99.1
2010/2011	112.8
2011/2012	112.3

In answer to **Q 12**, the Welfare system is about ensuring people are provided with the right support rather than 'saving money' so the Department does not hold information you have requested.

In response to **Q 13**, decisions on entitlement to ESA rest solely with the Department's Decision Makers taking into account the medical assessment reports from Atos and any other relevant evidence. Claimants appealing a 'fit for work' decision continue to receive ESA at the Assessment Phase Rate until their appeal hearing. When HMC & Tribunal Services overturn a decision, they notify DWP who reinstates ESA entitlement.

DWP retain the information on individual case files of when ESA ceases to be paid, the date an appeal decision was made and the date the case was reopened and recommenced benefit payments, this is because DWP are party to those decisions, however, we estimate that the cost of complying with your request for overall numbers would exceed the appropriate limit of £600 as mentioned in the initial paragraph and the exemption under Section 12 of the Freedom of Information Act has been applied.

In answer to **Q 14**, the Department has published statistics which covering 'Atos recommendations and post appeal Work Capability Assessment outcomes.'

Over a period of 3 years, 13% of HMC & Tribunal Services decisions were different to the Atos Healthcare's recommendation.

The publication dated 12 September 2012 can be found at:

[http://statistics.dwp.gov.uk/asd/asd1/adhoc\\_analysis/2012/ESA\\_Atos\\_recommendations\\_post\\_appeal\\_WCA\\_outcomes.pdf](http://statistics.dwp.gov.uk/asd/asd1/adhoc_analysis/2012/ESA_Atos_recommendations_post_appeal_WCA_outcomes.pdf)

In answer to **Qs 15 & 16**, the Department do not hold the information you have requested in relation to claimants who have subsequently died, after being disallowed Employment and Support Allowance. The Department do not hold the information about how many people have committed suicide as only the date of their death is recorded when a customer dies.

In response to **Qs 17 & 18** all HCPs have passed strict recruitment and experience criteria and are registered with an appropriate professional body such as the General Medical Council, Health Professions Council or the Nursing and Midwifery Council. They also receive training in claimant rights, equal opportunities and professional standards. DWP does not stipulate minimum qualifications or minimum experience requirements for Healthcare Professionals, this is a matter for Atos Healthcare.

HCP's are also fully trained in Disability Assessment Medicine. Expertise in this field qualifies the HCP to give an impartial, independent assessment on the way in which a claimant's illness or disability affects them in carrying out of a range of everyday work-related activities. Training includes the assessment of the effects of specific conditions, for example mental health, or where a condition may fluctuate. Emphasis is always placed on the differing circumstances of each individual claimant

The DWP Chief Medical Adviser (CMA) approves HCPs to carry out assessments. Approval is dependent on strict recruitment criteria, completion of a course of training in disability assessment medicine approved by the CMA and evidence of satisfactory performance. Schedule 4 Section 4.1 Part 2 para1 details the medical requirements.

In answer to **Qs 21, 22, 29, 30, 31, 32 & 33** DWP does not hold this information.

In reply to **Qs 23 & 24**, the Department does not hold the information of people who have gained employment following being declared fit for work as they may or may not claim Jobseekers Allowance. However, the Department does hold information relating to claimant off-flows, which includes people who are found fit for work, this information is held on the Department's Official Statistics website at:

[http://research.dwp.gov.uk/asd/workingage/index.php?page=esa\\_wca](http://research.dwp.gov.uk/asd/workingage/index.php?page=esa_wca)

In reply to **Qs 25 & 26** since April 2006, responsibility for administering appeals against decisions on entitlement to benefits lies with Her Majesty's Courts and Tribunals Service, which is an Executive Agency of the Ministry of Justice. They also have responsibility for publishing statistics on appeals via their website at <http://www.tribunals.gov.uk/>. See Social Security and Child Support Statistics at: <http://www.justice.gov.uk/publications/statistics-and-data/tribunals/sscs-stats.htm> .

The email contact for Social Security and Child Support Appeals data is:

[TSSTATS@tribunals.gsi.gov.uk](mailto:TSSTATS@tribunals.gsi.gov.uk) .

In response to **Q 27** DWP cannot supply any information relating to the number of staff employed by Atos Healthcare who are disabled as this information is a matter for Atos Healthcare and constitutes their employee's personal data. This information would never be disclosed as this would breach their right to privacy in accordance with Section 40 of the Freedom of Information Act 2000. This is an absolute exemption and does not require a public interest test.

In considering this exemption, the Department has balanced an individual's right to privacy against the public's right to know. As such the individual will have a reasonable expectation that their privacy will be protected under the Data Protection Act. Please be aware that an individual, when applying for employment with any employer does not have to declare if they are registered disabled.

In answer to **Q 28**, at the time of your request, Atos Healthcare's employees totalled 1731 full and part time staff on the Medical Services Contract.

In reply to **Q 34**, DWP benefit decisions carry reconsideration and appeal rights. There is no "compensation" available to claimants who successfully win their appeal after having been declared "fit for work".

However, the Department does administer a special payment scheme under which payment can be made in cases where there has been Departmental maladministration. (Maladministration is the term used to describe when DWP actions or inactions result in a customer experiencing a service which does not match our aims or commitments.) Under the scheme, a payment may be appropriate, in the circumstances you describe, if the original benefit decision was so wholly unreasonable or clearly incorrect, based on the evidence available at the time and the law as it was then understood, that an appeal should not have been necessary to correct it.

The fact that a decision has been revised would not, on its own, amount to evidence of maladministration. It is important to note that the HMC & Tribunals Service may be in possession of medical evidence that was not available to either the HCP or seen when the original decision was made by the DM. It is therefore not necessarily correct to assume that the original decision to find them fit for work was incorrect based on the evidence provided by the customer at the time.

In reply to **Q35**, as DWP do not pay compensation for the cases you describe, the answer is no, claimants would not automatically receive compensation.

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

Yours sincerely,

DWP Business Management Team

e-mail: [freedom-of-information-xxxxxxx@xxx.xxx.xxx.xx](mailto:freedom-of-information-xxxxxxx@xxx.xxx.xxx.xx)

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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-reqxxx@xxx.xxx.xxx.uk](mailto:freedom-of-information-reqxxx@xxx.xxx.xxx.uk) or by writing to DWP, Central FoI Team, Caxton House, Tothill Street, London 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  
[www.ico.gov.uk](http://www.ico.gov.uk)