

DWP Central Freedom of Information Team

e-mail: freedom-of-information-xxxxxxx@xxx.xxx.xx

Our Ref: VTR 549 and 628

3 December 2012

Dear Mr Newman

Thank you for your emails dated 4 and 26 September 2012 seeking internal reviews to previous correspondence. In your email of 4 September you asked:

I am writing to request an internal review of Department for Work and Pensions's handling of my FOI request 'Atos FFW recommendations overturned by DWP 10/08 – 02/11'.

Firstly, Fol legislation does not allow organisations that are subject to it to arbitrarily hive off parts of a request into another self-generated request, simply to artificially extend allowable response times as has happened here. This “new” request relates to either matters from the original request still not addressed or statements made in your response that are unsubstantiated and/or require clarification, neither of which are “new” issues, unless of course you are being vexatious.

Ironically however, although this “new” request was initiated 11/07, no response has yet been published after 2 months – somewhat longer than 20 days. So here we have IRR #4!!!!

In your email of 26 September, you asked:

I am writing to request an internal review of Department for Work and Pensions's handling of my FOI request 'Atos FFW recommendations overturned by DWP 10/08 – 02/11'.

In relation to the time it has taken to address this request, I would point out that:

- With well over 100,000 employees it is hard to believe that there is only one who is familiar with the information relevant to this request. This explains a lot if so few people understand routine MIS.*
- The Fol legislation (rightly) requires organisations to manage staff resources effectively to meet its demands. There is no provision for extra time based on absenteeism or “non-availability”.*
- There is a suggestion that the question is complicated (hence the delay), but in fact it is about routine management information. If it is not readily available, it is not being properly managed. This too would explain a lot.*
- Oddly, it was not until day 20 (19th March) that anyone realised that the deadline would be missed – not by a day or two, but by TWO WEEKS. With so much work outstanding, you would have thought someone would have recognised the problem at least a week if not two earlier.*

- A response was promised for 31st March, but not provided until 18th May 6 WEEKS LATER without any explanation or apology in the interim. It is surprising that DWP did not collapse completely with such a vital member of staff out of circulation for so long.

I do not particularly require a response to the above, but by all means comment if you wish. You will no doubt dismiss the facts as opinion again.

As regards the other points I raised on 28th May which are the subject of this IRR:

Points 1) & 2): I specifically requested recorded information to support your suggestions. If you do not have any, please say so. Without it, your statements can only be regarded as speculation as there are other equally plausible explanations.

Point 3: Your previous response on 18/05 stated that implementation of the Harrington recommendations “empowered” DMs, which means that a previous constraint was removed and my question was to identify what it was. You are now saying there were no constraints, so what actually changed? The two responses are completely contradictory.

Point 4: The fact that the Wrexham trial was such a stunning success and that the benefits so greatly outweighed the costs that not even a cursory justification was deemed necessary is something worth pursuing on another occasion.

Point 5: Firstly, “overturn” = to reverse a previous decision. Your data table headers are therefore wrong; a recommendation can be ignored, but cannot be overturned. Clearly therefore even you regard the Atos “output” as tantamount to a decision regardless of the alternative propositions you circulate.

The “additional” information available to a DM used to account for the high levels of reversal is a myth and proven by the Tribunal Service’s own analysis, which confirms that this is rarely the case – with the vast majority of appeals, the TS has no more information than the HCP had originally. If a piece of evidence is so substantial that its absence caused the HCP to conclude wrongly, it begs the question as to why it was not available previously.

Moreover, it is absolutely critical that the HCP has ALL of the information available to correctly construct the WCA (as explained in the WCA manual) to produce the correct outcome and if this is not working, clearly much more effort is needed to make sure it does. Process remedy is not unlike medical remedy – always better to treat the cause rather than the symptoms.

Clearly it is in everyone’s interests that Atos conclusions are correct and the increase in these statistics shows beyond doubt that they were not as correct as previously thought – the issue was (on your own admission) that DMs did not challenge them as they should have done. Once this came to light, it was obviously important to ensure that the Atos procedures were amended to reinstate an acceptable error rate.

My Q5 is specifically about what was done in this area – if the answer is “nothing” please say so or produce the evidence to prove something was done – again one would expect some form of record in meeting minutes, emails etc.

This review seeks to answer the content of your requests made on 4 September and 26 September 2012. Please be assured that your request has been given our full consideration and that all aspects of your review were fully taken into account. I confirm that I have considered your request afresh, I was unconnected with the handling of your initial request, and that guidance has been sought from domain experts to ensure that all factors were fully taken into account. At this point, I would state that the Freedom of Information act only applies to information held at the time of the request and the Department is not able, or required, to answer rhetorical questions.

It may be helpful if I state that all requests received under the Freedom of Information Act are allocated a receipt date and reference number, even if the information has been requested previously; this process does not extend the time frame within which a response should be provided.

- Your request of 18 February was allocated the reference number VTR 2926-735 and was answered on 18 May however; the 'deadline' allocated to this request was 19 March 2012.
- Your request of 19 March which sought a review of the Department's handling of the above request was referenced 3068 – IR162 and answered on 26 June 2012, outside of the 18 April 2012 deadline.
- Replies to your request of 28 May 2012 were referenced 3375 – IR351 and VTR 3550-2445 and provided on 11 July and 14 September 2012 respectively; both of which were after the 27 June 2012 deadline.
- A response to your request of 28 July 2012, our reference 3623 – IR473, was provided on 4 September; again after the 20 day deadline, which was 28 August 2012.

Please accept my apologies for responses to each of your above requests failing to meet the required deadlines; I can offer no further explanation to those given to you within the previous responses. On review of your email requests of 4 and 26 September 2012, I uphold your complaint that the Department has failed to provide you with a full and complete response within 20 days. I also note that you did not receive an individual response to your request of 28 June 2012 nor was this acknowledged in any subsequent correspondence from the Department, please accept my apologies for this oversight.

With regard to the points you made on 28 May and to which you referred to in your email of 26 September, I find, for points 1 and 2, that the Department does not hold any further recorded information and I uphold the information given in our responses of 18 May and 14 September.

Turning to your third point, our response of 18 May referred to 'DMs feeling empowered' rather than 'empowered DMs'. The response stated 'improving processes for the collection of additional evidence' and did not refer to a 'removal of previous constraints'. I uphold the information given in our response of 14 September and find nothing contradictory.

In reference to point four, you have not requested any recorded information; therefore we are unable to provide a response to this point. Also point five outlines your views around the Departments usage of certain terminology. I maintain that the Freedom of Information Act is for the provision of recorded information held; it is not a complaints mechanism nor is it a forum to enter into a debate. In reference to points 4 & 5 I uphold the decision given in previous replies and confirm that is no further information falling within the scope of your request.

You have been now provided with all of the information available on this topic.

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

Yours sincerely,

DWP Central Fol Team

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 xx@xxx.xxx.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 www.ico.gov.uk