

To Mr J Collins
C/o request-123145-90def7d7@whatdotheyknow.com

DWP Central Freedom of Information Team

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

Our Ref: VTR 3734-3303

DATE 24 September 2012

Dear Mr Collins,

Thank you for your Freedom of Information request that was received by the Department for Work and Pensions (DWP) Freedom Of Information Requests on 24 August 2012 and forwarded on for response by DWP Medical Services Contracts Correspondence Team (MSCCT) Freedom of Information Officer (Fol).

In your email you asked to be provided with information answering the following questions:-

Thank you for your response concerning Your Ref: VTR 3601-2874

Concerning your response to my first question I acknowledge that you state you elect not to answer said question citing 'Section 14(2) of the Freedom of Information Act, the Department is not obliged to comply with a subsequent identical or substantially similar request it has previously responded to. The letter of the MSCCT Freedom of Information Internal Review Officer dated 20 August 2012 (FOI 3594-IR465) refers'.

I am very sorry but I am unhappy with this response. I am simply trying to establish clarity as to why the lists differ. Both myself and PV Sutton have requested lists of neurological syndromes in conjunction with which type of HCP can assess said conditions. I respectfully wish to understand why when logic dictates that as the list is periodically updated PV Sutton's list should include the conditions included in the list you forwarded myself.

My earlier request has for Nurse HCP's to assess Shingles (peripheral nerves), Reflex Sympathetic Dystrophy whereas PV Sutton's latter request does not have these conditions but includes Dizziness; Vertigo and Alzheimer's which were not in my list contained within the PDF file you forwarded to myself entitled Training & Development Neurological Condition List by Practitioner Type MED-NEURODA~001 Version: 3 Final 14th February 2012

Similarly the list I received for Doctor HCP's differed from PV Sutton's namely my list from the above document included Shingles (cranial nerves); Cerebellar disorders; Basilar migraine; Charcot Marie Tooth; Tourettes syndrome; Dyspraxia and Dystonia. Conversely PV Sutton's did not include these but had Fits (secondary to brain tumour) which was not included in my list.

As you can hopefully appreciate if there are two different types of list in circulation for Nurse/Doctor HCP's to check as to whether they possess the credentials to assess a claimant, a breach of duty of care is almost certainly going to arise if it has not already done so.

1. I submit the question again.

a) Why does the list of neurological conditions supplied to PV Sutton's latter request differ significantly to my earlier request?

b) Does the DWP acknowledge and concede that having two different lists in circulation defining which type of HCP can assess a claimant is at least confusing and at worst negligent? E.g. a condition may not be recognised as being one of a neurological nature and then assessed by a HCP sans the additional neurological qualification.

I acknowledge your response to my second question.

You stated 'In reply to Q 2 it is not possible for nurses to obtain the Disability Assessment Medicine (DAM) qualification, this is only available to Doctors. It is estimated that the cost of complying with your request would exceed the appropriate limit of £600 for central Government, which has been specified in regulations. 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 from the personnel file of each Healthcare Professional employed by Atos Healthcare. Under section 12 of the Freedom of Information Act the Department is not obliged to comply with your request and we will not be processing your request further'. I am somewhat confused. You clearly state that 'it is not possible for nurses to obtain the Disability Assessment Medicine (DAM) qualification, this is only available to Doctors'. In a response to questions submitted to the Medical Services Contracts Correspondence Team Your Ref: FOI 3246-1823, I received an explanation (dated the 25/05/12) from Freedom of Information Officer P Cuerden concerning a submitted question pertaining to 'the qualifications and specialisms of the HCP who completed [my] medical assessment'. Ms Cuerden goes into great length and detail explaining on page one paragraph four through to page three paragraph three that:

In answer to Q2 the approved HCP who conducted your WCA was Nurse ******, the HCP's registration expiry date and Geographical Locations are **/**/**** and ***** and the ***** respectfully.

Please refer to www.nmc-uk.org then click on "search the register" from the menu and complete the appropriate fields prior to clicking "submit" 'Nurses must be fully registered (level 1) Registered Nurses without current or previous restrictions or cautions with the Nursing and Midwifery Council (NMC). In additions they must have at least 3 years post full registration experience. In individual cases, solely at the discretion of the DWP Chief Medical Advisor (CMA), the requirements that no cautions be attached to registration and that the nurse must have a minimum of 3 years post registration experience, may be waived.

The Welfare Reform Act makes provision for medical assessments in connection with benefit entitlement to be carried out by a range of HCPs specified in the legislation. This move has been taken because nurses and other HCPs are increasingly being used in roles which were once reserved to doctors; and it is appropriate to extend this to benefit entitlement assessments. HCPs primary qualifications are held in the public domain and appear on the NMC website.

The 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 a satisfactory performance.

Minimum experience criteria for recruitment are laid down for both employed and contracted HCPs.

All HCPs have passed strict recruitment and experience criteria and are registered with an appropriate professional body such as the General Medical Council, NMC or the Health Professional Register.

The 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.

HCPs are also fully trained in Disability Assessment Medicine. Expertise in this field qualifies the HCP to give impartial, independent assessment on the way in which a customer's illness or disability affects them in carrying out 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 customer. They also receive training in customer rights, equal opportunities and professional standards.

The assessment carried out is different to the more usual type of medical examination in which the Medical Clinician's aim is to make a diagnosis and decide on appropriate treatment. A GP or Specialist is not usually trained in disability assessment medicine and therefore will often not have specific experience in assessing the disabling effects of medical conditions and the way in which a customer's illness or disability affects them in carrying out a range of everyday work-related activities. As well as this difference in emphasis within the assessment process, the HCP will, when giving an opinion, be aware of the law relating to benefit entitlement. A Specialist on the other hand is less likely to be familiar with Social Security Legislation.

The role of the HCP is to carry out an assessment of the functional effects of the customer's disabling condition, and to utilise the information gathered to provide the DWP Decision Maker with an impartial and independent assessment. Therefore, unlike the more widely known type of examinations, the assessment is not concerned with diagnosis or decisions about treatment so specialist diagnostic qualifications are unnecessary. However a customer may submit evidence from their doctor or specialist if appropriate.

We cannot supply any further information relating to qualifications, CV's and information relating to post-graduate qualifications of an HCP, which are held by Atos Healthcare, constitutes that person's personal data. This information cannot be disclosed in accordance with Section 40 of the Freedom of Information Act 2000 as disclosure would breach that person's right to privacy under the Data Protection Act (DPA) 1998. This is an absolute exemption and does not require a public interest test.

In considering this exemption, the Department has balanced a HCPs right to privacy against the public's right to know they are qualified for the task. In this, the criteria for a HCP's qualification for the post are provided whenever asked. It is not, however, relevant to provide details that go beyond those needed to show the person is qualified to be a HCP, particularly

as further qualifications and previous employment details do not impact of a person's qualification for the role as a HCP. As such the HCP will have a reasonable expectation that their privacy will be protected under the DPA.

I can advise you that HCPs are not required to hold specialist qualifications or experience in mental health conditions. As part of their induction training the HCPs all receive training in mental health issues, and as a part of their induction are required to read evidence based protocols on mental health conditions. In addition, all HCPs are required to engage in a programme of continuing medical education which includes modules on mental health issues.

2. In relation to my submitted second question: a. Which FOI request is accurate i.e. can Nurses obtain DAM or is this qualification as you state only available for Doctors to obtain?

b. If the Nurse who assessed me had not obtained the DAM due to this qualification being only available to Doctors, what qualification did said Nurse hold to enable him to assess me i.e. a claimant?

c. How does a claimant ascertain if their HCP has undertaken the additional training and received an additional qualification pertaining to assessing neurological conditions as apparently the HCP is protected by Section 40 of the Freedom of Information Act 2000 and right to privacy under the Data Protection Act (DPA) 1998?

d. To which academic organisation is the additional neurological qualification for HCP's accredited to?

You continue to explain in question 2 that 'It is estimated that the cost of complying with your request would exceed the appropriate limit of £600 for central Government, which has been specified in regulations. 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 from the personnel file of each Healthcare Professional employed by Atos Healthcare. Under section 12 of the Freedom of Information Act the Department is not obliged to comply with your request and we will not be processing your request further'.

e. Can you confirm in writing then that, the confusion from your department concerning whether nurses can or cannot undertake the DAM qualification, due to section 12 of the Freedom of Information Act it is subsequently impossible for claimants to establish from the DWP the ratio of nurse HCP's who have undertaken and possess the additional neurological assessment qualification?

f. At the risk of sounding impertinent (and this is not my intention) would you concur that relevant and specific information that should be in the public domain if requested, to ensure that originations, authorities and their contractors/partners who hold a position of power and influence of the populace are not abusing said power and position can elect not to implement a FOI request due to a budget cap of £600?

Concerning question three I am grateful that the 'DWP will forward [my] request for the inclusion of this medical condition [Complex Regional Pain Syndrome] in the desk aid to Atos Healthcare for it to be considered at the next review of the guidance list'.

In response to your email those questions you have raised in relation to **Q 1, 2a, 2e** will be answered separately by the MSCCT FoI Internal Reviewing Officer.

In answer to **2b & 2d** Healthcare Professionals (HCP) are not required to hold specialist qualifications or have experience in mental health conditions. As part of their induction all HCPs receive training in mental health issues, and are required to read evidence based protocols on mental health conditions. In addition, all HCPs, in order to maintain their approval to conduct medical assessments are required to engage in a programme of continuing medical education which includes modules on mental health issues.

There is no requirement for HCPs to obtain additional academic qualifications in order to undertake medical assessments for DWP. Doctors wishing to complete the Diploma in Disability Assessment Medicine are not required to inform Atos Healthcare that they have obtained the qualification.

From 2012 Atos Healthcare have linked with the University of Derby through the University of Derby Corporate to officially accredit a key training course for nurses. This is in line with the nursing professions requirement from 2012 that all nurses will be required to obtain a degree in order to successfully qualify in nursing. Further information can be found through the attached link http://www.atoshealthcare.com/news/news_accreditation

In reply to **2c** DWP cannot supply any further information relating to post-graduate qualifications of an HCP, which are held by Atos Healthcare, constitutes that person's personal data. This information will not be disclosed in accordance with Section 40 of the Freedom of Information Act 2000 as disclosure would breach that person's right to privacy under the Data Protection Act (DPA) 1998. This is an absolute exemption and does not require a public interest test.

In considering this exemption, the Department has balanced a doctor's right to privacy against the public's right to know they are qualified for the task. In this, the criteria for a HCP's qualification for the post are provided whenever asked. It is not, however, relevant to provide details that go beyond those needed to show the person is qualified to be a HCP, particularly as further qualifications and previous employment details do not impact of a person's qualification for the role as a HCP. As such the doctor will have a reasonable expectation that their privacy will be protected under the DPA.

In response to **2f** DWP looks to ensure that all FoI requests are answered, however it should be recognised that this would not be possible if there was not a legislative control on the amount of public resources that can be used to provide a response to each request.

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

Yours sincerely,

DWP Central FoI 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 freedom-of-information-request@dwpgsi.gov.uk or by writing to DWP, Central FoI 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