

To B Adams
C/o request-121494-b7f5815b@whatdotheyknow.com

DWP Central Freedom of Information Team

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

Our Ref: FOI 3548-2693

DATE 16 August 2012

Dear B Adams,

Thank you for your Freedom of Information request that was received by the Department for Work and Pensions (DWP) Adelphi on 9 July 2012 and forwarded on 10 July for response by DWP Medical Services Contracts Correspondence Team (MSCCT) Freedom of Information Officer.

May I take this opportunity to apologise for the delay in responding to your request for information.

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

1) What specific Act of Parliament or amendments to that Act provides for Regulations to be made, giving the power to a DWP Contractor to decide for the Secretary of State whether he considers it to be necessary for a medical examination to take place or what information they think he should need.

2) As the Data Processor (Medical Services) shall only act on instructions from the controller.(DWP) as confirmed in the "Medical Services Contract" the "Data Protection Act", and "EC Directive 95/46/EC" etc.. please provide me with details of

a) the legislation which allows for Secretary of State to delegate such absolute powers, as described above, to a DWP contractor.

b) the legislation which allows the Contractor to act as a Data Controller. (A Data Controller is anyone who determines the purposes for which and the manner in which personal data are, or are to be, processed)

3) As there appears to be generalised instructions given to the Contractors by the DWP which is not specific to the individual claimants conditions or having the "necessity" to provide the Secretary of State with any particular information required, this could be considered disproportionate and excessive, especially in relation to sensitive information.

Further to this as "Procedural Ultra Vires", where the prescribed procedures have not been properly complied with, can have the effect of nullifying the validity of a decision, please could you state....

What scrutiny or monitoring is carried out by the DWP to ensure compliance from the Contractors within the various data protection legislation to ensure that they do not act beyond

their powers (Ultra Vires)... and to ensure that the Data Quality and collection of personal data is adequate, relevant and not excessive in relation to the purposes for which they are collected. The Data quality refers to a set of principles laid down in Article 6 of Directive 95/46/EC and Article 4 of Regulation (EC) No 45/2001.

In response, Healthcare Professionals (HCP) employed by Atos Healthcare do not make decisions on entitlement to benefit. They provide advice to DWP Decision Makers (DM) who make these decisions, therefore as decision making has not been devolved to Atos Healthcare, the information that you have requested does not exist.

HCPs need to be aware of the facts of a claim to benefit in order to provide informed advice, which may or may not require a face to face assessment; however this forms part of the evidence gathering process rather than a decision on a claim to benefit.

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 freedom-of-information-request@dwp.gsi.gov.uk or by writing to DWP, Central Fol 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