

To J Newman
C/o request-101538-fb6d1b35@whatdotheyknow.com

DWP Central Freedom of Information Team

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

Our Ref: VTR 2828-298

DATE 20 February 2012

Dear J Newman,

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

In your email you asked

Dear Department for Work and Pensions,

The WCA Handbook for Atos HCPs is quite clear that all of the evidence brought by the claimant must be considered and logged in their report. They must also consider the ESA50 and where appropriate use all of this to inform the way in which they approach the WCA, the questions they ask and the tests they perform. A comprehensive review of this information is vital to the success of the WCA.

If they fail to do this what action should a claimant take? Many claimants would not be able to raise this with the HCP at the time and it is not possible to "intercept" the ESA85 report before it arrives with DWP and a decision over ESA entitlement is made.

In answer to your question I confirm that it is the Healthcare Professional's (HCP) responsibility to provide an independent, impartial assessment of the claimant's ability to perform activities within each of the functional areas by choosing the descriptors that they consider appropriate on the medical report they complete. This opinion is based on interview with the claimant, observations, and an appropriate clinical examination.

Paragraph 3.1.2. of the Work Capability Assessment (WCA) Handbook states:- *At times, the claimant may also bring additional evidence to the assessment. **Any evidence brought by the claimant must be read** and the report should make reference to the evidence that has been considered and justification provided if there is a conflict between the opinion of the HCP and the other medical evidence.*

Any evidence brought by the claimant, should be copied for the DWP Decision Makers (DM) (see section 4.2.5 for further guidance).

Paragraph 4.2.5 of the WCA Handbook states:- *"At times the claimant may bring additional evidence with them to the assessment. The HCP must read this evidence. You should ask the claimant whether they wish to have the letter included in their file in support of their claim. If so, it should be photocopied, a note made in the file of the source and date of receipt of the document, and the original returned to the claimant. If no copying facilities are available, offer to have the copying done at the Medical Services Centre and to have the original returned by post. If this is unacceptable to the claimant, you should explain that it cannot be used in support of the claim as it will not be seen and considered by the DM."*

Benefit entitlement is determined by DWP Decision Makers (DM) not HCPs. In order to make a decision on benefit entitlement the DM considers all the available evidence not just the reports received from Atos Healthcare. Other evidence may include the claimant's 'self assessment', reports from GPs, hospital doctors and Clinicians.

All information gathered, including any further supporting evidence that may have been provided by the claimant or their GP/Specialist etc, is then used for the purpose of establishing entitlement to benefit.

For completeness the claimant could send copies of the additional evidence taken to the assessment through to the Office that is administering the claim for benefit. The decisions of the DM do carry rights of appeal.

The Data Subject (DWP Claimant) has a right of access to this personal information. A copy of any personal information held about a DWP claimant is available on **written** request to the Data Protection Officer at the Office which administers the claim for benefit.

If you have any queries about this response, 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-xxxxxxxxxxxxxxxxxxxx@xxx.xxx.xxx.xx or by writing to DWP, Central Fol Team, 5th Floor The Adelphi, 1-11, John Adam Street, London WC2N 6HT. 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