

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: VTR3078-IR163

9 August 2012

Dear Mr Newman

Thank you for your email dated 19 March 2012 that was received by Department for Work and Pensions (DWP) Adelphi and forwarded on to the DWP Medical Services Contracts Correspondence Team (MSCT) to respond to. Please accept our apologies for the delay in providing you with a reply.

Please be assured that your request has been given our full consideration and that all aspects of your review were taken fully into account by an independent official of the Department, of the relevant grade and authority to carry out such requests. Your original query and subsequent requests have been examined and considered afresh.

I note that a full response to your original request was issued on 20 February 2012, you then asked for an internal review of DWP's response, which we answered on 19 March. You then asked for further confirmation of our response on 19 March; I apologise for the delay in responding.

In your request of 19 March you asked;

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".

You have not answered this question in either the initial response or the previous IR response, so I am repeating it here. I cannot find the answer in any of the manuals you have referred me to. If you do not have this information, please just say you do not have it.

The Work Capability Assessment identifies how a claimant's health condition or disability affects their ability to work and plays an important role in determining entitlement to benefit. The assessment provides the claimant with the opportunity to provide any other information which they feel is relevant to their case. Each case is assessed on an individual basis, therefore the onus is on the claimant to provide any information they feel is relevant. If the claimant thinks the decision is wrong they have the opportunity to raise this with DWP within one month of the date of the decision letter.

I find therefore that the original response was correct and that DWP has provided you with all of the information available on this topic. You should note 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.

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 xx@xxx.xxx.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