

DWP Central Freedom of Information Team

e-mail: freedom-of-information-request@dwp.gsi.gov.uk

Our Ref: VTR 1229

DATE: 21 April 2015

Dear Colin Lindley,

Thank you for your Freedom of Information (Fol) request received on 28 March 2015. You asked:

1How do you inform Claimants that their benefit has been denied & that to appeal they must engage in a Mandatory Reconsideration?

The benefit decision notice explains this.

2 How do you ensure the claimant can view the evidence used in the decision against him?

Claimants can ask to see a full written statement of reasons for a decision. This is explained in the decision notice.

3How is the claimant able to test the evidence against him?

Through the disputes process. First, through mandatory reconsideration and then on appeal – this is explained in the decision notice.

4How can the claimant enter evidence in support of his legal Argument?

Claimants have the opportunity to provide evidence when they initially claim, at the mandatory reconsideration stage and again on appeal – this is also explained in the decision notice.

5How can the claimant face & question the officials who evidence was used to make the original decision?

Claimants have the opportunity to discuss (by phone) the decision at the mandatory reconsideration stage – this is explained in the decision notice.. Further, although the decision maker will not appear in person at a tribunal hearing a written explanation of his decision is provided in advance of the hearing and the claimant can challenge it at that time. A presenting officer from the department may attend and eh can be asked to further explain the decision.

6 How is the claimant able to enter into a fair & equitable legal argument to alter the Mandatory Reconsideration if the claimant is unable to gain equal access to the Mandatory Reconsideration Process ?

As explained above claimants are involved directly in the mandatory reconsideration process. The department will always try and discuss the decision and the dispute with the claimant before reaching a decision. It is fair and equitable.

7 If a claimant denies that D.W.P. had fulfilled its statutory obligations regarding the the Mandatory Reconsideration ,What procedure do you have in place to prove the actual facts of the matter?

A record is kept of what contact took place with a claimant during the mandatory reconsideration process. If a decision is made without having been able to discuss an application with the claimant – we will not delay acting indefinitely then, of course, the claimant can still appeal. No further action will be taken but if an appeal is made then a full explanation of the process will be provided to the tribunal and the claimant. That there was no discussion will not disadvantage the claimant.

8 Do you believe that the the manner in which the Mandatory Reconsideration is performed gives the claimant Equity of Arms considering the total lack of openness & seemingly ignorance of commonly accepted legal norms including but not limited to The Right To Face Your accuser, Test The Evidence & rebutt the Information that D.W.P. Used to Justify Their Original Decision

The department is satisfied that the mandatory reconsideration process is fair and equitable giving claimants every opportunity to have decisions corrected at the earliest possible opportunity, including assisting the claimant in identifying relevant issues. The Mandatory Reconsideration Notice will explain to the claimant why the decision was made.

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

Yours sincerely,

DWP Strategy 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@dwpgsi.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.org.uk/Global/contact_us or telephone 0303 123 1113 or 01625 545745