

DWP Central Freedom of Information Team

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

Our Ref: Fol4883

DATE: 24 January 2017

Dear Mr Zola,

Thank you for your Freedom of Information request of 27 December 2016. You asked:

For you mandatory Work and Health Conversation, what legislation can require a claimant to disclose highly sensitive personal health data or face sanctions for the WHC if they do not wish the DWP to record their health data or treatment related thereto? Will claimants be able not to consent sharing their personal health and medical data on the basis of them wanting to maintain there Data Protection Act and Human Rights Act ECHR Article 8 Right to respect for private and family life and holding a well founded conscientious objection to sharing such data, noting the DWP already hold related data provided in the connected health and disability benefit claim?

When asked WHC questions by your work 'coach', if the claimants says 'no comment' to questions will they be at risk of a sanction? If at risk on what basis c/would a sanction apply and what legislation enables such sanctions?

RFI1: For you mandatory Work and Health Conversation, what legislation can require a claimant to disclose highly sensitive personal health data or face sanctions for the WHC if they do not wish the DWP to record their health data or treatment related thereto?

Claimants will not be expected to disclose sensitive personal health data as part of the Health and Work Conversation (HWC). The purpose of the HWC is to help the claimant build a relationship with their work coach at an early stage and an opportunity to discuss their aspirations and how to achieve them.

RFI2: Will claimants be able not to consent sharing their personal health and medical data on the basis of them wanting to maintain there Data Protection Act and Human Rights Act ECHR Article 8 Right to respect for private and family life and holding a well founded conscientious objection to sharing such data, noting the DWP already hold related data provided in the connected health and disability benefit claim?

Claimants do not have to discuss personal information with their Work Coach if this makes them feel uncomfortable; the Health and Work Conversation allows the claimant to decide what they want to talk to their work coach about, and to set their own goals.

When asked WHC questions by your work 'coach', if the claimants says 'no comment' to questions will they be at risk of a sanction? If at risk on what basis c/would a sanction apply and what legislation enables such sanctions?

Claimants are expected to participate in work focused interviews, the Health and Work Conversation is a type of work focused interview. The Health and Work Conversation is claimant led, if a claimant feels uncomfortable answering some questions in the Health and Work Conversation they will not be referred for a sanction. However, if they refuse to engage at all in the HWC then they may be referred for a sanction. The Employment and Support Allowance Regulations 2008 (SI 2008/794) contain the provisions which enable the Department to apply a sanction.

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@dpw.gsi.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.gov.uk