



Department
for Work &
Pensions

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[DWP Website](#)

Our Ref: FOI2021/30348 and
FOI2021/30352

10 May 2021

Dear David Smith,

Thank you for your two Freedom of Information (Fol) requests received on 16 April. As they request similar information, we have responded to them within the same letter.

You wrote:

FOI2021/30348

"I have been told that only some specialist court cases such as tribunals are reported and to merit reporting, a case must either introduce a new principle or a new rule of law, materially modify an existing principle of law or settle a doubtful question of law. Also included are questions of interpretation of statutes and important cases illustrating new applications of accepted principles.

Since 2010, please provide details of both reported and non reported ESA cases implemented. This could be a list of the two types of cases and pointing me to the information or equality analysis and instructions provided to staff for each case implemented."

FOI2021/30352

"I have been told that only some specialist court cases such as tribunals are reported and to merit reporting, a case must either introduce a new principle or a new rule of law, materially modify an existing principle of law or settle a doubtful question of law. Also included are questions of interpretation of statutes and important cases illustrating new applications of accepted principles.

Since 2010, please provide details of both reported and non reported PIP cases implemented. This could be a list of the two types of cases and pointing me to the information or equality analysis and instructions provided to staff for each case implemented."

DWP Response

Reported decisions

We confirm that we hold the recorded information to answer your request.

1. You have made a statement in both your requests about the reporting of cases heard before courts and tribunals. This is not a request for information, but rather a statement and therefore we do not propose to respond to it. However, in order to be helpful we can clarify that in respect of decisions of the Upper Tribunal (Administrative Appeals Chamber), although DWP is invited to comment on those selected for reporting, it remains for the members of the editorial board within Her Majesty's Courts and Tribunals Service (HMCTS) to decide which decisions are finally reported.
2. In order to be helpful we can also refer you to the list that HMCTS publishes of reported decisions on its website here, in date and subject order:

<https://administrativeappeals.decisions.tribunals.gov.uk/Decisions/Commissionersdecisions.htm>

3. A list of reported and non-reported decisions for ESA are published here by HMCTS:

https://www.gov.uk/administrative-appeals-tribunal-decisions?tribunal_decision_categories%5B%5D=employment-and-support-allowance&tribunal_decision_date%5Bfrom%5D=01.01.10.

4. A list of reported and non-reported decisions for PIP are published here by HMCTS:

https://www.gov.uk/administrative-appeals-tribunal-decisions?tribunal_decision_categories%5B%5D=personal-independence-payment-daily-living-activities&tribunal_decision_categories%5B%5D=personal-independence-payment-general&tribunal_decision_categories%5B%5D=personal-independence-payment-mobility-activities

Decisions implemented

5. In respect of your requests, we have taken the reference to “*decisions implemented*” to mean decisions of a court or tribunal that have changed the guidance that is issued to DWP decision makers.
6. We do not hold a list of all of the decisions reported or non-reported which have influenced our decision making. However, we publish our Advice for Decision Makers (ADM) and the Decision Makers Guide (DMG) (plus memos) on Gov.uk. These are guides used by DWP staff to make decisions about benefits. Where a reported (or non-reported) decision has had an impact on the guidance issued to DWP decision makers, the ADM or DMG may refer to that decision in the body of the text or in a footnote, where it's appropriate and helpful for it to do so.
7. The ADM for PIP and ‘new style’ ESA, along with current memos, can be found here:
8. The DMG for “old-style” ESA and current memos, can be found here:

<https://www.gov.uk/government/publications/advice-for-decision-making-staff-guide>

<https://www.gov.uk/government/publications/decision-makers-guide-vols-8-and-9-employment-and-support-allowance-staff-guide>

and here:

<https://www.gov.uk/government/publications/decision-makers-guide-memos-staff-guide>

9. In respect of ESA, an Upper Tribunal or court decision which has influenced our decision making may be referred to in the WCA handbook instead of, or as well as, in the ADM or DMG. This can be found here:

(<https://www.gov.uk/government/publications/work-capability-assessment-handbook-for-healthcare-professionals>)

10. In respect of PIP, an Upper Tribunal Decision or court which has influenced our decision making may be referenced in the PIP Assessment Guide instead of, or as well as, in the ADM. This can be found here:

<https://www.gov.uk/government/publications/personal-independence-payment-assessment-guide-for-assessment-providers>

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

Yours sincerely,

DWP Central Freedom of Information Team
Department for Work and Pensions

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@dw.gov.uk or by writing to: DWP Central Fol Team, Caxton House, 6-12 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.

Website: [ICO Contact Information](#) or telephone 0303 123 1113.