

DWP Central Freedom of Information Team

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

Our Ref: Fol 799

DATE: 29 March 2016

Dear Elwyn,

Thank you for your Freedom of Information request received on 1 March 2016. You asked for:

Dear DWP Strategy Freedom of Information,

Ok, it seems I have to re-phrase this request in plain English.

(1) Can you tell me if the Power of Attorney consent is attached to any/all social security accounts, by yourselves, the DWP, (refer to footnote) and if so

(2) Relating to question 1, can you confirm, or deny that the Power of Attorney aspect is not and never was necessary to the performance of the contract between the parties to the social security account and

(3) Relating to question 1, what affect the withdrawing of said Power of Attorney would have on any claim.

(Footnote)

Re: Question (1)

In plain speak, when any claimant/s makes a DWP claim, for benefit payment/s, of any type, Does the claimant/s give any/all power of attorney, automatically, consented, or otherwise to the DWP.

And so there is no doubt on my question, If I walked in to DWP and made a claim, say for unemployment/disability benefits, do I, as a "sane" person hand over any/all Power of Attorney, to you, the DWP, on making said claim.

In our previous reply we had understood your reference to a Power of Attorney in the context of the legal document drawn up between the Office of the Public Guardian and the person seeking the authority to hold a Power of Attorney. With the further clarification that you provided on 1 March 2016, we now believe that you want to know what "contract", if any, is made between the claimant and the department when someone claims a benefit.

The first point to make is that in all cases a benefit is claimed under conditions of entitlement that can be seen in the legislation. This also contains specific powers and restrictions applying to DWP in managing those benefits. These arise immediately when someone claims benefit, be it through a written form, online or by phone, because they agree a declaration which confirms the accuracy of the information provided. This allows a decision maker to use that information to decide whether benefit should be awarded or not. If the claimant does not agree this

declaration then benefit will not be awarded. This is not a contract but simply the basics involved in making and deciding a claim for benefit.

For some benefits this declaration goes further. In the case of DLA, PIP, ESA and Industrial Injuries, the Department will also ask the claimant to give their consent to the Secretary of State approaching anyone who may be able to help the Department with relevant additional information to support the claim. This could, for example, be the claimant's GP. While the Department consider this request still 'consent' it could be considered as a very limited and temporary power of attorney for the Secretary of State to act in order to ensure that a claimant receives the correct benefit. The claimant can withdraw this consent at any time. If it is withdrawn before the claim is decided then the Secretary of State would make any decision on the evidence that has been provided.

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.gov.uk