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DWP Central Freedom of Information Team

e-mail: freedom-of-information-xxxxxxx@xxx.xxx.xxx.xx

Our Ref: VTR FOI 1951-452

DATE 15 March 2011

Dear xxxxxxxxx

Thank you for your Freedom of Information request that was received by Department for Work and Pensions (DWP) on 15 February 2011 and forwarded for response by the DWP Commercial Management of Medical Services Freedom of Information Officer.

In your email you asked to be provided with information answering the following questions:-

1. Please will you let me know how much ATOS Assessors are paid for each Work Capability "Assessment".
2. How much is the ATOS contract worth?
3. How many appeals are currently underway, to date, out of how many total applications for ESA?
4. What is the cost of each appeal?
5. What is the appeal success rate
6. ATOS Assessors produce a report which does not reflect what was said at the WCA. = Inaccurate reporting of the session.
7. ATOS assessors / report writers - what qualifications do they have?
8. What training do they get?
9. Who designed the WCA / ESA application process? What was their motive - Gatekeeping?
10. Is an APPEAL now deliberately being used as PART of the APPLICATION process?
11. Looking at the timings of a report and the kinds of things said: while the Assessor at a WCA is supposed to be concentrating on what the client is saying(?) and actively recording facts and verbal evidence, they are AT THE SAME TIME covertly writing assumptions and subjective "observations" about the client such as about their demeanour and attire, and what they are carrying, and whether or not they have good eye contact or are sweating etc. = How can anyone possibly do two things at once and produce an accurate report, while thus distracted?
12. What relevance do such observations have to the process?
13. Why are they made?
14. Evidence sent in to JobCentrePlus is NOT always looked at when a decision is made by the Decision Maker - it can be apparently conveniently "stored". They are supposed to look at all evidence sent in - are they not? If they do not, they are breaking DWP's own rules somewhere, surely?
15. Why is evidence not kept on file for the Decision Maker?
16. Why is evidence thus kept away from the Decision Maker?

17. JobCentrePlus office and ATOS do not share documents, apparently. People are not told where to send things for consideration.
18. If the address of a hospital consultant is given, because a consultant's letter is late, the Decision Maker will not follow this up.
19. How many GP hours are wasted giving out multiple medical sickness certificates for this process? Medical certificates which are devalued / disregarded by the process.
20. How many hospital consultants / specialists hours are wasted in writing endless letters of evidence for their patients? Letters which are then disregarded by the process.
21. Many people are given 0 points - whatever they say and whatever evidence they submit, and whatever their condition - so that they are forced to Appeal. This makes an Appeal PART of the process. Is this lawful?
22. They are supposed to consider pain, discomfort and repeatability, but do not consider them at all. Is this lawful? Pain does not count?
23. There is no direct causal or logical or reasonable link between the condition and the points it "scores". The scores are arbitrary and baseless - "floating in air" also. The "scores" are produced somehow from subjective statements. This is using a pseudo-mathematical and pseudo-scientific method over a highly subjective one. = Lacks scientific, mathematic and moral rigour. - MEANINGLESS "SCORES".
24. Wouldn't the above suggest misrepresentation, maladministration, "fettering of discretion", a lack of consideration of the "material facts" / evidence. Routine bias, subjectivity, choosing what to look at and what not to. A lack of natural justice? = Unjust, unlawful, unreasonable, unethical, unfit for purpose?
25. Can there not be some sort of Judicial Review re this whole process?
26. Why is the government by direct implication blaming poor sick or disabled people for the recession? To appease extreme voters?
27. Who was in a position of power and making the decisions at the time? The government. Why then are they expecting the powerless sick and vulnerable people to pay for government mistakes? Unjust. Illogical. = Institutionalised discrimination against the disabled / sick.
28. How much money does the government think the WCA process will realistically save?

In answer to **Q 1** the DWP does not hold any information regarding Atos Healthcare staff remuneration. The Department has decided not to disclose the information you requested regarding the price of an assessment, in accordance with Section 43 of the Freedom of Information Act 2000; this exemption covers Commercial Interests. In applying this exemption the Department has balanced the public interest in withholding the information against the public interest in disclosing the information and considers that release of the information would prejudice the interest of Atos Healthcare and the Department's future dealings with Atos Healthcare or other service providers. Atos Healthcare do not have incentives or receive bonuses with regard to the number of people expected to qualify for Benefit.

Atos Healthcare provide the relevant reports for the DWP Decision Makers (DM), but play no part in the actual decision making process and I can confirm that payment to Atos Healthcare for the services provided is not related in any way to the outcome of individual medical examinations.

In reply to **Q 2** the total cost of the medical services contract amounts to approximately £100 million per annum. This figure not only covers the total number of assessments undertaken across all benefits, but also costs relating to written and verbal medical advice, fixed overheads, administrative costs, investment in new technology and other service improvements.

In response to **Qs 3, 10 & 21** at 20 February 2011 there were 29,101 Employment and Support Allowance (ESA) appeals with Jobcentre Plus (source: internal Jobcentre Plus management information). Not all of these appeals will necessarily proceed to hearing as some appeals will lapse if the appealed decision is revised in favour of the customer. An Appeal Tribunal hears all evidence afresh, including any **new evidence** that was not available to the original DM, in order to decide whether the original decision on benefit entitlement was correct. Thus when a Tribunal reaches a different decision this does not necessarily mean that the original decision lacked validity. To try and improve the accuracy of initial decision-making and reduce the number of cases which proceed to appeal, a number of innovations have been trialled. These include encouraging applicants to submit all the available evidence at the beginning of their claim rather than only producing it for the appeal hearing; and strengthening the reconsideration process so that more decisions are reconsidered, with additional information if available by DM and Healthcare Professionals (HCP) before proceeding to appeal. Both of these processes have produced very encouraging results.

The Department publishes a wide range of statistics on benefit claimants on its website via the Tabulation Tool at <http://research.dwp.gov.uk/asd/tabtool.asp> and on the Nomis website www.nomisweb.co.uk, which is the Office for National Statistics' official website of labour market statistics.

This includes tables of numbers leaving ESA (off-flows) @<http://research.dwp.gov.uk/asd/esa.asp> by geographical area, age group, gender, duration of claim and benefit payment type, but not by destination.

In reply to **Q 4** Jobcentre Plus is responsible for a part of the appeal process against medical assessment decisions relating to ESA. The majority of the process is then handled by the Tribunals Service.

Within Jobcentre Plus the direct staff administration cost of ESA appeals for the period from April 2010 to January 2011, the latest period for which figures are available, was £10m. The Tribunals Service has provided the following information in relation to 2009-2010.

	Receipts	Disposals	Total Cost	Average Cost
2009/10	339,215	279,030	£81,760,709	£293.02

The costs were calculated September 2010 with the best information available at that time and are the latest available at this time. The average/unit cost figure was derived by dividing the total number of Social Security & Child Support appeal case disposals into total expenditure including overheads.

In answer to **Q 5** currently 60% of appeals against a decision around Employment and Support Allowance are upheld in the Department's favour.

Information regarding appeals is the responsibility of the Tribunal Service, part of the Ministry of Justice. You can contact them directly at: Data Access and Compliance Unit, Information Directorate, Ministry of Justice, 1st Floor, Zone C, 102 Petty France, London SW1H 9AJ The Tribunals Service holds data relating to appeals referred for a hearing by the First-tier Tribunal. The Tribunals Service published *Annual Statistics for the Tribunals Service 2009-10* at this link <http://www.tribunals.gov.uk/Tribunals/Documents/Publications/tribs-annual-stats-2009-10c.pdf> - table 1.3 gives the figure for the Social Security and Child Support jurisdiction as at 31.3.2008, 2009 and 2010.

The Tribunals Service publishes more detailed information in its *Quarterly Statistics for the Tribunals Service— 4th quarter 2009-10* at this link <http://www.tribunals.gov.uk/Tribunals/Documents/Publications/tribs-q42009-10-statsc.pdf> - table 1.1c gives receipts of appeals by benefit type and table 1.3 gives the outstanding appeals by jurisdiction. The Tribunals Service's most recent Quarterly Statistics cover the quarter ending 30/9/10 at this link <http://www.justice.gov.uk/publications/quart-stats-tribunals.htm> - table 1.1c gives receipts of appeals by benefit type and table 1.3 gives the outstanding appeals by jurisdiction.

In response to **Qs 6, 9 11, 12, & 13** the questions and options built into the Logic Integrated Medical Assessment (LiMA) programme are exactly the same as those in the clerical form IB85 Incapacity for Work Medical Report Form. This form was designed by the DWP.

The assisted text phrases that may be used to construct the medical history were drawn from many sources including the Incapacity Benefit (IB) Handbook, medical text books, examples of high quality Personal Capability Assessment report and discussions with experienced approved HCPs. They have been quality assured by panels of experienced HCPs and deemed appropriate for constructing good quality relevant clinical and functional histories and were agreed in consultation with the DWP Health and Benefits Division (HBD) (formerly Corporate Medical Group).

The clinical examination results are structured according to the findings of evidence based medical research carried out by Atos Healthcare to determine the functional consequences of specific clinical signs. In other words the HCPs are expected to carry out a functional assessment of the affected system(s), not necessarily to carry out a full diagnostic clinical examination. This was agreed in consultation with the DWP HBD. The computer software utilises evidence based medical protocols which contain up to date medical knowledge relating to medical assessment technique and in the assessment of the effects of medical conditions.

Emphasis is always placed on the differing circumstances of each individual customer and HCPs are required to justify their medical opinion contained on the medical report. This has contributed to an improvement in the quality and consistency of medical advice provided by Medical Services HCPs. It also solves any potential problem of legibility of the medical report.

The information obtained by the examining HCPs regarding a customer's typical day is automatically transferred to the appropriate areas of the report.

LiMA does not present questions to the HCP during history taking and examination instead providing the relevant blank sections of the IB85 report. It will, however, tailor the available assisted text control phrases based on conditions entered at the start of the case; LiMA will provide phrases that are relevant in order to assist collecting information on the client's condition history. This is simply an attempt to provide practitioners with the phrases that they are most likely to require. This system places no constraints on the practitioner as to what information is recorded or how.

The Medical Provision Contract specifies that all medical advice shall be fair and impartial. HCPs are required to produce a report, which states their own clinical opinion of the effects of a customer's illness, occasionally, in order to assist in this a HCP may make written notes.

In reply to **Qs 7 & 22** all HCPs have passed strict recruitment and experience criteria and are currently registered with an appropriate professional body such as the General Medical Council or the Nursing and Midwifery Council. They also receive training in customer rights, equal opportunities and professional standards. In addition they must have at least 3 years post full registration experience. In individual cases, solely at the discretion of the Chief Medical Adviser (CMA) to the DWP requirements that no cautions be attached to registration and that the nurse must have a minimum of 3 years post registration experience, may be waived.

The role of the HCP is to carry out an assessment of the functional effects of the customer's disabling condition, unlike the more widely known type of examination, the assessment is not concerned with diagnosis or decisions about treatment so specialist diagnostic qualifications are unnecessary. However a customer may submit evidence from their doctor or specialist if appropriate.

In answer to **Q 8** Atos Healthcare training of HCPs is as follows:- Initial Training: varies in detail according to which benefit is involved. However all such training follows a similar basic pattern, as follows;

Theoretical Training: Theoretical training commences with a trainer led theory based course usually delivered to a group of HCPs in a classroom setting. HCPs who are new to the work of Atos Healthcare will receive instruction in such areas as disability analysis, customer's rights, equal opportunities and professional standards. Detailed technical information relevant to the benefit concerned is provided. All Atos Healthcare trainers have undergone specific training to prepare them for the role, including practical sessions to enhance their understanding of how adults learn.

Practical Training: Practical Training is the work undertaken by the new recruits that is produced in a controlled environment. For examination centre based assessments the HCP is supervised and appraised by an experienced Medical Adviser as they complete their introductory cases. In the domiciliary visit based benefits the initial cases are monitored immediately on return to allow feedback to be given without delay.

Demonstration of understanding assessed by multiple choice examination: for IB, ESA and Disability Living Allowance (DLA) the HCP is required to attain a pass mark in a multiple choice questionnaire before they are allowed to proceed to the practical training. The questionnaire includes questions on the whole range of topics covered in the training course.

Demonstration of understanding by audit: In all benefits the initial cases produced by the HCP are target monitored by an experienced medical adviser and the training cannot be considered as complete until they have demonstrated that their work is acceptable. Whenever any problems are identified appropriate feedback is provided. Further cases are monitored until the work is shown to be satisfactory. If the situation is not rectified the HCP may be required to repeat the entire training process. Continued lack of progress will result in the HCP being informed by a medical manager they can be offered no further training and no further work.

Approval: All HCPs must be approved by the DWP CMA and separate approval is required for each benefit area in which the HCP is involved. Approval is dependent on successful completion of all stages of their training process and ongoing demonstration that the work being carried out meets a satisfactory standard.

Written Guidelines: As part of the HCPs training and ongoing support they are issued with guidelines pertaining to the benefit involved. These guidance notes provide specific technical advice about the benefit concerned, outline best practise and contain general advice about disability analysis and service to the people with disabilities.

All HCPs are monitored to ensure that their work meets the required quality standards. If a problem is identified, the HCP may be required to undertake tailored training.

HCP's are also fully trained in Disability Assessment Medicine. Expertise in this field qualifies the HCP to give an impartial, independent assessment on the way in which a customer's illness or disability affects them in carrying out of a range of everyday work-related activities. Training includes the assessment of the effects of specific conditions, for example mental health, or where a condition may fluctuate. Emphasis is always placed on the differing circumstances of each individual customer.

In reply to **Qs 14, 15, 16, 17, 18, & 23** the DM will take account of all available evidence. In addition to the examining HCPs report, this evidence will often include a report from the certifying General Practitioner, as well as the customer's own responses on the questionnaire. On completion of the assessment all information held by Atos Healthcare is returned to the Office which is responsible for administering the customers claim for benefit. It is the DWP DM who decides on the appropriate descriptor in each category. In making these choices, the DM will take account of all available evidence.

In response to **Qs 19 & 20** this information is not held by the Department.

In answer to **Qs 24, 26 & 27** in July 2006, the Welfare Reform Bill introduced ESA through Parliament. The Bill received Royal assent on the 3rd of May 2007. ESA is designed to be an integrated contributory and income-related allowance replacing IB and Income Support paid on the grounds of limited capacity for work.

The Parliamentary Act which sets out the way in which ESA is to be administered – with particular reference to arrangements governing a capability for work assessment, is the Welfare Reform Act 2007 and the ESA Regulations 2008 provide how limited capability for work shall be determined. You can access the ESA Regulations 2008 via the attached link: http://www.opsi.gov.uk/si/si2008/pdf/ukxi_20080794_en.pdf

In reply to **Q 25** a Department led review of the Work Capability Assessment (WCA), in consultation with medical and other experts alongside a range of representative groups has taken place. The report of the review, published on 29 March 2010, found that generally the assessment accurately identifies individuals for the most appropriate benefit and support. It also suggested improvements to the assessment including modification of descriptors to take better account of adaptation, provisions for individuals who are awaiting courses of chemotherapy and further recognition of the effects of fluctuating conditions. In addition Professor Malcolm Harrington undertook an independent review of the WCA, which it is expected will be the first of 5 annual reviews of the WCA and his recommendations were published in November 2010, Professor Harrington is about to commence a 2nd independent review of the WCA.

Atos Healthcare are actively working with the Health, Work and Wellbeing Directorate (HWWDD) to contractually agree the implementation of the recommendations made by Professor Harrington in his first review. The HWWDD team which is responsible for taking forward the recommendations within Professor Harrington's review are a Government Department that provides advice to the DWP on matters relating to benefits and services for its clients, particularly those who have a health condition or disability.

In response to **Q 28** the purpose of the IB re-assessment programme was set out in the Explanatory Memorandum published last year (see attached document). All the costs and benefits are set out in the Impact Assessment that starts on page 6.

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

Yours sincerely,

DWP Central 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@dwp.gsi.gov.uk or by writing to DWP, Central Fol Team, 5th Floor The Adelphi, 1-11, John Adam Street, London WC2N 6HT. 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