

DWP Central Freedom of Information Team

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

Our Ref: Fol 3176

DATE: 22nd August 2017

Dear Ms Harriman

Thank you for your Freedom of Information request received on 28 July 2017. You asked for:

Please supply any guidance / internal procedures that states:

1. That explicit consent must be renewed after three hours. We have twice heard that a DWP representative at a service centre has stated that if explicit consent was provided by a claimant more than 3 hours before the named representative managed to get through to them, it was too late as the explicit consent "expires" and has to be provided again.

2. That a named representative can only discuss a matter with the DWP once - even where it is exactly the same matter and the discussion/question/information is a follow -up to the previous call about exactly the same issue and exactly the same person. We have heard that someone was refused when they rang back to find out the information that could not be provided originally. Perhaps there is a "switch off consent" button that is automatically applied after one call???

Also, while researching to see if my questions had already been answered, I noted that in FOI 476 your department stated:

"In October 2016 we published the complete UC full service guidance in the House of Commons library. This is available to the public via the following link, deposit reference "DEP2016-0778".

http://www.parliament.uk/business/publications/businesspapers/commons/deposited-papers/?fd=2016-10-01&td=2016-11-01&search_term=Department+for+Work+and+Pensions&itemId=119004#toggle-778.

The consent guidance requested is not yet available via the link provided, this is because it is yet to be created. We are due to refresh Universal Credit full service guidance later in the year, which will include this. "

I've had a look at the Deposited Papers and there doesn't appear to be anything yet but please tell me if it is there.

If possible, could you let me know if the Deposited papers is going to be the only place for all UC guidance etc now? For example the Personal Budgeting Support Guide, which used to be easy to find on gov.uk is now very difficult to find especially for the general public.

DWP Response

In answer to your questions 1 & 2. please see Annex A the Universal Credit Consent & Disclosure guidance.

The guidance for consent is due to be published in the next deposit of guidance in the House of Commons library in the near future.

There are no plans to publish the Universal Credit guidance elsewhere.

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

Consent and disclosure

Background

Explicit consent

Who is a representative?

How long does explicit consent last for?

Disclosure

Information that should never be disclosed

Circumstances where consent to disclose is not required (including elected representatives/MPs)

Disclosure to social landlords

Disclosure to private landlords

Background

Claimants have full access to information held on their account. If a representative asks the claimant for information about the claim, the claimant can locate and provide the information themselves.

If claimants feel unable to find the information or understand more complex issues, they may ask a representative to contact DWP on their behalf to obtain the information. This information can usually be provided if there is explicit consent. Certain information can never be released under any circumstances.

If a claimant is considered capable to identify the information on their own account or has an existing appointee, they should be encouraged to use their online account.

Explicit consent

The claimant must provide explicit consent before information can be disclosed to a representative. Explicit consent can be provided by the claimant, using the most appropriate channel in their circumstances, whether that is through the journal, over the telephone or face to face.

For consent to be lawful the claimant must state:

that they give consent for their personal information to be disclosed

what information they want to be disclosed

why the information is needed

the relationship to the claimant where the representative is a family member or friend

the name of the representative. If the claimant cannot provide the name of the representative, they need to be as specific as possible, for example the representative's job role or team name within the organisation

There is no set or preferred wording to be used by claimants to express their consent as long as it covers the above criteria. Judgment should be used to decide whether the claimant has provided enough information to satisfy explicit consent to disclose the information to the representative.

The information provided must be recorded in the claimant's journal and profile.

Who is a representative?

A representative is any person or organisation acting on behalf of or making enquiries for the claimant. This can be at any stage of the claimant's UCFS claim.

How long does explicit consent last for?

Explicit consent is not indefinite. Once provided by the claimant, it only lasts until either:
the specific request for information is resolved or

the end of the Assessment Period after the one in which the consent was given

The consent expiry date must be entered in the claimants profile every time.

If the query remains unresolved at the consent expiry date, the date should be reviewed and extended to the end of the next Assessment Period if necessary.

The claimant can withdraw their consent at any stage by either:

making an entry on the journal

face to face in a jobcentre

by phone

Disclosure

Once explicit consent is provided by the claimant it must be disclosed using the most appropriate channel:

through the journal

inbound or outbound call with the representative

If responding by telephone, the representative must provide the following details to verify they are entitled to receive the information:

the claimant's name

claimant's address or date of birth

what information is to be disclosed

the purpose for which the information is to be disclosed

the name of the representative and the name of the organisation they belong to (where it applies)

These details should match those provided by the claimant when they gave their explicit consent and noted on their account profile.

If there is any doubt as to the identity of the representative making the inbound call no information should be disclosed and the Bogus Caller guidance should be used.

Once information has been disclosed, the consent entry in the claimant's profile must be deleted. However it must remain in the claimant's journal.

Information that should never be disclosed

The following information relating to claimants or their partners must never be revealed to a representative -

addresses

dates of birth

National Insurance numbers (NI Nos)

bank details (sort code, account number, account holder name)

telephone numbers

names of household members

names of employers or former employers

If a person claiming to be acting as a representative asks for this information, this should immediately raise suspicion about whether the caller is genuine.

Circumstances where consent to disclose is not required

DWP does not need to rely on consent of the individual to disclose information where any of the following apply: Court Orders where a court sends a court order to DWP to disclose information we do not need to obtain the claimant's consent to disclose

Public interest – where it is in the best interests of the public, disclosure can be made without the claimant's consent, for example vulnerable people. These will usually come from the Police and/or Social Services

Legal Gateways – there is legislation which permits the exchange of the claimant's personal information with an organisation if they are acting in a welfare capacity.

MPs engaging with UCFS on their constituent's behalf – any correspondence, (letter, email or phone enquiries) relating to Universal Credit will be answered directly to the MP without the need for the claimant's consent. However, it is common practice for MPs to include explicit consent from the claimant when contacting the department in writing.

Local authorities cover a wide range of business. Some of the business includes working as a Welfare Rights representative and helping claimants with their claim. In these circumstances information can be shared relating to Personal Budgeting Support and Universal Support with local authorities when acting in a welfare capacity.

Disclosure to social landlords

The following information can be shared with social landlords without the need for explicit consent:

Local Council Tax scheme

Alternative Payment Arrangements (managed payments to landlords)

Crime and disorder

Social landlords may receive the following information:

the start date of the managed payment and/or third party deduction

when to expect to receive the first payment of the managed payment and/or the third party deduction from DWP

the amount of the next payment

the maximum amount of the housing additional amount payable in the next payment of Universal Credit. The circumstances that led to the change will not be discussed

Disclosure to private landlords

Unlike social landlords there are no existing legal gateways to share a claimant's personal information with private landlords.

A private landlord can act as a representative for the claimant but will always need the claimants explicit consent to do so. This is the case even when the private landlord requests an Alternative Payment Arrangement.