

Freedom of Information request 1217/2013

Received 13 March 2013

Published 03 May 2013

Information request

It is my understanding that Decision Makers within the DWP are there to act in the stead of the Secretary of State who cannot undertake all decisions that would require his attention therefore he delegates that responsibility to the Decision Makers who act on his behalf and within the same bounds as if it were he himself making that decision.

To do so would require that any Decision Maker agree to and sign either a letter of delegation or a specific section within their contract that covers that delegation.

My request is that you please provide a copy of the letter of delegation or a copy of the specific section of the contract that a Decision Maker would be required to sign that covers that delegation which should include information about their actions on behalf of the Secretary of State and their rights, responsibilities, and obligations in that respect that each individual Decision Maker must agree to.

On the understanding that there are several hundred Decision Makers throughout the country who all carry out such delegation in different areas, and that those areas may require some different language to cover their actions, I request that you include any specific clauses and requirements that apply to Decision Makers who work with the benefit ESA.

DWP response

As you say the law provides that decisions on claims and applications are made by the Secretary of State. You also understand that in practice the Secretary of State does not make decisions personally. However, your assumption that he formally delegates his authority to staff is incorrect. Instead, officials act on the Secretary of State's behalf based on the Carltona principle, provided that he is satisfied that they are suitably trained and experienced to do so.

The Carltona principle dates from a judgment of the Court of Appeal in October 1943. The judgment said that the Secretary of State could not possibly make every decision for which he is constitutionally responsible and accountable to Parliament. The Secretary of State is therefore entitled

to authorize a person of suitable authority to exercise these functions on his behalf. But he does not do this via a formal letter of delegation. Instead, local management have responsibility for appointing decision makers as appropriate.