

# **Consent and disclosure including when to share with third parties**

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## **Introduction**

If a claimant is unable to find information held on their account 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, see Information that must never be disclosed.

If a claimant is considered capable of identifying the information on their own account, or they have an existing appointee, they must be encouraged to use their online account.

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 Universal Credit claim.

## **Explicit Consent**

The claimant must provide explicit consent before information can be disclosed to a representative, except in certain circumstances, as outlined in the proactive disclosure section below. Explicit consent can be given and withdrawn by the claimant using the most appropriate channel in their circumstances. This could be via:

- their journal,
- in writing,
- by telephone
- 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 and the organisation, including the branch where applicable - if the claimant cannot provide the name of the representative, they must 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 the claimant to express their consent provided that it covers the above criteria. Agents must use their judgment to decide whether the claimant has provided enough information to satisfy explicit consent to disclose the information to the representative.

Explicit Consent is not indefinite for representatives. 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

If the query remains unresolved at the consent expiry date, the date must be reviewed and extended to the end of the next assessment period if necessary.

The claimant can withdraw their consent at any stage.

The 'consent to share information screen' shows details of explicit consent and expiry dates.

## **Disclosure**

Once explicit consent is provided by the claimant the information must be disclosed using the most appropriate channel.

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

- 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 must match those provided by the claimant when they gave their Explicit Consent and noted on their account history.

Only the information the claimant has given their consent to release can be disclosed to the third party.

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

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

### **Information that must 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
- 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.

### **Proactive disclosure**

If a third party contacts DWP, we do 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                                       |
| 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 Universal Credit 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. |

|                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                 | <p>However, it is common practice for MPs to include Explicit Consent from the claimant when contacting the Department in writing.</p> <p>Members of the Scottish Parliament and Assembly Members in Wales can still represent claimants using Explicit Consent.</p>                                                                                                                                                                                                                                                                                                                     |
| Public interest | <p>Where it is in the best interests of the public, disclosure can be made without the claimant's consent- for example, claimants with complex needs. Only information that is directly relevant to the issue of concern must be volunteered. These requests will usually come from the Social Services within the relevant district and/or the Police. Case conference with a line manager before disclosing information or refer directly to the National Disclosure Unit. For any mention of suicide or self-harm, see the Suicide or self-harm: Universal Credit Six Point Plan.</p> |

Where it is clear that a claimant with complex needs, or a child faces clear and significant risks to their welfare or safety, DWP staff are explicitly empowered to proactively disclose information to the relevant body without the claimant providing Explicit Consent. When making the disclosure, the decision and reason for it must be fully documented.

DWP staff are explicitly empowered to take any reasonable steps felt necessary in order to address these risks. This includes concerns about the:

- risk of injury
- ill treatment
- neglect
- physical or sexual abuse
- exploitation

These are examples and not a complete list.

It is expected that staff will take action to volunteer to disclose information without any undue delay. When making the disclosure the decision and reason for it must be fully documented. This is essential in case of any challenge or dispute over information that has been disclosed. It protects both staff and the Department.

There is no defined list of when to use proactive disclosure, each situation must be assessed on the individual circumstances. Staff can get support from their line manager or the Local Data Protection Officer if they have any concerns or need advice. Management must be informed about any proactive disclosure.

On contacting the relevant body, the information disclosed must be directly relevant to the issue of concern and the minimum required to ensure the claimant can be supported to take the required steps. Any information given must be factual and relevant. This is absolutely vital to demonstrate compliance with the General Data Protection Regulation.

In the case of a child, such information may be provided without the consent of the parents or guardian if a child's welfare is at risk. The parents or guardian do not need to be informed about the disclosure.

There is no obligation for DWP staff to:

- inform the claimant that they have approached Social Services or relevant body
- give permission for the relevant body to disclose the source of the allegations made to them - this is particularly important where it may be obvious to the claimant where information has come from - for example, a face-to-face meeting with their work coach or a home visit

### **Disclosure to social and private landlords**

A social or private landlord can act as a representative for the claimant but will always need the claimant's Explicit Consent to do so - unless it is about requesting an Alternative Payment Arrangement.

Certain information can be shared with social and private landlords without the need for explicit consent to assist with the following:

### **Alternative Payment Arrangement (Managed Payment to a Landlord)**

Social and private landlords may only receive the following information where there is an Alternative Payment Arrangement in place:

- 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 Managed Payment to a Landlord
- the maximum amount of housing costs payable in the next payment of Universal Credit (if this has changed, the circumstances that led to the change will not be discussed)

### **Crime and disorder**

Social landlords may only receive information that is relevant to the prevention of crime and disorder, including anti-social behaviour or other behaviour adversely affecting the local area. They are not entitled to receive any personal data. All requests for information should be considered under the General Data Protection Regulation (GDPR).

### **Information about a claimant disclosed by a third party**

A third party may give us information about a claimant where there has been no explicit consent given by the claimant.

If the information presented by the third party is factual (for example, advising that the claimant has gone into hospital, is no longer a tenant at a property or there is a risk issue), it should be accepted and used as a basis for further investigation. Examples of a third parties are:

- landlords
- local authorities
- support workers
- Citizens Advice Bureau
- charities (for example, MIND, Macmillan)

This is not a complete list.

We must not disclose anything to a third party about the claimant, including whether or not there is a claim, when accepting this information. Anything disclosed to us in this way must be recorded on the claimant history.