

**Communications  
Directorate**

# Working with representatives

Guidance for staff

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# Contents

- Background ..... 3
- General principles..... 4
- Who is a representative? ..... 5
- When can you disclose information? ..... 5
- Implicit consent..... 5
- Written authorities to disclose information ..... 7
- What information can be disclosed when consent exists?..... 7
- Representatives reporting changes of circumstances ..... 8
- Bogus callers and information that should never be disclosed ..... 8
- Requests for written information ..... 9
- Role of Line Managers ..... 10
- Keeping representatives informed ..... 10
- Local liaison..... 10
- Local authorities ..... 10
- Do's and Don'ts ..... 11
- Question and answer..... 11
- Where can I obtain further advice?..... 12
- Appendix – Sample authority to disclose information ..... 14

## Background

This guidance explains Departmental policy on providing information about customers to their representatives. It clarifies to whom we can disclose information, when we can disclose, and what can be disclosed. It explains the principle of implicit consent, and when we need to see written consent.

We have a duty to ensure that personal information is not improperly disclosed, but this must not interfere with the customer's right to have a representative help them conduct their business with DWP. This is particularly important for customers with any disabilities or conditions that make it difficult for them to express themselves adequately. For example, people with communication difficulties or mental health problems often need a representative to help them accessing our services. In such cases, representatives can also be helpful to us in helping us to obtain the information that we need.

We need to strike a balance between our duty to protect customer's personal information, and disclosing information where it is appropriate to do so. We must provide an accessible service to customers who, for communication or other reasons, want or need to use a representative to help them access DWP services, whilst ensuring the Department properly protects the personal information it holds. This document sets out the principles that guide decisions about dealing with representatives, and when and what to disclose to them.

It is important that we have good working relationships with representatives, whether they are from the advice organisations, or are simply family members or friends, so we can give our customers the best possible service. This guidance aims to strengthen these relationships, by promoting a consistent approach, where staff understand:

- when information can be disclosed
- to whom it can be disclosed
- what information can be disclosed.

Sometimes this will call for judgements to be made, based upon whether it is reasonable in the circumstances. Provided that you can demonstrate that you have followed this guidance, you will not be held personally liable for alleged unlawful disclosures. Always seek advice if you are unsure. Help and advice is available to all staff, firstly, from line managers and, secondly, from the ACI INF Team.

## General principles

Before disclosing information to representatives you must be satisfied that:

- the representative is who they say they are
- the representative is genuinely acting on behalf of and with the consent of the customer, and
- the information that is requested is appropriate and relevant to the role of a representative.

There is no reason not to respond to any general enquiries when a representative just wants to know what would happen in a certain scenario, and where there is no need to discuss customers' personal information.

This guidance should help you decide when to disclose customers' personal information. It is important to remember that each case must be treated individually. You should not automatically disclose information because an organisation is known to you, nor should you automatically insist on seeing a written or faxed authority before disclosing information.

## Who is a representative?

A customer representative is any person or organisation acting on behalf of or making enquiries for the customer. Representatives may include:

- advice or welfare rights organisations
- professionals such as social workers, community nurses or doctors
- family members or friends
- MPs – note that customers' own MPs are assumed to have consent to act and information can be disclosed in response to their enquiries. Please refer to the Personal Information Policy Guide for more information
- Appointees and Powers of Attorney – these representatives are legally empowered to act on behalf of the customer and consent to disclose information is not required. Please refer to the **Agents, Appointees, Attorneys and Receivers Guide** for guidance.

## When can you disclose information?

You can disclose information where:

- you have a written signed authority from the customer (see Appendix – sample authority to disclose information)
- the customer is present to confirm their consent (including at the end of a phone), or
- where implicit consent is established.

Written, signed authority should be requested only when consent cannot be established by other means.

## Implicit consent

Where there is no valid written authority, or the customer is not present to confirm consent, staff should use their experience and judgement to decide whether the caller has **implicit consent** to act on behalf of the customer.

Implicit consent can be assumed where the caller:

- knows basic information about the customer, for example, NINo, date of birth, address, and
- can quote facts about the claim, or can quote from our recent correspondence with the customer, and
- makes enquiries consistent with the role of a genuine representative, such as:

- what stage the claim has reached
- why a particular decision has been made
- how benefit is made up
- whether a particular premium is being paid
- whether a particular circumstance has been taken into account.

It is necessary to ask questions to obtain the above information, and to use judgement based on the answers in order to determine whether or not the caller is a genuine representative, and implicit consent can be assumed.

In most cases it will be quite clear from the information already held by the caller, and the questions they ask, that they are helping the customer with their benefit claim, and that information can be provided.

Where implicit consent **cannot** be established, the written consent is necessary.

## Security questions

Where implicit consent is being considered, it is not appropriate to ask the representative other security questions in the same way that you would the customer themselves. These questions about implicit consent take their place.

Remember that a representative will not necessarily know the answer to normally used security questions – they are not relevant to their business – and they potentially involve information that we would not disclose or confirm to a third party.

Using the questions you ask to determine implicit consent, instead of asking the usual security questions, may appear to make it easier for a representative to obtain information than a customer. However, the information that we can disclose to representatives is much more limited than what we might potentially discuss with customers themselves.

## Example scenarios

The following are examples of scenarios where consent can be considered implicit:

"I am a friend/relative/representative of Mr X, date of birth 26.12.1952, national insurance number AB123456C, and:

- he made a claim for DLA four weeks ago and hasn't heard anything. Can you tell me what is happening?"

- he has had a letter saying that his claim for Incapacity Benefit has been disallowed. Can you tell me why?"
- 
- he has a letter saying that he will be paid £xxx.xx per week Income Support. Can you tell me how this has been calculated?"

In these cases the caller has specific information about the customer's claim and is requesting information that is consistent with the role of a representative. It can, therefore, be assumed that implicit consent exists, and information disclosed.

## Written authorities to disclose information

Written consent is necessary where implicit consent cannot be established, or where a request for information is received in writing from a representative.

In these cases, ask the representative to complete the 'Authority to Disclose' template, which the customer must sign and post or fax it to the relevant DWP office, providing the correct address and/or fax number. Faxed authorities and authorities containing electronic signatures are both acceptable.

Written consent, when provided, does not last indefinitely, but covers a particular piece of business. The authority to act should be treated as current for the whole process of a new claim or change of circumstances, including any follow-up reconsideration process. A separate authority is required for an appeal, unless the existing authority specifically covers the appeals process.

If an authority is received, it should be recorded in notepad, if possible, and removed after the claim process, including reconsideration, as above, is completed.

## What information can be disclosed when consent exists?

Once you have established that the caller is who they say they are, and that they have the consent of the customer, written or implicit, information about benefit claims can be disclosed. For example:

- information about the progress of the claim
- how benefit or payment has been calculated
- how a particular payment is made up
- rates of specific benefits in payment
- why a particular benefit, premium or allowance has been allowed or disallowed

- what factors have been taken into account in reaching a decision
- what future action is likely to be taken on the claim.

It is important to remember, even where consent has been established, to properly consider each question asked, and to be vigilant about information given, in order to guard against any improper disclosure. Exercise caution before disclosing any information about a customer's finances, for example, about capital or income

## Representatives reporting changes of circumstances

Details of changes of circumstances may only be taken over the phone from representatives where the customer is present to confirm that they wish the representative to speak on their behalf – *and they have correctly answered appropriate security questions.*

Written authorities and implicit consent cover only the disclosure of information to representatives; they do not authorise representatives to report changes of circumstances on behalf of customers.

## Bogus callers and information that should never be disclosed

There is an important difference between a legitimate representative wanting to help speed a claim along or resolve a problem for a customer, and a person seeking to unlawfully obtain a customer's personal information without their knowledge.

Sometimes, unscrupulous individuals and organisations pose as bogus officials and representatives to try and obtain personal information about our customers, in particular current addresses, names of household members, telephone numbers, and employers.

Never disclose personal information, that the customer would be expected to know, in any circumstances to any caller. For example, never disclose:

- addresses
- dates of birth
- National Insurance numbers (NINOs)
- bank details
- telephone numbers
- names of household members

- names of employers, or former employers.

Genuine representatives will not ask for this information. 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. If the caller is insistent, or you feel under any pressure, refer the call to your line manager. If you feel that a caller is bogus, end the call and complete the relevant following existing procedures.

If a customer, or their representative, says that they have lost, or do not know their NINo, we should write only to the customer, at their known address, with this information.

You should also be careful not to disclose information indirectly by confirming or denying statements made about addresses or income, to bogus callers who may be pretending to be an actual customer or representative.

They may say, for example, 'I have recently moved, and I want to check that you have the right address for me. What address do you hold for me?'

More guidance about **bogus callers** and what action you need to take is available on the Departmental Security Intranet Site under **Bogus callers**. All frontline staff should be aware of the provisions of this guidance.

## Requests for written information

The principle of customers giving consent to disclose information depends on them being sufficiently informed to know what information they are allowing to be disclosed. Where a request is received for written information to be disclosed, it must be specific about what is to be disclosed, and relevant to the business being conducted.

A request to disclose 'everything we hold' cannot be considered informed because a customer cannot reasonably be expected to know everything that we hold on them.

If a representative provides a written customer authority for us to disclose information from our records in writing, how we deal with it will depend on the information requested. There are two scenarios:

- If the request is 'non-specific', for example, requesting 'all information' held in respect of a customer or a customer's claim, then the request must be passed to the Data Protection Officer and treated as a Subject Access Request – any information provided will be sent only to the customer.
- If the request is specific, for example, requesting details of benefit paid, copies of medical evidence, other evidence upon which decisions have

been based, etc, in connection with a current benefit claim from an individual, or previous claims that have direct relevance to that, then copies may be provided to the representative concerned.

## Role of Line Managers

Line managers must ensure that front line staff are aware of and fully understand this guidance, that consent is carefully considered each time a representative makes contact on behalf of a customer and that the right questions are asked to establish consent (both implicit and written authority to disclose). Managers must also provide support and guidance to staff when required to take appropriate decisions about consent when contacted by customer representatives.

## Keeping representatives informed

Where a representative is helping a customer with a particular piece of business, and written authority is held to that effect, if the representative asks to be kept informed of progress on the claim, and of decisions made, all possible steps should be taken to do this, at the same time as the customer is informed. This is particularly important where notifications are computer-generated.

## Local liaison

Where it is possible, it is good practice to build good working relationships with local organisations that represent customers. This will enable any difficulties to be resolved more easily. For example by:

- exchanging contact names and numbers, to facilitate checking that representatives are who they say they are, and to enable representatives to make contact with us, and ensuring that these are kept up-to-date
- ensuring that local organisations are consulted and informed about our organisational changes.

## Local authorities

Local authorities cover a very wide range of business. Some of this business includes working as a representative, and helping customers with a benefit claim. Welfare rights unit staff, and social workers, may undertake this type of work on a regular basis, and this guidance should be followed in disclosing information to them.

This guidance does not include releasing information for fairer charging, blue badge, free school meals assessment and other purposes. In all such cases, the specific written authority of the customer to disclose information is required.

Never provide information about benefit claims in response to written lists of customers submitted by local authorities or any other organisation.

There are separate rules for disclosure of information for Housing Benefit and Council Tax Benefit purposes.

## Do's and Don'ts

Do:

- ensure the representative is who they say they are
- ensure that customer consent has been established, whether written, verbal from the customer, or implicit
- ensure the information requested is relevant to the enquiry
- treat each case on an individual basis
- make a written record in all cases of what was disclosed, to whom, and when
- follow the guidance for bogus callers if you are suspicious.

Do not:

- disclose information if you have any reasonable doubt
- be pressured into giving information – refer the call to your line manager
- disclose an address, national insurance number, date of birth, name of another householder member or bank account details under any circumstances
- assume consent is for an indefinite period – authority to represent the customer is considered to be for a particular item of business
- apply blanket policies in disclosing to representatives – in all cases decisions must be made on an individual basis.

## Question and answer

**If a call is received from an advice or welfare rights organisation, and the enquiry is not general, ie, can only be dealt with by accessing and**

**discussing specific customer's claim details, how do I establish implicit consent?**

Check that the caller is in possession of the facts of the case, for example, the customer's personal details such as date of birth, national insurance number and address, and they are aware of the details of the case, such as information about recent correspondence. Then check the enquiries they are making are reasonable for a representative to make.

**Is this a change in policy?**

No. Guidance on disclosure of information and implicit consent has always existed. This document simply aims to raise awareness and to ensure the correct and consistent understanding of the guidance.

**If implicit consent cannot be established during a call, what should I do?**

Do not disclose any customer information and explain that on this occasion it will be necessary for the caller to provide written consent as an authority to act on behalf of the customer and signpost them to the 'Authority to Disclose' template. Consult your line manager for support where required.

**What should we say to customers if they are concerned about us giving out information?**

The new guidance is designed to ensure that personal information, such as addresses and NINos, are not incorrectly disclosed, whilst ensuring that sufficient information is disclosed to genuine representatives to enable them to properly act for our customers.

## Where can I obtain further advice?

If you are unsure whether implicit consent can be established, in the first instance consult your line manager. If further advice is required, contact:

ACI INF (Fol & DP) Team  
Room BP 6002, Alnwick House,  
Benton Park View,  
Newcastle-upon-Tyne  
NE98 1YX

tel 0191 22 55291

fax 0191 2247472

email: Data Protection General LSPG ACI INF DP/Fol

External advisers, intermediaries and representatives who have queries on this guidance should contact:

DWP Corporate Customer Affairs

01482 609571

[roger.pugh@dwp.gsi.gov.uk](mailto:roger.pugh@dwp.gsi.gov.uk)

## Appendix – Sample authority to disclose information

### Authority to disclose information to a representative

I, ..... (full name)

of .....

.....

..... (address)

NINo/date of birth.....

have asked .....

.....(name/organisation)

to represent me in connection with my current claim for:

.....

including throughout any application for revision and appeal processes.\*

I authorise the Department for Work and Pensions to supply the above representative with information about my claim(s).

Signed: .....

Date: .....

\* delete if not applicable