



## Neil Bateman

*Expertise in welfare rights and social policy*

### **Advice from Neil Bateman, welfare rights adviser**

#### **Declaring payments to the DWP**

As you know, all payments made by Macfarlane Trust, MFET Ltd and the Skipton Fund ("the trusts") do not affect your entitlement to any income-related benefits. (i.e. Income Support, Housing Benefit, Council Tax Reduction/Council Tax Benefit, Income Related Employment and Support Allowance and Income Based Jobseeker's Allowance). You do not have to tell the DWP, Tax Credits office, local authority or anyone else provided that you have kept these payments in separate accounts.

If you don't currently receive any income-related benefits you don't have to do this, but some people do keep their payments in separate accounts in case their circumstances change.

If you are receiving any income related benefits, I very strongly advise you to keep all payments from the trusts in separate accounts. If payments from the trusts are mixed up with other money in accounts, the payments are still ignored, but it can be both very time-consuming and very stressful for you to try and explain how much of it is money paid by the trusts and how much is other money. Mixing up money in accounts may mean that the DWP or council suspend any benefits you receive if they have a query about your money and/or they may make mistakes and underpay you.

However, we have found that not telling the DWP can also cause problems. This is because as part of their anti-fraud measures, the DWP regularly carry out data-matching which enables them to identify undeclared bank and building society accounts.

Unfortunately, there is just no way, either legally or practically, that we can get anyone who receives trust payments exempted from data matching – the trusts would have to give DWP a list of names which would involve a breach of confidentiality and even then I'm not sure it would work. If I could get you exempted from the data matches, I would have done so.

DWP do thousands of data matches each year and it is a key part of their anti-fraud activity to discover people who have undeclared savings when claiming means tested benefits. The law allows DWP to do this data matching by cross-checking account records with banks and Her Majesty's Revenue and Customs (who have details of interest paid on savings).

When an undisclosed account with trust money is picked up on a data match the DWP and/or council may well ask you to attend an interview either with a fraud investigator or a compliance officer. If you don't attend the interview, your benefit may be suspended. As soon as we are made aware by a beneficiary that they have been asked to attend an interview, I can get involved and I usually sort out the problem within a few days (provided the trust money is in separate accounts and not mixed with other money), but this still takes some time to sort out and the experience is very stressful for people. It also needs our beneficiaries to ask for a referral to me and to sign and return a consent form.

I have spent many hours with senior people in the DWP trying to find a way to exempt beneficiaries from the data-matches. It's just not possible.

Also, while I am very critical about the DWP's service, one thing their staff are very good at is keeping information confidential. DWP staff know that if they disclose personal information outside the DWP it will result in instant dismissal; their career is over. It is also a criminal offence, so they may end up in court and get a criminal record as well. Every day, DWP staff deal with highly sensitive personal information and also information about celebrities and people in the news. It is very rare that it leaks out of the DWP. Personally, I think the chances of someone at DWP leaking information about someone's HIV or hepatitis C status are extremely low

One way to reduce being asked to attend an interview to explain undeclared accounts and trust payments identified on a data-match is simply to tell the DWP that you receive these if you currently receive any income related benefits. You don't have to do this, but it may well prevent a stressful problem.

Therefore, I have designed the attached voluntary disclosure form which, if you want, you can use it to inform DWP that you receive payments from the trusts and have kept them in separate accounts. If you do then get asked to attend an interview about these, I can then make a formal complaint and seek some compensation for you from the DWP and/or council.

**The choice is entirely yours. You don't have to disclose the accounts, but I think it will help if you do. If you don't want to tell DWP, you don't have to.**

If you do use the form, you must:

- Make a copy of the completed form
- Keep a note of the date you send it to DWP. You can get a free receipt for this at the Post Office.

You do not have to provide any further evidence about payments from the trusts – if you are asked, please contact the trusts for a referral to me and I can take this up with them.

### **Employment and Support Allowance**

The DWP have slowed down their forced assessments and reassessments for this benefit because of delays by their contractor ATOS. They have appointed a new contractor Maximus to take over from ATOS. Maximus are a US based company who do similar work in the USA. Their reputation among advisers is not outstanding, and my personal view is that changing the company doing assessments won't solve the injustice and problems caused by the flawed Work Capability Assessment for Employment and Support Allowance.

I have a very good success rate with ESA claims and appeals – indeed, I have lost just one for anyone referred to me by the trusts.

What is crucial is if you are sent the Limited Capability for Work Questionnaire (form ESA 50), **don't** complete it on your own. I have had to deal with cases where people have done the ESA 50 form alone and then ended up being refused. I can sort out the refusals, but that is very time-consuming and inevitably causes financial pressure for beneficiaries as well as being extremely stressful and upsetting for anyone to have to justify just how unwell or disabled they are.

I can help with ESA 50s and ensure that they contain both legally relevant and comprehensive evidence which usually means that people then get awarded ESA without difficulty (apart from the time it takes DWP to decide these things).

So if you receive an ESA 50, please ask the trusts for a referral to me.



**Neil Bateman**

**Welfare Rights Adviser to the Macfarlane Trust**

## CONFIDENTIAL VOLUNTARY DISCLOSURE OF DISREGARDED PAYMENTS

After completing this form, send it to the Jobcentre Plus or Pension Service office which deal with your benefits. Keep a copy and the date you posted it.

Full name:

To Jobcentre Plus/Pension Service

Address:

Address:

National Insurance Number:

Date of birth:

Benefits you currently receive:

Date of posting:

Dear Sir or Madam

I wish to inform you that I receive or have received payments from Macfarlane Trust/MFET Ltd/Skipton Fund (delete the ones which don't apply to you).

All payments from these sources are fully disregarded for all means tested benefits and I do not have to tell you that I receive these. Also, I do not have to provide evidence about these.

I am making a voluntary disclosure that these payments are kept in the following accounts. Please keep this information on your records.

### **Account 1**

Bank/building Society name:

Sort code:

Account no:

### **Account 2**

Bank/building Society name:

Sort code:

Account No:

**Account 3**

Bank/building Society name:

Sort code:

Account No:

**Account 4**

Bank/building Society name:

Sort code:

Account No:

(If you have more accounts, list these on a separate sheet)

Yours faithfully

Signed