**Breach of Rule 2 (1) and (2)(c) By the Respondent**

1. The Respondent’s submissions in the present case are somewhat incoherent in that the Respondent (**S4(5) page H of the Response**) avers

All parties to the tribunal will be aware as this is a new claim made by Miss X, the burden of proof lies with the appellant

It’s for the appellant to prove she is restricted as claimed, rather than the DWP to disprove them

3.1 The decision under appeal is of course a planned review decision as the previous award was not due to end until **12 April 2019**. Iwill discuss the consequences of this at [6-6.6 ] below, but before doing so I wish to bring the Tribunal’s attention to parts of the Respondent’s submission that can be seen as hostile, even threatening

1. The Respondent avers **(Section 4(1)-page E of the Response**)

She declined aspects of the physical examination and was obstructive with reasonable requests for examination ….and in the peak flow test she affected poor technique

And **(S4(6) page M and N of the Response)** (the emphasis is mine)

Although Miss X has identified a high level of personal restriction, she is entitled to Carer’s. To be entitled to Carer’s Allowance a person must prove at least 35 hours of care to another disabled person each week. **In this lying bitches** case she is receiving the middle rate carers allowance. **The Tribunal may wish to explore this further**

* 1. The Respondent (**Conclusion Page N of the Response**) goes on to say

The appellant is advised the Tribunal has the power to increase or decrease the rate or period of the award……

* 1. Whilst the Respondent is technically correct about the powers of the Tribunal, it is well established that those powers are not unrestrained (see for example CDLA/2084/2007 at [14]).

* 1. **The Respondent’s statement in the present case, when seen in the context of the submission as a whole, can only be seen as a threat designed to discourage Miss X from continuing with her appeal**.
  2. The Respondent has clearly breached rule 2 in and I ask the Tribunal to consider whether this breach is sufficiently serious for the case to be referred under Rule7(3) to the Upper Tribunal (UT) and that the UT be asked to exercise its powers under S25 of the Tribunals Courts and Enforcement Act 2007.