

DWP Central Freedom of Information Team

e-mail: freedom-of-information-request@dwp.gsi.gov.uk

Our Ref: VTR 4940

DATE: 21 December 2015

Dear Sir,

Thank you for your Freedom of Information request of 23 November 2015. You asked:

Thank you for the attached, in order to complete my request I believe it is beholden upon the DWP to send me the guidance upon the application of the Annual Verification check they claim to have instigated from April 2015, in particular, what information will be sought, whether it will be a simple - nothing has changed return - as the tax credits Office do - and in particular when each individual will be expected to make a return of updated information

Regulations 24 of The Jobseeker's Allowance Regulation 1996 seems to apply only to JSA cases and only to instances of applications for benefit.

Regulations 17 and 18 of The Social Security and Child Support (Decision and Appeals) Regulations 1999: does relate to a series of circumstances in which information can be sought during the process of a claim but none of these include a) annually from every claimant whether inside or outside of the list whose circumstances are of any nature whether inside or outside of the list in Reg 17 and b) when someone makes a complaint about the DWP (indeed the DWP have now written to me explaining that such intrusive investigations are automatically started when someone makes a complaint about the JCP or DWP.

Hence please supply information on the Annual Verification Check, how it works and who it applies to and when along with information which justifies applying the AVC to all claimants arbitrarily once a year as well as to claimants who raise complaints against the DWP whether those complaints are direct or through a third party. I have to say here that the latter case sounds like classic victimisation and therefore if the legislation does state that this is a justifiable reason to investigate a claimant then I really need to know so that I can get the law makers to review this law

which sounds very suspect to me.

In light of your response I am assuming that you have decided to treat my request for clarification of the first request as a separate request and all documents pertaining to the new annual checks will be forthcoming under that request. If this is not correct please respond immediately to correct whatever I have misunderstood.

I also note that you specify that Regs 5 and 24 under the 1996 JSA regulations allows the Secretary of State (SS) to specify the period at which he wants to have claimant's circumstances checked. As I would have thought this all fell under my initial request on this subject, will you please urgently advise a) where one would find this regulation? b) whether this regulation is limited to JSA claims and if so what the relevant legislation is that covers ESA, IS and NI Credits? c) deliver copies of the two latest copies of the statutory instruments/legal instruments used by the SS to define these periods, so that I can see the basis for the DWP carrying out these checks and how regularly - which was my original request!

The introduction of an Annual Verification Check was first announced by the then Coalition Government in its Spending Review Plans 2013. The conditionality measures package it introduced aimed to strengthen the responsibility of claimants in exchange for benefits, and strengthen how the Department monitors compliance.

The introduction of Annual Verification would ensure that DWP maintained regularly updated information in support of income based JSA claims. Additionally, annually verifying the claimants circumstances would enable unreported changes of circumstances to be identified and actioned. The Check was introduced in April 2015.

Turning to the legislation which allows for such verification, the primary power is section 5(1)(i) of the Social Security Administration Act 1992:

Regulations may provide...

(i) for the person to whom, time when and manner in which a benefit to which this section applies is to be paid and for the information and evidence to be furnished in connection with the payment of such a benefit;

For JSA, the (relevant) regulations made under this power are:

Regulation 24(5) & (9A) of the Jobseeker's Allowance Regulations 1996 SI 207:

(5) A claimant shall furnish such certificates, documents and other evidence affecting his continuing entitlement to a jobseeker's allowance, whether that allowance is payable to him and, if so, in what amount as the Secretary of State may require.

(9A) Where, pursuant to paragraph (5) or (5A), a claimant is required to provide certificates, documents or other evidence, he shall do so within the period applicable

under regulation 17(4) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999.

and

Regulation 17(2)(ca) of the Social security and Child Support (Decisions and Appeals) Regulations 1999 SI991:

Provision of information or evidence

17.—(1) This regulation applies where the Secretary of State requires information or evidence for a determination whether a decision awarding a relevant benefit should be—

...

(2) For the purposes of paragraph (1), the following persons must satisfy the requirements of paragraph (4)—

....

(ca) a person from whom the Secretary of State requires documents, certificates or other evidence under regulation 24(5) or (5A) of the Jobseeker's Allowance Regulations;

(4) A person to whom paragraph (2) refers must either—

(a) supply the information or evidence within—

(i) a period of 14 days beginning with the date on which the notification under paragraph (3) was sent to him or such longer period as the Secretary of State allows in that notification; or

(ii) such longer period as he satisfies the Secretary of State is necessary in order to enable him to comply with the requirement;

(5) The Secretary of State may suspend the payment of a relevant benefit, in whole or in part, to any person to whom paragraph (2)(b) to (f) applies who fails to satisfy the requirements of paragraph (4).

An example of the type of letter that is sent is below:

[L6700](#) AV

It should be noted that the timing of the check itself is not in regulations. This is discretionary. The Secretary of State has decided that a year into a claim is a proportionate period to introduce a check.

ESA and Income Support are both also covered s5 of the 1992 Act. However, where the Secretary of State requires information from these claimants in order to verify their circumstances, he uses regulation 32 (1) & (1A) of the Social Security (Claims and Payments) Regulations 1987 SI 1968:

Information to be given and changes to be notified

32.—(1) Except in the case of a jobseeker's allowance, every beneficiary and every person by whom, or on whose behalf, sums by way of benefit are receivable shall furnish in such manner and as the Secretary of State may determine and within the period applicable under regulation 17(4) of the Decisions and Appeals Regulations such information or evidence as the Secretary of State may require for determining whether a decision on the award of benefit should be revised under section 9 of the Social Security Act 1998 or superseded under section 10 of that Act.

(1A) Every beneficiary and every person by whom, or on whose behalf, sums by way of

benefit are receivable shall furnish in such manner and at such times as the Secretary of State may determine such information or evidence as the Secretary of State may require in connection with payment of the benefit claimed or awarded.

If the claimant does not respond then the same suspension provision that applies to JSA applies equally to these benefits.

Unlike JSA, there is no Annual Verification check of these benefits.

National Insurance credits are not a benefit and so none of the above legislation applies to them. But if the credit is linked to conditionality eg the provision of medical evidence, a claimant must continue to meet that condition for the crediting to continue.

All the above legislation can be found in the link below:

<http://www.legislation.gov.uk/> Go to Browse legislation and use the year of the Regulation and SI numbers to find the full Regulations.

If anyone should complain about being asked to provide the information then that would be considered under standard departmental processes. Of course, should they fail to reply and benefit is suspended and possibly ended, then the normal dispute and appeal rights arise.

If you have any queries about this letter please contact me quoting the reference number above.

Yours sincerely,

DWP Strategy Fol Team

Your right to complain under the Freedom of Information Act

If you are not happy with this response you may request an internal review by e-mailing freedom-of-information-request@dwp.gsi.gov.uk or by writing to DWP, Central Fol Team, Caxton House, Tothill Street, SW1H 9NA. Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF www.ico.gov.uk