

DWP Central Freedom of Information Team

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

Our Ref: VTR IR 66

Date: 5 March 2014

Dear C Robinson,

I am writing in response to your review request received on 14 February 2014. An internal review has been carried out by someone of a senior grade. I am now in a position to respond to you. In your review request you said:

Dear Department for Work and Pensions,

Please pass this on to the person who conducts Freedom of Information reviews.

I am writing to request an internal review of Department for Work and Pensions's handling of my FOI request 'Clause 99 and the Catch 22 situation it puts ESA Claimants' in'.

Forgive the lateness of my reply, extreme illness and a hospital stay have delayed my reply, (believe it or not I'm "fit" for work, by ATOS) notwithstanding, my health problems, your answers are evasive and I still haven't had clarification on my original question regarding 'Clause 99 and the Catch 22 situation it puts ESA Claimants' in'.

You state: "Some claimants will genuinely believe that they cannot possibly be entitled to JSA because they are too sick to work" - this is utter rubbish, claimants' have to claim JSA or starve (if they don't qualify for any other benefit) you did Not make this clear, PLEASE MAKE THIS CLEAR.

Also you state: However, any claimant who presents himself at a jobcentre must be given the opportunity to make a claim, explain his predicament, as he sees it, and for the Adviser to let him know that that may not be an obstacle to employment. It is 'may' because, of course, there is the Claimant Commitment to be signed.

You obliquely use the word 'may' what does that mean? What about if a failed ESA claimant cannot fulfil the claimant commitment? i.e. their disability prohibits applying for certain jobs? e.g a bricklayer and you can't walk? Allow me to elucidate: I am disabled, "FIT" FOR WORK and on morphine for the intense pain I'm in, not to mention all the hospital appointments and stays I have, what about if hospital appointments, etc coincide with signing on? - How often do you get sanctioned for doctor/hospital appointments and stays?

Also what help is available for disabled JSA claimants'?

I WAS OFFERED NONE! And yet I was told to sign on and if I signed on no allowances would be made for me (I was told this by the JCP) as the Claimant Commitment wouldn't cover my disabilities, ISN'T THIS PROOF OF MY ORIGINAL CLAIM THAT 'Clause 99 puts ESA Claimants' in a Catch 22 situation'?

What does this comment mean? 'This may not be as 'softly, softly' as the claimant would like but then at that time he has been found fit for work by a decision maker (not Atos) - a decision moreover which is final in law - and is claiming a benefit for job seekers'.

Terminally ill, cancer sufferers, physically and mentally disabled are being found "fit" for work, for no other reason than saving money, they have been cruelly treated by ATOS and decision makers' that get paid bonuses for getting people off benefits (this is common knowledge) so no they haven't been treated softly softly. Are you saying then that 'a not softly softly' approach means that a disabled person, has to apply for the same work as a non-disabled claimant or starve?

I want clarification! I and the thousands of victims of ATOS need clarification, I want you to tell me in no uncertain terms that a disabled person:

- 1) Gets no help whatsoever getting back into work, i.e. disability advisor (n.b. I wasn't)*
- 2) Allowances are made for doctors and hospital appointments AND hospital stays when signing on*
- 3) AND FINALLY PLEASE answer my original questions to the title of this FOI 'Clause 99 and the Catch 22 situation it puts ESA Claimants' in' I really don't think that I am asking for much?*

Suffice to say, I do not want to have to write to you again, but, until you can stop being evasive and answer my questions properly without equivocation, I want you to admit that in my case and in other disabled persons cases your clause 99 causes a catch 22 situation creates penury and starvation.

A full history of my FOI request and all correspondence is available on the Internet at this address:

https://www.whatdotheyknow.com/request/clause_99_and_the_catch_22_situa

Yours faithfully,

C Robinson

After reviewing the original response and after careful consideration the Department believes that it has met its obligations under the Freedom of Information Act in relation to your request. Turning to the question you have asked above, I should like to provide the following:

You expressed concern about the move from ESA to Jobseeker's Allowance. First, I should like to emphasise that any claimant who has had an ESA award terminated will be eligible to

claim Jobseeker's Allowance – they are informed of this possibility in the decision notices they receive when ESA is terminated.

When an ex-ESA claimant makes a claim for JSA they will be asked to attend a new jobseeker's interview to see if they meet the conditions of entitlement. This will be tailored to reflect the claimant's health conditions. A claimant may restrict their availability for work provided the restrictions are reasonable in the light of their physical or mental condition. Disability Employment advisers based in jobcentres are trained and experienced in dealing with disability and health conditions – they receive specialist training from disability employment managers and occupational psychologists. While the initial discussion will be around finding work, those presenting health conditions will be treated accordingly. Their Jobseeker's Agreement/Claimant Commitment will reflect this discussion.

We recognise the importance of having an effective transition from ESA to Jobseeker's Allowance and have put a policy and processes in place which are designed to meet that objective. These processes are kept under review in order to improve our services.

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 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