

DWP Central Freedom of Information Team

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

Our Ref: 3890

DATE: 23 September 2014

Dear J Newman,

Thank you for your Freedom of Information request of 2 September 2014 you asked:

For some clarification over what was said in VTR IR 419, and raised the following points: It is perfectly possible to take income from a private pension at any point after the date prescribed in the terms and conditions whether one is working or not. The best course of action for any individual will depend on a cost/benefit calculation that is completely independent of their employment status. It will of course potentially attract income tax, but so (potentially) would any other source of income, including ESA itself. Income from a pension fund is therefore not unique in the way you suggest and it is concerning that legislation has been introduced based on a completely false premise.

Another example that shows how odd this decision is exists with a share portfolio. One can often decide to reinvest dividends in more shares to increase the underlying investment value, which is an option somebody in employment might favour. However, they could stop working through ill-health and receive ESA and then decide to take any dividends as income, but ESA would not be affected.

At some point in the past, this whole area of what should and shouldn't affect contribution-based ESA payments would have discussed with the pros and cons being recorded to support the final decision. Can you please direct me to where I can find this document whatever form it may take?

The rationale for taking occupational pensions into account in Incapacity Benefit (and subsequently in Employment and Support Allowance) was explained by the then Secretary of State for Social Security on 23 February 1999. See Hansard, Volume 326, col 221. The quoted rationale was that:

“incapacity benefit was intended to replace lost income from work. It was never intended as a top-up to income in early retirement, which is what it has become in many cases.” In other words, the policy seeks to avoid duplication of state and private provision, especially where a person has taken a pension early on health grounds or who has chosen to retire early. This does not mean that occupational pensions cannot be taken in certain circumstances by people who continue (or wish to continue) working, nor that people do not sometimes finance their early retirement in other ways than an occupational pension. Social security policies, while aiming to be as fair as possible, cannot cater for every individual circumstance.

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@dwpgsi.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