

Our Ref: FoI 1542

DATE: 11 July 2016

Dear Frank Zola,

Thank you for your Freedom of Information request of 14 April 2016. You asked:

In your disclosures for FoI 1022, under

'What to bring to your meetings with us' it says:

Also bring any documents that support your record, such as:

letters or documents to do with jobs you've asked about or applied for

copies or printouts of job applications

responses or feedback from jobs you applied to

letters, emails or documents from job agencies

<https://www.whatdotheyknow.com/request/322909/response/796956/attach/4/Claimant%20Commitment%20Pack%20UC%20Claimant.pdf>

What are the benefit sanctions for providing a full record of Jobsearch activity but declining to bring "documents" such as those listed above to Jobcentre meetings?

Please disclose a copy of any Decision Makers guidance on sanctions on this personal and private "documents" & correspondence issue and information on the laws and regulations that explicitly make it a sanction based requirement for either Jobseekers Allowance or Universal Credit to share with the DWP copies of a benefit claimants personal and private correspondence?

If a Claimant Commitment does not make it a requirement to bring such "documents", on what other basis can bringing this personal data be a condition of either JSA or Universal Credit?

In your reply I would like a copy of any template letter/notice you notify claimants of a sanction based requirement to bring such "documents".

Human Rights Act 1998

Article 8 – Right to respect for private and family life 1. Everyone has the right to respect for his private and family life, his home and his correspondence.

<http://www.legislation.gov.uk/ukpga/1998/42/schedule/1>

It may be helpful if I explain the role of the Freedom of Information Act. The Act provides a right of access to recorded information held by a public authority like DWP (subject to certain exemptions). The Act does not provide that a public authority must create new information to answer questions; nor does it provide that a public authority give advice, opinion or explanation in relation to issues/policies under question.

In cases where a customer does ask a question, rather than request recorded information, we do our utmost to provide the recorded information that best answers the question. Once the public authority has provided the recorded information or confirmed that no such recorded information is held, it has met its obligations under the Act. Interpretation of any information provided is left to the requestor.

In terms of Jobseeker's Allowance (JSA) claimants to whom the Jobseekers Act 1995 and Jobseeker's Allowance Regulations 1996 apply, the recorded information we hold that best answers your questions is contained in paragraphs 82 to 94 from Chapter 03 of the Universal Jobmatch Toolkit which are included in Annex 1 to this letter. These explain how Jobcentre Plus staff may review the jobsearch activity of a JSA claimant. Annex 1 also includes the relevant legislative references to support this.

A copy of the My Work Plan booklet is also attached to this reply. The *'Preparing for my work search reviews'* section at the bottom of page 3 may be of particular interest.

Additionally, the Decision makers' guide gives instructions for Decision Makers on the process to follow when making decisions on JSA sanctionable failures - paragraphs 21520 to 21791 in Volume 4, Chapter 21 and paragraphs 34121 to 34144 in Volume 6, Chapter 34 may be of particular interest. These are published on our website and can be accessed via the links below:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509880/dmgch21.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509890/dmgch34.pdf

In terms of Universal Credit (UC) claimants to whom the Welfare Reform Act 2012 and the UC Regulations 2013 apply, the recorded information we hold that best answers your questions is contained in an extract from the relevant paragraphs in the UC operational instructions on Work Search Reviews which are included in Annex 2 to this letter. Annex 2 also includes the relevant legislative references to support this.

Additionally, the Advice for decision making: staff guide gives instructions for Decision Makers on the process to follow when making decisions on UC sanctionable failures - paragraphs J3050 to J3105 in Chapter J3 and Chapter K4 may be of particular interest. These are published on our website and can be accessed via the link below:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/502453/admj3.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/502456/admk4.pdf

In terms of your request for *“any template letter/notice you notify claimants of a sanctions based requirement to bring such “documents”* as the onus is on the claimant to provide evidence of their jobsearch activity by whatever way they choose, I have established that the information you requested is not held by this Department.

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

Annex 1

Actively Seeking Employment

82. You cannot specify to a JSA claimant how they provide us with records of their jobsearch activity and Universal Jobmatch will not change this – it is not therefore possible to require JSA claimants to give DWP access to their Universal Jobmatch account.
83. You will continue to review jobsearch activity and record the outcome on LMS in the usual way for JSA claimants and look at all the evidence provided by claimants to determine if there is an ASE doubt. This may be in various forms and these are explained in the Labour Market Conditions Guide.
84. However, Universal Jobmatch will be a key tool you can use in appropriate cases to review whether a claimant has taken all reasonable steps to have the best prospects of finding work.
85. How you review jobsearch activity will depend on whether the claimant is using Universal Jobmatch and if so, has given DWP access to their account.

Reviewing jobsearch activity - claimant using Universal Jobmatch (DWP has access to their account)

86. You will look at any number or all of the following screens/pages from the claimant's Universal Jobmatch account:
- Activity History.
 - Application History.
 - Alerts.
 - Messages.
 - Saved Jobs.
 - Recommended Jobs.
 - Saved Searches.

Reviewing jobsearch activity - claimant using Universal Jobmatch (No DWP access to their account)

87. To help assess that a claimant is actively seeking work you may suggest that they show you:
- prints of any number or all of the screens/pages detailed in paragraph 86 from their Universal Jobmatch account. However, this will not be possible for claimants who do not have access to a printer or cannot afford to print out copies of these pages; or
 - any number or all of the screens/pages detailed in paragraph 86 from their Universal Jobmatch account if they have access to the internet on a smartphone.
88. If it is not possible for the claimant to do any of the above, or the claimant does not wish to accept cookies and so needs to use a DWP Customer Computer, advise the claimant that they can login to their UJ account and print off copies of the relevant screens/pages from an available DWP Customer Computer in your office.

89. *However, the onus is on the claimant to provide evidence of their jobsearch activity (by whatever means they choose).*
90. *Therefore if a claimant does not wish to do this, you will need to base your assessment on the evidence they have provided. If this is insufficient and you are not completely satisfied they have met the requirements to actively seek work, raise a labour market doubt in the usual way.*

Reviewing jobsearch activity - claimant not using Universal Jobmatch

91. *In cases where a claimant is not using Universal Jobmatch, they will show the steps they can be reasonably expected to take to actively seek work that can give them the best prospects of employment, through other means.*
92. *In these cases, you will review a claimant's jobsearch activity using the evidence they provide as described in paragraph 83.*

Referral to a Decision Maker required

93. *Any doubts identified as a result of the evidence provided (however presented) will need to be referred to a Decision Maker in the usual way.*

Action required by Decision Maker

94. *You will make your decision in the usual way.*

We have also included below, the extract from the Labour Market Conditions Guide referred to in paragraph 83 which says:

"The evidence of jobsearch produced when they attend to have their regular reviews may be in various forms:

- information they have provided from their Universal Jobmatch account;*
- evidence in writing from employers, employment agencies, or other organisations which they have contacted;*
- copies of letters they have sent to employers;*
- the claimant's un-corroborated written evidence, for example an ES4;*
- the claimant's verbal evidence*
- evidence from previous Jobsearch Reviews recorded on LMS."*

This is supported by:

- Section 8(1),(b) of the Jobseekers Act 1995 which says:
 - Regulations may make provision for requiring a claimant [(other than a joint-claim couple claiming a joint-claim jobseeker's allowance)] to provide information and such evidence as may be prescribed as to his circumstances, his availability for employment and the extent to which he is actively seeking employment."*; and*
- Regulation 24(1) of the Jobseeker's Allowance Regulations 1996 which says:
 - A claimant shall provide such information as to his circumstances, his availability for employment and the extent to which he is actively seeking employment as may be required by the Secretary of State in order to determine the entitlement of the claimant to a**

jobseeker's allowance, whether that allowance is payable to him and, if so, in what amount.

The Jobseekers Act 1995 and the Jobseeker's Allowance Regulations 1996 are available via the DWP Website at the following internet addresses, respectively:

- <http://www.dwp.gov.uk/docs/a11-0101.pdf>
- <http://www.dwp.gov.uk/docs/a11-4001.pdf>

Annex 2

Work Search Reviews

Universal Credit aims for claimants to get as much work as they reasonably can do as quickly as possible. Work coaches (WC) will take account of individual circumstances and set requirements that, if complied with, give the claimant the best possible prospects of finding paid work quickly. All such requirements will be recorded on the Claimant Commitment.

Compliance with the work-related requirements set out in the Claimant Commitment, actively searching work and engagement with agents, increases the chances that claimants find work more quickly than would otherwise be the case.

The primary purpose of Work Search Reviews is to check that the claimant has complied with their work-related requirements. They also provide an opportunity to identify anything that makes it harder for the claimant to get paid work and determine appropriate support.

A discussion with the claimant must take place to find out what they have done to look for paid work since their last Work Search Review. The core elements of the Work Search Review are:

- explanation of the purpose of the Work Search Review
- review of work search activity and work preparation actions set out on the Claimant Commitment
- review of the claimant's Universal Jobmatch activity
- consideration of other work search and work preparation evidence presented by the claimant
- determination of whether the claimant has done all that can be reasonably expected of them to find paid work
- where a claimant has not complied with a work-related requirement, consideration of whether a sanctionable failure has occurred
- confirming the claimant's next appointment date and time with them and recording this on 'Your meeting plan' which is part 1 of the claimant commitment pack

When making an assessment on whether the claimant has met their work search activities in their Claimant Commitment, the WC must consider whether the claimant has spent sufficient time doing these activities and has done all they can reasonably be expected to do to find work. This is based on:

- their conversation with the claimant
- evidence available including the quality of the activities undertaken and the time spent doing them
- outcomes resulting from the activities

All available Work Search evidence should be considered, including:

- the claimant's Universal Jobmatch account
- any Claimant Commitment Pack 'My work plan' stencils, diary or record the claimant has kept of their activities
- print-outs of jobs they have applied for
- letters from employers
- updated CVs

If the claimant has completed all activities set out in their Claimant Commitment, they have met their requirements and their WSP record should be updated.

If the claimant has not done all that they reasonably could to search for work, WC's should consider whether a sanctionable failure has occurred.

Sanctionable failures should not be considered where a claimant does not undertake an individual work search activity (such as a claimant not checking Universal Jobmatch the required number of times), instead a sanctionable failure should be considered where a claimant has failed overall to do their required hours of work search activity and has not taken all reasonable action to find work in that week.

This is supported by:

- Part 1, Chapter 2, Section 17 of the Welfare Reform Act 2012 which refers to Work Search Requirements;
- Part 1, Chapter 2, Section 23(3) of the Welfare Reform Act 2012 which refers to verifying compliance with a work –related requirement; and
- Part 8, Chapter 1, Section 95 of the UC Regulations 2013 refers to Work Search Requirements and all that is reasonable.

The Welfare Reform Act 2012 and the Universal Credit Regulations 2013 are available via the DWP Website at the following internet addresses, respectively:

- http://www.legislation.gov.uk/ukpga/2012/5/pdfs/ukpga_20120005_en.pdf
- http://www.legislation.gov.uk/ukdsi/2013/9780111531938/pdfs/ukdsi_9780111531938_en.pdf