

Paul Morrison

22 December 2014

Fol ref 4798

Dear Mr Morrison,

Thank you for your Freedom of Information request received on 30 October 2014. I apologise for the delay in replying to you. You asked:-

My query is regarding the rules around benefit sanctions as I help out with an organisation which sees an increasing number of people subject to sanctions.

In 2013 Ester McVey the Employment Minister referred to sanctions saying:

"The people who get sanctions are wilfully rejecting support for no good reason and if there were a reason ... there is something known as 'good cause', so if that seemed true and genuine you'd have good cause there to not have a sanction, plus there is a process in place just to ensure we are getting it right"

The term "wilfully rejecting" is also used in the recent Oakley review of Sanctions in the Work Program but I cannot find it in any of the other documents around the rules for sanctioning and appeals.

I would like to ask:

1. Must a "sanctionable offence" be wilful (or deliberate) for a sanction to imposed?

In order to understand the process and rules more clearly

2. could you provide any guidance:

- a. given to JCP Job Coaches (who refer for sanction) relating to the wilful or deliberate nature of a sanctionable offence*
- b. given to Decision Makers relating to the relating to the wilful or deliberate nature of a sanctionable offence*
- c. given to Decision makers relating to if an action is inadvertent, unintentional or not wilful this constitutes a "good reason"*

This area is of particular importance to the people we work alongside and I hope your answers may be able to allow us to help people avoid or appeal sometimes very damaging sanctions.

With regard to Question 1, there is no requirement in legislation for the sanction to be as a result of a wilful or deliberate action. The amount of an award of JSA is reduced in the event of a failure by the claimant, which is sanctionable under section 19, 19A or 19B of the Jobseeker's Act 1995. Unless the claimant loses employment or a place on a scheme or programme through misconduct, they are given the opportunity to show good reason for the failure. The Decision Maker will consider all the individual merits and circumstances of the case in consideration of good reason and whether a sanction should be imposed.

These are available via the DWP Website at the following internet address:

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

Turning to Question 2, the guidance for Decision Makers, regarding the consideration of good reasons can be found in Chapter 34 of the Decision Maker's Guide – paragraphs 34200 to 34507 may be of particular interest. I attach a link below to this guidance.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/351168/dmgch34.pdf

However, as there is no requirement in legislation for the sanction to be as a result of a wilful or deliberate action, there is no guidance, either for Work Coaches or Decision Makers regarding this topic.

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

Yours Sincerely,

DWP Freedom of Information Requests

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 FoI 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.org.uk/Global/contact_us or telephone 0303 123 1113 or 01625 545745