

DWP Central Freedom of Information Team

e-mail: [freedom-of-information-request@dwpgsi.gov.uk](mailto:freedom-of-information-request@dwpgsi.gov.uk)

Our Ref: VTR Fol 3151

Date: 24 July 2014

Dear James Wildman,

Thank you for your Freedom of Information (Fol) request received on 12 July 2014. You asked:

*British Citizens are recruited in some numbers by British holiday companies to work in holiday destinations abroad. Their job is to facilitate and enhance the holiday experience of holidaymakers. The 'holiday representatives commonly work abroad between May and September then return to the UK.*

*In the event that they have no UK job to return to will they be subject to the Habitual Residence Test on their return should they apply for JSA or HB or are they exempt?*

*Has DWP held consultations with the major employers in the sector about HRT?*

*Does DWP have an estimate of the number of people affected and if so, what is it?*

It has always been the case that people coming to the UK for the first time, or who are returning here after an appreciable absence, must satisfy the Habitual Residence Test to claim for income-related benefits such as income-based Jobseeker's Allowance or Housing Benefit.

The Habitual Residence Test has two elements: a legal right to reside and an objective assessment of factual evidence of habitual residence. A British citizen may have a right of abode in the UK and therefore a legal right to reside. The benefit decision maker will ask the claimant a range of questions about whether they have an attachment to the UK and have an intention to stay, and they may be asked to provide evidence to show this. Each case is treated on its own merits, in the light of the person's individual circumstances.

Additionally, changes were introduced from 1 January this year which mean that a person must have been living in the UK for three months before any consideration can be given to whether they are habitually resident here or have resumed their previous habitual residence. The three-month requirement applies to all new jobseekers who claim income-based JSA from 1st January. It does not apply to contribution-based JSA or other income-related benefits.

When an individual is disallowed benefit because they do not satisfy the Habitual Residence Test, they can make a fresh claim for benefit at any time as and when they feel that their residence is more established. When a fresh claim is made the claimant will be subject to the test again to determine their residence situation at that point.

I can confirm that Department for Work and Pensions holds the information falling within the description specified in your request. The Department for Work and Pensions checks the nationality and immigration status as part of the new claims process of all benefit claimants to ensure that benefit is paid properly and to prevent fraud. As per our records policy this information is then retained for the lifetime of the claim, but only in clerical records and is not recorded as part of the benefit payment administrative systems.

However, we estimate that the cost of complying with your request would exceed the appropriate limit of £600. The appropriate limit has been specified in regulations and for central Government it is set at £600. This represents the estimated cost of one person spending 3½ working days in determining whether the Department holds the information, and locating, retrieving and extracting the information. Under section 12 of the Freedom of Information Act the Department is not obliged to comply with your request and we will not be processing your request further.

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

Yours sincerely,

DWP Strategy Fol Team

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#### **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](mailto: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.org.uk/Global/contact\\_us](http://www.ico.org.uk/Global/contact_us) or telephone 0303 123 1113 or 01625 545745