



**Department
for Work &
Pensions**

DWP HR Central Freedom of Information Team

e-mail: xx@xxx.xxx.xxx.xx

Fol ref No: VTR 4631

Date: 31st October 2014

Dear Paul of the Woods Family

Thank you for your Freedom of Information request received on 17/10/2014, following our earlier correspondence with you in VTR 4143.

You have asked:

- 1) Please confirm that the banning of claimants is not covered by any specific legislation.*
- 2) How can a claimant be 'punished' by a ban, when no offence in law has been committed or proved?*
- 3) You stated that, "The department has a process of complaint, review and reconsideration that can be applied to banning orders, should the claimant believe the ban is unfair and without foundation". Therefore, can you supply me with the procedure for this process, and this process should obviously include (to adhere to the HRA Article 6 - right to a fair trial) an independent and fair public hearing / tribunal to occur.*
- 4) You stated that. "In terms of Article 7 – The banning of a claimant from Jobcentre premises is not a punitive action; alternative arrangements are put in place to allow continued access to full department services. " How does a claimant who has been banned without foundation access the JobCentre's computers to search for work? How does a claimant get advice and support from JCP advisers if they cannot enter the building? If the ban is without foundation, and there has been no incidents of 'unacceptable behavior' by the banned claimant, then there can be no risk to the DWP employees and the public, and therefore a ban in such a case is punitive, unlawful and discriminatory. It is a form of bullying.*
- 5) If the DWP has banned a claimant without any evidence of wrongdoing , and then treated that claimant differently from other claimants without such evidence. Then that is quite clearly discrimination. Can you supply me with your policy and procedure and dealing with complaints of discrimination.*

It may be helpful if I start by clarifying the remit of the Freedom of Information Act. The Act gives any person legal right of access to any and all recorded information which is held by a public authority. The Act does not require the Department to provide opinions or explanations, generate answers to questions, or create or obtain information it does not hold. In cases where a person asks a question, rather than requests 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, it has met its obligations under the Act; interpretation of the information provided is left to the requestor.

In response to No.1: This information has already been provided. It was confirmed in the Fol request VTR 4143 to yourself, that there is no specific legislation with regards the banning of individuals; however we also noted that we do have a statutory obligation towards our staff as does every employer, which can necessitate the need for a ban.

In response to No.2: While you may choose to disagree, and as previously stated in VTR 4143, the ban is not a punishment. Therefore we do not hold any further information to answer your question.

In response to No.3: Claimants must be given the opportunity to respond to a banning letter if they believe the decision is unfair and this will be referred to in the banning letter, which will provide the contact details of TSoL.

TSoL will forward requests for clarification, review or complaints to an agreed team for formal consideration. In most cases it will be appropriate for TSoL to clear the response.

In response to No.4: As for No.2 a ban is not a punishment. Each case will be considered individually, and action is dependent on the individual circumstances of the case therefore we do not hold information to answer this.

In response to No.5: Where a claimant believes they have been discriminated against, they can raise a complaint using the Department's formal process – online guidance can be found at [the Gov.uk website](https://www.gov.uk) but states:

Complain about Jobcentre Plus

Contact the Jobcentre Plus office you've been dealing with if you're unhappy with the service you've received - their details will be at the top of any letters from Jobcentre Plus.

Explain what has happened, how this has affected you and what you want to happen to put things right.

Jobcentre Plus will try to resolve the issue over the phone or deal with your complaint within 15 working days.

If you're unhappy with the response

You'll be asked if you want your complaint sent to the Director General of Operations for the Department for Work and Pensions. They aim to deal with complaints within 15 working days.

If you're still unhappy, you can then ask the Independent Case Examiner to investigate - they'll be impartial and this is free.

If you're unhappy with the response from the Independent Case Examiner, you can ask your MP to send your complaint to the Parliamentary and Health Service Ombudsman.

If a mistake has been made

You may get a special payment if you've experienced unfair treatment or suffered financially.

You can get independent advice from Citizens Advice.

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

Yours Sincerely,

DWP HR Central Freedom of Information 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-requexx@xxx.xxx.xxx.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.gov.uk