

DWP Central Freedom of Information Team

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

Our Ref: VTR 915

DATE 07 March 2013

Dear Ray Playforth,

Thank you for your Freedom of Information request received on 25 February. You asked for:-

Following the judgment of the Court of Appeal in the Wilson/Reilly case the Minister of State, Department for Work and Pensions (Mr Mark Hoban) provided a Written Ministerial Statement to the House on 12.2.13 stating:

"As we are currently seeking permission to appeal, claimants who have already served a sanction will not be able to appeal on the basis of the court's decision until our appeal is heard. We are considering a range of options to ensure we do not have to repay these sanctions" The DWP has also issued guidance to JobCentre staff (02063 DWP/43) stating "Will a claimant be able to appeal an existing sanction?" To which you have responded using the same wording from the Ministerial Statement.

It is my understanding that claimants served with a sanction do have a right of appeal under Section 12 of the Social Security Act 1998 and that the Secretary of State has the power to stay an appeal under Section 26 if he is going to lodge an appeal to the Supreme Court. The statements put out by the DWP give the impression that claimants do not have the right to make an appeal at all and this is the advice you are giving to Departmental staff.

Question 1 Can you direct me to the legislative provisions that give the Secretary of State the power to deny a claimant the right to appeal a sanction (in this case imposed unlawfully as determined by the Court of Appeal)?

Question 2 If there is no legal basis for denying claimants rights to appeal what steps will you be taking to correct the misleading statements given to Parliament and to Departmental staff?

You can expect a reply by 25 March unless I need to come back to you to clarify your request or the balance of the public interest test needs to be considered.

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

Yours sincerely,

DWP Central FoI 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 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