

Date 24 February 2015

Our Ref: IR 90

Dear Mr Williams,

Thank you for your Freedom of Information (Fol) internal review request received on 16 February 2015. You asked:

Many thanks for your reply. I note that you state that the information I request is still under policy development. I accept that this is the case with regard to how the regulations might be amended in the future.

However, the first paragraph of your reply is in the present tense and seems to refer to something that is already policy (although the last sentence then returns to future tense):

"Please note, anyone returning to the UK as a result of the Ebola virus who meets the prescribed conditions does immediately receive a payment from the DWP, rather than having to satisfy the three month residency condition. The prescribed conditions in this case refer to the claimants' circumstances (not the HRT). The conditions are that a claimant is directly returning to resume residence in the UK from Sierra Leone, Liberia, Guinea or any country that the Ebola epidemic subsequently spreads to and who is returning specifically because of the Ebola epidemic. These claimants will be exempted from having to meet the three month residency requirement for JSA(IB)"

The three month "living in the UK" test is in fact a prescribed condition of entitlement for JSA and a condition precedent on satisfying the habitual residence test as set out in the JSA Regulations 1996.

For the avoidance of doubt, I would be grateful if you could clear up the position for someone who returns for example TODAY from an ebola affected area- does that person need to meet the three month rule? As far as I can see there is nothing in the law that would prevent them from having to do so. If it is the current policy that they do not in fact have to do so, then I assume that the current policy is to make an ex-gratia payment in such cases? It would be great if you could let me know whether that is correct.

If that is not the case, it does rather seem that when the Minister mentioned that he had changed the policy in Parliament what he in fact meant was that he had taken steps to have the policy changed but it had not yet been changed.

Anyway, it would be great if you could just clarify what the current position is (ie whether an ex gratia payment would be made in such circumstances or if not how someone would not presently be disadvantaged under the rules)- I do not think that doing so involves any disclosure of policy planning as it relates solely to the current position which your reply seems to indicate is already operational.

In response to your request, I can confirm that the handling of your original request and response has now been appropriately reviewed and that I was unconnected with the handling of your original request.

As a result of this review I can advise that I find the original decision to be partly correct. Your request for review is therefore partially upheld. The reasoning behind this decision is as follows:

You are correct that anybody returning to the UK today, who is returning from a country affected by Ebola and who is returning as a result of the Ebola virus, does not have to satisfy the three month residency condition for income-based Jobseeker's Allowance. In such cases, we will make ex-statutory payments as an interim measure whilst we are developing regulatory amendments.

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

Yours sincerely,

DWP Central 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@dwp.gsi.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. Please remember to quote the reference number above in any future communications.

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