

DATE: 20th October 2017

Dear Ron Hub,

Thank you for your Freedom of Information request of 22 September 2017. You asked:

I understand that a Jobcentre Plus claimant who has a disability as defined in the Equality Act 2010 can not be mandated to attend the Health and Work Programme.

Please provide the information you hold:

- 1. That explains the procedure required for a claimant to notify the Jobcentre of a disability that would exempt them from the Health and Work Programme.*
- 2. That explains what level of proof is required if the disability is not self evident?*
- 3. That explains the procedure to be followed to ascertain whether a claimant has a justifiable disability exempting them from the Health and Work Programme if the disability is disputed by Jobcentre Plus.*
- 4. That clarifies/exemplifies the type of disabilities that would exempt a claimant from the Health and Work Programme.*

DWP Response

In general terms, participants with a disability can be referred by DWP to the Work and Health Programme (WHP) on an entirely voluntary basis, at the most appropriate time when the criteria below are met, the participant:

- has a disability or disabilities as defined by the Equality Act 2010;
- can be helped, in the opinion of DWP, by participating in the WHP;
- if relevant, has already been helped by Jobcentre Plus with their core jobsearch activity;
- needs more support than can be provided within the standard Jobcentre Plus offer (or through other available services and provision); and
- has committed to the goal of finding employment within one year.

However, to be helpful. I can also confirm that a claimant who has a disability as defined in the Equality Act 2010 and who is also long-term unemployed (LTU) (24 months claiming Jobseeker's Allowance (JSA) or a Universal Credit (UC) claimant in the Intensive Work Search Regime (IWSR)) is not exempt from mandatory referral to and participation in the Work and Health Programme.

Individuals are considered disabled under the Equality Act 2010 if they have a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on their ability to do normal daily activities. Further information can be found at: <https://www.gov.uk/definition-of-disability-under-equality-act-2010>. Individuals would confirm that they are disabled in line with the Equality Act definition as part of the signed declaration of their eligibility for the programme. The Department does not 'dispute' disability where a claimant considers themselves as such and discloses this.

Exemptions from the programme are on the basis of an individual's circumstances and not their disability. The Jobcentre Plus (JCP) Work Coach, when deciding whether to refer an eligible LTU Claimant onto the WHP, has to take into account the person's individual circumstances and consider whether discretion should be applied. The exemption and deferral criteria sets out specific circumstances where it would not be appropriate to refer someone onto the programme.

Exemptions relate to individuals who have temporary or indefinite (open ended) personal circumstances which make it inappropriate to refer them on to the programme. The types of circumstances include things such as people with a drug or alcohol dependency while they engage in a structured treatment programme (for up to 6 months), and in which the individual's circumstances could change. Work Coaches would be expected to consider whether a review date should be set as it may be appropriate to refer the Claimant in the future.

Deferral reasons relate to eligible LTU Claimants for whom their current JCP support remains appropriate. Examples include those who are already receiving other JCP provision or who could move into work within 3 months with the continued support of JCP. These deferral reasons are intended to ensure WHP LTU continues to meet the policy and value for money intentions of not sending claimants with short term barriers to participate on WHP, or for whom the JCP Offer remains appropriate.

Guidance will be provided to Work Coaches to support them in applying the Exemption and Deferral Criteria.

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

Yours sincerely,

DWP Strategy 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@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