

DWP Central Freedom of Information Team  
E-mail: [freedom-of-information-request@dwp.gsi.gov.uk](mailto:freedom-of-information-request@dwp.gsi.gov.uk)

Our Ref: IR 666

Date: 23 January 2018

Dear Mr Hub,

Thank you for your Internal Review request received on 21<sup>st</sup> December 2017. An internal review has been carried out by someone of a senior grade to the person who dealt with your original request. I am now in a position to respond to you. In your review request you said:

*In your response you state:*

*"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. "*

*This does not appear to agree with THE JOBSEEKER'S ALLOWANCE (SCHEMES FOR ASSISTING PERSONS TO OBTAIN EMPLOYMENT) (AMENDMENT) REGULATIONS 2017 [http://www.legislation.gov.uk/ukxi/2017/1020/pdfs/ukxiem\\_20171020\\_en.pdf](http://www.legislation.gov.uk/ukxi/2017/1020/pdfs/ukxiem_20171020_en.pdf) in which it states:*

*"7.3 ... Participation on the programme will be voluntary for both disabled people and EADGs. Participation will be mandatory for the LTU."*

*There is a clear distinction being made between LTU claimants and disabled claimants (who may also be LTU). As stated disabled claimants should only be referred on a voluntary basis. It does not state that disabled LTU claimants may be mandatorily referred to the programme. I'd be grateful if you could clarify this.*

*You also state:*

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

*Please provide this guidance.*

### **DWP Response**

As a result of this review I can advise that I find the original decision to be correct. The reasoning behind this decision is as follows:

A claimant who has a disability as defined in the Equality Act 2010 and who is also Long Term Unemployed (LTU) (for 24 months and claiming either Job Seeker's Allowance (JSA) or being 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 (WHP). The criteria determining whether someone is eligible to be referred on a mandatory basis is the benefit they are in receipt of and whether they have been unemployed and receiving that benefit for 24 months or more. Such individuals will have a wide range of characteristics, some of which may be 'protected characteristics' under the Equality Act 2010 including, but not limited to, whether they consider themselves to be a disabled person or not.

This specific issue was raised when the draft Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) (Amendment) Regulations 2017 were considered by the Social Security Advisory Committee (SSAC) on 17 May 2017. The committee was satisfied with both the department's proposed approach and for the regulations to proceed. I have included a link to where the relevant minutes of the SSAC meeting that considered this issue can be found:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/632364/ssac-minutes-may-2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/632364/ssac-minutes-may-2017.pdf)

Turning to your reference to paragraph 7.3 of the Explanatory Memorandum in your review request; it is important to note that section 7 of the Explanatory Memorandum describes the policy background to the Work and Health Programme as a whole, the text you have selected is not a description of the effect of the regulations. Section 2 describes the 'Purpose of the Instrument' and therefore sets out what the intent is for the regulatory amendments and what their effect will be when used. However it is important to include the policy background in the Explanatory Memorandum to ensure that the regulatory amendments are understood in the context of the whole programme, this is made very clear in the document itself. As such, I can confirm that the response that you have previously received is correct and completely in agreement with The Jobseeker's Allowance (Schemes for Assisting Persons to Obtain Employment) (Amendment) Regulations 2017.

In your request you also asked for the 'Guidance that will be provided to Work Coaches to support them in applying the Exemption and Deferral Criteria'.

The department does not currently hold the information you requested.

Long Term Unemployed (LTU) referrals to the Work and Health Programme (WHP) are not expected until April 2018 as claimants referred to the Work Programme before 1 April 2017 continue to receive support from their Work Programme provider for up to 104 weeks. Guidance to support Work Coaches when considering Long Term Unemployed claimants to be referred to the programme is not yet available.

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@dwp.gsi.gov.uk](mailto: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.

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](http://www.ico.gov.uk)