

DWP Central Freedom of Information Team

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

Our Ref: VTR1991

DATE: 3 June 2014

Dear George Morley,

Thank you for your Freedom of Information request received 8 May 2014.

You asked;

Thank you for your reply but there are points that you have yet to answer.

Reference my previous questions :

As the Department are illegally withholding the indexing to over 500,000 state pensioners, please quote the chapter and verse which denies the indexation and which legislation justifies this and quote the legal position.

As has been explained in previous correspondence with you on the subject of frozen pensions the information on this government policy is well known and already in the public domain. You will already be aware of the legal position, but just to recap, the restriction on indexation has been challenged – including in the domestic and European Courts – both by individuals and by overseas governments over the years. The last major Court case was concluded in 2010 when the Grand Chamber of the European Court of Human Rights found against the appellants, ruling that the UK's policy regarding the availability of up-rates did not breach their human rights.

Regarding the legislation that governs this, you can find the information you seek at www.legislation.co.uk. In particular, section 113 of the Social Security Contributions and Benefits Act 1992 provides that, unless regulations provide otherwise, benefit under the Act, including state pension, is not to be payable where a person is not present in Great Britain. Regulation 4 of the Social Security Benefit (Persons Abroad) Regulations 1975 SI 1975/563 creates an exception in the case of state pension. However, regulation 5 of those regulations, unless overridden by EU legislation or the terms of a bilateral social security agreement, goes on to restrict the application of an up-rating order to persons who are ordinarily in Great Britain if triggered by regulations consequential on that up-rating order. For example regulation 3 of the Social Security Benefits Up-ratings Regulations SI 2014/618 triggers the application of regulation 5 in relation to the 2014 up-rating order.

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 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