

DWP Central Freedom of Information Team

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Our Ref: Fol 4292

DATE: 29 November 2016

Dear Ms Baddams

Thank you for your FOI request of 13 November. You asked:

**Question 1**

*“ok government sets the level a person needs to live on / needed to cover a persons living expenses, then why is it right that the DWP can take anything from the amount they need to live on?”*

**Question 2**

*for example a person needs £71.40 to live if they are living solely on ESA or JSA but the dwp takes away £3.45 to pay the council tax, is this not leaving the claimant living below the poverty line?*

**Question 3**

*for example a person needs £71.40 to live if they are living solely on ESA or JSA but the DWP sanctions the claimant, meaning he loses all his money, is this not leaving the claimant to starve and freeze if there is no other income?*

**Question 4**

*for example a person needs £71.40 to live if they are living solely on ESA or JSA but the DWP takes away £20 towards a loan or benefit credit the claimant has been awarded, is this not leaving the claimant living below the poverty line?”*

It may be helpful if I explain the role of the Freedom of Information Act. The Act provides a right of access to recorded information held by a public authority like DWP (subject to certain exemptions). The Act does not provide that a public authority must create new information to answer questions; nor does it provide that a public authority give advice, opinion or explanation in relation to issues/policies under question.

In cases where a customer does ask a question, rather than request recorded information, we do our utmost to provide the recorded information that best answers the question. Once the public authority has provided the recorded information, it has met its obligations under the Act; interpretation of the information provided is left to the requestor.

## **Response to question 1**

There is no figure designated as the minimum amount required by an adult to live on. Benefits are intended to help people who meet the conditions of entitlement and whose resources are insufficient towards meeting their day-to-day living expenses, rather than be a replacement income.

The rates of benefit are not determined by living expenses, rather the Government firmly believe that claimants should be free to spend their benefit as they see fit, in light of their individual needs and preferences rather than having a set pattern of expenditure imposed on them.

## **Response to question 2**

The Third Party Deduction (TPD) scheme functions as a last-resort safety net for people on income-related benefit who have arrears of household expenses and are threatened with enforcement action or, in the case of Council Tax debt, to enforce compliance with a financial and social responsibility. Under the scheme, amounts can be taken from certain benefits at source and paid direct to creditors, including an amount to discharge arrears of Council Tax.

It is implicit in a scheme of regulated deductions from benefit that the reduced income after deductions is still considered sustainable without hardship. Safeguards are in place to prevent deductions becoming too heavy a burden for people on benefit income. A fixed amount for each item is supported by an overall cap to prevent too many deductions being taken at any one time.

## **Response to question 3**

Any decision to temporarily reduce or halt a benefit payment is always thoroughly considered and is not something we do lightly. A sanction is imposed as a consequence of a claimant not meeting their requirements, without good reason, in return for receiving the benefit. Claimants are only asked to meet reasonable requirements taking into account their circumstances and capability, including mental health conditions, disability and caring responsibilities.

DWP have a well-established system of hardship for claimants who are sanctioned. If a claimant demonstrates they cannot meet their immediate and most essential needs including; accommodation, heating, food and hygiene costs (bathing and laundry) as a result of their sanction, they can apply for a hardship payment. Claimants are regularly told about the availability of hardship payments throughout the claimant journey, and we've made improvements to the payment process to ensure payments are paid within 3 days.

## **Response to question 4**

Any award of a Social Fund Loan or a Short Term Benefit Advance include a calculation on affordability of the repayments. This is explained to the claimant before they accept the loan or advance. There is also the option to have the repayments re-scheduled in cases where a change of circumstances causes hardship.

The conditions for receiving an advance of award in Employment and Support Allowance are set out in The Welfare Reform Act 2007 (S.I 2007/) Part 1, Employment and Support Allowance, regulation 5, which can be found at:

[http://www.legislation.gov.uk/ukpga/2007/5/pdfs/ukpga\\_20070005\\_en.pdf](http://www.legislation.gov.uk/ukpga/2007/5/pdfs/ukpga_20070005_en.pdf)

The reasons for reduction of benefit in Employment and Support Allowance are set out in The Employment and Support Allowance Regulations 2008 (S.I 2008/794) Part 8, Conditionality, Chapter 3, Reduction of Employment and Support Allowance, regulation 63, which can be found at:

[http://www.legislation.gov.uk/uksi/2008/794/pdfs/uksi\\_20080794\\_en.pdf](http://www.legislation.gov.uk/uksi/2008/794/pdfs/uksi_20080794_en.pdf)

The circumstances which JSA is payable to a person in hardship are set out in The Jobseeker's Allowance Regulations 1996 (S.I 1996/207), Part 10 Hardship, regulations 141 – 142, which can be found at:

[http://www.legislation.gov.uk/uksi/1996/207/pdfs/uksi\\_19960207\\_300916\\_en.pdf](http://www.legislation.gov.uk/uksi/1996/207/pdfs/uksi_19960207_300916_en.pdf)

The conditions for receiving an advance of a benefit award and for the deduction of benefit are set out in The Social Security (Claims and Payments) Regulations 1987 (S.I 1987/1968), Part 2, Claims, regulation 13 and Part 4, Third Parties, regulations 34A- 35, which can be found at:

[http://www.legislation.gov.uk/uksi/1987/1968/pdfs/uksi\\_19871968\\_300916\\_en.pdf](http://www.legislation.gov.uk/uksi/1987/1968/pdfs/uksi_19871968_300916_en.pdf)

The Social Security (Payments on Account of Benefit) Regulations 2013 (S.I 2013/383) Part 2, Payments on account of benefit, set out when a payment on the account of benefit can be issued, which can be found at:

[http://www.legislation.gov.uk/uksi/2013/383/pdfs/uksi\\_20130383\\_en.pdf](http://www.legislation.gov.uk/uksi/2013/383/pdfs/uksi_20130383_en.pdf)

The Social Security (Loss of Benefit) Regulations, 2001 (S.I2001/4022), Part 3, Hardship, regulations 6 – 8 provides details of circumstances in which JSA is payable to a person in hardship, which can be found at:

[http://www.legislation.gov.uk/uksi/2001/4022/pdfs/uksi\\_20014022\\_en.pdf](http://www.legislation.gov.uk/uksi/2001/4022/pdfs/uksi_20014022_en.pdf)

The Decision Makers Guide is in the public domain and can be found on Gov.uk;

The Decision Makers Guide, Volume 8, chapter 46, Payment questions – Third Party Deductions:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/540821/dmgch4\\_6.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/540821/dmgch4_6.pdf)

The Decision Makers Guide, Volume 6, chapter 34, Sanctions:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/537727/dmgch3\\_4.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/537727/dmgch3_4.pdf)

The Decision Makers Guide, Volume 6, chapter 35, Hardship:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/470852/dmgch3\\_5.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/470852/dmgch3_5.pdf)

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@dwpgsi.gov.uk](mailto: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](http://www.ico.gov.uk)