

# Freedom of Information request 915/2013

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## Information request and DWP response

*Following the judgment of the Court of Appeal in the Wilson/Reilly case the Minister of State, Department for Work and Pensions (Mr Mark Hoban) provided a Written Ministerial Statement to the House on 12.2.13 stating:*

*"As we are currently seeking permission to appeal, claimants who have already served a sanction will not be able to appeal on the basis of the court's decision until our appeal is heard. We are considering a range of options to ensure we do not have to repay these sanctions"*

*The DWP has also issued guidance to JobCentre staff (02063 DWP/43) stating "Will a claimant be able to appeal an existing sanction?" To which you have responded using the same wording from the Ministerial Statement.*

*It is my understanding that claimants served with a sanction do have a right of appeal under Section 12 of the Social Security Act 1998 and that the Secretary of State has the power to stay an appeal under Section 26 if he is going to lodge an appeal to the Supreme Court. The statements put out by the DWP give the impression that claimants do not have the right to make an appeal at all and this is the advice you are giving to Departmental staff.*

*Question 1 Can you direct me to the legislative provisions that give the Secretary of State the power to deny a claimant the right to appeal a sanction (in this case imposed unlawfully as determined by the Court of Appeal)?*

*Question 2 If there is no legal basis for denying claimants rights to appeal what steps will you be taking to correct the misleading statements given to Parliament and to Departmental staff?*

### Question 1

*Can you direct me to the legislative provisions that give the Secretary of State the power to deny a claimant the right to appeal a sanction (in this case imposed unlawfully as determined by the Court of Appeal)?*

The Department has exercised its powers under section 25 and section 26 of the Social Security Act 1998 respectively to delay making any decisions on sanctions currently outstanding and to request that appeals before the First-tier and Upper Tribunal are stayed pending the outcome of that application and, if permission is granted, pending the outcome of the subsequent appeal.

## **Question 2**

*If there is no legal basis for denying claimants rights to appeal what steps will you be taking to correct the misleading statements given to Parliament and to Departmental staff?*

As described above, there is a legal basis for the delay to decisions on sanctions currently outstanding and for the staying of appeals before the First-tier and Upper Tribunal. The Written Ministerial Statement you refer to was not misleading, and formal guidance issued to DWP staff set out that claimants can request an appeal of their sanction decision following the Court of Appeal judgment but that their appeal may be delayed pending the Department's application for leave to appeal to the Supreme Court and, if successful, any subsequent appeal.