

#### **4.5 Deputy G.P. Southern of the Minister for Social Security regarding the basis for the cessation of Income Support payments to claimants:**

Will the Minister inform Members what powers he currently has to stop income support payments to claimants, on how many claims have these powers been used, and in proposing wider powers to limit claims, what criteria will be used to judge the validity of the reasons a claimant may give for leaving a job?

#### **Senator F. du H. Le Gresley (The Minister for Social Security):**

This question is very similar to the written question 7448 submitted by the Deputy, and I will not repeat in detail the information provided in that response, which Members have available on their desks. In brief, income support claimants who are unemployed and who are not exempt from actively seeking work, conditions are required to undertake certain activities to maintain the income support claim. These activities ensure that people claiming benefits are positively engaged in improving their employment prospects and are taking up work whenever possible. These activities are set out in the Income Support Regulations. The financial sanctions that can be applied are also specified within the income support legislation. During 2012, an average of 200 claims per month were subject to an initial warning letter and 23 claims per month received a financial sanction. I can confirm that I am proposing to strengthen the existing sanctions and that regulations are currently being drafted. Subject to advice from the law draftsmen, I will be publishing these draft regulations in the very near future. As set out in the written answer, decisions in this area are taken by departmental officers and are subject to an independent appeal process. The specific criteria to be used to judge the validity of the reasons the claimant may give for leaving a job will be set out in written guidelines.

#### **4.5.1 Deputy G.P. Southern:**

Supplementary, on the appeal mechanism. How many cases of withdrawal of income support components have been brought to appeal and what is the timescale for the formation of such appeal panels and is this sort of timescale appropriate for these sort of appeals?

#### **The Deputy Bailiff:**

That goes rather wider than this particular question but, Minister, are you able to help Deputy Southern?

#### **Senator F. du H. Le Gresley:**

I can try. In 2012, the department dealt with 16 appeals to the Social Security or Medical Appeals Tribunal: 3 were resolved without going to the full tribunal and the 11 were resolved in favour of the department; none in favour of the applicant. Insofar as the process and the timing, the running of the tribunals is now with the Judicial Greffe, who provide a very good service. I am not in a position to advise the Assembly today the exact timescales, but obviously where an appeal is being made, having already been redetermined, we endeavour to process it quickly as possible.

#### **4.5.2 Deputy G.P. Southern:**

Clarification, Sir. How many of those appeals concerned income support appeals where the timescale is fairly immediate?

#### **Senator F. du H. Le Gresley:**

That is the detail I do not have with me, but when a recipient of income support makes an appeal, in virtually every case, so far as I am aware, we will retain the current level of benefit until the outcome of the appeal.

#### **4.5.3 Deputy M. Tadier:**

Would the Minister explain what safeguards there are to prevent constructive dismissal, especially in the first 6 months of a job where, as far as I know, an employer can either get rid of someone by firing them or someone can be forced to leave through constructive dismissal, and where will the burden of proof lie when trying to argue with officers from his department?

**The Deputy Bailiff:**

This is a question about income support rather than termination of employment, but still, Minister, are you able to answer that?

**Senator F. du H. Le Gresley:**

It is the detail that I do not have with me today, but clearly guidelines will be formulated to deal with leaving a job without just cause. These guidelines will be available from the determining officers, which I will have to approve, and in drawing up those guidelines, we will be working with the Jersey Advisory and Conciliation Service, and obviously constructive dismissal is something that we would obviously have to have a good thorough investigation before we decided that they had left the job without just cause.

**4.5.4 Deputy M. Tadier:**

Would the Minister confirm that this policy, which seems to be proposed to be enforced with extra vigour, is taking place in a backdrop where we do not have any discrimination law yet? Will he confirm maybe what problems of not having any kind of discrimination law while trying to enact this policy may have on his department and his officers when trying to determine the validity of those who do not work, because they say they may have been bullied, *et cetera*, and they are therefore leaving for a just cause, in their opinion.

**Senator F. du H. Le Gresley:**

I am not sure the discrimination law is particularly relevant in this situation. The fact is that the Department of Works and Pensions in the U.K. have had sanctions for people who leave jobs without just cause or misconduct for some years and we will be looking at their guidelines for determining officers and working, as I said, with the Jersey Advisory and Conciliation Service to come up with guidelines suitable for Jersey.

**4.5.5 Deputy G.P. Southern:**

Will the Minister agree to produce the information I have requested on the timescales and on the number of cases which are concerned with income support components in appeal?

**Senator F. du H. Le Gresley:**

I do not quite understand what the Deputy is seeking from me. Perhaps he could send me an email and clarify and then I will provide him with the information he requests.