

7.5 Deputy G.P. Southern of the Minister for Social Security regarding zero-hours contract staff and proposals to sanction those leaving employment ‘without good reason’:

Will income support recipients be caught by proposals to sanction those leaving employment without good reason if that employment was subject to a zero-hours contract which had delivered variable or no income in the first 2 weeks and does the Minister for Social Security have plans to deliver support for those who are subject to very variable earnings on zero-hours contracts on a more timely basis than the 5-week cycle he suggested previously?

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

Income support claimants who are also jobseekers will always be encouraged to take up zero-hour contracts if one becomes available. This will give them work experience and may lead on to a more permanent position. If the amount of work available under the contract is only for a few hours per week, the jobseeker will continue to be supported by their personal adviser at the Social Security Department and they will continue to look for a full-time post under their jobseeker’s agreement. If the individual is not provided with any hours in a week but they are still employed under the zero-hour contract, then they have not left employment and the proposed sanction would not apply. The sanction would, however, apply if the income support claimant was undertaking work under a zero-hours contract providing at least some income towards their own living expenses and the individual then either resigned from the position without having another job lined up or was dismissed as a result of their own actions; for example, misconduct. When assessing variable income under any type of employment, officers calculate benefit entitlement using recent actual income information. The Income Support Law specifies that earnings for monthly paid workers should be based on the last 2 months’ earnings and for weekly paid workers the value should be based on the average of the last 5 weeks. However, the law also allows other periods to be used depending on individual circumstances. Income support officers already work with individual claimants to identify an appropriate period for review and I have no plans to amend this process.

7.5.1 Deputy G.P. Southern:

The Minister for Social Security is suggesting that a 5-week cycle is adequate to keep people who may have had a major loss of income in the last week and have no money to live on and that it is adequate for them to wait for 4 or 5 weeks to make up that income through their income support claim or, indeed, if they work more hours, to come into the department and have that money clawed back because of an overpayment. Does the Minister for Social Security think that that is a reasonable way to ask workers in the Island to behave?

Senator F. du H. Le Gresley:

I am not suggesting anything. It is written into the law and if the Deputy would like me to quote the law I can do, but it is in the Income Support (General Provisions) (Jersey) Order 2008, Schedule 2(4)(2). So it is not a suggestion from the Minister; it is law. In respect of somebody who has a drop in income, they would almost certainly contact the department if they were finding financial difficulties because of a drop in income and this is what we call a change of circumstances. We would examine their last payslips and arrange for their income support claim to be amended. We do this numerous times in a period of uncertain employment prospects and this is nothing new at all.

7.5.2 Deputy G.P. Southern:

How long on average does it take a change of circumstances form to be processed?

Senator F. du H. Le Gresley:

It depends on the volume that the department are dealing at any particular time.

7.5.3 Deputy G.P. Southern:

Is that period habitually more than 3 weeks?

Senator F. du H. Le Gresley:

Not to my knowledge.

7.5.4 Deputy S. Pitman of St. Helier:

Who will be and what experience will they have in determining what is or is not a good reason to leave the job?

Senator F. du H. Le Gresley:

The determining officers at the Social Security Department are trained and experienced in the main, although obviously from time to time we have trainees, and they will be assessing whether a person has left their employment without good cause against guidelines which I outlined at the last Assembly. If a person is unhappy with the decision of that officer, they can request a second determination and this will be looked at completely separately by a different officer who has not been involved in the case. If they are still not happy, they have the right of appeal to a tribunal.

7.5.5 Deputy S. Pitman:

Could the Minister for Social Security tell us if this situation is anything like his impairment component where determining officers determine how immobile or what clinical costs somebody needs without, in most cases, a medical opinion? Could he tell us if it is anything like that and what training these officers are given?

Senator F. du H. Le Gresley:

The assessment of somebody who has an impairment is based on a form that the person claiming impairment fills in, possibly with the help of their social worker or somebody in the family. The advice and information from their own G.P. (General Practitioner) is also taken into consideration, and the officers who deal with impairment claims are not the same officers normally who deal with other income support claims.

Deputy S. Pitman:

The Minister for Social Security did not answer the second part of my question. I asked what training is given to these officers determining somebody's reason for leaving a job.

Senator F. du H. Le Gresley:

We really are digging into the depths of how you run a Social Security Department. Of course officers are trained. They are trained based on guidelines that have originated from the U.K. on how to deal with impairment claims. Training is carried out all the time and people are continually upgraded in their knowledge.

Deputy S. Pitman:

Sorry, Sir, he still has not answered. I am talking about where somebody has left a job without good reason; what training does the officer have determining that?

Senator F. du H. Le Gresley:

We do not have that provision in yet, so it would be rather difficult to answer that question.

7.5.6 Deputy M. Tadier:

Does the Minister for Social Security anticipate that an unintended consequence of this move may be that the Jersey Employment Tribunal will have more cases coming to them while the people who have been sacked for all sorts of reasons are trying to prove that they left their job

for a good reason rather than simply because they are lazy people who do not deserve any money from the Social Security Department?

Senator F. du H. Le Gresley:

I cannot pre-guess whether the Jersey Employment Tribunal will have more cases, but the fact is that the department will not be working in conjunction with the Jersey Employment Tribunal. We will be working to assess whether somebody is entitled to income support and we cannot delay on that while somebody may be perhaps waiting for a tribunal hearing.

7.5.7 Deputy M. Tadier:

The Minister for Social Security seems to have pre-empted my supplementary question which was: will they wait if a tribunal hearing is going on? Surely the fair-minded thing to do is ... if there is a case going to the Employment Tribunal, is he seriously saying that he will cut somebody's benefits who may have been sacked for things to do with their gender, because we do not have gender discrimination in Jersey? They may have to wait 6 or so weeks without any support until their name is cleared by the Jersey Employment Tribunal. If that is the case, will the Social Security Department be making a back-payment and what will that individual do in the meantime while they have to survive with no money?

Senator F. du H. Le Gresley:

We have to distinguish between a benefit system and the fact that we have an Employment Law and people have rights under that Employment Law. The benefit system is designed to assist people in need. If we bring in the regulations that I am proposing, if somebody walks out of a job without just cause, of course the officers will investigate and speak, with permission of the person claiming benefit, with the employer and make a decision based on all the information available. If we did not make decisions, we would end up in a situation where people would not receive benefit, so we have to proceed under the rules of income support to assess a claim and people have a right of appeal if they are not happy with that decision.

7.5.8 Deputy J.M. Maçon:

On that vein, when these guidelines are being developed, can the Minister for Social Security explain how the Social Security Department will deal with things such as bullying and harassment claims, which cannot always be proven, which we know does occur within the Island?

The Deputy Bailiff:

I have allowed a very wide series of supplementary questions. The starting question was about zero-hours contracts but, Minister, if you wish to answer that question you can.

7.5.9 Senator F. du H. Le Gresley:

At the last Assembly I did answer a question about bullying and harassment and explained to Members that clearly this is a difficult area and one where the officers would be looking at what action that person took within the employment to remedy the situation that was causing bullying or harassment. In other words, did they take it up with their line-manager or did they speak to the human resources department if there is one? Provided they have taken all action available to them in the workplace, then obviously we would take all that into consideration.

7.5.9 Deputy G.P. Southern:

The Minister for Social Security referred to the process of second determination. Does he accept that that often takes up to a fortnight to complete? Could he tell me, despite the fact that he says that the Social Security Department aims to complete a review - that is an appeal - within 3 weeks, what is the actual time taken on average for an appeal to the tribunal?

Senator F. du H. Le Gresley:

The Deputy is correct that a second determination can take up to 2 weeks, often because we are, for the benefit of the claimant, trying to get as much additional, perhaps new, information that might give reason for the second determining officer to perhaps approve or disapprove the claim. Insofar as the time-span for getting an appeal, that is out of our control because the appeal regime is run by the Judicial Greffe.

Deputy G.P. Southern:

If I may have a supplementary, the Minister for Social Security has just avoided the question.

The Deputy Bailiff:

The question was not about zero-hours contract, Deputy, and time is marching. You have had 11 minutes on your question and we have to get through the list.