IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER

Upper Tribunal case numbers: CUC/1653/1654/1655/1656/1657/2016

Before: Mr E Mitchell Judge of the Upper Tribunal

Hearing: 8 February 2017, Manchester Crown Court (with subsequent written submissions)

Attendances: The Appellant Mr S did not attend and was not represented

For the Respondent Secretary of State, Mr S Cooper (solicitor) instructed by the Government Legal Department

Decision: The decisions of the First-tier Tribunal (17 March 2016, sitting at Chester, file refs: *SC 065/15/00874 & SC 065/16/00008/9/10/112013*) did not involve material errors on points of law. Under section 12 of the Tribunals, Courts and Enforcement Act 2007, these appeals are **DISMISSED**.

REASONS FOR DECISION

Background

Mr S's Universal Credit award and his Claimant Commitment

1. Mr S was awarded Universal Credit (UC) with effect from 18 February 2015 as a member of the 'all work-related requirements group'. In his claim form, he answered 'no' to the question "are you unfit for work?"

2. Mr S signed a UC Claimant Commitment. Under the heading, 'My commitment', it stated "I'll do everything I can to get paid work…The things I'll do are set out in this claimant commitment". Towards the end of the document, it stated "If I don't meet all the requirements set out in my Claimant Commitment, I understand that my Universal Credit payments will be cut".

3. The Claimant Commitment went on to include a declaration that Mr S would complete all the activities in his 'work search and preparation plan'. Section 1 of the plan read:

Section 1: Regular work search activities	**How often**
I will use Universal Jobsmatch, Indeed and	Daily

other jobsearch websites to look for and apply for suitable jobs	
I am registered with Hays and Adecco Recruitment Agencies and will maintain regular contact with them to check if they have any vacancies I can apply for	Weekly
I will contact employers directly to enquire about vacancies	3 times a week
I will use word of mouth and social media to identify potential job opportunities that I can apply for	Weekly
I will look in local papers for job advertisements	Weekly

4. When the Secretary of State / DWP came to impose sanctions on Mr S they did not rely on, nor allege breach of, any of these specific commitments.

The Secretary of State's sanction decisions

5. The Secretary of State imposed five medium–level sanctions, deciding in each case that Mr S had not taken all reasonable work search action. The sanction decisions related to the following periods:

(1) 18 August 2015 to 24 August 2015 (decision of 3 September 2015) (CUC/1653/2016; SC 065/15/00874). Decision 1 reduced Mr S's UC by £10.40 per day for 28 days.

(2) 5 November 2015 to 11 November 2015 (decision of 5 December 2015) (CUC/1654/2016; SC 065/16/00008). Decision 2 reduced Mr S's UC by £10.40 per day for 91 days, as did decisions 3 to 5;

(3) 12 November 2015 to 18 November 2015 (decision of 5 December 2015) (CUC/1655/2016; SC 065/16/00009);

(4) 19 November 2015 to 25 November 2015 (decision of 6 December 2015) (CUC/1656/2016; SC065/16/00010);

(5) 26 November 2015 to 2 December 2015 (decision of 6 December 2015) (CUC/1657/2016; SC065/16/00011).

6. Decision (1) was prompted by a work coach's view that Mr S's work search was insufficient during the relevant period. In response to a request to provide evidence of his work search action, Mr S said his work search was inhibited for a few days because his home internet was

down although he did manage to search the internet for vacancies on two days, spending 14 doing so in total.

7. During the mandatory reconsideration telephone conversation with a DWP official, Mr S reportedly informed the official that he did not use computers at his local library when his home internet was down because there were too many other users. Mr S thought he needed to make an appointment to use a computer for job searching at the Jobcentre. When his internet was down, he walked around "places" to ask for jobs. He could not find any suitable vacancies to apply for. The DWP identified 16 local cleaning vacancies during this period which they considered suitable posts for Mr S.

8. Decisions (2) to (5) had similar backgrounds. Again, they were all prompted by a work coach's view that Mr S's work search was insufficient. In response to a request to provide evidence of his work search action, Mr S said that, during each relevant weekly period, he spent 35 hours checking jobs website, and during some periods also checked the jobs pages of local newspapers. He found no suitable vacancies. The DWP identified a number of local cleaning vacancies for some of the relevant periods which they considered suitable for Mr S.

9. During the mandatory reconsideration telephone conversation with a DWP official for decisions (2) to (5), Mr S reportedly informed the official that he did not apply for the vacancies identified by the DWP because he could not find them, he did not sign up with employment agencies because he had been informed they were only looking for skilled workers and he hadn't sent a CV to an employer for a month.

10. For all five relevant periods, the Secretary of State / DWP considered that there were suitable local vacancies, mainly cleaning jobs, for which Mr S could have applied. He made no applications and did not alter his fruitless work search activities. During all five periods, the Secretary of State decided that Mr S failed to undertake all reasonable job search action.

11. Mr S appealed to the First-tier Tribunal against all five decisions. In relation to decision (1), Mr S's notice of appeal argued the DWP had not taken all the circumstances into account (the overlooked circumstances were not identified). In relation to the other decisions, Mr S's notice of appeal simply argued the decisions were unfair. All five appeals were heard together. Mr S attended the hearing on all five appeals and gave oral evidence. His representative also attended and made oral submissions.

The First-tier Tribunal hearing and decisions

12. The Tribunal's statement of reasons records:

(a) Mr S's oral evidence showed he had restricted his work search to the healthcare sector but, during all five relevant periods, there were many other suitable vacancies he could have applied

for in other sectors. Mr S gave oral evidence that he did not apply for any vacancies in any of the relevant periods;

(b) Mr S gave oral evidence that, in his view, the vacancies identified by the DWP were unsuitable because they were all zero hours contracts and, if he obtained one of the posts, it would adversely affect his benefits. Mr S also said he had never been clear about how work would affect his benefit but he thought part-time work was of no use because he could get more on UC. Mr S's representative argued he misunderstood what was meant by 'suitability', in terms of vacancies, due to the DWP's failure to explain this to him, and he misunderstood the effect that work would have on the amount of his UC;

(c) The Tribunal decided Mr S's claimed ignorance of the effect of work in his UC award could not amount to a good reason for failing to undertake all reasonable job search action. This was because ignorance of the law is no defence;

(d) The Tribunal found that Mr S either failed to carry out an adequate search or decided not to apply for any vacancies because he considered them unsuitable;

(e) the Tribunal found that Mr S was more interested in receiving benefit than looking for work. His main motivation was to ensure nothing interfered with his benefits "preferring to be in receipt of those benefits rather than search for and, possibly, obtain employment";

(f) In relation to the appeal against decision (1), the Tribunal found that Mr S could have used computers in his library or jobcentre but, since his home internet was only down for a single day during the relevant period, according to his oral evidence, this should not have materially affected his ability to search for jobs on the internet.

13. The First-tier Tribunal's dismissed Mr S's appeals deciding in each case that Mr S had, without good reason, failed to carry out all reasonable work search action.

Universal Credit (UC) legislative framework

Claimant commitments

14. Section 1(1) of the Welfare Reform Act 2012 ("2012 Act") provides that "a benefit known as universal credit is payable in accordance with this part". Below, references to sections are to sections of the 2012 Act.

15. Section 3(1) provides that a single claimant is entitled to UC if "the claimant meets (a) the basic conditions, and (b) the financial conditions for a single claimant". Set out in section 4, the basic conditions include that a person "has accepted a claimant commitment".

16. A claimant commitment is "a record of a claimant's responsibilities in relation to an award of universal credit" (section 14(1)). The Secretary of State is responsible for preparing a claimant commitment (section 14(2)). A claimant commitment must include "a record of the requirements that the claimant must comply with under this Part (or such of them as the Secretary of State considers it appropriate to include)" (section 14(4)). There are three prescribed ways in which a claimant can accept a claimant commitment: electronically; by telephone; or in writing (regulation 15(4) of the Universal Credit Regulations 2013 ("UC Regulations 2013")).

Claimant responsibilities: general

17. Chapter 2 of Part 1 of the 2012 Act (sections 13 to 29) is headed "Claimant Responsibilities". Section 13(1) enacts that "This Chapter provides for the Secretary of State to impose work-related requirements with which claimants must comply for the purposes of this Part". Section 13(1) contains a clear indication that work-related requirements only come into being as and when the Secretary of State decides to impose them.

18. A number of types of work-related requirements are referred to in section 13(2):

- A work-focussed interview requirement;
- A work preparation requirement;
- A work search requirement;
- A work availability requirement.

19. For certain claimant types, the Secretary of State's power to impose work-related requirements is restricted (section 13(3)). Mr S was not of such a type; he was potentially subject to all work-related requirements.

The work preparation requirement

20. Section 16(1) defines a work preparation requirement as "a requirement that a claimant take particular action specified by the Secretary of State for the purpose of making it more likely in the opinion of the Secretary of State that the claimant will obtain paid work (or more paid work or better-paid work)". Section 16(2) permits the Secretary of State to specify the time to be devoted to any particular action. Section 16(3) sets out examples of action which may be specified under section 16(1). It can be seen that the content of any work preparation requirement is framed by a determination of the Secretary of State.

The work search requirement

21. The work search requirement differs from some of the other work-related requirements in that its definition is, in part, free-standing. What I mean is that the content of the requirement is not entirely framed by determination of the Secretary of State.

22. Section 17(1) defines a work search requirement as:

> "a requirement that a claimant take--
>
> (a) all reasonable action, and
>
> (b) any particular action specified by the Secretary of State,
>
> for the purpose of obtaining paid work (or more paid work or better-paid work)";

23. The requirement to take "all reasonable action" for the purpose of obtaining paid work etc. is the free-standing element of the definition. By contrast, section 17(1)(b) confers power on the Secretary of State to specify particular action to be taken by a claimant for the purpose of obtaining paid work.

24. The different legal natures of section 17(1)(a) and 17(1)(b) requirements, apparent on the face of section 17(1), are reinforced by subsequent provisions. These concern the Secretary of State's power to specify action under section 17(1)(b) but say nothing further about the 'all reasonable action' requirement in section 17(1)(b). For example, section 17(3) sets out examples of the action that may be specified under section 17(1)(b) such as "carrying out work searches", "making applications" and "creating and maintaining an online profile".

25. Section 17(1)'s requirement to take "all reasonable action" needs to be read with regulation 95(1) of the UC Regulations 2013, which provides:

> "(1) A claimant is to be treated as not having complied with a work search requirement to take all reasonable action for the purpose of obtaining paid work in any week unless—
>
> (a) either—
>
> > (i) the time which the claimant spends taking action for the purpose of obtaining paid work is at least the claimant's expected number of hours per week minus any relevant deductions [as agreed by the Secretary of State under regulation 95(2)], or
> >
> > (ii) the Secretary of State is satisfied that the claimant has taken all reasonable action for the purpose of obtaining paid work despite the number of hours that the claimant spends taking such action being lower than the expected number of hours per week; and
>
> (b) that action gives the claimant the best prospects of obtaining work."

26. The "expected number of hours per week" is normally 35 (unless some lesser number of hours applies under regulation 88(2). In Mr S's case, the expected number of hours was 35.

27. Conceptually, the Secretary of State's power under section 17(1)(b) to specify action differs from his power under section 13(1) to impose work-related requirements. I note that in many cases this may be of little practical significance since the act of specifying action/s may well be merged with a decision to impose a requirement to take the action/s. In relation to section 17(1)(a), however, the Secretary of State's power to impose work-related requirements comes to the fore. There is nothing to be specified – this has been done by section 17(1)(a) – but there remains a need for the Secretary of State, acting under section 13(1), to impose the section 17(1)(a) requirement on a claimant.

28. The final piece of the primary legislative jigsaw is section 22(2). Unless circumstances prescribed in regulations apply, section 22(2) *requires* the Secretary of State to impose "a work search requirement" (and "a work availability requirement"). The term "work search requirement" has "the meaning given by section 17(1) (see section 40 of the 2012 Act – "Interpretation of Part 1"). Despite the use of the singular in section 22(1) – a work search requirement – the wording of section 17(1) shows that 'a work search requirement' always includes a requirement to take all reasonable action for the purpose of obtaining paid work etc.

29. The upshot is that, in the case of a claimant potentially subject to all work-related requirements, the Secretary of State must always impose a work search requirement to take all reasonable action for the purpose of obtaining work etc. This is not an issue on this appeal but, it seems to me, that if the Secretary of State's fails to comply with his section 22(2) obligation to impose a section 17(1)(a) requirement, a claimant should not bear the consequences of that. Section 22(2) is not a deeming provision and does not disturb the general rule that a claimant's work-related requirements are those that have been imposed by the Secretary of State.

The work availability requirement

30. The definition of "work availability requirement" is entirely free-standing: "In this Part a "work availability requirement" is a requirement that a claimant be available for work" (section 18(1)). To be "available for work" means "able and willing immediately to take up paid work (or more paid work or better-paid work)". For completeness, I also note that regulations are authorised to "to impose limitations on a work availability requirement by reference to the work to which it relates" and the Secretary of State is given power to specify further limitations "in any particular case" (section 18(3)). Examples of the types of limitation that may be imposed, by regulations or the Secretary of State in a particular case, are set out in section 18(4). Such limitations are not, of course, requirements. Their effect is to restrict the legislative definition of the work availability requirement.

Sanctions

31. Section 27 provides for "other sanctions" (in contrast to the higher-level sanctions provided for by section 26). Sanctionable failures under section 27 include a claimant failing "for no good reason to comply with a work-related requirement" (section 27(2)). The UC Regulations 2013 provide for sanctions of escalating duration in the case of multiple failures

but I do not need to set these out. Mr S has not disputed that his sanctions were correctly calculated, only that he should not have been sanctioned at all.

32. The 'for no good reason' provision in section 27(2) might, on the face of it, appear unnecessary where the allegation is that a claimant did not take all reasonable work search action. It could be said that work search action for which a claimant had a good reason for not undertaking is not reasonable work search action. However, when the UC Regulations 2013 are taken into account, the 'for no good reason' provision does add something in practice. As explained above, regulation 95 provides that, typically, a claimant who does not spend 35 hours per week on work search activities that gives the best prospects of obtaining work has not taken all reasonable action. If a claimant spends less than 35 hours, or the quality of the work search is disputed, he will need to rely on section 27(2) if he seeks to avoid a sanction. I note that the 'all reasonable action' requirement is also met where the Secretary of State is satisfied that all reasonable action has been taken despite the 35 hour threshold not being met (regulation 95(1)(a)(ii)). Where an appellant seeks to rely on regulation 95(1)(a)(ii), there may be no need in practice to consider whether the 'for no good reason' condition is met.

Proceedings before the Upper Tribunal

The grounds on which permission to appeal was granted

33. Upper Tribunal Judge Lane granted Mr S permission to appeal to the Upper Tribunal against the First-tier Tribunal's decisions. Mr S's application for permission simply stated he had read an email that said sanctions were illegal and unlawful.

34. Judge Lane's grant of permission to appeals read as follows:

> "1…it is arguable that the FtT erred in law in relation to the meaning it attributed to the phrase 'with no good reason' in relation to work search requests. The appellant argued that he had good reason in not applying for jobs based on zero hours contracts. The FtT considered that this amounted to ignorance of law which, in its view, could not be 'some kind of defence'. The FtT considered that this must 'inevitably' be rejected.
>
> 2. Its position is arguably unsustainable having regard to well known decisions by the Social Security and Child Support Commissioners (now the Upper Tribunal) which provide that in the sphere of claiming benefits, ignorance of law may provide good cause, depending on whether the ignorance was itself reasonable: *R(P) 1/79, R(SB) 6/83* and *R(S) 2/63*…
>
> 3. There is, moreover, an argument that the words 'with no good reason' bear different connotations than 'without good reason' (as used in JSA). Do the words 'with no good reason' signify that the question is to be looked at more subjectively from the

> appellant's point of view, rather than an approach which puts greater emphasis on public interest?"

35. The cases referred to by Judge Lane decided as follows.

R(P) 1/79

36. In *R(P) 1/79* a pensioner argued he had good cause for making a late claim for a retirement pension increase referable to his wife's earnings. When the pensioner first claimed retirement pension, with effect from May 1971, the law did not provide for this type of pension increase; it seems the pensioner knew this when he claimed. The law changed with effect from April 1976 but the pensioner did not claim an increase until March 1977 when he became aware of the new rules. If the pensioner could show good cause for his late claim, he would obtain what was effectively a backdated increase.

37. Social Security Commissioner Magnus applied his earlier ruling in *R (G) 2/74* that "whether a person has good cause for a late claim depends on the facts and circumstances of the particular case, and an *a priori* approach to the question – an approach which avoids considering the facts and circumstances but seeks to apply some fixed and automatic principle – can in many cases lead to injustice".

38. The Commissioner went on to criticise officials who quote the principle "a person's ignorance of his rights…is not <u>of itself</u> good cause for a late claim" but "fail to appreciate that the words I have underlined invite a further enquiry, namely whether there are facts leading to a conclusion that the claimant's ignorance was reasonable".

R(SB) 6/83 & R(S) 2/63

39. *R(SB) 6/83* was another backdating case. Two weeks late, the claimant made a claim for supplementary benefit. The claimant mistakenly thought he had claimed supplementary benefit at the same time when he earlier claimed unemployment benefit.

40. Social Security Commissioner Hallett referred to the decision of a Tribunal of Commissioners in *R(S) 2/63*:

> "Ignorance of one's rights is not of itself good cause for delay in claiming. It is in general the duty of the claimant to find out what they are, and how and when they should be asserted…[but]…the Commissioner has long recognised a wide variety of circumstances, in which it would not be expected that a reasonable person would make inquiries or think there was anything to enquire about…"

41. It follows that an enquiry is called for into whether claimed ignorance is reasonable "namely whether there are facts leading to a conclusion that the claimant's ignorance was reasonable". The Commissioner went on:

> "the first question that should be asked is whether the claimant made any enquiries as to the position at the local, or other, office of the Department of Health and Social Security…and, if he has not done so, whether he could reasonably have been expected to make such enquiries: see Commissioner Decision *R(S) 8/81*".

42. The Commissioner allowed the appeal. The appeal tribunal erred in law by failing to enquire into whether it was reasonable for the claimant to be under the impression that he made a claim for supplementary benefit at the same time as he claimed unemployment benefit. Such an enquiry would have entailed making findings about whether the claimant made enquiries at his benefit office.

The arguments

43. The Secretary of State's written response to Mr S's appeal argues that the concept of 'with no good reason' is synonymous with the test of 'without good cause', that test having been a feature of social security legislation for many years. The test in *R(SB) 6/83* should be applied to section 27(2) of the 2013 Act and, accordingly, all relevant circumstances should be taken into account including individual circumstances. In essence, this is what the First-tier Tribunal did. The Tribunal's conclusion that Mr S did not have a good reason for failing to take all reasonable work search action, either because he carried out an inadequate job search or held the unreasonable belief that the vacancies available were not suitable, was based on proper findings of fact and contained no material error of law.

44. On the 'ignorance of the law' point, the Secretary of State's written argument accepts that such ignorance is capable of founding a good reason. In Mr S's case, however, the First-tier Tribunal rightly refused to take Mr S's claimed ignorance of the financial implications of work as a good reason for not carrying out all reasonable work search action.

45. Mr S's claimed ignorance of the financial implications of work could not amount to a good reason because it was not a reasonable ignorance. There was no evidence that Mr S's claimed ignorance contributed to his failure to apply for vacancies or affected his work search activities. There were many vacancies that were in fact suitable and Mr S should have contacted his work coach if he had doubts as to whether they could be considered suitable. Mr S had regular appointments with his work coach for at least six months before his first "failure". Further, Mr S's Claimant Commitment was evidence that he had been made aware of the consequences of a failure to meet the requirements imposed on him and it included no restrictions on Mr S's work search by reference to types of employment or wage levels. Any reasonable person would have made enquiries with his work coach if he had doubts as to what was meant by suitable vacancies.

46. In his written reply, Mr S states the Supreme Court has decided that all sanctions and workfare are illegal (it hasn't). He also argues that his Jobcentre did not give him sufficient information about how to record job search activities. Mr S does not respond to the Secretary of State's argument that a reasonable person with doubts about the workings of a benefit would raise the doubts with a DWP official. Mr S requested a hearing of his appeal in Manchester or Chester but, if that was not possible, requested a telephone hearing.

47. Judge Lane directed a hearing in Manchester. Two days beforehand, Mr S emailed the Upper Tribunal stating he would not attend the hearing because he could not find a representative and doubted he could afford the train fare. On my instruction, Upper Tribunal staff contacted Mr S to inform him he was entitled to reimbursement of any train fare and did not need to have a representative at the hearing. Mr S informed staff he would still not attend and requested that his appeal be heard in his absence. I decided to hold a hearing in Mr S's absence. In my view, there was little prospect of Mr S ever attending a hearing in person since he maintained his decision not to attend even after being informed that his travel fares would be reimbursed. Clearly, it would be desirable for Mr S to be represented at a hearing but, in the light of his inability to date to secure representation and the scarcity of competent representation in this field, I concluded he would be unlikely to secure representation for an adjourned hearing. In the circumstances, proceeding with a hearing in Mr S's absence was in accordance with the overriding objective of the Upper Tribunal's Rules (the objective refers to dealing with cases fairly and justly).

48. At the hearing, Mr Cooper for the Secretary of State continued to rely on his earlier written response. Mr Cooper also made submissions as to Parliament's intention in enacting section 27(2) of the 2013 Act by reference to the proceedings of the Bill through Parliament. Without wishing to be discourteous, I need not set out those submissions because, in my view, the conditions for admitting Ministerial statements made in Parliamentary Bill proceedings are not satisfied (*Pepper (Inspector of Taxes) v Hart* [1993] AC 593). In any event, the Ministerial statements shed no real light on the legislative intention.

49. Following the hearing, I issued case management directions requiring the parties to supply supplemental written submissions setting out their arguments as to how the Upper Tribunal should dispose of the appeal, in the event that it succeeded. In particular, submissions were requested on the decision the Upper Tribunal should make if it were to re-make Mr S's appeals against the Secretary of State's sanction decisions rather than remit to the First-tier Tribunal for re-hearing.

50. In response, Mr S wrote that he had Type 2 diabetes. He did not argue that this affected his ability to look for work. I think his point is that, without sufficient income, he will not be able to follow the diet necessary to keep his diabetes under control. Mr S described a sanction for failing to attend a work placement but that must be a different sanction to those appealed in these proceedings. The Jobcentre provided him with "no training and no lectures" but Mr S

does not describe the training or lectures he should have had. Mr S wrote that his current work advisor was very pleasant, unlike previous advisors. Mr S also complained about difficulties he had had when applying for "hardship fund" and that the DWP wanted him to repay hardship payments previously received because he "bought something on E Bay". Mr S again stated he had been informed that the Supreme Court had declared sanctions and workfare illegal.

51. The Secretary of State informed the Upper Tribunal he had no further submission to make.

Conclusions

52. Upper Tribunal Judge Lane granted Mr S permission to appeal on two grounds. Firstly, arguably the First-tier Tribunal erred in law by categorically rejecting Mr S's argument that he could establish 'good reason' by relying on his claimed ignorance of the financial implications of work on his UC award. Secondly, whether the legislative term 'for no good reason' requires a more subjective analysis than the term 'without good reason'.

53. It is convenient to take the second ground first (since its determination may bear on the first ground).

54. In my view, there is no material difference between the terms 'no good reason' and 'without good reason'. Both refer to the absence of a good reason. 'no' and 'without' are not technical terms. In ordinary usage in this context, they mean the same thing. For example: 'she has no food means the same as 'she is without food; 'I have no motivation' means the same as 'I am without motivation'.

55. Turning now to the second ground. In my view, it is clear that the First-tier Tribunal misdirected itself in law when it said that ignorance of the legal nature of a benefit could never be relied on to found a 'good reason' for failing to undertake all reasonable work search action.

56. As explained above, long-standing case law holds that ignorance of legal rights is capable of supporting a finding that a person had good cause for not doing something or doing something late. I decide that the same approach is required when considering if a person for 'no good reason' failed to comply with a UC work-related requirement. That result is supported by the ordinary meaning of 'good reason' and it is unlikely that Parliament, in the absence of clear words, intended to reverse an important legal feature of the social security system.

57. Any old reason is not sufficient under section 27(2). It must be a good reason. So the nature of the reason must be evaluated in order to determine whether it is 'good'. Such is also the case in evaluating 'good cause'. The settled case law tells us that a combination of objective and subjective factors may be relevant in determining whether 'good cause' exists. In

my view, 'good reason' expresses the same concept as 'good cause' but in more modern language. As a result, the 'good cause' case law applies to the term 'with no good reason'.

58. I agree with the Secretary of State that, on the case Mr S presented to the First-tier Tribunal, it arrived at the right result. Mr S did not give evidence that he sought clarification from the DWP officials with whom he was in regular contact about the implications of different types of work, such as part-time work, on his UC award. Had the First-tier Tribunal considered the matter, the only conclusion properly open to it would have been that Mr S could reasonably have been expected to raise with DWP officials his concern, or confusion, about the implications of types of work in his UC award. The evidence showed that Mr S was in regular contact with a work coach and there is no evidence to suggest that he was incapable of asking the simple questions that needed to be asked. Since Mr S could reasonably have been expected to make such enquiries, the Tribunal, even if it accepted Mr S's ignorance, could not have decided that such ignorance amounted to a good reason for the purposes of section 27(2).

59. In conclusion, while the First-tier Tribunal misdirected itself in law this was not a material error of law and its decision stands.

(Signed on the Original)

E Mitchell
Judge of the Upper Tribunal
3 December 2017