



**Department
for Work &
Pensions**

**Department for Work and Pensions
Legal Advisers
Caxton House
6-12 Tothill Street
London
SW1H 9NA**

By email:

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T: 020 7210 3000**

**Your ref: JC/1031
Our ref:**

13 March 2019

**In the proposed Judicial Review
v Secretary of State for Work and Pensions**

Dear Ms

I write in response to your letter dated 27 February 2019 sent under the pre-action protocol for judicial review.

The Proposed Claimant

1. The proposed Claimant in this matter is:

The Proposed Defendant

2. The proposed Defendant is: The Secretary of State for Work and Pensions (SSWP), Department for Work and Pensions, Caxton House, Tothill Street, London, SW1H 9NA.

The matter under challenge

3. This matter relates to the proposed claimant's claim for Universal Credit and the refusal to include a carer element within her award following the death of her husband, in respect of whom she had previously been receiving Carer's Allowance.

Universal Credit – Legislative Framework

4. We agree that the relevant legislative provisions are as set out in your letter.

Alternative remedy

5. Your letter challenges an individual decision on entitlement. The procedure that applies when a claimant wishes to challenge a determination of entitlement has been set out in legislation and it is not appropriate for the claimant to simply bypass that procedure by bringing a claim for judicial review. It is not clear from the letter whether or not your client has requested a mandatory reconsideration. However, if and when that stage has been completed then the appropriate remedy would be a statutory appeal to a tribunal.
6. A vague assertion that Child Poverty Action Group is aware of other cases in which this has occurred is not sufficient to justify pursuing a judicial review in circumstances where a claimant is dissatisfied with a decision. The grounds as set out in your letter make it very clear that it is the *application* of the law to specific facts and a failure to comply with internal guidance in an individual case that is the substance of this complaint.
7. This does not mean that the SSWP does not take potential errors in individual cases seriously and your letter will be referred to a decision maker for reconsideration.

Action the Proposed Defendant is required to take

8. The SSWP agrees to review the decision taken in relation to the proposed claimant's entitlement to Universal Credit. This has been referred to a decision maker who will be in touch in due course.
9. The SSWP will be reviewing guidance in this area and taking any steps considered necessary to improve decision making in similar cases.

ADR Proposals

10. Having considered the courses of action available, the SSWP does not see any scope for meaningful Alternative Dispute Resolution at this time. However, please let us know if you have any proposals.

Yours sincerely



Rebecca Huxford

Lawyer, Universal Credit and Housing Support

DWP Legal Advisers, Government Legal Department