**Legislation**

Backdating of Universal Credit claims is governed by Regulation 26 of the UC, PIP, JSA and ESA (Claims and Payments) Regs 2013. Please find this enclosed. I think that the medical evidence clearly supports that Mr X meets both (3) (b) and (c) of this regulation.

The Secretary of State points us to Section 8 (2) of the Social Security Act 1998. (Page F.) I am enclosing a print out of this and Section 9 following it. Section 8 (2) has applied to benefit decisions since 1998. The difference with Universal Credit is that, unlike its predecessor benefits, the claim form does not ask which date a claimant wishes to make a claim from. The Decision Maker assumes that the claimant wishes to make a claim from the date that the claim was submitted. The Secretary of State is arguing that, once a claim has been processed, this date cannot be changed except by another claim made within one month of the first (given that one month is the maximum period of backdating).

However, as Section 9 goes on to say, decisions can be revised for a number of reasons. Regulation 21 of the UC, PIP, JSA and ESA (D&A) Regs 2013 is also relevant here. (Please see print out.) So technically, this appeal can be dealt with by treating the request for backdating on 03/05/19 as a late Mandatory Reconsideration of the decision of 08/01/19 to pay the claim from 04/12/18 and not an earlier date. The medical evidence indicates that Mr X continued to be unwell up to and beyond the date that backdating was requested. This appeal can then be treated as an appeal against the decision on that reconsideration.

Regulation 3 of the UC (Misc Amendments, Saving and Transitional Provision) Regs 2018 makes provision for the start date of a claim to be altered after the first date of entitlement has been determined. Please find a copy and the relevant pages from its Explanatory Memorandum enclosed. Paragraphs 7.4 to 7.6 of the Explanatory Memorandum describe what should happen administratively in a situation when backdating is agreed after a claim has been put in payment. This indicates that it was Parliament’s intention that claims can be backdated after the decision on them has been made.