



In Confidence

Peter Schofield CBE
Permanent Secretary
Department for Work and Pensions
Caxton House
Tothill Street
London SW1P 2WU

10 May 2022

Dear Peter,

Ms U (your references WE147637A & FBH-45918; our reference C2083445)

Thank you for your letter of 11 April and your response to our recommendations.

I welcome the action DWP has taken to deliver the personal remedy recommended for Ms U. However, your response is extremely disappointing in relation to the wider recommendations and as such, we do not consider DWP has complied with those. I have set out why below.

We recommended DWP:

- *says what action it will take and when to remedy all those adversely affected by the migration to ESA who were not included in its LEAP exercise.*

You repeated there is no evidence such people were unable to access the special payment scheme. We do not agree or accept this. Our final report set out that 'If Ms U's decisions were typical, DWP will have declined to make special payments to others on wrongly applied grounds, will have told them they could not complain to its Independent Case Examiner and will not have told them about the Ombudsman, so likely routes for such evidence were closed off'.

- *reconsiders its decision to rule out compensating people included in the LEAP exercise in a way consistent with its own and our relevant guidance.*

You repeated that there would be no proactive work taken by DWP to identify other vulnerable individuals who were wrongly denied special payments in similar circumstances to Ms U, and that compensation would be ‘considered on a case-by-case basis’ if any applications were made. It is hugely disappointing that DWP does not propose to take any action to remedy a failing that will likely have impacted many vulnerable people such as Ms U.

I note that you copied your letter to the Select Committees we listed, and so, for completeness, I am copying this letter to them too.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Amroliwala', written in a cursive style.

Amanda Amroliwala CBE
Chief Executive Officer
Parliamentary and Health Service Ombudsman

cc. each select committee



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Amanda Amroliwala
Chief Executive
The Parliamentary and
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Milbank Tower
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Sent electronically

11 April 2022

Dear Amanda

Formal response to the PHSO's investigation into DWP's handling of migration to Employment and Support Allowance

Thank you for the letter of 12 January 2022 from Colin Jacobson to me concerning the complaint made by Ms U and the Parliamentary and Health Service Ombudsman's report entitled "*An investigation into DWP's handling of migration to Employment and Support Allowance*".

I wrote to you on 18 January, setting out how we were implementing the report's three recommendations about Ms U's case – namely, the Department issued an apology, a consolatory payment, and interest payment to Ms U on 17 January 2022. Having carefully considered the other recommendations in the report, I am now writing to you setting out the Department's response to the remaining three recommendations.

The first of these recommendations asks that the Department "*says what action it will take and when to remedy all those adversely affected by the migration to ESA who were not included in its Legal Entitlements and Administrative Practices (LEAP) exercise*".

Since the Department commenced an exercise to review these cases in December 2017, we have reviewed around 600,000 cases and made 118,000 arrears payments, totalling £613 million.

There is no evidence of a systemic issue whereby those cases dealt with outside the LEAP exercise were unable to access the Department's Special Payment scheme at the time they were corrected. These cases would have been considered under the DWP Special Payment guidance as that was the only guidance in place at that time.

Staff would have had no knowledge of a future LEAP exercise. Claimants who believe they wrongly missed out on a consolatory payment can ask for their case to be reviewed at any time. Given this, I think we have addressed this recommendation.

The second recommendation asks that the Department “*reconsider its decision to rule out compensating people included in the LEAP exercise in a way consistent with its own and our relevant guidance, including that it should provide remedies to others who have suffered injustice or hardship as a result of the same maladministration or poor service, where appropriate*”.

I remain unable to agree that the Department’s Special Payment scheme should always apply to corrective exercises. This is because the scheme applies to redress for the impact of maladministration on an individual. When considering large scale corrective exercises such as LEAPs, decisions on redress must take account of the principles set out in Managing Public Money; they must not create precedents that put the taxpayer at risk and should not apply a blanket decision that applies to all cases. The main thrust of such LEAP exercises is to correct the cases and pay the right amount of benefit to all those who are impacted.

As you may recall, the decision not to pay further redress to cases corrected by this exercise was questioned by the Public Accounts Committee (PAC) in May 2018. I said in evidence at that hearing that the decision took account of the Department’s Special Payment Scheme and HM Treasury’s Managing Public Money guidance, and this explanation still applies.

As explained in Parliament by the Minister for Welfare Delivery on 13 January 2022, and by the DWP Minister for Lords on 17 January 2022, should a claimant feel that they should receive compensation due to their individual circumstances, they can contact the Department and set out their reasons. All requests received will be considered on a case by case basis. Given this, I think we have addressed this recommendation.

Finally, in respect of the last of the recommendations, which was that the Department “*reports to the Work and Pensions Select Committee (copied to the Public Administration and Constitutional Affairs and Public Accounts Select Committees) on its progress and what decisions it makes about how to remedy its failings*”, I am addressing this recommendation by copying this letter to the Chairs of these Committees.

Your sincerely



Peter Schofield CB
Permanent Secretary