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Your ref: [REDACTED]

Our ref: [REDACTED]

Rt Hon Andrew Smith MP

16 October 2014

Dear Andrew,

Thank you for your letter of 15 August on behalf of Peter Turville of Oxfordshire Welfare Rights about [REDACTED] regarding and her claim for Employment and Support Allowance (ESA). I apologise for the delay in replying.

The Department for Work and Pensions is registered under the Data Protection Act which imposes certain responsibilities on any organisation which holds personal information. Therefore, as a general rule, information about a claim can only be imparted to the person in whose name the claim is made or to someone acting on their behalf and who has their consent to do so.

As a Member of Parliament, you may request and be given information about a person who has asked you to make enquiries on their behalf. However, there is always a certain amount of judgement to be exercised when an enquiry is received from anyone other than the claimant. For example, authorisation would be required if a person contacted you and asked you to make enquiries about someone else without the latter's permission to do so. However, I can answer in general terms.

Prior to the introduction of Mandatory Reconsideration (MR), a claimant could ask for a decision to be reconsidered by a Decision Maker. In practice, however, many people chose not to do so and instead made an immediate appeal. This meant that a claimant who had been found fit for work could continue to claim ESA, rather than claim Jobseeker's Allowance.

This approach was time-consuming and costly for the tax payer. The process could also be lengthy and very often stressful for claimants and their families. It also differed to the arrangements for all other social security benefits, where if someone appealed a decision, no benefit was paid pending the appeal being heard.

MR is a reform which we believe benefits claimants. It enables the Department (i) to provide a clear explanation of the decision; (ii) the claimant to further present their

case, including providing new evidence; and (iii) crucially, to change decisions at the earliest opportunity.

At the end of the process, claimants are better placed to make an informed decision on appealing to Her Majesty's Courts and Tribunals Service, taking the outcome of the reconsideration application into account. We want to get decisions right first time, but where the decision is not right we want to be able to change it as soon as possible, and we genuinely believe that MR is a change which will deliver timely, proportionate and effective justice for claimants and thereby make the process for disputing a decision fairer and more efficient.

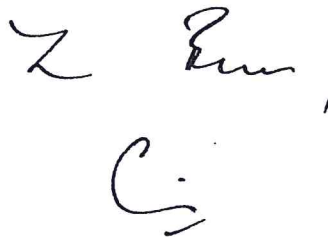
In ESA, no benefit is payable once the claim has been disallowed on the grounds that a claimant does not have limited capability for work. This also applies to the period whilst the MR process is being undertaken, as there are no legal grounds to make any payment of ESA whilst this process is completed. However, if a claimant chooses to appeal following the MR, ESA can be paid at the assessment phase rate pending the appeal hearing. The payment will then be backdated to cover the period of the MR, provided medical evidence is supplied.

During the period while the MR is being conducted other benefits may be payable, provided the claimant meets the conditions of entitlement. However, people claiming Jobseeker's Allowance are able to discuss a short-term limitation on the benefit's condition to be 'actively seeking work' with a Jobcentre Plus personal advisor when drawing-up their Jobseeker's Agreement.

MR and direct lodgement was introduced from April 2013 for Universal Credit and Personal Independence Payment, and from 28 October for all other Department-administered benefits and child maintenance cases.

At the same time that it introduced MR, separate reforms provided for all appeals to be sent directly to Her Majesty's Courts and Tribunals Service and, from October 2014, for the department to provide its appeal response to Her Majesty's Courts and Tribunals Service within 28 days (for benefits) – although it is already meeting that target, and 42 days (for child maintenance appeals). Both should ensure that appeals are heard much sooner.

If [REDACTED] wishes to make further enquires about her claim for ESA she can contact Jane Dineen Correspondence Case Manager, Department for Work and Pensions, 1st floor Beech House, Hamnett Street, Hyde SK14 2LP; telephone 0161 253 8331 who will be happy to help.



The Rt Hon Iain Duncan Smith MP

SECRETARY OF STATE FOR WORK AND PENSIONS