Dear Sir/Madam,

Data Protection Complaint: Department of Work and Pensions

We write on behalf of a number of organisations that provide social security advice and support to members of the public, including the vulnerable.

We are contacting the Information Commissioner to request that a complaint we made to the Department of Work and Pensions (DWP) regarding data protection is investigated as we do not believe our concerns have been adequately addressed.

We enclose a copy of our original complaint to the DWP’s, which outlines our concerns and the DWP response for your reference. Our original complaint also contains nine real life case studies.

In short, we are asking the ICO to investigate whether current DWP policy regarding consent in Universal Credit (UC) amounts to a breach of the Data Protection Act 1998. We are unclear why the DWP have referenced the Freedom of Information Act in their response.

We do not find that the DWP have provided adequate justification in relation to data protection risks for the removal of key policy documents and information that enable representatives to act on their client’s behalf in order to access information about their UC claims - specially the ‘DWP Working with Representatives Guidance’ and ‘DWP Escalation Points’ documents. Paradoxically, these documents continue to be operational for social security other than UC.

We are concerned that the DWP’s current policy regarding consent in Universal Credit constitutes a misbalance between data protection Principle 6 (the right of a subject to access information) and Principle 7 (the responsibility of the data controller to ensure appropriate security to prevent data breaches). The ‘DWP Working with Representatives Guidance’ accepts the need to balance these principles specifically:-

‘DWP needs to strike a balance between our legal duty to protect customers’ personal information and disclosing information where it is appropriate to do so.

Customers have the right to ask a representative to help them conduct their business with DWP and it is important that DWP balances this with our duty to protect the personal...
information we hold. This is particularly important for customers with any disabilities or conditions that make it difficult for them to express themselves adequately. Representatives can also be helpful to DWP in helping us to obtain the information that we need.1

We note that the DWP have granted the use of implicit consent to MPs but not advice workers and organisations. This does not recognise the fact that organisation such as those represented here provide more specialised support to members of the public - for example, an specialist welfare benefits adviser is likely to have will have more knowledge and expertise of social security legislation than an MP. It is important therefore that they are not prevented from representing UC claimants.

Similarly, the 'DWP Escalation Points' document provided contact telephone numbers for the DWPs multiple welfare benefit departments across the UK, allowing access to decision makers and complaints managers in urgent and/or unresolved cases. The lack of access to similar data in UC is preventing effective resolution of claims.

We enclose copies of 'DWP Working with Representatives Guidance’ and the latest 'DWP Escalation Points' for the ICO’s reference.

Since the original letter, we continue to receive reports of UC refusing to communicate with representatives who have claimant consent (either implicit or explicit). This is leaving services that are designed to help UC claimants unable to provide support.

Through our members attendance at DWP stakeholder meetings, it has also been brought to our attention that although the DWPs response says they are committed to support those with complex needs, they are not in practise paying due regard to external feedback received and sufficiently addressing the failings that our letter identifies.

Should you require any further information from us please do not hesitate to get in touch. Our contact details are as follows The Social Security Consortium, C/O Emma Cotton, Tax and Welfare Rights Organiser, Equity Trade Union, Guild House, Upper St Martins Lane, London, WC2H 9EG; ecotton@equity.org.uk, tel.020 7670 0257.

We thank you in advance for your consideration of this matter and hope to hear back from you as soon as possible.

Yours faithfully,

Child Poverty Action Group
Local Government Association Social Security Advisers Group
UNISON Welfare
Central England Law Centre
Oxfam
Shelter

Centrepoint
London Advice Service Alliance
National Association of Welfare Rights Advisers
St Mungo’s
Lambeth Council Welfare Rights
Equity Trade Union
Southway Housing Trust
Halton Borough Council Welfare Rights
Hounslow Foodbank Project
Healthy Minds Calderdale
The Brunswick Centre
Money Advice Unit, Hertfordshire County Council
Nottinghamshire County Council Benefits Team
Bridgend County Borough Citizens Advice
North East Derbyshire Unemployed Workers Centre
Royal Borough of Greenwich Welfare Rights Service
Abertay Housing Association
Dr David Etherington, Middlesex University
Professor Martin Jones, Staffordshire University
The Salvation Army