**IMPORTANT:** the address for service changed in February 2024, as below.

Please send your letter by post to DWP and by email to the Treasury Solicitor.

Please seek advice from [JRProject@CPAG.org.uk](mailto:JRProject@CPAG.org.uk) if no response is received within 14 days, or consider referring to a solicitor to issue judicial review proceedings, see [this CPAG page](https://cpag.org.uk/welfare-rights/support-advisers/support-advisers-england-and-wales/support-judicial-review-process/pursuing-court-and) for more information.

Delete Box Before Posting

**Please read the whole letter** carefully and edit as appropriate. All text in [square brackets] mush be edited.

“Claim closure” carries a right of appeal. **Please submit a mandatory reconsideration request** as well as sending this letter. You can do so at the same time since this letter is requesting a change to DWP guidance, which cannot be achieved on appeal to the FTT.

Delete box before sending.

[address your letter to either the:

address on your client’s decision letter,

address your client sent their claim to, or

address on relevant DWP correspondence; or

request an upload link to post it to your client’s online UC account]

**And by email to:** [thetreasurysolicitor@governmentlegal.gov.uk](mailto:thetreasurysolicitor@governmentlegal.gov.uk)

**Our Ref:**

**Date:**

**Judicial Review Pre-Action Protocol Letter Before Claim**

**Dear Sir or Madam,**

**Re: Proposed claim for judicial review against the Secretary of State for Work and Pensions by [full name]**

We are instructed by [NAME] in relation to [her/his] Universal Credit (“UC”) award. We write in accordance with the Pre-action Protocol for Judicial Review. Please note that we are requesting your response as soon as possible and in any event no later than by 4pm on [date] (14 days).

**Proposed Defendant: Secretary of State for Work and Pensions (“D”)(“SSWP”)**

**Claimant:** [full name] (“**C**”)

**NINo:** [xxxx]

**Address:** [xxxx]

**Date of Birth:** [xxxx]

**Note on the address for Pre-action Protocol correspondence**

1. This letter is sent to you because in February 2024 a Senior Lawyer at Decision Making and Debt DWP Legal Advisers, Government Legal Department, Ground Floor Caxton House, Tothill Street, London, SW1H 9NA advised that:

*Pre-action correspondence should now be sent directly to DWP, not to DWP Legal Advisers. DWP Legal Advisers is part of the Government Legal Department, not DWP itself. Pre-action correspondence should be sent to the relevant section of DWP. This will normally be the section of DWP responsible for the decision which is the subject of the pre-action correspondence via their usual communication methods. For example if it relates to a particular benefit decision then the pre-action letter should be sent to the address at the top of that letter.*

1. **This letter is also sent by email to the Treasury Solicitor as** Cabinet Office practice direction ‘Crown Proceedings Act 1947’ (December 2023)[[1]](#footnote-1) requires:

*“****All documents*** *required to be served on the Crown for the purpose of or in connection with any civil proceedings by or against the Crown shall, if those proceedings are by or**against an authorised Government department,* ***be served on the solicitor****, if any, for that department”*

(Emphasis added)

1. The practice direction provides that the solicitor for service in connection with civil proceedings against the Department for Work and Pensions is “The Treasury Solicitor”.
2. **The Government Legal Department webpage**[[2]](#footnote-2) **further instructs:**

***[…]***

*The email addresses above are for the service of new proceedings only.  
They should not be used for letters before action, or pre action protocol correspondence. If sending such documents to GLD please email these to*[*thetreasurysolicitor@governmentlegal.gov.uk*](mailto:thetreasurysolicitor@governmentlegal.gov.uk)*.*

**The details of the matter being challenged**

1. C is challenging:

* D’s failure to apply relevant case-law and to take account of D’s own guidance when deciding to refuse C’s Universal Credit (“**UC**”) claim on the grounds C is not “without parental support”
* D’s failure to apply the law when deciding to refuse C’s UC claim on the grounds C is ‘receiving education’
* D’s failure to provide a decision notice or notify C of C’s appeal rights.
* The discriminatory effect of the above.

**Background facts [EDIT WHOLE SECTION AND DELETE ANTHING THAT DOES NOT APPLY]**

1. [C’s personal details, age, whether in education and at what level]
2. [reason is estranged from parents]
3. [any health/disability, any other vulnerabilities]
4. [where is living now, who with, relationship to any adults]
5. [what support adult in the household does and does not provide, whether has explicitly refused to provide – what has been said?]
6. No one receives or has claimed Child Benefit or any child element / component in UC or any other means tested benefit in respect of C.
7. On [date] C submitted a claim online for UC.
8. On [date] C received a telephone call from D and was informed:

“*as you are under 18 you are not entitled to UC [or] as you are in education you are not entitled to UC [or] as you are living with your [aunt] you are not entitled to UC [or] as there is no social care involvement you are not entitled to UC [and] your claim has been closed*”

1. C has received no decision notice in respect of [her/his] claim for UC and C has not been advised of appeal rights in respect of the refusal of that claim.
2. [detail hardship caused by decision]
3. [where C has had advice from, if advised of appeal rights, and whether has requested an MR and on what date]

**Note on D’s duty of candour**

1. As D will be aware, the duty of candour arises as soon as a public authority becomes aware that someone is likely to test or challenge a decision or action. The duty is engaged at every stage of the proceedings, including the pre-action stage, as confirmed in *R (HM, KH and MA) v Secretary of State for the Home Department* 3 [2022] EWHC 2729 (Admin).
2. If any guidance, policy or guidelines exists concerning any of the matters raised in the Background section above, we consider that compliance with the pre-action protocol and the duty of candour requires that it be i) disclosed and ii) provided in full for inspection, as part of the response to this letter.

**Legal Background**

***A. 16/ 17 year olds entitled to UC***

1. Under s.4(1)(a) of the Welfare Reform Act 2012 (“**WRA**”) it is a basic condition of entitlement to UC that a claimant be “*at least 18 years old*” however under s. 4(3) “*regulations may specify a different minimum age for prescribed cases*.”
2. Reg. 8 of the Universal Credit Regulations 2013 (“**UC Regs**”) made under s.4(3) WRA specifies the circumstances in which the minimum age is reduced to 16, including where the claimant is estranged from parental support:

***8.****—(1) For the basic condition in section 4(1)(a) of the Act (at least 18 years old), the minimum age is 16 years old where a person—*

*[…]*

*(g) is without parental support (see paragraph (3)).*

*[…]*

*(3) For the purposes of paragraph (1)(g) a young person is without parental support where that person is not being looked after by a local authority and—*

*(a) has no parent;*

*(b) cannot live with their parents because—*

*(i) the person is estranged from them, or*

*(ii) there is a serious risk to the person's physical or mental health, or that the person would suffer significant harm if the person lived with them; or*

*(c) is living away from their parents, and neither parent is able to support the person financially because that parent—*

*(i) has a physical or mental impairment,*

*(ii) is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court, or*

*(iii) is prohibited from entering or re-entering Great Britain.*

*(4) In this regulation—*

***“parent” includes any person acting in the place of a parent;***

*[…]*

(Emphasis added)

1. Under reg. 8(4) UC Regs parent includes “*any person acting in the place of a parent*”. C has been refused UC on the grounds that C is living with a person “*acting in the place of [her] parent*”. C is living with [DETAILS OF ADULT(S)], [RELATIONSHIP] [ADULT] is not acting in the place of C’s parent.

***B. Person acting in the place of a parent***

*DWP process and guidance where claim made by estranged 16/17-year-old*

1. We understand that:
2. When a 16 or 17-year-old makes a claim for UC, a "To Do” is created for the Work Coach to action.
3. The To Do contains sequential instructions for the Work Coach to follow, this Agent Led Process (“**ALP**”) was previously a standalone document, but is now embedded into the UC System[[3]](#footnote-3) as part of the UC Build.
4. The Work Coach completes the question “*Can the claimant return home or move in with an adult who will take responsibility for them without severe risks to the claimant, the responsible adult or others in the household*?” “Yes/No”.
5. A To Do goes to a Decision Maker (“**DM**”) to decide entitlement.
6. If the question has been answered “Yes”, it is considered by the DM that there is “*a person acting in place of a parent*”, estrangement is not established and the claim is refused.
7. We understand that the UC Build provides little space for the work coach to elicit and record relevant information as to whether the young person has a “*person acting in the place of a parent”* and there is then little to no DWP UC guidance on the meaning of “*person acting in the place of a parent”* to guide the determination by the DM.
8. The UC Build therefore purports to answer the question ‘*is there any person acting in the place of a parent?’* with the response to the different question “*is there an adult who will take responsibility for them?’,* which is not, as is set out below, the full legal test.
9. In response to a Freedom of Information Request by a Mr David Shah in which he requested a copy of the current ALP, D signposted Mr Shah to D’s operational guidance “Under 18s” (V13)[[4]](#footnote-4). “Under 18s” does not contain guidance in relation to reg 8(4) UC Regs “*any person acting in the place of a parent*.”
10. D *does* provide guidance on how to assess whether a person is “acting in the place of a parent” to her Decision Maker’s dealing with Income Support - para 20668 of the *Decision Maker’s Guide* (“***DMG****”)* is as follows:

***Acting in place of parents***

*20668 To determine if another person is acting in the place of a young person's parents, consider factors such as whether the person*

*1. provides supervision and financial, moral, social or other care and guidance* ***and***

*2. provides shelter, food and clothing* ***and***

*3. is responsible for any necessary disciplinary action*

*as would be appropriate for someone the same age as the young person.*

1. This DMG guidance reflects the relevant legal test, however D’s guidance for DM’s deciding UC claims, *Advice for Decision Making* (“**ADM”**)Chapter E1: Introduction and entitlement does not contain the same information and contains only the statement:

***E1038*** *Parent1 includes any person acting in the place of a parent*.

1 UC Regs, reg 8(4)

1. The emphasis in D’s guidance for UC on this issue is on the estrangement from the claimant’s actual parents, rather than the context of the claimant’s new domestic arrangements and who might be acting in the place of those parents- there is no equivalent paragraph to *DMG* 20668. The absence of specific guidance on whether there is “*any person acting in the place of a parent*” does not assist DM’s who have to determine whether someone is acting in the place of a parent.
2. ADM Chapter E1 however goes on to make clear that in making decisions on estrangement, in most cases the young person should be believed and their evidence should be accepted, without seeking corroborating evidence.

***Estranged***

*[…]*

*E1052 Estrangement should be determined using the young person’s statement.* ***There is no requirement to corroborate such evidence*** *or contact parents.* ***The young person should be believed unless their statement is self contradictory or improbable.***

*[…]*

***Serious risk to physical or mental health***

*E1054[…]* ***The DM should accept the evidence from the young person or representative unless there is stronger evidence to the contrary or the evidence is self contradictory.***

(Emphasis added)

1. C has stated “[quote”] and provided [what evidence]. D has provided no explanation as to why C’s evidence is considered “*self contradictory or improbable*” and C is unaware of any “*stronger evidence to the contrary*”.

*Case-law*

1. While D’s guidance specific to UC is limited, the issue of whether someone is a “*person acting in the place of a parent*” has been considered judicially.
2. In *NP v SSWP* [2009] UKUT 243 (AAC), Upper Tribunal Judge Wikeley held that the relevant test to determine whether a 16-year-old Income Support claimant’s boyfriend's father was a “*person acting in the place of*" her parents within the analogous provision at regulation 13(2)(d) of the Income Support (General) Regulations 1987, is that “*the adult must in practice be acting broadly in a way that a parent would”* taking into account a number of factors:

*23 […] the statutory test under regulation 13(2)(d) of the Income Support (General) Regulations 1987 means that* ***the adult must in practice be acting broadly in a way that a parent would.***  *So, even if he or she does not formally hold parental responsibility, he or she must be acting as what is sometimes described as a social parent.*

*24. In the present case* ***Mr H was simply doing what any person who lacks parental responsibility might do,******namely “what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child’s welfare”*** *(Children Act 1989, section 3(5)). That did not give him parental responsibility over Miss P and on the facts he was not “acting in the place of [her] parents”, given that* ***his conduct lacked the greater degree of permanence and commitment required to meet that test.***

*25. True, Mr H was* ***providing shelter and, according to some accounts, some food.*** *In addition, he may have been**providing* ***some general oversight****, but only in as much as Miss P was a temporary guest in his household.* ***Crucially, however, he was not providing her with financial support*** *– Miss P had to rely in part on food vouchers provided by Connexions and assistance from friends.* ***Mr H also expressly disclaimed parental responsibility*** *for her and* ***refused to treat her as part of his household for the purpose of child benefit or child tax credit.*** *In short, Mr H was* ***helping out to a limited extent as any responsible adult would do*** *– he had not assumed the responsibility of “acting in the place of [her] parents”.*

(Emphasis added)

1. Judge Wikeley relied on the leading case of *R(IS) 9/94*, in which Commissioner Heggs ruled that an immigration sponsor, who was a friend of the family, was not acting “*in the place of his parents*” as her duties did “*not equate with the duties of a parent or person in loco parentis”:*

*20. …the leading case on the point is Commissioner’s decision R(IS) 9/94… Mrs Commissioner Heggs ruled that* ***the sponsor was not acting “in the place of his parents” as her duties “are limited and do not equate with the duties of a parent or person in loco parentis”*** *(at paragraph 13).*

*21. Mrs Commissioner Heggs accepted that the category of “any person acting in the place of his parents” could include someone acting in an informal relationship. The example she gave was where the adult is claiming child benefit for the claimant. However, that example implies a greater degree of commitment and permanence than was found in the present appeal concerning Miss P. The old expression “in loco parentis” means, for example, “a person taking upon himself the duty of a father of a child to make provision for that child” (Bennet v Bennet 10 Ch D 477 per Jessel MR).*

*22. The statutory test is whether the young person “of necessity has to live away from his parents and any person acting in the place of his parents”.* ***This clearly suggests some degree of parity or equivalence between the parent and any person who may be acting in the parent’s place.*** *That approach is supported by R(IS) 9/94.*

(Emphasis added)

1. In *R(IS)9/94* Commissioner Heggs also found (at para 13) that the claimant’s sponsor was not acting in the place of his parent because the sponsor’s duties were limited to “*maintenance and accommodation*”. Provision of maintenance and accommodation alone are not therefore indicative of ‘*acting in the place of a parent’*:

*13.* *I now turn to the meaning of “any person acting in the place of his parents” for the purposes of regulation 13(2)(d) and (e)…* ***A sponsor’s duties are limited to the maintenance and accommodation of the dependent*** *without recourse to public funds, in accommodation of his/her own which he/she occupies. An undertaking in writing to this effect is normally required and is enforceable if necessary by prosecution for failure to maintain under section 26 of the Act. The sponsor is not responsible for any other aspect of the dependent’s life.* ***The duties are limited and do not equate with the duties of a parent or person in loco parentis****.*

(Emphasis added)

1. To be considered to be acting in the place of C’s parents there must be “*some degree of parity or equivalence between the parent and any person who may be acting in the parent’s place*” (*NP v SSWP*) and a relevant test can be drawn from *NP v SSWP* and *R(IS)9/*94 to include some of the matters that are referred to in *DMG* 20668:

- Is the adult “acting broadly in a way that a parent would”?

- Is there a “degree of permanence and commitment” to the adult’s conduct?

- Has the adult accepted parental responsibility?

- Has the adult claimed child benefit / child elements in respect of the 16/17-year- old?

- Does the adult’s conduct go beyond “general oversight,” are they simply “helping out to a limited extent as any responsible adult would do”?

- Does the adult provide more than “maintenance and accommodation”?

- Crucially, does the adult provide financial support to the young person?

***C. Not in education***

1. Under s4(1)(d) WRA it is a basic condition of entitlement to UC that a claimant not be “*receiving education*” and under s4(6) regulations may—

*(a) specify what “receiving education” means;*

*(b) specify circumstances in which a person is to be treated as receiving or not receiving education.*

1. Exceptions to the requirement not to be receiving education are provided by reg 14 UC Regs:

*14.— A person does not have to meet the basic condition in section 4(1)(d) of the Act (not receiving education) if—*

*(a) the person—*

*(i) is undertaking a full-time course of study or training which is not a course of advanced education,*

*(ii) is under the age of 21, or is 21 and reached that age whilst undertaking the course, and*

*(iii) is without parental support (as defined in regulation 8(3))*

1. As above, C is estranged from [her/his] parent(s), is under the age of 21, and is undertaking a non-advanced course of education. C is therefore exempt from the requirement not to be receiving education.

***D. Claim “closure”***

1. Under section 8(1)(a) of the Social Security Act 1998 (‘**SSA**’) a decision maker must decide whether to make an award of benefit in respect of a claim made for that benefit:

##### *Decisions by Secretary of State*

*8. — (1) Subject to the provisions of this Chapter, it shall be for the Secretary of State—*

*(a) to decide any claim for a relevant benefit;*

1. In situations where the decision maker needs to decide whether something constitutes a claim, or whether something is a ‘defective’ claim, that decision is also made under s. 8(1)(a) SSA.
2. Decisions made under s. 8(1)(a) SSA carry a right of appeal under s. 12 SSA:

***Appeal to First Tier Tribunal***

*12.—(1) This section applies to any decision of the Secretary of State under section 8 or 10 above (whether as originally made or as revised under section 9 above) which–*

*(a) is made on a claim for, or on an award of, a relevant benefit, and does not fall within Schedule 2 to this Act; or*

*(b) is made otherwise than on such a claim or award, and falls within Schedule 3 to this Act.*

1. D’s guidance ADM ‘Chapter A1 - Principles of decision making and Evidence[[5]](#footnote-5) confirms a decision on a claim carries a right of appeal:

***A1030*** *What decisions are made by DMs*

*The DM*

*1. decides any claim for a relevant benefit*

*…*

*These decisions are called outcome decisions. It is important that DMs distinguish between outcome decisions and other decisions and determinations. This is because only outcome decisions carry the right of appeal to the FtT[[6]](#footnote-6). See A1100-A1102 for further guidance on outcome decisions.*

***A1100*** *The most important issue for a claimant who makes*

1. *a claim*

*...*

*is the outcome of that claim or application. For a claim, the claimant wants to know whether the claim has been successful, and if so, how much benefit will be paid and from when. The same principle applies to an application.*

***A1102*** *The claimant has a right of appeal against outcome decisions only1 as listed in ADM Annex D. An outcome decision on a claim, for example, is whether or not the claimant is entitled to benefit...*

*1 SS Act 98, s12 & Sch 3; 2 s12 & Sch 2*

***ADM Annex D[[7]](#footnote-7)***

***Decisions and determinations that are appealable***

***Benefit decisions***

1. *All decisions, other than those in Annex E, made on a claim for or award of a relevant benefit,* ***including whether there has been a valid claim2 or if the claim is defective****.*

*1 SS (NI) Order 98, art 9(1)(a); 2 UC, PIP, JSA & ESA (C&P) Regs (NI), regs 8, 11, 13, 15, 19, 21 & 23*

1. D’s operational guidance ‘Claim closure’ further confirms ‘closing’ a claim is a decision on a claim which carries a right of appeal[[8]](#footnote-8):

*Closing the claim*

*If the claim should be* ***closed****, all outstanding appointments must be cancelled. The claimant should receive a decision notification that the claim has been closed,* ***including consideration of appeal rights. .****..*

(Emphasis added)

**E. *Duty to provide a decision notice and advise of appeal rights***

1. Regulation 51 of the Universal Credit (Decisions and Appeals) Regulations 2013 confirms written notice of a decision must be provided when decisions are made under the SSA (set out above):

***Notice of a decision against which an appeal lies***

***51.****-(1) This regulation applies in the case of a person (“P”) who has a right of appeal under the 1998 Act or these Regulations.*

*(2) The Secretary of State must –*

*(a) give P written notice of the decision and of the right to appeal against that decision; and*

*(b) inform P that, where that notice does not include a statement of the reasons for the decision, P may, within one month of the date of notification of that decision, request the Secretary of State provide a written statement of reasons for that decision.*

1. D’s operational guidance ‘Claim closure’[[9]](#footnote-9) further confirms a claimant must be notified of a decision to close their claim and be advised of their appeal rights:

***Closing the claim***

*If the claim is to be closed, all outstanding appointments must be cancelled.* ***The claimant will receive a decision notification that the claim has been closed including consideration of their appeal rights. A journal note entry is added to this effect.***

(Emphasis added)

1. D’s guidance ‘Principles of decision making and Evidence’[[10]](#footnote-10) states a decision is not effective until a claimant has been notified of it:

***A1015*** *A decision is valid as soon as it is properly recorded by the DM. If a decision is not acted upon or not communicated to the relevant parties, this does not invalidate the decision1.* ***However a decision is not fully effective unless, and until it is notified****.*2

**1** R(P) 1/85, **2** R(U) 7/81; R (Anufrijeva) v SSHD & Another [2003] UK HL 36

(Emphasis added)

**How is the decision notified**

***A1116*** *The written notification of an outcome decision is issued to the claimant either clerically or by computer1. The notification contains*

1. *information which gives the effect of the decision such as whether there is entitlement to benefit and where appropriate the amount payable and where appropriate when it is payable from* ***and***
2. *a statement to the effect that there is only a right of appeal if the Secretary of State has considered an application for a revision2–see ADM Chapter A3*
3. *information regarding time limits for making an application for reconsideration.3*

*Where the claimant has the right of appeal following reconsideration of an application for revision then the claimant must be given written notice of the decision and the right of appeal.4*

1 SS Act 98, s 2(1)(a); 2 UC, PIP, JSA & ESA (D&A) Regs, reg 7(1)(b); 3 reg 7(3) (a); 4 reg 51(2)(a

1. D’s guidance ‘ADM A5: Appeals - PIP, UC and new style ESA and JSA[[11]](#footnote-11)’ further confirms the time limit to appeal does not start to run until a claimant has been notified of it:

*A5080 The time limits in A5065 begin when the decision is notified. It is therefore important to ensure, especially in cases where it is alleged that the decision notice has not been received, that the decision has been notified correctly. For guidance on how a decision is notified see ADM Chapter A1: Principles of decision making and evidence.*

**Grounds for judicial review**

**Ground 1: Failure to follow case-law and to take account of relevant factors when determining if a person is acting in place of C’s parents**

1. D must decide under reg 8(4) UC Regs to decide whether or not [adult] is acting in the place of C’s parent. However, D’s guidance makes clear that C’s evidence should in most cases be believed (ADM E1052), and case-law (*NP v SSWP* and *R(IS)9/*94) sets out the factors to be considered by D making that assessment.
2. C has made clear that […] and this evidence has been made available D [HOW].
3. [**address each of the above listed factors in turn, you can also refer to the DMG factors where they also apply**]
4. In deciding that C is living with someone in place of a parent, D has therefore failed to apply the relevant case-law.
5. D has further provided no explanation as to why C’s evidence concerning [her/his] estrangement is considered “*self contradictory or improbable*” and C is unaware of any “*stronger evidence to the contrary*”, yet D has, either contrary to D’s own guidance which states “t*he young person should be believed*”, decided not to ‘believe’ C’s evidence or, has unlawfully failed to take C’s evidence and her own guidance into account at all.

**Ground 2 Failure to follow apply the law – receiving education**

1. **The** exceptions to the requirement not to be receiving education provided by reg 14 UC Regs are clear and unequivocal.
2. C is estranged from [her/his] parent(s), is under the age of 21, and is undertaking a non-advanced course of education. C is therefore exempt from the requirement condition not to be receiving education and the decision to refuse C UC for the reason that C is “receiving education” is unlawful.

**Ground 3 Failure to apply the law and guidance in failing to provide a decision notice and notify the claimant of HIS/HER appeal rights: claim closure**

1. The concept of ‘closing’ a claim does not exist in law. When a claim for benefit is made (including a defective claim), the decision maker has a duty under s. 8(1)(a) SSA to decide whether to make an award of benefit in respect of that claim. This decision, including the decision not to make an award, is an ‘outcome decision’ and carries a right of appealable under s. 12(1)(a) SSA. This is confirmed by the Defendant’s own guidance ‘claim closure’ set out above.
2. Under Reg 51 of the UC (CP) Regs the Defendant must “*give P written notice of the decision and of the right to appeal against that decision*”.
3. Failure to provide a written notice of a decision against which a claimant can request a review of a decision and later appeal, if the decision remains unchanged, is consequently unlawful.

**Alternative remedies**

C has not been advised of [her/his] appeal right and has not been provided with an appealable decision notice, C’s appeal right is therefore frustrated and judicial review is the only remedy.

C has however been advised by [advice agency] that [she/he] has a right of appeal in this matter to this end has also requested a mandatory reconsideration. However, C’s advisers are aware of this issue arising nationwide, frequently. One advice agency reports at least once a month being called upon to resolve the issue with their local Jobcentre (which they are in each case able to do, but which suggests an absence of clear guidance at the initial decision making stage, and is concerning since not every case of wrongly refused UC in their area is likely to be brought to their attention).

C’s issue therefore represents a matter of wider public importance. Further, the remedy sought (new DWP guidance) is not available through the Tribunal.

**Details of the action that the Defendant is expected to take**

D is asked to:

* Issue guidance to Decision Makers deciding UC claims which sets out the relevant legal test to apply when deciding whether a 16/17-year-old is living with “*any person acting in the place of a parent*” for the purpose of reg 8(4) UC Regs. In the alternative, include wording as at D’s DMG guidance para 20668 in the ADM.
* Include specific questions in the ALP to elicit from claimants the information needed by DMs to get a decision right first time on whether an adult in the household is ‘acting in the place of a parent’.
* Award C UC immediately and from [date] in consideration of the delay already experienced by C.
* Compensate C for the poor handling by DWP of [her/his] UC claim which has added to [her/his] overall stress and anxiety at a time when [s/he] is estranged from her parent[s] and consequent financial hardship [and any other surrounding circumstances]. Contrary to DWP’s stated priority of delivering ‘outstanding services to our clients and customers’.
* Provide a full explanation for the failures in C’s case, and reassurance that systems and training are in place to prevent them from being repeated.

**The details of documents that are considered relevant and necessary**

Please find enclosed copies of the following documents:

• Client’s form of authority

• [Anything else, eg supporting evidence]

**ADR proposals**

Please confirm in your reply whether D is willing to consider alternative dispute resolution.

**The address for reply and service of court documents**

[Advice service name and address]

[and email]

**Proposed reply date**

We expect a reply promptly and in any event no later than 4pm on [date] (14 days).

Should we have not received a reply by this date we will issue proceedings for judicial review without further notice to you.

**Yours faithfully**

Encs

1. assets.publishing.service.gov.uk/media/657c891d83ba380013e1b66c/List-of-Authorised-Government-Departments-under-s.17-Crown-Proceedings-Act-1947-15.12.2023.pdf [↑](#footnote-ref-1)
2. gov.uk/government/organisations/government-legal-department [↑](#footnote-ref-2)
3. <https://www.whatdotheyknow.com/cy/request/805432/response/1933132/attach/html/3/Response%20FOI2021%2092236%20v2.pdf.html> [↑](#footnote-ref-3)
4. <http://data.parliament.uk/DepositedPapers/Files/DEP2021-0835/162_Under_18s_V13-0.pdf> [↑](#footnote-ref-4)
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