



Department
for Work &
Pensions

The Rt Hon ESTHER MCVEY MP
Secretary of State for Work & Pensions

Debbie Abrahams MP
House of Commons

25th June 2018

Dear Debbie

Following the exchange we had in the House last Thursday about the High Court decision on severely disabled people transitioning to Universal Credit, I thought it would be helpful to clarify the key conclusions from that judgment.

You are on record as saying *"In the past six months, there have been not one, not two, but three High Court decisions or tribunal rulings saying that the Government's actions with regard to PIP and, most recently, with regard to severely disabled people transitioning on to UC, are discriminatory and unlawful—they have been made to change"*. You also said that the judgment you *"referenced, about severely disabled people transitioning on to universal credit, was upheld, and I need to recognise that"*.

As I said in the House, the court did not ask the Government to alter the Severe Disability Premium (SDP) i.e. include it in Universal Credit – the Government won on that point of law. In fact, the court found in the Government's favour on three of the four points raised by the claimant and I am currently considering whether I will be applying to appeal on the one point that the court found against the Department. In summary, the court:

- Refused permission for a challenge on the grounds that the Department failed to have regard to the impact of removing the SDP and the Enhanced Disability Premium (EDP) on severely disabled people;
- Found that it was justified for Universal Credit to provide an additional amount for disabled people who have a carer (in respect of the care provided to them), even though under the previous system all severely disabled claimants received an additional amount, whether or not they needed a carer;
- Found that the new system does not have to replicate the payments made to severely disabled people under the old system; and
- Found there was there was discrimination specifically in the implementation process in relation to the group of persons receiving SDP/EDP who moved to a different Local Authority area, as opposed to those who moved within the Local Authority area – and this is the point on which I am considering applying to appeal.

This final point in relation to moving Local Authority area, and needing to make a new claim to Housing Benefit, has always been a fundamental part of the benefits system, and therefore has been the position under all political parties and Governments.

As set out in my Written Statement on 7 June 2018, the Government has already made a commitment that anyone who is moved to Universal Credit without a change of circumstance will not lose out in cash terms. Transitional protection will be provided to eligible claimants to safeguard their existing benefit entitlement until their circumstances change.

Additionally, I announced that the Government will help those receiving the Severe Disability Premium who have, or have had, a change of circumstances. In order to support the transition for those individuals who receive the SDP we are changing the system so that these claimants will *not* be moved to Universal Credit until they qualify for transitional protection. In addition, we will provide both an on-going payment to claimants who have already lost this Premium as a consequence of moving to Universal Credit and an additional payment to cover the period since they moved.

I am placing a copy of this letter in the Library of the House.

A handwritten signature in black ink, appearing to read 'Esther McVey', with a large, sweeping flourish at the end.

The Rt Hon Esther McVey MP

SECRETARY OF STATE FOR WORK AND PENSIONS