

Karen Adam MSP
Convener of the Equality, Human
Rights and Civil Justice Committee
By email only

From: Baroness Kishwer Falkner,
Chairwoman

Our ref: 20240522Adam

22 May 2024

Dear Ms Adam,

Investigation and assessment of the Secretary of State for Work and Pensions

We are writing to you in your capacity as Convener of the Equalities, Human Rights and Civil Justice Committee to let you know that today, we have launched an investigation and assessment of the Secretary of State for Work and Pensions due to continued concerns over treatment of some disabled benefits claimants by the Department for Work and Pensions (DWP).

Over several years, serious concerns have been raised about the deaths of disabled benefits claimants and the DWP's failure to meet the needs of those with a mental impairment.

We have been negotiating with the DWP for some time with the aim of entering a legally-binding Section 23 agreement to address the areas of concern. Due to legal restrictions, we cannot give more details about our negotiations and the work we have done over the last few years.

We are now taking further action to determine whether the Secretary of State is meeting the needs of claimants with mental impairments and complying with obligations under the Equality Act 2010.

Our investigation, under Section 20 of the Equality Act 2006, will look at suspected breach of duty to make reasonable adjustments, including anticipatory reasonable adjustments, while making health assessment determinations.

Our investigation will also look at suspected breach of duty not to cause or induce contraventions of the Act. We suspect policy guidance may cause or induce contraventions by the Secretary of State through his assessors when making decisions about reasonable adjustments, and anticipatory reasonable adjustments while making health assessment determinations.

Our focus will be on claimants with mental impairments who are assessed for eligibility for Personal Independence Payment (PIP); or assessed as having limited capability for work or limited capability for work related activity (for Employment and Support Allowance (ESA) and Universal Credit (UC)).

We are also undertaking an assessment, under Section 31 of the Equality Act 2006. The assessment will look at whether the Secretary of State complied with the public sector equality duty when developing, implementing and monitoring the policy guidance for assessment providers in relation to PIP, ESA and UC, particularly considering its impact on claimants with mental impairments.

Our investigation and assessment will consider evidence from England, Scotland and Wales.

We know many Parliamentarians will have heard from disabled benefits claimants in their constituencies. To note, we are able to receive evidence from Parliamentarians, but are unfortunately unable to receive evidence direct from constituents.

There are more details about the investigation and assessment, and our call for evidence, [on our website](#).

I have separately written to the UK Government advising of our action and next steps. Please let us know if you have any questions or would like to discuss.

Yours sincerely,

Baroness Kishwer Falkner of Margravine
Chairwoman
Equality and Human Rights Commission |

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