To Whom It May Concern

Re: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (child’s name)

NINO: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (child’s national insurance number)

Date of Birth \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (child’s date of birth)

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**I am writing in my capacity as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_’s (your child’s name) appointee for benefit purposes to complain about your department’s failure to complete a work capability assessment (WCA) to determine his/her capability for work and work-related activity within a reasonable time.**

**My child is severely disabled and is unable to work as a result of the following conditions \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (outline details of your child’s condition)**

**S/he receives Personal Independence Payment at the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_rate (specify rate) for daily living and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_rate for mobility (specify rate).**

**It is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ weeks since my child lodged a ‘credits only’ claim for new style Employment and Support Allowance and s/he is still awaiting a decision on whether s/he has a limited capability for work.**

Under your Department’s own operational guidance ‘Work capability assessments’[[1]](#footnote-1) a WCA is normally carried out 29 days into a claimant’s claim unless the claimant falls into ~~a~~ one of a number of specified categories which my child does not.

Your department is under a duty to consider all claims for benefit within a “reasonable time” – *R(C and W) v Secretary of State for Work and Pensions* [2015] EWHC 1607 (Admin). A decision on entitlement is dependent on a WCA finding[[2]](#footnote-2) and that WCA finding is incorporated into the decision on entitlement made under s.8 of the Social Security Act 1998 (SSA 1998) under which the Secretary of State shall “decide any claim for a relevant benefit”.

The duty to make a decision within a reasonable time applies to s.8 of the SSA. What counts as a reasonable time depends on all the circumstances, including the impact on the claimant[[3]](#footnote-3).

***Impact on my child***

Your delay in organising and completing a work capability assessment for my child leaves them in financial hardship. They have no income other than Personal Independence Payment. As someone who is receiving education my child is prevented from claiming Universal Credit until after they have established that they have a limited capability for work.

Since Universal Credit cannot be backdated, the longer your department takes to carry out a work capability assessment, the longer my child will have to wait to establish an entitlement to Universal Credit and the more benefit they will lose.

Please arrange a work capability assessment for my child without further delays. **I expect a** reply promptly and in any event no later than **\_\_\_\_\_\_\_\_\_\_\_\_** (14 days).

**If we haven’t received a satisfactory reply by this time we will contact your Department’s solicitors in accordance with judicial review pre-action protocol.**

Yours faithfully

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. [http://data.parliament.uk/DepositedPapers/Files/DEP2019-0465/Work\_Capability\_ Assessments\_v12.0.pdf](http://data.parliament.uk/DepositedPapers/Files/DEP2019-0465/Work_Capability_%20Assessments_v12.0.pdf) [↑](#footnote-ref-1)
2. <http://data.parliament.uk/DepositedPapers/Files/DEP2019-0465/WCA_outcomes_v10.0.pdf> [↑](#footnote-ref-2)
3. R(C and W) v Secretary of State for Work and Pensions [2015] EWHC 1607 (Admin) [↑](#footnote-ref-3)