

DR. CAROLINE LUCAS

Green Party
for the South East of England

Jonathan Shaw MP Minister for Disabled People
Department for Work and Pensions
Caxton House
Tothill Street
London
SW1H 9DA

November 27th 2009

Dear Jonathan,

I am writing on behalf of constituents who are still suffering as a result of the UK's policy on the portability of Disability Living Allowances. As I am sure you are aware, the European Court of Justice ruled in case C-299/05 that claimants who had their disability and carers allowances removed between June 1992 and October 2007 whilst exercising their right to freedom of movement should have their right to these allowances fully restored to the status held before 'export'.

It is now more than two years since the court's ruling yet many claimants are still waiting to have their allowances reinstated. Of the 1209 requests that DWP has received for allowances to be reinstated, only 201 claimants have had any funds reimbursed. Although a Tribunals Service has been established to hear cases, I understand there are huge delays and 350 cases have so far been denied on the basis that the claimants do not meet the 'modified past presence test' criteria. This means that they were not present in the UK for 26 out of the 52 weeks prior to the date they contacted DWP after the ECJ ruling to request reinstatement of the allowance. It is worth noting that the DWP made no effort to proactively contact the individuals affected. Surely a claim relating to allowances that should have been paid between 1992 and 2007 should not in any way be dependent on the claimant's situation in 2008 or 2009? This obfuscation appears merely to be a further attempt by the DWP to avoid its obligations under EU law.

As infringement proceedings get underway against the UK for its ongoing non-compliance with the relevant European Directives, I would urge DWP to settle all outstanding claims promptly and fairly. It is unacceptable that the government continues to seek to undermine the rights of disabled people by avoiding its responsibility for disability and carers allowances. I am also concerned that the cost to the tax payer of settling legitimate claims is mounting day by day and is being added to unnecessarily by DWP legal fees and the likelihood of an EU fine.

I trust you will be able to offer some assurances that this problem is being given the urgent attention it deserves.

Yours sincerely,



Caroline Lucas - Green Party MEP for South East England.