

Annex 5 – Claimant description of the Employment and Support Allowance claims process

Mr K supported his mother Mrs K through the ESA appeals process from February 2013 to January 2014. Mrs K's request to appeal was submitted before the introduction of mandatory re-consideration by DWP.

- Mrs K had suffered from a shoulder condition for the past 11 years, and had been in receipt of incapacity benefit before she was moved onto the Employment and Support Allowance as a result of the welfare reforms.
- She was invited for a Work Capability Assessment with ATOS healthcare as part of the ESA claims process. Mr K accompanied Mrs K to the WCA, to translate as English is not her first language. The Assessment consisted of simple 'yes' and 'no' questions as well as some physical exercises. Mrs K was in a lot of pain so could not complete the exercises. Mr K explained that the assessor suggested Mrs K was refusing to complete the exercises.
- Following the WCA, Mrs K received a letter from DWP informing her that she was fit for work. As there was not much information in the letter about this decision, Mr K contacted DWP on behalf of his mother to request further information. A small form was included with the decision letter for individuals who wished to exercise their right of appeal, to explain their reasons for doing so. As there was limited space on this form, Mr K typed up a lengthy letter explaining his mother's decision to appeal.
- All of Mrs K's benefits stopped within approximately a week of receiving the decision letter. Mrs K found out when the landlord questioned her about her missing rent payment. Mr K telephoned his local borough council who informed him that housing benefits for Mrs K had been stopped as this was derived from being eligible for ESA. Mr K was therefore advised to contact DWP. DWP agreed to reinstate Mrs K's ESA, at the lower rate whilst she appealed her ESA decision, as long as she was able to provide a medical certificate each month in support of why she was unable to work. Mrs K was able to provide this evidence, and she was paid back-dated monies for her rent and lower rate ESA for the two weeks she had been without, and lower-rate ESA until her appeal was heard. This was a difficult period for Mr K and his mother. Whilst awaiting appeal, Mrs K's condition did not improve, and she developed depression for which she received counselling. Mr K had to balance his work, studies and supporting his mother both financially and emotionally. He also had to seek financial support from relatives.
- Mr K explained that the process to appeal was slow. DWP confirmed receipt and informed Mr K that they would respond with an appeal date in 6 to 12 months. In the meantime, Mrs K's benefits were stopped a number of times, because DWP claimed they did not receive some of the monthly medical certificates posted to them by Mr K. As they would not accept copies, Mrs K had to re-visit her GP for new ones.
- Eventually, Mrs K received a letter giving her one month's notice of her appeal hearing date.
- Mr K had noted from the appeal form that individuals appealing their decision would need representation. Mr K visited his local borough office who referred him to the local CAB. The CAB provided Mr K with the details for getWIS£, who provided advice and support to Mr and Mrs K before and during the appeal. Mrs K and her son were nervous about the tribunal and appreciated getWIS£'s support in getting things

organised for it. The tribunal decision was given straight after hearing the appeal. Mrs K's appeal was successful.

- An explanation for the appeal decision was provided in a letter to Mrs K, however, it was too complicated for her or her son to understand.