

Dear Dan Manville,

Thank you for your Freedom of Information request received on 15 June 2020. You asked for:

*“In RJ v SSWP (PIP) 2020 UKUT 107 the Secretary of State made arrangements with HM Treasury to make ex gratia payments to claimants who fell foul of a lacuna in the Welfare Reform Act 2012 and Personal Independence Payment (Transitional Provisions) Regulations 2013 effectively denying DLA transfer claimants a PIP award if they were over State Pension Age when they transferred.*

*I'd like to see any and all materiel discussing the "concessionary payment[s] made in lieu of personal independence payment under arrangements by the Secretary of State with the consent of the Treasury." As discussed in regulation 27A of the PIP (Transitional Provisions) regulations as amended by SI (2019) 1011”*

### **DWP Response**

I confirm that we do not hold the recorded information to respond to your request. However, you may find the following explanation useful. We have provided this outside our obligations under the Freedom of Information Act.

The Department identified a gap (also known as a lacuna) in the regulations in relation to claimants over state pension age that were transferring from DLA to PIP. This lacuna meant that on a strict reading of the regulations these claimants would not be able to access a PIP award which is against policy intent. The Department has always paid this cohort of claimants in line with the policy intent, so no claimant lost out as result of the lacuna. The concessionary payments solely ensured that these payments could continue to be made on an extra-statutory basis until the legislative fix was brought in.

If you have any queries about this letter, please contact the Department quoting the reference number above.

Yours sincerely,  
Policy Group FOI Team  
Department for Work and Pensions

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**Your right to complain under the Freedom of Information Act**

If you are not happy with this response you may request an internal review by e-mailing [freedom-of-information-request@dwp.gov.uk](mailto:freedom-of-information-request@dwp.gov.uk) or by writing to DWP, Central FoI Team, Caxton House, Tothill Street, SW1H 9NA. Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally, the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF

Web: [ico.org.uk/Global/contact\\_us](http://ico.org.uk/Global/contact_us) or telephone 0303 123 1113 or 01625 545745