



House of Commons
Committee of Public Accounts

**Getting it right,
putting it right:
Improving decision-
making and appeals in
social security benefits**

**Twelfth Report of
Session 2003–04**

*Report, together with formal minutes,
oral and written evidence*

*Ordered by The House of Commons
to be printed 1 March 2004*

HC 406
Incorporating HC 1335-i, Session 2002–03
Published on 25 March 2004
by authority of the House of Commons
London: The Stationery Office Limited
£10.00

The Committee of Public Accounts

The Committee of Public Accounts is appointed by the House of Commons to examine "the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure, and of such other accounts laid before Parliament as the committee may think fit" (Standing Order No 148).

Current membership

Mr Edward Leigh MP (*Conservative, Gainsborough*) (Chairman)
Mr Richard Allan MP (*Liberal Democrat, Sheffield Hallam*)
Mr Richard Bacon MP (*Conservative, South Norfolk*)
Jon Cruddas MP (*Labour, Dagenham*)
Mr Ian Davidson MP (*Labour, Glasgow Pollock*)
Rt Hon Frank Field MP (*Labour, Birkenhead*)
Mrs Cheryl Gillan MP (*Conservative, Chesham and Amersham*)
Mr Brian Jenkins MP (*Labour, Tamworth*)
Mr Nigel Jones MP (*Liberal Democrat, Cheltenham*)
Ms Ruth Kelly MP (*Labour, Bolton West*)
Mr George Osborne MP (*Conservative, Tatton*)
Jim Sheridan MP (*Labour, West Renfrewshire*)
Mr Siôn Simon MP (*Labour, Birmingham Erdington*)
Mr Gerry Steinberg MP (*Labour, City of Durham*)
Jon Trickett MP (*Labour, Hemsworth*)
Rt Hon Alan Williams MP (*Labour, Swansea West*)

The following was also a member of the Committee during the period of this inquiry.

Mr Nick Gibb MP (*Conservative, Bognor Regis and Littlehampton*)

Powers

Powers of the Committee of Public Accounts are set out in House of Commons Standing Orders, principally in SO No 148. These are available on the Internet via www.parliament.uk.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at http://www.parliament.uk/parliamentary_committees/committee_of_public_accounts.cfm. A list of Reports of the Committee in the present Session is at the back of this volume.

Committee staff

The current staff of the Committee is Nick Wright (Clerk), Christine Randall (Committee Assistant), Leslie Young (Committee Assistant), and Ronnie Jefferson (Secretary).

Contacts

All correspondence should be addressed to the Clerk, Committee of Public Accounts, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 5708; the Committee's email address is pubaccom@parliament.uk.

Contents

Report	<i>Page</i>
Summary	3
Conclusions and recommendations	4
1 Improving the quality of benefit decisions and reporting on performance	7
2 Decision-making for Disability Living Allowance	9
3 Decision-making for Jobseeker's Allowance	11
4 Handling appeals by customers	13
Formal minutes	15
Witnesses	16
List of written evidence	16
List of Reports from the Committee of Public Accounts Session 2003–04	17

Summary

Getting benefit decisions right is vital to the credibility of the social security system. Incorrect decisions can cause uncertainty and hardship for customers and may mean eligible claimants are wrongly denied benefit. It also increases the chance of ineligible customers receiving benefit. Administrative efficiency is also reduced as cases are reconsidered or go to an appeal.

The Department for Work and Pensions makes millions of decisions on eligibility for benefit every year. These decisions are based on the examination and interpretation of information provided by customers, and by doctors in the case of disability and incapacity benefits. Decision-makers must also apply complex legal regulations and case law.

In 1998, the arrangements for benefit decision-making were reformed following concerns about high levels of error and about delays in the handling of appeals against decisions. The main aims of the changes were to increase accuracy, improve the process of resolving disputed decisions (including, where necessary, reconsidering them to avoid recourse to appeal), reduce appeal levels and waiting times, and improve customer service, including introducing standard explanations.

Since the introduction of these changes, the Department has succeeded in reducing the number of appeals against decisions and reducing the waiting times for customers who appeal. The Department has also improved the accuracy of benefit payments in recent years. In 2001–02, the percentage of accurate payments for five major benefits was between 92 and 98%.

However, the National Audit Office found no conclusive evidence that the accuracy of decision-making had improved. In 2001–02—the most recent year of data—some 20% of benefit decisions contained errors, with the poorest performance in benefits requiring the examination of medical evidence, such as Disability Living Allowance. Not all these resulted in payment errors. For example, the right decision may have been made for the wrong reasons or without enough adequate evidence, or a wrong decision may result in a right payment if different entitlements are paid at the same rate.

On the basis of a Report by the Comptroller and Auditor General,¹ we examined progress by the Department for Work and Pensions in improving the quality of decision-making in social security benefits.

¹ C&AG's Report, *Getting it right, putting it right: Improving decision-making and appeals in social security benefits* (HC 1142, Session 2002–03)

Conclusions and recommendations

1. **The complexity of the benefit system remains a major problem for staff and customers alike and is a key factor affecting the performance of the Department.** The Department explained that benefit regulations must reflect a wide range of circumstances and complexity was, in part, driven by a desire to avoid unfair treatment of individuals. The Department agreed, however, that complexity can lead to mistakes by staff and confusion amongst customers.
2. **The Department should further develop the skills of all decision-makers through enhanced training and wider on-the-job experience.** To date, there have been ad hoc local initiatives to enhance skills but proven initiatives should be implemented more systematically. There could, for example, be more frequent rotation between the different stages of the work, secondments to central guidance and checking teams, and joint training with welfare rights bodies. There should also be better feedback to decision-makers about the results of their cases that go to appeal to help them learn from their work.
3. **There is a need for greater transparency in monitoring and reporting on performance in decision making.** In particular:
 - the Department should implement the recommendations made by the Comptroller and Auditor General in 2002 to improve the range, design and level of detail of the Secretary of State's report on standards in decision-making; and
 - the reports of the Standards Committee should be published in full, along with information about its work programme.
4. **Too few decisions are right first time. For Disability Living Allowance the error rate is nearly 50% and 54% of cases which go to appeal are overturned in the customer's favour.** The Department should advise customers of the importance of providing all evidence as early as possible in the process, and should seek to increase contact with customers where this can help to obtain additional information quickly. The Department should also develop amongst staff involved at all stages (from initial decision to appeal tribunal) a shared understanding of the eligibility requirements for benefits, including through common training.
5. **Better use should be made of the reconsideration stage.** The Department should raise awareness of the value of the reconsideration stage amongst customers and their advisers, and staff should make more use of this opportunity to correct or clarify decisions. Increasing the number of reconsiderations and reducing the number of customers who feel the need to appeal would also lead to administrative savings.
6. **No customers should first learn that their benefit has been withdrawn when they discover that the payment has been refused.** The Department should improve the quality of explanations provided to customers about the outcome of their decision, and ensure that computer problems do not prevent some notification letters going

out. Staff too should be able to access letters sent to customers so they can answer questions from customers making contact with the Department.

7. **There are some striking regional differences in certain decision-making practices which may be leading to payments to people who are not eligible for benefit.** The Department should examine the differences between regions, for example, in the proportion of cases referred for scrutiny of adherence to Jobseeker's Allowance agreement terms to establish whether low levels of referrals increase the risk of ineligible customers receiving benefits. The Department should advise the Standards Committee on the outcome of this research.
8. **The Department should take a more risk-focused approach to sending presenting officers to represent them at tribunals in order to ensure that the Department's case is properly heard.** Currently, there is no strategy or logic dictating when presenting officers attend. The Department should devise and adhere to criteria for attendance. These might include, for example, sending presenting officers to all complex appeals tribunals, to represent them, to advise the tribunal, and to provide feedback to decision-makers.
9. **A number of current targets appear to serve little purpose.** The Department should look again at the targets set for the time for the preparation of appeals submissions to ensure they are stretching and provide incentives to staff in some districts and offices to improve performance. A target of 50 days for Jobseeker's Allowance would seem more realistic as it is already met by half the districts.

1 Improving the quality of benefit decisions and reporting on performance

1. The reforms of decision-making and appeals arrangements were designed to increase the accuracy of decisions, but in 2001–02 around one-fifth of all benefit decisions contained errors.² The Department did not seek to justify this, but pointed out that performance varied across the benefits³ (**Figure 1**). Levels of incorrect decisions were particularly high for benefits where medical evidence was required and judgements have to be made based on this evidence. On Disability Living Allowance/Attendance Allowance, for example, 45% of decisions contained errors. The Department was not satisfied with the level of performance here, but considered it a difficult benefit to administer.⁴

Figure 1: Accuracy of initial and reconsidered decisions for certain benefits

Benefit	Correct decisions 2001–02 (%)
Income Support	62
Jobseeker's Allowance	79
Short Term Benefits	64
Long Term Benefits (mainly retirement pension)	79
Disability Living Allowance/Attendance Allowance	55

Source: C&AG's Report, Figure 10

2. Where customers are not satisfied with the Department's decision they have the right to appeal. While most customers accept the decision on their case, some 230,000 cases a year currently result in an appeal, despite the arrangements in place to reconsider decisions internally.⁵ The highest levels of appeals were in Disability Living Allowance and Attendance Allowance (**see Figure 2**), which a number of welfare rights organisations had attributed to a lack of confidence in the system.⁶ The Department argued that the scale of appeals was a reflection of the large number of decisions made, rather than the quality of its work. In addition, going to appeal did not involve any risk for customers.⁷

3. Medically assessed benefits experience the highest levels of successful appeals. In 2002–03, 38% of cases reaching an appeal hearing were overturned in the customer's favour. The President of Appeal Tribunals—who reports on the standard of decision-making in cases that reach hearings—has found that in the majority of these cases the tribunal was given additional evidence not available to the decision-maker. In 21% of cases the tribunal had accepted evidence the decision-maker had not been willing to accept. Tribunals also formed a different view on the same evidence in around two-fifths of cases examined.⁸

2 C&AG's Report, para 1.25

3 Q 2

4 Qq 3–5

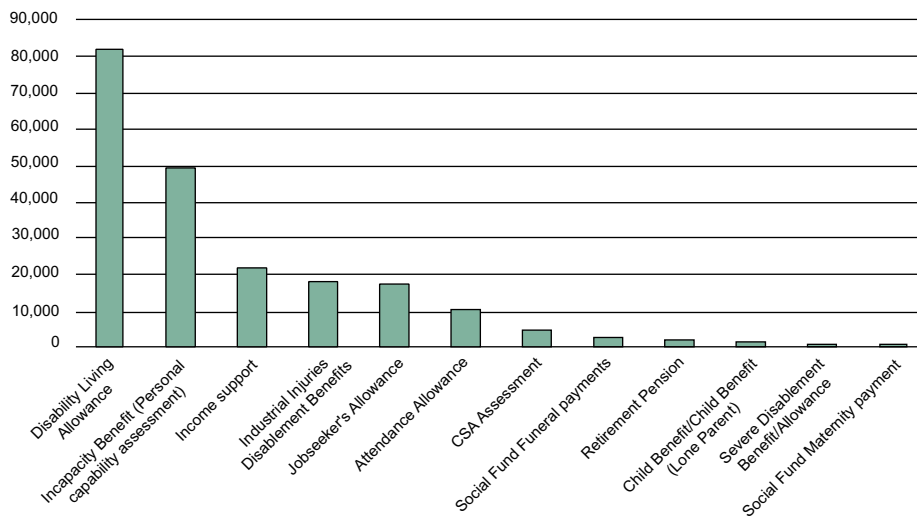
5 C&AG's Report, Executive Summary para 1

6 *ibid*, para 2.30

7 Qq 6–7

8 C&AG's Report, paras 1.18–1.20

Figure 2: Appeals lodged by customers, by benefit, September 2001 to September 2002



Source: C&AG's Report, Figure 14

4. The complexity of the benefit system is a key aspect affecting performance in decision-making, which leads to confusion and mistakes amongst staff, and difficulties for claimants, particularly for the less educated or articulate. The Department emphasised that some of the complexity was driven by the desire to avoid unfair treatment and that in introducing new benefits they had to implement complicated transitional arrangements. To assist staff, the roll-out of new technology across the organisation would ensure more consistent guidance was available for decision-makers. For example, all labour market guidance would be available on screen by June 2004 as part of wider decision-making guidance.⁹ The Department would look further at how to simplify some of the benefit rules and the design of some of the benefits, perhaps accepting that simplification might lead to higher costs.¹⁰

5. The Social Security Act 1998 abolished the role of the independent Chief Adjudication Officer, who had previously checked samples of decisions and reported on the quality. This role was replaced by internal controls. Under the 1998 Act, the Secretary of State reports annually to Parliament on standards in decision-making. His first report appeared in July 2002.¹¹ The report contains a statement from the Comptroller and Auditor General, following his examination of the published performance data. In his first statement, the Comptroller and Auditor General made recommendations for improving the content and presentation of the data, but these recommendations have not yet been acted upon. The Department said it had taken some time to think how best to prepare the Secretary of State's reports, but it would implement the recommendations and improve the timeliness of the publication.¹²

9 Qq 85–87

10 Q 16

11 Secretary of State's Report on the standards of decision-making in the Benefits Agency, Child Support Agency and Employment Agency 2000–01

12 Qq 9–11

2 Decision-making for Disability Living Allowance

6. Disability Living Allowance (and Attendance Allowance for those who become eligible after 65) is a particularly complex benefit and the Department considers it difficult to administer as it is not based on objective criteria.¹³ In 2002–03, around 2.4 million people were in receipt of this benefit, and the Department received some 430,000 new claims.¹⁴ Eligibility is based not on the customer's illness or disability, but on the effect that it has on their life. Consequently, two customers with the same medical condition can correctly receive different decisions if the effect on them is different. Decision-makers must use judgement and knowledge to assess the evidence presented.

7. In 2001–02, 45% of decisions for Disability Living Allowance and Attendance Allowance contained errors. The Department agreed this was not acceptable, and stated that it was currently strengthening almost every aspect of the process operated by the Disability and Carers Service.¹⁵ The availability of evidence is vital to effective decision-making. However, in many cases, customers did not present all the evidence at the time when the decision was made, at times perhaps deliberately.¹⁶ The presentation of further evidence later was the key reason why decisions were overturned later on appeal. The Department was looking to have more personal contact with customers to try to reduce the number of appeals.¹⁷

8. Communication with customers remains a problem. A key element of evidence is the application form. Currently the form for Disability Living Allowance is 47 pages long and many customers find it hard to complete, even with assistance. Customers also find feedback in standard letters very poor and do not always understand why benefit has been set at a certain level or disallowed. The Department provides leaflets and works with third parties who advise customers, particularly to help explain the links between one benefit and another, but acknowledged more needed to be done.¹⁸

9. Currently, some 8% of Disability Living Allowance cases end up with an appeal. The Department did not believe that it was meaningful to have a target for the level of appeals against decisions on Disability Living Allowance and Incapacity Benefit. There were a number of ways in which they could reduce the number of appeals, for example, by always giving the benefit of the doubt to the customer, or employing lawyers to make decisions, but this would be expensive.¹⁹ A more appropriate way of reducing appeals would be to make more use of the reconsideration stage and increase awareness of its value amongst customers and their advisers. In 2002–03, the Department looked again at 103,000 cases at the request of customers, but there is some reluctance amongst customers and their

13 Q 5

14 C&AG's Report, para 2.2

15 Q 5

16 Q 103

17 Qq 18, 79

18 Qq 61, 66

19 Qq 57–58

advisers to use the reconsideration route, and the reduction to one month in the time limit for making an appeal appeared to have encouraged certain customers to appeal immediately.²⁰ Staff working for the Department sometimes advised customers to go straight to appeal as the only way to resolve their case.²¹ The Department agreed that it needed to encourage staff to make better use of the opportunity for an internal reconsideration, which should secure administrative savings.²²

20 C&AG's Report, paras 2.25–2.27

21 Q 76

22 Qq 77–81

3 Decision-making for Jobseeker's Allowance

10. Jobseeker's Allowance is claimed by nearly 1 million people. Eligibility is based on an examination of a customer's income, savings and family situation, as well as an assessment of whether they are seeking and available for work on a continuing basis. Customers sign a 'Jobseeker's Agreement' detailing the steps they will make towards finding work. In 2001–02 nearly 80% of payment decisions on Jobseeker's Allowance were correct, with some regions reaching nearly 90% in payment accuracy.²³

11. The explanations provided to customers about decisions remain inadequate. Currently, notification letters should be sent out following a decision, although because of IT problems this is not always the case.²⁴ Thus, the first a customer may know of the benefit being withdrawn or reduced is when payment is refused. Feedback in the standard letters is poor and does not explain the reasons for decisions in the context of the customer's situation. The Department has said that improving decision letters will require costly computer changes. In addition, staff are unable to gain access to the letters sent to customers so that they cannot discuss the reasons with them. The Department agreed that the inability of staff to access information about what had been said to customers was unacceptable and were working to rectify this.²⁵ They hoped in April 2004 to introduce a new facility on the computer system to enable decision-makers to read letters sent out.²⁶

12. To remain eligible for benefit, a person in receipt of Jobseeker's Allowance must comply with the terms of their Jobseeker's Agreement. Where jobcentre staff have doubts about compliance they can refer the case for consideration by a labour market decision-maker. There are very wide variations in the proportions of cases referred in different parts of the country, from around 4% in London to 24% in the North West (see **Figure 3**), as well as concerns that some staff lack the training and confidence to make these referrals.²⁷ The Department is uncertain as to the impact of this variability and want to investigate further the outcomes of cases referred for scrutiny in order to determine an appropriate level of referral.

23 C&AG's Report, para 3.4 and Figure 23

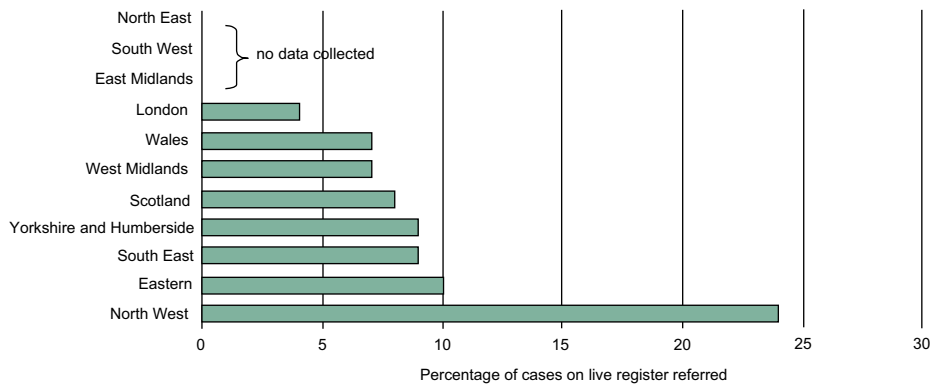
24 *ibid*, para 3.11

25 Q 61

26 Qq 75–76

27 C&AG's Report, para 3.17

Figure 3: Variations in the proportion of benefit cases that were referred for further labour-market decisions, 2002–03



NOTE

East Midlands, South West and North Eastern regions did not collect data on the number of referrals.

Source: C&AG's Report, Figure 26

13. Jobcentre Plus has already begun to focus on improving arrangements for decision-making and appeals for Jobseeker's Allowance, Income Support and Incapacity Benefit through its Efficiency Challenge 2 initiative. The Department will be combining the recommendations from the Comptroller and Auditor General's work with the Efficiency Challenge findings. A project will be set up to carry forward the changes, and progress against a detailed action plan will be monitored by the Department's Standards Committee,²⁸ which advises agency Chief Executives on decision standards. Implementation would take some time since the Department was planning to reorganise the way in which decision-making operated in Jobcentre Plus. Much of the complex decision-making would be centralised, in parallel with the continuing roll out of the Jobcentre Plus office network, which was due to be completed in 2006.²⁹

²⁸ C&AG's Report, para 3.32 and Figure 28; Q 91

²⁹ Qq 88–93

4 Handling appeals by customers

14. Currently, between 200,000 and 250,000 appeals are handled every year by appeals tribunals³⁰ overseen by The Appeals Service. Tribunal panel members are appointed by the Lord Chancellor and operate independently of the Department. Appeals submissions are prepared by decision-makers within the Department's agencies and cases are then heard by tribunals.³¹

15. Cases which go to appeal are inevitably more costly than those which are correct first time or are resolved through an internal review. Disability and Carers Service data suggests that appeals handling in Disability Living Allowance cases costs around twice as much as an internal reconsideration, not including the cost of additional medical evidence. The Department accepted that there was significant potential for savings through greater use of reconsiderations. One way of doing this was to encourage people to provide further evidence where they were unhappy with the decision before they considered it necessary to go to appeal.³²

16. One concern expressed by welfare rights advisers is about the need, under regulations laid under the Social Security Act 1998, for customers to make their appeal within one month.³³ Where an error becomes apparent after that and is brought to its attention, the Department said it would be willing to examine it if there were good reasons why the appeal was late, although this was not a right. In 2002–03 the Department accepted requests for late appeals on 2,390 occasions (76% of appeals received) for Jobseeker's Allowance and 20,760 occasions (92% of appeals received) for Disability Living Allowance. The Department said if it made a wrong decision, an alternative route after the one month had expired was for a customer to pursue the matter with their Member of Parliament.³⁴

17. We were concerned that the outcome of some benefit applications—particularly if they went to appeal—might be affected by how articulate the claimant was in pursuing their case. The Department said it tried to treat all people equally within the framework of the law, but acknowledged that some people were better able to help themselves. Their advice was for people to appear in person at the appeal and have somebody present as well. The Department said it tried to help staff to understand the difficulties some customers faced in applying.³⁵

18. There are wide variations across the country in the time taken to prepare appeals for Jobseekers Allowance and Disability Living Allowance. For Jobseeker's Allowance, the current target of 90 days had been inherited from the Employment Service and was clearly not stretching for many districts since over half met it with 40 days to spare (**Figure 4**). The performance of the best was around eight times faster than that of the worst. For Disability Living Allowance, most offices prepared appeals submissions in under half the target

30 C&AG's Report, para 1.6

31 C&AG's Report, para 4.3, Figure 29

32 C&AG's Report, para 4.11; Qq 77–79

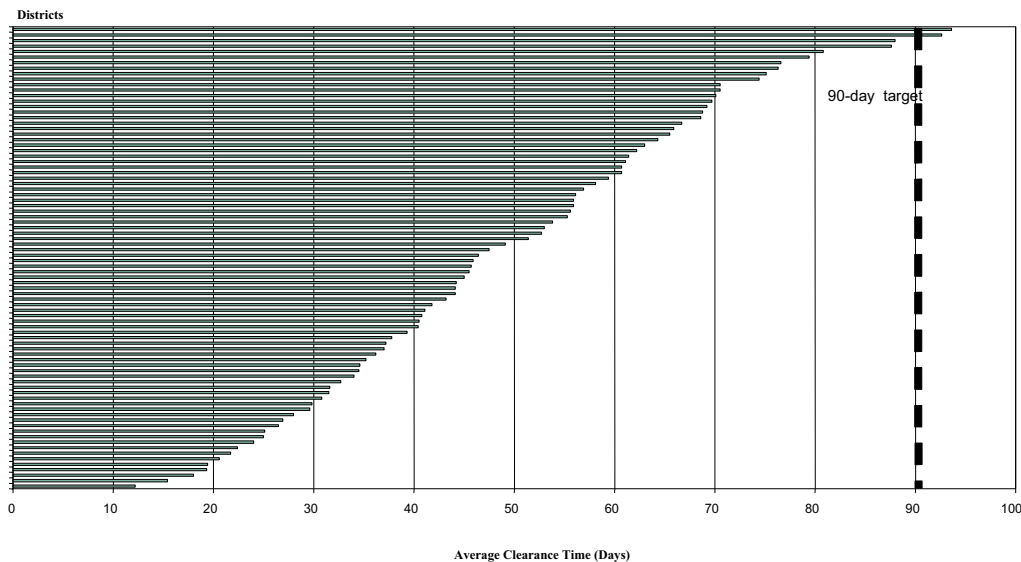
33 C&AG's Report, para 1.26; Q 7

34 Ev 14; Qq 37–49

35 Qq 23–29

time.³⁶ The Department accepted that the performance was not satisfactory, although they argued that Jobcentre Plus district managers had competing priorities.³⁷ The implementation of the results of Efficiency Challenge 2 would be one way of standardising approaches to bring performance levels across the country closer together. The Department thought the target should be reduced and would be discussing this with Jobcentre Plus.

Figure 4: Time taken by Jobcentre Plus to prepare appeals submissions in 2002–03



Note: Data were available for 84 of 90 districts

Source: Department for Work and Pensions

19. Once they have decided to appeal, customers are able to choose whether to have a paper hearing, where the tribunal decides on the basis of written submissions, or an oral hearing. Although the link between attendance and success at appeal has not been conclusively shown, it seems likely that in many cases, especially for Disability Living Allowance, there is a positive advantage to attending. The Department said that they did make it clear that a customer had more chance of success if they appeared in person.³⁸

20. At tribunals, a presenting officer represents the Secretary of State in explaining the evidence and assisting the tribunal to come to a legally correct decision. In 2002–03, presenting officers from the Department attended appeals in only 19% of Jobseeker's Allowance cases and 20% of Disability Living Allowance cases. The independent President of Appeal Tribunals reported that the falling number of cases where departmental representatives were present was contributing to a reduction in the effectiveness of the tribunals.³⁹ Although departmental guidance encourages attendance, the Department said that resource constraints made it hard to release staff to attend, and a dwindling number of staff have training in the role. They were not realistically in a position to send a presenting officer to every appeal.

³⁶ C&AG's Report, Figures 32–33

³⁷ Qq 70–71

³⁸ Qq 24–27

³⁹ C&AG's Report, paras 4.20–4.21

Formal minutes

Monday 1 March 2004

Members present:

Mr Edward Leigh, in the Chair

Mr Richard Allan
Mr Frank Field
Mr Brian Jenkins

Mr Gerry Steinberg
Jon Trickett

The Committee deliberated.

Draft Report (Getting it right, putting it right: Improving decision-making and appeals in social security benefits), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 20 read and agreed to.

Conclusions and recommendations read and agreed to.

Summary read and agreed to.

Resolved, That the Report be the Twelfth Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

Ordered, That the provisions of Standing Order No. 134 (Select Committees (Reports)) be applied to the Report.

Adjourned until Monday 8 March at 4.30 pm

Witnesses

Wednesday 19 November 2003

Page

**Sir Richard Mottram KCB, Mr Don Brereton CB, Mr Mark Fisher, and Dr
Christina Townsend, Department for Work and Pensions**

Ev 1

List of written evidence

Department for Work and Pensions

Ev 13

List of Reports from the Committee of Public Accounts Session 2003–04

First Report	Tackling fraud against the Inland Revenue	HC 62
Second Report	The new electricity trading arrangements in England and Wales	HC 63
Third Report	The Sheep Annual Premium Scheme	HC 64
Fourth Report	Improving service delivery: the Forensic Science Service	HC 137
Fifth Report	Warm Front: helping to combat fuel poverty	HC 206
Sixth Report	Department of Trade and Industry: Regional Grants in England	HC 207
Seventh Report	Progress on 15 major capital projects funded by Arts Council England	HC 253
Eighth Report	The English national stadium project at Wembley	HC 254
Ninth Report	Review of grants made to the National Coalition of Anti-Deportation Campaigns	HC 305
Tenth Report	Purchasing and managing software licences	HC 306
Eleventh Report	Helping consumers benefit from competition in telecommunications	HC 405
Twelfth Report	Getting it right, putting it right: Improving decision-making and appeals in social security benefits	HC 406

The reference number of the Treasury Minute to each Report will be printed in brackets after the HC printing number

Oral evidence

Taken before the Committee of Public Accounts

on Wednesday 19 November 2003

Members present:

Mr Edward Leigh, in the Chair

Mr Richard Allan
Mr Richard Bacon
Mr Brian Jenkins

Mr Gerry Steinberg
Jon Trickett
Mr Alan Williams

Sir John Bourn KCB, Comptroller and Auditor General, further examined.

Mr Rob Molan, Second Treasury Officer of Accounts, HM Treasury, further examined.

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL:

Getting it right, putting it right: Improving decision-making and appeals in social security benefits (HC 1142)

Witnesses: **Sir Richard Mottram KCB**, Permanent Secretary, **Mr Don Breerton CB**, Director, Disability and Carers Directorate, **Mr Mark Fisher**, Director of Business Strategy, Jobcentre Plus, and **Dr Christina Townsend**, Chief Executive, Appeals Service, Department for Work and Pensions (DWP), examined.

Q1 Chairman: Good afternoon, welcome to the Committee of Public Accounts where this afternoon we are looking at the Report from the Comptroller and Auditor General entitled *Getting it right, putting it right: Improving decision-making and appeals in social security benefits*. We welcome back to the Committee Sir Richard Mottram, who is Permanent Secretary at the Department for Work and Pensions. You are very welcome this afternoon. Would you like to introduce your team please?

Sir Richard Mottram: On my right is Tina Townsend, who is the new Chief Executive of the Appeals Service. Mark Fisher is the Director of Business Strategy for Jobcentre Plus and Don Breerton is the Director of the Disability and Carers Directorate in the department.

Q2 Chairman: Thank you very much for coming this afternoon. May I start by asking you to look at page 18 and paragraph 1.25 of the Report, where you will see that there are errors in around 20% of decisions. How can you justify this?

Sir Richard Mottram: I would not seek to justify having errors in around 20% of decisions. As we can try to explain this afternoon, we have a number of actions in hand to try to reduce the total proportion of errors in decision-making. If I might make two other points, the first is, as is brought out in Figure 10, the picture varies between different benefits and for a number of benefits the number of decisions which are correct is quite high, if you take account of those where there is an issue about evidence rather than it definitely being the case that they are incorrect. The second point I would make is that, as the Report also brings out, there is a distinction between decision-making accuracy and the accuracy of the payments as received by our customers, and

payment accuracy is substantially higher. For many of our customers, in many of their circumstances, that is the key consideration.

Q3 Chairman: What about decision-making in Disability Living Allowance (DLA)? Are you satisfied with that? You referred to Figure 10.

Sir Richard Mottram: No, we are not. What I would say in relation to DLA is, as we have discussed in this Committee before, that this is a very difficult benefit to administer because it is not based upon a set of objective criteria.

Q4 Chairman: No, it is based upon a subjective test, is it not?

Sir Richard Mottram: It is.

Q5 Chairman: Not whether a person is ill, but on his ability to do the work he wants to do.

Sir Richard Mottram: Yes, it is based on the impact on the person of their disability and that makes it a very complicated thing for our people to reach decisions on. We are actually in a position, as is brought out in this Report, where, for each of the stages of the process operated by the Disability and Carers Service, we are looking at how we can strengthen almost every aspect of the process and I hope out of that we will improve the statistics. However, the reality is that this is always going to be a very difficult benefit for us to administer.

Q6 Chairman: I want to come back towards the end of my questions and ask a couple of questions about the complexity of the system but we will leave that on one side for the time being. Can we look now at page 12 and paragraph 1.6 where we read that nearly

 Department for Work and Pensions

a quarter of a million cases go to appeal despite the arrangements you have to reconsider decisions internally? How is this?

Sir Richard Mottram: Partly because of the enormous number of cases that we deal with each year. It rather depends which way you think about this. If you look at the number of cases which are being decided each year, which is on page 12, Jobseeker's Allowance would be a very good example of this: appeal tribunals were held in 9,000 cases in 2002–03 in relation to over three million decisions. We have to recognise that we are a huge organisation, taking a huge number of decisions, a number of which we look at again and some of which go to appeal. The fact that there are so many appeals reflects the scale of the decisions, not the quality of the department's work.

Q7 Chairman: Could it also reflect a lack of confidence amongst claimants in the fairness of the system and the fact that they apparently have to appeal within one month and this might rush their decision?

Sir Richard Mottram: I do not think it does. I think it reflects the fact, quite rightly, that for those who have had their claim turned down, going to appeal is a no-risk option. I am not arguing it should be an option that involves any risk, but it is a choice which any claimant can make. As we could bring out in relation to something like Disability Living Allowance, the assumption would be that there is a very good reason to claim. The one month is not greatly significant; one month seems to me a reasonable period in which to allow appeals.

Q8 Chairman: That is your view; fair enough. You talked about disparities a moment ago. May I look at that in a bit more detail and look at pages 42 to 43? Figures 32 and 33 show striking disparities across the country in the time taken for the preparation of appeals submissions. Why are there such striking disparities across the country?

Sir Richard Mottram: In the case of the example on page 43, the variation between different disability benefit centres is narrowing and is within reasonable bounds. In the case of Jobcentre Plus, which is the case on page 42, the issue which obviously arises there is whether the 90-day target is sufficiently stretching. What we are seeking to do in relation to Jobcentre Plus is to work on a number of aspects of the process which lead to the decisions and we can certainly look at whether we can tighten up on the target. We will in any case be converging the business processes in each of the districts of Jobcentre Plus. This is the essence of the changes which we intend to make and we can explain these to the Committee. I would expect out of that that there will be a convergence. Obviously the issue for us is whether we can lower the target in relation to Jobcentre Plus.

Q9 Chairman: Could we now look at paragraph 1.28 on page 19? You will see there that you have not acted on the July 2002 recommendations of the

Comptroller and Auditor General on improving the information published on standards in decision-making. Why have you not so acted yet?

Sir Richard Mottram: Essentially because it has taken us a while to think about how best to prepare these reports in future.

Q10 Chairman: Do I take it that you agree now with the recommendations?

Sir Richard Mottram: Yes, I am entirely content to implement them.

Q11 Chairman: Just go on explaining why it has taken some time to act on them.

Sir Richard Mottram: Because, to be frank with you, the department has many, many things it is working on and this is one of them. The most difficult issue for us in relation to this area is actually the time it has taken us to generate the key data and publish the reports. We certainly need to do better on that. That is partly caught up in the process of auditing the data. I hope we can improve that. We can certainly address all of the issues which are set out in Figure 15.

Q12 Chairman: If you look now at page 15, paragraph 1.12, you will see that you have tried to improve your department's decision-making. What evidence do you have that your customers are getting a better quality service now?

Sir Richard Mottram: We survey our customers and the evidence of those surveys is that we have reasonably high levels of customer satisfaction, in some cases in the 90% area. If the Committee wants, we can talk about the work we do in Jobcentre Plus on satisfying ourselves that we are meeting the needs of our customers.

Q13 Chairman: That is rather a short answer. Is there nothing more you can tell us in terms of the service they are getting from you? It is rather key to what we are talking about, is it not?

Sir Richard Mottram: The service they are getting from us is described in this Report. It is essentially that, on the percentage of decisions which are correct, we can do better. We can improve the way in which we communicate with our customers about the options once we have given them a decision. There is quite a lot of work in hand on all that. We can certainly try to ensure that the process of reconsideration in relation to this Report is strengthened. When you look at what is really important to people, things like payment accuracy, we can show significant improvements over time. We are bringing down the clearance times in relation to a number of these benefits and so on. If I may make one final point, obviously what this Report is about partly, and this applies particularly in relation to the chapter to do with Jobcentre Plus, is that it is a snapshot in a process of fundamental change in the way the department works, the way we have restructured and reorganised, as we discussed before. The whole of our approach now is customer focused and we have a much more sensitive approach both to working-age customers and

 Department for Work and Pensions

pensioners; we can describe what we are doing on the disability side. Fundamentally, all we are trying to do in the department is to give customers a stronger focus, something they can relate to rather than have a rather bureaucratic organisation defined and designed in the interests of bureaucratic tidiness.

Q14 Chairman: Let us look again at this disparity. If you look at Figure 26 on page 35, “Variations in the proportion of benefit cases that were referred for labour-market decisions”, you can see that there is a lot of variation between London and the North West.

Sir Richard Mottram: Yes.

Q15 Chairman: Could you argue that someone not meeting the conditions of their Jobseeker’s Allowance is more likely to be picked up in the North West than in London?

Sir Richard Mottram: Possibly, although one of the pieces of work we need to do is really to get behind these numbers, to understand how far the ultimate decision is about quality, if you are down the North West version of this chart. In other words, if more cases are referred for labour-market decision, does that improve the quality of the decisions? I am not sure I necessarily know that to be the case. Until I know that to be the case, I would not argue that it is necessarily best to be at the North West level as opposed to somewhere a bit lower down. That is a piece of work we need to do. Because we are going to reconfigure the way in which Jobcentre Plus takes its decisions and have much more consistency at district level, we can determine the sorts of levels that we would expect to be associated with effective decision-making and think about how we can monitor that.

Q16 Chairman: May I ask a more general question? As you know, we have done a number of reports on fraud and error in your system, in tackling pensioner poverty. Does this Report once again not show that this overly complex benefit system is causing confusion amongst your staff, which leads to mistakes and difficulties for your claimants?

Sir Richard Mottram: Some of the way in which the benefit system has been designed and agreed with Parliament, for very good reasons, drives some of the complexity. In relation to each benefit, when you get behind it you see a desperate effort to avoid rough justice. Each time we implement a new benefit, we implement a whole set of complicated transitional and other arrangements. If you look, for example, at the pension system, it is like geological time: accretive complexity on top of accretive complexity. Does this make it very difficult for our staff? Yes, it does. What I would say is that I am not sure we have focused sufficiently in the past on trying to aid our staff in every way possible to handle this complexity. For example, one of the striking things about our IT systems is that they do not, generally speaking, although we are trying to change this, incorporate decision aids for staff in handling the complexity. We have rather left some of the complexity handling to individuals to deal with

when I think we could have helped them more. The way forward is certainly to look at how we can simplify some of the benefit rules and indeed the design of some of the benefits themselves and accept with that simplification that in some cases it is going to lead to higher cost, a bigger claim on the Exchequer and in parallel work on giving our staff the training and the IT-related decision support better to help them handle the complexity.

Q17 Chairman: Thank you for that. But it is not just about staff, although that was part of the question I asked, it is also about the claimants themselves. Complexity is a problem for all of us, but it is a particular problem for many of the people who perhaps are slightly less well educated and this system is designed to help these people and they are coming up against your unbelievably complex system, are they not?

Sir Richard Mottram: They are and I quite agree with what you said.

Q18 Mr Steinberg: When I read the Report, it did not really surprise me. Some of the worst cases that I get in my constituency post bag and at surgeries are people who have been turned down for benefits. You sometimes wonder how the decision has been made for some of the people who have been turned down. Clearly those who have made the decisions do not know the facts. Funnily enough I had one case last Saturday morning which I shall mention in the course of asking a few questions. You mentioned Figure 10 on page 16 and looking at these figures, there are no surprises, they are the results you would expect. You would expect Attendance Allowance and Disability Living Allowance to be quite bad. I wonder why it is so bad. I know you attempted to say a very subjective sort of decision is taken, but if enough evidence is given and if a person gets the correct medical report, I cannot really see why it is as bad as you claim it to be. Why does this benefit cause such a particular problem and have so many wrong decisions made on it?

Sir Richard Mottram: It is a combination of two sets of quite complicated things. Firstly, you are not assessing the medical condition, you are assessing the impact of the medical condition on the need of the person and the people who are taking the decisions inside the Disability and Carers Service are having to apply complex rules, complex law, in relation to that. Secondly, as the Report has brought out, perhaps we could do better in how we assess the medical evidence, for example. Obviously we need to do better on evidence gathering, particularly in relation to the medical side, and, in cases of doubt, on having a dialogue with the customer.

Q19 Mr Steinberg: You are a kick off the backside of 50% of decisions being wrong. That has to be very, very worrying indeed, particularly for the people who are being turned down and who look, on the face of it, to be very genuine cases. Let me give you an example from my surgery. Obviously you cannot comment on the case, but the general theme of the case is quite common. A woman reaches retirement

 Department for Work and Pensions

age, in fact 65, and she is looking after her son for whom she is receiving Attendance Allowance. The son is 39 years' old and can virtually do nothing for himself; he is totally dependent upon his parents. The father is in his 70s. She had been receiving Attendance Allowance up to that stage. The only circumstance to change in this case is that the woman reaches 65, applies for Attendance Allowance to be renewed and it is refused. She still has to look after the 39-year old son, who is severely disabled, the chores are probably getting worse as she is getting older and the only thing which has changed is that she has reached 65, has applied again and has failed to get the benefit. This does not alter the fact that the son is still disabled and is unable to look after himself and needs a lot of assistance. The assistance which they were receiving, which they needed before she was 65, has now stopped, yet she is doing exactly the same tasks. Furthermore, it seems to me that it also disadvantages those people who are less articulate; not the most articulate of people are told to appeal. They are worried into appealing or not appealing, as the case may be, so they just struggle on and do the best they can. I looked at the case and wondered why on earth the benefit had been stopped. Why has it been stopped?

Sir Richard Mottram: Obviously I do not know the individual details, but perhaps I could ask Don Brereton to offer a possible explanation, which is an illustration again of the complexity of the system and I quite understand why people find it difficult to understand this because of the interaction of different benefits. We can certainly think of one reason why it was stopped, but we may not be right of course.

Mr Brereton: From the way you have described that case I think you are talking about Carer's Allowance here; it was called Invalid Care Allowance and it is now called Carer's Allowance, which is available when you are spending 35 hours or more looking after someone with severe disabilities. At the age of 65, if you are eligible for some state retirement pension, under the rules governing these benefits, it is taken that these two benefits are actually for a common purpose, that is to sustain income when you are not working. The view is taken—and this is across the benefit structure—that there would be double provision if you paid both state retirement pension, which is to provide income in retirement since you are not working, as well as a benefit which was designed to provide you with an income when you are not working when you are of working age because of your care needs. I am sorry that is complicated.

Q20 Mr Steinberg: I understand what you are saying.

Mr Brereton: At the moment it is a matter of law.

Q21 Mr Steinberg: Presumably in this case they would already have been receiving the old age pension because the husband was in his 70s; presumably they had been receiving pension. Are you saying they were awarded this benefit until the

next time they applied for it and once they had re-applied for it, they had gone into a pension situation and therefore it was stopped.

Mr Brereton: It was effectively reduced as a result of their own retirement pension. That is what I would assume from the details you have given us this afternoon.

Q22 Mr Steinberg: If that is the answer, I find it incredible that two old people who have to look after a son who is 39 years old and who is totally dependent upon them suddenly find themselves worse off. I shall pursue that at a later time. Staying with Figure 10, when I was looking at this particular chart what caught my eye was that the figures for 2000–01 and 2001–02 were pretty similar; there was no great discrepancy, except in the short-term benefits. Why short-term benefits specifically?

Sir Richard Mottram: Funnily enough, when I saw this table I asked that question as well. I think the answer is, although I say this with a certain nervousness, having appeared before the Committee a number of times, that almost certainly the figure for 2000–01 is too high. It has not been misprinted in the Report, but our feeling is that performance in that year was probably not that high and there was a debate over performance in 2001–02—without going into the technicalities—a discussion about what number should be reported. We chose the lowest number. I suspect that in one case it came out high, in the other case it came out low.

Q23 Mr Steinberg: It is obvious to me from the Report that the additional evidence which is given during an appeal means that a lot more cases are actually approved. It does seem to me that if a person attends the appeal rather than submitting a written appeal, they have more likelihood of succeeding.

Sir Richard Mottram: If a client does?

Q24 Mr Steinberg: Yes. Why do you not make it clear that they have more chance of success if they appear in person rather than doing it by letter.

Sir Richard Mottram: We do.

Q25 Mr Steinberg: You do?

Sir Richard Mottram: We do.

Q26 Mr Steinberg: You actually make that clear to them.

Sir Richard Mottram: Yes, we do.

Q27 Mr Steinberg: Do you make it clear that they have the right to have somebody there as well?

Sir Richard Mottram: We do.

Q28 Mr Steinberg: You do. One of the things which the Chairman mentioned worries me intensely and that is the ability of a person to make an appeal. I am sure we all have cases in our constituencies and I quote a case again where a woman came to me who had had her Jobseeker's Allowance stopped because they deemed her fit for work. She was a woman in her sixties, she was a cleaner in a working men's club

 Department for Work and Pensions

and her job was to get on her hands and knees and brush and scrub, move table around, move chairs around and generally do a very manual job. She had a very serious operation, a colostomy, and she could no longer work. She then had that operation reversed and still did not feel able to work. She made an appeal and she lost her appeal; she applied for Jobseeker's Allowance and she lost it. I am not saying whether that decision was wrong or right, but I also had in my surgery at the same time a man who just thanked me very much for my help because after two years of arguing he had just received Jobseeker's Allowance. He was a very articulate man, he had been in education. I am not making any comment on whether he was disabled or whatever. This lady was a cleaner in a working men's club who clearly was not as articulate. He gets it and she does not. Is it not worrying that the more articulate you are, the more chance you have of getting the benefit: the less articulate you are, the less chance you have and that is not taken into consideration. You did say that you let them know that a third party is invited, you let them know it is far better to appear in person and frankly I am not convinced.

Sir Richard Mottram: You are not convinced that we do that or that it would make a difference?

Q29 Mr Steinberg: Yes, I am not convinced that you do that and I am also very worried that the more articulate you are the more chance you have of being successful, despite the disability or the illness you may have.

Sir Richard Mottram: I have one example here of the advice we offer people and if I show it to you, you will say it is buried on page 32, but I will just read it out. It says that if you attend an oral hearing you will have the advantage of being able to deal with any questions or issues which may arise. The Appeals Service is actually neutral on this, just to be clear, so I am talking about the advice of the department. The Appeals Service is part of the department but separate from us and all the support provided to the judiciary is completely separate from us of course. We, in our guidance, encourage people to appear in person by implying that it will give them an advantage. The Appeals Service is neutral on this matter. On whether you are articulate or not articulate, I really cannot help. Obviously there is an issue. All that we try with our staff is to encourage them, and no doubt we can do better on this, to understand the challenges—and we can describe some of the work which is done here—that our customers face, be sympathetic to those challenges and to work with people in ways which help them. Certainly when I go round the country I see good examples of this. No doubt every member of the Committee could quote a bad example at me. We are a very big organisation; we could obviously do a lot better. The aim of our organisation, the purpose of our decision-making, is to treat everyone equally within the framework of the law. Obviously this is a big issue for us, but I cannot guarantee that articulate people do not do better because, in all sorts of ways, they probably do.

Q30 Jon Trickett: First I just want to ask a question to see whether you know the answer. It seems that the main device which is used to discover underpayments is that the recipient lodges an appeal. Is that right?

Sir Richard Mottram: In what way?

Q31 Jon Trickett: If we are failing to pay an accurate amount of money, we are underpaying a recipient. The main management information technique we have is to wait one month to see whether an appeal is submitted. Is that correct?

Sir Richard Mottram: The first thing is that a substantial number of our decisions which are being taken are checked; this varies according to the experience of the decision-maker and we can talk about that. If there is an obvious mistake in a decision or a new member of staff or an inexperienced member of staff, it is likely to be checked and we would hope it would be found then. When we give someone a decision, we say that if they are not happy with the decision, they can appeal. If they appeal, we say that either they can have their decision reconsidered or they can appeal. If they appeal we reconsider the decisions. Either way the decision is reconsidered. For example, of the DLA claims, we change our minds in something like one third of those which are reconsidered. It is not the case that the only way in which you can get a decision changed is if you end up—

Q32 Jon Trickett: That is not what I said, is it? I was asking you what management information systems you have in place to uncover underpayments. I want to ask you about overpayments, because it seems you have a separate system in relation to that. In terms of underpaying customers—and these are amongst the poorest people in Europe quite frequently—the primary system is to wait one month to see whether an appeal is lodged. Is that not right?

Sir Richard Mottram: No, it is not right. Within our own organisation we have a number of ways in which we are checking the quality of decisions.

Q33 Jon Trickett: What is the difference then between the number of people who lodge an appeal where mistakes are identified and accepted by the department and the total number of errors which are made? I am talking now about underpayments. Can you quantify it first of all in numbers and then in money?

Sir Richard Mottram: I can, but I do not know whether I have the data with me.

Mr Fisher: We would not have the figures here for underpayments separately from over payments.

Q34 Jon Trickett: Perhaps you could provide the information to the Committee.

Sir Richard Mottram: Yes; sure, we can.¹

Q35 Jon Trickett: The number of people and the amount of money. Is it a substantial number of people?

¹ Ev 13.

 Department for Work and Pensions

Sir Richard Mottram: The number of people who are involved in underpayments?

Q36 Jon Trickett: Not identified by the appeal system.

Sir Richard Mottram: Can we work this out? We will give you the data on underpayments as we know it.

Q37 Jon Trickett: If a mistake emerges after one month, it becomes evident to the client after one month that a mistake has been made, they have no appeal at that stage, do they? They have no appeal, the time has expired, that is it.

Sir Richard Mottram: Yes, they have one month in which to make an appeal.

Q38 Jon Trickett: After one month they have no right of appeal. What happens if an error becomes apparent to the client after one month? What then happens?

Sir Richard Mottram: If an error became apparent to a client beyond one month and they came back to us and said they thought we had made an error and would we be willing to reconsider the decision we had taken, then we would look at it again.

Q39 Jon Trickett: But they have no right to that.

Sir Richard Mottram: They have no right to the appeal, but it is not the case that the only basis on which we will change our minds is if you have appealed.

Q40 Jon Trickett: How many cases where the appeal period of one month has expired become apparent to the clients where you refuse? I know you are not going to have the answer to this. How many do you agree to re-evaluate?

Sir Richard Mottram: How many cases are we re-evaluating outside the one month?

Q41 Jon Trickett: After the expiry of the one month period. I can understand that there has to be a cut-off at some point and I accept that, but if an error becomes clear after the one month has expired, they lose the right to appeal, but you are saying you might still look at it. How many permissions are given and how many refused?

Sir Richard Mottram: Do we keep that data?

Mr Fisher: If we pick up an error of that sort, it does not matter when we pick it up. If we pick it up after one month—

Q42 Jon Trickett: If the client picks it up, not if you pick it up, is what I am asking.

Sir Richard Mottram: Yes, if a client came to us.

Mr Fisher: If a client came to us and said there was an error in their assessment, that would probably count as an appeal and the one month rule would apply, although there are provisions for late appealing which can be used.

Q43 Jon Trickett: The Permanent Secretary is saying it would still possibly be evaluated. Are you saying it would not really?

Mr Fisher: Appeal rules are the appeal rules. If somebody—

Q44 Jon Trickett: So the answer is that you do not. The general rule is that you do not.

Mr Fisher: There are provisions for late appeals.

Mr Brereton: If they have a good reason for not appealing within one month—and I think you are suggesting here that they might not have known that the error had occurred within that month—

Q45 Jon Trickett: Somebody might be in hospital or they might have relatives in hospital, they might be on holiday. People go to Spain for a month nowadays quite often, all sorts of reasons.

Mr Brereton: There are provisions to allow an appeal after one month where there are good reasons why the appeal is late.

Q46 Jon Trickett: What is the aggregate number of people who seek a review after one month? How many are refused and how many accepted? It is quite a simple question.

Sir Richard Mottram: The question is whether we have that data.

Q47 Jon Trickett: Could you provide any information at all at a later stage, please?

Sir Richard Mottram: Yes, we will. We will check, but I am not sure we keep it. We will check that.²

Q48 Jon Trickett: At what point does the client then have a right to come back? Is that it for eternity?

Sir Richard Mottram: No, because if their circumstances changed and they often do, then the whole process starts again.

Q49 Jon Trickett: If the circumstances do not change, but an incorrect assessment has been made, either in the payment or in evaluating the decision itself, and the circumstances do not change but there is an error there and you refused it, the only time they can come back to you is if their circumstances then change. Is that right?

Sir Richard Mottram: It would be true to say that the appeal avenue is, generally speaking, based on a one month limit. Of course people do have other avenues for redress. If we make a blatantly false decision, which we might well do, then they have other avenues of redress, such as going to their Member of Parliament. If they explain to us that we have made a simple mistake, I think you can assume that we would correct it.

Q50 Jon Trickett: Many people would not be certain, would they?

Sir Richard Mottram: It depends on the complexity of the case.

Q51 Jon Trickett: We are not dealing with the most articulate and numerate group of people, are we? When it comes to overpayment, it seems you arrogate to yourself a different thing. If an

² Ev 14.

 Department for Work and Pensions

overpayment has been made and more than one month has expired, presumably there is no cut-off point. You can go and put that right at any time. There is no symmetry; it is an asymmetrical relationship to the error, is it not? On the one hand the client has one month if you have underpaid them. On the other hand, if you have overpaid them, you are able to go back at any time. Is that right?

Mr Fisher: There is a distinction between overpayments caused by our official error, where one set of rules applies, and overpayments caused by customer error. Where it is clearly customer error, we would seek to recover the overpayment more or less whenever we finally catch up with it. If it is an error which is unambiguously made by the department, different rules apply. We certainly would not want to seek to recover the overpayments some years hence.

Q52 Jon Trickett: The fact is that if you are dealing with a client whom you are underpaying through your mistake, they have no right to recover the money after one month although natural generosity might encourage you to do that. On the other hand, at any point the department can, perhaps not seek redress in terms of back pay of the overpayment, but change the payment. It seems to me that is an asymmetrical relationship. Is this month determined by statute or by departmental practice?

Sir Richard Mottram: It is statute. It was one part of the changes in 1998 which are reflected in this Report.

Q53 Jon Trickett: It would be helpful to me—and I probably ought to know—if you could just let me have a note on the part of the Act or instrument.

Sir Richard Mottram: Certainly.³

Q54 Jon Trickett: Paragraph 1.15, “The Department report their performance in getting benefit decisions right in terms of: . . . the error rates in overpayment recovery decisions”. How much is overpaid in aggregate by the department? What is your assessment of the overpayment? You are going to provide us with your assessment of the underpayments and I want to see that.

Sir Richard Mottram: Right.

Q55 Jon Trickett: You are going to provide that in writing.

Sir Richard Mottram: Yes.⁴

Q56 Mr Jenkins: May I pass back through members of your team to your frontline staff our thanks for all the work they do put in? I think they exist in a very difficult situation, with very, very complicated and complex legislation which they have to interpret and they sometimes have very difficult clients to deal with. As you appreciate, anyone under stress making claims does not necessarily hear the words which are being spoken. We appreciate all the hard work they put in to keep the system ticking over.

Sir Richard Mottram: Thank you.

Q57 Mr Jenkins: Any criticisms are not of the frontline staff; maybe the management but not the frontline staff. Can you turn to Figure 6 on page 12, where there are things like Disability Living Allowance and Incapacity Benefit. As you go along the line you see large numbers of people and at the end it says that 8% of all decisions are appealed against under DLA and 6% of Incapacity Benefit decisions. What sort of level would you like to see there as an indicator that your accuracy is reasonable and the decision is reasonable? What sort of decision were you targeting?

Sir Richard Mottram: We are not, is the answer. No doubt this is a prelude to you asking why not and it is a very fair question. In relation to payment accuracy, we would obviously want to have very high levels, I would argue we should be going higher even than the numbers which are shown in Figure 7. Low nineties is very good going but we can go higher. When you get to high nineties in relation to accuracy, if you try to go even further, it is going to be a very, very expensive thing. On decision-making, what we have to recognise—and I am not being facetious here—is that there is a way in which our decision-makers could really reduce the number of DLA people who go to appeal. There are two ways in which we could work on this. One is that we could massively increase the resource that we put into the assessment. Let us be realistic about this. As the Report brings out, we employ extremely conscientious, committed people who generally speaking do a very good job. We do not lavish resource on this process. The second thing is that we could encourage them, wherever there is a bit of a doubt, always to give the doubt to the customer. I could then produce for you a marvellous set of results here and some fabulously expensive claims on the Exchequer. What we are trying to do is to balance in two directions: the will of Parliament in relation to the nature of the benefit and the application of the law properly in that respect and to keep the administrative costs within a reasonable balance. It is that trade-off which is difficult for us. We could, for example, employ lawyers as our decision-makers inside the Disability and Carers Service and that would probably multiply up its costs by a factor of two, or something, or a bit more. There are options for us and there are options for Parliament on how they wish to implement these things. All the time we are trying to balance off quality of decision against keeping the cost down.

Q58 Mr Jenkins: You understand that I only have ten minutes. I would have thought a simple answer could have been yes, we understand the difficult and complicated nature and we do not have a target. Just say “We have not set a target”. As a business person running a department, I would have done the analysis, I expect that 5% is the target we should attain, or this percentage is excellent in as far as we have done the analysis and between the devil and the deep blue sea this is not working out for us. That is what I am asking: had you thought about it?

³ Ev 14.

⁴ Ev 15.

 Department for Work and Pensions

Sir Richard Mottram: I can give you a very short answer to that. In relation to Jobseeker's Allowance we have targets about payment accuracy which are significant and help drive the business. In relation to Disability Living and Carer's Allowances, the payment target is not very meaningful. We are working on establishing a decision-making target.

Q59 Mr Jenkins: A general question now. How do you establish the satisfaction level of your clients with the provision of your service?

Sir Richard Mottram: By a variety of means. We survey them.

Q60 Mr Jenkins: You survey them regularly. What satisfaction levels are you getting at the present time?

Mr Fisher: We have 85% of customers either satisfied or very satisfied with the service they received from us in Jobcentre Plus last year. We are re-surveying for the coming year.

Q61 Mr Jenkins: In the benefit area, like all Members of Parliament, we get people coming to our surgeries and they sit down and we have this dread when they get all the envelopes out and start giving us different pieces of paper and some are conflicting pieces of paper. We have to sit there for a while on a number of occasions and these people might be dealing with their case only and it is a very, very difficult thing to wade through. Then when you explain something to them, they ask you what it means. You explain to them and you try your best to explain what they have to do next and they sometimes say "Why didn't they tell us that? Why didn't they explain it to us?". Your feedback in standard letters is poor at times, to say the least, and the reasons given for why the benefit was set at a certain level or even disallowed are poor. When you have good practice, and there are examples on pages 34 and 35 of good practice, you do a newsletter for your staff within the establishments, and rightly so and that is excellent and it should be widespread. Have you ever considered that you should be producing a newsletter for claimants as well? Those booklets may be excellent if you have the ability to sit down and trawl through them, but some key points as to what the benefit is they are going for and the criteria they should meet.

Sir Richard Mottram: We do provide leaflets which cover those sorts of things in much shorter order. The other thing is that some claimants, but not all, have help from third parties and we certainly work with the third parties on the nature of the rules and the basis on which they should advise their clients. I quite agree: our letters are poor, the design of our computer systems and the capacity the staff have to get data off them about what we have said to our clients is unbelievably poor and we are trying to correct that.

Q62 Mr Jenkins: When it goes to appeal, in 25% of appeals an officer turns up.

Sir Richard Mottram: Somewhat less actually.

Q63 Mr Jenkins: That is the difficulty, because these people sometimes never see an officer, no-one, face to face, ever explains what the difficulty was and why they were rejected.

Sir Richard Mottram: In relation to Jobcentre Plus, we are working a lot harder on people being given explanations and the same would apply in relation to the Disability and Carers Service. We would not argue that having presenting officers at appeal tribunals is the answer to giving people an explanation.

Q64 Mr Jenkins: At least it gives you one route back, to feed back into the decision-making what the result was.

Sir Richard Mottram: It does.

Q65 Mr Jenkins: When you turn up at an appeal and new evidence is submitted to the appeal, I find it amazing that evidence has not been submitted before you get to the appeal so it could have been considered in the decision-making process.

Sir Richard Mottram: Perhaps some people choose not to submit.

Q66 Mr Jenkins: My colleague asked a question about a pensioner and you answered him very accurately: it is not your difficulty, it is ours, we make the rules, we have to accept them and accept the blame for it. Carer's Allowance is not paid alongside retirement pension, but the Carer's Allowance is paid to the person receiving the care to purchase that care. Do you ever explain to someone when they come to 65 that they are no longer eligible to be the carer but you are allowed to appoint another carer to receive that Carer's Allowance?

Mr Breerton: We have to explain all the implications in our guidance. I would not like to say from that, particularly in view of what has been said about the letters of explanation, that we always do it very well. That is one alternative. There are other aspects of the Carer's Allowance which is that the very poorest of our carers, who may be receiving Income Support and Housing Benefit, would still have the underlying entitlement to Carer's Allowance, so would receive the Carer's Premium in both Income Support and Housing Benefit. We try to explain that very carefully, but the individuals need to look at their circumstances and enlist our help, which they can do through a free helpline to establish what would be the best course of action.

Q67 Mr Jenkins: Were you happy with the Report?

Sir Richard Mottram: I was.

Q68 Mr Jenkins: Do you feel there is sufficient information in that Report to allow you to further improve the quality of your service?

Sir Richard Mottram: Yes, I do. What I would say is that what the Report reflects is a good deal of change which has already taken place or which is in the

 Department for Work and Pensions

process of being delivered. What we intend to do is to take this Report and other work we have been doing and turn it into a set of action plans.

Q69 Mr Jenkins: So if you come back in front of us in two or three years' time and this Report had recommended that you do X, Y and Z and you have failed to do so, would you consider that a personal failure or a failure of the department?

Sir Richard Mottram: I would say it was a personal failure since I am responsible. What I would say in relation to some of the recommendations, if we look at them in detail, is that I would not, for example, ever move to 100%—and the Report does not recommend this. Realistically we are not going to move to having a presenting officer at each case, but we can certainly reflect the recommendation as drafted here, there is detail which lies behind this. We are obviously content with the Report, we are broadly content with some of the recommendations which are ascribed to the National Audit Office. We will take those away and meld them with what we are planning to do and try to improve.

Mr Jenkins: I shall take that as a yes.

Chairman: Thank you, Sir Richard. We now welcome a new member of the Committee, Mr Richard Allan.

Q70 Mr Allan: I want to pick up Sir Richard's point about customer service, particularly in the context of Jobseeker's Allowance and start with the question of the time taken for the agencies to prepare the submissions to appeal. If we look at pages 42 and 43, Figures 32 and 33, we see, certainly from those graphs, that the DLA side of the business is much better than Jobseeker's Allowance side of the business and it tells us that the target of 90 days was somehow just carried forward into Jobcentre Plus and did not seem to have been decided at any point, it just happened to have been inherited. Are you comfortable that we do have people taking as long as 90 days to prepare the submissions? Is there a case for a shorter time limit?

Sir Richard Mottram: There is. What I would say, to be really irritating, is that Jobcentre Plus are doing an awful lot of things. You could imagine that I have had a discussion with them about whether they could improve in relation to this particular diagram and their enthusiasm for giving me a commitment "Yes, of course we can" is not 100%. If you go to a Jobcentre Plus district, you will find the district manager is working on a whole range of things. Personally I think we should reduce this target and I shall seek to persuade the Chief Executive that we should do that. The point I am making is that it is partly an issue of competing priorities. They have an awful lot of things they are trying to do.

Q71 Mr Allan: Is it not glaringly inconsistent to talk about customer service and then potentially leave someone waiting 100 days to get their Jobseeker's Allowance, the 10 days to apply and the 90 days for the submission to even go in and longer than 100 days before they get their money?

Sir Richard Mottram: I was going to say a very "civil-servicey" thing, that it is less than ideal. We have to allow for the proportion of people who are actually appealing Jobseeker's Allowance decisions. You will then say to me that each one is individually important. We will look at this again.

Q72 Mr Allan: Until you set a better target, split the difference and take it down to 45 days or something, until you set that target is it not the case that it will not be prioritised? No man is going to prioritise it if it is not a target.

Sir Richard Mottram: It will be prioritised, for a reason we can explain if the Committee wanted us to. As this Report brings out, a piece of work is being done inside Jobcentre Plus which goes under the rather confusing title of *Efficiency Challenge 2*, if I remember correctly. Under that process, what that was all about, and it was inspired within Jobcentre Plus, was standardising processes in districts in Jobcentre Plus—and we can generalise this out; I am not proposing to, but it applies right across the board to everything they do—spreading best practice around what you have now created which is a much more effective network to do that. I would expect that as a result of that process the performance will converge and we should lower the target.

Q73 Mr Allan: Converge in the right direction hopefully.

Sir Richard Mottram: Converge in the right direction; exactly.

Q74 Mr Allan: May I take us on to another area of customer service, paragraph 3.11 on page 32, which says that the first a customer knows about a decision frequently is a letter. Certainly that is my experience. That includes elderly people, disabled people, people with mental illness. They come to our surgeries because they have been very upset by the customer service approach. That is made worse by the fact that when they do call, staff on the other end of the phone frequently cannot access the letters.

Sir Richard Mottram: Correct.

Q75 Mr Allan: Do you have a timetable for resolving that?

Sir Richard Mottram: Yes, we do. I will not commit myself to this, but our intention is that from next April we will have a new release on the computer system which will enable decision-makers, our frontline staff, to read the letters which we have sent to people. Please do not say to me how ridiculous it is that they could not do this in the past, because I would agree with you.

Q76 Mr Allan: It is going to change from next April. It is also fair to say that if you are an adviser to people, including Members of Parliament or welfare advice agencies and you try to ring up on their behalf and ask about decisions, that can be incredibly difficult and stops you resolving the problem. I certainly have had people from the Benefits Agency telling me to tell them to put in an appeal because

 Department for Work and Pensions

that is the only way to resolve it, when I think we might have been able to resolve it more easily if we could have got the information.

Sir Richard Mottram: I do not think that is very sensible. If that is what we are doing, particularly in relation to Members of Parliament, we should change the way we work.

Q77 Mr Allan: Taking that forward, this informal resolutions area, paragraphs 4.11 and 4.13, is mentioned within the Report and the difference in costs between an appeal process and a reconsideration of an application. Is there scope for cost saving by trying to improve the information which is given, particularly where it is lack of evidence which is the problem?

Sir Richard Mottram: Yes.

Q78 Mr Allan: So we can have a re-submission rather than an appeal.

Sir Richard Mottram: Yes.

Q79 Mr Allan: Is that a significant potential area for cost saving in your view?

Sir Richard Mottram: Yes. That is one of the reasons why, for example, in relation to the Disability and Carers Service, that we want to have a more active dialogue between our people and customers, but again we cannot turn this into a very expensive process, so we try more actively to establish the facts. We certainly encourage people, if they think we have gone wrong, to go with giving us the further evidence that they have so we can reconsider it, rather than holding it back and playing it at the appeal, which does not serve anybody's interests.

Q80 Mr Allan: Are there regulatory problems there? Does the legislative framework allow you in most cases to go back and consider it as a fresh application, as it were, with the new evidence, or are you bound to go to appeal?

Sir Richard Mottram: Yes, we can.

Q81 Mr Allan: You do have the freedom if you can get that kind of dialogue going with the customer.

Sir Richard Mottram: Yes, if they say we are wrong for these reasons, we look at those reasons. We do not tell them to appeal it because we are not going to look at it again. Quite the reverse. What we have to do is have clear incentives inside the organisation on giving weight to reconsideration and we are intending to do that in relation both to Jobcentre Plus and to the Disability and Carers Service.

Q82 Mr Allan: May I move on to the IT system, which is discussed in paragraphs 3.22 to 3.24, which you have raised a couple of times? Are these purely technology problems or are there data protection problems? Could your staff legitimately from a data protection point of view access all these screens if the technology allowed them to do so, or are there other issues which need to be dealt with?

Sir Richard Mottram: The person dealing with the case could do that. Obviously you just need to have protocols which ensure that only a defined person

can interrogate a defined case. What you cannot have is open house, but data protection is not our biggest problem, it is the inflexibility of the IT system. Essentially the letters were designed-in inside the IT system. What we have to do is get that out. I could explain to you how we intend to do that, but it is not a simple process because of the way in which the big heritage computers, as we now call them, were designed.

Q83 Mr Allan: A better IT system will resolve this. Getting the technology right will resolve it. You will not then hit another set.

Sir Richard Mottram: Over years it will, yes.

Q84 Mr Allan: So it is a long timescale.

Sir Richard Mottram: Yes.

Q85 Mr Allan: On the point about guidance, in paragraph 3.14 on page 34 it talks about the guidance on labour-market decision-making originally being provided from one source in Sheffield, although the reorganisation of Jobcentre Plus saw this all but disappear and then it was picked up by somebody else. Is that situation now working well?

Sir Richard Mottram: It is. Because we have now rolled out PCs across the whole organisation, we are moving towards being able to give much more consistent guidance based on screens and all of this work is in hand. This is an historical snapshot.

Q86 Mr Allan: Can you tell us when you expect to reach the point where all staff will have all relevant guidance available to them on the desktop?

Mr Fisher: We plan to ensure that the whole of the labour market guidance is refreshed by the Adjudication and Constitutional Issues Division by next June as part of the wider set of decision-making guidance. That will then be available to all staff on their computer screens.

Q87 Mr Allan: Immediately?

Mr Fisher: Yes.

Q88 Mr Williams: Welcome again Sir Richard, we have not seen each other for a little while. We have had these duels over rather too many years for both of us I suspect. I was pleased at your response to one of my colleagues when in your usual dynamic style you said you were going to produce a set of action plans.

Sir Richard Mottram: Yes.

Q89 Mr Williams: That is the sort of language we like to hear. I like it, but it has an aura of the medium term about it.

Sir Richard Mottram: Yes.

Q90 Mr Williams: Plans are good, but plans to produce plans are a little more questionable.

Sir Richard Mottram: Yes.

Q91 Mr Williams: When might we see these action plans?

 Department for Work and Pensions

Sir Richard Mottram: If we take Jobcentre Plus first, the project which is known as *Efficiency Challenge 2* is going to be melded together with the recommendations in this Report. We are establishing a project and the project will be up and running by the end of the year which will carry forward that set of changes and the way in which we roll that out will be monitored by the Standards Committee. What we cannot say is precisely how long that will take, but we could hazard a dangerous guess.

Mr Fisher: One of the first things the project will have to produce is a detailed timed action plan for delivering the stages of implementation. I certainly expect them to have that plan in place by very early in the new year.

Sir Richard Mottram: What time would be the decision-making, if you would permit me to ask a question?

Q92 Mr Williams: Yes, please do. I am grateful to you for saving me the trouble.

Mr Fisher: I am afraid that the full completion of everything we plan to do is going to take some time. What we are planning to do is reorganise the whole way decision-making operates within Jobcentre Plus, centralising a lot of the complex decision-making at different places round the country. That has to be done in parallel with some other things like the roll-out of Jobcentre Plus itself, which is scheduled to take up until 2006. I am afraid it is going to be some time before everything is in order and everything as we would wish it eventually. We will do this systematically and we will definitely try to take some quick early wins early on as we move through the processes.

Q93 Mr Williams: My early optimism about this set of action plans is dissipating at quite a considerable pace.

Sir Richard Mottram: I do not think it should. If we, for example, were to show you all the change programmes we are running in Jobcentre Plus, I know you would appreciate why it is we cannot simply say we will do this and we will do it between January and March. It has to be scheduled in. It does go with the grain of the broad set of changes which the new Chief Executive of Jobcentre Plus, David Anderson, and Mark and their colleagues are working on. To that extent, since that is their highest priority, which is to get much more consistency in the way in which decisions are taken and the way in which staff are trained and the way in which business processes are rolled out, we will be embedding this from early next year. Completing it will take quite a while. For example, the structure of Jobcentre Plus itself will not be rolled out completely until 2006.

Q94 Mr Williams: Looked at from our point of view as Members of Parliament representing our constituents and holding our regular advice sessions, on the basis of what you have said, clearly for a long time in the future the best advice we in our report can give our parliamentary colleagues is to appeal on virtually everything.

Sir Richard Mottram: No, it is to ask for a reconsideration. Put in an appeal, but ask for a reconsideration which you will get automatically anyway.

Q95 Mr Williams: We are told by the NAO that 230,000 cases a year, which is 1% of all decisions, go to a tribunal and then 40% of them, having been reconsidered, are changed in favour of the customers. First of all it does not fill me with confidence about the original decision, it does not fill me with any confidence about going to reconsideration and it seems that if my constituent has a one in two chance of winning at a tribunal, my advice to him is to go to a tribunal.

Sir Richard Mottram: I am not arguing that you should not advise them to appeal, of course, but, since in the reconsideration in the area which most ends up in appeals, which is the disability and carers area, you have a one in three chance on reconsideration of our changing our mind, the answer is to advise your constituents to go for appeal, to ask for a reconsideration and to put their evidence in so that we can reconsider it. There is a likelihood that since we are focused on improving our performance in reconsideration they will get a decision quicker. If the decision is still negative, they have lost nothing. If the decision is positive, the whole process is over quicker, including for them. Does that make sense?

Q96 Mr Williams: If you start reading these figures backwards, it throws into a rather dismal light the quality of your original decisions. If, on reconsideration one third of decisions are overturned and if then, of those which go from there to appeal, 40% are overturned, it does not exactly impress with the quality of the original decision-making.

Sir Richard Mottram: I think there is another statistic there, which is, speaking from memory, one in 12 of all DLA or disability-related decisions go to appeal and of those about half are overturned. It is not obvious that going to appeal is the right answer. The missing bit here is the people who do not appeal because actually the decision was well-founded; some of the decisions were well-founded. If you look at the report of the President of the Appeal Tribunals, he thinks that the quality of decision-making, as he judges it, is good and improving. We are not in a situation where there is wholesale criticism of the quality of our decision-making and the only way you can get a good decision is to assume you are going to end up appealing. That is not what the evidence suggests, either this report or the views of the President of the Tribunal.

Q97 Mr Williams: Mr Steinberg took the case of the Attendance Allowance and Disability Living Allowance and only 55% of decisions were correct there. You said people lose nothing by going for reconsideration. Well they do, they lose some time, but at least they have a chance of getting it right. They have a much better chance on going to the tribunal. When you are dealing with people who are

 Department for Work and Pensions

disabled, people who need the DLA and the Attendance Allowance and so on, the length of time they have to wait can mean a period of considerable hardship without the appropriate benefit, can it not?

Sir Richard Mottram: Yes, but the point I am trying to make is that it is not either/or. If you lodge an appeal, we will reconsider the case. If you ask us to reconsider it and say “I really want you to reconsider it but I am also lodging an appeal”, either way we reconsider the case. Two of the weaknesses in the system are that the quality of our work on reconsideration may not be high enough and the customers, the clients, are not supplying us with the evidence which they can supply us with. They lose nothing by doing that because they have not lost their bet in relation to the tribunal.

Mr Williams: Thank you for that answer. I am still convinced that I am right in the advice I am going to give my constituents, which is to appeal and if they can, take someone along with them; so long as it is not me. I suspect there would be too many of them.

Q98 Mr Bacon: I want to ask you about the effectiveness of tribunals. I attended a tribunal in February and I heard the Chairman of the Tribunal make certain orders as to my constituent and the department. If such a Disability Living Allowance Tribunal makes orders to the Secretary of State, to the department and then the department just ignores what the tribunal has told it to do, which happened in this case, leaving the regional chairman perplexed and unable to say what should happen next, what should someone do?

Sir Richard Mottram: I think we are into a particular case there which is slightly difficult for us.

Q99 Mr Bacon: It is, but I am asking a general point. If a tribunal makes orders and they are ignored, what is a person to do?

Sir Richard Mottram: In such a hypothetical case, such a person would, I suggest, go to their Member of Parliament.

Q100 Mr Bacon: Indeed he has done; indeed he has had an adjournment debate on this, I believe.

Sir Richard Mottram: It could hypothetically be the case. It is difficult for us to talk about a particular case.

Q101 Mr Bacon: On the day when the European Union has published another set of qualified accounts, may I invite you to place on the record that you now have a target date for the publication of a set of accounts which the Comptroller and Auditor General will see fit not to qualify?

Sir Richard Mottram: I should like to say that I could do that, but the difficult area in relation to my accounts is that the Comptroller and Auditor General has a view about the level of fraud and error which is acceptable inside the work of my department. This is a perfectly reasonable view. It is a standard which is not met, as far as I know,

anywhere else in the world, which is not a reason not to have it. What I am saying is that I cannot comfortably state when I will meet that test.

Q102 Mr Bacon: When you say a “standard”, do you mean a standard in relation to benefit fraud?

Sir Richard Mottram: Yes. In relation to every other aspect of my accounts and the other qualifications, we are working very co-operatively with the NAO to remove them one by one, that is by performing in relation to their concerns.

Q103 Mr Jenkins: A quick question to Dr Townsend, who has not had anything to say. When an appeal comes before you and the claimant submits new, significant evidence, which could and should have been submitted earlier on, are you in a position to stop the appeal and send it back for reconsideration because there may be no officer from the department at the appeal so the department can look at it? Are you in a position to do that? Will you do it and send a message back to people that it is better to submit the evidence before it gets to appeal?

Dr Townsend: Once it has reached appeal it would be for the judiciary to provide advice and it would be for the judiciary to ask for extra evidence and then to consider it. It would not go back to reconsideration at that stage.⁵

Sir Richard Mottram: In other words, there is no penalty on people holding back evidence in this process, none whatsoever.

Q104 Mr Steinberg: Following up on the Invalid Care Allowance, is it means tested?

Mr Breerton: The Carer’s Allowance has restrictions on it in terms of where your income is coming from. If you were working, for example, there would be restrictions on the amount of work and the amount of earnings. It is not means tested in quite the same way as some of the other benefits, but there are restrictions on how much you can earn.

Q105 Mr Steinberg: The point is that you clearly said if somebody receives an old age pension, they cannot receive two benefits. What happens if somebody was on Invalid Care Allowance and then they got a private income? Would the Invalid Care Allowance stop?

Mr Breerton: I do not think the Invalid Care Allowance would be affected by a private income.

Chairman: Thank you very much, Sir Richard, and thank you very much for coming this afternoon with your colleagues. We are very grateful for what is a very important and interesting subject for some of the most vulnerable people in society. I for one hope that some time in the future we might be able to consider in more detail the complexity of the system you are seeking to administer. Thank you very much.

⁵ *Note by witness:* Additional evidence received up to 3 days before the hearing would be sent to all the parties to the proceeding, including the referring agency (in accordance with guidance in the Clerk’s Handbook of Appeals Procedures). This allows the referring agency to reconsider and revise a decision, if appropriate.

Supplementary memorandum submitted by the Department for Work and Pensions

Questions 33–34 (Jon Trickett):

Data on decisions, reconsiderations, appeals, under-and overpayments

- Table 1: provides information on 2002–03 decisions, reconsiderations and appeals heard.
- Table 2: provides such information as is available on pre-payment checks and the number and monetary value of over and under payments due to official error.

Table 1

2002–03 Decisions, reconsiderations and appeals heard

<i>Benefit</i>	<i>Column 1 Initial decisions made on claims</i>	<i>Column 2 Total reconsiderations rec'd and as % of decisions</i>	<i>Column 3 Total decisions changed and as % of reconsiderations</i>	<i>Column 4 Appeal tribunal hearings held</i>
Jobseeker's Allowance (Including Labour Market)	3,184,000	121,876 (3.8%)	59,125 (49%)	9,000
Jobseeker's Allowance (Labour Market only)	681,646	68,144 (10%)	38,484 (56%)	Included in the above figure
DLA	680,000	102,421 (15%)	39,532 (38.6%)	89,000
Incapacity Benefit	803,000	73,694 (9.2%)	26,442 (36%)	51,000
Income Support	1,266,000	28,008 (2.2%)	12,398 (44%)	16,000

Source: All benefits: Cols 1 and 4, DWP Information and Analysis Directorate; Cols 2 and 3, DWP Central Data Unit—not published information.

Table 2

Prepayment checks and monetary value of under and overpayments due to official error

	<i>Column 1 % of prepayment checks 2002–03</i>	<i>Column 2 Monetary value of overpayments* 2001–02**</i>	<i>Column 3 Monetary value of underpayments* 2001–02</i>	<i>Column 4 Average number of incorrect cases 2001–02</i>
Jobseeker's Allowance	2.5%	£90m (£80–110m)	£5m (£3–7m)	59,000 (53,000–65,000)
Disability Living Allowance	N/A	N/A	N/A	N/A
Incapacity Benefit	20%	£39m (£30–48m)	£24m (£18–31m)	105,000 (95,000–114,000)
Income Support	3.5%	£160m (£140–190m)	£102m (£87–116m)	306,000 (288,000–324,000)

Source: DWP Information and Analysis Directorate.

* Figures in brackets represent the ranges, which give 95% confidence intervals.

+ Incorrect cases includes both overpayments and underpayments. The figure represents the average number of such cases at any one time during the year.

** Cols 2–4 use information from 2001–02 because this is the latest year for which this information is available. The headline National Statistics report on fraud and error in IS/JSA for the year 2002–03 is due to be published in February 2004, with the full annual report, which includes information on underpayments, following in March.

Questions 46–47 (Jon Trickett):

The Department does not collect information on late applications for review. Information on late appeals can be found in the following table:

2002–03 Late appeals

	<i>Column 1</i> <i>Late appeals received</i>	<i>Column 2</i> <i>Late appeal requests refused</i>	<i>Column 3</i> <i>Late appeals admitted</i>
Jobseeker's Allowance	3,130	740	2,390
Disability Living Allowance	22,635	1,870	20,760
Incapacity Benefit	5,955	795	5,160
Income Support	5,580	1,475	4,100

Source: DWP Information and Analysis Directorate.

OPTIONS AVAILABLE TO THE CUSTOMER ONCE A DECISION HAS BEEN MADE

1. The customer can appeal the decision. This must be done in writing within one month of the decision being notified. This period can be extended by up to 12 months where the customer can show there were special circumstances for the delay in appealing. If the Secretary of State does not accept the reasons the appeal is forwarded to the Appeals Service for a legally qualified panel member to consider whether it should be admitted. If it is not then that is the end of the matter.

2. If the appeal is late the Secretary of State will also consider whether it can be admitted as a late application for revision. Again the same rules on special circumstances apply. If it is accepted then the likelihood is that the decision will be revised, that is changed from the date it was made. If it is not so admitted then the late appeal rules will apply as explained above.

3. The customer can ask for the decision to be looked at again or reconsidered. Again this must be done within one month of the decision being notified, and again this period can be extended by up to 12 months where there are special circumstances for the delay. If the application is successful the decision is revised from its original date. A new decision is issued with new dispute and appeal rights. If there is no reason to change the decision the claimant is given a further month in which to appeal against the original decision.

4. Where, under sub-paragraphs (i) and (ii) above the appeal/application for revision is late and there are no grounds for extending the time, but the Secretary of State accepts that the decision is wrong, the decision will be superseded to ensure that the correct benefit is in payment. The new decision will be effective from the date of the application and not the date of the original decision. Under (i) the late appeal application will still be sent to the Appeals Service.

5. Where a decision is wrong because of official error it will always be revised. There is no time limit. Of course, the same rule applies where the decision is more favourable to the customer than it should have been because of the customer's error.

6. If a customer's circumstances change the original decision will be superseded to put that change into effect. Provided the change is notified within one month of it occurring the claimant will get the full benefit of the change. This period can be extended by up to 12 months where the customer can show there were special circumstances for the delay. If he cannot the change will be given effect only from the date of notification.

*Questions 52 and 53 (Jon Trickett):***STATUTORY BASIS FOR THE APPEAL TIME LIMIT**

The primary power to make appeal procedure regulations is section 16(1) of the Social Security Act 1998, which gives effect to Schedule 5 of the Act. Paragraph 4 of Schedule 5 enables regulations to make provision for appeal time limits.

This power is exercised in The Social Security and Child Support (Decisions and Appeals) Regulations 1999, SI 1999/991. Regulation 31 prescribes the time within which an appeal is to be brought and regulation 32 provides for late appeals.

PAYING ARREARS OF BENEFIT WHERE THE DEPARTMENT IS AT FAULT

If a decision is incorrect because of official error then it can be corrected, that is revised at any time. Full arrears of benefit will be paid. This is provided for in regulation 3(5)(a) of The Social Security and Child Support (Decisions and Appeals) Regulations 1999 SI 991.

Question 55 (Jon Trickett):

OVER AND UNDER PAYMENTS

The specific information in respect of over and under payments is as detailed in the table below.

**Prepayment checks and monetary value of
under and overpayments due to official error**

	<i>Column 1</i> <i>% of prepayment</i> <i>checks</i> <i>2002-03</i>	<i>Column 2</i> <i>Monetary value of</i> <i>overpayments*</i> <i>2001-02</i>	<i>Column 3</i> <i>Monetary value of</i> <i>underpayments*</i> <i>2001-02</i>
Jobseeker's Allowance	2.5%	£90m (£80-110m)	£5m (£3-7m)
Disability Living Allowance	N/A	N/A	N/A
Incapacity Benefit	20%	£39m (£30-48m)	£24m (£18-31m)
Income Support	3.5%	£160m (£140-190m)	£102m (£87-116m)

Source: DWP Information and Analysis Directorate.

* Figures in brackets represent the ranges, which give 95% confidence intervals.

Sir Richard Mottram KCB
Permanent Secretary
Department for Work and Pensions

8 January 2004