



House of Commons
Work and Pensions Committee

**Decision making and
appeals in the benefits
system: Government
Response to the
Committee's Second
Report of Session
2009–10**

**First Special Report of Session 2009–
10**

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The Work and Pensions Committee

The Work and Pensions Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Work and Pensions and its associated public bodies.

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Committee staff

The current staff of the Committee are James Rhys (Clerk), Emma Graham (Second Clerk), Hanna Haas (Committee Specialist), Laura Humble (Committee Media Adviser), Lisa Wrobel (Senior Committee Assistant), Hannah Beattie (Committee Assistant) and Sharon Silcox (Committee Support Assistant).

Contacts

All correspondence should be addressed to the Clerk of the Work and Pensions Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 5833; the Committee's email address is workpencom@parliament.uk

First Special Report

1. The Work and Pensions Committee agreed its Second Report of Session 2009–10, Decision making and appeals in the benefits system, on 27 January 2010. The Report was published on 9 February 2010 as House of Commons Paper No. 313. We have now received the Government's Response to this report in the form of a memorandum from the Parliamentary Under-Secretary of State, Lord McKenzie. This memorandum is printed as an Appendix to this Special Report.

Appendix: Government response

Introduction

1. The Government welcomes the Second Report of the Work and Pensions Select Committee on Decision making and appeals in the benefits system. The Department for Work and Pensions makes tens of millions of decisions on social security benefits each year. The Government is pleased that the Committee has recognised that every day the vast majority of our customers are getting the right benefits. But there is more to do to simplify the benefits system.

2. The Government believes that the decision making process for benefits is robust and practical and that it provides an effective basis to deliver services to customers. But it is constantly working to make the process even better. The Department introduced Employment and Support Allowance which replaces two benefits with one. It is easier for pensioners to claim Pension Credit, Housing Benefit and Council Tax Benefit in one free phone call. There are tighter controls on fraud and error, including mandatory staff training and a new checking regime.

Conclusions and recommendations

1. We note the concerns of some witnesses that the transfer of responsibility for decision making to the Secretary of State for Work and Pensions from the Chief Adjudication Officer has led to a reduction in the independence of decision making and even a deterioration in the quality of decision making. We ask DWP to set out how the existing system safeguards objectivity in the decision making process. (Paragraph 26)

3. The Government does not share this view of the decision making system. Although decision makers act on behalf of the Secretary of State for Work and Pensions, they are required to make decisions impartially, by applying the relevant law to the facts of each case. Objectivity is safeguarded through a combination of decision making training and guidance and the appellate system.

4. Decision makers receive training on the application of generic decision making principles, as well as training on the specific benefits on which they work. The Decision Makers Guide provides a plain English interpretation of the law. Decision makers also have access to the decisions of Upper Tribunal Judges and the courts. Case specific advice is available from the Department's Decision Making and Appeals Division. The aim is to

ensure that decision makers' knowledge and skills keep pace with developments in the law and its application to benefit entitlements.

5. Under the previous adjudicative system there was a distinct legal separation of powers between the Secretary of State and the adjudication officers. In practice the system did not allow any greater independence than today's decision makers. The key to good decision making, now as then, is to ensure that decision makers have the knowledge and tools to make decisions objectively. Both are in place but, as explained elsewhere, more work is being done to enhance existing skills.

2. We commend the Department's performance against its targets for payment accuracy and claim clearance rates for a number of benefits. However, we were surprised to learn that the equivalent data for Jobseeker's Allowance, Employment Support Allowance, Incapacity Benefit or Income Support is not validated and is therefore not suitable for publication. We ask the Department to explain why it does not publish data on payment accuracy and claim clearance rates for these major benefits and recommend that it begins to do so as soon as possible. (Paragraph 34)

6. The Government notes the recommendation to publish additional performance data. The Department measures the accuracy of its benefit processing operations in terms of the monetary value of fraud and error (MVFE) of DWP benefits (including those administered by Jobcentre Plus). This is a key mechanism for the external reporting of the progress the Department is making in reducing errors. This MVFE data, published as National Statistics, provides the most consistently reliable estimate of errors in the Jobcentre Plus benefits system.

7. The Government also publishes claims clearance rates for all core benefits as one of the key indicators for Departmental Strategic Objective 6 (DSO6), to pay customers the right benefit at the right time. The most recent publication containing claims clearance time data for Jobcentre Plus benefits is the *DWP Autumn Performance Report 2009* (22 December 2009). For 2009–10 there is not a published target for Incapacity Benefit as part of the transition to Employment and Support Allowance. Performance will continue to be published to March 2011. Clearance time data for Employment and Support Allowance will be published from April 2010 and performance will be measured against a published target.

8. National Statistics on fraud and error in the benefit system are published twice-yearly by the Department. National Statistics are produced in compliance with the principles and practices set out by the UK Statistics Authority in the "Code of Practice for Official Statistics". An accreditation system has been created by the UK Statistics Authority to ensure that all National Statistics comply with the Code of Practice. MVFE performance data is also used by the National Audit Office to lay before Parliament within the annual DWP Resource Account. MVFE reduction performance is also provided in the annual Departmental reports. The Government considers that the current arrangements are sufficiently robust to ensure the integrity and reliability of the data which is widely used.

3. We acknowledge the work the Department's agencies are undertaking to address error, including the appointment of "Error Champions" in Jobcentre Plus and pre- and post-payment accuracy checks in the Pension, Disability and Carers Service. We ask the

Department to monitor the impact of these measures and to ensure that agencies share information about measures that are successful in reducing levels of official error. (Paragraph 35)

9. The Government welcomes the Committee's endorsement of its approach to addressing error. Jobcentre Plus has an established error reduction strategy which entails the continual monitoring of performance as measured both by MVFE and internal improvement measures. The outcome of this work is discussed routinely through the departmental Fraud and Error Stakeholder Engagement Group as well as at quarterly liaison meetings between expert MVFE practitioners across both Jobcentre Plus and PDCS.

10. Decision making is an important element of end to end processing and has an impact on MVFE. For this reason, the DWP Decision Making Standards Committee has an important role to play in ensuring the accuracy of benefit payment. The Jobcentre Plus Standards Committee member shows an on-going and close interest in Jobcentre Plus processes designed to minimise error.

11. PDCS routinely monitors the impact of the measures taken to reduce error levels. Teams within the agency and—to provide independent validation—outside the agency, measure and report on accuracy through: visiting claimants at home; monthly sampling of all activity at all processing units; periodic reviews of random and specific samples of cases; and periodic scans of the caseload to identify inconsistencies in data sets. The results of these measurements are used to provide feedback to individual staff and units. At a generic level the data informs improvements in training materials, guidance, and processes. The measurements are also used to specify technology improvements and to help the agency to decide where to deploy available resources to best effect.

4. However, we believe that the cost of official error due to overpayments of benefits is still far too high at £800 million in 2008–09, and we are concerned that this figure has risen significantly since 2000–01. We are equally concerned by the increase in the total amount of underpayments resulting from official error since 2004–05. In light of the 1998 reforms of the decision making and appeals system, which were designed to improve decision making, we ask the Department to explain why levels of official error have risen since 2000–01. (Paragraph 36)

12. The rise in both overpayments and underpayments due to official error since 2000–01 is due to a combination of factors. In addition to the acknowledged complexity of the benefit system and the constraints of legacy IT systems, the Department carried through unprecedented wide scale restructuring in the creation, and subsequent reorganisation, of both Jobcentre Plus and the Pension, Disability and Carers Service. At the same time changes were introduced to the design of the benefits system through the transfer of child provision from income related benefits to Child Tax Credits and the introduction, and focus on take up of, Pension Credit.

13. The measurement methodology used to derive estimates for some benefits for 2000–01 to 2004–05 differ from the period 2005–06 onwards. It is not, therefore, meaningful to compare current estimates with anything earlier than 2005–06. The latest estimates show both the cash value (£800 million) and the proportion (0.6%) of official error overpayments to be at their lowest reported level since 2005–06 when meaningful

comparisons can be made. This has been achieved against a background of significantly increased workloads resulting from the economic downturn.

5. It is unacceptable that, despite the Government committing to publishing a report by the Secretary of State on the Department's decision making standards "annually or as near to each year as possible" the most recent report was published in 2006 and only covered the 2002–03 period. The failure of the Secretary of State to provide an assessment of decision making in the last six years means the Department is not fulfilling promises made by the Government during the passage of the Social Security Act 1998. We ask the Secretary of State to explain why the Government's commitment to publishing an annual report on decision making standards has not been fulfilled and to announce when reports will be published for the six years since 2003. (Paragraph 41)

6. We note with concern that the Comptroller and Auditor General was unable to confirm that a substantial part of the information set out in the last report by the Secretary of State was "fair and balanced". We are further dismayed by his conclusion that the information within it would be of "limited utility as a measure of the Department's success in improving the accuracy of decision making". Reliable data are crucial to ensuring that decision making accuracy is measured effectively and the Department's failure to collect this information reduces the likelihood of appropriate improvements being made to the system. We also ask the Secretary of State to provide evidence to demonstrate that data collection on decision making and appeals has improved since the last report was published. (Paragraph 42)

14. The Government accepts this criticism and apologises for the delays in publication of the reports.

15. Section 81 of the Social Security Act 1998 requires the Secretary of State to report annually on the standards of decision making. It had been agreed in the debates on the Social Security Bill that the National Audit Office (NAO) would be involved in the preparation of the Reports. The first such Secretary of State Report for the period 2000 and 2001 was published in July 2003 and the second, for the years 2002 and 2003, in July 2006. The considerable delays in publishing the second Report were caused by a change in the underpinning methodology and discussions with the NAO about their concerns relating to the validation of some of the data used for the Report. Unfortunately, it has not proved possible to allay those concerns. The ongoing discussions have contributed to a delay in publication of further Reports.

16. The Department has produced a Report to cover the period from 1 January 2004 to 31 March 2007, which will be published shortly.

17. Because of changes in the resources available to the DWP Performance Measurement team, the Department does not now have the resources to produce the data for reports from 1 April 2007 on the same basis as those previously published. The Department has concluded that the best approach for those Reports would be to use the Department's Monetary Value of Error figures as a proxy measure of decision making quality. The MVE figures are a subset of the MVFE data described in paragraph 6 above.

18. The Department currently produces annual estimates of the amount of fraud, customer error and official error present across the benefit system using sample surveys drawn from

live load cases where benefit is currently in payment. That does include cases on which no decision has been made for a few years but where payment is still being made. The sampled cases are fully checked to ensure that the evidence exists to support the payment that was made, with errors attributed to official error, customer mistake or fraud.

19. An analysis by the Department's Information Directorate of a sample period showed that MVE official error accuracy results and decision making accuracy were highly correlated and the results of the two checks agreed in over 90% of cases, that is, if the Performance Management check identified an official error then it would be very likely that the DMA check would result in an error and vice versa. In other words the MVE official error check does include a quality check of the decision. Indeed, given that the MVE sample sizes are much larger than those used in the old-style reports arguably they will give a better picture of the quality of decision making. The Department considers, therefore, that MVE is a credible proxy for decision making standards.

7. We are surprised and disappointed to learn that the President of the First-tier of the Social Entitlement Chamber had seen no evidence that the Department has listened to the feedback provided in the annual reports of the President of Appeal Tribunals. We recommend that the new Senior President of Tribunals should continue to produce an annual report on standards of decision making and that the Secretary of State should undertake to publish a response to it within two months of its publication. (Paragraph 47)

20. The Government welcomes the Committee's support for the continuation of an annual report by the Senior President of Tribunals on the standards of decision making reached by the Secretary of State for Work and Pensions, and the Child Maintenance and Enforcement Commission. This was made a statutory requirement by the insertion of section 15A into the Social Security Act 1998.

21. Every year, as part of the report's publication procedures, the President has been sent a copy of the actions the Department has taken to improve its decision making. The Department considers that this is more effective than a formal published response. The Department recognises the value of additional, effective feedback from the judiciary and is in discussion with the Chamber President on how to achieve this.

8. The Standards Committee was established to monitor decision making within the Department and we believe that this important role should be more formally recognised. We recommend that "Decision Making" should be reinstated in its title to ensure that its main purpose is clear, both to internal and external stakeholders. We also recommend that the Department publish a response to the Standards Committee's recommendations within two months of the publication of a report of the Committee. (Paragraph 54)

9. The change in format of the Standards Committee's annual report has resulted in an esoteric document, which we found less accessible than previous reports. It is important that the Standards Committee's conclusions and recommendations are clear and readily understandable. We ask the Standards Committee to reintroduce a summary of how the Department has responded to the previous year's recommendations. (Paragraph 55)

22. The Committee was established as the Department for Work and Pensions Decision Making Standards Committee and this title is used in its terms of reference. The Committee is responsible for the format of its annual reports, which it has agreed with Jobcentre Plus and the Pension, Disability and Carers Service. The annual report contains a response from the Department to all the Committee's recommendations. The Committee has agreed to reintroduce a summary of the Department's responses to the recommendations.

10. Complexity in the benefits system remains a significant challenge for claimants, their representatives and the Department itself. We note the concerns raised to us in evidence that errors in decision making are inevitable if the social security system is too complex. We urge the Department to re-examine the conclusions of our report on Benefits Simplification with a view to simplification of the system. (Paragraph 61)

23. The Government has recognised the adverse effects which can be caused by the number of different benefits and the complexity of benefit rules. These effects include the risk of incorrect or inconsistent decisions by benefits staff, with the possible consequence of an increase in appeals.

24. Since the publication of the Committee's Report on Benefits Simplification (HC 463-1, 26 July 2007) the Government has put fundamental simplification of the whole system at the heart of its welfare reform programme. It is the only way to ensure that people receive benefits to which they are entitled, to maximise incentives and to ensure a smoother transition into work.

25. The Government's stated ambition is to move to a simpler system potentially based on just one working age benefit. This was reaffirmed in the White Paper Building Britain's Recovery—Achieving Full Employment (Cm 7751, 15 December 2009). But this will take time. For example, in the Welfare Reform Act 2009, Parliament legislated to abolish Income Support, but the Government will not do this until it is certain that satisfactory alternative provision is in place for the various client groups.

26. In the meantime, the Department has embarked on a major Change Programme, which is transforming the delivery of benefits and radically improving the customer experience as well as making the Department more efficient. Main features include:

- transferring all the various Departmental internet services to Directgov, the main public services website. Customers can now get advice on what to claim on the Benefit Adviser and track the progress of claims via the secure Benefit Enquiry service;
- Jobseeker's Allowance (JSA) Online launched in August 2009, enabling people claiming contribution-based JSA to do so on the internet. The service is expected to become available to all JSA customers during 2010;
- State Pension Online launched in February 2010. The first phase includes people invited by the Department to claim online using the new Identity Verification process. The initiative recognises that more and more people approaching pension age are

comfortable using the Internet and prefer it, though conventional ways of claiming will still be available;

- The In and Out of Work Project, specifically designed to reduce the perceived risks in benefits disruption of taking short-term work. This collects the information needed at one point instead of three, with Jobcentre Plus sharing information with Her Majesty's Revenue and Customs and local authorities. Roll-out is more than half way through and on track to be completed during 2010;
- The Information Capture Tool (ICT), a simple piece of software providing staff with an easy way to update a customer's details and share the information, saving the customer time and money by only needing to make one call instead of, on average, five. Since its launch in February 2009 the ICT has been used over 7 million times; and,
- The new DWP Enquiry Service, a restructuring of telephony so that the top 80% of the Department's annual 30 million customer enquiries can be answered in one call—regardless of the number and type of benefits received—preventing customers being passed around to different staff.

11. In order for decisions to be timely and accurate, decision makers must have access to as much information as possible, relevant to a person's claim. If claim forms are long and complex, which would appear inevitable in an excessively complex benefit system, the likelihood increases that errors or omissions will occur in the initial application process which may, in turn, affect the quality of decisions. We welcome the work the Department is undertaking to improve benefit claim forms but we acknowledge the scale of this task given the complexity of the system. However, we believe more work is required to tackle this problem and to address the persistent concerns of claimants and their representative groups. (Paragraph 66)

27. The Department already has a programme of activity underway to rationalise claim forms. This is intended to review the information sought from customers and to ensure consistency of response.

28. The Department uses a Lean approach to reviewing processes and making them simpler for customers to access.¹ Examples of this work in Jobcentre Plus include work to expedite reclaims to Jobseeker's Allowance, particularly in those cases where little time has elapsed since the previous award of benefit and circumstances remain essentially unchanged. Jobcentre Plus has used a telephone process for new claims since 2001. This was further developed in 2006 so that a new claim process is based around a single telephone call made by the customer. An on-line new claim process for Jobseeker's Allowance was introduced in August 2009.

¹ Lean is the application of a set of behaviours and techniques to improve the Department's benefit administration. By using Lean ways of working and a set of techniques to make the most of staff knowledge and experience, Lean reduces "waste", engages staff and improves efficiency.

29. Whenever an area for such simplification is identified, arrangements exist across the Department to develop processes, forms and systems to implement changes as promptly as cost-effectiveness will allow.

30. The Pension, Disability and Carers Service (PDCS) has, over the last five years, introduced a cycle of continuous improvement in the enhancement and development of Disability Living Allowance (DLA) and Attendance Allowance (AA) claim forms. Feedback and ideas are sought from the PDCS Advisory Forum, customer representative groups and staff.

31. PDCS has engaged directly with impairment specific groups such as MIND for the DLA adult claim form development. The PDCS Advisory Forum, PDCS Family and Carers Group (including Contact a Family and the National Autistic Society) have worked with the Customer Case Management project to design, develop and test a new style child claim form. Evaluation is due later this year on the claim form, new medical guidance and revised specialist processes.

32. PDCS is committed to a rollout of an improved shortened renewals claim form and a complementary revised process. The agency is evaluating the current version and lessons learned from that will be taken forward into the rollout of the shortened claim pack. The revised process includes decision makers talking directly to the customer and tailoring questions specific to their needs, enabling them to make an appropriate decision.

12. We received many complaints about the medical assessment process ranging from dissatisfaction from claimants who felt they were treated badly to criticisms of the computerised assessment process. We appreciate that DWP must strike a balance between providing a personalised service and ensuring a consistent approach to medical assessments but it is crucial that claimants' responses are recorded accurately. We ask the Department to investigate the concerns raised to us with Atos Healthcare and inform the Committee of the outcome. (Paragraph 72)

33. The Government notes this recommendation. The Department takes issues of complaint and dissatisfaction extremely seriously. It insists that ATOS Healthcare has robust systems in place to deal with complaints, and that these systems are set out in the contract for medical services.

34. The Work Capability Assessment is carried out by specifically trained healthcare professionals who are able to provide independent and robust advice to decision makers regarding the customer's functional capability. Recruitment standards, training and stringent quality checks ensure that assessments are consistent, accurate and fair.

35. All healthcare professionals must be approved by the Chief Medical Adviser (CMA) of the Department. The CMA will not appoint health care professionals until they have successfully completed mandatory comprehensive training and demonstrated that their work meets the required quality standards. This training includes communication and customer awareness skills and professional standards.

36. Random and targeted audit checks are in place, and the contract between the Department and ATOS Healthcare includes quality and accuracy targets. Senior medical

auditors from ATOS Healthcare and the Department validate the quality of the medical assessments. Any reports identified by the Department that are not fit for purpose should be sent back to ATOS to be redone.

37. There is also a robust complaints procedure in place should any customer consider they have not been treated with respect, or that something they said at their assessment was not recorded properly. The Department sets and monitors performance against targets for the number of complaints against healthcare professionals and claimant satisfaction rates.

38. LiMA, the computer system that supports healthcare professions, has been designed to improve the consistency, quality and legibility of reports. The use of standard phrases, which can be customised by the user, is not mandated and healthcare professionals are encouraged to use free text whenever necessary so that the report is an accurate reflection of the assessment.

39. A seminar was held on 9 March at the instigation of the Minister for Disabled People (Jonathan Shaw) to enable Members of Parliament and Peers to meet and discuss medical quality issues relating to benefit entitlement with officials from the Department for Work and Pensions and its contractor, ATOS Healthcare.

13. We were concerned to hear that 50% of one provider's Pathways to Work caseload have been in the programme for 14 weeks, despite not yet having received the result of their WCA. It is unacceptable that terminally ill claimants or those undertaking treatment that affects their work capability should be expected to undertake mandatory work focused interviews. We call on the Department, as a matter of urgency, to ensure that arrangements are made to ensure that terminally ill claimants are fast-tracked to the Employment and Support Allowance support group. (Paragraph 75)

40. The Department is in the process of reviewing the support available to disabled customers and customers with a health condition. The Government will bring forward its proposals in a forthcoming Command Paper.

41. The Government's policy is that those customers with a terminal illness are automatically treated as having limited capability for work related activity without having to undergo a face to face Work Capability Assessment, and are fast-tracked into the support group.

42. Both Ministers and officials have met with Macmillan's representatives to discuss concerns on the operation of fast-tracking, outlined in their report *Failed by the System—Why the Employment and Support Allowance isn't working for people living with cancer* (November 2009). The Department agrees that this function needs to operate with speed and efficiency. The Department has agreed to work with Macmillan and Citizens Advice to consider how to address their concerns.

43. The Department has taken steps to address the broader issue of some customers being asked to attend interviews with Pathways to Work providers when the outcome of their assessment is not known. From 15 March 2010 customers will only be required to attend the second and subsequent four mandatory work-focused interviews once they have been placed in the Work Related Activity Group.

14. We ask the Department to confirm when it intends to publish the findings of its internal review of the Work Capability Assessment (WCA). We note the concerns raised by some organisations that are contributing to the review. We urge our successor Committee in the next Parliament to examine carefully whether these concerns have been addressed and to maintain close scrutiny of the operation of the WCA. (Paragraph 81)

44. The Department-led review of the Work Capability Assessment is continuing, and aims to ensure that it accurately identifies individuals for the most appropriate support taking account of any adaptation they have been able to make. This technical review commenced in 2009, working with medical experts and representative groups to produce a series of recommendations. A finalised report is expected later this year, after the Department has given full consideration to the points raised by those groups that helped with the review.

45. In order to achieve the aims of the Departmental review it is important to engage with a range of stakeholders. The participation of representative groups was sought as a means to provide insight into the experiences of individuals with disabilities and health conditions, and to bring an understanding of the day to day challenges faced by these individuals. The independent medical experts involved in the review undertook case analysis since their particular expertise provided the medical context for the assessment.

46. The Government is also committed to conducting a statutory independent review of the Work Capability Assessment every year for the first five years of operation. The independent review is distinct from the Department-led review in that it will evaluate the operation of the assessments of limited capability for work and limited capability for work-related activity. This review is currently being commissioned and will report its first findings later in 2010. Thereafter the independent review will continue to evaluate the operation of the WCA for the following four years.

15. Migration of existing claimants from Incapacity Benefit to Employment and Support Allowance, subject to a Work Capability Assessment, will be trialled from October 2010 with a view to being rolled out for all customers from February 2011. We recommend that this process should not commence before the review of the WCA has been completed and its recommendations considered. (Paragraph 82)

47. The reviews of the Work Capability Assessment will enable the Department to improve it to ensure that it achieves the highest levels of accuracy. The Work Capability Assessment was always intended to be dynamic in this way, irrespective of the need for migration.

48. The Government considers that migration is necessary, to ensure that existing customers are not left behind even if they have been receiving benefit for a number of years. The latter customers are among those who need the most support and this is what Employment and Support Allowance can provide. The Government's plan to migrate people from Incapacity Benefit and Income Support paid on incapacity grounds to Employment and Support Allowance will ensure that over time new and existing customers are treated equally and receive the same financial help and support to return to work. The Work Capability Assessment is a key tool in this process, which also helps to identify the more severely disabled customers for additional financial support.

49. Any recommendations that may be taken forward from the reviews of the Work Capability Assessment will take time to implement. It would not be fair for those receiving Incapacity Benefit if this delayed the more active and individualised support that would be available to them through Employment and Support Allowance. The Department will begin activity to migrate existing Incapacity Benefit customers from October 2010. This will involve a pilot exercise to test aspects of the process and customer experience. Full migration will start in April 2011, completing in 2014.

16. We note widespread concerns that decision makers appear to give excessive weight to the conclusions of DWP medical assessments over other evidence claimants may provide. If a claimant is able to provide statements from specialists, who have regular contact with them, this evidence should be given due consideration. Furthermore, if a decision maker does not award a benefit based on the recommendation of a DWP medical assessment, despite the fact that this conflicts with the conclusions of expert evidence provided by the claimant, DWP should ensure that claimants are given a clear and full explanation of the basis for this decision. (Paragraph 87)

50. The Government notes this recommendation. Decision makers are trained to consider and take account of all available evidence, including medical expert evidence, before making decisions on benefit entitlement. Decision makers weigh all of the evidence and where necessary will request more, which may be from the customer, their carer or medical professional. Decision makers take account of all the evidence provided by the customer. Each piece of evidence is fully considered in the light of their training and the guidance provided. Jobcentre Plus will further develop its standard templates to ensure that decision makers explain the basis of their decisions and refer specifically to the effect on that decision of any expert evidence provided by the customer.

51. Customers are provided with further information and an explanation of decisions on request.

17. We welcome Jobcentre Plus' decision to review its training provision for decision makers and the DWP Standards Committee's commitment to examining the training available to decision makers in the Pensions Disability and Carers Service. (Paragraph 92)

52. The Government welcomes the Committee's recognition of the training of decision makers as an essential factor in continually improving performance and quality. This principle underpins recent developments including the February 2010 launch of the Department's DMA Accreditation Programme. The Department will continue to work with the support of the DWP Decision Making Standards Committee to continue to improve learning and development arrangements for decision makers.

18. We are encouraged by the positive responses to the introduction of the Professionalism in Decision Making Accreditation (PiDMA). However, with only 200 decision makers accredited at a cost of £300,000 per year, this is an expensive diploma to deliver. We ask DWP to publish the internal evaluation of PiDMA once the report is finalised. (Paragraph 96)

53. The Government agrees this recommendation and expects to publish the internal evaluation of the Professionalism in Decision Making and Appeals programme before the summer of 2010.

54. The programme leads to a Higher Education Certificate level qualification. The £300,000 figure includes the cost of delivering the work based learning programme in partnership with the University of Chester and the notional cost of working time for staff participating in the programme.

19. Speaking to a claimant directly is an effective means of ensuring that decisions are based on accurate evidence. We ask the Department to explain what actions it has taken in response to the DWP Standards Committee's conclusion that decision makers would benefit from a better understanding of claimants' viewpoints. (Paragraph 101)

55. The Government agrees with the conclusion reached by the DWP Decision Making Standards Committee. The Government view is that customers' direct evidence is often very important in determining a claim to DLA/AA, particularly where further information or clarification about care and/or mobility needs is required. Customer Case Management and the Standard Operating Model make it clear that the best source of such information and clarification is the customer themselves and/or their carers. Their evidence is weighed alongside all the other evidence in the case. But it may well be that the customers' own viewpoint is outweighed by other evidence in the case.

56. PDCS is focused on this area and has existing strategies to improve compliance. Customer Case Management guidance has a fundamental principle that decision makers manage the relationships with their customers through telephone calls. Whilst existing systems do not routinely enable monitoring the use of telephony by individual decision makers, the agency monitors compliance through local and independent checking.

57. Data derived from recent enhancements to the DLA computer system is now routinely used in the business, both in front line operations and by technical checking teams in support areas to identify cases where guidance may not have been followed, or where decisions seem out of line with the expectations raised by the recorded disability code. This data indicates possible non-compliance with Customer Case Management guidance and it is being used increasingly to drive checking both locally and nationally.

20. We recommend that the Department should pilot a scheme whereby claimants who proceed to a reconsideration of their claim or appeal against a decision are allocated an individual decision maker and are given a direct telephone number on which to contact them. We recognise that this will place an additional burden on decision makers, but we believe that it is justified on the grounds of fairness to claimants. We believe that it could also reduce costs in the system by reducing the number of cases that go to appeal. (Paragraph 102)

58. The Government agrees to run a small pilot within Jobcentre Plus to identify the costs and benefits of giving customers a direct telephone number on which to contact staff dealing with their request or appeal. The trial will investigate the costs and benefits of such an approach. The extent to which such processes are able to reduce costs and improve customers' understanding of the process will continue to be important elements in the Department's evaluation of the pilot.

21. We are disappointed to hear that computer-generated notification letters continue to make it difficult for some claimants to understand how a decision on their benefit claim has been reached. Both this Committee and the National Audit Office have raised the issue of incomprehensible written communications from DWP in the past and yet this continues to be a problem. We ask the Department to outline what work it is undertaking to improve its notification letters and to ensure that decisions are properly explained and easily understood by claimants. We believe that better explanation of the rationale behind decisions could reduce the number of appeals and requests for reconsideration that are brought forward, delivering savings elsewhere in the system. (Paragraph 109)

59. The Government agrees that decision notices need to be improved to support clarity and cost effectiveness. For these reasons, an element of the Department's longer term Change Programme is the Transforming Letters initiative which is implementing an internationally regarded software product, HP Exstream. This will enable the production of letters to be moved out of ageing legacy systems and allow future letters to be changed and produced considerably faster and more cheaply than is currently the case.

60. The first legacy system to be targeted produces letters for Income Support and Pension Credit customers. As a result the six key problem letters, including the claim decision notice, have been reduced to three new letters which will be sent to 18 million customers a year. The project enlisted external expertise from the University of Reading Simplification Centre who provided expertise in writing clearly for people with low functional literacy levels. Early customer testing of these new letters has elicited a wholly positive response.

61. The Department expects these letters to go live in the summer of 2010 followed by a rolling programme through 2010 and 2011 which will include Jobseeker's Allowance, State Pension, Employment and Support Allowance and Incapacity Benefit customers. By the end of 2011 more than three quarters of the system generated letter caseload will be on the new IT platform, accounting for more than 90 million letters annually.

62. In the short term, the Department will consider the contribution to be made by deploying small computer systems in Jobcentre Plus to improve the way some more complex decisions are explained to customers. Jobcentre Plus is confident that in the short to medium term, improvements to some notifications can be made clerically with little or no extra staff time involved.

63. PDCS acknowledges that legacy computer generated decision notices do not provide enough detail for customers. The agency has developed an electronic template that allows decision makers to create a new improved personalised entitlement letter for 96% of DLA adult customers. Evaluation shows that, since its introduction in 2008, evaluation shows that customers feel better informed. A further improved version of the template is due in May 2010.

64. As part of the Pensions Transformation Programme, PDCS has introduced simplified and tailored decision and entitlement notices for State Pension and Pension Credit new claims and State Pension customers reporting a change of circumstance. PDCS are planning to introduce simplified and tailored decision and entitlement notices from October 2010 for Pension Credit customers reporting a change of circumstance. These

products have been subject to customer testing events with different pensioner groups to ensure that these new products are fit for purpose.

22. We recommend that DWP formalise the expectation that reconsiderations should be completed in five days by introducing this as a target for decision makers against which performance is measured. (Paragraph 114)

65. The Government is not able to agree to introduce a target for completing reconsideration of a disputed decision. In the face of competing priorities to improve service, the Government does not agree that reducing clearance times should be the primary focus. While customers do value speed of service, this is only one aspect of performance and the Government prefers to continue to prioritise the correctness of the outcome. The preferred current approach is to use Lean methods to pursue continuous improvement of the decision making process. This offers the best opportunity for minimising the risk of inaccurate decisions, inadequate understanding of customers' circumstances and failure to properly explain decisions. From a practical perspective, the recommended target is not consistent with the need, in some cases, to obtain additional evidence, including medical evidence. However the Government agrees the need to develop further the reconsideration process to fulfil its potential to be a cost effective and simpler approach to put decisions right at the earliest opportunity.

66. In PDCS the current internal management target for reconsideration is 35 working days. The average year to date performance (January 2010) for Disability Living Allowance is 30.3 days and for Attendance Allowance 23.6 days. Setting a five day target would entail a very significant step change in performance levels, which would be extremely ambitious.

23. We are not convinced by the evidence that the reconsideration process is working well in respect of claims for DLA and AA. We are more inclined to believe that the quality of the initial decision making in respect of these benefits is a cause for concern. This does not reflect a particular criticism of DLA and AA decision makers, but rather concern that the "self-assessment" claim forms are misunderstood by many claimants. We commend the Pension, Disability and Carers Service on its efforts to improve the claim forms for DLA and to make them more tailored towards the needs of specific groups. However, given the nature of our generic concerns, we recommend that the Standards Committee should examine decision making in respect of these benefits as a matter of urgency. (Paragraph 121)

67. The Government notes the Committee's recommendation and welcomes the DWP Decision Making Standards Committee's involvement on this issue. The Department is discussing with the Standards Committee how this work can be accommodated in the work programme for 2010–11.

24. Many DLA and AA claimants are unaware of the welfare rights advice that is available. We recommend that the Pension, Disability and Carers Service should pilot a scheme whereby it works with welfare rights advisers and representative groups to prepare a leaflet detailing sources of local advice which should be included with the claim pack for these benefits. (Paragraph 122)

68. The Government does not agree with the recommendation to pilot a local advice leaflet in PDCS. The main obstacles are the practicalities of keeping any local level leaflets and

local reference literature up to date. This would generate very high costs and the Department would incur high administrative costs to keep materials current or guarantee that the right leaflet would always be in the right claim pack.

69. The Government's preferred approach is to invest more effort and resource in PDCS developing local partnerships to ensure the development of strong relations, referral processes and join-up communications to reach out and deliver respective services to customers more effectively. A Partnerships and External Relations Strategy was published in January 2010. Its key objectives are to engage effectively with external stakeholders and partners, resolve service issues raised by them, help to identify vulnerable customers and to join up services where appropriate. To actively manage the work there are two small central teams focusing on partnership development, external stakeholder engagement and consultation management.

70. Implementing the partnership strategy will mean dedicated resources to build more effective partnerships and referral arrangements, and include specific focus on building partnerships with local organisations serving the most vulnerable customers.

71. The agency also plans to test specific partnership outreach initiatives targeted at disabled children and people with mental health difficulties during 2010–11.

25. We were disappointed to learn that Jobcentre Plus could not provide us with detailed statistics on the reconsideration process. If Jobcentre Plus is not collecting this data it is impossible for either the Committee, or the agency itself, to assess performance in this area. We call on Jobcentre Plus to start collecting and publishing data on reconsiderations as a matter of urgency. We hope that, once these statistics are available, our successor Committee will be able to re-visit this issue and conduct the examination of the reconsideration process for Jobcentre Plus benefits that we were unable to complete. (Paragraph 125)

72. The Government agrees the need to further develop the robustness and validity of existing informal sources of management information on decision making. Jobcentre Plus does not currently have externally validated data relating to the clearance of reconsideration work. The costs and benefits of making such validated data available are not yet understood, hence the need to undertake one or more Lean scrutinies of this work.

73. Jobcentre Plus currently deploys a system to support specialist areas of its decision making process. This system is known as DMACR (Decision Making and Appeals Case Recorder) and will be further developed to gather improved internal management information relating to the reconsideration process in particular. The proposed reviews of the reconsideration process will also explore plans for commissioning the further development of an improved and more robust management information suite for this aspect of the decision making process.

74. When this data becomes available, the Department will consider the costs and benefits of further developing available management information to meet the standards required of externally published statistics.

26. For some benefits, the reconsideration process appears to be ineffective. Anecdotal evidence suggests that disputed IB and ESA decisions are not being reviewed properly

by decision makers and, as a result, some welfare rights advisers are advising claimants to bypass this stage and pursue an appeal. We believe that they may be right to advise their clients to pursue this course, although without more detailed statistics, this is impossible to prove. (Paragraph 129)

27. Many claimants will be deterred from an appeal by an unsuccessful request for a reconsideration. Our greatest concern is that, if this reconsideration is not being conducted thoroughly, they may miss out on the benefits to which they should be entitled. (Paragraph 130)

28. The reconsideration process should provide a quick and efficient way of reviewing decisions which provides a swift resolution for claimants and reduces the caseload of the tribunals. It is also intended to be a stage at which a decision maker has the opportunity to consider new evidence. However, the current operation of the reconsideration process is a missed opportunity. We do not believe that the reconsideration process is currently operating in the best interests of the claimant. We urge the Department to examine the operation of this process as a matter of urgency, and we hope that our successor Committee in the next Parliament keeps the matter under close scrutiny. (Paragraph 131)

75. The Government views the reconsideration process as the best way to ensure the Department responds promptly and cost effectively to any concerns the customer has about decisions affecting their benefit.

76. For this reason, Jobcentre Plus will use Lean methodology to review the reconsideration process. The development of more robust quality assurance measures and internal management information are likely to emerge from this review.

77. The Government is not complacent, and works on the principle that continuous improvement is possible. Specialist teams dedicated to supporting operational staff to improve decision making effectiveness are in place for all benefits. Their role is to challenge, support, and report on decision making performance. In addition, the Government uses other internal and external scrutiny mechanisms to assess decision making effectiveness.

78. For pension benefits, there is a centralised appeals team which scrutinises all appeals for State Pension and Pension Credit. All PDCS decisions are thoroughly reconsidered before an appeal is submitted to the First-tier Tribunal.

29. We recommend that DWP and the Tribunals Service should improve co-ordination of their guidance documents. We agree with the President of the First tier of the Social Entitlement Chamber that DWP should signpost claimants to the Tribunals Service guidance in its decision letters. Decision letters should also advise claimants where they can go to obtain representation. (Paragraph 134)

79. The Government agrees that the Department and Tribunals Service will work together to consider any further improvements needed to information provided to customers.

80. However the Government disagrees with the proposals to add further information to decision notices, as recommended. In the decision notice issued by the Department, the

customer is told that if he does not understand the decision, he can contact the office that made the decision or consult an advice agency, such as Citizens Advice. The customer is also advised to ask for the Department's leaflet GL24 If you think our decision is wrong. As the decision notice states, this leaflet tells him more about the decisions and appeals process. It explains the decision making process and what happens should he decide to appeal; it also directs the customer to advice centres and to the Tribunals Service's own leaflet. Moreover, it includes a form on which an appeal can be written.

30. Access to welfare rights advice can be a crucial resource for those who require expert guidance and support in preparation for an appeal. We note with concern reports that there have been cuts in welfare rights provision. We call on DWP to work with the Tribunals Service, local authorities and welfare rights organisations to try to identify solutions to regional gaps in service provision. (Paragraph 138)

81. The Government recognises that the availability of free independent impartial advice is important for customers, particularly those who are vulnerable or have communication difficulties. Currently, between the three largest national sources of advice on social security issues in England, Scotland and Wales, there is a very comprehensive geographical coverage of advice services available to customers. For example:

- Citizens Advice has 96% geographical coverage in England and Wales, and, including Scotland, it has 3,500 outlets in all but five local authority areas. The service in Scotland is supplemented by Citizens Advice Direct, a service available by phone and online, and there are plans to roll this out in England and Wales;
- the vast majority of unitary local authorities have welfare rights units; and,
- Community Legal Advice is setting up centres and networks in the UK, supplemented by a helpline.

82. In addition, there are many smaller Third Sector organisations that offer valuable advice to customers. There may be some small gaps across Great Britain in advice provision, but these are few and far between. The Government considers that there may be a need to improve awareness of these sources of free, independent, impartial advice. To take this forward, the Department will work with colleagues in Directgov, in the Tribunals Service, and in the advice sector.

83. The Government announced in the Pre-Budget Report in November 2008 additional funding of £10 million for Citizens Advice Bureaux in England and Wales to extend bureaux opening hours for the period up to and including March 2010 to meet anticipated increased demand in the current economic climate. It was estimated that this funding would enable bureaux to open for an additional five hours per week to meet the demands of an extra 335,000 clients. Consequential funding under the Barnett Formula was similarly allocated by the Scottish Government for bureaux in Scotland. An extension to that funding of £5 million was announced in the December 2009 Pre-Budget Report and will be allocated to both bureaux in England and Wales and to bureaux in Scotland (Barnett consequential funding not having applied this time). Extended funding will be provided by the Department for Business, Innovation and Skills.

31. We note that DWP and the Tribunals Service are looking at ways to reduce the time it takes DWP to submit its response to an appeal. It is unfair that claimants are expected to lodge an appeal within a month but may face a delay as they wait for DWP to prepare its papers. We recommend that DWP be subject to a one month time limit, with exceptions permitted only with the approval of the Tribunal Chair, for submitting its responses to the Tribunal Service. (Paragraph 144)

84. The Government acknowledges that the time it takes to prepare responses can vary, but does not agree that imposing a time limit of one month to prepare an appeal response would improve the situation.

85. As the Committee has recognised, the Department and Her Majesty's Revenue and Customs are already working closely with the Tribunals Service and the Tribunal Procedure Committee to review the time limit for appeal responses. The Government considers that this combined evidence-based approach is the best way forward and will lead to informed and achievable time limits being set.

32. We believe that appellants should be able to track the progress of their appeal from the time it is lodged to the point it is heard. We recommend that DWP and the Tribunals Service examine how they can improve data sharing to ensure that individuals can ascertain how long they can expect their appeal to take. (Paragraph 147)

86. The Government accepts this recommendation.

87. Both Jobcentre Plus and PDCS already have close liaison with the Tribunals Service and will continue to work together to explore arrangements to improve the flow of data between the two organisations. The Department will consider how best it can support the Tribunals Service by ensuring key messages about timescales and process are communicated to appellants.

33. We note with interest the increased probability of success for appellants who opt for an oral hearing on appeal. We agree with the President of the First tier of the Social Entitlement Chamber that, by engaging with the appellant face-to-face, the tribunal judge has more opportunity to test the evidence. We ask DWP to ensure claimants are made aware of the increased chances of success if they attend an oral hearing. (Paragraph 150)

88. The Government accepts this recommendation. Appeal literature issued by the Department since 1999 has always encouraged appellants to ask for and attend an oral hearing of their appeal. Leaflet GL24 If you think our decision is wrong says "People who attend their hearing usually do better than those who don't." This sentence will be in bold print when the leaflet is reprinted in April 2010.

34. We welcome the efforts the Tribunals Service has made to ensure that user feedback is systematically obtained and used to improve appellants' experience of the tribunal. (Paragraph 157)

89. The Government welcomes the Committee's comments and will ensure that the Tribunals Service continues to obtain user feedback and use to improve the appellant's experience of the tribunal.

35. However, there is evidence that some groups of claimants still feel that “reasonable adjustments” could be made to the appeals process which would help them to engage with tribunals. We call on the Office for Disability Issues to work with the Tribunals Service in this area. (Paragraph 158)

90. The Government accepts this recommendation and fully recognises the need for appellants to engage with tribunals. The Tribunals Service will consider any suggestions for “reasonable adjustments” in connection with the tribunal appeal process and has made contact with the Office for Disability Issues to agree how to move forward together.

91. Work is already underway to produce a “Reasonable Adjustments Guide” for staff working with customers, and the Tribunals Service is implementing a log to record all customer requests for reasonable adjustments and any actions taken. Changes have already been made to the customer service complaints process to capture complaints relating to the provision of reasonable adjustments. The log, together with any complaints, will be regularly reviewed to inform future service. Finally on the suggestion of the Office of Disability Issues, the Tribunals Service has been invited to join the Ministry of Justice forum called the “Disability Equality Duty Group” which discusses progress towards disability equality across Government.

36. The increase in Employment and Support Allowance (ESA) appeals has put a considerable strain on the Tribunals Service’s resources. We welcome the budget transfer of £8,600,000 from DWP but this is a short-term solution. We ask DWP to confirm what action it is undertaking in response to this increase. (Paragraph 162)

92. The Government recognises the impact that the increasing workload is having on the current appeals system across the whole end to end process. Joint work is underway across the Department and the Tribunals Service to mitigate the increased volumes by focussing on four areas:

- streamlining processes within both the Department and the Tribunals Service—including an end to end review of the appeals process;
- reducing the number of appeals—through looking at the messaging the Department uses to manage customers’ expectations and in particular the language in the disallowance letter;
- increasing capacity in the Tribunals Service—through increasing administrative, judicial and medical resources, so that it can hear more appeals; and,
- strengthening the working relationship between the Department and the Tribunals Service.

93. The Government will continue to monitor, assess and improve processes to ensure the provision of an efficient service to customers.

37. We are concerned that tribunal judges believe their neutrality is often compromised because DWP is so rarely represented at oral hearings. We ask DWP to explain why there has been a significant reduction in the rate of attendance of Presenting Officers at tribunal hearings and how it intends to address the criticisms raised by the President of the First tier of the Social Entitlement Chamber. (Paragraph 165)

94. The Government does not accept the view that failure to attend a hearing compromises the independence of the tribunal. It does, however, accept that the attendance of a departmental presenting officer is important in some appeals and it already makes arrangements for this to happen for example in certain complex cases and when directed to do so by a Judge. The Government acknowledges however that its attendance rate falls short of the expectations of tribunal judges. The Department needs to consider whether the costs of deploying scarce and expensive specialist decision making resource to present appeals can be off-set by commensurate advantages to the Jobcentre Plus and PDCS business and their customers. It would not be in customers' interests if making more presenting officers available resulted in longer claims clearance times.

95. From a practical perspective the proposed presenting officer levels are not consistent with current processing capability. The Government cannot assume that future resource levels will in any way enhance this capability although it is committed to improving overall outcomes for customers.

38. We call upon DWP to confirm what mechanisms are in place to ensure that individual decision makers in Jobcentre Plus and the Pension, Disability and Carers Service receive feedback on any decisions they make which progress to an appeal (Paragraph 169)

96. The Government notes the Committee's interest in this issue. One of the difficulties is that the tribunal decision notice does not include the reasons for a decision. Where a tribunal's decision suggests that there might be grounds for the Secretary of State to appeal it to the Upper Tribunal, the Department will request a full Written Statement of Reasons.

97. In Jobcentre Plus IT support is already available to enable individual decision makers access to the outcomes of their decisions considered by tribunals. There is no similar provision within PDCS. The Department met with the Chamber President and the Tribunals Service in September 2009 to discuss options for improving feedback from the tribunal.

39. We welcome the attempt made by DWP and the Tribunals Service to reduce the number of decisions reaching a tribunal through the development of the Alternative Resolution Pilot. We have heard that the early evaluation suggests the results of the pilot were mixed. We strongly believe that the best way to reduce the number of decisions being appealed is to improve the frontline decision making. We look forward to hearing DWP's response to our recommendations on how this might best be achieved. (Paragraph 173)

98. The Government agrees that the best way to reduce the number of appeals is to improve frontline decision making, including an effective reconsideration process.

99. It further believes that the responses to this report are evidence of its commitment to drive up the quality and accuracy of decision making and thereby reduce the number of appeals. In particular, the further deployment of IT support, Lean scrutiny and improved learning and development for staff will make a major contribution to improving front line decision making.

40. We reiterate a previous recommendation of this Committee, that the Government should establish a Welfare Commission to examine the existing benefits system and model possible alternative structures with the aim of creating a fair but simpler system that claimants and their representatives are able to understand more easily and DWP staff are able to administer more accurately. (Paragraph 181)

100. As explained in response to recommendation 10, the Government is working to reduce complexity in the system and agrees with the importance of a fairer and simpler system, provided that any simplification retains the flexibility to provide for groups with different levels of need. The Government remains attracted to the idea of a single working age benefit and continues to explore whether, over the longer term, this is the right approach for its aims for the social security system. Since the Committee's report Benefits Simplification a number of external commentators have put forward models to varying degrees of detail, which illustrate the range of options available, though there are detailed issues to resolve; but the Government does not believe that a Welfare Commission would add to the process at this stage.