



House of Commons  
Work and Pensions Committee

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**The role of incapacity  
benefit reassessment  
in helping claimants  
into employment:  
Government Response  
to the Committee's  
Sixth Report of Session  
2010–12**

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**Seventh Special Report of Session  
2010–12**

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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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The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in a printed volume.

### Committee staff

The current staff of the Committee are Carol Oxborough (Clerk), Andrew Hudson (Second Clerk), Jessica Bridges-Palmer (Committee Media Adviser), James Clarke (Inquiry Manager), Emma Sawyer (Senior Committee Assistant), Hannah Beattie (Committee Assistant).

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# Seventh Special Report

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On 26 July 2011 the Work and Pensions Committee published its Sixth Report of Session 2010–12, *The role of incapacity benefit reassessment in helping claimants into employment*, HC 1015. On 7 November 2011 we received the Government’s Response to the Report. It is reproduced as an Appendix to this Special Report.

In the Government Response, the Committee’s conclusions and recommendations are in bold text. The Government’s response is in plain text.

## Appendix: Government response

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### Introduction

1. The Government welcomes the Sixth Report of the Work and Pensions Select Committee 2010-12, which considered the reassessment of those in receipt of old style incapacity benefits and the role of this exercise in helping claimants into employment.

2. The Government commenced reassessment of 1.5 million incapacity benefits claimants on 11 October 2010 with around 1,700 claimants in the Burnley and Aberdeen areas. The full roll-out began nationwide in Great Britain on 4 April 2011. Around 11,000 claimants a week are now being contacted. The exercise is expected to take three years to complete.

3. There is evidence that work and work-related activity can be good for disabled people and people with health conditions. The Government believes that it is right that the majority of Employment and Support Allowance claimants are expected to move towards employment. Impairments and health conditions should no longer be seen as automatic barriers to employment. The Work Programme gives people in the private and voluntary sector who have the best expertise the freedom to design tailor-made back to work support built around the needs of the individual—abandoning the overly prescriptive “Whitehall knows best” approach. In return for that freedom to innovate, the Department is paying providers by results—they must get people into work and keep them there. The Department is incentivising providers to focus their resources on the hardest to help claimants, including those incapacity benefits claimants who claim Jobseeker’s Allowance or Employment and Support Allowance after the reassessment.

4. The Committee’s report is supportive of most of the principles of reassessment, but highlights some areas where the Committee have concerns. This response attempts to address those concerns.

### Conclusions and recommendations

#### *The Government’s policy objectives for the IB reassessment*

**[Paragraph 18] We support the Government’s objectives of helping people with disabilities and long-term health conditions to move back into work, whilst continuing to provide adequate support for people who have limited capability for work or are**

unable to work. However, the scale of the challenge should not be underestimated and nor should the level of anxiety which currently surrounds the process. A suspicion persists that the only objective of the Government is to save money. The Government must be proactive in explaining its aims and spreading the positive messages about the benefits of work and the support which is available to find work, and in engaging employers. It is vital that the Government's objectives are firmly supported by the reassessment process, and by the WCA in particular, but at the moment we are not completely convinced that it does this. Our report focuses on the changes we would like to see to help ensure that this happens in practice.

The Committee and Government need to be mindful of widespread public unease about the number of people claiming incapacity benefits, so it is not surprising to see that reflected in the media. The Department for Work and Pensions is working on the design of the Employment and Support Allowance process and in partnership with employers to encourage them to rethink their attitudes towards disabled people.

The Department is supporting a Business to Business campaign, led by the Disability Employment Steering Group. Employers are being encouraged to sign up to Clearkit—an online resource, developed by employers, which helps identify and remove barriers in the recruitment of disabled people. To date 1,136 organisations have signed up to the resource, overtaking the 1,000 campaign target. This achievement was marked by a celebration event held on 2 November, hosted by BT.

The Department is currently designing a process for individuals claiming Employment and Support Allowance in the Work Related Activity Group who are not moving directly to the Work Programme after their Work Capability Assessment. They will be required to attend an information session with a Work Programme provider who will explain the benefits of volunteering for intensive work related support via the Work Programme. The aim is to help support claimants' understanding of the support options available to help them secure sustainable work—within the Work Programme and the Jobcentre Plus offer. This work includes developing an approach to promote individual successes via the providers, wider third sector organisations and national Departmental channels.

The reassessment process already provides a two way dialogue with claimants at key points and decision makers and advisers look to engage in a positive dialogue with claimants whenever they make contact.

## **Improving communication of the Government's objectives**

**[Paragraph 31] The Government needs to develop its communications strategy for the IB reassessment in a way which ensures clarity and minimises anxiety. Providing claimants with the right level of information at the time that is appropriate for each individual forms an important part of this, bearing in mind that the reassessment process as a whole will last three years. It also requires the Government to be clearer about what the word “support” means in the context of Employment and Support Allowance. Currently it is used to describe employment support on the one hand and financial support through benefits for those who cannot work on the other. These two different meanings in the context of one benefit can be very confusing.**

Significant improvements have already been incorporated into the reassessment process and are now being extended for new Employment and Support Allowance claims following implementation of the findings of the first Harrington Review. The context in which the term “support” is used is now clear in relevant communications. Products have been found to be clear and helpful in the independent research undertaken for the reassessment trial so far.

The Department fully recognises that the reassessment process is concerning for claimants and the customer journey has been specifically developed to support them through the process, while making every effort to ensure clarity and minimise anxiety:

- claimants are contacted only when they need to act; and
- additional steps have been incorporated at key points to signpost claimants and allow them to ask questions, and to discuss decisions. These changes are also now being introduced for Employment and Support Allowance claimants.

The Department will continue to seek and monitor feedback on communications and will keep the language used under review.

For the future, Atos Healthcare are looking at the possibility of deploying staff in Assessment Centres to provide more information for people attending the Work Capability Assessment to clarify its aims and purpose and to allay any concerns. The feasibility and benefits of this potential option are currently under consideration by the Department.

**[Paragraph 34] The message which the Government sends to claimants involved in the reassessment process should be clear and simple: if the assessment process correctly finds someone fit for work, that is a successful and desirable outcome. However, we believe that the Government also needs to take greater steps to reassure claimants. It needs to explain that being found “fit for work” does not equate to denial or disbelief about the existence of an illness or health condition: rather the condition is acknowledged but its impact has been assessed as not being so serious as to prevent the person from returning to work at some point in the future.**

The Department does not believe that the written communications (tested in the reassessment trial) suggest that being found fit for work is a denial of a health condition. The reassessment decision notification makes it clear that it is a claimant’s functional capacity that is being measured, not their illness. The Department believes that getting the conversation right between staff and claimants is the key factor in reassuring claimants and supporting them to move forwards. Staff play a major role in supporting people back to work and encouraging them to take a positive view of their abilities and goals through the conversations when explaining the reassessment decision and afterwards in Jobcentres. Consequently the Department has invested extensively in training for its staff throughout the business.

The Department is committed to continuous improvement, and will look again at the language in its official communications, letters and call scripts to see if further changes are needed.

**[Paragraph 35] We believe that the language currently used to describe the outcome of the WCA is a barrier to the Government's objectives for the reassessment being properly communicated. The idea that a claimant has "failed" the assessment if they are found fully capable of work risks negating the positive messages which the Government is trying to convey. It needs to be addressed across the board and to include all communications between claimants and DWP staff, especially Jobcentre Plus staff who tell claimants the outcome of the process, and Atos Healthcare employees who may explain the process to claimants. We also believe that the communications need to explain clearly and at every stage of the process that, where someone is found not fit for work, they will be eligible to receive ESA at the support rate.**

The perception of being found fit for work as a negative experience is a long standing issue influenced by the media and some disability groups. It is unlikely therefore that perceptions can be changed easily or quickly.

The Department acknowledges that it is very important that the Work Capability Assessment is not referred to as a pass or fail test either internally or externally. It is an assessment of the individual and the outcome is used to determine benefit entitlement. All the Department's communications, training and guidance refer to the Work Capability Assessment as an assessment and do not refer to claimants "failing".

Individuals who are found fit for work are able to claim Jobseeker's Allowance and receive back-to-work support to help them get a job. This is a positive step for most people in helping them move back toward work.

However, the Department recognises that many people who are found fit for work see this as a negative result. This was highlighted by Professor Harrington in his first review. In response the Department has taken steps to improve communications with claimants about the assessment, including making the Work Capability Assessment more empathetic, and to explain to claimants their options when they are informed of the outcome. There has also been improved training for Jobcentre Plus and Atos Healthcare staff. Jobcentre Plus staff play a key role in moving claimants from a position where they believe they are too ill to work, to one where they are able to make steps towards work. The training and support for staff highlights the real benefits of work, including the positive effects on an individual's wellbeing and their self esteem as well as the important role work can play in an individual's recovery. Atos Healthcare training and development emphasises that a claimant does not pass or fail the assessment and focuses on what a claimant can do despite their illness or health condition.

The Department is committed to continuous improvement and will look again at improving messaging around the Work Capability Assessment outcome.

## Media coverage

[Paragraph 40] Sections of the media routinely use pejorative language, such as “work-shy” or “scrounger”, when referring to incapacity benefit claimants. We strongly deprecate this and believe that it is irresponsible and inaccurate. The duty on the state to provide adequate support through the benefits system for people who are unable to work because of a serious health condition or illness is a fundamental principle of British society. Portraying the reassessment of incapacity benefit claimants as some sort of scheme to “weed out benefit cheats” shows a fundamental misunderstanding of the Government’s objectives.

[Paragraph 41] Whilst fully accepting that the Government, and this Committee, have no role in determining the nature and content of media coverage, we believe that more care is needed in the way the Government engages with the media and in particular the way in which it releases and provides its commentary on official statistics on the IB reassessment. In the end, the media will choose its own angle, but the Government should take great care with the language it itself uses and take all possible steps to ensure that context is provided when information about IB claimants found fit for work is released, so that unhelpful and inaccurate stories can be shown to have no basis.

The Committee and Government need to be mindful of the widespread public unease about the number of people claiming incapacity benefits and it is therefore unsurprising that this is reflected in the media. That said the Department takes great care when publishing statistics and works with the UK Statistics Authority to ensure that the published data are used in an appropriate manner. Since the Committee’s Report the Secretary of State has decided to submit the publication of the Work Capability Assessment figures relating to Employment and Support Allowance claims for assessment as National Statistics. This will take effect from spring 2011. As a result the Department is working with the UK Statistics Authority to consider any changes that may be needed to the presentation of the statistics.

However, it is important to stress that it is not the Department’s role to dictate what can appear in stories in the media. The Department’s Press Office ensures that the language used in all press releases, publications and briefings is accurate and appropriate and endeavours to provide journalists with the context in which statistics are used and, where possible, attempt to correct errors in any copy.

As part of its ongoing dialogue with stakeholders through regular stakeholder forums, the Department will continue to listen to any concerns they may wish to raise around the use of statistics and language.

## Role of representative organisations

[Paragraph 45] We agree with the Minister’s view that organisations which represent benefit claimants may sometimes face a conflict in being both advocates for the people they represent and key players in helping to design and implement the reassessment process. We believe that these organisations could contribute enormously to allaying the concerns about reassessment by giving equal weight to publicising the opportunities an effective assessment process could offer, and the back-to-work

**support available from Government, as they do to fulfilling their important role in raising legitimate concerns. We also consider that this would help reassure potential employers and thereby reduce the risk of stigma and discrimination.**

While welcoming the Committee's comments, the Department recognises and respects the independence of external stakeholders and is ultimately unable to dictate the positions they chose to take. In trying to influence them, the Department has undertaken an extensive programme of engagement with claimant representative groups before finalising the detail and implementing the reassessment of incapacity benefits. This included the production of a comprehensive suite of products for external stakeholders to use with their clients, which include emphasis on the positive benefits of work and the back to work support available.

The Department is committed to working closely with external stakeholders on an ongoing basis and will look to engage them as much as possible in promoting the positive benefits of reassessment.

### **The Work Capability Assessment—claimants' experience and Atos Healthcare**

**[Paragraph 55] Atos acknowledged that its call-centres had experienced significant problems in the past. We welcome the assurance that this has been addressed to ensure that waiting times are significantly reduced and most calls are picked up first time. We expect call statistics to be maintained and published to demonstrate that progress is being made and sustained. However, claimants are still unable to contact the assessment centre they are due to attend directly, and we believe they should be able to do so, even if calls are routed through the call-centre.**

Atos Healthcare continues to monitor call answer rates to ensure that claimant waiting times are minimised and to track performance against targets. The Department will consider the most appropriate way of publishing this information.

Claimants are already provided with both the Contact Centre number and their local Assessment Centre number within the information sent with their appointment letter. This lets the claimant know that they can contact the local Assessment Centre if they need directions for their appointment and signposts them to the central Contact Centre for other queries such as cancelling and rebooking appointments. Where a claimant contacts the local Assessment Centre with a query that the receptionist cannot handle, they are directed to the appropriate contact point. Calls made directly to the local Assessment Centres are not statistically recorded in the same way as calls made to the Contact Centre.

**[Paragraph 58] Atos routinely overbooks WCA appointments by 20% on the basis of the non-attendance rate for new ESA claims, which was 30%. However, the non-attendance rate in the IB reassessment trials was much lower, at around 9%, although it is too soon to say whether this low rate seen in the trials will continue in the national roll-out. We recommend that Atos reviews its overbooking policy as a matter of urgency, to take account of this much higher attendance rate by IB claimants, to ensure that people are not turned away from assessment centres without being seen. Atos should also continue to monitor and adjust its overbooking policy as necessary.**



The aim is to ensure that the claimant does not have to wait more than 15 minutes from their agreed appointment time to starting their assessment, that all Atos Healthcare Professionals are fully deployed, and that no more than 1% of claimants are sent home unseen.

Atos Healthcare's booking policy therefore tries to balance the needs of the claimant and good customer service, with the Department's requirement to ensure that the use of the Healthcare Professional resource is optimised. The Department recognises that varying assessment times and claimants not attending their appointments add a level of complexity to the booking and scheduling process and it therefore also measures Atos Healthcare's performance against the number of claimants who arrive for their appointment, but are sent home without being seen by a Healthcare Professional.

Average attendance rates across the country vary considerably. For example, the Isle of Wight Assessment Centre has an average non-attendance rate of 2%, but at the Assessment Centre in Glasgow it is over 40%. Also, the "Did Not Attend" rates vary day by day and scheduling is further affected by assessments that take longer than predicted.

Atos Healthcare continuously reviews its booking policy based on historic attendance patterns, the mix of benefits in a session and the national average duration of each type of assessment, to continue to minimise the number of customers who are sent home unseen. Since the start of the reassessment exercise, the booking policy takes into account the "Did Not Attend" rate at Assessment Centres for all assessments, including those for reassessment as well as the predicted average number of claimants that each individual practitioner assesses in a day—further reducing the number of claimants who may be sent home without attending an assessment.

Atos Healthcare continuously reviews its booking policy including the latest attendance patterns for reassessment claimants. It will also look for opportunities to enhance the process to take into account new information, such as the time of day that the appointment is made, in seeking to ensure even greater accuracy in the predicted attendance rates.

**[Paragraph 63] Instances have occurred where vulnerable claimants have had their benefit stopped as a sanction for non-attendance at a WCA appointment when the non-attendance arose because of administrative errors on the part of Atos or JCP, or because the claimant was too ill to attend but was unable to get in touch with Atos to inform them of this. We agree with the Minister that this is unacceptable. We recommend that DWP and Atos Healthcare jointly review the processes for recording non-attendance and change them where necessary to ensure that claimants are not sanctioned for "failure to attend" when the failure is on the part of Atos Healthcare and/or Jobcentre Plus.**

As well as the action being taken forward under above recommendation, it is clearly desirable that claimants are made aware of their responsibilities and take them seriously. This will also help to improve the "Did Not Attend" rates highlighted above. There are large regional variations and it is clear that the Department needs to do more work at local level to improve this.

However, the Department is very clear that claimants should not be sanctioned in the circumstances outlined in this recommendation. Without evidence of the "instances"

highlighted to the Committee, it is difficult to know what went wrong in the cases concerned. Significant safeguards have been built into the reassessment process to avoid inappropriate sanctions. Claimants who are unable to attend their Work Capability Assessment can reschedule before the appointment date, or on the day of the appointment itself. These claimants are not recorded as not attending.

Claimants who do not attend their appointment are sent a form by Atos Healthcare asking for the reasons and directing them to return the form to Jobcentre Plus. If the form is not received, Jobcentre Plus decision makers will contact the claimant by telephone to establish the reasons for non-attendance. If there is “good cause” for non-attendance the claimant will be offered a further appointment. In cases where the claimant is thought to have a mental health condition, additional safeguards apply and a visit may be made to the claimant’s home.

Where it has not been possible to contact a reassessment claimant either by telephone or correspondence, benefit will not be terminated for 2-4 weeks after the decision is made, allowing a further period for the claimant to get in touch.

The Department will continue to keep this issue under review as part of an ongoing exercise by Jobcentre Plus and Atos Healthcare to improve the Work Capability Assessment process.

**[Paragraph 66] We believe that Jobcentre Plus should be more proactive in establishing the reasons for non-attendance at WCAs, including by following up with a phone call as soon as is practical after an appointment has been missed.**

The procedure the Committee recommends is already in place. Reasons for non-attendance are proactively sought, initially by correspondence, and supplemented by a telephone call as needed.

The Department will continue to keep this issue under review and further strengthen procedures if necessary.

**[Paragraph 71] It is unacceptable that disabled people should be called to attend an assessment at a centre which is inappropriately located, inaccessible to them or where reasonable adjustments cannot be made to accommodate special requirements arising from their health condition. We note DWP’s assurance that Atos Healthcare is “moving rapidly toward” a situation where this is no longer the case. We request that, in response to this Report, the Government sets out progress towards this aim. This should include options for the relocation of assessment centres where necessary, increasing disabled access, and improvements to the mechanisms for ensuring a claimant’s needs are known to Atos Healthcare in advance of the WCA.**

Where sites are inappropriate the Department and Atos Healthcare are actively considering where relocation or adaptations of the existing sites are possible. Where a claimant’s circumstances make attendance at the centre unreasonable, they will be offered a home visit. Since the start of the inquiry:

- temporary ground floor room has been found at the Atos Healthcare leased assessment centre in Thornaby and the Assessment Centre in Dumfries which is owned by the Department; and
- Atos Healthcare has undertaken a review of the 5 non-ground floor locations that it leases directly, from an Equality Act perspective and is currently discussing options with the Department.

**[Paragraph 76] Most of the submissions we received from individuals were from claimants who were dissatisfied with the WCA process and who did not believe that they had been accurately assessed. The Minister asked us to bear in mind that much of the evidence submitted to us related to assessments carried out prior to implementation of the two sets of review recommendations and experience from the Aberdeen and Burnley trials. We fully acknowledge this fact. However, we believe that there is no room for complacency and we have identified a number of areas where further improvement is required.**

**[Paragraph 92] We recognise that Atos Healthcare, as the sole provider of the Work Capability Assessment, takes the brunt of public criticism about the WCA. Some of this arises from the understandable anxiety which claimants feel about the process. We accept that considerable efforts have been made on the part of both Atos Healthcare and DWP to improve the quality of assessments. However, it is also clear that many claimants have not received the level of service from Atos which they can reasonably expect.**

**[Paragraph 93] We remain concerned about whether there are sufficient levers within the DWP contract with Atos to ensure that Atos consistently gets the assessment right first time. We therefore recommend that, when the contract is re-let in 2015 and in future contracts for other medical assessments, DWP reviews the performance indicators, with significant financial penalties built in if standards are not met.**

The Department closely monitors Atos quality through a number of different channels, including audit, customer satisfaction surveys, complaints and reworks. This gives a picture of the overall quality and performance of Atos Healthcare. Following Professor Harrington's first review and the reassessment pilots, Atos have made several improvements, including:

- publishing a customer charter setting out what the claimant can expect;
- rolling out new soft skills training; and
- implementing the Personalised Summary Statement—a clear plain English justification of their advice to decision makers at the end of each report.

However, the Department recognises that there is more to be done to learn lessons from the management of this contract and improve quality monitoring of future contracts. There must be robust indicators and levers to monitor performance and quality and prompt action should be taken where either fall below acceptable standards. The Department is actively reviewing this area ahead of re-letting the contract in 2015.

**[Paragraph 94] We agree with the Minister that it would not have been practical to introduce a second provider for the IB reassessment but we believe that the Government should consider contracting a second provider to deliver the ongoing Work Capability Assessments for new ESA claims when the reassessment of existing claimants has been completed, in order to drive up performance through competition. We recommend that the Government publishes proposals, before the end of 2012, for how such a system of competition could work in practice.**

As part of its development of a commercial strategy for 2015 the Department will consider all options for future delivery. The objective is to develop a commercial position that includes:

- creating a sustainable market for provision of medical assessments;
- introducing the potential for ongoing competition; and
- providing a contingency in the event of supplier underperformance or failure.

All commercial options will be considered, whether that is for more than one supplier providing full end to end medical services, division by service lines, or other variants.

### **The Work Capability Assessment—Reviews**

**[Paragraph 109] We congratulate Jobcentre Plus on the improvements made to the claimant journey during the reassessment trials in Aberdeen and Burnley. However, we are concerned that the resource-intensive nature of the additional claimant contact, which has been added to the process following the Harrington Review and the reassessment trials, may be difficult to scale up to a national level in the context of public sector spending cuts. We welcome the Minister’s commitment to ensuring that the improved system is implemented nationally and urge the Government to ensure that the necessary resources are made available to Jobcentre Plus, given that a more robust reassessment process is likely to save money in the long run.**

Funding to support the reassessment exercise has been made available nationally to Jobcentre Plus and partner organisations to ensure the customer journey, including the improvements the Committee acknowledges, is delivered as designed. The Department will ensure that this funding is provided throughout the three year reassessment programme.

### **Future of the WCA**

**[Paragraph 120] We welcome the improvements to the WCA which have resulted from the Harrington Review and the lessons learned from the reassessment trials. However, we believe that the Government needs to do more to clarify whether the purpose of the WCA is to be an eligibility test for benefits or whether it is a diagnostic test to assess a person’s ability to work. It is not yet clear whether it is quite achieving either of these effectively.**

The Work Capability Assessment is an assessment of capability for work that is used to determine benefit entitlement and appropriate levels of conditionality. It provides an

account of how a person's disability or health condition affects them. It looks at different areas related to physical and mental, cognitive and intellectual functions alongside additional criteria that do not directly measure function (such as terminal illness). The Assessment is not diagnostic in nature.

Following the first Independent Review of the Work Capability Assessment by Professor Harrington the Department has improved the way it communicates with claimants, with additional telephone calls to help claimants to understand the purpose of the assessment and to help them understand the result they receive.

The Department is committed to continuously improving the Work Capability Assessment to ensure that it is as fair and accurate as possible. Professor Harrington will shortly present his findings from his second review and the Government will respond in due course.

**[Paragraph 121] The Government decided to suspend the Work Focused Health-Related Assessment for two years without putting anything in its place. This separate component of the WCA focused on health-related or workplace interventions which might support claimants into work and would have been particularly useful for people moving off incapacity benefits. We welcome Professor Harrington's commitment to consider whether an additional assessment is needed to determine a claimant's suitability for work, and his engagement of employers in the process through the CBI.**

**[Paragraph 122] Any new employability test must effectively link into the employment support available under the Work Programme. We recommend that Professor Harrington also includes Work Programme providers and sub-contractors in the work he is undertaking to try to design an assessment that identifies a claimant's workplace capabilities and needs.**

Work Focused Health Related Assessments were suspended for two years after external evaluation found that they were not working as intended. This suspension offers the Department the opportunity to reconsider their purpose and delivery, particularly in the context of implementing the new Work Programme.

Separately, Professor Harrington has asked Citizens Advice to consider whether the Work Capability Assessment could and should incorporate more "real world" or work-focused elements as part of his second independent review.

The Department look forward to receiving further advice and any recommendations from Professor Harrington in his forthcoming second report.

## **Decision-Making**

**[Paragraph 129] We welcome Professor Harrington's central recommendation on the need to strengthen the role of Jobcentre Plus decision-makers in the reassessment process. There are signs that decision-making is already improving and this needs to be reinforced by ensuring that all the supporting information from the claimant is available to the decision-maker at the time the decision is made. To facilitate this, it is important to ensure that claimants are able to submit medical reports, but GP charges for this service put it beyond the reach of some claimants. We recommend that the**

**Government considers how to address the problem of charges acting as a barrier to the full range of medical information being available to decision-makers.**

The Department's decision makers have to consider all the information available before making a decision on benefit entitlement, including any evidence provided by the claimant from their GP or consultant. Since the first independent review of the Work Capability Assessment, the Department has made changes throughout the process, including reconsiderations, to make claimants aware that they can submit additional evidence and ensure they are afforded sufficient time to do so.

Additionally, information can be requested directly from a claimant's GP or consultant by the Department's medical services provider where it may help provide advice on benefit entitlement. This process is normally used where the initial evidence suggests a claimant is likely to meet the criteria for the Support Group and for some cases where they may meet the criteria for the Work Related Activity Group. In a number of cases this enables decisions to be made on the basis of paper evidence and ensures some very severely disabled individuals do not need to attend a face-to-face assessment.

Professor Harrington was clear in his first independent review that it was the responsibility of the claimant to collect additional evidence that may support their claim.

**[Paragraph 130] We congratulate the Department for the marked improvements in the decision-making process achieved during the trials in Burnley and Aberdeen. However, DWP's own research suggests that this new approach is very resource-intensive and may not be sustainable in the national roll-out. Nevertheless, it should remain a priority for the Department to ensure that it gets the decision-making right first time. We agree with the Government's assessment that investing resources in the decision-making process will provide savings in the medium and long-term through reducing the costs in appeals. An improved decision-making process will also help to increase claimants' trust in the process and enhance their sense that "procedural justice" has been delivered by allowing their case to be properly presented.**

The Department's commitment to improving decision making is evidenced by the measures already put in place.

These include:

- improved training for decision makers from March 2011;
- opportunity for decision makers to discuss complex cases with Atos Healthcare Practitioners;
- regular decision maker conference calls to share best practice and discuss key issues and concerns; and
- the new Quality Assurance Framework to monitor decisions and decision makers' support needs

Collaborative work is also being taken forward with both Atos Healthcare and HM Courts and Tribunal Service to highlight process improvements and ways to improve claimants' experience. Like any change, these measures need to be kept under review to ensure they

continue to have a positive impact and are cost effective. With this in mind the Department will continue to ensure this area is a priority and will make appropriate resources available.

**[Paragraph 137] We welcome Professor Harrington’s recommendation on making more effective use of the reconsideration process. The trials in Burnley and Aberdeen have shown that claimants find the additional contact with the Department, and the opportunity to present further evidence in support of their claim, helpful. This should help to address the problem identified by Professor Harrington of new information appearing at the tribunal stage that was not available earlier in the process. However, we also request that the Government put in place processes to track outcomes for cases which have been through the revision process in order to ascertain whether this is producing speedier and accurate final decisions, to avoid potential adverse consequences both for the claimant and for Work Programme providers.**

The Department is committed to making quality decisions within acceptable and appropriate timescales and has instigated a number of measures to this end. National and local management information is available to track decisions through the revision process to determine the overall speed of the decision. The Quality Assessment Framework has also been introduced that allows quality issues to be identified and rectified. The Department will continually monitor its performance against these measures and will take appropriate improvement steps if performance falls below acceptable levels.

## Appeals

**[Paragraph 146] The high number of appeals for new ESA claims is a cause of concern. The estimated cost to the public purse is £50 million per annum. The pressure on the Tribunals Service has also resulted in a significant delay for claimants before appeals are heard, causing stress and anxiety for claimants and their families.**

**[Paragraph 147] We welcome the Minister’s commitment to improving decision-making to ensure that fewer cases are overturned at tribunal. However, as the Minister rightly acknowledged, the volume of reassessment cases means that it is unlikely that the number of cases going to appeal will decrease significantly in the next few years. We welcome the Government’s acknowledgment of the importance of reducing the time taken to process appeals and we recommend that the available resources are kept under regular review. The tribunal system must be adequately equipped both to address the backlog and to provide an ongoing, efficient appeals service.**

The Department is grateful for the Committee’s acknowledgement of the joint work with HM Courts and Tribunals Service to reduce the time taken to process appeals and the progress made. The Department will continue to work closely with HM Courts and Tribunals Service and share our forecasts of future workload to inform resource requirements. The Department is also committed to assessing the impact of future reforms to ensure the potential impact on numbers of appeals is acknowledged and understood.

**[Paragraph 151] It is not acceptable that some claimants have to go through the entire assessment process again shortly after their appeal without any of the information from**

**the appeal being passed on to JCP and Atos Healthcare. This is a waste of resources and causes unnecessary stress and anxiety for claimants and their families.**

The Department agrees that improved feedback from Tribunals will positively impact evidence gathering and decision making. As part of the Department's overall aim to reduce appeal volumes, it will continue to work closely with Her Majesty's Courts and Tribunals Service to determine appropriate Tribunal feedback mechanisms that improve the quality of Work Capability Assessments and subsequent decisions.

**[Paragraph 152] We agree with Professor Harrington that it is important for the outcome of appeals to be fed back into the WCA system effectively, to avoid unnecessary future appeals. We also believe that when cases do go to appeal, it is important that the DWP case is properly presented. We recommend that DWP review whether JCP presenting officers should attend more tribunal cases in order to ensure both that this happens, and that information is fed back from the appeals process, thus promoting more effective learning of lessons by JCP.**

The Department agrees with the Committee's findings with regard to the importance of feeding back the outcome of appeals to its decision makers. The aim of the Department's current appeals reform programme is to reduce the number of unnecessary appeals through the introduction of the requirement to request reconsideration prior to appeal and through a more robust reconsideration process. The success of this depends, in part, on decision makers learning from appeal outcomes, and applying that knowledge to decisions and reconsiderations in a process of continuous improvement.

The Department accepts the Committee's recommendation to review whether Jobcentre Plus presenting officers should attend more appeal hearings and is actively looking at the use of Presenting Officers in providing feedback from Tribunals. When the work is complete the Department will inform the Committee of the outcome.

## **Reassessment outcomes**

**[Paragraph 168] The Government's argument for time-limiting contribution-based ESA to 12 months is a result of tough decisions about the budget deficit and also to put it on an equal footing with Jobseeker's Allowance. It is true that the huge majority of JSA claimants move into employment within a year. However, we know that the JSA demographic of mainly young, male claimants with previous work experience is different to the ESA demographic, who may find it much harder to move into employment even though they may have done everything required of them to find work.**

**[Paragraph 169] Nor does it appear that the Government has the data available to make an evidence-based decision on the appropriate length of time for which contributory ESA should be payable in order to support its objective of moving claimants into employment. We recommend that the Department conducts research on whether allowing former IB recipients to claim contributory ESA for more than 12 months would provide a more realistic timeframe for them to enter employment, taking account of the two years of employment support available through the Work Programme. The research should also include an assessment of the costs of such a**



**change. The Government should adjust its policy accordingly if the need for change is borne out by the research.**

The Department could commission research into the impact of time-limiting contributory Employment and Support Allowance, but this would take some time to complete and may not be particularly helpful in isolating the determining factor that either deterred people from, or assisted people with, moving into work.

The Department will continue to review policy as further evidence emerges and will work, in consultation with Work Programme providers and other stakeholders, to understand claimant behaviour.

**[Paragraph 172] We share the Minister’s concern about the high rate of claimants who withdraw from the assessment process before completion. It is important that the Government understands the reasons for this and gains a greater understanding of the destination of these people, to ensure that no one is left without appropriate support.**

The Department published qualitative research on 26 July 2011 that was designed to provide a detailed understanding, from a claimants perspective, of the views and subsequent experiences of people who apply for Employment and Support Allowance, but whose claim is unsuccessful. A link is attached below for ease of reference. (<http://statistics.dwp.gov.uk/asd/asd5/rports2011-2012/rrep762.pdf>)

Claims were unsuccessful because:

- they were withdrawn by the customer before it was assessed;
- their claim was closed by Jobcentre Plus; or,
- the claimant was found fit for work and not entitled to Employment and Support Allowance.

Together, these groups make up 75% of all initial Employment and Support Allowance claims.

It is important to note that this research only included claimants who had not reported moving into work after their Employment and Support Allowance claim ended (that is they had claimed another benefit), or were neither in work nor claiming benefits. In broad terms, the research explored why people withdrew their claims, or had them closed by Jobcentre Plus, as well as their activities and circumstances after the end of their claim. For those who claimed Jobseeker’s Allowance, the research examined their views of the support they were receiving from the Jobseeker’s Allowance regime.

## Tracking of claimants

**[Paragraph 176] We strongly believe that the success of the IB reassessment is dependent on its effectiveness in helping people with disabilities and long-term health conditions into employment. In order to understand whether the assessment process is achieving this, the Government needs to track the destination of all claimants. We recommend that tracking includes categorising claimants on the basis of the health**

condition they presented with, to establish how different groups fare in terms of getting into sustained employment. It should also include recording the number of claimants who are initially allocated to the wrong group and have to be moved at a later date.

[Paragraph 177] The trials in Aberdeen and Burnley would have provided an ideal opportunity to begin this form of tracking, from assessment to employment outcomes. We believe it is regrettable that steps were not taken to ensure tracking was in place for this first cohort. However, we believe that it is not too late to do this and recommend that the Government begins tracking outcomes for the reassessment trial cohort without further delay.

The Department agrees that helping people into work is often the best outcome for the individual and aims to publish the results of the reassessment process when meaningful and robust results are available. There is considerable work to be done to be able to track people through the reassessment process and eventually into a range of destinations. These may include moving into education and training programmes, employment or even self-employment.

### Employment support for ESA claimants

[Paragraph 184] The measure of success of both the Work Programme and the IB reassessment will be the proportion of people helped to move from benefits into employment. Recent research suggests that a very large proportion of customers in the Work Programme by 2014 will have previously claimed ESA or IB. This highlights the challenge for the Work Programme and the need to ensure that the WCA is effective in allocating claimants to the differentiated groups within the Programme. Until the introduction of Universal Credit, claimants will be assigned to the groups within the Work Programme based on the benefit they are claiming. This reinforces the importance of ensuring that claimants are allocated to the correct benefit in the IB reassessment process.

[Paragraph 185] It is too early to assess whether the current grouping and incentive structure under the Work Programme will be effective in leading to employment outcomes for former IB claimants. We reiterate the recommendation in our recent report on the Work Programme: that the Government keep the payment model under review and assess the outcome for participants within and between each client group. This review should be carried out by an independent panel and repeated on a regular basis.

The Department has selected an evaluation consortium, led by the Institute for Employment Studies, to carry out an independent evaluation of the Work Programme. This evaluation will gather evidence on three aspects of the programme:

- Commissioning—how the Department’s commissioning model underpinning the programme affects the provider market and how this influences service delivery and outcomes;
- Delivery—how providers are delivering the programme and what the provider and participant experience is; and

- Outcomes—what the destinations are for participants, how quickly they leave benefit and find work and how long they stay in work.

The evaluation will run from 2012 to 2015 and the evaluation and consultation will publish regular reports during this period, helping to ensure lessons are learned and improvements made quickly.

Alongside the external evaluation, the Department will conduct an impact assessment using administrative data to measure the impact of the programme on job entry, retention and benefit off-flows.

Due to the Work Programme being implemented nationally, there is no directly comparable programme running at the same time against which it can be evaluated. To address this, the Department will employ the evaluation consortium—selected for its strong record of accomplishment and technical expertise in impact assessments—to help develop the methodology and to critically review the analysis conducted by the Department in assessing the impact of the Work Programme.

The Department will also publish official statistics on the Work Programme starting in autumn 2012. The official statistics will set out attachment and performance information by claimant group.

**[Paragraph 189] We support the Government’s view that claimants in the WRAG should undertake work-related activity to prepare for a return to employment. However, it is important that decision-makers have discretion to apply exceptions to this requirement, where appropriate. One group of claimants which needs to be treated with sensitivity is those with a limited life expectancy. We recommend that decision-makers should be able to exercise discretion, on the basis of the claimant’s own medical questionnaire, to place these claimants in the Support Group, where appropriate.**

Individuals who are terminally ill, under the definition that they have less than six months to live, join the Support Group automatically without the need for a face-to-face assessment or the completion of a self assessment questionnaire (ESA50).

There is already provision within the Work Capability Assessment that allows decision makers the discretion to ensure that no one is found fit work where there is a substantial risk to them or others if they were not allowed into the Work Related Activity Group or even the Support Group. This recognises that in a small number of cases an individual may not meet the criteria for the Work Capability Assessment but it would be unsafe to expect them to work at that time.

There is also a key role for discretionary judgement in the range of work related activities to be agreed with the adviser for someone not given a prognosis of terminal illness, but who has limited or particular limitations to work related activity, because of his or her health condition or disability. It has always been the position that work related activity must be appropriate to the individual’s capacity and kept under review.

**[Paragraph 195] Evidence shows that the accurate assessment of disabled people’s employability and needs in the workplace is crucial in gaining their trust and engagement, and through this achieving employment outcomes. The Government**

**should consider how information from the WCA can help Work Programme providers to identify the employability needs of customers.**

To ensure that advisers can make accurate judgements about what activity may be suitable for a claimant, they must be provided with the most up to date information and advice within legal constraints, such as the Data Protection Act.

The diagnostic assessment undertaken by Jobcentre Plus for a claimant and the action plan that is developed with the individual is shared with the Work Programme Provider at the time when a referral takes place. Greater local Jobcentre Plus flexibility means that when referring a claimant to the Work Programme the Jobcentre Plus adviser will follow the locally agreed process to ensure a smooth referral of the claimant to the Work Programme Provider.

When the Work Capability Assessment was launched, individuals in the Work Related Activity Group also went through a Work Focused Health Related Assessment. This provided more general information about a claimant's capability to work and was shared with advisers and providers. However, the Work Focused Health Related Assessment was suspended for two years after external evaluation found that they were not working as intended. This suspension offers the Department the opportunity to reconsider its purpose and delivery, in the context of implementing the new Work Programme.

**[Paragraph 201] In almost all of the discussion of the Government's plans, the emphasis is on getting the claimant ready to go back to work. However, the Government will only achieve this laudable aim if employers are willing to employ someone who might have been on incapacity benefit and out of work for some time and who might still have substantial health issues. This will require a great deal of co-operation and change of attitude from many employers. Providers of employment support have a crucial role to play in building relationships with employers so that they can gain trust and an understanding of the challenges and benefits of employing former benefit claimants. However, it is also the Government's responsibility to engage in changing attitudes and spreading good practice amongst employers. The Government must pay as much attention to this side of the "back to work" equation as it does to getting the claimant "work ready".**

The Department agrees with the Committee's assessment that Government has a role in helping employers recruit and retain people with health conditions and has an active programme of work.

The Department's Work Programme providers have a crucial role to play in working with employers and changing their attitudes to employing former benefit claimants. These providers are specialist organisations with an in-depth understanding of the jobs and opportunities in their locality. They are paid for getting people into work and helping them to stay there. The Department has not prescribed how providers must do this, but has given them the freedom to respond flexibly to meet local needs. It is in a provider's interest to build effective relationships with potential local partners, including employers, as a basis for helping more participants into sustained work.

Jobcentre Plus's National Employer Services team works with the largest employers across all sectors to influence recruitment practice, whilst advisers in Jobcentre Plus's small

business helpline promote the benefits of making jobs more flexible. Local Partnership Managers and Disability Employment Advisers work with employers and other partners to help level the playing field for people furthest away from the labour market.

The Department is a founding partner of the cross-government Health, Work and Well-being initiative, which promotes evidence and good practice about the positive links between health and work to employers, healthcare professionals and individuals. Employers and employer organisations are represented on the Health, Work and Well-being National Stakeholder Council which advises Government and whose members champion positive health and work messages.