



House of Commons
Work and Pensions Committee

**PIP and ESA
assessments:
Government Response
to the Committee's
Seventh Report of
2017–19**

**Eighth Special Report of Session
2017–19**

*Ordered by the House of Commons
to be printed 18 April 2018*

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 Adam Mellows-Facer (Clerk), Katy Stout (Second Clerk), Libby McEnhill (Committee Specialist), Rod McInnes (Committee Specialist), Tom Tyson (Committee Specialist), Jessica Bridges-Palmer (Senior Media and Policy Officer), Esther Goosey (Senior Committee Assistant), Michelle Garratty (Committee Assistant) and Ellen Watson (Assistant Policy Analyst).

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Eighth Special Report

The Work and Pensions Committee published its Seventh Report of Session 2017–19, [PIP and ESA assessments](#) (HC 829) on 14 February 2018. The Government's response was received on 18 April 2018 and is appended to this report.

In the Government response, the Committee's recommendations appear in text boxes and the Government's responses appear in plain text.

Appendix: Government Response

Ministerial Foreword

I want to extend my personal thanks to the House of Commons Work and Pensions Select Committee for taking the time to produce such a detailed and thorough report on the Personal Independence Payment (PIP) and Employment and Support Allowance (ESA) assessment processes.

The Government is committed to supporting everyone to achieve their full potential. We need to ensure that those members of our society with the greatest needs are supported the most. I am pleased that the Committee recognises that for the majority of claimants, the assessment process works well. But for the minority for who it does not, my Department and I care deeply about improving the system. This response sets out the improvements this Government is already implementing which will go some way to alleviate the issues the Committee raised. For other recommendations, we will continue to explore what we can do to improve the process and ensure we are providing world-leading support for disabled people and those with health conditions.

I would like to express my personal thanks to the almost 3,500 individuals with personal experience of the process who have provided evidence to the Committee. Their lived experience is invaluable and my Department is committed to continue to work closely with disabled people and their representatives in taking forward the recommendations.

Sarah Newton

Minister for Disabled People

Introduction

This chapter sets out:

- The wider context;
- The improvements to Personal Independence Payment (PIP) that the Department has introduced since 2015;
- The improvements to Employment and Support Allowance (ESA) that the Department has introduced since 2015.

The wider context

This Government is committed to supporting everyone to achieve their full potential and to live independent lives. Integral to this vision is ensuring those members of our society with the greatest needs are supported the most and we are committed to providing a strong safety net for those who need it. That is why in 2018/19 we will spend over £50 billion, around 2.5% of GDP, on benefits to support disabled people and those with health conditions.

Improvements made to Personal Independence Payment (PIP) since 2015

The Department has made significant improvements to the PIP assessment process over the last few years to improve the claimant experience. We accepted that delays in the claim processing time were unacceptable and took effective remedial action to address this. For example, the end to end PIP process is currently taking an average of 11 weeks, compared to 42 weeks in July 2014.

We accepted the majority of the recommendations in the First¹ and Second² Independent Reviews; improving communication channels, updating guidance, refreshing training and expanding accessibility for all claimants. For example we have restructured our decision letters to make them easier to understand, introduced Mental Health Champions, revised the PIP Assessment Guide to highlight the importance of further evidence and developed a digital channel to enable GPs and health professionals to submit a form to support claims from terminally ill people. We will also shortly launch a series of videos outlining the claim process in a simple and clear way.

Going forward, one of our key priorities will be to ensure that those with severe and/or progressive conditions who are awarded the highest level of support get an award duration that is appropriate to the condition and needs arising. We are aware through discussion with stakeholders such as the Motor Neurone Disease Association that for some people this is not currently happening. From our investigations into this issue we believe that a solution through guidance changes to Case Managers, who decide claims to PIP, could

1 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/387981/pip-assessment-first-independent-review.pdf

2 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/604097/pip-assessment-second-independent-review.pdf

offer the simplest and most effective solution. Once we have written the new guidance we will take that through a process of testing to ensure it works effectively and is delivering as intended.

Improvements made to Employment and Support Allowance (ESA) since 2015

The Department has always looked to improve the Work Capability Assessment (WCA) process. Whilst working with our current assessment provider, the Centre for Health and Disability Assessments (CHDA), the ESA claimant journey time has seen more than a 50% decrease; the latest figures (published March 2018) show the median time between referral to the provider and the assessment report being returned to the Department was 14 weeks in September 2017 (most recent data available) compared to 31 weeks in October 2014.

The current WCA provider has improved its customer service by setting up a website outlining what can be expected at an assessment. They also set up a telephone support service to aid claimants in completing their ESA50 health questionnaire, alongside implementing a SMS reminder service prior to appointments that has led to a reduction in non-attendance at assessments.

We have worked with stakeholders to introduce new guidance from September 2017 for Health Care Professionals (HCPs) so that those people with the most severe health conditions and disabilities no longer need to be reassessed for ESA. For those with mental health conditions, as part of the Government's continuous improvement of ESA, the WCA now has a greater focus on the impact of these conditions on claimants' capability to work. Additionally we have introduced improvements to ensure the process is fairer and more accurate for those with mental health conditions, provided examples of situations where further evidence may assist the WCA process and HCPs are given specific training in assessing individuals with these conditions.

We are committed to continuing to improve the customer experience for both the WCA and PIP assessment. For example, in order to simplify the process for claimants, we are currently exploring how data can be usefully shared between the two assessments, and opportunities for better data sharing between DWP and the NHS.

Chapter 1: The importance of trust

The Department fully agrees with the Work and Pensions Select Committee (henceforth referred to as the Committee) that trust in the disability benefits system is fundamental in order for PIP and ESA to function effectively.

This chapter sets out:

- The Committee's conclusion about the importance of trust;
- The action that the Department will take to address that conclusion;
- The wider activity the Department is taking to improve claimant trust.

Select Committee Conclusion

For most claimants, PIP and ESA assessments go smoothly. But in a sizeable minority of cases, things go very wrong indeed. For at least 290,000 claimants of PIP and ESA—6% of all those assessed—the right decision on entitlement was not made first time. Those cases, set alongside other problems throughout the application and assessment process, fuel a lack of trust amongst claimants of both benefits. The consequences—human and financial—can be enormous. Our recommendations aim to correct the worst of these problems and rebuild claimant trust. Properly implemented, they will bring real improvements for claimants going through the system now and in the near future. The question of whether a more fundamental overhaul of welfare support for disabled people is necessary remains open. We do not intend this to be the end of our work on PIP and ESA.

The Government supports significant volumes of individuals through the disability benefits system; more than 6 million ESA and PIP decisions have been made since 2013 and we deliver approximately 1.79 million ESA and PIP assessments every year. As the Committee acknowledged, the majority of claimants are satisfied with the service they receive; nonetheless we are dedicated to improving our provision because we want to get it right first time for everyone.

Although the appeals overturn rate receives significant media attention, it is important to recognise that 9% of initial PIP decisions between April 2013 and December 2017 have been appealed against and 4% have been overturned at an appeal hearing while 8% of ESA decisions between April 2014 and September 2017 have been appealed and 4% have been overturned at an appeal hearing.

There are many strands of work in progress to drive continuous improvement in the appeals process; this includes the recruitment of approximately 150 Presenting Officers split between PIP and ESA, running a series of tests to explore the different ways we can improve evidence gathering and the quality of our decision making and establishing a new quality strategy which focuses on what quality means to claimants.

We recognise that there is more to do – our aim is to ensure providers deliver high quality functional assessments and all claimants receive a good service. As we discuss below in relation to Recommendation 6, we have started work to explore the potential options to test the recording of PIP assessments. We are committed to continuous improvement and will continue to work closely with stakeholders to ensure their concerns are heard.

Chapter 2: Before the assessment

The review made four recommendations about improving the claimant experience before the assessment, which the Department has considered. This chapter sets out:

- The recommendations;
- The action that the Department will take to address the recommendations;
- The wider activity the Department is taking to improve the claimant experience before the assessment.

Recommendations

Recommendation 1

We recommend the Department co-design, with expert stakeholders, guidance in a range of accessible formats on filling in forms and preparing for assessment. This should include accessible information on the descriptors for each benefit, to be sent out or signposted alongside application forms. We also recommend the Department makes clear to claimants being reassessed that they should not assume information from their previous assessment will be re-used, and should be prepared to re-submit any supporting evidence already provided.

We agree that it is important claimants are able to access a range of products in accessible formats, which provide a clear explanation of descriptors when asked to complete forms associated with their claim. We also agree that we can make it easier for claimants to understand what evidence is needed when they are being reassessed.

We are already making improvements to communications about PIP and ESA. This includes testing products in accessible formats and exploring opportunities to provide better support to claimants with complex needs. We have worked with representative organisations via existing Department for Work and Pensions stakeholder forums to 'test' whether we are meeting the needs of our claimants.

In 2017, we launched an Easy Read version of the ESA40 (ESA welcome leaflet), to better support claimants with complex needs. We have improved the ESA application process, and now identify claimants with alternative format needs at point of claim, ensuring they get products in their chosen format throughout their ESA journey.

We will produce an Easy Read version of the notes which accompany the PIP 2 'How your disability affects you' form.

We will work with stakeholders to understand the claimant need in making information regarding PIP and ESA descriptors more readily available to all claimants in either Easy Read format or video. The current WCA provider offers a questionnaire support line that departmental staff can refer people to.

We will strengthen messages for those going through the WCA re-assessment process and/or the PIP award review process, providing clearer information that the claimant should supply up-to-date evidence.

In addition, we will shortly be launching a series of videos which outline the PIP claim process in a simple and clear way, and which will better prepare claimants for an assessment. The PIP assessment providers also supply information to claimants ahead of their assessment appointment via their websites and direct mail sent to the claimant.

Universal Credit (UC) are looking at how we can redesign the current paper based WCA referral form (UC50) and incorporate it into the online service which people use to manage their UC claim.

In UC, we are undertaking analysis and significant research with claimants, HCPs, charities and other parties to test the new approach. The aim is to deliver a digital service which is more accessible by providing a more intuitive set of questions with appropriate guidance and examples.

These improvements should help claimants to respond as quickly and accurately as possible which in turn will enable the Department to provide a more effective WCA service with increased claimant satisfaction and confidence. Additionally, greater visibility about the claimant's health conditions will enable work coaches and case managers to provide more appropriate advice and support.

Recommendation 2

We recommend that the Department commission and publish independent research on the impact of application and assessment for PIP and ESA on claimant health. This should focus initially on improvements to the application forms, identifying how they can be made more claimant-friendly and less distressing for claimants to fill in. The Department should set out a timescale for carrying out this work in response to our Report.

In the short term we propose addressing improvements to application forms by commissioning external contractors to conduct independent research. We envisage that this will consist of three specific stages:

- Stage 1 will identify whether, how and what aspects of the ESA/PIP claim forms could have the potential to cause distress;
- Stage 2 will involve revising and amending the forms in light of these findings, and;
- Stage 3 will test the revised forms with applicants to determine if improvements made result in the forms being more claimant-friendly and less likely to cause distress.

This work will be independently evaluated. The first stage of this work will commence in summer 2018 with stages 2 and 3 following sequentially. A standalone report covering all three stages of the research will be published in 2019. We consider the above approach directly addresses the recommendation and demonstrates transparency.

Please refer to the note in response to recommendation 1 regarding UC activity.

Recommendation 3

We recommend that the Department enables claimants with hearing impairments to apply for PIP and ESA via e-mail, ensuring this service is appropriately resourced to prevent delays to claims. In the longer term, it should look to offer this option to all claimants. It should also ensure key forms and communications—especially the PIP2, appointment and decision letters—are available in Easy Read format, allowing claimants to register this as a communication preference at the start of their claim.

The Department agrees with the Select Committee that it is important claimants with hearing impairments do not face obstacles in applying and communicating with the Department and its providers.

In order to protect claimants from security risks and potential loss of personal data, we only make e-mail available as a channel of application to disabled PIP claimants that are unable to use the telephone independently, or read our letters and for whom other alternative formats are unsuitable. Before a PIP claimant applies through e-mail, they are informed of the potential security risks.

Unless and until we have a strategic e-mail solution in place, which we are confident will protect claimant identity and data security, we are unable to expand e-mail as a standard application channel. In addition we would need to understand the impacts for the service design of PIP and ESA on how departmental operations would handle an increased flow of e-mails when our day to day operational processes are designed around telephony and post.

We regularly review the effectiveness of our digital services and we have carried out separate, small-scale pilots for online PIP and ESA applications. We obtained some good feedback and external organisations have provided valuable insights into how our service is best delivered. We remain committed to testing further digital activity.

PIP has introduced an e-mail address for disabled claimants who require it as a reasonable adjustment to make initial and on-going contact with us. We have shared this e-mail address with relevant organisations who have published it on their websites. This e-mail address is also provided to claimants who contact us by telephone (via a third party), Video Relay Service, Next Generation Text and for those who require e-mail as a reasonable adjustment. ESA already has an e-mail address for disabled claimants who require it as a reasonable adjustment to make on-going contact with us. By Autumn 2018, ESA claimants with reasonable adjustment needs will also be able to initiate a claim via email. We will continue to work with stakeholders to improve awareness of these communication channels.

The Department has implemented a number of modern accessibility solutions such as Video Relay Service and promotes Next Generation Text to support those who are hard of hearing to claim PIP and ESA. We will look at our products and online content to identify opportunities for Easy Read and British Sign Language videos. We will agree, following consultation with stakeholders by Autumn 2018, which PIP & ESA documents should be translated into an Easy Read format.

Please refer to the note in response to recommendation 1 regarding UC activity.

Recommendation 4

We recommend the Department issue new guidance to PIP and ESA assessors on the procedure for determining whether claimants receive a home visit. This should specify that GP letters are not required where other forms of evidence and substantiation are available. This should include evidence from the claimant, as well as from carers, support workers and other health professionals. To ensure guidance is being followed, we recommend contractors be required to gather evidence and the Department audit requests made and granted for home visits, as well as reasons for refusal.

The Department is clear that home visits should be available to those who require it as part of a reasonable adjustment.

The PIP Assessment Guide states GP evidence is not required for claimants to request a home assessment. Both PIP providers have confirmed this is the guidance they are following and they will also consider other forms of evidence to support requests.

To streamline the process for claimants and alleviate the requests to GPs, work is ongoing with the WCA provider to fully review their process for dealing with requests for a home visit. This review will consider all aspects of the process, including how claimants requiring a home visit can be identified more effectively at the beginning of the process, the ease with which a claimant can request a visit and how we can make more efficient use of existing evidence to support the decision on whether a home visit is required.

We do not believe that an audit of requests for home visits and the outcome would add value to the claimants concerned or the Department as it would be retrospective and not address any immediate claimant concerns. Instead, the Department is working closely with the PIP assessment providers around requests for home visits to ensure their processes align with guidance and claimant needs are being met. As part of our review of the ESA process, we will consider how the WCA provider assures itself of the quality of decisions being taken by its staff around requests for home visits.

Chapter 3: The assessment

The review made three recommendations about improving the claimant experience during the assessment, which the Department has considered. This chapter sets out:

- The recommendations;
- The action that the Department will take to address the recommendations;
- The wider activity the Department is taking to improve the claimant experience during the assessment.

Recommendations

Recommendation 5

We recommend that the Department sets out in response to this Report its approach to improving understanding amongst health and social care professionals and claimants of what constitutes good evidence for PIP and ESA claims. This should include setting out how it will measure, monitor and report on the supply of evidence into PIP and ESA assessments.

It is important that it is clear to claimants what types of evidence support the ESA and PIP assessment processes.

For both ESA and PIP, the claimant, carer or family member is often the only source of detailed functional information in relation to the legislative criteria and the correct benefit decision is contingent on its accuracy.

Non-functional clinical information and objective functional information not directly relevant to the descriptors can however, be very useful to inform the advice on level of functional impairment. The Department has worked hard to ensure that HCPs, claimants and carers understand what constitutes good evidence for ESA and PIP claims.

We have:

- Developed ESA and PIP questionnaires in conjunction with charities and accompanying guidance that explicitly lists information that is of functional relevance.
- Published guidance for external HCPs on completion of medical reports for the Department asking them to provide objective functional information if known.
- Engaged regularly with GP representative organisations to explore how to improve the provision of clinical information whilst minimising the bureaucratic burden on GPs.
- Worked with the WCA provider to develop their GP engagement programme which emphasises the importance of timely clinical information.

In addition, the Department and NHS Digital are currently looking at data sharing opportunities and are working together on a trial. The aim is to test whether we can retrieve current conditions, medication and dosage directly from GP systems, to support patient's claims to ESA. This information is currently provided clerically on a form known as the ESA113 which is the standard medical evidence request form for ESA and therefore there is no change to the current consent procedure.

Assessing whether we can use this data to determine the type of assessment applicable (paper based or face-to-face) will help us define the minimum amount of information required which could lead to a reduction in the requests to GPs for further evidence and speed up the process for the patient.

We accept that we can do more to raise awareness. We will therefore:

- Re-issue the medical reports guidance to GPs and continue to explore initiatives to improve the provision of relevant evidence with GP representative organisations.
- Work with PIP providers to enhance GP engagement, all providers to foster a greater level of engagement and source information from a broader range of health and social care professionals.
- Launch a series of online videos which explain the PIP application process and the types of relevant information that are useful in support of a claim.
- Pilot enhancements to the PIP telephony script to remind claimants to submit medical evidence and the types of evidence that are useful.

We will consider enhancements to the claimant journey for ESA and UC by improving the evidence gathering process.

The Second PIP Independent Review produced recommendations regarding the future expansion of audit. As part of this activity we will look to incorporate effective monitoring of the quality of the evidence being submitted for PIP and ESA.

Recommendation 6

The case for improving trust through implementing default audio recording of assessments has been strongly made. We recommend the Department implement this measure for both benefits without delay. In the longer term, the Department should look to provide video recording for all assessments.

We recognise that there is a lack of trust in the assessment process and that for some people, recording the assessment is something they would like.

For WCA, claimants can ask to have their face-to-face assessment audio recorded and all requests will be accommodated where possible. The availability of audio recording is made apparent to claimants at a number of stages throughout the process, including in the health questionnaire and in a leaflet sent to claimants along with their appointment letter. Despite the very low number of requests for audio recordings, the Department will continue to make this service available to those claimants who request it in advance of the assessment. Claimants can request that their assessment is recorded, either by using the service offered by the Department/Centre for Health and Disability Assessments (CHDA) or by using their own recording equipment so long as they comply with certain conditions.

For PIP assessments, claimants can currently audio record their face to face assessment if they provide appropriate equipment. The equipment must generate two copies at the end of the assessment; one for the claimant, the other for the Assessment provider. Media types that are acceptable are standard CD and audio tapes only.

While this arrangement means that claimants can in theory record their assessments, in practice the complexity and potential costs to claimants means that very few take up this option. We agree that this does not go far enough to help build trust in the system and therefore we intend to make recording the PIP assessment a standard part of the process. We are currently exploring potential options to test the recording of assessments, including video recording.

Recommendation 7

We recommend that the Department develop detailed guidance on the role of companions, including case studies demonstrating when and how to use their evidence. Contractors should also incorporate specific training on companions into their standard assessor training. After implementing default recording of assessments, a sample of assessments where claimants are accompanied should be audited on a regular basis to ensure guidance is being followed.

The Department recognises the vital role of companions in the assessment process. We actively encourage claimants to bring a family member, friend, carer or other advocate to support claimants in the assessment. This is particularly helpful where a claimant has a mental, cognitive or intellectual impairment and may not be able to give an accurate account of their daily living and mobility needs.

The Department has clearly set out the requirement in the PIP Assessment Guide (PIPAG)³ and WCA Handbook⁴ that providers must ensure that companions are able to play an active role in helping claimants answer questions, their contributions are noted and equal consideration is given to all the available evidence.

Our assessment providers have developed their own training and instructions to support HCPs with establishing the companion's role. The 'companion' section of the most recent PIPAG has recently been updated to be more inclusive. Providers have issued bulletins and training to HCPs to ensure they are aware of the need to include companions in the assessment process.

The Department and its assessment providers do not currently capture information about companions attending assessments. Our focus is on gathering quality evidence from all available sources and applying equal weighting to enable Case Managers to make quality decisions.

The current PIP audit process is based on a random sample. Therefore although the level is unknown, a proportion of audited assessments will already capture cases where a companion has attended. In his Second Independent Review, Paul Gray made a recommendation that the Department reviews its audit process. As part of the wider review, we will look at how cases where a companion has attended the assessment can be captured in the audit sample.

Chapter 4: The report and initial decision

The review made two recommendations about improving the assessment report and initial decision process, which the Department has considered. This chapter sets out:

- The recommendations;
- The action that the Department will take to address the recommendations;
- The wider activity the Department is taking to improve assessment report and initial decision process.

Recommendations

Recommendation 8

We recommend the Department proceed without delay in sending a copy of the assessor's report by default to all claimants, alongside their initial decision. We also recommend it issues instructions to contractors on ensuring claimants are able to see what is being written about them during assessment, and allowing their input if they feel this is incorrect or misleading. This should include, for example, emphasising to contractors that rooms should be configured by default to allow the claimant to sit next to the assessor or be able to see their computer screen.

The Department is committed to delivering assessments in a way which helps to build trust and transparency in the system. That is why claimants are provided with the number

3 <https://www.gov.uk/government/publications/personal-independence-payment-assessment-guide-for-assessment-providers>

4 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/634850/wca-handbook.pdf

of points they have scored against each activity in the WCA and PIP assessment, and a summary of the reasons that informed our decision on their entitlement to benefit in their decision letter. We believe that sending this information is the best way to explain to claimants how a decision has been reached.

In addition, ESA and PIP claimants can request a more detailed explanation of our decision and a full copy of their WCA or PIP assessment report by contacting the relevant helpline. Assessment reports are provided as standard if a claimant decides to lodge an appeal with HM Courts & Tribunal Service.

In ESA, we already inform claimants that they can request a copy of their assessment report: we do this before their assessment and again in our decision letter. We intend to improve PIP communications so that claimants know they can request a copy of their assessment report.

Once we have improved the PIP communications to clearly highlight to everyone that they can request their report we believe those claimants who want to see their report will do so. We believe this is the best way to achieve transparency without providing claimants with material that they do not want.

HCPs are required to ensure that all claimants receive high quality, objective, fair and accurate assessments. The accurate reporting of the assessment is essential to this.

We continue to work with our providers to ensure assessments are carried out in the principles of an open consultation style and HCPs are given clear guidelines to follow when conducting a face to face assessment. They are instructed where possible to sit face to face with the claimant, maintain good eye contact and to promote a two way conversation.

We are not prescriptive in how the consultation room is configured as there should be flexibility to accommodate a claimant's individual personal preference. We also do not mandate that the claimant needs to be able to see the computer screen as this could detract from the dialogue.

In order to provide an assessment report that is justified and accurate, a HCP must undertake extensive questioning in order to establish how the claimant is impacted by their condition. The HCP summarises back to the claimant what has been said to ensure the key pieces of information have been correctly heard and recorded. Assessment reports cannot be verbatim records of what the claimant says during a consultation as this would not support the requirement for a clear, unambiguous report for use by the departmental decision makers and would significantly increase the time taken to carry out a face to face assessment.

Recommendation 9

We recommend that the Department introduce a checklist system, requiring HCPs to confirm whether and how they have used each piece of supporting evidence supplied in compiling their report. Decisions not to use particular pieces of evidence should also be noted and justified. This information should be supplied to Decision Makers so they can clearly see whether and how supporting evidence has been used, making it easier to query reports with contractors. It should also be supplied to the claimant along with a copy of their report.

The Department agrees that it is important claimants understand how the evidence provided has been used in their assessment.

All documentation classified as supporting evidence is recorded and attached to the electronic records of a claim and is thereby made available to the HCP.

The HCP is required to state the evidence they have used to complete the assessment report. They must acknowledge that they have considered all the available evidence when formulating their advice, provide a clear explanation of the reasons for the advice contained in the report and include an explanation of their choice of evidence highlighting any contradictions. They are instructed that evidence must be interpreted and clearly evaluated using medical reasoning and considering the circumstances of the case and the expected impact on the claimant's daily living and/or mobility.

Excerpts from guidance issued to the HCPs in the PIPAG and WCA Handbook can be found in Annex B.

In the instances where the information provided is not considered relevant by the HCP for informing the development of their advice we do not expect the HCP to justify why it has been disregarded. We are considering initiatives to inform the claimant of what constitutes good evidence to improve the quality of evidence gathered and reduce the volume of extraneous information we receive.

As the HCP has to fully justify which evidence has been used we do not think there would be any added value to introducing a checklist for each item of information received.

Chapter 5: Disputed decisions

The review made two recommendations regarding disputed decisions, which the Department has considered. This chapter sets out:

- The recommendations;
- The action that the Department will take to address the recommendations;
- The wider activity the Department is taking in regards to disputed decisions.

Recommendations

Recommendation 10

We recommend the Department review a representative sample of MRs conducted between 2013 and December 2017, when it dropped its aspiration to uphold 80% of MRs, to establish if adverse incorrect decisions were made and, if so, whether there were common factors associated with those decisions. It should set out its findings and any proposed next steps in response to this report.

The Department has never had an aspiration or target to uphold 80% of initial decisions at mandatory reconsideration.

The Department used an internal measurement to indicate areas where the quality of initial decisions may not have been meeting our expected high standards, therefore enabling us to investigate and address as required. This was an aspiration for how many correct decisions we should be making first time, rather than a target for how many decisions should be upheld at mandatory reconsideration. No adverse or incorrect decisions would

have been made as a result of this, as it was purely an internal performance indicator used to monitor the process of initial decisions. Given the undue prominence of this measure, the Department no longer uses it.

There was no link between the measure and the outcome of any decisions made at mandatory reconsideration. The Department does therefore not intend to review a sample of mandatory reconsiderations in connection with this measure's removal.

Mandatory reconsideration is a critical element of our process and it is essential that claimants have confidence in it. We have therefore revised our approach to assuring quality by focussing more on the individual claimant journey, looking at what we could have done better and identifying any training needs and process improvements that can be made throughout the journey, including at the initial decision and the mandatory reconsideration stages. For instance, the disputes quality strategy was refreshed in August 2017, allowing us to focus on the most important areas of the claimant's journey through the disputes process, thereby minimising the risk of poor quality in decision making.

Recommendation 11

The Department must learn from overturned decisions at appeal in a much more systematic and consistent fashion. We recommend it uses recording of assessments to start auditing and quality assuring the whole assessment process. When a decision is overturned, the Department should also ensure that the HCP who carried out the initial assessment is identified and that an individual review of how the assessment was carried out is conducted. Given what we know about reasons for overturn, this should focus on improving questioning techniques and ensuring claimants' statements are given due weight. We also recommend the Department lead regular feedback meetings with contractors and organisations that support claimants. These should keep the Department informed of emerging concerns and ensure that swift action is taken to rectify them.

The Department is committed to continually improve the quality of decisions and has introduced activity to learn from decisions that are overturned at appeal.

The Second Independent Review of the PIP assessment already produced recommendations regarding the future expansion of the audit function to provide a more holistic approach to quality, that is, looking to quality assess the end to end process instead of just the report.

Approximately 150 Presenting Officers (POs) represent the Department at Tribunal hearings for ESA and PIP claims. Since October 2017 they have been collating and providing feedback to help identify improvements the Department can make to the claimant journey.

The Department holds regular meetings with the assessment providers on performance and quality which are used to identify trends, address concerns and agree any remedial action. There is already an established feedback process to individual HCPs to support the report auditing process. We are extending these discussions to utilise examples gleaned via the PO feedback from the tribunals, by collating assessment-related feedback and ensuring this is delivered to the assessment providers. Until such a systematic process is in place we are ensuring that where applicable POs are able to link into existing engagement structures to provide feedback on individual cases.

The Department has introduced regular feedback meetings to ensure we receive direct feedback from groups involved with supporting claimants. The ESA provider holds monthly meetings with their Customer Representative Group (over 30 organisations represented) and PIP contractors hold regional meetings with claimant representative groups in addition to the regular meetings with national organisations. Emerging concerns are identified at these meetings and fed back to the Department for investigation and action as appropriate.

Chapter 6: Incentives and contracting

This chapter sets out:

- The conclusions about incentives and contracting;
- The action that the Department will take to address these conclusions;
- The wider activity the Department is taking to improve the contracting process.

Select Committee Conclusions

The Department's quality standards for PIP and ESA set a low bar for what are considered acceptable reports. The definition of "acceptable" leaves ample room for reports to be riddled with obvious errors and omissions. Despite this, all three contractors have failed to meet key performance targets in any given period. It is difficult not to conclude that this regime contributes to a lack of confidence amongst claimants.

The Department's use of contractual levers to improve performance has not led to consistent improvements in assessment quality, especially in relation to PIP. Large sums of money have been paid to contractors despite quality targets having been universally missed.

The Department expects the highest professional standards from our assessment providers and we set challenging performance targets which we monitor closely through robust performance management processes. The performance management framework is underpinned by a series of service levels that assessment providers are managed against. Where they fail to achieve the service levels service credits are applied.

In all contracts there are regular performance meetings where performance is discussed, regionally and nationally. Where required, performance improvement plans are developed and these are robustly monitored by the Department.

The quality performance target for WCA is that 95% or more of assessment reports are considered acceptable or acceptable without significant learning points. Where the provider fails to meet these targets Service Credits are applied. The quality performance target for PIP is that at least 97% of assessment reports are considered acceptable. A 'No Pay' regime is in place in the event that the provider is unable to meet this contractual requirement to ensure that no payment is made for the percentage of reports that exceed this target

The Department recognises the work providers have done, and continue to do, to improve all elements of the service for the claimant. We are continually working with the assessment providers to further improve the quality of assessments, including clinical coaching, feedback and support available to each assessor. DWP clinicians have been observing PIP assessments to identify areas where improvements can be made and to provide further assurance over the face to face assessment process for claimants. The Department is seeking to introduce recording equipment to provide further transparency around the process. There are also regular meetings between the Clinical Leads of each PIP provider and the Department's clinicians and policy teams to discuss areas of joint concerns, clarify guidance and enhance clinical processes.

The Department and assessment providers are in the process of trialling some of the recommendations from the Second Independent Review of PIP to see if they lead to additional performance improvements. This includes providers adopting a "function first" approach to assessments (ensuring functional capability is discussed prior to the claimant medical history) and giving HCPs additional preparation time ahead of assessments as well as other recommendations being considered for future contracts.

The WCA provider performance has improved year on year over the lifetime of the contract. They have consistently met and exceeded the A grade quality target and have improved performance across all of the targets set. In February 2018 the WCA provider met the A grade quality target and the A + B (95%) quality target alongside exceeding the WCA volume target for the year ending February 2018. The waiting times for WCA claimants more than have halved, down from 32 weeks in August 2014 to 14 weeks in September 2017. The number of outstanding referrals has decreased by 24% between September 2014 and June 2017. Between August 2014 and September 2017, 2.6 million WCA assessments have been delivered.

The quality of PIP assessment reports has improved year on year since 2015 and reflects the efforts of the Department and the providers to address quality issues and provide a better claimant experience. There have been significant increases in the number of assessments delivered annually during the PIP contracts with significant improvements in clearance times. Further evidence on the quality of assessment providers, shared by the Department with the Committee, can be found in Annex C.

The Department's assessment providers employ medically trained professionals who are trained to ensure that they are supportive and get the best out of the claimants during the assessment process, ensuring a fair assessment of their requirements is achieved.

The PIP and ESA contracts are drawing to a close. In both cases, the decision to contract out assessments in the first instance was driven by a perceived need to introduce efficient, consistent and objective tests for benefit eligibility. It is hard to see how these objectives have been met. None of the providers has ever hit the quality performance targets required of them, and many claimants experience a great deal of anxiety over assessments. The Department will need to consider whether the market is capable of delivering assessments at the required level and of rebuilding claimant trust. If it cannot—as already floundering market interest may suggest—the Department may well conclude assessments are better delivered in house.

We expect the highest professional standards from our providers and that claimants are treated fairly with dignity and respect. We set our providers challenging targets and monitor performance closely.

We are aware that some claimants can find the process daunting so we place great emphasis on the HCPs receiving the right training, guidance and ongoing support to enable them to provide a caring and supportive service for our claimants.

The Department's use of contractual levers over the last contracts has led to consistent improvements across both PIP and ESA:

- On PIP, both providers have made significant progress since the early days of the benefit. For example, in July 2014 average waiting times for claimants to receive a decision were around 40 weeks. For the last 2 years, this has been reduced to around 8–11 weeks from the point of registration.
- For ESA, the provider has delivered an increased number of face-to-face assessments each contract year, and have exceeded their contractual volume target for this year.

Results from claimant satisfaction reviews continue to show providers exceeding the minimum satisfaction level of 91%. However, we know we want to do more. The Department will therefore continue to work closely with our current providers, and with any future providers to ensure we continue to make improvements. For future assessments, the aim within any contracted service is to secure the best value for money for the Department with a service that will deliver the quality, volumes and claimant experience required.

Annex A: The Department's response to the recommendations

Recommendation	Summary of the Department's response
<p>1. We recommend the Department co-design, with expert stakeholders, guidance in a range of accessible formats on filling in forms and preparing for assessment. This should include accessible information on the descriptors for each benefit, to be sent out or signposted alongside application forms.</p> <p>We also recommend the Department makes clear to claimants being reassessed that they should not assume information from their previous assessment will be re-used, and should be prepared to re-submit any supporting evidence already provided.</p>	<ul style="list-style-type: none"> • We are already making improvements to communications about PIP and ESA. This includes testing products in accessible formats and exploring opportunities to provide better support to claimants with complex needs. • We will work with stakeholders to understand the claimant need in making information regarding PIP and ESA descriptors more readily available to all claimants in either Easy Read format or video. • We will strengthen messages for those going through the WCA re-assessment process and/or the PIP award review process, providing clearer information that the claimant should supply up-to-date evidence.
<p>2. We recommend that the Department commission and publish independent research on the impact of application and assessment for PIP and ESA on claimant health.</p> <p>This should focus initially on improvements to the application forms, identifying how they can be made more claimant-friendly and less distressing for claimants to fill in. The Department should set out a timescale for carrying out this work in response to our Report.</p>	<ul style="list-style-type: none"> • In the short term we propose addressing improvements to application forms by commissioning external contractors to conduct independent research. • This research will cover whether any aspects of the ESA and PIP claim forms have the potential to cause distress and if so, revised versions fare better. • This work will be independently evaluated. A standalone report covering the research will be published in 2019.

<p>3. We recommend that the Department enables claimants with hearing impairments to apply for PIP and ESA via email, ensuring this service is appropriately resourced to prevent delays to claims. In the longer term, it should look to offer this option to all claimants.</p> <p>It should also ensure key forms and communications—especially the PIP2, appointment and decision letters—are available in Easy Read format, allowing claimants to register this as a communication preference at the start of their claim.</p>	<ul style="list-style-type: none"> • PIP has introduced an e-mail address for disabled claimants who require it as a reasonable adjustment to make initial and on-going contact with us. ESA already has an e-mail address for disabled claimants who require it to make on-going contact with us. By Autumn 2018, ESA claimants with reasonable adjustment needs will also be able to initiate a claim via email. • Unless and until we have a strategic e-mail solution in place, which we are confident will protect claimant identity and data security, we are unable to offer e-mail as a standard application channel. It is currently only available for PIP claimants for whom alternative formats are unsuitable and they are made aware of the potential security risks beforehand. • The Department has implemented a number of modern accessibility solutions and we will agree, following consultation with stakeholders by Autumn 2018, which PIP & ESA documents should be translated into an Easy Read format.
<p>4. We recommend the Department issue new guidance to PIP and ESA assessors on the procedure for determining whether claimants receive a home visit. This should specify that GP letters are not required where other forms of evidence and substantiation are available. This should include evidence from the claimant, as well as from carers, support workers and other health professionals.</p> <p>To ensure guidance is being followed, we recommend contractors be required to gather evidence and the Department audit requests made and granted for home visits, as well as reasons for refusal.</p>	<ul style="list-style-type: none"> • The PIP Assessment Guide states GP evidence is not required for claimants to request a home assessment. • To streamline the process for claimants and alleviate the requests to GPs, work is ongoing with the WCA provider to fully review their process for dealing with requests for a home visit. • The Department is working closely with the PIP assessment providers to ensure their processes align with guidance and claimant needs are being met. This will be looked at during the course of the work mentioned above with the WCA provider.

<p>5. We recommend that the Department sets out in response to this Report its approach to improving understanding amongst health and social care professionals and claimants of what constitutes good evidence for PIP and ESA claims. This should include setting out how it will measure, monitor and report on the supply of evidence into PIP and ESA assessments.</p>	<ul style="list-style-type: none"> • It is important that it is clear to claimants what types of evidence support the ESA and PIP assessment processes. The Department has worked hard to ensure that HCPs, claimants and carers understand what constitutes good evidence for ESA and PIP claims. This includes looking at data sharing opportunities between the Department and NHS Digital. • We agree that we can do more to raise awareness of what constitutes good evidence and so we will re-issue PIP medical reports guidance to GPs, launch a series of online videos to explain the PIP application process and look to improve the evidence gathering process in ESA and UC, among other activities. • We have already stated our intention to look at the future expansion of audit of PIP and as part of this activity, we will look to incorporate effective monitoring of the quality of evidence being submitted for PIP and ESA.
<p>6. The case for improving trust through implementing default audio recording of assessments has been strongly made. We recommend the Department implement this measure for both benefits without delay. In the longer term, the Department should look to provide video recording for all assessments.</p>	<ul style="list-style-type: none"> • We recognise that there is a lack of trust in the assessment process and that for some people, recording the assessment is something they would like. • For WCA, claimants can ask to have their face-to-face assessment audio recorded and all requests will be accommodated where possible. • For PIP assessments, claimants can currently audio record their face to face assessment if they provide appropriate equipment. We agree that this does not go far enough to help build trust in the system and therefore we intend to make recording the PIP assessment a standard part of the process. We are currently exploring potential options to test the recording of assessments, including video recording.

<p>7. We recommend that the Department develop detailed guidance on the role of companions, including case studies demonstrating when and how to use their evidence. Contractors should also incorporate specific training on companions into their standard assessor training. After implementing default recording of assessments, a sample of assessments where claimants are accompanied should be audited on a regular basis to ensure guidance is being followed.</p>	<ul style="list-style-type: none"> • The Department recognises the vital role of companions in the assessment process. We actively encourage claimants to bring a family member, friend, carer or other advocate to support claimants in the assessment. • The Department has set out the requirement in the PIP Assessment Guide and WCA Handbook that providers must ensure that companions are able to play an active role in helping claimants answer questions, their contributions are noted and equal consideration is given to all the available evidence. • The Department and its assessment providers do not currently capture information about companions attending assessments. We are currently reviewing the PIP audit process and as part of the wider review, we will look at how cases where a companion has attended the assessment can be captured in the audit sample.
<p>8. We recommend the Department proceed without delay in sending a copy of the assessor’s report by default to all claimants, alongside their initial decision. We also recommend it issues instructions to contractors on ensuring claimants are able to see what is being written about them during assessment, and allowing their input if they feel this is incorrect or misleading.</p> <p>This should include, for example, emphasising to contractors that rooms should be configured by default to allow the claimant to sit next to the assessor or be able to see their computer screen.</p>	<ul style="list-style-type: none"> • ESA and PIP claimants can request a more detailed explanation of our decision and a full copy of their WCA or PIP assessment report by contacting the relevant helpline. In ESA, we already inform claimants that they can request a copy of their assessment report and we intend to improve PIP communications so that claimants know they can request a copy of their assessment report. • In order to provide an assessment report that is accurate, a HCP must undertake extensive questioning in order to establish how the claimant is impacted by their condition. The HCP summarises back to the claimant what has been said to ensure the key pieces of information have been correctly heard and recorded. • We continue to work with our providers to ensure assessments are carried out in the principles of an open consultation style but we are not prescriptive in how the consultation room is configured as there should be flexibility to accommodate a claimant’s individual preference.

<p>9. We recommend that the Department introduce a checklist system, requiring HCPs to confirm whether and how they have used each piece of supporting evidence supplied in compiling their report. Decisions not to use particular pieces of evidence should also be noted and justified.</p> <p>This information should be supplied to Decision Makers so they can clearly see whether and how supporting evidence has been used, making it easier to query reports with contractors. It should also be supplied to the claimant along with a copy of their report.</p>	<ul style="list-style-type: none"> • All documentation classified as supporting evidence is recorded and attached to the electronic records of a claim and is thereby made available to the HCP. • The HCP is required to state the evidence they have used to complete the assessment report. They must acknowledge that they have considered all the available evidence when formulating their advice, provide a clear explanation of the reasons for the advice contained in the report and include an explanation of their choice of evidence highlighting any contradictions. • We are considering initiatives to inform the claimant of what constitutes good evidence to improve the quality of evidence gathered.
<p>10. We recommend the Department review a representative sample of mandatory reconsiderations (MR) conducted between 2013 and December 2017, when it dropped its aspiration to uphold 80% of MRs, to establish if adverse incorrect decisions were made and, if so, whether there were common factors associated with those decisions. It should set out its findings and any proposed next steps in response to this report.</p>	<ul style="list-style-type: none"> • The Department has never had an aspiration or target to uphold 80% of initial decisions at mandatory reconsideration. • The Department used an internal measurement to indicate areas where the quality of initial decisions may not have been meeting our expected standards. • The Department is confident that no adverse incorrect decisions were made as a result of the 80% measure. As an internal performance indicator used solely to monitor the process of initial decisions, there is no link between the measure and the outcome of any decisions made at mandatory reconsideration.

<p>11. The Department must learn from overturned decisions at appeal in a much more systematic and consistent fashion. We recommend it uses recording of assessments to start auditing and quality assuring the whole assessment process. When a decision is overturned, the Department should also ensure that the HCP who carried out the initial assessment is identified and that an individual review of how the assessment was carried out is conducted. Given what we know about reasons for overturn, this should focus on improving questioning techniques and ensuring claimants' statements are given due weight.</p> <p>We also recommend the Department lead regular feedback meetings with contractors and organisations that support claimants. These should keep the Department informed of emerging concerns and ensure that swift action is taken to rectify them.</p>	<ul style="list-style-type: none"> • The Department is committed to continually improve the quality of decisions and has introduced activity to learn from decisions that are overturned at appeal. • The Department holds regular meetings with the assessment providers on performance and quality which are used to identify trends, address concerns and agree any remedial action. There is already an established feedback process to individual HCPs to support the report auditing process. We are looking to extend these discussions to utilise examples gleaned via Presenting Officer feedback from the tribunals. • The Department has introduced regular feedback meetings to ensure we receive direct feedback from groups involved with supporting claimants. Emerging concerns are identified at these meetings and fed back to the Department for investigation and action as appropriate.
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Annex B: PIP & ESA assessment guidance

Extract from the PIP Assessment Guide, Part One - The Assessment Process, 2 November 2017

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Evaluation and analysis of evidence

1.8.10 It is essential that the CM is made aware of the evidence the HP has used to complete the assessment report. The HP must acknowledge that they have considered all the available evidence when formulating their advice.

1.8.11 All evidence must be interpreted and evaluated using medical reasoning, considering the circumstances of the case and the expected impact on the claimant's daily living and/or mobility. When weighing up the evidence, it is important to highlight any contradictions and any evidence that does not sufficiently reflect the claimant's health condition or impairment or the effect on their daily life.

1.8.12 The HP's advice and justification must provide a clear explanation as to why more reliance has been placed on some evidence than others. The age of the evidence should also be considered in deciding whether it is relevant to the claim. However, the HP should bear in mind that for claimants with stable long-term conditions, the evidence available may be older. Evidence can include, but is not limited to:

- The PIP claimant questionnaire – where the claimant describes their circumstances and the impact of their health condition or impairment
- Further evidence – for example factual report from the GP, hospital report, other health and social care professionals involved in the claimants care
- Face-to-face consultation – the history, informal observations and clinical findings
- Statements from family/carers/friends

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1.8.19 A properly justified report should contain the following:

- A brief summary of the individual's health conditions or impairment and their severity
- A clear explanation of the reasons for the advice contained in the report including: referencing evidence used to support descriptor choices, explanations where the HP's opinion differs from those of the claimant, carers or other healthcare professionals, clarification of any contradictions and an explanation of the HP's choice of evidence relied upon

- The evidence that underpins the HP's advice can include:
 - ◆ Clinical history
 - ◆ Formal examination
 - ◆ Informal observations
 - ◆ The HP's knowledge of the disabling effect of the medical conditions
 - ◆ Treatment that the claimant receives
 - ◆ Any other evidence available

Extract from the Revised WCA Handbook, Version 10 Final, 31 July 2017

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3.1.2 Reading the Documents

In preparation for the interview, you should read carefully the documents in the file /on MSRS. All the medical evidence should be considered, including any medical certification, Factual Reports, previous papers and other documents, including Tribunal documents (if available). Particular attention must be paid to the current claimant questionnaire [ESA50 or UC50] and all areas where the claimant indicates that there may be a problem must be fully explored. At times the claimant may also bring additional evidence to the assessment.

Any evidence brought by the claimant must be read and the report should make reference to the evidence that has been considered and justification provided if there is a conflict between the opinion of the HCP and the other medical evidence.

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3.1.7 Choosing and Justifying Descriptors: the Overall Approach

The objective of the LCW/LCWRA assessment report is:

to provide your opinion of the claimant's level of function in a number of functional categories

- to advise if a non-functional descriptor may apply
- to provide advice on prognosis where appropriate
- to advise whether or not the claimant meets criteria for having LCWRA
- to advise whether the claimant fulfils the criteria for treat as LCW
- to provide justification for your advice

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The choice of the most appropriate descriptor in the functional category areas will depend upon:

- Consideration of all the medical evidence
- The interview with the claimant
- The clinical examination / observations
- Your medical knowledge of the likely effects of the condition. For conditions that are rare or with which you are unfamiliar, you should check the EBM LiMA Repository for information. It is also very important that you gather sufficient information in the history, typical day and clinical examination to allow you to provide robust advice to the Decision Maker.

...

If your opinion on level of function in any area differs from that of the claimant's you must provide full justification for your opinion. You must comprehensively justify and support your choice of descriptor by giving examples from your clinical history, activities of daily living, observation of the claimant, and clinical examination.

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It is imperative to address all the information obtained during the assessment and in the ESA50/UC50.

Annex C: Evidence provided by the Department to Work and Pensions Select Committee on assessment providers

Letter from the Sarah Newton MP, Minister for Disabled People, Health and Work, 6 December 2017

Evidence PEA0499

Q9) An outline of the Department's performance standards for Atos, Capita and Maximus. What proportion and number of reports would the Department expect to be "unacceptable" and have Atos/ Capita/ Maximum met these expectations during each year of the contract

- a) **Does the Department's monitoring of Atos/Capita/Maximus enable it to link decisions overturned at appeal to the individual HCP who compiled the claimant's initial report?**

Response to Q9

DWP (Department for Work and Pensions) set PIP Providers a target for no more than 3% of the reports they submit to the Department being deemed 'Unacceptable', above which a 'no pay' mechanism is applied. A report which falls within the meaning of 'Unacceptable' would not necessarily lead to an incorrect decision being made on a claimant's benefit entitlement. There are a range of measures to safeguard the accuracy of the decision based on the evidence available at the time. These include:

- The Departmental Case Manager makes the final decision on a claimant's entitlement to benefit. The information the Case Manager uses to make their decision includes the assessment report, any further evidence provided by the claimant or any medical professional who supports them such as a GP, and the claimant's written application which includes their own assessment of the effect that their disability or health condition has on their daily life.
- The Case Manager can seek additional advice from the Assessment Providers on their recommendations and their rationale; and

The PIP Assessment Providers have not met the 3% target to date. A range of activities have been initiated and we have however seen a substantial improvement from the Performance reported by NAO in January 2016. We intend to release further information before the Assessment Providers attend the Select Committee meeting on 6th December.

For the WCA contract there are two targets specifically focused on assessment quality. The first requires that at least 70% of assessment reports receive an A-grade at audit. The A-grade target has increased in each year of the contract, from 65% in year 1. The second target requires at least 95% of assessment reports receive either an A or a B-grade at audit.

Maximus have met the A-grade target every month since the beginning of the contract. However, they have not been able to meet the combined target for A and B-grades. The Department continues to work closely with Maximus to identify ways to further improve performance against this target. Failure to meet either of the quality targets attracts Service Credits.

It should be noted that a C-grade at audit does not necessarily mean that the assessment report would lead to an incorrect decision being made on entitlement to benefit. The Departmental Decision Maker, the person who makes the final decision on a claimant's entitlement to benefit, uses a range of information to make their decision. This includes the assessment report, any further evidence provided and the claimant's description of the effect of their disability or health condition.

Response to 9a

Whilst generic feedback is provided to improve quality there is no direct linkage in terms of appeals overturned to individual HCPs.

The Department is currently reviewing its strategy for undertaking the contracting exercise for future health assessments.

We are increasing our test and learn capacity over the next two years to inform how we can improve the efficiency and effectiveness of our benefits. We plan to use this learning to inform our future strategy, including how we deliver assessments under new contracts.