



# It's Just Not Fair

**A report by the Citizens Advice services of East Sussex  
on the experiences of their clients claiming Personal Independence  
Payments (PIP) and Employment Support Allowance (ESA)**



## Introduction

East Sussex Citizens Advice helped 7,143 people with 19,113 benefit issues in 2018.

Around a third of these issues related to Personal Independence Payments (PIP) and Employment Support Allowance (ESA). In particular we supported clients:

- negotiate the complex application process
- prepare for the medical assessment
- challenge decisions
- manage the impact of long waits for their benefit claims to be resolved.

These two benefits are the ones on which we are most likely to submit evidence to national Citizens Advice of unfairness and maladministration. Our clients describe medical assessment processes that can humiliate and prejudice, delays of over a year in resolving claims and processes that seem almost designed to make applicants give up. In short when a claim for PIP or ESA goes wrong, the time it takes to resolve it and the impact on clients, who by virtue of their health or disability are in need of additional support, are more significant than for any other benefit.

This report sets out our clients' experiences and the changes we would like to see to ensure the system is fair and treats those seeking support with respect and humanity - changes we fed into the Parliamentary Work & Pensions Committee review last year.

In producing this report we want to pay tribute to the work of Alan Bruzon and the team at Eastbourne CAB whose prior work in this area has very much guided us and Bruna Simas from Wealden Citizens Advice for being the driving force behind our client survey.

But most of all we want to thank our clients, who have been willing to share their, often distressing, experiences in the hope it will help others.

***The Citizens Advice Services of Eastbourne, Hastings 1066, Lewes, Rother and Wealden.***



## 1. Executive Summary

1.1. The experience of our clients shows a system for claiming sickness and disability benefits that is unfit for purpose. Our clients face:

- A complex application process, with forms that are long, complicated and difficult to understand
- Medical assessments which can be inaccessible, inaccurate, inhumane and do not always understand their condition
- Ineffective administration of cases with lost papers and inadequate and inaccurate advice and information from the Department of Work & Pensions (DWP)
- Excessive delays in resolving claims – where an appeal is required (more than two thirds of which will be successful) cases routinely take in excess of a year.

1.2. Not only is such a situation leaving clients in desperate circumstances, but it is hugely wasteful of taxpayer's money. Between October 2015 and 2018 an estimated £108.1m was spent on direct staff costs in dealing with reviews of PIP and ESA decisions - more than two thirds of appeals were upheld.

### **We have 5 key recommendations:**

- Application forms need to be shorter and simpler given that there is a medical assessment process that can explore the claimant's circumstances in more detail. This medical evidence must be taken into account from doctors and health care professionals who understand the applicant and their condition.
- The medical assessment process needs to be accessible, fair, delivered to quality standards by suitably trained assessors and the individual's circumstances listened to. In particular, assessments must take into account what a claimant can do usually, not only when they are feeling at their best, and the extent to which they require help.
- The DWP should work to time limits for replying to claimants throughout the process, just as applicants are required to do. 15-16 months to resolve an appeal is unacceptable.
- The mandatory reconsideration process needs to be effective and timely, meeting the purpose for which it was originally intended and identifying obvious errors. It should not be possible for a person's existing benefit award to be taken away after having requested a mandatory reconsideration - entitled clients are not appealing as a result
- When changing benefits (e.g. DLA to PIP) people should be automatically transferred on the same rate, not made to reapply.

## 2. Context

### 2.1. *What are PIP and ESA? Who are these benefits designed to help?*

**2.1.1. Personal Independence Payments (PIP)** are designed to help people with some of the extra costs resulting from long term ill-health or disability. The amount received depends on how the condition affects a claimant's day to day life, a decision made on the basis of a medical assessment. It is usually paid every 4 weeks, is tax free and you can get it whether you're in or out of work.

2.1.2. To make a claim you must also have a health condition or disability where you:

- have had difficulties with *daily living* or *getting around* (or both) for 3 months
- expect these difficulties to continue for at least 9 months (unless you're terminally ill with less than 6 months to live).

2.1.3. The *daily living* part of PIP is paid if you need help more than half of the time with things like: preparing or eating food; washing, bathing and using the toilet; dressing and undressing; reading and communicating; managing your medicines or treatments; making decisions about money and engaging with other people. You may get the *mobility* part of PIP if you need help going out or moving around.

**2.2.1. Employment Support Allowance (ESA)** offers financial support to those who are unwell or disabled, whether a claimant is unable to work or needs personalised help so that they can work. It is available whether a claimant is employed, self-employed or unemployed.

2.2.2. ESA is gradually being replaced by Universal Credit. In East Sussex all new claims must now be for Universal Credit; when a claimant of ESA reports a change of circumstances that too will trigger a transition on to Universal Credit. There is no timetable as yet for the transfer of other existing ESA claimants on to Universal Credit.

2.2.3. There is a Work Capability Assessment as part of the ESA application process. This is to see to what extent a claimant's illness or disability affects their ability to work.

2.2.4. Those entitled to ESA will then be placed in one of 2 groups:

- *work-related activity group*, where there are regular interviews with an adviser who can help with things like job goals and improving skills
- *support group*, where there are no interviews, although claimants can ask to talk to a personal adviser. The support group is designed for those whose illness or disability severely limits what they can do.

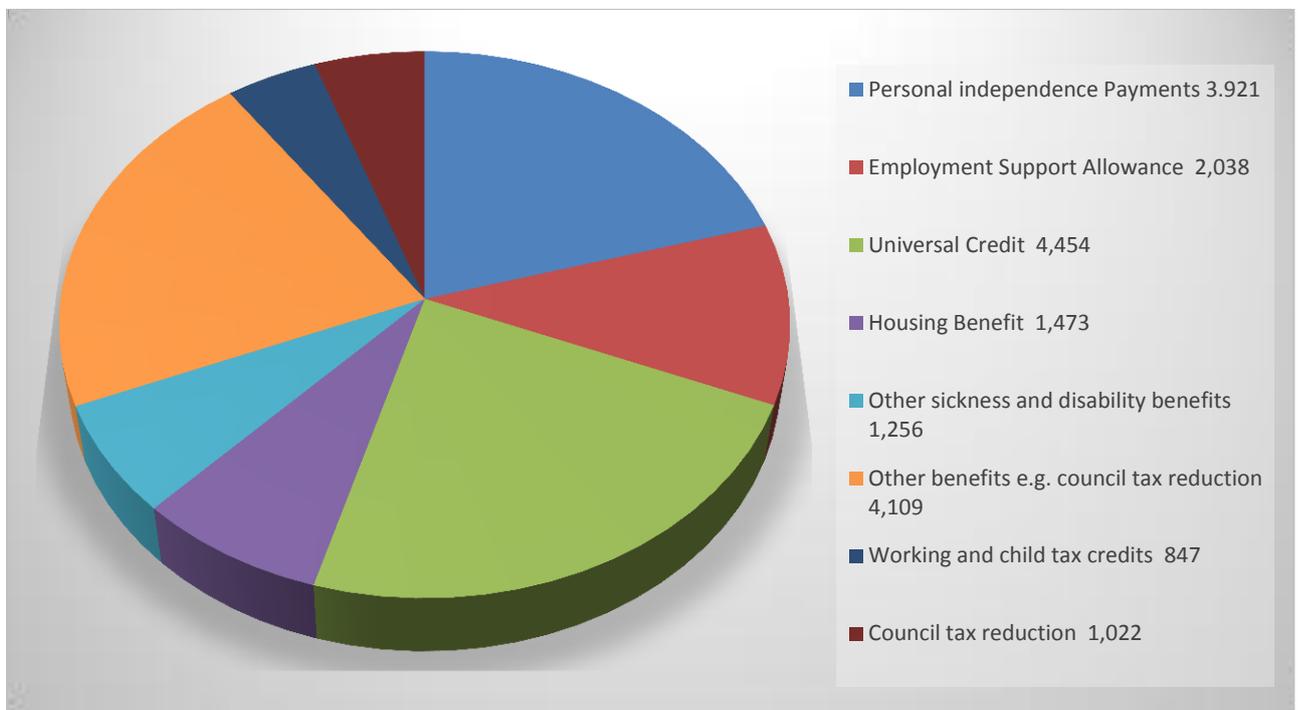
2.2.5. As with PIP, the rates of ESA vary depending on need and hence the allocated grouping, with those in the support group getting a higher rate to reflect the greater challenges they face.

2.2.6. Being in receipt of either benefit can act as a passport to other support, e.g. those in receipt of PIP with a score of 8 or above in the *moving around* section of the assessment, are eligible for a blue badge.

### 2.3. What help are claimants seeking from Citizens Advice services in East Sussex

2.3.1. In 2018 Citizens Advice in East Sussex helped 7,143 people with 19,113 benefit related issues. Around a third of these related to Personal Independence Payments and Employment Support Allowance.

#### Benefit issues handled by East Sussex Citizens Advice Services 2018



2.3.2. Across the services we helped clients achieve an additional £4.69m in benefits put into payment or restored on appeal, of this nearly £2m related to PIP and ESA, with average outcomes worth in excess of £5k a year to our clients in receipt of these benefits.

### **3. So what's wrong with the system?**

The next section of this report outlines the key difficulties our clients face accessing PIP and ESA in terms of:

- the application process
- the assessment process
- system administration
- appeals.

#### **3.1. The application process**

3.1.1. Over half the clients who responded to our survey on PIP and ESA were not happy with the application process. There were two main reasons for this, cited by 7 out of 10 of these respondents:

- The application form is too long, complicated and difficult to understand
- The whole process simply takes too long.

3.1.2. The application form for ESA is 55 pages and for PIP 33 pages. This complexity extends to other forms – the form for Attendance Allowance is 47 pages.

*“.....The form was frustrating. When PIP was refused I would have given up if it wasn't for CAB caseworker Honey.....”.*

3.1.3. The process puts considerable emphasis on the written word and many of the clients we see have difficulties understanding the 'official' language of the many documents they are expected to read. They feel and, we would not disagree, that there is a perceived right and wrong way of interpreting the form and that not saying things in the right way can hamper their chances. In our experience clients' chance of success is higher if they have sought help completing the form.

3.1.4. That means many clients need face to face support from an independent agency to complete the form. While this is available at all local Citizens Advice offices in East Sussex, demand outstrips our capacity to offer immediate appointments so that can mean a short delay for a client making that first claim, which immediately means they are missing out on their entitlement. Clients living in rural locations will also find it more challenging and potentially costly to access support.

3.1.5. In addition to complexity, a further issue identified by IPSOS MORI for the DWP<sup>1</sup> was that applicants were unsure what evidence to provide, with there being a widespread assumption that the DWP gather medical evidence as part of the process.

3.1.6. Overall our clients found it difficult to access advice on the application process by phone (see DWP administration below). Too many claimants say the process feels inhumane at a time when they are at their most vulnerable and it is often impossible for DWP officials, who have conflicting priorities, to present that 'human' face to claimants.

## **3.2 The assessment process**

3.2.1. The rate at which ESA and PIP is payable, indeed the decision as to whether it is payable at all, will depend on the decision of an assessor independent of the client's care. It is this part of the process which has exposed some of our clients to what they describe as the most degrading, dehumanising and frankly unfair treatment.

3.2.2. Three quarters of the clients who responded to our survey did not feel the medical assessment process was fair. In one week in Wealden Citizens Advice three people who had a case for making an application for ESA said they had been refused before and had felt so humiliated by the process they could not face applying again, even though this left them in serious financial difficulty.

3.2.3. The main issues raised were:

- it was difficult to get to the assessment centre, which then did not always have adequate access facilities – a particular issue for clients living in rural locations
- clients did not really know what to expect and so felt unprepared
- the quality and conduct of assessors
- assessors' lack of understanding of unusual conditions
- conditions that were not immediately visible (e.g. mental health) or which varied between good or bad days might not be taken seriously
- the questions were not always easy to understand and assessors were not prepared to listen to qualifications on what claimants could usually do.

### **Assessment centres**

3.2.4. First, there is the practical issue of simply knowing about the assessment and getting to the assessment centre. We have seen clients with significant health issues expected to make long complex journeys on public transport at significant expense for an assessment. This is a particular issue for clients in rural locations whose health condition means they are unable to drive. The longest example we have identified to date would have taken over two

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<sup>1</sup> <https://www.ipsos.com/ipsos-mori/en-uk/personal-independence-payment-pip-claimant-research>

hours at a cost £24. In several cases the assessment was cancelled at the last minute. One client had four appointments cancelled at the last minute and for another the appointment was cancelled while the client was en route to the assessment centre at considerable personal expense.

3.2.5. Just a few examples will illustrate this point:

- one client who gets extremely breathless, and needs continuous access to oxygen, was initially refused a home visit. He was being expected to travel on public transport for an hour and a half (including a change from bus to train) with an oxygen supply
- another was told that if he could get to his doctors he could get to the assessment – although the distance to the latter was considerably longer
- a client housebound by a severe anxiety disorder was refused a home visit despite evidence from their doctor on the impact that travelling a long distance on public transport would have on their health. The stress of initially having their appeal refused and the delay it took to resolve the matter exacerbated their condition, in addition to leaving them with hardly any income while the claim was resolved.

3.2.6. Issues of access do not end there. There is often inadequate space for disabled parking, and then there is the attitude expressed by some staff. We hear, on numerous occasions, about a lack of sensitivity on behalf of assessment centre support staff resulting in our clients feeling belittled and not believed. In one case a client was asked where they had got their walking stick from in a manner which the client understood to imply that they thought it had been borrowed so as to make an impression on the day. For a client already very agitated about the process this was very distressing.

### **Quality of assessors**

3.2.7..Clients generally do not know what to expect and so are very dependent on the quality of the assessor, but unfortunately our clients have often described assessors as brusque, uncaring and lacking knowledge of their condition. This is reflected in the 2018 IPSOS MORI <sup>2</sup>research where one in four claimants felt that they were not treated with dignity and respect.

3.2.8. What is so frustrating is that this is not the experience of all clients. Some, unfortunately a minority, described very positive experiences with their assessor; *“Lovely lady, very helpful and put me at ease-Thank you”*

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<sup>2</sup> <https://www.ipsos.com/ipsos-mori/en-uk/personal-independence-payment-pip-claimant-research>

3.2.9. What comes across again and again from our clients' experience is the number of assessors who lack any understanding of or indeed empathy with the impact of our clients' poor health on their daily lives. Assessors seem generally poorly trained in communication skills and so what should be an impartial process to determine needs, feels like an inquisition, with clients feeling they have to defend themselves from some unspoken assumption that they can do more than they say.

3.2.10. Communication skills should be an essential part of the training for assessors. Some clients told us that they felt it was assumed they were lying or malingering - that the system was there to catch them out rather than make an impartial assessment of their needs. Claimants should, at the very least, come away with the impression that they have been listened to and their problems understood. Our experience tells us that currently this is infrequently the case.

3.2.11. In particular our clients experience a lack of understanding of the world of work and how health issues might impact upon the ability to do certain tasks. The evidence that one client could, with difficulty, sign her name, was taken as evidence that she had the manual dexterity to manage a range of tasks at work.

3.2.12. The other issue we have witnessed is where the assessor is uninterested in a 'yes but' answer. For example a client may be able to get on a bus BUT only if accompanied, or they may be able to dress themselves BUT only with a family member's help – but for the assessor the response stops at 'yes' without waiting to hear the context in which a particular task can be performed. Again this can be a particular issue for clients unsure of how to respond or who are able to give a yes/no answer, but are not able or lack the confidence to give a further explanation.

3.2.13. The assessors do not, as a general rule, look at the health record (as generated by the individual's GP) and tend only to do so where pressed by the applicant. The assessor's judgement therefore is based upon how the individual presents on that day. Variations in the severity of health can vary from day to day (e.g. the presentation of multiple sclerosis): if a claimant presents on a 'good' day then the assessor is presented with a much more favourable position than if they attend on a 'bad' day. This can also be a particular issue with mental health conditions.

3.2.14. In our experience, those with mental health problems are more likely to encounter problems. With assessments they are multiply disadvantaged: claimants are assessed not just on how they present on the day (for people with bi-polar difficulties for example, variation can be from minute to minute not just from day to day) but their assessment also depends on the ability of the assessor to recognise and understand the problem. Claimants with mental health issues may also find it difficult to express their concerns easily.

3.2.15. For many claimants with learning difficulties even the most straightforward parts of the benefits process can be all but overwhelming. Again claimants may need to be accompanied, both in terms of direct support for their health condition and to help them with the process itself. In our experience it might also help to have a witness as to the sensitivity and professionalism of the assessment.

3.2.16. We have also unfortunately come across more than one example of an assessor filling in the form before the client has arrived i.e. they have made their decision based on the application, prejudging the client's capacity. This is another reason why clients in any doubt as to how to complete the form need to get independent advice.

#### Case Study – a client tells their story

“On the advice of someone in the CAB, I phoned and was sent copies of the Assessor's report. These did not make happy reading! They contained inaccuracies, omissions, generalisations and a few outright lies. The crazy thing was they did not need to do this. Even taking a few points away from me I still had ample points to retain my benefits at the same levels.

Both the assessors were very young and appeared underprepared and quite stressed - neither seemed to understand my rare condition. They were so obviously worried about the time pressures and appeared to take shortcuts and the reports would later show they would just make assumptions. A few things that I specifically told them were not in the reports and possibly cost me points as well. I now find it was also not enough for me to just have my adaptations and gadgets visible for them if I did not actually draw attention to it, it was not recorded. They even said that I walked the 60 metres to the assessment room which was just not true—I was wheeled in.

On balance though, I feel a lot of these problems are caused by the system itself placing these young and relatively untrained assessors in very difficult situations and with very strict time deadlines. Both of mine seemed to be actively trying to find reasons to deny me points at the start but both then reached a point where they realised that I would qualify anyway and completely changed to just getting me out of there as quick as possible. This led to more assumptions and more things being incorrect, some in my favour, some not.

Awful, awful system. All we want is a system where people are judged on a fair and true assessment of our disabilities. I found it very stressful indeed. People who do not have points to spare or people with rare conditions must find it intolerable. Some even will lose their housing or vehicles because of these decisions. There must be a better way?”

3.2.17. Other clients have been shocked to see inaccurate reports, where the write up simply does not represent what happened during the assessment process and ignores additional medical evidence submitted, which can be particularly galling for clients who have been charged up to £85 by the GP for the privilege.

3.2.18. Overall the current assessment process feels to many of our clients like too much of a rushed theoretical tick box exercise. Assessors should be able to use the experience of applicants' GPs and health professionals who know them best and the assessment needs to be capable of translating this into the workplace long term. If it is to be fair, the assessment needs to be about sustained capacity to do certain tasks.

#### Case studies

1. Client received a letter from the DWP after his PIP assessment declining the client any financial help toward the client's mobility: he had been receiving financial help in his previous claims for Disability Living Allowance (DLA) for some years. Client said that the notes regarding the assessment interview were incorrect and did not include everything that was discussed. The client's step daughter, his unpaid carer, was at the meeting and endorsed this. The client stated that the signature on the notes was not the name of the person who interviewed him.
2. Client was assessed following "transfer" to PIP. Client scored 0 for mobility and faced a reduction in income of over £7k per year. The client's application for a mandatory reconsideration of the decision was also rejected and they were helped to appeal. 16 months after their first PIP application their appeal was upheld and the client was awarded over £10k in backdated benefit. However, during this 16 month period the client had not had access to the support they had previously enjoyed to get around, becoming isolated and depressed.
3. Client had been receiving DLA for 12 years, following a brain injury that left her prone to mini strokes, depression and anxiety. Client was turned down for PIP, again scoring no points at all, although the assessor had no experience of her condition. She now faces a mandatory reconsideration and appeal process that, on current timings, will take well over a year to be resolved.
4. Client with multiple health conditions, who had been in receipt of DLA, had his application for PIP rejected. His sister had been acting as his carer, but the loss of PIP also meant the family lost Attendance and Carers Allowance, with a devastating impact on their finances. While we are hopeful this decision can be reversed, it is likely to take months and in the meantime the client is feeling suicidal with the stress.

3.2.19. This has been a particular issue in relation to the "transfer" of clients from Disability Living Allowance (DLA) onto PIP, where clients' benefits are stopped and they have to make a new application. This takes no account of the grounds on which claims had previously

been awarded. Some clients faced the abrupt ending of a long term award and the sudden drop in income often caused a lot of unnecessary stress and upheaval, including disrupting people's care arrangements and in some cases causing motability vehicles to be lost as the higher rate of mobility component is required for this.

### 3.3 DWP administration

3.3.1. Our clients are frequently frustrated by calls that go unanswered, missing paperwork and horrendous delays. It feels almost as if the system is being made deliberately difficult to dissuade people from pursuing a claim. Many clients would have given up if they had not been supported through the process - the system should not require advocacy to be effective.

3.3.2. One of the main reasons that so many appeals are submitted and are successful is that it is virtually impossible to express your unhappiness with the outcome in any other way. It is not possible to talk, either face to face or on the phone, when there are issues of misunderstanding that could be easily resolved - all issues are forced into the mandatory reconsideration/appeal process leading to delay and additional expense.

3.3.3. Perhaps our most exasperating response from a DWP official when yet another application could not be found was asking the local Citizens Advice to ring them when they were about to post anything to the DWP so they could "keep an eye out for it".

3.3.4. We asked people whether they had contacted the DWP for advice during the application process and, if so, what their experience had been. Three quarters of claimants had done so.

3.3.5. A quarter of respondents rated their experience as good, but 40% rated it unacceptable. Of these claimants 44% had made at least one call where they had not been able to get any answer at all and 77% said they faced unacceptably long waits.

3.3.6. This is reflected in our advisers' experience of contacting the DWP – excessive waits in the queue are common as is getting through only to immediately be cut off and have to start again – this is highly wasteful of everyone's time.



The image is a screenshot of a BBC News article. At the top, the BBC logo is visible on the left, and navigation links for 'Sign in', 'News', 'Sport', 'Weather', 'iPlayer', 'Sounds', and 'More' are on the right. Below the logo, the word 'NEWS' is prominently displayed in white on a red background. Underneath, there is a horizontal menu with links for 'Home', 'UK', 'World', 'Business', 'Politics', 'Tech', 'Science', 'Health', and 'Family & Education'. The 'Business' link is highlighted. Below the menu, the article title 'Benefits errors trigger £5,000 refunds for ESA claimants' is shown in bold black text. Under the title, the date '© 17 October 2018' and social media sharing icons for Facebook, WhatsApp, Twitter, Email, and a general 'Share' icon are visible. The main image of the article shows a person sitting on a red motorized mobility scooter on a paved path. The person is wearing a blue jacket and dark trousers. The scooter has a black basket on the back. The background is slightly blurred, showing trees and a path. In the bottom right corner of the image, there is a small 'GETTY IMAGES' watermark.

3.3.7. Despite there being strict time limits for claimants to comply with the benefit claim process, to the extent that we often have to advise clients to seek an extension so we can help them, the same cannot be said for the DWP's administration of the process. The length of time cases take is simply too long. While claimants are expected to challenge decisions within one month, the DWP seems to be able to take however long they want – with little apparent consideration for the impact this is having on those who are seeking help because of illness or disability. It is not unusual for mandatory reconsiderations to take 5 months or more. The time clients wait from initial application to final appeal decision is routinely 15-16 months – all the time a sick or disabled person is being deprived of their entitlement.

3.3.8. There can appear to be a “computer says no” mentality which means the process is put above seeking to resolve issues. This can lead to significant delay for clients getting their claim resolved and can force them into debt while wasting taxpayers' money on unnecessary administration.

#### Case studies

1. **Client phoned the PIP application line and was initially offered an appointment on a Tuesday in Tunbridge Wells. She asked to be given an appointment nearer her home, and was offered one at Eastbourne the following Thursday. She was then contacted and told her application had been cancelled as she had not attended the Tuesday appointment that had been rescheduled.**

**The DWP told the client her complaint would be taken as a request for Mandatory Reconsideration (the mandatory precursor to any appeal). This was refused too leaving the client having to appeal and waiting months for her claim to be addressed, when it should have been handled in a short phone call at the time.**

2. **Client has suffered from MS for about 8 years, which affects her mobility, memory, mood and bladder.**

**Advised by the DWP that she needed to transfer from Disability Living Allowance to PIP she applied in February 2018 with the help of a neighbour – 5 months later she had heard nothing.**

**The DWP advised the claim was still “under consideration” – in the meantime our client had had to go into an unauthorised bank overdraft of approximately £2,000 and the stress had caused a deterioration in her health.**

### 3.4. The appeal process

3.4.1. There is a two stage appeal process for most decisions relating to PIP and ESA:

- A mandatory reconsideration, which is supposed to be a complete second look at the claim
- An appeal which will be heard before a tribunal.

**Case study** DWP took 2 months to reject client's initial claim for ESA. We helped him apply for a mandatory reconsideration of the decision. The DWP took 6 months to reject this request, in all this time the client had to rely on food parcels and became isolated from friends and family because he no longer had the bus pass to which the benefit had passported him. We then helped him appeal and he finally received a payment 15 months after his first application.

We are seeing increasing numbers of claimants relying on more than the usual 3 food parcel maximum because their case is taking so long to resolve and getting into debt as a result; we are also seeing clients give up on their claim because the process is too stressful.

#### Mandatory reconsiderations

3.4.2. A mandatory reconsideration gives an applicant the chance to explain to the DWP why they think the original decision was wrong and to provide any additional evidence that was not considered at the time. Applications should be submitted within one month of a claim being rejected. Despite the fact that this is an administrative process, applicants are warned that their benefit may increase, decrease, stop or stay the same following mandatory reconsideration.

3.4.3. Mandatory reconsiderations were introduced to streamline the appeals process and supposedly to reduce pressure on the appeals system, they have failed in both objectives.

3.4.4. In our experience the mandatory reconsideration process produces a new result in such a small number of cases (c 10%) that it is practically worthless as a review mechanism, leaving claimants little choice but to appeal. Indeed in 2017 the DWP admitted in response to a Freedom of Information request that it had a target of rejecting at least 80% of mandatory reconsiderations, a target it regularly exceeded<sup>3</sup>. While the targets may have gone the outcome remains the same: in practice, therefore, the process seems to act as much as a delaying tactic as anything else and may even operate as a deterrent to clients

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<sup>3</sup> <https://www.disabilityrightsuk.org/news/2017/may/dwp-has-80-targets-refusing-benefit-reconsiderations>

who feel intimidated by the idea of going through a two stage process or concerned at the risk that the outcome may be worse. The DWP tend to make claimants seek formal mandatory reconsiderations of decisions in writing, even though the DWP should take claims on the phone.

#### **The Mandatory Reconsideration Gamble – STICK OR TWIST**

**In their report on disability and sickness benefits Eastbourne CAB pointed out people can face real risks in deciding whether or not to seek a review of their benefit award.**

**In their scenario a claim is made for PIP and the Standard Rate for Care and Mobility is awarded. However, the claimant thinks their needs in both aspects are greater and seeks advice from the CAB. The CAB agrees that, according to the same descriptors used by the DWP, the higher Enhanced Rate should apply for care and mobility.**

**A letter is sent to the DWP to request a mandatory reconsideration.**

**A few weeks later a reply comes back from the DWP saying the PIP award has been reassessed and now the claim has been scored at zero points. You will no longer receive any PIP at all.**

**So, in future, if you are not happy with the benefits you have been awarded, it would appear you have a choice: you either appeal the decision and risk losing the whole award or accept the lower rate and therefore have less money to support your needs. Given how long the decision making process can take. this is an enormous decision for claimants and the agencies who support them.**

3.4.5. What is particularly frustrating about the time taken to resolve appeals is the high percentage of cases that are upheld. While 8 - 9 out of every 10 applications for mandatory reconsideration are rejected, the successful appeal rate has increased year on year so that now around 7 out of every 10 ESA and PIP appeals are upheld, a percentage that has increased over time<sup>4</sup>. This high success rate makes the wait claimants face particularly frustrating and cruel. Clearly, the process is not currently working, either for the claimants who are put through a lengthy ordeal to secure the benefits to which they are entitled, or for the taxpayer funding the costs of the process.

3.4.6. Figures obtained through a Freedom of information request<sup>5</sup> show the Government spent £108.1m on direct staffing costs for ESA and PIP appeals between October 2015 and

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<sup>4</sup> <https://www.scope.org.uk/press-releases/pip-esa-appeal-rates-soar>

<sup>5</sup> House of Commons Work & Pensions Committee PIP and ESA assessments page 41 footnote [248 Letter from Dominic Raab](#), p.3

2018. In addition there will be the costs to clients and other agencies while waiting for a claim to be resolved e.g. managing debt, increased use of the NHS where the stress of the process exacerbates existing health conditions, charities providing advice and guidance, use of Food Banks etc.

3.4.7. PIP and ESA awards are subject to regular review to ensure there have been no changes to an applicant's circumstances that would amend their benefit award. We have numerous examples of clients who have finally been awarded benefits after over a year of waiting for their appeal to be heard only then to be faced shortly afterwards with a review process. Some clients have simply given up at this point – they could not bear the thought of going through this again.

3.4.8. Claimants do not want to go through the stress of an appeal and they would be less likely to do so if the decision making process was more robust and there was a simple route for resolving misunderstandings informally. People want to feel:

- the totality of their circumstances have been taken into account
- the process is fair they have had their say and, if they are refused, they understand the reasons for the decision so any obvious inaccuracies can be addressed at the outset.

3.4.9. One positive is that claimants tended to feel the tribunal panel were independent and impartial and they valued the expertise of the doctor on the panel. After the appeal decision, the majority said they understood the reasons for the outcome.

#### 4. Conclusion

4.1. We cannot do better than quote Possability People's Chief Officer, Geraldine Des Moulins who summarised the situation concisely in Eastbourne CAB's report on PIP and ESA:

*"It cannot be right that in the 21st century, we are adding stress and anxiety to disabled people through a benefits system described as frustrating, upsetting, demoralising, depressing and degrading. The system should support and protect often very vulnerable people.*

*There is a very clear need for specialist advice services who can deal with the hassle and stress of form filling, letters and appointments. And who have empathy and can provide very important support to clients, helping prevent the impact of their anxiety on their condition so they don't end up needing much more costly health or social services interventions".*



Annex A sets out the changes we think are necessary to create a fair and humane system.

## **Annex A - Recommendations**

### **PROCESS**

- Application forms need to be shorter and simpler given that there is a medical assessment process that can explore the claimant's circumstances in more detail.
- Medical evidence must be taken into account from health professionals who know the applicant and their condition.
- DWP to have time limits for replying to claimants throughout the process, just as applicants are required to do.

### **ASSESSMENTS**

- Assessments need to be fair and the individual's circumstances listened to. In particular assessments must take into account what an applicant can do usually, not only when they are feeling at their best, and the extent to which they need help.
- Quality standards need to be applied and the assessor's report should be judged on accuracy e.g. appeals upheld.
- Assessors need to be properly trained, in particular in communication skills and mental health awareness.
- Assessors should have a broad understanding of the conditions the claimant has. Where an assessor does not have relevant specialist knowledge, they should rely on medical evidence supplied from a health professional who does. This is particularly important for mental health conditions where the impacts may not be less visible.
- Assessment interviews to be recorded / videoed - from client's view point of view.
- There needs to be a change in attitude towards those with less visible health conditions, particularly mental illness.
- Assessments to be held in accessible places and at reasonable times. The assessment service should work in partnership with local authorities to offer assessment at locations nearer to claimants where claimants would otherwise only be able to reach the assessment centre at disproportionate cost.

### **APPEALS**

- If it is to add value to the process, mandatory reconsiderations need to be effective and timely. The DWP must reply to an application for a mandatory reconsideration in a set timescale, just as claimants are expected to submit their application within set time limits. When changing benefits (e.g. DLA to PIP) people should be automatically transferred on the same rate, not made to reapply.
- It should not be possible for a person's existing benefit award to be taken away after having requested a mandatory reconsideration, especially given a mandatory reconsideration is an entirely administrative process - entitled clients are not appealing as a result.

- Appeals need to be arranged sooner, without delay, to reduce the stress and waiting time, which is imposing unnecessary hardship on vulnerable people.
- DWP need to accept the decision of the 1st tier tribunal and make payment including hardship payments when PIP applications are reassessed.
- PIP and ESA reassessments of eligibility should be based on the condition / prognosis of the applicant, there is no point putting an applicant through the stress of a review and incurring cost where there is no chance of recovery

### **Costs**

- The Government should review the direct and indirect costs of delays in the PIP/ESA process e.g. direct staffing and tribunal costs and the impact on applicants and other agencies such as greater use of NHS services, managing debt and homelessness.