

## **Key problems with the delivery of DWP benefits**

**August 2017**

### **Overview**

Since 2013 we have monitored the experience of our clients who are disabled or have long term health conditions in claiming Employment and Support Allowance (ESA) and Personal Independence Payment (PIP), and since 2014 we have submitted annual reports for our MPs to forward to DWP Ministers setting out our concerns about systemic flaws in the administration and delivery of both these benefits.

Last year the proposals advanced in the Government's Green Paper on Improving Lives offered hope of improvements in the operation of these benefits with much greater well-targeted support for sick and disabled claimants from personal work coaches and many more Disability Employment Advisers (DEAs). We responded to the Government's wide-ranging consultation on the Green Paper with detailed proposals for redesigning and streamlining the claiming and delivery of ESA and PIP to eliminate the problems that we have identified. To date there has been no official Government response to the ideas put forward in the consultation, and no sign locally that the key problems have been tackled despite the appointment of work coaches and more DEAs.

However what now concerns us is a more general problem with the administration of all DWP benefits, not just ESA and PIP. There seems frequently to be a breakdown in the basic systems for communicating with claimants and a culture that no longer meets DWP's published Service Standards, including treating all claimants fairly, being friendly and helpful, treating claimants with respect and responding promptly to issues raised by claimants and their representatives. (For the relevant commitments in DWP's published Service Standards see Annex 1).

These problems have come to a head with the complications involved in the delivery of Universal Credit. While in this borough the only evidence we have so far of problems with the operation of UC comes from a small number of single clients with no dependants, Citizens Advice's national report on "Delivering on Universal Credit" identifies major problems in the rollout of UC from the experience of 30,000 clients in different parts of the country who raised 48,000 issues about UC last year. We strongly support the report's recommendation for a pause to allow time for these problems to be fixed before the full rollout of UC is extended to many more areas, including our borough.

What follows is a summary of issues identified from the recent experience of our clients that reveal either unresolved problems in the administration of the relevant benefits or a failure

to treat our clients fairly and with respect, or both. Merely listing these issues does not give any idea of their cumulative impact on the lives of our clients, particularly those who are vulnerable because of substantial physical or mental health problems or because they are struggling financially on an income far below what they need to meet essential living expenses. We therefore attach at Annex 2 a case study that summarises the maladministration that a client with mental and physical health problems has experienced in claiming benefits over the period from 2013 to this year.

### **Problems with Universal Credit**

- Wrong advice from Jobcentre Plus (JC Plus) locally about whether residents of the Borough should apply for UC – e.g. a single mother with a child was told to apply for UC.
- Lack of support from JC Plus for applicants who cannot apply online or need help to complete their application or maintain their online journal
- Problems for working claimants whose monthly payment dates conflict with the date when their income for UC is reviewed so that they may receive no UC and have their claims shut down if they happen to receive two months' salary payments within the dates chosen for the UC review.

### **Problems with the claiming process for ESA & PIP**

- Applications terminated and ESA or PIP payments stopped for failure to attend a booked assessment without any attempt to find out why the claimant did not attend. (Often claimants had applied for a home visit or had notified the assessment centre in advance that they were too ill to attend). For claimants to be treated fairly and with respect, as set out in DWP's Service Standards, it is DWP 's responsibility to check whether claimants had good cause not to attend a booked assessment before terminating their applications or stopping their payments.
- Claimants being sent home when they have travelled to a booked assessment because there is no one available to see them. These are failures of Maximus' or ATOS' administration; but to ensure that claimants are treated with respect it is DWP's responsibility to monitor the way in which assessments are arranged. DWP should be ready therefore to investigate complaints about these arrangements.

### **Problems with DWP's decisions on ESA and PIP entitlement**

- The assessment by Maximus or ATOS usually does not reflect the evidence provided by the claimant's GP or consultant or take any account of the benefit already being received (e.g. a claimant receiving ESA in the Support Group whose medical condition has not improved is awarded no points when reassessed). There is seldom evidence that DWP decision makers examine these anomalies seriously either before

making the first decision or at Mandatory Reconsideration (MR). This needs to change.

### **Problems specific to ESA**

- **There are sometimes delays of several weeks before claimants receive a decision on MR on their ESA claim.** This now happens less frequently than in the past, but causes serious problems for claimants who cannot apply for JSA while their ESA claim is being reviewed because they are too ill to provide evidence that they are fit for work, as required for JSA, and so receive no benefit from ESA or JSA during MR.
- **There is often confusion at JC Plus local offices, with different advice at different offices, about how a claimant who is appealing against rejection of ESA can shift from JSA to ESA while their tribunal appeal is being considered.** The correct advice seems to be that the claimant must contact the DWP department centrally that has the overview of his/her ESA claim (usually in Belfast for claimants in our borough) and ask for ESA basic payments to be reinstated. This department will check with the Appeals department that an appeal is going ahead and then contact the Payments department to sort out when ESA payments could be reinstated. The claimant should be notified of this date (but may have to ring the ESA central “maintenance” department to check) and then must ask his/her local Jobcentre Plus office to terminate JSA payments on that date. If this all works there will be no gap between the end of JSA payments and the start of ESA payments.

This is a frequent problem. The process is much too complicated and needs to be simplified by providing for ESA payments to be reinstated automatically once DWP have accepted that an appeal is going ahead and for the ESA department with the overview of the ESA claim to make all the arrangements. However the best solution is to remove MR from the claiming process altogether so that they have no need for apply for JSA for an interim period before they can appeal.

- **Claimants who have been placed in the ESA Support Group because they have long term health conditions that make it impossible for them to work are being subjected to further reassessment** despite the Government’s commitment last year that there should be no reassessment where there was clear evidence that the long term health condition would not improve. In the Government’s Green Paper on Improving Lives (Chapter 3, paras 148-151) it was proposed that new arrangements should be introduced to allow for such claimants to be placed or retained in the Support Group on the basis of the medical evidence provided without the need for the claimant to complete a questionnaire or attend a Work Capability Assessment. This proposal seems to have been implemented only for a very limited range of long term health conditions. There is little sign that Maximus’ health professionals or DWP decision makers are prepared to accept clear medical evidence for most claimants already in the Support Group that there has been no improvement in their long term health condition and that there is no prospect of improvement. They are

being subjected to the rigour of the full reassessment process, causing them unnecessary stress and unnecessary cost to the Exchequer.

### **Problems specific to PIP**

- **There is a problem for DLA recipients who are applying to transfer to PIP but fail to return their medical questionnaire within the time limit required.** Normally they would continue to receive DLA payments until their PIP application has been decided; but if they fail to return their questionnaire on time their DLA payments will be stopped immediately. They can re-open their PIP claim but will not receive any more DLA payments. Some of these PIP claimants are very vulnerable, including those with mental health problems who cannot cope with forms and deadlines. In these cases claimants may have to wait for an appointment for help with their forms, which cannot always be provided within the time limit. So if PIP claimants or their representatives can show good cause for not returning their questionnaire on time their DLA payments should be backdated and continued until their PIP application is decided.
- **PIP recipients who are being reassessed face a similar problem that their PIP payments will be stopped if they fail to return their questionnaire within the time limit.** There is scope for claimants or their representatives to telephone the PIP helpline to get the time limit extended if they have a good reason; but this is not always possible. One of our clients who was being reassessed for PIP was in hospital for the whole period between receipt of the questionnaire and the time limit for returning it; but his PIP payments were stopped for failure to return the questionnaire on time and not resumed for 4 months.
- **PIP has no facility to accept written authorisation for representation by email or fax.** In some cases where we have telephoned the PIP helpline to resolve an urgent issue with our client present we have been advised that there needs to be a call back from the “back office” team (often the decision maker) but this will be only to the client if we have not already supplied written authorisation to represent the client. This is because there is currently no facility for PIP staff to accept written authorisation by email or fax. This facility clearly needs to be provided so that claimants’ representatives can deal with urgent issues.
- **PIP recipients with serious long term health conditions are being subjected to full reassessment when their conditions have not improved.**  
There is little sign that ATOS health professionals or DWP decision makers are prepared to accept clear medical evidence that the serious conditions that led to claimants being granted PIP have not improved and have no prospect of improvement so that continued payment of PIP can be confirmed on this evidence alone without the need for a medical questionnaire to be completed or for a reassessment interview.
- **Letters notifying rejection of PIP claims as a result of MR contain no information about the one month deadline for making an appeal to a tribunal.** This is a legal omission that needs to be corrected urgently.

## Problems specific to JSA

- **ESA claimants assessed as capable of work often cannot apply for JSA while their ESA claim is being reviewed through MR.** If ESA claimants are assessed as being capable of work but want to challenge this decision through MR they cannot receive ESA payments during MR but will have to apply for JSA if they want to continue receiving benefits. However it is a condition of JSA that they are fit for work and they may not be able to get a medical certificate to confirm this from their GP. In that case they will not qualify for JSA and may have no money to live on during the MR process. The solution to this problem is to remove MR from the claiming process so that claimants who want to appeal to a tribunal can continue to receive ESA payments until the appeal is decided.
- **Probably the most frequent problem with JSA is the imposition of sanctions for failure to meet a condition for receiving JSA without any attempt to check why the condition was not met.** Sometimes there are good reasons why a condition has not been met. For example claimants may have been unable to attend a Work Focused interview or an appointment at a Work Programme because they were suddenly taken ill and/or had to go to hospital. In some cases the claimant does notify the Jobcentre Plus adviser or Work Programme in advance, but the information is not recorded. In other cases the illness or accident may occur too close to the time of appointment for the claimant to warn the Jobcentre Plus office or Work Programme of their failure to attend. In such cases the claimant has to apply for MR for the sanction to be reconsidered. This causes extra work for DWP staff and leaves the claimant with reduced, or no, JSA payments until the sanction is overturned. It is clear that to treat JSA claimants fairly and avoid unnecessary work there should always be a breathing space before a sanction is imposed to allow the claimant time to explain their failure to attend an appointment or whatever other JSA condition they have failed to meet.
- **Another problem associated with the imposition of sanctions is the failure to inform claimants that they can apply for hardship payments.** If JSA payments have been stopped or drastically reduced as a result of a sanction the claimant should be able to apply for a hardship payment; but claimants are seldom informed about this possibility and if they do apply it may take a long time for the hardship payment to be granted and paid.

## Problems that apply to the delivery of DWP benefits generally

### Problems with DWP telephone helplines

- **Long waits for phone calls to be answered.** Sometimes when the call is answered claimants are told that no one on the helpline can help them and they are given another telephone number to call, which may also be a wrong number for their query. Consequently it is not uncommon for claimants to have to make several phone calls, which they can ill afford, to get through to someone who can deal with their query. Although occasionally staff do agree to call back to save the cost of the

claimant's call frequently they do not call back, and the claimant has to ring up again. This is not the standard of service that claimants should expect of an organisation that aims to be "friendly and helpful".

#### **Delays in DWP's response to issues raised in writing and to complaints**

- **There are often long delays in DWP's response to problems with claims or payments raised in writing that require urgent attention- far beyond the target time limit of 10 days set out in DWP's Service Standards. Similarly it is very rare for complaints about DWP's services to be answered within the target time limit of 15 days.**

#### **Problems with tribunal appeals**

- **There are sometimes delays of several weeks before DWP provides evidence for appeals to tribunals against its decisions, leading to an unreasonable delay in the appeals being heard and decided.**
- **There are sometimes delays of several weeks before DWP makes the payments awarded by the tribunal following a successful appeal.**

#### **Problems with payments being stopped**

- **A problem with the delivery of all DWP benefits is payments being stopped before claimants have been notified.** It is common for our clients to discover that they have not received their usual payments and to have to ring up to find out why. Sometimes it requires considerable effort to get a full explanation of the reasons for the stoppage. If the payments should not have been stopped there will need to be a request for MR to get the decision reviewed and no money for the claimant until the decision is reversed and payments are restored and backdated. To treat claimants fairly and professionally, as required in DWP's Service Standards, they should always be notified in advance before payment of a benefit ceases to allow time for them to check the evidence that has led to the decision to stop payment and to challenge it and get the decision reversed if it is shown to be ill-founded.



## ANNEX 1

### Specific Commitments in DWP's statement of Service Standards

#### Right treatment

We are committed to treating all our customers fairly. We will:

- be friendly and helpful
- treat you with respect
- behave professionally
- make sure our offices are as safe as possible for all our customers and staff, and
- respect your privacy.

Please contact us if you have any concerns.

#### When we contact you

We will usually phone you. If you would like us to contact you in a different way, please tell us.

#### When we write to you

Anything we write to you will:

- be typed, clear and easy to read
- tell you if there is anything you need to do, and
- give you contact details, like a person's name and direct phone number.

If you would like a letter in large print, let us know. We will write to you in English. If you live in Wales, we can write to you in Welsh. We can contact you in the best way for you, if you tell us what this is.

#### Visiting our offices

When you visit our offices, our staff will:

- wear a name badge and greet you in a friendly, professional way
  - always try to see you on time if you have an appointment
  - book an appointment as soon as possible if you need one, and
  - arrange a private interview room if you need privacy.
- If you visit our offices without an appointment, we will try to help you straight away - mainly through our telephone services. If we can't, we will book an appointment for you.

#### Right result

We aim to give you accurate information and the right advice to help you:

- get the pensions or benefits you're entitled to



- understand the conditions of receiving your pension or benefit, such as attending interviews or looking for work
- find a suitable job
- understand our decisions
- decide what to do, and
- access other support you may need, such as help to develop new skills or help with childcare or travel costs.

### **On time**

We aim to make sure that we deliver our services as quickly as we can. This includes:

- processing your claim as quickly as possible
- changing any of your details when you tell us to, and letting you know if the change affects your pension or benefit
- calling you back or taking your call at the time we have agreed with you, and
- being on time for an appointment we have made with you

### **When you phone us**

Our staff will give you their name and the name of the office or section you have called.

We will ring you back if you are concerned about the cost of the call, or if we can't answer your question right away. If we can't help you, we will try to direct you to the right place to get help.

### **When you write to us**

When you write to us, we aim to give you a full reply:

- within **10 working days** of getting your letter, or
  - within **15 working days** if you are complaining about our service, or
  - within **15 working days** to Members of Parliament (MPs) who write to our Director General on your behalf.
- If we can't give you a reply within this time, we will say why and tell you:
- who is dealing with your letter
  - when you can expect a full reply, and
  - what we have done so far.

### **When we visit you at home**

If we need to visit you at home we will:

- try hard to visit you at a time you agree to, and
- tell you if there are any papers you need to have ready.

Our member of staff will:

- always show you an identity card, and

- tell you their name.

If you want, you can tell us a password for our member of staff to use when they come to your home.

### **Easy access**

We want to make sure you can access our services easily.

We will:

- give you the service you need, taking account of any disability or language needs you have
- offer you different ways to access our services, such as telephone, the internet or home visits, and
- try to direct you to the right place if we can't help.

### **If you have a disability**

We're committed to meeting our responsibilities under the Equality 2010 Act. Our offices have:

- induction loops and textphones for people who have difficulty hearing or speaking, and
- easy access for people who have a health condition or find it hard to walk.

We can also get a British Sign Language interpreter, to communicate in the way that's best for you. If you ask for an interpreter, we will aim to arrange one within **ten working days**. We will arrange your appointment for as soon as possible after this.

If you have a disability or health condition that affects how you use our service, please tell us so that we can give you the right support. This might be helping you to fill in forms, or visiting you at home.

### **If you don't speak English**

If you phone us, or have an appointment at one of our offices, you can use your own interpreter. We will provide an interpreter for you in certain circumstances.

We can usually arrange for you to speak to an interpreter over the phone straight away.

If you have an appointment, or need to talk to us face to-face, we will try to arrange an interpreter within **three working days**. We can also help you fill in any forms.

## ANNEX 2

### CASE SUMMARY ILLUSTRATING MALADMINISTRATION

#### Introduction

Elizabeth( not her real name) is a 52 year old woman who has long-term severe mental and physical health problems. She first applied for Employment and Support Allowance in 2013, and since then has been reassessed twice. Although there was clear evidence from the start that she would be unable to work she had to appeal to a tribunal each time before she was awarded ESA in the Support Group, culminating in a tribunal decision on 24 April 2017 that she should continue to receive ESA in the Support Group with a recommendation that she should not undergo any further reassessment,

Her experiences in applying for ESA during this period illustrate a catalogue of errors and maladministration in the decision making and delivery of her ESA which have resulted in her not receiving the correct benefit for long periods. This has plunged her into critical financial hardship and caused a deterioration in her mental health, leaving her terrified of having to undergo any further assessments.

#### Unacceptable delays

In May 2013 Elizabeth successfully appealed against the decision to place her in the ESA WRAG. This decision was logged by DWP's Disputes Resolution Team (DRT) at Milton Keynes 5 months later on Oct 2 2013 but her ESA payments were not officially adjusted until 2 years later in April 2015. She received a letter from DWP dated 20/4/15 informing her of the transfer to the Support group to take effect on March 9 2013 and awarding her £2417 in backdated payments. A subsequent letter from DWP dated 21/5/15 admitted that this significant delay was caused by a breakdown in communication between Milton Keynes DRT and the ESA Benefits Centre in Belfast. There was no record to show that the DRT had passed the tribunal's decision to the Belfast Benefits Centre or that the Benefits Centre had received it.

During a later reassessment a decision on a request for Mandatory Reconsideration (MR) was made in November 2016 but not received by Elizabeth until two months later and only after Elizabeth's adviser had pressed for information about the decision. Because Elizabeth has difficulty dealing with her post the adviser had submitted Elizabeth's signed authorisation for the adviser to receive a copy of the decision and specifically requested this on the phone during her inquiries; but no copy was provided, leading to a further delay before the decision was available.

This MR upheld the original decision not to grant Elizabeth ESA and she appealed on 9/2/17. Her appeal was acknowledged but was not heard until more than 5 months later on 24/7/17. This was due to a delay in the logging of her appeal and problems submitting her medical certificate to confirm that she was not fit for work. At this time Elizabeth was under

great mental strain and anxiety and, feeling unable to take the certificate to the Job Centre Plus office herself, sent it with her son. It was then mislaid in that office so she had to go to her doctor to get a copy and then take it to the job centre herself. This extended the delay in her being paid any ESA, and the travelling put extra pressure on her fragile mental state and her almost non-existent finances.

### **Failure to make allowance for a claimant with mental health problems**

Elizabeth said that her first adviser at the Jobcentre Plus Office told her that her vulnerable mental health would be taken into account in dealing with her claim: but this adviser left and since then there have been several instances where no consideration has been given to her physical and mental health problems.

One example was in April 2015 when the local Jobcentre Plus office telephoned Elizabeth to tell her that she was required to take part in a 2 year work programme in Hounslow – 3 bus journeys away, which the client was incapable of undertaking. On another occasion while waiting for a MR decision on her ESA claim Elizabeth had to claim JSA and was sanctioned for not attending 2 appointments. Initially she thought that it was her fault because she had not opened the letters, but a later check through her post revealed only the letters advising her of non-attendance and not the appointments themselves. The Good Reason letters that the adviser sent on Elizabeth's behalf to explain this were not accepted.

However her appeal against the sanctions was successful. The tribunal considered that the evidence that she had been sent in the appointment letters was poor and the whole matter had been dealt with in a very confusing way. Moreover given the fragile state of her mental health the tribunal thought that Jobcentre Plus staff should have given her much more support.

### **Failures of communication**

When Elizabeth was sanctioned and had no money to live on apart from her Lower Care rate DLA she enquired about applying for a Hardship Payment. First she was told she needed to go to the Job Centre to apply, but having no money for the fare was forced to come to the Citizens Advice office and ask for food vouchers after days of not eating. Later she was told that she could have applied by phone but by then it was too late. We complained to Twickenham Jobcentre on her behalf about this conflicting advice but never received a response.

Trying to resolve issues with the DWP by phone over the whole period has been fraught with difficulties. Numerous calls were necessary mostly to dedicated escalation lines but also to the public helpline. These calls have been characterised by long waits, getting cut off and being passed from pillar to post, making it impossible to make any reasonable headway in solving the problems. This experience would place considerable strain on a person in a

good mental state but for a vulnerable claimant with very limited money for telephone calls it has been a nightmare.

### **Conclusion**

It is not surprising that Elizabeth is terrified of further involvement with the ESA claiming process. As if to justify her concerns she was recently sent a further questionnaire (ESA50) to trigger another reassessment despite the tribunal's recommendation that she should not be reassessed. However it has now emerged that it was sent to her by mistake. Overall Elizabeth's experience does not suggest that Jobcentre Plus staff have been "friendly and helpful" or that she has been treated "fairly", "professionally" or "with respect".