**Disability Rights UK submission to Shaping Future Support: the Health and Disability Green paper**

Disability Rights UK (DR UK) is led by people with lived experience across the spectrum of disability and health conditions, including mental health conditions, learning disabilities, dementia and autism.

DR UK operates a second-tier welfare rights advice line where we assist their front-line advice workers with supportive information and advice.

We are a pan disability membership organisation led by Disabled people seeking change. Our membership includes individual Disabled people and 440 organisations working on their behalf including Disabled people led organisations.

DR UK has contributed to and supports the Green Paper submissions and recommendations made by –

* DPO Forum England; and
* the Disability Benefits Consortium

This document is a supplement to the points and recommendations made in both submissions.

The areas covered are –

* Benefit Levels
* Improving Support for Employment
* Disabled Students and Universal Credit
* A Single New Benefit
* Mobility
* Automatic Sending of Medical Assessment Reports
* Disability Reform in Scotland

**Benefit levels**

A serious concern is the Green Paper’s repeated references to “affordability” and the rising spending on disability benefits, which, the DWP says “suggests there is more we can do to enable independent living and employment”.

There are also recurring suggestions that these concerns with limiting spending are driving longer term plans for reform.

For example, the Green Paper mentions “reviewing how money is spent”, and how “checks are made on disabled people’s needs” with a view to ensuring the “sustainability” of the system.

This is the opposite focus of what needs to be reviewed – which is the actual adequacy of benefits paid to Disabled people.

A July 2019 report by the Disability Benefits Consortium (DBC) - [Has Welfare Become Unfair?](https://disabilitybenefitsconsortium.wordpress.com/2019/07/16/has-welfare-become-unfair-a-new-report-by-the-disability-benefit-consortium/) - found that social security reforms from 2008 had hit Disabled adults four times harder than non-disabled adults.

It highlighted that Disabled people had lost out by an average of about £1,200 a year, compared to an average of about £300 for non-disabled people.

The report also showed that the higher a person’s support needs, the more they have lost out, with someone with six or more impairments losing over £2,100 a year on average, compared to someone with one impairment losing about £700 each year.

For anyone, a reduced level of financial support can be detrimental. But for disabled people, who already face [average extra disability-related costs of £583 each month](https://www.scope.org.uk/campaigns/extra-costs/disability-price-tag/), the loss of money can be devastating.

Disabled people don’t just lose money – they lose access to transport, their independence, and in some cases, their jobs. The support they receive through welfare benefits provides only for the basic standards   
of living, but not their extra costs.

The Joseph Rowntree report [Poverty 2019/2020](https://www.jrf.org.uk/reports?gclid=Cj0KCQiAsvTxBRDkARIsAH4W_j9Fier-VfWXkIs4BMhGu-fTaUlMXb4kU84f_ZyZwRd9yLr-N7Oc5qUaAvbwEALw_wcB) found that four million Disabled people in the UK are living in poverty. In total, seven million people in poverty are either a disabled person or live with a disabled person - nearly half of everyone in poverty.

DLA, PIP and the ESA support group top-up were exempt from the four year benefits freeze, that frozen most working-age benefits at the level they were frozen at in 2015.

However, this did not apply to those in the ESA/Universal Credit limited capability for work group.

When the benefit freeze ended working age benefits rose by 1.7%.

Yet overall, benefits and tax credits affected by the four-year freeze were [around 6% lower in 2020/21](https://researchbriefings.files.parliament.uk/documents/CBP-8806/CBP-8806.pdf) than if CPI indexation had been applied during the four years of the freeze.

The bedroom tax is still with us, with [more than two thirds of households subject to it](https://www.disabilityrightsuk.org/news/2019/september/disabled-people-still-far-worst-affected-bedroom-tax) under Housing Benefit are in receipt of DLA, PIP, ESA, Incapacity Benefit, or Severe Disablement Allowance.

Until April 2017, Disabled people who received the lower rate of ESA (the work-related activity group) received an additional £29.05 a week to compensate them for the length of time they were expected to   
be out of work. This component, and the equivalent payment in Universal Credit, stopped for new claims from April 2017.

The changes were introduced to “remove the financial incentives that could otherwise discourage claimants from taking steps back to work”.

The fact that it is not referred to in the Green Paper, means that this cut the DWP has no evidence that it has had any affect other than to increase Disabled people’s poverty.

The ESA Work-Related Activity component (and the equivalent Universal Credit LCW component) should be restored.

Their abolition for new claims from has caused hardship to many Disabled people who have no realistic prospect of work in the near future, while often detrimentally affecting their health and increasing social isolation, thus also stepping up pressure on health and social services.

There is also an adverse impact on undertaking work-related activity and looking for work. Sufficient resources are needed in order to take steps towards work – for example, paying for travel to appointments or volunteering opportunities, courses, appropriate interview clothing as well as access to the internet and phones to complete job applications.

In addition, there is a direct financial work disincentive. If a claimant were to get a job and then lose it a few months later, or perhaps fulfil a short-term contract, then they would in effect become a new claimant and thus be put on the new lower rate.

Because of the way Universal Credit is structured, restoring this component would also help some Disabled people in low-paid work, who generally fare badly in comparison with the legacy system.

While Universal Credit and working tax credit were uplifted by £20 per week from April 2020 to October 2020, this increase was denied to those on ESA and other legacy benefits.

The end of the £20 uplift and the exclusion of legacy benefits from it has been highlighted in research produced by the [Child Poverty Action Group](https://cpag.org.uk/sites/default/files/files/policypost/UC_what_needs_to_change_full.pdf), [Citizens Advice](https://www.citizensadvice.org.uk/about-us/our-work/policy/policy-research-topics/welfare-policy-research-surveys-and-consultation-responses/welfare-policy-research/life-on-less-than-zero/), [Feeding Britain](https://feedingbritain.org/what-we-do/policies-research/), [Independent Food Aid Network](https://feedingbritain.org/wp-content/uploads/2020/11/IFAN-Feeding-Britain-briefing-October-2020.pdf), [Joseph Rowntree Foundation](https://www.jrf.org.uk/report/our-social-security-lifeline-it-strong-enough), [Policy in Practice](https://policyinpractice.co.uk/autumn-of-income-shocks/), [Save the Children UK](https://www.savethechildren.org.uk/news/media-centre/press-releases/universal-credit-almost-half-cant-live-on-20-less), [Trussell Trust](https://www.trusselltrust.org/wp-content/uploads/sites/2/2020/09/the-impact-of-covid-19-on-food-banks-report.pdf), [Turn2Us](https://www.turn2us.org.uk/T2UWebsite/media/Documents/Communications%20documents/Weathering-the-storm-How-Covid-19-is-eroding-financial-resilience-Full-Report-Final.pdf), and [Zacchaeus 2000 Trust](https://www.z2k.org/covid-19-written-submissions/), among others.

The DBC September 2021 [Pandemic Poverty](https://www.disabilityrightsuk.org/news/2021/february/pandemic-poverty-new-dbc-research-report-shows-why-%C2%A320-week-uc-uplift-must-be) report highlighted that two thirds of Disabled claimants have had to go without essential items at some point during the pandemic; and almost half of Disabled claimants reported being unable to meet financial commitments such as rent and household bills.

Given what we have outlined we recommend:

* An independent review of benefits paid to Disabled people to ensure their adequacy and that they accurately reflect their disability related costs;
* an end to the bedroom tax for Housing Benefit and Universal Credit;
* the restoration of payment of the ESA Work-Related Activity component (and the equivalent Universal Credit LCW component);
* the restoration of the £20 Universal Credit uplift and its payment, with arrears from April 2020, to those on legacy benefits;
* The ending of the two-child limit – Disabled people also have children and this limits their ability to ensure that they and their children do not live in poverty.
* The inclusion of a severe disability premium within Universal Credit and arrears paid to those claimants whose transitional protection has been reduced.

**Improving Support for Employment**

* The Employment Challenge

The disability employment gap stands at around 28%. In reality, we’ve seen little if any improvement in the employment rate of disabled people for many years. The Government will largely meet its target of a million more Disabled people in work by 2027 due to the increasing prevalence of disability in the working population. To close the disability employment gap the Government needs to take urgent and concerted action on a number of fronts -

* Coproduce employment strategies with Disabled people

The DWP should work with Disabled people to develop and implement a plan to get more Disabled people into jobs and to support retention for those becoming Disabled whilst in work.

* Ensure young Disabled people know about available support

Young Disabled people need information whilst at school about available assistance such as Disability Employment Advisors and Access to Work. This would enable greater confidence in future employment prospects and allow plans to be put in place.

* Provide direct access to Disability Employment Advisors

Disabled people need to be confident that the person they see in the Job Centre, understands specific impairments and health conditions, recognises societal barriers and is experienced in finding solutions.

* Increase the scale of targeted employment programmes

There should be large scale commissioning of employment programmes from Disabled people’s led organisations. These organisations understand the specific support required by Disabled job seekers and would achieve better employment results. All Government employment programmes should be accessible to Disabled job seekers.

* Extend and improve Access to Work

Access to Work should be available to Disabled job seekers. It should be easy to use and application and renewal processes should be fully accessible. Equipment and support should be in place from day 1 of employment. There should be no cap on the level of support.

* Strengthen provisions on reasonable adjustments

The implementation of reasonable adjustments under the Equality Act is unsatisfactory. Disabled people need a wider range of adjustments to be provided, for timescales for speedy provision to be set and for external enforcement where adjustments are not made.

* Improve retention support for newly Disabled employees

Strengthened provisions on reasonable adjustments need to be put in place for people who become disabled whilst in work. Again, adjustments need to be wide ranging, speedily implemented and capable of enforcement.

* Introduce mandatory disability workforce monitoring

All organisations with more than 250 employees should be required to report on the number and location of Disabled people in the workforce and be transparent about the disability pay gap.

* Reform Disability Confident

The Disability Confident scheme should be made outcome focused. Organisations should be required to employ Disabled people in order to be part of the scheme and to demonstrate year on year improvement in recruitment and retention of Disabled people.

**Disabled students and Universal Credit**

While Disabled Students can receive ESA and Housing Benefit, they are effectively barred from Universal Credit.

Only 16% of Disabled people have a degree level qualification compared to 30% of non-Disabled people.

Disabled people are clearly significantly underrepresented in Higher Education. This means that they will have greater difficulty securing employment and pursuing a career than those who are not disabled.

Under ESA and Housing Benefit, Disabled students who receive either PIP or DLA are automatically “treated as having a limited capability for work” and so can receive both benefits during their studies.

Although income-related ESA is often paid at low levels or not at all during term-time it can be particularly useful during summer vacations, when Disabled students are often unable to readily secure employment.

In some cases, the course a Disabled student may want to pursue at a college and university, that is suitable for example in terms of accessibility, may not be available to them locally.

So ESA helps towards the extra costs of a student’s disability and   
Housing Benefit gives Disabled students potential access to educational   
institutions that are accessible both by course and accommodation .

However, Universal Credit - that has replaced ESA and Housing Benefit - does not automatically Disabled students in receipt of PIP or DLA as having a “limited capability for work”.

In addition, it requires that someone has already been found to have a “limited capability for work” before they can claim.

But in a Catch 22 situation, Disabled students under Universal Credit rules are denied the very chance to undergo the DWP’s “work capability assessment” to determine that they have a “limited capability to work”.

This situation was successfully challenged in a [July 2020 High Court judgement](https://www.disabilityrightsuk.org/news/2020/november/high-court-finds-dwp-unlawfully-refused-universal-credit-disabled-students-seven) in which the Secretary of State conceded that the above regulations were in fact unlawful. In turn, the DWP has committed to a case review to identify those Disabled students that were wrongly denied Universal Credit and pay them due arrears.

However, [new regulations were then immediately issued](https://www.disabilityrightsuk.org/news/2020/august/new-regulations-issued-excluding-disabled-students-universal-credit-entitlement) to “restore the policy intent” that "a limited capability for work determination, must be met by a Disabled student  on or before the date of claim for Universal Credit”.

Both the [EHRC](https://www.disabilityrightsuk.org/news/2018/october/disabled-students-should-be-given-universal-credit-eligibility-say-ukim), and the [Work and Pensions Committee of MPs](https://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/inquiries/parliament-2017/inquiry/universal-credit-support-for-disabled-people-17-19/) have previously recommended that receipt of PIP or DLA should be mean - as for ESA and Housing Benefit - that Disabled students should be treated as having a limited capacity for work for Universal Credit purposes.

Judicial review action is now again being taken (supported by evidence from our Disabled Students Advice Line) with the aimed at quashing the new regulations on the grounds that -

* the Secretary of State unlawfully failed to consult
* they are discriminatory under Article 14 of the ECHR
* they are irrational
* they breach public sector equality duty under the Equality Act 2010.

The Disabled student taking the judicial review action currently receives the enhanced rate of both the mobility and daily living components of PIP, but is having to use that money to meet his general living expenses. He calculates that he may be entitled to £899.11 a month Universal Credit. But in line with the new regulations, his own application for Universal Credit was refused and he was not invited to a work capability assessment.

He said:

“Because of my disabilities, I am not able to supplement my income to the same extent as a non-disabled student is. I believe it is unlawful and also discriminatory that I am being prevented from claiming Universal Credit.”

It is already twice as likely that a non-Disabled student will attain a degree level qualification than a Disabled student – this gap will only increase if Disabled students are not able to supplement their income with Universal Credit.

Student finance for Disabled students is inadequate as shown by the fact that many would qualify under the Universal Credit means test if only they were eligible.

In addition, student finance is usually unavailable during the whole summer vacation.

That new regulations blocking UC entitlement were so swiftly introduced last year that it casts doubt on the Government’s commitment to ensure Disabled people’s access to education. In addition, in turn it casts doubt as to the Government’s commitment to increase the number of Disabled people in employment.

Universal Credit does not duplicate student finance support as the DWP has sought to maintain.

Student finance that is ‘already covered under Universal Credit’ – such as maintenance loans/grants - are deducted as income from the benefit.

Only student finance to cover the study-related costs related to disability are ignored as income as they are not ‘covered under Universal Credit’.

In brief, the bar to Disabled students claiming Universal Credit adds to the financial barrier to Disabled people accessing Higher Education and hinders Disabled people from affording accessible rented accommodation away from home.

We submit that the effective bar on Disabled students being able to claim Universal Credit must be lifted and that they should be entitled to it on exactly the same basis as ESA.

**A single new benefit**

We are very suspicious of the Green Paper suggestion that Ministers could create a “new single benefit” so as to simplify the application and assessment process..

Given the stress, worry, fear and distrust work capability assessments and PIP assessments cause Disabled people, the prospect of only having one assessment and not two is only superficially attractive at best.

Given the repeated stress the Green Paper gives to “affordability” we believe the DWP is being disingenuous and the actual reason for the single benefit suggestion is likely to be reducing expenditure.

In terms of easing the concerns of Disabled people in relation to medical assessments we submit that the best way forward would be the DWP’s adoption of the type of [reforms planned by the Scottish Government](file:///C:\Users\KenButler\Desktop\the%20Scottish%20Government%20published%20Welfare%20reform:%20impact%20report%20on%20benefits%20for%20Disabled%20people).

Any significant reduction in disability benefit spending can only happen if new rules exclude more Disabled people or benefit amounts were reduced.

Is the promotion of a new simplified single benefit a way of achieving both?

Our suspicion is that a single benefit would be created by merging PIP – which contributes towards the extra costs of disability – with income based ESA and Universal Credit.

This would be unacceptable as it would likely exclude many Disabled people who rely on PIP to try to maintain independence. And the whole purpose of PIP is to compensate for the extra costs of disability.

At present, a Disabled person in receipt of both benefits can challenge a flawed assessment while still receiving the other benefit. A single benefit has the potential to remove all a person’s income in one sweep.

Disabled people would not support a single assessment if it meant PIP would be abolished and with just a ‘single disability benefit’ with increased eligibility conditions remaining.

The benefits payable in recognition of the extra costs of disability (such as DLA, PIP and Attendance Allowance) are not means-tested, in recognition of the fact that such costs arise at any level of income. Nor are they contribution-tested, in recognition of the fact that many Disabled people will not have had the opportunity to build up contribution records.

We vehemently oppose a single income replacement and extra costs benefit that would introduce means-testing into extra costs benefits and displace contributory benefits.

In addition, the Green Paper’s idea of replacing benefit payments with the provision of aids and equipment was something the Government itself considered by way of consultation and [ruled out in 2016](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/507166/government-response-aids-and-appliances-and-the-daily-living-component-of-pip.pdf).

Aids and adaptations should be freely and widely available under NHS provisions without them being paid for by Disabled people from their benefit.

**Disability benefit reform in Scotland**

The Green Paper offers case studies of four countries – Australia, France, New Zealand and Switzerland – that approach disability benefits in a different way to the UK.

Three of these at lease appear to provide a less generous system or offer less control to Disabled claimants over their support.

However, the Green Paper is silent about the disability benefit reforms to be made by Scotland, despite it starting from the same DLA, PIP and AA benefit regime base as the rest of the UK.

In January 2020, the Scottish Government published [Welfare reform: impact report on benefits for Disabled people](https://www.gov.scot/publications/welfare-reform-report-impact-welfare-reforms-disabled-people/). This too, like the Green Paper, was informed by consultation with Disabled people and their organisations. However, the contrast between the two documents is stark.

In [obtaining evidence from Disabled people](https://www.gov.scot/publications/welfare-reform-report-impact-welfare-reforms-disabled-people/pages/1/), the Scottish Government found:

* a system that causes stress and anxiety for claimants: from the application process to the appeals process - with some claimants deciding not to go through it for fear of the related stress and losing the benefits they already have.
* A lack of trust in the benefits system: many did not trust their assessors had a sufficient knowledge of their condition to make an accurate assessment. The DWP PIP claimant experience survey showed that distrust in DWP was one of the reasons why participants did not request help from DWP with their application, especially during the dispute process.
* acomplex or unsuitable application process: The PIP application process was highlighted as too long, difficult and repetitive. The DWP PIP claimant experience survey showed that some claimants felt the application process failed to appreciate the individuality of each person’s condition, with 39% stating that there were things they wanted to, but were not able to explain at the assessment.
* A lack of help and communication**:** The DWP’s PIP claimant experiences survey reported that 59% of claimants required help completing the PIP application form and of those only 2% would choose to get it from the DWP. Once the PIP decision letter was received, only 41% of claimants fully understood how the DWP reached their decision, while 56% said their letter did not refer to medical evidence. Over two thirds of the Scottish Government’s Experience Panels participants identified the need for better advice and support when claiming benefits, making this their number one priority for improvement of the benefits system.

All the above sounds very familiar.

Yet the reform actions taken in response to these findings are very different to those identified in the Green Paper.

Among the several subsequent Scottish reforms, based on the testimony of Disabled people include:

* replacing DLA, PIP and AA with three new benefits that make decisions a using a claimants account of their circumstances and existing supporting information where possible;
* for adults, significantly reducing the number of face-to-face assessments and with a formal assessment held when it is the only practicable way to make a decision;
* basing entitlement to the new DLA Child benefit using the claimant’s account of their circumstances and existing supporting information and holding no face-to-face assessments being held.

The [Scottish Government explain](https://www.gov.scot/publications/welfare-reform-report-impact-welfare-reforms-disabled-people/pages/7/):

“Each form of assistance has been designed in a person-centred way, consulting people with lived experience and experts in the social security system to ensure that Disability Assistance is delivered in a way that meets the needs of the people it is intended to support.

A full public consultation on proposals was undertaken earlier this year [2019], closing on 28 May and with a wide range of stakeholders and individuals responding. This included 189 individuals and 74 organisations.

The majority of respondents were broadly positive about the proposals set out in the consultation document.

The Scottish Government has considered carefully the feedback provided by respondents, as set out in the Scottish Government response report, published on 28 October 2019.

A number of amendments to proposals have been made in light of feedback including, for instance, the extension of the proposed number of days to request a redetermination from 31 to 42 calendar days.

This change ensures that clients have a sufficient window to receive welfare rights advice, or other support, before considering whether to challenge their award.”

All the above are very welcome changes.

Having listened to Disabled people, this is the way Scottish Government policy, unlike the UK Government’s, has been framed to alleviate Disabled people’s stress and anxiety and a lack of trust in the disability benefits system.

We would recommend that the type of reforms being introduced in Scotland are ones that should be introduced within the rest of the UK.

**Automatic sending of ESA/UC and PIP assessment reports**

The only information given in the work capability assessment decision letter sent to Universal Credit claimants who are found fit for work is a list of the WCA descriptor activity headings.

How it is possible for these Universal Credit claimants to understand the decision, let alone consider and decide if it is wrong and that they should seek a mandatory reconsideration?

It can be the case that claimants find assessment reports difficult to understand.

However, this is because these reports are written in a language and design that makes them difficult for the very person assessed to understand. This is in turn is because they are not intended to be sent to and read by the claimant but the DWP Decision Maker.

Assessment provider Health Care Professionals (HCPs) are aware of this. If HCP reports were written and presented in a clear way and automatically sent to the claimant this would increase scrutiny and therefore help to raise standards.

Assessors would know that all claimants will be able to see any inaccuracies or misleading statements, which should encourage greater care and accuracy.

In practice, most often the reason why a Decision Maker has found someone fit or work or not eligible for the support group or PIP is that most weight has been given to the negative HCP report.

However, there will be occasions where the HCP contains omissions, inadequately reported claimant oral evidence, poor consideration of a submitted medical evidence or factual inaccuracies.

All this is unknown to the claimant if they have do not have access to the HCP report. And as a result, all this will also be unknown to the Decision Maker.

In 2016, the Social Security Advisory Committee in its investigation [Decision Making and Mandatory Reconsideration](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/538836/decision-making-and-mandatory-reconsideration-ssac-op18.pdf) recommended that –

“DWP should provide a copy of the Healthcare Professional Report with all decisions made that find the claimant fit for work so that the claimant can understand the basis on which the decision was made.

… If claimants had access to the HCP report earlier in the process, they would be able to see for themselves the evidence on which the DM has based their decision.

This would allow them to better understand the decision and help inform what evidence they may need to provide to bring about the change in decision. This potentially saves time for all involved and facilitates evidence to be provided earlier and thereby avoid the need for a tribunal.”

The recommendation that a claimant should be sent a copy of the HCP medical report with their decision letter has been repeatedly made by several independent reviewers of ESA/UC and PIP.

These include the [independent PIP reviewer Paul Grey](http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/work-and-pensions-committee/pip-and-esa-assessments/oral/76113.pdf), the [Work and Pensions Committee](https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/829/82902.htm), and [JUSTICE and the Administrative Justice Council](https://files.justice.org.uk/wp-content/uploads/2021/07/08140450/JUSTICE-and-AJC-Report-Reforming-Benefits-Decision-Making-1.pdf).

Again in July 2021, the [Administrative Justice Council and the Northern Ireland Public Service Ombudsman](https://nipso.org.uk/site/wp-content/uploads/2021/06/NIPSO-Own-Initiative-Full-report.pdf) said:

“In my view, given the lack of appropriate explanation provided within the First-Tier decision letter, a claimant’s review of the Assessment report, cannot be undervalued.

It is a necessary aid in informing claimants how decisions have been made, and what potential further evidence may be required to support their Mandatory Reconsideration.

For claimants to know what further evidence is required, they first need to know what evidence has already been obtained/utilised/discounted in deciding on the award. Any delay in provision of the Assessment report is therefore likely to impact on the time available to gather further evidence.

The Department advised my investigation that an extension can be considered if the delay in receiving a copy of the assessment report specifically delays a claimant in providing further evidence.

To do this a claimant would have to be aware that this request would be considered and would have to request an extension on that basis. No written communication provided to the claimant explains the possibility of this extension, or indeed the ability to request an assessment report.

Nor at any point … were the claimants verbally advised that they could request an extension to their Mandatory Reconsideration due to the delay in receipt of their Assessment report.”

The need to provide a full explanation of and details of the work capability points score within UC decision letters should be a DWP priority.

However, without a copy to of the medical assessment report it is not possible for a clamant to fully understand the decision, see why it may be wrong, decide to seek a mandatory reconsideration and relevant evidence and seek and gain full advice.

It is welcome that the DWP has said it will give consideration and weight to non-medical written evidence, from relatives and carers for example.

But that the automatic sending of medical reports is not yet in train shows it has a way to go in recognising the necessity and value of a claimants own post-decision evidence.

The success rate of ESA and PIP appeals is around 75%.

Inevitably this means that these claimants could not resolve their challenge by mandatory reconsideration.

And that the HCP medical reports in these cases have been rejected in whole or in part by the tribunal.

What needs to be taken on board is the weight that tribunals give to the claimant’s own evidence.

On 23 May 2016, then [Minister for Disabled People Justin Tomlinson said in a parliamentary answer](http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-05-18/37130/) that “either new oral or documentary evidence supplied at the hearing are the leading reasons for PIP decisions being overturned in 75% of overturns recorded.”

However, in [a further written response the next day](http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-05-20/37773/), the Minister refined his answer as follows –

“The 75% can be broken down as follows:

Cogent oral evidence – 66%

Cogent documentary evidence supplied at the appeal – 9% “

Most of the claimants appealing PIP decisions will not have seen their medical report until after their unsuccessful mandatory reconsideration.

If they had, then their informed evidence may have led to their challenge ending and being accepted at the mandatory reconsideration stage.

In July 2020,then [Minister for Disabled People Justin Tomlinson said](https://www.theyworkforyou.com/wms/?id=2020-07-09.HCWS353.h) –

“A key objective of the Health Transformation Programme is to improve the trust and transparency in the assessment process.”

Automatically sending HCP reports to claimants would clearly meet this key objective.

From an adviser’s perspective, it is very difficult to advise about the WCA itself and represent a client who has not been told how many WCA points they have been awarded, if any, and for what descriptors.

In addition, it is not possible for a claimant or an adviser to identify and to help seek ‘targeted’ medical evidence to present in support of a mandatory reconsideration request.

This does mean that it is likely more cases progress to appeal than not.

The Green Paper says that a DWP assessments objective is to” Build trust through transparency and consistency”:

“It is important that we deliver assessments that people can trust. Assessments must lead to the right decisions and outcomes. Decisions and outcomes must also be communicated in a way that is supportive and easy for people to understand.”

We submit that a fundamental way of doing this empowering Disabled claimants is to ensure that they are automatically sent their medical assessment report.

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