



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

WELFARE REFORM COMMITTEE

Tuesday 24 March 2015

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WELFARE REFORM COMMITTEE

6th Meeting 2015, Session 4

CONVENER

*Michael McMahon (Uddingston and Bellshill) (Lab)

DEPUTY CONVENER

*Clare Adamson (Central Scotland) (SNP)

COMMITTEE MEMBERS

*Annabel Goldie (West Scotland) (Con)

*Joan McAlpine (South Scotland) (SNP)

*Margaret McDougall (West Scotland) (Lab)

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP)

*Kevin Stewart (Aberdeen Central) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Paul Gray (Social Security Advisory Committee)

CLERK TO THE COMMITTEE

Simon Watkins

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Welfare Reform Committee

Tuesday 24 March 2015

[The Convener opened the meeting at 10:30]

Work Programme

The Convener (Michael McMahon): Good morning and welcome to the sixth meeting in 2015 of the Welfare Reform Committee. I ask everyone to make sure that mobile phones and other electronic devices are on silent or switched to aeroplane mode.

Agenda item 1 is on the work programme. At our meeting on 10 March, the committee considered its work programme in private and agreed on a number of inquiries and evidence sessions that it expects to conduct in 2015. Those include an inquiry into women and welfare, an oral evidence session on the impact of welfare reform on children's services, an oral evidence session on bedroom tax mitigation and an inquiry into the welfare powers that are to be devolved following the recommendations of the Smith commission.

There are a number of procedural points in connection with the work programme that must be agreed in public. The committee is asked to agree that consideration of any oral evidence that is received will be completed in private after the end of the public session; that decisions on witness expenses will be delegated to the convener; that all draft reports will be considered in private; and that the convener is authorised to seek approvals for committee events where necessary. Do members agree to those points?

Members indicated agreement.

Social Security Advisory Committee

10:31

The Convener: Agenda item 2 is an oral evidence session with Paul Gray, the chair of the Social Security Advisory Committee, which is an independent statutory body that provides impartial advice on social security and related matters. Paul Gray has undertaken the first review of personal independence payments, which was mandated by the Welfare Reform Act 2012, for the Department for Work and Pensions. The SSAC has also produced a report this month on changes to the employment and support allowance regulations. I welcome Paul Gray to the committee. I believe that he was at the committee back in 2012.

Paul Gray (Social Security Advisory Committee): Indeed I was.

The Convener: I will start by asking you to provide a brief opening statement, after which I will open up the discussion to questions.

Paul Gray: Thank you, convener. Would it be sensible if I talked about the PIP review and then separately about the SSAC role in relation to ESA? It is probably sensible to keep the two parts separate.

The Convener: I am happy for you to do that.

Paul Gray: As you said, convener, I was invited by the Secretary of State for Work and Pensions to undertake the first statutory review of PIP. The fact that I am chair of the SSAC is kind of parallel to the fact that I was asked to undertake the first independent review of PIP. In responding to the invitation, I made it clear that I wished to avoid any possibility or perception of conflict of interest between the two roles, given the possibility that, while I was undertaking the PIP review, routine business on PIP might come to the SSAC. I made it clear at the outset that, were that to happen, I would step outside the SSAC's consideration of any routine business on PIP so that I was not seen to be wearing too many hats at once. As it happens, no business came to the SSAC on PIP, so the issue did not arise. However, I am keen to make that distinction clear.

When I started the review in April or May of last year, there was already a huge amount of noise around the early introduction of PIP as a result of the major problem that had developed with delays in processing and in particular delays in people being called to the new-style PIP assessments. A lot of the initial evidence that I gathered focused heavily on those delays.

After a short period, I decided that, although it was important for me to understand the impact of the delays, a lot of attention had already been paid to those issues by the Westminster Parliament and indeed this Parliament. I made it clear in my report that resolving or completing the process to resolve the delays was a fundamental priority, but in my view it was a necessary but not sufficient factor in addressing a number of fairly major underlying issues with regard to the operation of the process. As a result, I sought in the review to look beyond and behind the delays and focus on what seemed to me to be important underlying issues that ought to be addressed as and when the delays were resolved.

Given that this was a statutory review that was, as the convener has pointed out, mandated by the Welfare Reform Act 2012, I felt it right to look at the broad structure and parameters of the assessment criteria that had been established in legislation. Major consultation processes had led to the final design and although, as I have said in the report, it was clear that the measures might not have commanded universal support, I felt that the right focus of my review was not the basic parameters of what the Westminster Parliament had decided but the implementation of the whole process.

As I gathered and distilled the evidence that I was getting from a whole range of approaches—I had received a lot of written evidence and had had lots of meetings, focus groups with claimants and many conversations with all the players involved, including the organisations representing disabled people—it seemed to me that the issues fell under three broad headings that have been summarised in the report that the committee has received from the Scottish Parliament information centre. The first heading was the claimant experience of the process of claiming PIP and ultimately receiving a decision; the second was processes and procedures for obtaining evidence to support the assessment and decision-making process; and the third was the overall effectiveness of the assessment.

In very broad terms, my summary findings under those three headings were, first, that even putting to one side the very unfortunate reality of long delays, the claimant experience as currently designed is very disjointed. Important issues have to be addressed in that respect. Secondly, as far as obtaining the necessary evidence is concerned, the more discussions and conversations I had, particularly with claimants, the more it struck me that the PIP process was widely viewed as “having a medical”. The benefit has been designed to emphasise that this is an assessment of the functional impact on disabled people of underlying health conditions, not an assessment purely and solely of medical conditions. However, as I

observed assessments in process and examined other sources of evidence, I noticed that there were a number of ways in which the progress seemed to feel overmedical and underfunctional. I also thought that the current arrangements for collecting evidence, whether medical or functional, left a fair amount to be desired.

On the overall effectiveness of the PIP assessment process, my summary conclusion was that, frankly, it is a little bit too soon to judge whether it is being effective in the intended way. Even by the time I got to the end of my review in December, only quite a limited number of award decisions had been reached. I could see some indications that there were questions to be asked about the consistency and reliability of the early outcomes, but the evidence was rather patchy.

In my third area of focus, I concentrated my recommendations on ensuring that processes and systems are significantly improved so that, as the case load starts to build under the PIP roll-out, there will be much more reliable means of assessing the fairness and consistency of awards across different claimant groups.

Those were my three broad areas of focus. The Scottish Parliament information centre report that the committee has received has a summary of my 14 key recommendations, which were spread across those three areas of focus. I decided to make another three-way split in my recommendations, based on the time period in which should be fully implemented.

The first group, which unimaginatively I called short-term recommendations, were things that I emphasised should be fully completed before the PIP roll-out gets to the stage of what has been termed managed reassessment. That is a critical point to focus on. As I am sure the committee is aware, the roll-out has been phased, with all the early focus being on new claimants—people who are not in receipt of the legacy benefit, disability living allowance, and are coming fresh to the process. The great majority of claims that have been decided on so far fall into that category. The fairly small proportion of reviews of existing DLA awards have involved either the small minority of cases in which the initial DLA award was time limited, or cases in which claimants have concluded that they wish to reapply for PIP, possibly because they felt that the functional impact of their condition had significantly worsened since their original DLA award.

However, the great majority of current DLA claimants have yet to go through the PIP process. The Westminster Government’s announced schedule is to start that final principal stage in the autumn of 2015. The more I thought about it, the more that seemed to be the point at which any kind of underlying difficulties, strengths and

tensions in the PIP process will come into sharp focus, because at that point people who have been in receipt of DLA, which quite often was awarded without any time limits placed on it, will face the start of a process of mandatory reassessment under PIP. The expenditure projections that the Westminster Government provided as PIP was developed and in successive budget documents assume that a significant proportion of existing DLA claimants will not receive a PIP award or will receive a PIP award that is lower than their DLA award. In some other cases, the assumption is that people will receive a higher award under PIP but, in net overall terms, the plans and expectations of the Westminster Government are for significant reductions in expenditure under PIP compared with DLA.

10:45

As that process starts to roll out, the system will clearly come under a lot more pressure. It is one thing, however difficult, to say to a new claimant for PIP, "I'm sorry, but you haven't met the criteria and you haven't got an award," but it seems to be a significantly larger issue and challenge to say to somebody who has been in receipt of a DLA award for some years that they have been reassessed for PIP, and that it has been concluded either that they are not entitled to any PIP award or that they are entitled only to a reduced award.

That is why I wanted to put a time plan on my recommendations. There are some things that I thought it was essential to have fully in place and properly operational before the next phase of the roll-out started. There were other things, which I unimaginatively called medium-term recommendations, which I felt should be well on the way to implementation at the start of that phase.

There is one recommendation that I termed long term. I have recommended a fundamental redesign of the whole claimant process for PIP to make it much more integrated and joined up—and, in this day and age, increasingly digitally enabled for the increasing proportion of people for whom that will become a preferred approach.

In making that time split on my recommendations, I was influenced by the political calendar, in two respects. First, we have the United Kingdom election in May 2015. The recommendations that I was making, which would take a fair time to implement on any basis, are likely to fall, in UK terms, to whoever forms the next Government in Westminster.

Secondly, we had the Smith process in Scotland towards the end of my review period. It concluded and recommended that PIP and some other

disability benefits should be devolved to the Scottish Parliament and Scottish Government. Therefore, I thought that it was appropriate also to flag up some things that I thought were for longer-term consideration, which could, in UK terms, fall under a different jurisdiction and which, in Scottish terms, would certainly fall to this Government and Parliament.

I will give a flavour of where the focus of my specific recommendations was regarding the claimant experience. I have stressed the importance of improving claimant communications in all kinds of ways, including a fundamental revamp of the decision letters that are sent to claimants once a decision is reached, which I found quite difficult to follow and interpret. My suspicion was that many claimants would find them at least as difficult to understand.

I highlighted the importance of improving the relationships between different players in the decision process. There are the outsourced assessment providers—the health professionals doing the assessments—and the Department for Work and Pensions staff who make the final decisions, based on the input from those assessments. I saw some evidence of improving relationships between those two groups, but I saw a lot of scope for more work to be done to improve those relationships and, as a result, to achieve a much better process for claimants.

As I have already indicated, I think that the current process can be made significantly better in the longer term. There can be much better joining up of different parts of the process. The onus is currently largely on the claimant to navigate their way around different bits of the process and to ring up different people to find out where their claim has got to. In this day and age, in any claimant or customer process the onus should be on the providers—in this case, the DWP and the outsourced providers—to do the joining up and give single points of contact and ease of claiming. That is a fundamental long-term change. In particular, claimants should be allowed a simple way to check where their claim has got to. Currently, that is extraordinarily difficult. Claimants have to make lots of phone calls to different places and they get lots of unsatisfactory hand-offs.

On improving the way in which evidence is obtained, I have recommended looking at the scope for much better joining up of the information that various parts of Government or Governments already hold. Currently, the PIP process is very insular and self-contained. Quite a lot of people have to go through an assessment process for ESA and also the PIP process separately. During the review, the DWP started the process of seeing whether some of that information could be brought together. I have encouraged it to go a lot further.

There is potentially a lot more scope to think about joining up other aspects of evidence collection, particularly in relation to social care assessments. Again, there is a significant overlap of the case load there.

I have made recommendations about the way in which the face-to-face assessment processes operate. Having observed quite a number of them, I felt that there was not enough transparency for claimants to see what information was being recorded by health professionals.

Finally, on the effectiveness of the assessment, I highlighted two specific aspects of the 12 criteria for assessment that I did not think were working terribly well. I thought that there was a lot of confusion around activity 11, on understanding people's mobility needs. Similarly, I thought that people's need to use aids and appliances was possibly not being considered in the way intended.

To look a bit further ahead, as I said earlier, I was quite concerned that early evidence suggested to me that there could be some inconsistency in the way in which awards are being made. I was particularly concerned that focus should be given to ensuring that assessments of people with mental health conditions or fluctuating conditions are done consistently. I was concerned to note that there was not yet a full and proper evaluation strategy published and in place for how the department would over time fully assess the consistency of awards as PIP is rolled out.

I hope that that gives a flavour of the areas of my recommendations.

I am pleased to say that the UK Government agreed to publish my report as soon as it was completed without making any observations about the recommendations, so they were out in the public domain and everybody had an opportunity to see them. The DWP produced its initial response in February this year, I think, around two months after my report. In that response, it focused just on my short-term recommendations, which was broadly what I intended when I structured the recommendations in the way that I did. I am pleased to say that, out of nine recommendations, something like eight and a half have been fully accepted.

In the case of the recommendation that was only partially accepted, I am happy that the spirit has been met. Of course, it is one thing for a Government to say that recommendations have been accepted and another thing for them to be fully implemented. Therefore, I reserve judgment as to how comprehensively my recommendations will be implemented.

I have taken a little too long, but I hope that that is helpful and gives the background to the review.

The Convener: Thank you—that is a comprehensive description of the background to the work that you have undertaken. A lot of what you say chimes with the information that we have had and with what witnesses have told us about their experiences of their journey through the system. We have not yet looked in great detail at the PIP process because it is still in its infancy. We have to see how it develops and wait until the statistics on the new system start to mount up.

In Scotland at least, there is hope that, because the outsourced deliverer of the assessments is a public sector body, the service might be improved compared to what might otherwise have been the case. Did you look at the work that is being done by Salus or was that not part of your overview?

Paul Gray: I did not specifically see any of Salus's work. I observed assessments being undertaken by Atos, which is the prime provider in Scotland and parts of England, and by Capita, which covers significant parts of England and Wales. The assessments that I observed were largely undertaken by direct employees of Atos and Capita, but I had quite a lot of conversations with Atos about the way in which it is building and developing its supply network, which, as you say, includes public sector bodies in Scotland and England, where quite a number of the subcontractors—if that is the right phrase—are public sector bodies.

Frankly, I did not observe any obvious difference between somebody who is technically employed by a private sector body and somebody who is technically employed by a public sector body. Generally, I was impressed by the commitment and capability of the particular health professionals who I observed in operation. It is important to bear in mind that all the face-to-face and paper assessments are undertaken by qualified health professionals, regardless of the technical issue of who their employer is.

The Convener: In our initial discussions, Salus indicated that it believes that it is undertaking assessments in the expected timescale and that the delays are a result of a lack of appointments being provided by the DWP. Is that your experience?

Paul Gray: Not entirely. The appointment process for the assessments is the responsibility of the assessment providers. My understanding is that the DWP does not do that directly. Let me describe in broad terms the bits of the process that people go through. There is an initial engagement with the DWP to determine basic eligibility to claim the benefit and then, once people have gone through that stage 1 process, the stage 2 process of setting up an assessment is handed over to Atos and Capita. I am not sure exactly how Atos manages its relationships with its subcontractors

in making appointments, but that is probably done centrally by Atos and Capita.

I do not quite recognise the point that you make. What I do recognise is that there is a third stage in the process, after an assessment has taken place, when the paperwork goes back to the DWP for the formal decision-making process. Looking at where delays have arisen for different people, I get the sense that they have not been particularly concentrated in one place but that they have been across the different parts of the process.

To be frank, I think that the responsibility for the delays is shared between the DWP and the providers. Ultimately, as the department designing the system, the DWP needs to be accountable for ensuring that the process works to best effect. During my review I was conscious that lots of discussions were going on—and they have been going on since the review—between the DWP and the providers to try to improve things.

11:00

Kevin Stewart (Aberdeen Central) (SNP):

Thank you for appearing before the committee today, Mr Gray. Although the convener has already stated that the committee has not done a huge amount of work in the area, we have all been out and about around the country talking to folks. You have pointed out the lack of communication. In my experience, there has been panic in most cases—and in many cases, absolute terror—because folks do not know what is happening to them. That goes for new claimants and also for folks who are going to be reassessed but who do not yet know when. You have pointed that out, but what has the DWP's response been to that? While folk are in limbo, panic, and in some cases terror, will continue.

Paul Gray: I have two responses to that. First, action has clearly been taken to start to reduce the delays, and the Westminster Government announced earlier this year that the average delay in getting an assessment undertaken was down to 14 weeks. When it comes to keeping people better informed, during my review, a process was started for sending text messages proactively to people who had given a mobile phone contact to inform them a bit better about where things were. The process was in its infancy and I specifically recommended that a lot more be done about it.

Secondly, there is an underlying difficulty about the way in which the claimant process has been set up. The different information technology systems do not talk to one another as effectively as they ought to, so when somebody has got through stage 1 and is waiting for an assessment to take place with a provider, most of the information is held by the outsourced provider.

On a number of occasions, I listened in on telephone calls at the DWP, Atos and Capita. When I was sitting in on DWP calls, I was dismayed by the number of occasions when someone would ring up—often in the state of panic that Mr Stewart describes—to ask where their case was, and somebody would look at the DWP system notes and say, “Sorry, we don't know. You're going to have to ring up Atos”, and vice versa. That was entirely unsatisfactory.

I saw on people's screens that individuals had rung up seven, eight or nine times and had still not got the information. When I spoke to claimants in the focus groups, two separate people told me that they had got into the routine of ringing up at 10 o'clock every Monday morning, and they still had not received the information.

In direct response to Kevin Stewart's question about what the DWP has done about that so far, I think that it has taken action to try to reduce delays, but the amount that has been done and that it is possible to do within the current system to have much more proactive contact with claimants and keep them up to date with their claims is fairly limited. That is why I have recommended that the DWP should move as fast as possible to establish a reliable, single point of contact that claimants can come to in order to find out the status of their claim.

Kevin Stewart: According to the January 2015 figures for annual average—“median” is the word that is used—clearance times for new claims, it takes 20 weeks from the point of registration to a decision being made on the claim; 14 weeks from referral to the assessment providers to a decision being made on the claim; and 12 weeks for an assessment. That is a huge amount of time for folk to be in limbo.

Paul Gray: I agree. It is.

Kevin Stewart: Has the DWP put in place special measures to resolve the issue of its systems and the providers' systems not talking to one another?

Paul Gray: I cannot tell you exactly where it has got to with that, but it has taken a certain amount of action to put in place sufficient resource to reduce those elapsed times. When I concluded my review, my view was that more needed to be done. As far as the figures that you highlighted are concerned, it is fair to say that the 20 weeks is the total figure and that the other figures are for the times that different parts of the process take within those 20 weeks.

Kevin Stewart: People are extremely well informed about what the changes actually mean. For example, it is not unusual for folk to tell me that 100,000 folk in Scotland will lose all or part of their benefits by 2018 and that some people will

lose as much as £3,000. What has surprised me in conversations that I have had with folk—a good example is the conversation that I had with multiple sclerosis sufferers in Aberdeen not so long ago—is the suggestion that the loss of the mobility component of their benefits might lead to their having to stop work or, indeed, their carers having to stop work. You have looked at the processes involved in those changes, but have you looked at their impact, which some suggest might actually cost the state more?

Paul Gray: If you are asking whether I have followed individual impacts, the answer is no. As I have said, I was fully aware of the UK Government's assessments of the expected impact of the changes from DLA to PIP. With regard to Scotland, I think that you are referring to the analysis that the Government carried out and which is referred to in the SPICe paper, which suggests that some will get a lower award, some will lose their award and some will get a higher award.

As far as money is concerned, to be honest, I am not sure that it is terribly helpful to talk about the average loss that people will incur, because there will be quite a wide distribution. When I looked up the figures for the average DLA award in Scotland, I found it to be around £83 something a week, which is about £4,500 a year.

The maximum award—for a person who gets the maximum on what was known as the care element in DLA and is known as the daily living component in PIP, and the maximum amount on the mobility component, which is the same terminology for both awards—is £137 a week. I cannot do the sums immediately but somebody who is on the maximum will get something like £7,000 a year.

The impact on individuals who have a changed level of award will vary a great deal across the spectrum. Some people will get an increased award within the spectrum. It is conceivable that somebody who receives the maximum award for both elements at the moment could get a nil award, although I think that is extremely unlikely. It is much more likely that some people who are getting the maximum rate will move to the lower rate, and that some people who are getting the lower rate will move to a nil award, and vice versa.

The DLA process was, frankly, not well designed for people who have mental health conditions; the PIP process and criteria are somewhat better designed. Some people, including some who do not get a DLA award currently, will move up the income scale.

The underlying rationale for DLA and PIP has never been—under this Westminster Government or its predecessors—income replacement. The

impact on people's incomes is clearly very important, but, when it comes to thinking ahead about how to redesign PIP in Scotland, there are some fundamental questions to consider about whether it is right to stick with the current philosophy of PIP, which is that it is not an income-replacement benefit, it is not means tested, it is not taxed and it is independent of whether people are in work. You might want to consider whether those are the right criteria to hold or whether it should be looked at more in terms of the impact on people's income.

Kevin Stewart: One of the key things that the Westminster Government has stated about this welfare reform is that it is to try to get or keep as many folk in work as possible. One of the things that we found during the course of our deliberations in this committee is that many folks—including some people with very serious conditions—want to work for as long as they possibly can. It would be a tragedy if the changes actually impeded folk from continuing to work. That is a great fear among certain folk out there: that the changes will impede either them or their carers from going to work, which as they see it will actually create a greater burden on the state, because there will be less tax going back to the state if they are no longer able to work.

I think that an impact review has to be done—a review of what impact the change from DLA to PIP will have on those folks' ability to work—so that we can find out whether we may be cutting off folks' independence even further by making these changes. Does the SSAC intend to look at the impacts to see whether what is being done is creating a situation in which we are denying folk their independence and stopping them going out to work?

11:15

Paul Gray: That relates to what I was saying about having a much clearer evaluation strategy for PIP than I see existing at the moment. I agree that an important criterion that ought to fit into an evaluation strategy is precisely your challenge. What impact is the introduction of PIP having on enabling people either to get into work or to stay in work? Clearly, for many years, an important design criterion behind DLA, and PIP, has been to provide some people who are not able to work on any basis with the means to support their daily living costs. What can be particularly important around the ability to be employed and to work as fully as possible is the mobility component. I agree that one criterion that should be established in the evaluation criteria strategy is the impact on employment. I found it quite difficult at this stage to track information about the employment status of people who are getting the early PIP awards or not

getting them. I am absolutely with you on the importance of that evaluation criterion.

Kevin Stewart: You mentioned mental health conditions. The convener and I attended a demonstration Atos assessment that featured an actress playing the part of someone with a mental health condition. It would probably be fair to say that Atos had its best assessor on the go that day, but we have heard evidence from people with mental health conditions that there is still a lack of awareness of the difficulties that some folk face with the conditions that they have.

In your report, you highlighted the fact that we must get better at dealing with that situation. How do we ensure that the assessors are completely au fait with the day-to-day difficulties that some folks with mental health conditions have? How do we ensure that assessors are aware of the fact that, when folk go for assessment, they often put on their best face and that might be the one day in a month on which they were on top form? The convener will agree that we have heard of folk going for an assessment and then being really ill for a week or two afterwards because they have had to boost themselves for the assessment and it has taken a huge amount out of them. How do we get the assessment of folk with mental health conditions absolutely right?

Paul Gray: The short answer is that we must absolutely ensure that the right levels of training and experience are reflected among the assessors.

In one of the focus groups that I held with claimants, it so happened that quite a high proportion of the people had a mental health condition. The experiences that they openly told me about varied considerably. Some felt that the assessors who saw them understood very well the nature of their challenges while others were less impressed. Not only in my report but in the conversations that I have been having during my review, I have tried to emphasise the importance of ensuring that the training that is given to assessors who do not have a specialist mental health background is sufficient to make them fully conversant with the issues and to enable them to know whether they are facing an issue that they might feel they ought to refer to a mental health specialist.

Clare Adamson (Central Scotland) (SNP): Good morning, Mr Gray. The statistics to which my colleague Kevin Stewart referred come from the DWP's fourth set of statistics, which are its most recent and were released last week. Given that the volume of PIP applications that are received and processed has changed, are you convinced by the statistics, which flag up a general direction of travel towards improved assessment times?

Paul Gray: I will not claim to be on top of the latest figures, but the direction is right. I will not say that it is better than it was, but it is less bad than it was during particularly poor points in 2014, around the time that I started our review.

Is it as good as it should be? It probably is not yet. However, I finished the review in December and, to be honest, I have not been keeping a regular tab on it, day in, day out. I am sure that there is still scope for improvement.

Clare Adamson: In your report you suggested using some sort of portal to keep people informed of the situation. Why would that improve the client experience of the process?

Paul Gray: That follows a comment that Kevin Stewart made earlier. If a claimant in any kind of process struggles desperately to find out what is going on, and they phone this number and that number and get fobbed off, that is a very bad experience.

One should think about best practice in other sectors, such as the insurance sector—I know that that is not a precise analogy, but it has some interesting parallels. If you find yourself in the middle of an insurance claim, as I did last year, following a motor accident, traditionally it could be very hard to find out what was going on. I was quite impressed with the experience that I went through. I received regular text messages from my insurance company, which told me exactly what stage things had reached. I knew that there was one phone number that I could ring up and I had a central point of contact who could tell me what was going on and had access to all the information about the two insurance companies and two drivers that were involved and the various garages that were fixing vehicles.

I am advocating something broadly similar here. There are lots of players involved in this. In this day and age it is perfectly feasible to put together a system in which people gather all the information in one place. Should that be an online portal or a single telephone number? I would not pretend that we are at the stage at which an online tracking device will be the perfect option for every claimant, but increasingly we find that in all kinds of spheres people either directly or through other people on their behalf use online tracking systems to see where they are in a particular process. Internet deliveries are a huge example. If someone expects a parcel, they can, with most providers, find out exactly where the parcel is in the process. The same approach could be applied to PIP, but it would probably need to be supplemented by a much better-integrated telephone system or whatever for people who remain uncomfortable online.

Clare Adamson: You have sort of pre-empted my next question. Has any significant work been done with the client base to ask them how they would like to be informed? The idea that everything would go into a portal is of concern to me, especially since the Scottish Government has put dignity as a huge part of what is happening here. Improved customer service and improved communications should be key.

Paul Gray: I asked people only informally about what they thought would make a better service; some said that it should be online, while others said that there should be a reliable telephone service. I do not want to emphasise any particular technical solution or be presumptive about this; when I made the suggestion about an online tracker, I think that I used the phrase “such as”. It would be a very good thing for the DWP and indeed the Scottish Government to get input on exactly what kind of joined-up service is required, because I am certainly in no doubt that what we require is a joined-up service, not a disjointed one.

Clare Adamson: That gives us a slightly different picture. Thank you for that helpful answer.

Annabel Goldie (West Scotland) (Con): First of all, convener, I must apologise to you and Mr Gray for arriving late.

Mr Gray, you said that the UK Government has accepted eight and a half of the short-term recommendations. Is monitoring their implementation part of your committee’s role?

Paul Gray: It was, I think, before you arrived, Miss Goldie, that I emphasised that I did not undertake the review simply because I was the SSAC’s chairman. The secretary of state asked me to undertake it, and, as I have explained, I was at pains to make it clear that I did not do that as or because I was the SSAC’s chairman. I do not think that monitoring the implementation of the report is a specific responsibility of the SSAC—and, frankly, I do not think that it is a personal responsibility of mine. I was asked to undertake the review, and I have made my report. The responsibility to follow through on its implementation rests squarely with Government.

Whether the SSAC might take a continuing interest in the matter is a more general and open question. The SSAC has two roles in UK statute, the first of which relates to formal scrutiny of draft regulations that come to it. Our other, slightly more free-ranging, role is to decide within what are, frankly, pretty limited resources the wider issues within the welfare system that the committee thinks it is valuable to look into. As a result, we have over the past year produced a number of reports on different aspects of the welfare system. It is possible that my colleagues and I might

conclude that it might be appropriate to take an in-depth look at PIP, but there is a whole range of issues that we could spend our limited time and resources on and, as I have said, there is certainly no presumption that there is a role for the SSAC to play in relation to the review, because I did not undertake it as the SSAC’s chair.

Annabel Goldie: Thank you.

I believe that, in your introductory remarks, you said that your impression was that, overall, assessments were more medical and less functional. My question, which arises slightly as a consequence of the area that Mr Stewart has already examined, is whether you can tease that comment out a bit more for the committee’s benefit.

Paul Gray: Yes. The assessment criteria for PIP, which are spelt out in great detail in my report, cover 12 activities of daily living or mobility and the degree of functional impairment or support need that people have, whether that is in relation to mobility or different aspects of care such as food preparation, washing and dressing and toileting needs. Under those headings, the assessment is trying to find out, on a sliding points scale, the degree of functional support that people need to carry out those aspects of daily living or mobility.

11:30

The fundamental thing that is being assessed is how much the person can do and how much extra support or assistance they need in order to carry out those activities. That, to me, is functional. People’s underlying medical conditions clearly have a strong influence and impact on that. The fact that people have functional impairments, whether physical or mental, reflects their underlying medical conditions. However, we all know from everyday experience that two people with absolutely identical underlying medical conditions will not necessarily experience the same functional impact.

I said in my introduction to the report:

“The key premise here is that different people with the same underlying conditions may well experience significantly different functional impacts ... This will reflect the complex interaction of many factors—including physiological, psychological, motivational and social. So functional assessment is not a precise science. Accurately and consistently assessing several million awards in this way is a formidable undertaking.”

That is really the distinction that I am making.

What I observed, both in written material and when I watched assessments, is that all the first questions that are asked are about medical conditions. I sort of understand that, because you have to start there, but the clear impact that that is

having on people—and I certainly observed it in the claimant groups that I talked to—is that they felt that in the early stages of the assessment a large proportion of the time was all about medical matters. I observed that that had quite a large impact on whether people understood that it was actually a functional assessment. Almost without exception, everybody I talked to spoke about going for their medical; they did not speak about going for their assessment.

I am pleased to see in the DWP's response to my recommendations on that point that it has undertaken to make clearer to claimants in the literature and award material, and to emphasise to the assessors, that the amount of time and focus spent on medical information should be kept to the necessary minimum, and the reliability of functional impact should be more thoroughly explored and focused on.

Annabel Goldie: My next question is in consequence of the questions on which Mr Stewart examined Mr Gray—what would I do without you, Mr Stewart?—and is about the broad area of the state or condition of the individual when they present for assessment. Mr Stewart made an important point, which is that a lot rests on that one session on that one occasion.

Do you think, Mr Gray, that the assessment process was sufficiently flexible to allow the assessor to get an accurate impression of what the applicant may be confronting, particularly given your helpful comment just a moment ago that we cannot look at just the medical diagnosis and confirmation of someone's medical condition, but must consider what that means in terms of mobility, independence and dignity, as Clare Adamson said?

Paul Gray: "Up to a point" is my summary response on how satisfactory I thought the process was. I probably had the same thought that Mr Stewart referred to. I spent quite a lot of time observing assessments. When you are an observer to any process, you inevitably constitute interference in that process, even if you do not intend it, and it was reasonable for Mr Stewart to note that there may be a tendency to encourage best behaviour on the part of the people who are being observed.

In the best assessments, the assessor, having discussed what the impact on the person was on the day and their descriptors, had a clear focus on exploring how typical that was. They discussed how many days a week the condition was like that and how many days a week it was worse or better. The assessor wanted to know how variable the impact was and whether it fluctuated. I saw some very good examples; I also observed a few examples that I would not say were bad but which were less good than that.

In talking to people who have gone through the process and in the written evidence that I received, I got quite a lot of input that reliability and the dynamics of fluctuating conditions for many people are perhaps not being explored as fully as they should be. For that reason, in my recommendations, I emphasised the importance of having more focus on that in the training and in evaluation and observation during assessments, to ensure that it is done appropriately and reliably.

There is a difficulty with doing that consistently and reliably in face-to-face assessments. Of course, a proportion of assessments are done on paper and judgments are reached without the need to call the person to a face-to-face assessment. Where decisions are being made on paper, it is particularly important that enough evidence is presented to allow the assessor to judge the issue of variability. I agree that that is an issue. I do not want to give a counsel of perfection on the issue, as it would be difficult to achieve perfection, but I suspect that there is a need to emphasise the issue more. In its response to my observations and recommendations, the DWP has picked up the issue and made the right noises but, as I said at the beginning, the proof of the pudding will be in the eating.

Annabel Goldie: To follow on from that most helpful answer, the mandatory reconsideration that is available to a claimant has to happen within one month of a decision being taken. Is that sufficiently flexible?

Paul Gray: Do you mean is it enough time?

Annabel Goldie: Yes.

Paul Gray: In most cases, it should be, as long as adequate resourcing is in place to ensure that the reconsideration is done. There could be a difficulty if part of the issue that a claimant is bringing into mandatory reconsideration is that they think there is evidence that was not given sufficient emphasis or was not brought to bear. In that situation, there could be an issue to do with the time that elapses in gathering that additional evidence. I can see a potential difficulty there, but I would hope that the process is sufficiently flexible so that, if somebody wants to go through mandatory reconsideration and feels that there is some evidence that they were not able to lay their hands on, they can proceed with the application for mandatory reconsideration and point to the evidence that they feel needs to be obtained.

Joan McAlpine (South Scotland) (SNP): In paragraph 9 of the executive summary of your report, you talk about the published data on PIP awards and say that 55 per cent of new claims have received an award, which is higher than was originally expected. You even say:

"The Office for Budget Responsibility is now projecting a higher success rate for new claims than the original forecast."

You have made the perfectly reasonable observation that the whole process is ultimately about cutting costs. At our previous evidence session, we heard about research from Sheffield Hallam University that shows that the Treasury has increased the savings anticipated from the transfer from DLA to PIP by £1 billion to 2017-18. In that context, although we are comparing new claims with transferred claims, there seems to be a danger that assessors will be under tremendous pressure to assess claimants on the basis of the funds that are available, rather than on the basis of need.

Paul Gray: That is clearly a risk. I observed assessors looking to do the assessments on the basis of the very precise descriptors that are laid down in the 12 functional characteristics. Similarly, departmental decision makers are doing their best in what is a difficult process to come to the best judgments that they can make.

I certainly did not see any evidence to suggest what you describe, but clearly you are right to highlight that—one could conceive of that as a risk.

Joan McAlpine: Given that the number of successful new claimants is higher than anticipated, might not the number of DLA to PIP cases also be higher than anticipated? That would obviously affect the numbers somewhat.

Paul Gray: Frankly, all outcomes are possible here. All the projections are done by people who have been doing their best to come up with estimates of what they think the impact of a change in the system will be. The likelihood that those estimates are absolutely spot on is probably not very high. As you have pointed out, in the first phase of new claims, we saw that the number of favourable outcomes was slightly higher than had been assumed.

As I have said, the big test of the process and of the reliability of the current assessments will be what happens when existing DLA claimants are reassessed under the new process. That is where the bulk of the impact will come through, one way or another. At the point at which I wrote the report, 96 per cent of the award decisions that had been reached at that stage were for new claims, and only 4 per cent were for the small proportion of people on DLA who had come forward for reassessment. There is very little evidence at the moment on what will happen in that critical phase.

Joan McAlpine: You did a lot of work on the claimant journey and experience, and you said that the assessment letters were difficult to understand. There is also an issue around the

length of the form. I understand that the PIP2 form is about 35 pages long, which some people, particularly those with a learning disability, will find very difficult to deal with. Why did you not make any particular recommendation about the length of the form?

Paul Gray: There is a difficult balance to strike here. This goes back, in a sense, to some of Miss Goldie's questions. If you try to do a reliable, thorough, complex assessment of functional impact against 12 different criteria, that calls for quite a lot of detailed information. Equally, you are right to suggest that it could be a put-off to some people to have to go through that process.

I did not think that, in this early stage in particular, it was right to recommend significant changes. The risk is that you dilute the quality of the information that informs the decisions.

Joan McAlpine: I should declare an interest regarding the line of questioning that I will pursue: a close member of my family has a learning disability.

I do not imagine that many people who have a learning disability would be new claimants. I understand that it is hard for you to discuss their experience, but you mentioned their experience and some concerns that you have. I presume, however, that there is as yet no evidence, because not many of those people are new claimants.

It is clear that there is a real danger that people who are extremely vulnerable will have difficulties in getting essential benefits. Should we put more in place in terms of advocacy to protect those people and ensure that they are properly steered through the process?

11:45

Paul Gray: Underlying your question is a big issue to do with the support that is available to people who have difficulty claiming, whether through a learning disability or any other impairment. Traditionally, third sector organisations have played a significant role, of course, but in this time of stringency they are facing pressures on their ability to support people in making claims. I certainly heard evidence that quite a number of organisations that have traditionally operated in that space to support vulnerable claimants are finding it difficult to resource the support that some claimants feel that they need. That seems to me to be the bigger and more important issue, rather than whether too much information is being sought from people in order to validate a claim or otherwise.

Joan McAlpine: Is something built into the system if a person does not have third sector or

advocacy support? Are safeguards built into it to ensure that those people do not fall through the net?

Paul Gray: No. It seems to me that the clear presumption now—as it has been for many years past—is that there is access to that type of benefit, but that it is fundamentally the responsibility of the individual to come forward to claim it. That is a big issue, but I am not sure that it is a new issue in relation to PIP. Third sector organisations are possibly finding themselves, like many other organisations, under greater financial pressure now than they were in the past.

Joan McAlpine: Finally, mandatory reassessment is a big part of the process. Is it necessary for someone who has a very severe disability that means that they cannot work to keep going back through the mandatory reassessment process?

Paul Gray: It is appropriate to be flexible. One of the things that I commented adversely on was the sense that I got that, with the early awards under PIP, there seemed to be rather a heavy focus on what were most unfortunately termed “interventions”; people were being checked for whether there had been any change in their circumstances.

It is not unreasonable to move away from a system in which people are, either explicitly or implicitly, on complete lifetime awards of benefits. Some periodic review seems to me to be not unreasonable. The approach ought to be flexible. For people who clearly have severe impairments and all the evidence suggests that the likelihood of their improving is minimal, review should be at the least intensive end of the spectrum. Conversely, where there is a significant likelihood of change in one direction or the other, it is not unreasonable to have a review process.

Joan McAlpine: Is there enough flexibility? We have already heard that the process is quite stressful. If a person has a very severe condition that will not change—if they are paraplegic or if they have severe learning and physical disabilities that will just not change—putting them through that stressful situation is surely—

Paul Gray: I am not sure whether there is enough flexibility as yet, but in a sense we will not really know that until the current key stage of mandatory reassessment rolls out. There was an early focus on, and a significant improvement was made in relation to people with terminal-illness conditions, thanks in large part to Macmillan Cancer Support’s excellent work. In the very early days, that process was very unsatisfactory; since then, a new streamlined and, as it were, bespoke process that is suitable for people at that

particularly difficult stage of life has been introduced and, I think, widely welcomed.

However, I am concerned about taking that particularly difficult segment at one end of the spectrum and saying that everyone else is in the same position. As far as redesigning the system is concerned, I have said that it should not be one size fits all and that it should contain flexibilities. That said, I do not think that it is unreasonable to build into the system an underlying principle of review.

The Convener: I will take Margaret McDougall next and then, if we have time, I will come back to Annabel Goldie and Clare Adamson for short supplementaries. However, members should bear in mind that Paul Gray has to be away by 12 o’clock.

Paul Gray: I can probably spare the committee a few more minutes, but I have a plane to catch at half past 1.

Margaret McDougall (West Scotland) (Lab): Good morning. It is hard to come in at the end when all my questions have already been asked, but I have a question about the disconnect between information technology systems, which has already been discussed. Is that situation likely to change, and will resources be provided to ensure that applicants get better and easier access to information?

Paul Gray: I am not sure, because it is not my responsibility, but I have made it clear that sorting out that situation should be a priority. I have, from former lives, experience of running big programmes, including programmes involving IT systems, and I see no technical reason why it should not be done. If it is not done, however, I would regard that as being highly regrettable. I go back to my previous comment that a disjointed system is just unacceptable.

Margaret McDougall: So, can we look forward to that happening?

Paul Gray: I hope so. I am not the person who is implementing it, but I hope that I have made my views on the matter very clear in the report and here today.

Margaret McDougall: Like most of my colleagues, I was really surprised to hear your comments about communication and the letters about the outcomes of assessments, which you said you could not understand yourself, so I am pleased to hear that the matter is being reviewed. How often are staff checks carried out, and how often are equality checks carried out on letters and their consistency checked?

Paul Gray: The situation still leaves a fair amount to be desired. I cannot give you precise figures for the proportion of letters that are

checked, but I was keen to focus on the fact that getting the standard structure for decision letters into much better shape would be a big step in the right direction. One of my criticisms is that the standard letter's fundamental structure is wrong because people had to get as far as something like the bottom of the second page before they found out whether they had received an award. In a letter that seeks to explain what might be quite a complicated issue, the first thing that people need to know is whether they have been given an award at X rate. The explanatory stuff should follow. It is not so much about checking individual letters as it is about ensuring that templates have a much better and more sensible structure.

As I know from former lives, with social security benefits there is always an inherent difficulty in making sure that the letters are not, if I can be blunt, overly influenced by legal advice and legal requirements. I say that without wanting to be rude about the legal profession—or not deliberately rude. Quite often lawyers say that certain precise wording is needed. It is important to listen to that advice carefully, but we then need to think about the best way to marry what needs to be said legally in order to reflect the law with putting things in such a way that the average person has a decent chance of understanding what is being said to them, rather than feeling that a lot of legal speak is being put to them.

Margaret McDougall: We have already heard about consistency in letters. There is also the issue of consistency, or the lack of it, in assessments. How often will that be checked? How often is it checked now and will there be an increase in the number of quality checks?

Paul Gray: I do not know the figures on that. I am, however, moderately pleased about the commitment from DWP to have a major review of the structure of the letters.

Margaret McDougall: Is there a timescale for implementation of your recommendations?

Paul Gray: I said that my short-term recommendations should be fully implemented before the start of managed reassessment, which should be starting in October this year. That is the timeframe that I think is right. I am taking it that it is implicit, if not explicit, in the department's response to the report that it has accepted that timeframe.

The Convener: I will take the questions from Annabel Goldie and Clare Adamson together because they both reacted to something that was said, so I think that the questions might be connected.

Annabel Goldie: My question is very brief. Is it possible to accept the merit of a principle of reviewing an assessment without that being

incompatible with a presumption that, in certain cases, a review—as Joan McAlpine was pointing out—would be unnecessary? Cannot the principle be honoured in the implementation but with a presumption in certain cases that further assessments will clearly be unnecessary and would only subject the claimant to stress?

Clare Adamson: Evidence that the committee has taken has shown that the process can be detrimental to the health of the people involved, especially in mental health cases. As has been mentioned, people with MS, motor neurone disease or cerebral palsy are not going to improve significantly, so when doctors have life timescales for them and are probing when the end of life will be, review can be absolutely dehumanising. I do not understand why allowing for such circumstances cannot be built into the process.

Paul Gray: In a sense, that has already been built into the special rules cases for terminal illness.

Clare Adamson: The average lifespan for someone who has been diagnosed with MND is just over two years. At what point are they categorised as being terminally ill? They have been given a terminal diagnosis, as many people with cancer have, but the medical staff might not have given any timescale for when they expect the person to reach their end-of-life time. That is the dehumanising aspect of the process—when people are so ill and will never improve and get out of that situation. The system should be able to cope with such circumstances.

Paul Gray: We are in danger of fiercely agreeing on that, rather than disagreeing. On seeking to build in flexibility, I have suggested that for people who have not been diagnosed as being terminally ill within six months, but who have severe disabling health conditions, it would be appropriate to make awards for very long periods before review. One could argue either way on whether it is appropriate to make a lifetime award to someone who has not been formally assessed as being terminally ill, but I accept the principle that has been expressed by all the committee's members that we should recognise the severity at the point either when a new award is made or when the first PIP award for a DLA claimant is made, and that we should be sensible and flexible about the time period that is to be allowed before review.

12:00

The Convener: I said that you wanted to get away by 12 o'clock but I will abuse the fact that you said that you had perhaps one or two minutes to spare. *[Laughter.]*

Conveners ask anyone who appears before their committee whether they have anything that they want to add before they go, but I have a specific question to get you into that territory. If you were presented with a blank sheet of paper and were asked to put down your thoughts on PIP, where would you start?

Paul Gray: If I had a genuinely blank sheet of paper and I was starting in a system in which there was no legacy benefit, I think that I would ask fairly fundamental questions about whether the key underlying principles of the benefit are the ones that should be adopted in the current circumstances. For example, should the payment be completely independent of other income or tax? Such questions would be worth asking. However, the problem is that nobody has a blank sheet of paper because there is an existing caseload of DLA.

The challenge in Scotland with regard to how you will examine the issue in the future is the classic challenge that faces anyone who is involved in change in social security benefits: what do you do about potential losers? Kevin Stewart and others have pointed to the power of that question. To redesign PIP in a different way to DLA without impacting on the existing case load would be really difficult. If one concluded that one wanted to have something quite different in the future, one possibility would be to treat new claims differently from existing claims. However, the legacy runs on for many years—one hopes that most people who are suffering are not near-terminally ill and that there would be a long time period to run through.

I would like to have a more blank sheet than anybody realistically could have. I am sorry if that answer is not very helpful, but it reflects the challenge that anybody would have in wanting to reshape the social security system.

The Convener: That is perfectly fair. I will not take up any more of your time, as I know that you want to get away. However, you mentioned that you had looked into ESA regulations. We were contacted by a member of the public with a specific question to do with ESA regulations, so if you do not mind, we will write to you on that point.

Paul Gray: I am happy to spend two minutes on that, if you like.

The Convener: Okay. If you are happy to do that, I will ask the question. It focuses on the proposals that are designed to address the Government's concerns that

"existing ESA rules encourage claimants to loop around the system".

The intention is that claimants who have been found to be fit for work should be prevented from

returning to ESA—a benefit that, during the assessment phase, has no element of conditionality—unless an existing health condition has deteriorated significantly or a new condition has developed. The person who wrote to us wants to know what evidence there is to support the existence of that loophole in the regulations in the first place and whether there is any statistical information about the number of people who are said to be using it.

Paul Gray: I will answer that with my SSAC-chair hat on. That was a set of regulations that came to us last autumn, as required under statute, and those were the very questions that we asked—of ourselves and of the DWP officials who presented the draft regulations to us. On such occasions, the initial decision that the SSAC has to take is whether, having examined the regulations, we are content that they should proceed without a formal process or whether we want—to use the terminology—to take them on formal reference and potentially go out to consultation. On this occasion, we took the latter view, for essentially the reasons that your correspondent flagged up, because the information in the documentation that was presented to us on the actual or potential number of people who were looping the system was, to be frank, very thin. As we explored the issue, particularly during our consultation process, we had a number of quite serious concerns about the impact that the changes would have—in particular, in relation to people with mental health conditions, to come back to an issue that we discussed earlier.

Partly because we did not have clear evidence presented to us by the department, we went out to consultation. We had a couple of meetings, including one in Glasgow and one in London, with representative bodies, to explore the likely reality. During that process, the department came up with an estimate of the number of people who might be affected. It took the total number of people coming to ESA assessments and examined what proportion of them were reapplying with what seemed to be broadly unchanged health conditions; it turned out that a little under 4 per cent of the total were in that category.

In our report to the secretary of state, which he had to publish and lay before the Westminster Parliament, our recommendation was that the regulation change should not proceed. We were for a number of reasons not persuaded of the case for them and we made a number of more detailed recommendations about mitigations that should be applied if, in his wisdom, the secretary of state chose not to follow our recommendations. His decision was to proceed with the regulations, but I am pleased to say that most of the more detailed recommendations that we made around ensuring

that there was guidance were accepted, with the result that the situation was much improved. Various other changes were also adopted. I would be happy to write to you with more detail on that, if it would be helpful.

If the committee wants to pursue the issue, all those reports are published and laid before Parliament. I have a document here, which I am happy to leave with the committee's secretariat, which includes the full report and the secretary of state's response. I am also happy to provide more correspondence.

The Convener: That is helpful. Anything that helps to clarify the situation would be welcome.

Paul Gray: The case is an interesting example of the way that SSAC operates in relation to current Westminster legislation. You might want to reflect on the need for some similar processes as benefits are devolved to Scotland.

The Convener: That is certainly worth considering, and it is something that we will be looking at when we examine the Smith commission recommendations.

Thank you for your time this morning. This has been a helpful and enlightening meeting. We might invite you back at some point in the future, as things progress.

Paul Gray: Thank you for having me.

The Convener: I now bring the meeting to a close. Because of the recess, our next meeting will be on 21 April, when we expect to hear oral evidence on the impact of welfare reform and children's services.

Meeting closed at 12:09.

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e-format first available
ISBN 978-1-78568-263-6

Revised e-format available
ISBN 978-1-78568-279-7