

Responding to the Health and Disability Green Paper

The [Health and Disability Green Paper](#) is a consultation, written by the Department for Work and Pensions (DWP), that outlines DWP's suggested changes to health and disability benefits.

Despite this Government's manifesto commitment to empower and support disabled people and be an ally, the proposals in this consultation lack the required ambition and any acknowledgement of the need for fundamental change.

We believe this is an opportunity to tell DWP that tinkering around the edges is not enough. We want DWP to make a real and genuine commitment to working with disabled people, people with health conditions, and Deaf and Disabled people's organisations (DDPO's) to affect meaningful change.

It is important that as many people as possible with experience of the system respond to this consultation, so that DWP know which changes would or wouldn't be beneficial to people.

Z2K have put together this briefing guide to help you respond to this consultation. We have focused on six key areas of the Health and Disability Green Paper that relate to health and disability benefits. For each of these six key areas, we have provided a summary of DWP's proposals, listed the related questions they are asking, and have included our views based on speaking to our own clients and people who have experienced the system. Please feel free to use this as a guide to respond to the consultation.

The deadline for this consultation is the **11th of October**. You can also respond to the full consultation via the online survey [here](#), or by emailing your thoughts to healthanddisability.consultation@dwp.gov.uk

Six key areas of the Health and Disability Green Paper that relate to health and disability benefits

1. Testing advocacy support

What DWP are consulting on

- For people who do not have advocacy support from friends, family, charities, or other support networks, DWP want to test providing advocacy so that people can get the right level of support and information first time.
- Advocacy could help people find information and provide practical support (such as filling in forms) but would also help people to have their voice heard on matters affecting them.

DWP question(s) and Z2K's views

Chapter 1, Q17: Do you agree with the principles we have set out for advocacy support?

Given that advocacy is crucial to so many people being able to obtain the support and benefits they need, it is welcome that advocacy and its life-changing role has been recognised by DWP in the Green Paper.

However, many people find the initial benefit application forms too long, complex, and in formats that aren't accessible to them, with some unable to complete them without the support of family, friends, advice agencies or support workers. While extra advocacy support to access the system would be welcome if done in the right way, this proposal ultimately fails to tackle the heart of the issue; too many people find the system confusing, inaccessible and that it fundamentally lacks compassion and kindness. No one should have to rely on their support network or a charity to access the system because it should not be so complex to begin with.

With potential advocacy support funded by DWP, it would be important to ensure that this advocacy remained independent and impartial in order for people to receive effective advocacy and resolution of issues (e.g., being able to appeal benefit decisions). Support should also be easily accessible, i.e., not requiring a referral from a work coach or stringent eligibility criteria.

DWP also concludes that they would test whether this advocacy support would be 'value for money'. This places the emphasis on how much disabled people are costing the system, rather than what the focus should be – ensuring everyone can access the system safely, and with dignity and respect.

It is disappointing to see that despite consulting with disabled people over the last two years, DWP's proposals such as this one lacks both clarity and substantive plans for long-term adequate change.

2. How to conduct assessments in different ways, including through the use of telephone and video assessments

What DWP are consulting on

- Where a request has been made in advance, Personal Independence Payment (PIP), Employment and Support Allowance (ESA) and Universal Credit (UC) face-to-face assessments can be audio-recorded. DWP have also started to offer audio-recording of telephone assessments for PIP, ESA and UC.
- DWP want to maximise the use of paper-based assessments, to reduce the need for face-to-face assessments. They want to test how to triage claims, so that people only have to go through face-to-face assessments where these are absolutely necessary. For more straightforward cases, they want to consider whether assessors could make a telephone call instead of conducting a face-to-face assessment to gather the evidence they need to make a decision.
- Following on from their use during the Covid-19 pandemic, DWP want to fully evaluate telephone assessments, as well as explore whether they could offer assessments by video call.

DWP question(s) and Z2K's views

Chapter 3, Q.31: During the coronavirus pandemic we introduced assessments by telephone and video call as a temporary measure. In your view, in future, what mixture of methods should we use to conduct assessments?

The individual being assessed should be able to decide which method of assessment would work best for them – be that face-to-face, telephone, video or paper-based. And everyone, regardless of their access requirements, should be able to access their preferred type of assessment (as it stands, people with certain access requirements are unable to attend a virtual Work Capability Assessment (WCA)).

The commitment to increase paper-based assessments is welcome given the stress and anxiety face-to-face assessments cause for many people, but this must be accompanied by a shift in DWP's attitude to evidence. Until DWP stop undermining medical evidence, there is little trust that an increase in paper-based assessments will lead to significant improvements in the quality of assessments. And people whose decision could be made via paper, must still be allowed to attend an assessment as well if they would like to do so.

Chapter 3, Q.32: How could we improve telephone and video assessments, including making sure they are as accurate as possible?

First and foremost, the concern for ensuring accuracy is not the medium in which these assessments are conducted, but DWP's overall approach to these assessments. With DWP's focus – as referred to throughout the Green Paper – being the reduction of disability benefit spending, the resounding aim of these assessments appears to be reducing or removing support from as many people as possible. This results in high levels of inaccurate decision making at assessments demonstrated by the high success rate of appeals challenging these decisions (70%). This also results in assessors routinely failing to recognise the support an individual needs, because they are instead focusing on where support can be disallowed.

To start improving the accuracy of these assessments, all assessors should have to clearly explain why their judgement of a person's capability diverges from an individual and their evidence's account of their capability. And to ensure that the information provided in an assessment is not misconstrued, all assessments should be audio-recorded as default (with an 'opt out' option), and a copy provided to both DWP and the individual.

3. Reducing repeat assessments where a person's health is unlikely to change

What DWP are consulting on

- Instead of introducing a minimum award duration for PIP, DWP want to test having a Severe Disability Group (SDG) for PIP, ESA and UC to reduce the number of repeat assessments faced by people whose condition is unlikely to change. The SDG would be for people who didn't qualify for the special rules for terminal illness but may still have severe and lifelong conditions that will not improve. People in this group could benefit from a simplified process without ever needing to complete a detailed

application form or go through an assessment. DWP expect that the decision to place someone in the SDG will be based on information from medical professionals.

- DWP want to explore using a Health Impact Record (HIR) so people can record the impact of their condition throughout their claim, particularly where there has been a change. Other people in a person's support network and potentially health professionals could contribute to the HIR as well as the person making the claim.

DWP question(s) and Z2K's views

Chapter 3, Q.33: What more could we do to reduce repeat assessments, where the impact of a person's health condition is unlikely to change significantly?

Many people whose conditions will sadly not improve, are currently not assessed as meeting the Severe Conditions Criteria which exempts them from reassessments. DWP must therefore commit to ensuring that more people correctly are assessed as meeting these criteria, ensuring they receive lifetime awards.

Aspects of the SDG group are welcome, in particular the streamlined application process, but DWP must commit to a genuine consultation process before any changes are implemented, as currently there is too little information on this to be able to support the proposal. In particular, further details are required on the frequency at which a member of this groups entitlement will be reviewed. It is important that for anyone whose condition will sadly not improve, they are not subject to reassessments. And the SDG must not replace any of the current groups such as the Limited Capability for Work Related Activity (LCWRA) group.

For people whose conditions might improve in the future and aren't placed in the SDG group, the frequency at which they are assessed must be reduced so that their focus can be on recovery rather than the stress and anxiety of continually being assessed.

Chapter 4, Q.43: How can we make it easier for people to inform us if their condition or circumstances have changed so that a review of entitlement can be carried out at the right time?

Further details of the Health Impact Record (HIR) are required. One concern would be that the focus of this would be to justify the removal rather than increase of support. A check would need to be in place to ensure a new assessment (or similar) took place before support was reduced following the uploading of new evidence. There is a real worry, too, that comes with any potential data sharing agreement between government bodies and the NHS that results in patients being deterred from accessing medical help for fear of their records being shared with, for example, the Home Office or DWP.

Apprehensions regarding data also apply to DWP's Health Transformation Programme. Any proposal to hold evidence relating to an individual on one system that spans across all benefits, raises concerns that this data could be shared with other parties to the detriment of the individual, and many people would be unwilling to have their evidence held on such a

system for fear of this being misconstrued and resulting in a worse or incorrect decision regarding their case. Fundamentally, the priority first would have to be a shift in DWP's attitude towards evidence itself, so that it is less frequently undermined. Otherwise, regardless of where and how evidence is kept, the issue of the right decision not being made first time because it is not properly engaged with, will persist.

4. Improvements to the Mandatory Reconsideration (MR) and appeal processes

What DWP are consulting on

- If new evidence or information becomes available after an appeal has been lodged, but before it is heard at a tribunal, DWP are able to change a decision and increase the award where appropriate. This is known as lapsing an appeal. In cases where the new decision does not give people the award that they had hoped for, but still gives people more than the previous decision, DWP guidance states that DWP must speak to the person or their representative before changing the decision. If the person accepts the new decision the appeal will stop. It is still possible to appeal the new decision after it has been accepted but the appeal waiting time will start again. Alternatively, if people are unhappy with the new decision when DWP explain it, DWP do not change the decision and the appeal continues.
- In 2019, DWP adopted a holistic approach to decision making, which allows DWP staff extra time to make a decision on benefit entitlement following a health assessment. DWP states this time could be used to: gather further evidence to support the decision-making process, listen to people claiming benefits, and help people understand the reasons why a decision has been made. Holistic decision making is practised at the MR stage for PIP, ESA and UC, and is now being used to make the first decision about entitlement following a health assessment on ESA, PIP and UC.

DWP question(s) and Z2K's views

Chapter 3, Q.34: Decisions can be changed after an appeal has been lodged but before a tribunal hearing takes place. How can we improve the way we communicate a new decision in this situation?

DWP must start following their own guidance on lapsing appeals to ensure that: individuals have the purpose of this communication clearly explained to them with any communication requirements – for example, an interpreter – met to facilitate this understanding; where an individual is being represented it is their representative that is contacted with this offer; individuals are not placed under time pressure to accept this offer; individuals are not intimidated into accepting this offer; and individuals are made aware of their appeal rights regarding this new offer.

And there must be an adequate feedback loop both within DWP and to their contracted assessors for incorrect decisions made at the assessment and MR stage that are overturned

at the appeal stage. This is important for greater accountability, and more importantly, for recognition that the process needs to change. DWP must commit to learning from why decisions are overturned.

Chapter 3, Q.35: What other changes could we make to improve decision making?

Regarding holistic decision making, while it is important that DWP staff have the time to engage with all the relevant evidence when making a decision, if it isn't accompanied by a shift in DWP's attitude towards that evidence, so it's less frequently undermined in favour of the assessor's own assessment, then this exercise is futile. What's more, the concern with holistic decision making is that it will further delay the already unacceptable wait times people have to endure before receiving support. And parity concerning this extension of time and flexibility with deadlines must be provided to both the individuals receiving support, as well as DWP.

To improve decision making at the MR stage, it is also important that MR decision-makers conduct a full case review. This means considering all the evidence, addressing any oversights shown in the assessment, and if necessary, contacting the claimant for further information.

5. Improving the information used to make decisions

What DWP are consulting on

- DWP say they recognise the importance of ensuring that the descriptors and activities used in the WCA and PIP assessments equally capture the impact of all health conditions and disabilities on people's daily lives, including fluctuating conditions, and that the definitions and descriptors used within the assessment criteria are clear.
- Most of the medical evidence currently gathered allows DWP to confirm a person's medical condition. But in most cases, DWP say this is not enough for them to be able to make a decision without an assessment, because assessments are used to evaluate the needs arising from a health condition or disability and there is currently no standard evidence source that can be used to confirm these needs apart from the assessment itself.
- The most common form of evidence used for people receiving UC or ESA at the start of their claim is a fit note. DWP states that the use of the fit note in the WCA process can be confusing because a person might receive a fit note from their GP stating they are 'unfit for work' but then receive a decision from DWP following their WCA stating that the person is able to look for work. DWP say this can happen because the WCA assesses a person's ability to carry out any form of work based on the specific activities and descriptors in the assessment criteria, but GPs are not always familiar with these criteria, and instead GPs often base their advice on whether a person can perform their current job.

- DWP do not want all assessors to be specialists in the conditions they are assessing, on the grounds that specialists might not be available, and many of the people claiming health and disability benefits have more than one condition. Instead, DWP would like to explore whether there are circumstances where it could be helpful to bring in extra expertise to support assessors and decision-makers.

DWP question(s) and Z2K's views

Chapter 4, Q.37: Is there anything about the current PIP activities and descriptors that should be changed?

AND

Chapter 4, Q.38: Is there anything about the current WCA activities and descriptors that should be changed?

A points-based system where a blanket assessment criterion is imposed on everyone is not suitable. It fails to generate an understanding of how someone's condition impacts specifically on them, and regularly results in aspects of their condition being undermined or missed. Instead, an assessment needs to follow a less prescriptive format, and provide the opportunity for individuals and their supporting evidence to explain for themselves the impact of a condition, including how it varies over time, not just on a specific day. It is also important that assessors do not work from a set script, and instead are able to respond to the information they are presented with, asking questions that are more personalised and suited to the individual. This is particularly important for ensuring that assessments don't inflict physical or emotional harm.

Chapter 4, Q.39: Should we seek evidence from other people, such as other health professionals or support organisations?

Yes. There is a non-exhaustive list of the types of evidence that could be helpful in demonstrating how a condition impacts on someone – medical evidence, people's own testimony, evidence from the individuals' parents, support workers, social workers, mental health workers etc. should all be sought where relevant. However, once again, seeking this evidence is futile if it is not accompanied by a shift in DWP's attitude towards the evidence itself, so that it is less frequently undermined in favour of the assessor's own assessment. And there also needs to be an understanding that if an individual is currently discharged from specialist input or does not have access to a specialist, the assessor does not assume that their condition has improved, or they are too well for the benefits they are applying for.

Chapter 4, Q.40: What type of evidence would be most useful for making decisions following a WCA or PIP assessment, and should there be a standard way to collect it?

AND

Chapter 4, Q.41: How could we make sure the evidence we collect before a WCA or PIP assessment directly relates to a person's ability to do certain things?

Ultimately, it is for DWP to change the way it engages with this existing evidence, instead of changing the type of evidence used. If DWP are committed to making more paper-based decisions, they must start making decisions using the evidence that is already in circulation and relates to a person's ability to do certain things - medical evidence, people's own testimony, evidence from the individuals' parents, support workers, social workers, mental health workers etc. and not undermine or misconstrue this.

Chapter 4, Q.42: How could we improve assessments or the specialist support available to assessors and decisionmakers to better understand the impact of a person's condition on their ability to work or live independently?

If an assessor does not have specialist knowledge of the condition they are assessing, it must be a requirement that they consult with experts who do, and up-to-date evidence, when making their decision.

6. Simplifying the benefits system

What DWP are consulting on

- DWP have decided that introducing a single health and disability benefit into the current system would not be beneficial, because the benefits have been designed separately and each assessment considers different criteria. However, in the future, DWP could look to create a single new benefit that could both provide support for disabled people and people with health conditions on low income and with extra costs. A new benefit could have different priorities or a different set of objectives to our current system. More focus could be put on supporting people with their extra costs, or on helping people to find and stay in work. This new benefit could potentially use a single assessment or simplify access to this new benefit in some other way.

DWP question(s) and Z2K's views

Chapter 5, Q.46: How could we simplify the system for people applying for multiple health and disability benefits?

There is a heavy indication in this Paper that DWP will pursue a single assessment in future, this would not be supported by people accessing the system. One concern with having a single assessment in light of the high rate of incorrect DWP decision making, is that people could be left without any form of income if an incorrect assessment decision was made. As it stands, if someone in receipt of both PIP and ESA / a Limited Capability for Work (LCW) element of UC is incorrectly refused one of these benefits following an assessment, they at least continue to receive some income until the other is restored. This would not be the case with a single assessment, as all income would stop. There are also the concerns that come with combining very different assessments which require different information and relate to different benefits – for example, there could be an increase in inappropriate decision-making where participation in employment is taken as an indication that a person

has lower extra costs needs which would undermine the non-means-tested nature of PIP, or means-testing could just be completely applied into extra costs benefits. There is also the concern that contributory benefits could be displaced.

Crucially, we need a system that treats people with dignity, respect, and that results in people getting the income they are entitled to. And that also recognises that work is not suitable for everyone and that stops pushing people into work when that is not an appropriate option for someone. As it stands, this assessments system does not do that. It must be fundamentally reformed and co-produced with DDPOs and those with experience of the system to achieve true change. The proposals in this Green Paper, however, are only half-formed shorter-term sticking plasters, and lack the ambitious, longer-term more fundamental reform required.