



# PIP and ESA Assessments Inquiry: Evidence from Citizens Advice

## Summary

Citizens Advice is a charity that provides free, confidential, impartial and independent advice to help people overcome their problems. Last year we helped over 2.6 million people with 6.1 million issues face to face and people visited our website 43 million times. We provide advice over 2,680 locations across England and Wales.

In the past year we have helped an average of 104,000 people each quarter with Personal Independence Payments (PIP) and 81,000 with Employment and Support Allowance (ESA). PIP and ESA are the two largest inquiry areas across Citizens Advice. This gives us a unique insight into the way the two assessment processes are currently working.

Evidence from our clients suggests timeliness and some administration issues have improved. But high appeal success rates support claims from our advisers that reports and decisions are regularly inaccurate. The design and administration of the assessments, evidence collection and decision making process are not consistently effective.

All this is costly to taxpayer. It is stressful, time consuming and drawn out for claimants, and means people do not have security of income, and cannot focus on work where that is relevant.

**Assessments** - Assessment reports are often contentious. 92% and 81% of advisors report seeing inaccuracies in PIP assessments and Work Capability Assessments (WCAs) respectively.<sup>1</sup> Many advisors cite inaccurate assessment report conclusions ranging from unjustified extrapolations from assessors'

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<sup>1</sup> From our Network Panel: a survey of 393 staff and volunteers in the Citizens Advice network from 01/11/2017 to 08/11/2017. The Citizens Advice Network Panel is a monthly survey sent to over 800 staff and volunteers across England and Wales, asking about their experiences of and views on policy issues.

observations to wholly contested versions of events. Clients often tell our advisors that these inaccuracies tend to overstate their capabilities.

Many find the process of evidence collection poor. While applicants broadly understand the purpose of assessments, they are not always sufficiently assisted to navigate the process or understand what evidence they need to provide. Supporting evidence from GPs can be inconsistent; occasionally refused, often expensive and rarely tailored to the assessment descriptors. *'The continuing widespread misperception that PIP [and WCA] is a medical test rather than an assessment of functional impact'* identified in the Second Independent Review<sup>2</sup> is consistently reported by our clients and advisors.

Advisors tell us that assessments are consistently failing on mental health, as well as less visible and fluctuating conditions. Assessments can be too formulaic to capture the full extent to which a claimant's condition affects their day-to-day living or capacity for work. They tell us that applicants and even GPs tend to believe that the primary challenge is proving their diagnosis and exploring the consequences that has for their lives and capabilities. Advisors tell us that assessors tend to approach things differently, applying the same questions and exercises for each of 12 or 17 descriptors to every applicant regardless of condition, often without explanation or asking people to describe their conditions and capabilities.

**Appeals** - For all but a minority of applicants, Mandatory Reconsideration (MR) confirms the initial decision. For claimants who have been wrongly assessed or later have decisions overturned at tribunal, this prolongs an already difficult and stressful process. 85% of PIP cases<sup>3</sup> and 87% of WCAs<sup>4</sup> are unchanged at MR. Our advisors report supporting claimants to collect additional evidence wherever possible, but that this rarely seems to make a difference unless claimants take it to tribunal.

Our offices report that between 60% and 99% of appeals we assist with are successful<sup>5</sup>, often resulting in radically different scores and awards. This is in line

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<sup>2</sup>[Second Review of Personal Independence Payment](#), March 2017

<sup>3</sup>[Personal Independence Payment: Official Statistics](#): September 2017

<sup>4</sup>[Employment and Support Allowance: Work Capability Assessments, Mandatory Reconsiderations and Appeals](#), June 2017

<sup>5</sup> From a qualitative survey of 89 Citizens Advice staff and volunteers in November 2017

with official statistics showing 68% of ESA appeals and 65% of PIP appeals result in a changed award.<sup>6</sup> Tribunals bring a complete change in approach and client experience. Where initial assessments can be rigid, narrow and do not start with an exploration of the applicant's condition, tribunals are holistic, inquisitive, and more open to medical evidence and the applicant's testimony. Clients often report feeling that the appeal hearing is the 'first time they are listened to'. Advisors report very few complaints about tribunals, even where appeals are unsuccessful.

**Experience** - Applicant experiences are variable. There are people who go through the process without issue and view it positively. For many claimants we support, however, the overwhelming experience is confusing, burdensome, prolonged and stressful.

Waiting times have been reduced, but remain inconsistent. But 44% of advisors still see clients experience waits of more than two weeks for PIP assessment forms, and around for fifths see appeals last more than three months for both benefits.<sup>7</sup> Communications during these waiting times can be sparse, too often restricted to post and occasionally unreliable. Contradictory communications, particularly between what is said to clients in person and what later arrives by post, are often reported. And clients do not adequately understand the evidence requirements or assessment methods.

Assessments themselves can be extremely variable in length (10-70 minutes). Advisors tell us they vary in tone, confuse some clients and are felt to contain questions and exercises that are irrelevant to clients' conditions. Advisors believe these inconsistencies are largely down to the the varying quality of assessors.

Clients usually don't understand that many conclusions in assessment reports are drawn from observation, rather than questioning. Many feel that they are simply not listened to and that this results in conclusions they believe to be surprisingly inaccurate.

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<sup>6</sup> [Tribunals and Gender Recognition Statistics Quarterly, April to June 2017](#), September 2017

<sup>7</sup> From a survey of 393 staff and volunteers in the Citizens Advice network from 01/11/2017 to 08/11/2017

## Recommendations

PIP assessments and WCAs are in need of significant reform. When two thirds of cases taken to appeal are seeing decisions overturned, it suggests that the administration of the current system is clearly failing a significant number of applicants. Concrete short term steps can be taken, particularly with the recommissioning of providers next year, that will improve outcomes and client experience.

We generally support the recommendations set out in the Second Independent Review.<sup>8</sup> Improvements in communication, gathering ‘functional,’ rather than medical evidence and valuing evidence provided by carers in particular could go a long way to solving the problems our research finds. We would also like to see more of the responsibility for evidence collection shifted towards providers rather than claimants.

There are, however, longer term, systemic flaws that cannot be addressed within the current structure. The Department of Work and Pensions (DWP) should undertake a full review of assessment and decision making for PIP and ESA. We outline both short term steps to improve the process in the coming months and longer term recommendations below.

### ***Short term recommendations***

- **Clear up-front guidance on what evidence is most appropriate** at each stage of the application, including real-world examples showing clearly how assessments test functional impact rather than diagnose conditions.
- **Improving communication channels** not limited to post: email, text, post across both assessment processes.
- Assessments and Decision Makers should place greater weight on **applicants’ descriptions of their conditions and medical evidence.**
- **The creation of a discretionary fund for GPs** to cover costs of producing evidence for assessments and therefore prevent cost to claimants, together with improved guidance and examples of how GPs should present evidence.

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<sup>8</sup>[Second Review of Personal Independence Payment](#), March 2017

- **Video records of assessments** should be available to both parties upon request.
- **More tailored assessments for conditions** by matching assessor expertise to the dominant condition outlined in assessment forms.
- **Some level of ESA payment should be made during MR** without claimants having to claim Jobseekers Allowance (JSA), or Universal Credit (UC) in a full service area, both of which can be subject to similar work requirements.
- Clear rules for **claw back and fines for proven inaccuracies** should be built into future contracts.

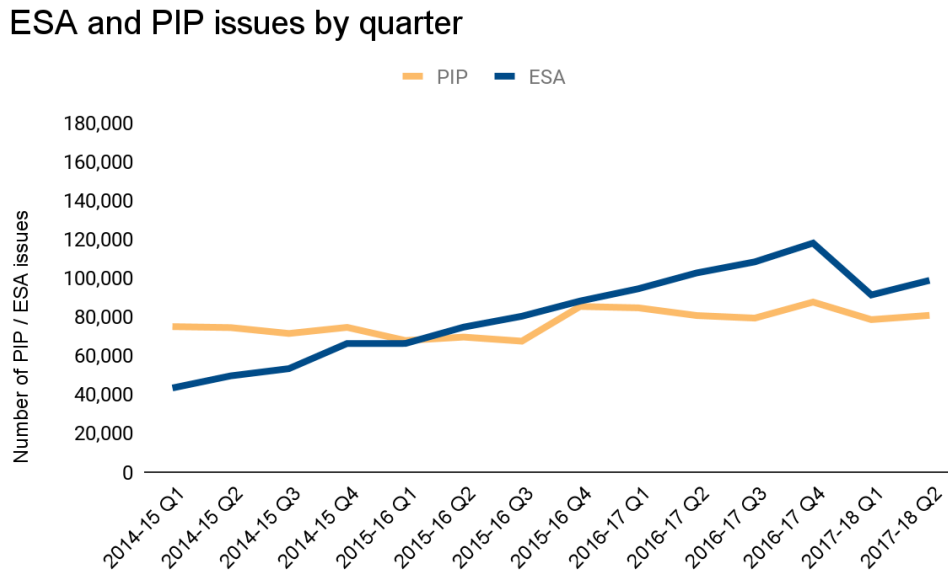
### ***Long term recommendations***

- Review the evidence collection process with a view to the **government directly collecting or commissioning the collection of appropriate medical evidence**. We disagree with the Second Independent Review on this as claimants often do not have the resources and relationships to ensure the right evidence, including on functional impact, is collected.
- **Review how the process is working for mental health conditions** and consider different assessment processes for applicants with mental health conditions.
- **Review the Mandatory Reconsideration process for ESA and PIP** to bring them closer in line with the the practice and acceptance of additional evidence seen at tribunals.
- Consider **bringing assessments in-house** utilising expertise and skills Government already hold in the health service or occupational health and occupational therapy provision.
- Over the longer term, the government should consider integrating assessments for these disability and sickness benefits into a larger system of **occupational health and occupational therapy services accessible to all**. Progress towards this could begin with the upcoming response to the Work, health and disability green paper consultation.

## Background

Personal Independence Payments and Employment and Support Allowance are the two largest inquiry areas across Citizens Advice. In the past year we have helped an average of 104,000 people each quarter with PIP and 81,000 with ESA.

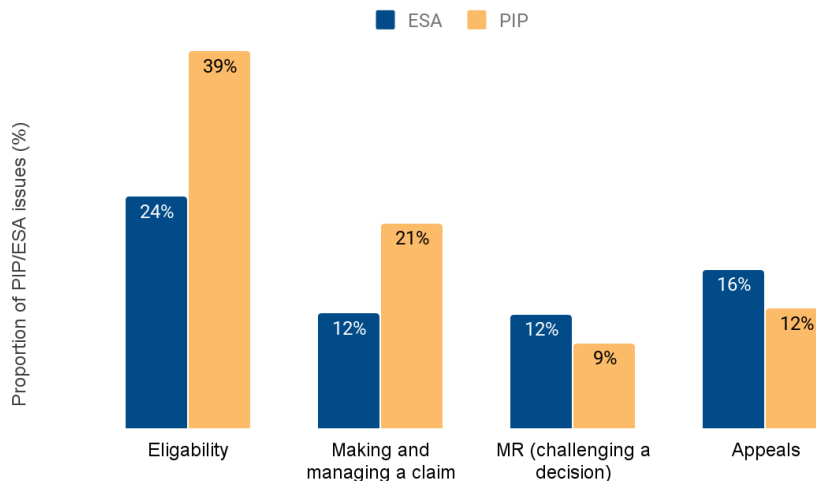
**Figure 1: ESA and PIP issues by year**



We work with clients throughout ESA and PIP claims, from identifying eligibility to the appeals process. For both benefits, eligibility issues are the largest category of advice we deal with, but significant numbers of people come to us throughout the process.

**Figure 2: ESA and PIP issues by stage**

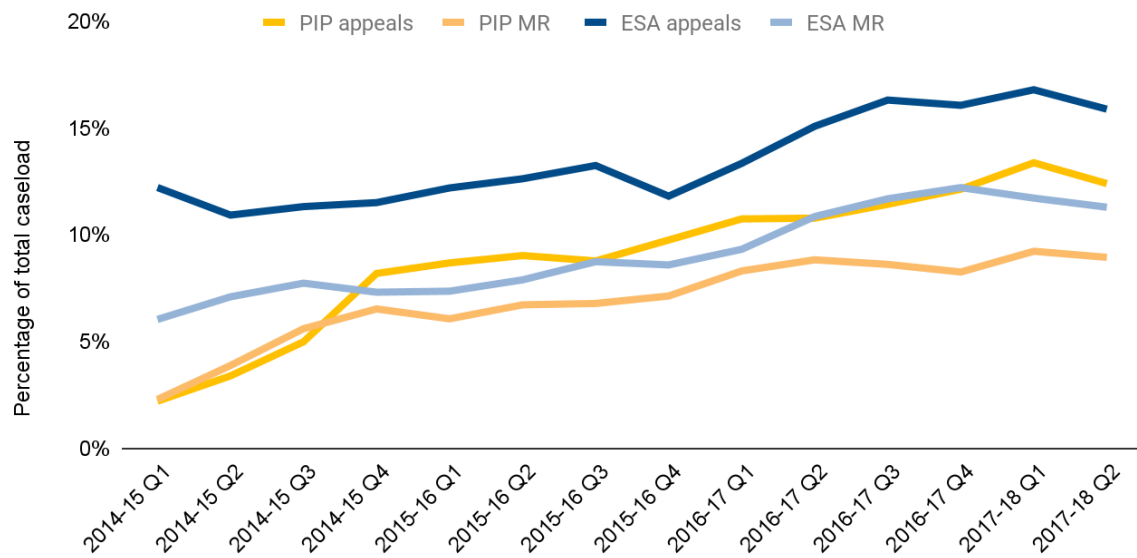
ESA and PIP issues by stage (year to September 2017)



Over the past three years, the proportion of of our PIP and ESA caseload taken up by MRs and appeals has grown steadily and now accounts for around a quarter of the cases our advisors help with.

**Figure 3: ESA and PIP appeals and MR cases, as percentage of total Citizens Advice caseload**

**ESA and PIP appeals and MR cases, as percentage of total caseload**



We do not collect appeals success statistics systematically, but local offices have given us estimates between 60% and 99% for the percentage of appeals we advise on which see decisions overturned.<sup>9</sup>

While issues with PIP assessments and WCAs are not identical, themes emerge across both, and clients who come to us have broadly similar conditions at comparable rates. This finding is borne out through both quantitative and qualitative data we have collected for this response and as a result, general claims we make about assessments are applicable to both.

<sup>9</sup> From a qualitative survey of 89 Citizens Advice staff and volunteers in November 2017

**Figure 4: Clients helped with PIP and ESA by main health condition (October 2016 - September 2017)**

<b>Health condition</b>	<b>All ESA clients</b>	<b>All PIP clients</b>
Long-Term Health Condition	27.7%	31.8%
Mental Health	19.5%	17.2%
Physical Impairment (non-sensory)	12.3%	14.0%
Multiple Impairments	6.1%	7.5%
Other Disability or Type Not Given	4.9%	4.8%
Learning Difficulty	1.2%	1.4%
Visual Impairment	0.6%	0.8%
Cognitive Impairment	0.4%	0.5%
Hearing Impairment	0.4%	0.5%
Deaf	0.2%	0.3%
Hard of hearing	0.1%	0.1%
Not recorded/not applicable	26.7%	21.2%

The common issues advisors cite are inaccuracies on reports, inconsistencies in awards between different assessments and barriers to collecting appropriate evidence.<sup>10</sup> Problems with the claimant experience, such as travelling long distances to appointments, waiting months during appeals and being rushed during assessments, are also common.

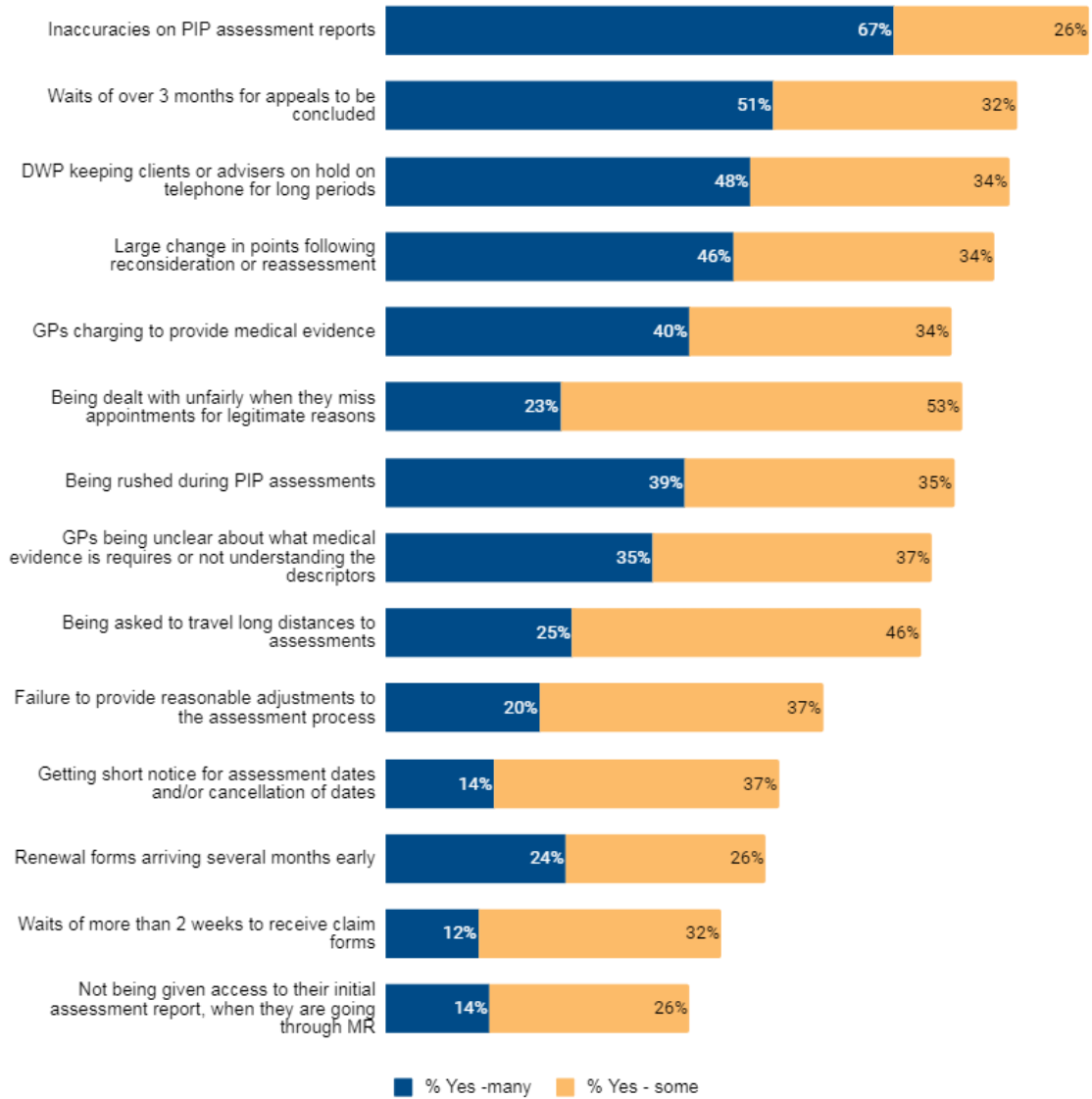
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<sup>10</sup> From a survey of 393 staff and volunteers in the Citizens Advice network from 01/11/2017 to 08/11/2017



**Figure 5: Issues with PIP<sup>11</sup>**

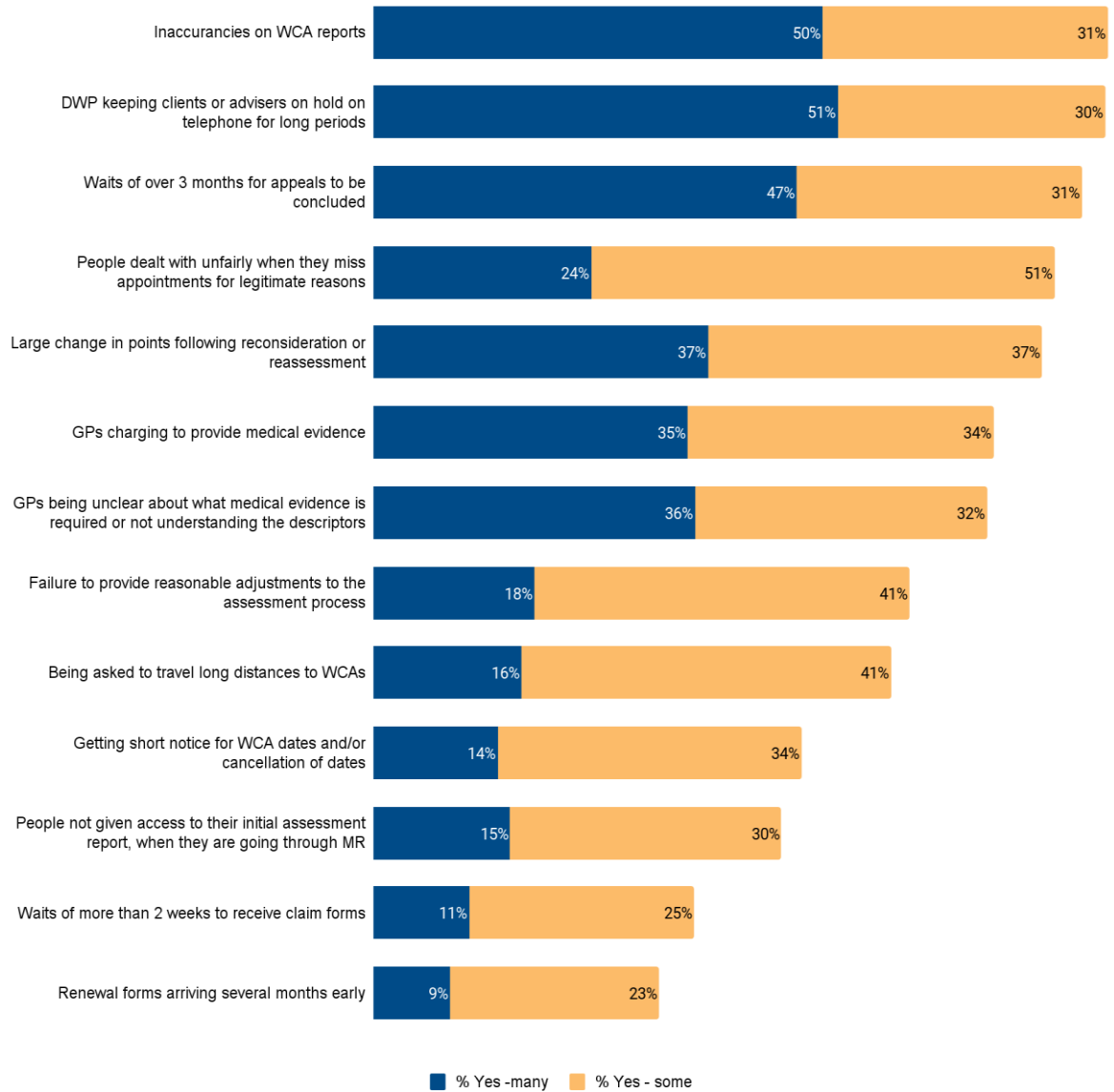
Have you seen or been made aware of clients who have experienced the following issues with PIP in the last few months? (percent stating many or some)



<sup>11</sup> From a survey of 393 staff and volunteers in the Citizens Advice network from 01/11/2017 to 08/11/2017

**Figure 6: Issues with ESA<sup>12</sup>**

Have you seen or been made aware of clients who have experienced the following issues with the Work Capability Assessment (WCA) for ESA or UC in the last few months? (percent stating many or some)



<sup>12</sup> From a survey of 393 staff and volunteers in the Citizens Advice network from 01/11/2017 to 08/11/2017

## 1. Assessors and assessments

- Do contractor assessors possess sufficient expertise to carry out assessments for people with a wide range of health conditions?
- Is Department of Work and Pensions quality control for contractors sufficient and effective?

The proportion of our clients alleging inaccuracy on reports and the high rate of decisions being overturned at appeal suggests that assessor expertise and quality control is not adequate.<sup>13</sup>

However, problems our advisors see go beyond how well assessors are trained and administration. The design of the process appears flawed: it can be over-reliant on rigid assessments that are producing consistent inaccuracy, unable to collect relevant evidence and often failing those with less visible or fluctuating conditions, such as those related to mental health.

### Inaccuracies on assessment reports

Across our network, it is common for people who come to us to tell us about some sort of inaccuracy on their assessment. 92% of advisors report having seen inaccuracies in their clients' PIP assessment reports, while 81% say the same for WCAs.<sup>14</sup> These range from contested interpretations of assessors' observations to contradictory accounts of events. High rates of appeal success support these claims.

#### Advisor's view

'It is sometimes difficult for me, when helping clients with Mandatory Reconsiderations or Appeals, to reconcile the person sitting before me with that described in the DWP assessor's report. Complaints about the way applicants have been treated, in terms of fairness, dignity and not being listened to, are common.'

<sup>13</sup> [Tribunals and Gender Recognition Statistics Quarterly, April to June 2017](#), September 2017

<sup>14</sup> From a survey of 393 staff and volunteers in the Citizens Advice network from 01/11/2017 to 08/11/2017

'Sometimes a client says that the physical examination was not carried out as reported and the results recorded were incorrect.

One lady with severe rheumatoid arthritis appealing for higher rate mobility PIP was found by the Health Care Professional (HCP) to give essentially normal results on physical examination. She asked her consultant rheumatologist to measure exactly the same physical parameters and the consultant reported completely different results which reflected the severity of her condition and its effect on her physical functioning. The tribunal made a point of saying that they fully accepted the consultant's findings.'

*Contested interpretations* - Clients report that assessors are sceptical, in some cases dismissive, of descriptions they provide of their own conditions. Consequently, it appears that conclusions are drawn from observations made during assessments as well as what applicants say in their application forms. If assessments were ethnographic or prolonged this might be effective, but advisers report interviews ranging in length from 10 -70 minutes in which formulaic questions and exercises are worked through regardless of the applicant's condition.

Conclusions about an applicant's capabilities are extrapolated from narrow questions or observed performance in physical exercises which do not always resemble the descriptor being measured. This appears to cause much of the confusion clients feel when they see assessment reports, when conclusions are regularly seen as unreasonable.

**Examples include:**

- The ability to drive being used to show a client does not have any difficulty with memory, concentration and coordination.
- Clients who can use touch screens on mobile phones or touch each finger to their thumb without applying pressure are assessed as having adequate grip.
- The ability to walk 50 or 200 metres is assumed from short distances traveled during assessments.

*Contradictory recollections of events* - clients do not only contest conclusions drawn from events they agree happened. They also frequently contest what actually took place. Usually, the cited mistakes are observational failures such as claiming applicants stood unaided when they were leaning against something or omitting the fact that a friend or carer accompanied them to and from the meeting, thereby implying greater mobility and independence than is the case.

### **Tim's assessment**

"The decision says I do not suffer dizziness, but that is incorrect. I get dizzy spells where I have to lie down or sit down.

The report says I had made my own way to the appointment, but that is not so. My wife took me to it and was in the waiting room because we brought our 8-year old son with us. "

### **Advisors' views**

'Clients almost universally report that assessors are uninterested and fail to record what they say and record interactions and statements that never happened.'

'Many clients report that they are asked conversationally 'How was your journey here today?' They answer in a similar manner and minimise the difficulties that they have faced. This is then reported as 'The client travelled to the assessment independently and without difficulty.'

'There often seem to be 'silly' inconsistencies like claiming a client has a dog when client has never owned one in their life.'

'Some of the assessments appear to have been copied and pasted as they do not relate to the client. For example, a report says a client watches 'soaps 'on the TV when the client denies this. Another client said she used to see friends

but does not now - and it came back on report that she sees friends regularly.'

The regularity with which conclusions and events are contested is why we suggest the video recording of assessments is made available to both parties on request so that such disputes can be reviewed. As well as that, contractors need to have incentives to ensure that assessments are accurate, so we recommend fines or clawbacks are built into future contracts for inaccuracies in initial assessments discovered at MR or appeal.

### **Lack of trust**

The feeling they are misunderstood or mistrusted through the process is a common feature of our clients' experience. Through the initial application, assessment and MR, clients and advisors tell us that they feel like evidence they provide is treated with suspicion.

The applicant's testimony is not always fully considered as evidence. Advisors tell us that awards are frequently confirmed at MR, even after clients have gone through forensically describing their conditions against PIP and WCA descriptors, submitting detailed descriptions of their capabilities. These are then turned down on the basis that no new evidence has been supplied.

### **Advisors' view**

'Many of my clients with mental health conditions feel they weren't understood, or felt they were rushed. There is a certain amount of empathy you need to give and trust you need to build up to get a person to be honest about their care needs and daily experiences.'

'People should be treated with dignity and respect, and trusted when they try to explain their conditions'

## Additional evidence collection

It is not always clear to applicants what evidence is required at each stage of their application. While clients generally understand the purpose of the assessments and decision making process, knowledge of how the assessments work and what kinds of evidence need to be provided is currently lacking.

### Advisors' views

'Clients are not asked for evidence. They are often not aware what evidence may be considered relevant by assessors. Some of the evidence that they are able to provide at assessments is disregarded by assessors.'

'Assessments should start with "Tell us about your condition" and gradually fit it into boxes, rather than applying the same process to absolutely everybody.'

'Clients are rarely asked for the right evidence in a suitable manner. For example, a client with severe learning difficulties was asked whether she reads, the client responded in the affirmative, but the assessor did not establish the reading age of the client (approximately age 7). The Client cannot understand DWP letters and attends Citizens Advice Services for assistance.'

The ability to get appropriate and useful medical evidence to support the assessment process can be inconsistent. Advisors occasionally see GPs refusing it to clients. GPs often charge for the provision of medical evidence. This can be a payment of £15-30, but we occasionally hear reports of completely prohibitive charges of more than £150. 68% of advisors report hearing of GPs who are unclear about what evidence is required for WCAs and 72% say the same of PIP assessments<sup>15</sup>.

The primary problem with medical evidence however, appears to be that it is rarely tailored to the assessment descriptors. It is not enough to support the claim that an applicant has depression or multiple sclerosis. Assessors and assessments are not trained or designed to extrapolate symptoms or effects on

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<sup>15</sup>From a survey of 393 staff and volunteers in the Citizens Advice network from 01/11/2017 to 08/11/2017

capabilities from such diagnoses. Doctors, for the most part, diagnose conditions, rather than giving detailed descriptions of what they mean for patients' day to day lives.

### Advisors' views

'I don't think most GPs understand the system of point scoring, so their evidence isn't always appropriate'

'GP's frequently do not provide evidence at all if it is requested by their patient rather than the DWP. Even if they do provide it, GPs frequently only explain what the person's health conditions are - they often don't provide sufficient information on how the health conditions affect the person's ability to carry out activities, which is required under the assessment criteria.'

Paul Grey's observation in the Second Independent Review that "gathering relevant Further Evidence is made harder by a continued widespread misperception that PIP is a medical rather than a functional assessment"<sup>16</sup> still holds for applicants and GPs in both PIP assessments and WCAs.

These problems with evidence collection need to be addressed in the short term and solved as part of a longer term review:

In the short term:

- **Clear up-front guidance** on what evidence is most appropriate at each stage of the application, including real-world examples showing clearly how assessments test functional impact rather than diagnose conditions
- **The creation of a discretionary fund for GPs** to cover costs of producing evidence for assessments and therefore prevent the cost to claimants, together with improved guidance and examples of how GPs should present evidence

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<sup>16</sup>[Second Review of Personal Independence Payment](#), March 2017



As part of a wider review:

- Review the evidence collection process with a view to the **government directly collecting or commissioning the collection of appropriate medical evidence**. We disagree with the Second Independent Review on this as claimants often do not have the resources and relationships to ensure the right evidence, including on functional impact, is collected.

**There are particular problems for people with certain conditions, especially mental health and fluctuating conditions.**

Advisers tell us they often see clients who have been assessed by people who do not appear to understand their conditions and do not assess them appropriately. For example, people with mental health conditions are asked to demonstrate physical capacity. This contributes to many claimants feeling the system is designed to catch them out rather than to understand their needs.

Many health conditions or disabilities have a degree of fluctuation. Assessing claimants in a snapshot and drawing accurate conclusions about their wider capabilities is an extremely difficult task. The conditions most regularly cited as being poorly assessed are:

- **Mental health conditions** - the vast majority of advisors regard this as a problem area. Lack of assessor expertise in these conditions and the difficulty clients have in exhibiting or explaining their effects is commonly cited.
- Applicants with **learning disabilities** face similar problems to those with mental health conditions. Many assessors appear to lack understanding of conditions which are not easily explained or evidenced.
- **Variable conditions** such as epilepsy or chronic fatigue syndrome appear to not be properly assessed. Many of these applicants will at a particular moment be very capable, but assessment reports can often overstate reliability and repeatability.
- People with **less visible conditions** that cause pain or fatigue such as fibromyalgia are also cited by our advisors as often being poorly assessed.

Advisors generally note that assessments are better at identifying the effects of visible physical conditions.

### **Paul's assessment**

"Paul has severe mental health (MH) issues which are exhibited by violent thoughts and verbal outbursts. He has always struggled to maintain any kind of employment but has been turned down for ESA, scoring zero points which has been upheld at MR. The medical assessment lasted around 10 minutes and covered physical descriptors for the most part. When Paul mentioned that he was struggling to cope after the death of his son and suicide of his girlfriend the health professional said she was not qualified to discuss this.

The report included in the MR made assumptions about his ability to work based on his ability to initiate & complete personal tasks at home, but makes no link to how his mental state could affect his ability to do this in a work environment. Paul is also affected by regular violent outbursts but this was not picked up in the assessment as his behaviour could not be observed over any length of time."

### **Sheila's assessment**

'Sheila has learning difficulties, but the assessor's report said (more than once) "there is no evidence of cognitive or learning impairment". In the mandatory reconsideration (MR) request we pointed out that her medical records state that she has 'a developmental lack of scholastic skills', which her doctor explained meant that she had a cognitive impairment. The MR upheld the original decision, so Sheila has to go to appeal, which is a complete waste of everyone's time and money'

Advisors tell us that where assessments go well it is often down to the discretion of well trained assessors, or because a client has a condition assessors are more likely to be familiar with or can observe.

## Advisors' views

'People suffering from mental health disabilities get a raw deal. The assessors do not have enough time to explore these effectively and seem to downplay the effect of mental ill-health'

'Mental health conditions are a problem. Repeatedly I read in assessment reports statements such as 'client maintained good eye contact' when the client tells me they did not, as if maintaining good eye contact was an indicator of whether they can dress, feed or wash themselves. Another example is 'leaps of logic'. So the assessment report states something like 'you go to church with your mother once a week... you are therefore able to go out by yourself most of the time'. Those with mental health conditions are also less able to provide additional evidence, such as symptom diaries, than those with physical conditions, due to motivation and other factors. It is also much harder for a GP or other professional to speak to such difficulties as clients may not engage as often when they have long term MH conditions rather than physical conditions. Clients with MH can also struggle to articulate their level of impairment, which the assessment process relies on. Many clients find the assessment intimidating, are worried about lying or not saying things right, and the process does nothing to accommodate the very real anxiety that impacts such clients. The assessment should not rely on 'client performance', and currently it does.

'Arthritis and heart complaints can result in effective assessments, probably because the physical characteristics are so readily defined.'

If a system is set up to assess the capabilities of people with a wide range of conditions, but is failing to do so with certain categories of condition, it is clear problems need to be addressed. We recommend that short term actions are taken now or written into contracts as assessment providers are recommissioned next year, as well as a general review of the assessment processes over the long term.

In the next commissioning round:

- **Tailored assessments for conditions** which match assessor expertise to the dominant condition outlined in assessment forms
- Place greater weight on **applicant's description of their conditions and/or additional medical evidence**

Longer term:

- **Review how the process is working for mental health** and consider different assessment processes for applicants with mental health conditions

### **Advisors often question the reliance DWP decision makers have on assessments**

Clients have experienced assessments as short as 10 minutes. It seems unlikely that these interviews can fully explore a person's conditions and how that affects their lives and ability to work. Our clients can describe them as rigid and formulaic, unadapted for the huge variety of conditions whose effects they set out to assess.

Advisors question why their clients' own description of their condition cannot be considered with equivalent weight along with the assessor's report for the initial decision and MR. When cases go to tribunal, clients report feeling listened to for the first time.

#### **Advisors' views**

'the assessment process is very rigid with little or no consideration for individual'

"The enormous weight the DWP place on the assessments is ridiculous. Other evidence, as well as the applicant's own description of their condition should be weighted at least as strongly as assessment reports."

## 2. Mandatory Reconsideration and appeals

### Reasons for seeking to overturn decisions

- Why do claimants seek to overturn initial assessment outcomes for ESA and/or PIP?

Advisors tell us the feeling that initial decisions are wrong or based on inaccurate facts and the reliance on ESA / PIP incomes are common reasons claimants seek to overturn outcomes. Many people feel assessments have come to inaccurate conclusions and have not assessed their conditions properly. Applicants, particularly those moving from DLA, are reliant on the income and face losing it.

As discussed above, improving the accuracy of initial assessments and decision making, and ensuring that people feel listened to throughout the process would help lower the proportion of people seeking to overturn decisions.

### Mandatory Reconsideration

- Is the Mandatory Reconsideration (MR) process working well for claimants of ESA and/or PIP?

The huge disparity between the rates of changed awards at MR (15% for PIP and 13% for ESA) and tribunal (68% for ESA and 65% for PIP) has fuelled scepticism and raised questions about the MR process amongst both advisers and claimants.

Our advisors take the MR process seriously, seeking to gather new evidence and have clients forensically explain their capabilities against specific descriptors. Many local offices have designed specific forms to go through with clients and send to GPs in order to ensure additional evidence is relevant to the assessment criteria.

However, the low level of success at MR means some advisors see it as an initial phase of the tribunal process. During the MR process for ESA, claimants are able to claim JSA or UC, where they will become subject work requirements. This

places many in the perverse position of attempting to prove they are unable to work at MR while searching for a job on JSA or UC.

In full service areas, those who claim UC during MR will be switched permanently and will not be able to go back on ESA even if they win their appeal. This will leave the majority of claimants worse off over the long term.

For PIP MRs, two thirds of advisors have seen clients who are not given access to their assessment reports. Nearly half report the same for ESA<sup>17</sup>. Given that most decisions that are overturned at appeal because new evidence is accepted<sup>18</sup>, it is possible that not having access to assessment reports is reducing revisions of decisions by preventing claimants from producing the evidence required to refute claims they contain.

### Advisors' views

'We put a lot of evidence in [MRs], but we know it is unlikely to succeed. We use it as a practice run for appeals.'

'At the moment it feels like a time-wasting, tickbox exercise that just increases people's stress and puts them into debt. The only time I have seen a decision changed at MR stage is when someone was sent completely the wrong assessment result in the first place.'

'Not clear why the mandatory reconsideration process is required. It sometimes appears that this is a holding step in the decision and appeal process which just delays a final decision. Causes frustration and stress to those who need to go through these steps.'

'MR's are proven to not be successful often and then regularly overturned by HM Courts & Tribunals Service (HMCTS). Maybe MRs should take the approach HMCTS take where they will adjourn until they get all the necessary medical

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<sup>17</sup> From a survey of 393 staff and volunteers in the Citizens Advice network from 01/11/2017 to 08/11/2017

<sup>18</sup> [Answer to written question by Minister for Disabled People](#). This states that unverified internal management information for 2015/16 indicates that new oral or written evidence was the reason for the overturn of the decision in 75% of successful PIP appeals

evidence to make a correct decision. The MR process could also be improved by the decision maker having an in depth chat with the client to find out more information instead of it being a paper exercise.'

In order to fix the clear lack of faith in MR, and reduce the number of claimants going through costly tribunals, we recommend the DWP reviews the MR process for both ESA and PIP to bring them closer in line with the the practice and acceptance of additional evidence seen at tribunals.

### **Rates of overturned decisions**

- What accounts for the rate of overturned decisions at appeal for PIP and/or ESA?

Inaccuracies in initial assessment where the effects of conditions are felt not to be properly assessed can lead to high rates of dissatisfaction with the awards made by the DWP for the people we help.

The appeals process is very different to the initial assessment and decision making process. Clients and advisors report that tribunals are generally more inquisitive and open to different kinds of evidence when compared to initial assessments.

The acceptance of new evidence from the claimant or others is commonly cited as a reason for decisions being overturned. In April 2016, the Minister for Disabled People reported that new oral or written evidence was the reason for overturning an initial decision in 75% of successful PIP appeals<sup>19</sup>.

### **Advisor view**

'In contrast to the assessments, clients almost never have complaints about the tribunal processes, even where the attempt to have a decision overturned is unsuccessful.'

<sup>19</sup> [Answer to written question by Minister for Disabled People](#). This states that unverified internal management information for 2015/16 indicates that new oral or written evidence was the reason for the overturn of the decision in 75% of successful PIP appeals

## Different rates of dispute for PIP and ESA

- Why are levels of disputed decisions higher for PIP than for ESA?
- Are there lessons that could be learned from the ESA MR and appeal process for PIP and vice-versa?

Broadly, our advisors see similar problems with both WCAs and PIP assessments and believe there is nothing intrinsic to the respective assessments resulting in PIP decisions being appealed at higher rates. Where justifications for this disparity are offered, it is speculation that claimants transferring from DLA are particularly reliant on that income or that claimants turned down for ESA are able to claim Jobseekers Allowance or have income if they are claiming Universal Credit.

## Reducing rates of appeal

- What changes could be made earlier in the process to ensure fewer claimants feel they need to appeal?

It is often not clear to people exactly what evidence they need to submit or how they need to describe their capabilities in the initial assessments. So claimants are submitting more complete evidence at MR and appeal in order to change the decisions they feel are based on inaccuracies- often with the help of advisors. The different approach of the courts explored above appears more accepting of more diverse forms of evidence.

## Advisors' views

'The Decision Maker needs to use *all* available evidence that the client submits in making their decision and then the MR of their decision. They pay too much attention to the medical assessors report but not enough to the clients own medical evidence.'

'The request for information sent to GPs is not detailed enough for them to provide helpful information. Most GPs don't understand the nature of the benefits they are being asked to comment on and the forms they're sent don't help very much because it doesn't explain.'



“Feedback from tribunals is always good, even if clients lose. They are less structured, pose sensible questions and focus on claimants as individuals. They have read papers, thought about the case, decided what the claimant needs”

In order to reduce the number of appeals, both disparities must be addressed. Better evidence should be collected and decision makers should be more open to considering evidence beyond the assessor's report.

The adoption of the short term recommendations set out earlier could improve the initial evidence collection, accuracy of reports and trust in the system. Video recordings of assessments would make the resolution of many disputed accounts easier.

But the high proportion of successful appeals suggests the system that needs a fundamental review. This is why we make our long term recommendations: particularly the review of assessments for mental health conditions and direct commissioning of supporting evidence.

### 3. Claimant experience

- Do prospective claimants currently understand the purpose of the assessment?
- How could claimants be helped to better understand the assessment process?

Advisors tell us that while claimants do generally understand the purpose of assessments, they often don't understand the process and are confused and unsure about what they need to do at each step.

Adding to the stress of this confusion is the knowledge that outcomes have profound financial implications. ESA and PIP are an important source of income for claimants. The possibility of a decision that does not make a financial award frames the experience of the vast majority of claims, and almost all advisors report cases where clients have undergone significant hardship as a result of decisions. 98% of advisors tell us that PIP assessments and WCAs are having a fairly or very negative impact on mental health of claimants.<sup>20</sup>

#### Communications

Advisors tell us that the process is not communicated effectively to claimants. Letters and forms are often not easy to understand and people often don't know what stages are involved in the assessment.

#### Advisors' views

'The information provided in the letters accompanying forms and decisions are not client-friendly and could be simplified.'

'We need more advertising, simpler terms, more leaflets and posters to explain things for people pictorially, not in written jargon'

'Claimants are not informed, they are simply asked to attend'

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<sup>20</sup>From a survey of 295 advisors in the Citizens Advice network in September 2017

'The assessment is usually explained by support workers, Citizens Advice staff etc - the DWP information is poor. Estimates of time are often wildly inaccurate, eg the PIP helpline currently states that medical assessments normally happen within 8 weeks - in our area it is more like 12.'

'Clients are not helped to understand the process well at all. I think they know what the process is i.e. a medical assessment - however, I do not believe they know how it links to the descriptors etc.'

Most often communication for both assessments is by post with frequently long waiting times between each communication throughout the process (as well as through MR and appeal). These waiting times cause clients stress, particularly when delays come after assessments.

### **Jane's Story**

Jane's neighbours lost their DLA on migration to PIP and are losing their mobility vehicles. She was terrified the same would happen to her and went to Citizens Advice to find out why she had not heard about her PIP decision 25 days after the assessment. An advisor rang the DWP to find they received the assessment papers 12 days after the assessment and a decision could be 4 weeks after that date - 7 weeks in total on top of the time before the assessment. Jane was very anxious during this time.

Poor internal communications and client relations management leads to a frequent feeling of being misled on the part of the people we see. Often, clients report being told things in person by assessors or staff at assessment centres that are then contradicted in written communication. This most often happens when staff assure clients in conversation that there is greater flexibility (such as rescheduling assessments) in the system than materialises when a letter arrives.

### **Understanding the assessment criteria and methods**

Advisors frequently report that claimants are not helped to understand the nature of the assessment. In many cases, they don't understand that assessments are not there to confirm a diagnosis but to measure capability

against 12 or 17 criteria. This makes it very difficult for them to ensure supporting medical evidence is relevant or to explain answers to questions properly on the day.

As discussed in section 1, people don't always know assessors make judgements based on observation. This causes frustration as people are then confused by the conclusions drawn.

### **Advisors' views**

'Many clients are confused, anxious, uncomfortable and just want the assessment over with. They may say that they can do something when it is obvious that they can't. This is reported that the client said they are able to do this - rather than the assessor checking for any obvious inaccuracy. For example a client with severe physical difficulties was asked if he had trouble with the stairs at home. He said 'No' and this was put into the report. The client lives in a bungalow.'

'Clients report being asked very closed questions and not being given the time or opportunity to elaborate on their answers. They report that the assumptions made in the reports are not based on anything that happened at the assessment and report not being asked about areas that they feel are hugely relevant and not being given the opportunity to raise these issues themselves.'

### **No clear responsibility for obtaining medical evidence**

Clients are not sufficiently supported to collect evidence from medical professionals. Neither is it always clear whose responsibility it is to collect medical evidence. This can confuse claimants and increase the likelihood that the right evidence is not collected.

The reliance on claimants to collect their own medical evidence adds an inconsistent, expensive and often difficult step to the process.

## Advisors' views

'GP's often wrongly believe that decision makers and tribunals will contact them; they seldom do.'

'Getting evidence is very inconsistent. Some GP's charge £10 for evidence and others over £175, even within the same practice. Some refuse to give evidence, or state that the DWP or the tribunal will ask for evidence this is not the case.'

'Some GPs are very good at providing evidence, others refuse or charge for the information.'

'Clients often believe the DWP will contact the GP themselves rather than force them to pay for a report to submit but this has proven not to be the case.'

This process is not well suited to attaining the most appropriate evidence for decision makers. This is why in the short term we recommend support for claimants to collect evidence and the creation of a discretionary fund for GPs to cover costs of producing evidence for assessments, together with guidance and examples of how GPs should present evidence.

Over the longer term, there should be a full review the evidence collection process with a view to the government directly collecting or commissioning the collection of appropriate medical evidence. Going through the process of claiming ESA and PIP is a significant challenge - our clients and advisors tell us collecting medical evidence in support of their claim adds confusion and is often appears to be failing to produce the relevant information.

## Adaptations of assessment practices

- Are some groups of claimants particularly likely to encounter problems with their assessments – and if so, how can this be addressed?

As discussed in section 1, people with mental health conditions, learning disabilities, fluctuating conditions and less visible conditions are encountering particular problems in their assessments.

The *experience* of the assessment (as well as the outcome) is also particularly difficult for people with mental health conditions. Our advisors point to anxiety and other mental health conditions causing problems, particularly with missed appointments, that the system is not flexible enough with.

### Barney's Story

Barney made an application to transfer from DLA to PIP with help from Citizens Advice. He is illiterate and homeless. Because he moves around he has no GP, although he has been advised that he can consult a GP via a local homeless centre. Among other disabilities he suffers from panic attacks.

He arrived early for his assessment. The small waiting room was fairly empty but more people arrived, it became crowded and he had a full blown panic attack. He was helped outside by the woman in charge and a security guard - he asked if he could wait outside but was told he could not. He was advised to go home by the woman, who told him that this centre was not suitable for him because it only had small rooms. She told him that she would write a report on the incident for him and she gave him a claim form for his expenses. He then received a letter turning down his application because he didn't turn up for his assessment and didn't give any good reasons for his absence.

Barney is very upset because he did turn up for the assessment and disturbed because the person who helped him that day and who told him she would write a report either hasn't done so or it's been lost.

Adjustments for physical disabilities are also inconsistent. In some cases, advisors report home visits being easy to arrange and accessible assessment locations, near to claimants homes are available. In others, home visits are rare and have been refused, or have been the cause of significant delay in assessment dates. Claimants sometimes don't know home visits are an option and this is not always signposted.

Not every assessment centre is easily accessible. Advisors report steps up to assessment centres, cobbled streets, no nearby parking and long journeys being required to get to appointments.

### **Advisors' views**

'It is difficult to get a home visit accepted as necessary. Clients (especially those with addiction issues and mental health issues) will miss appointments as they are unable to organise their lives enough to be able to plan. In addition, fluctuating conditions mean that on some days clients will feel that they can engage with an assessor at an assessment centre but when the day comes is not able to and there is little flexibility and understanding about changing appointments or understanding that they will have missed with good cause.'

'Clients do not appear to have been told that they can request home visits; neither are they easy to arrange once a client is aware of it.'

'In our area most clients seem to have to make a trip of at least 15 miles, usually by public transport, for their assessment. This is particularly hard on people with physical disabilities but also further disadvantages those suffering from e.g. anxiety and stress issues..'

'In our area we have cobbled street access to venues, stairs to venues, and no disabled parking near venues'

## Integrating PIP assessments and WCAs

- Should the assessment processes for PIP and ESA be more closely integrated? How else might the processes be streamlined for claimants?

In practice, WCAs and PIP assessments duplicate a lot of evidence collection and have criteria that overlap. Large numbers of people claim both benefits. In theory, this should create opportunities for streamlining and alignment that could make client experiences smoother and less burdensome.

*As we have said previously: “Disabled people and those with health conditions often need a range of support to help manage their health, pay for extra costs and maintain work. The systems people have to navigate are often poorly aligned... Services place a heavy burden on users and frequently require people to submit duplicate information. The time and energy required to navigate and access this support can put a heavy burden on disabled people and makes it more difficult to focus on entering or staying in work.”<sup>21</sup>*

Generally, advisors support this view. However, many were concerned as to whether that this could be done effectively in the current context where so many problems exist in the assessment processes for both benefits. A single assessment process would be ‘higher stakes’ for many claimants, making it even more essential this was accurate.

### Advisors’ views

‘It would be good if they could be combined. Clients can get very confused if they’ve recently had an assessment for one benefit and are then assessed for another. They find it hard to understand the differences between the assessments, and why they might fail one but pass another. On top of this the assessment process is extremely stressful and it is unhelpful to put a client through two different but similar processes.’

‘The assessments should have core questions that are the same for both and then additional ones specifically on work capability or independent living.’

<sup>21</sup> [Halving the Disability Employment Gap](#), Citizens Advice, 2017



'Integrating assessments is an interesting concept but I would worry significantly that if it isn't done well, with under-resourcing, poor planning and training, it could be a disaster'

We support integration of the assessment processes in principle, particularly the collection of medical evidence, but this must be part of a wider, long term review of assessments and decision making. Attempts to integrate assessments in their current form - which both appear to be failing large numbers of claimants and seeing decisions frequently overturned in court - would risk duplicating inaccuracies and evidence collection problems.