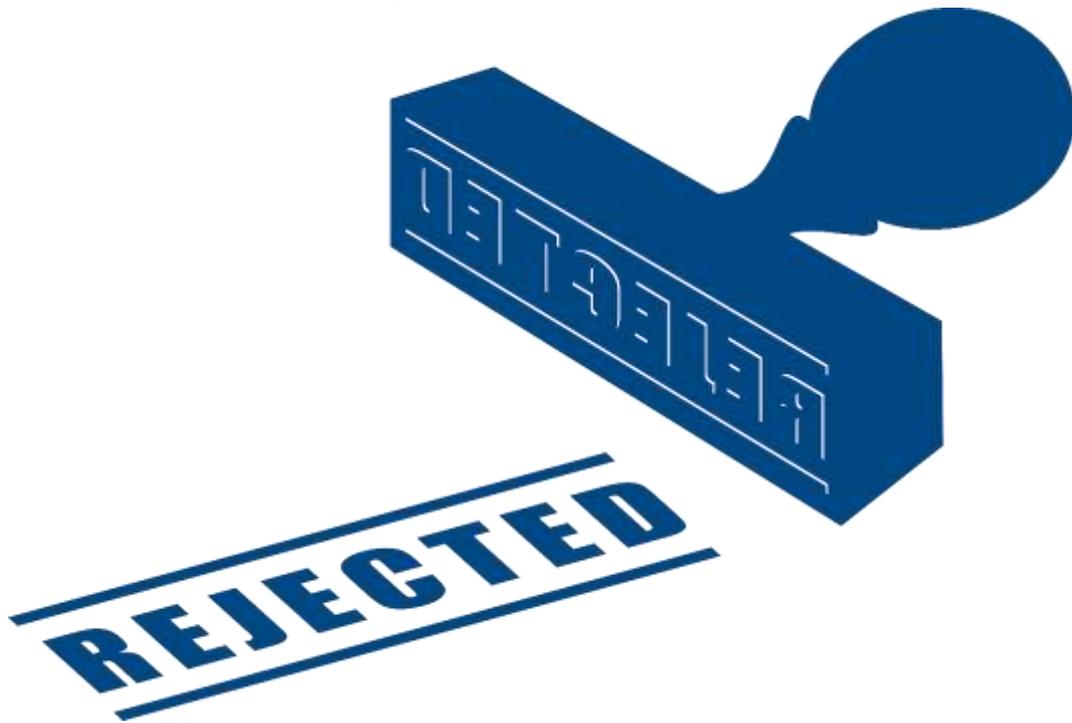


# Disability benefits – a broken system?

Experience across Nottinghamshire  
Published February 2018



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# Introduction – overview of ESA and PIP

Employment and Support Allowance (ESA) and Personal Independence Payment (PIP) are the main benefits available to people with disabilities or illness.

ESA is for people who have an illness, health condition or disability that makes it difficult or impossible to work.

PIP is for people with a long term health condition or disability. It is gradually replacing a similar benefit, Disability Living Allowance (DLA).

Most people claiming ESA have to satisfy the “limited capability for work assessment”. A claimant will usually have to provide medical evidence of her/his limited capability for work and, in most cases, a claimant will be required to attend a medical examination to help determine this.

In order to receive PIP, the individual must need help with everyday tasks or getting around, assessed on the level of help needed with specific activities. Unless the individual has a terminal illness, he/she will usually have to have an assessment to complete the PIP application. Assessments are carried out by a health professional who will write a report and send it to the DWP. PIP awards can include elements for mobility needs and daily living needs.

The assessments for these benefits are based around a points system, and benefits are due only where sufficient points are awarded related to disability.

If an individual’s claim to either ESA or PIP is refused, and the individual disagrees with the decision, the next step is to request a “Mandatory Reconsideration”, which is simply asking the DWP to look at the decision again. If the decision is upheld at that stage, the claimant can then appeal, and the appeal will be heard by an independent tribunal.

# Disability Benefits – The National Context

The handling of disability benefits in the UK is under scrutiny.

In May 2017, as a result of a Freedom of Information Request, the [DWP admitted](#) that a key measure used to monitor Mandatory Reconsideration performance within the department is that 80% of the original decisions are to be upheld. Staff are therefore under pressure to keep to this target, meaning that valid requests to reconsider a wrong decision are more likely to be dismissed. The DWP at the same time revealed that in the year to March 2017, 87.5% of decisions were upheld through the Mandatory Reconsideration process – so claimants who disagree with decisions (prior to any appeal to Tribunal) have the original decision overturned in only one in eight cases.

[Ministry of Justice figures revealed](#) that on appeal at Tribunal:

- 65% of PIP appeals were overturned;
- 68% of ESA appeals were overturned;
- 55% of disability living allowance appeals were overturned

Therefore, Tribunals disagree with DWP decisions to refuse benefits in around two-thirds of cases.

The Parliamentary Work and Pensions Select Committee recently published a [report](#) on the PIP and ESA assessments process. Evidence heard included statistics showing the level of “unacceptable” medical assessments according to DWP. These assessments were undertaken by contractors Atos and Capita. Neither met the performance target of 3% at any time, and Capita's own auditing found that at points in the contract almost 60% of its reports were "unacceptable".

Nationally, Citizens Advice produced a [report](#) in April 2017 ("Halving the Disability Employment Gap") which referenced that:

- Over the past 5 years, the most prevalent benefits issues for Citizens Advice face-to-face clients have been ESA and PIP
- The need for advice has been exacerbated by persistent and wide-scale problems with assessments for both of these benefits
- Claimants go through a process that can be onerous, lengthy and error-prone
- Appeal success rates are currently 59% for ESA and 65% for PIP
- Mandatory Reconsideration success rates are low, with just over one in ten ESA decisions overturned at this stage



*"Incorrect decision making can have a huge impact, leaving people stressed and anxious across the application and appeals process. During this time a disabled person may feel caught in limbo, unable to focus on looking for work, even if they are keen to enter the workplace"*

(Halving the Disability Employment Gap)

# Disability Benefits – Citizens Advice experience in Nottinghamshire

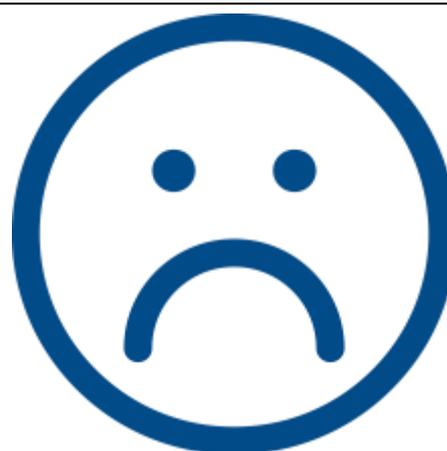
This report focuses on serious problems that Citizens Advice in Nottinghamshire has seen for our clients in relation to disability benefits.

Large numbers of our clients come to us with problems associated with ESA, DLA and PIP. Many of these relate to claims which have been refused. In our experience, many of the cases where the benefit initially is not granted are later overturned on appeal, and this is backed up by national statistics.

In addition, we see cases where there is evidence of poor practice and administration of the claim, medical review and appeal aspects.

We are also increasingly seeing very long delays in the handling of the whole process of appeals and mandatory reconsiderations, which means clients suffer the loss of the benefit over a long period of time whilst waiting for their decision to be revised.

We have illustrated our experience in Nottinghamshire with a number of case studies drawn from our clients' experience. These show the severe individual impact of a broken system which is in need of urgent attention.



“The truly amazing rate of overturned ESA and PIP decisions seems to point to something being fundamentally wrong with the initial assessment and Mandatory Reconsideration stages. Quite apart from the human cost this represents – the distress and difficulty for applicants trying to get help with daily living or getting into work – it looks to be wasteful, inefficient, and a huge cost to taxpayers” – Frank Field MP, Chair of the Work & Pensions Committee

# Nottinghamshire Case Studies

Please note that these case studies have been anonymised. They are representative of a very large number of cases seen across Nottinghamshire Citizens Advice.

## Case Study 1 – PIP

- Healthcare assessment process failed – evidence disregarded
- Mandatory reconsideration process failed
- Failings exacerbate financial problems

A client contacted us due to her difficult financial position, which was linked to marital separation. She had been signed off work, and suffered a number of medical conditions including fibromyalgia. The immediate needs were for food and for help with debts. Food vouchers were arranged.

We agreed to also help with benefit entitlement. She had recently been turned down for PIP following a “consultation with a healthcare professional”, being awarded a points level which was well below the amount required to receive any benefit.

We helped with the Mandatory Reconsideration, which was turned down. We then helped the client prepare for the appeal.

In our supporting evidence, we pointed out a number of contradictions between the evidence given by the client (and her supporting medical history), and the healthcare professional’s report. The evidence from the client and her consultant had been disregarded without explanation.

The Tribunal decided that the healthcare professional had underestimated the client’s difficulties. She was awarded sufficient points to entitle her to both Daily Living and Mobility components at standard rate.

## Case Study 2 - ESA

- Healthcare assessment process failed – evidence disregarded
- Mandatory reconsideration process failed
- Bad decisions could have resulted in risk of injury

The client asked for our help as he had been turned down for ESA, and his Mandatory Reconsideration had also been turned down. He was awarded no points at all. He suffered from both physical and mental conditions, seeing a specialist for back problems, and receiving medication for depression and anxiety.

We helped with his appeal and supported him at the Tribunal. We pointed out that, in relation to mobility, the healthcare professional had decided, without giving any reason, that his assertion that he struggled after 50 metres was untrue, and decided he could walk 200 metres without stopping.

The Tribunal decided that he should be awarded ESA, noting particular issues in relation to mobilising unaided, and in relation to appropriateness of behaviour with other people due to cognitive impairment or mental disorder. The Tribunal commented that if he were found capable of work-related activities, this would result in a "substantial risk of injury to others".

### **Case Study 3 - PIP**

- Healthcare assessment process failed – evidence disregarded
- Mandatory reconsideration process failed

The client visited Citizens Advice on behalf of her husband who had been diagnosed with non-Hodgkinson lymphoma, bone and bone marrow cancer and starting chemotherapy treatment. He had problems walking, using transport and was in constant pain.

Our client explained how her husband had applied for PIP, but had been refused the claim for the mobility component.

She described the assessment of her husband's mobility, and felt that the decision was not based on an accurate assessment of her husband's mobility, and the amount of pain even only small movements caused him.

We helped the client to understand the procedures for mandatory reconsideration and appeals. The mandatory reconsideration was refused, and then an appeal was submitted.

The client attended the Tribunal hearing while her husband was in hospital, and he was awarded the enhanced rate of the mobility component. This meant an additional £85 per week.

## **Case Study 4 – PIP**

- Healthcare assessment process failed – evidence disregarded
- Mandatory reconsideration process failed
- Lengthy delays add to the problems

A client visited Citizens Advice to ask for help with her claim for PIP.

She was a self-employed woman, who had a long term health condition that significantly affected her mobility, and had been claiming the mobility component of PIP.

She had recently been diagnosed with multiple sclerosis in addition to her other conditions. She contacted the DWP to inform of them of a change of circumstances (as required) and was told that she needed to request a review of her claim. She was re-assessed and was denied any PIP whatsoever.

The request for a mandatory reconsideration that was put forward was rejected. After several attempts, Citizens Advice contacted the DWP and we were informed that the mandatory reconsideration letter had been sent to our client in error, and the position had not been considered yet, but would be within 8 to 9 weeks.

The client was helped to make contact with her MP, who was also able to contact the DWP to support her claim, and finally she was awarded the standard daily living component and the enhanced mobility component.

## **Case Study 5 - ESA**

- Healthcare assessment process failed – evidence disregarded
- Process exacerbated client's health condition

The client attended Citizens Advice seeking help with an appeal against the termination of his ESA which he had been in receipt of for many years. He was continuing to receive PIP.

He had a long-standing neurological condition which by its nature progressively worsens, and in addition had chronic mobility issues. He suffered from depression as a consequence. He also suffered from a condition which affects his vision and general perception of his surroundings. He had incontinence problems which demanded special underwear and he had been referred to a continence clinic.

The Work Capability Assessment for ESA determined that no benefit was due.

The client was very upset, as he felt the assessor had trivialised his incontinence problems and had not properly taken into account his need to take regular stops to rest and relieve pain when walking. As a result of the process, the client had suffered stress and worry which exacerbated his depression.

We lodged an appeal which was dealt with on paper within 2 months and which resulted in the reinstatement of his ESA.

## **Case Study 6 - PIP**

- Healthcare assessment process failed – evidence disregarded
- 0 points awarded originally
- Mandatory reconsideration process failed

The client attended with his mother for support as his condition makes it difficult for him to recall dates and events and he becomes confused and is not capable of processing assisted information.

He had been in receipt of PIP enhanced daily living and standard mobility as a consequence of a brain tumour diagnosis some 12 months previously. He continues to receive treatment. Client scored 0 points on review and came seeking help with an appeal, the mandatory reconsideration having confirmed the original assessment.

The appeal was successful and the PIP reinstated from the date it had been terminated.

## **Case Study 7 - PIP**

- Healthcare assessment process failed – evidence disregarded
- 0 points awarded originally
- Mandatory reconsideration process failed

The client attended Citizens Advice seeking help to appeal against a PIP decision which had been upheld through the mandatory reconsideration process.

The Client had scored 0 points even though she had a long term hereditary blood condition which required a blood transfusion every month, and suffered bleeding daily from her nose and into her stomach. Her condition had a number of very significant impacts – she had severe walking difficulties, needed help with getting dressed and with washing, and had constant back and chest pain. She also suffered from depression and took medication for this, but the DWP health assessment sought to minimise the relevance of this by commenting that she was not being seen by a specialist.

We assisted the Client in drafting an appeal making the point that there had not been a proper assessment of the impact on her of her condition.

On appeal to the Tribunal the client was awarded PIP with enhanced daily living component and standard mobility component.

## **Case Study 8 - ESA**

- Healthcare assessment process failed – evidence disregarded
- 0 points awarded originally
- Mandatory reconsideration process failed

The client suffered from chronic obstructive pulmonary disease. She also had total incontinence of the bladder. She had severe cognition difficulties, poor awareness of hazards, and serious mobility issues. Despite the range of problems apparent, she had been awarded 0 points for ESA, and her request for mandatory reconsideration resulted in a confirmation of this decision.

We assisted her, helping her to write a letter to the appeals Tribunal setting out the reasons why ESA should be awarded.

Prior to a Tribunal hearing, the DWP contacted the client to notify her that their decision had in fact changed, and ESA was awarded.

## **Case Study 9 - ESA**

- Lengthy delays in the decision process

Our client was a single man who attended Citizens Advice after his ESA was stopped (with 0 points awarded). He received duplicate letters notifying him of this, 12 days apart, each saying he had a month to ask for a mandatory reconsideration. He had also been notified that his housing benefit was being stopped, which clearly linked to the ESA decision. He was not in debt but the loss of income would quickly result in arrears of rent.

He suffered from mobility and mental health issues linked to alcohol dependency. He had not had a face to face health assessment in relation to his benefits, but a decision was made purely on paper evidence.

We helped submit a mandatory reconsideration request. At our last contact with the client, over four months had passed since the request, and nothing had been heard.

## **Case Study 10 - PIP**

- Healthcare assessment process failed – evidence disregarded
- Mandatory reconsideration process failed
- 0 points awarded originally
- Failings exacerbate financial problems

The client had a range of conditions including Type II diabetes, high blood pressure, spinal pain and nerve damage. He had been under the care of an orthopaedic consultant, undergone surgery, and was left with constant pain. No further surgical procedures were available to him. He had incontinence problems requiring pads to be worn when/if he goes out. The client also had depression and was suicidal. His mobility was severely restricted due to pain and he used elbow crutches to move about. He had a problem with circulation and this was exacerbated by the poor state of his living conditions as he had no central heating and during the winter restricted himself to one room heated by an electric fire. He needed help with dressing, washing and cleaning himself after using the toilet.

His PIP award had recently been reviewed and he scored 0 points. This had also resulted in a consequent reduction to his ESA.

He had applied for a mandatory reconsideration, but the decision was unchanged and he wanted to appeal.

Following our intervention, the client had a phone call from the Courts Service to say that the Tribunal had looked at the papers again and awarded standard rate of both

components for a 5 year period, so the client did not need to attend the appeal. The arrears amounted to around £1,500.

## **Case Study 11 - ESA**

- Healthcare assessment process failed – evidence disregarded
- Mandatory reconsideration process failed
- 0 points awarded originally
- Failings exacerbate financial problems

The client had received ESA for over years. She had recently attended a reassessment and was found fit for work, scoring 0 pts. Her housing benefit and council tax reduction were suspended. She applied for a mandatory reconsideration.

She had a range of health conditions including asthma, multiple joint pain, long-standing lower back pain, colitis, psoriasis and depression. She was on a range of medication, suffered pain in her back, knees, and hips and became breathless when walking. She suffered bowel incontinence most days when she eats.

The DWP assessor had suggested that the client could use a manual wheelchair to mobilise herself, however due to back and shoulder pain this would not be possible.

The assessor observed the client to walk 15m normally and came to the conclusion that she could mobilise more than 200m.

The client was struggling financially. She had not managed to keep up to date with her essential expenses. Her mandatory reconsideration request was refused, and an appeal was submitted.

The appeal was successful and she was placed in the ESA support group with backdated effect.

# Summary and Conclusions

The evidence from the case studies, and from the emerging national context, indicates that the disability benefits system is broken.

- The health assessment process is consistently failing to meet targets for acceptability
- There is a wide disparity between the health assessment and the reality of the effects of the conditions suffered by our clients
- The Mandatory Reconsideration process is largely a waste of time, which is unsurprising given the DWP's targets
- As a result of the failings, many individuals suffer reduced income for extended periods, resulting in financial difficulties and in many worsened health conditions

We are concerned that we are only seeing the tip of the iceberg. Individuals with disabilities, particularly mental health conditions, can be vulnerable, and may not challenge decisions or seek advice. Where benefit is refused incorrectly, the individual could be losing as much as £500 per month from their income.

We therefore urge the DWP and the Government to undertake a fundamental review of the way disability benefits are handled. This should include:

- Bringing more expertise and knowledge to the health assessment itself
- Scrapping targets for Mandatory Reconsideration decisions to be upheld
- Consider scrapping the Mandatory Reconsideration process altogether
- Increasing resources to reduce delays in the handling of Mandatory Reconsiderations and appeals



# Definitions/Abbreviations

DLA – Disability Living Allowance

DWP – Department for Work & Pensions – responsible for managing disability benefits administration

ESA – Employment & Support Allowance

PIP – Personal Independence Payment

# Citizens Advice in Nottinghamshire

1. This report has been prepared on behalf of Citizens Advice in Ashfield, Bassetlaw, Broxtowe, Mansfield, Newark & Sherwood, and Nottingham
2. For further information regarding this report, please contact Sally Bestwick, Chief Executive Citizens Advice Broxtowe on 01773 719450 or at [sally.bestwick@broxtowe.cab.org.uk](mailto:sally.bestwick@broxtowe.cab.org.uk)
3. The Citizens Advice service comprises a network of local Citizens Advice, all of which are independent charities, the Citizens Advice consumer service and national charity Citizens Advice. Together we help people resolve their money, legal and other problems by providing information and advice and by influencing policymakers. For more see the [Citizens Advice website](#).
4. The advice provided by the Citizens Advice service is free, independent, confidential and impartial, and available to everyone regardless of race, gender, disability, sexual orientation, religion, age or nationality.
5. Citizens Advice in Nottinghamshire advised almost 13,000 clients with over 50,000 problems in the six months to June 2017
6. Citizens Advice in Nottinghamshire is supported by around 275 trained volunteers.

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