

Shaping future support:

Submission by the Disability Benefits Consortium to the Health and Disability Green Paper consultation

October 2021

Please note:

A glossary of abbreviations is at Appendix 1.

Notes and references are provided as endnotes at Appendix 2.

1. Introduction

1.1 The Disability Benefits Consortium (DBC) is a network of over 100 organisations with an interest in disability and social security. For our full list of members, see <https://disabilitybenefitsconsortium.com/dbc-members/>

1.2 Using our combined knowledge, experience and direct contact with millions of disabled people, those with long-term health conditions and their families and carers, we seek to ensure that Government policy reflects and meets the needs of all disabled people¹.

1.3 We welcome the opportunity to make a submission to the Health and Disability Green Paper consultation, which raises issues of great importance to our members.

1.4 In doing so, we have gathered views, experience and evidence from a number of sources:

- discussions between DBC member organisations that have led to agreed positions, over the last few years, on most of the issues raised in the Green Paper

- discussions with Ministers and officials of the Department for Work and Pensions (DWP) and with Treasury officials
- new input from our member organisations, over the last few weeks, specifically for this consultation – in this respect, we are particularly grateful to Age UK; Contact; Crohn’s & Colitis UK; the Cystic Fibrosis Trust; Disability Law Service; Disability Rights UK; Dystonia UK; Independent Food Aid Network; Institute of Revenues, Rating and Valuation; Macmillan Cancer Support; Motor Neurone Disease Association; National Axial Spondyloarthritis Society; National Deaf Children’s Society; National Survivor User Network; Neurological Alliance; Rethink Mental Illness; Royal National Institute of Blind People; Shine; Versus Arthritis; Wiltshire Centre for Independent Living; and the Zacchaeus 2000 Trust (Z2K).

1.5 The resulting draft submission was then circulated to our full membership for final comment and agreement.

1.6 Please note that, parallel to sounding out our member organisations, we also conducted a survey of claimants, to be published as a separate report, that powerfully illustrates many of the themes of this submissionⁱⁱ.

1.7 Our broad impression of the Green Paper is both positive in some respects and with reservations in others.

1.8 The Green Paper draws together a large number of issues, some of policy and some operational, which are all important in themselves, but which arguably lack an overall shape and clear direction. There is a great deal of repetition, the same points being made several times. There are some key omissions (notably the absence of any discussion of income adequacy) and several of our members commented that there is insufficient recognition of well-documented problems within the current system.

1.9 Nevertheless, although the Green Paper takes us only part of the way towards achieving a better future and we have reservations regarding some of the proposals, these are, as noted above, issues of great importance to our members. We welcome the Green Paper initiative and look forward to engaging with the DWP as the various strands of work are taken forward.

1.10 We have set out our comments and analysis under the five main headings used in the Green Paper:

- providing the right support;
- improving employment support;
- improving the DWP's current services;
- re-thinking future assessments to support better outcomes;
- exploring ways to improve the design of the benefits system.

1.11 Obviously, there is a good deal of overlap here, but we shall seek to address the key issues flagged up for consultation under the various headings and perhaps identify a few that have been missed.

2. Providing the right support

2.1 This section of the Green Paper includes: reasonable adjustments to render services accessible; information, signposting, advice and advocacy; and meeting disabled people's mobility needs.

Advice and advocacy

2.2 The highlighting of advocacy is interesting. Recent discussions with Ministers and officials have suggested a growing awareness at the DWP of the importance of advocacy, although with no clear idea of how it might be provided.

2.3 Undoubtedly, a supportive approach to claimants, in assessing their circumstances and determining claims, is entirely to be encouraged and we commend the Green Paper's good intentions in this respect. However, this is a different thing to independent advice and advocacy: the DWP cannot represent claimants in any potential dispute with itself.

2.4 The DBC is part of an alliance of organisations and networks, including the Association of Mental Health Providers, Association

of Directors of Adult Social Services, National Association of Welfare Rights Advisers and others, which has called for a:

“...fully-funded new duty on councils, for the provision of comprehensive welfare rights and money advice, for all existing and prospective claimantsⁱⁱⁱ”.

2.5 Liaising with benefit services and through both direct access and well-organised referral systems, such an advice and advocacy network could form the basis of the advocacy support that the Green Paper envisages.

2.6 Such a duty would require local authorities to conduct up-to-date audits of what advice and advocacy services are available locally, in consultation with other key stakeholders, notably housing, health and social care providers and the advice sector itself. Where there are two tiers of local government, effective collaboration would be essential.

2.7 Advice and advocacy networks in this context would comprise local authority and voluntary sector advice agencies, including community-based organisations, as well as peer advocacy support services run by disabled people themselves.

2.8 Availability of advice and advocacy services varies greatly from place to place, in terms of extent and depth of provision and also the fields of advice on offer. This variation reflects a number of factors, including demographic and geographical characteristics, the range and variety of advice providers and the resources and priorities of the local council – including how the authority has responded to pressure for cuts. Have advice services been protected or sacrificed? Local audits and strategies are needed to address this variation.

2.9 An important aspect of this would be appropriate training. The wrong advice and information can mean people not only receiving inadequate support but being underpaid or having to pay back money. The benefits system is complex and only those with sufficient expertise should be giving advice and providing advocacy. Personnel (of whatever agency and including volunteers) who may be giving information and advice to the public must receive the necessary training.

2.10 In a spirit of constructive engagement, The DWP should also rescind its unsustainable policy of demanding repeated “explicit consent” in order to communicate with claimants’ advisers on Universal Credit (UC) matters. The restoration of an orderly system of “implicit consent” is essential if problems with claims are to be promptly and effectively resolved.

2.11 Government funding for an advice and advocacy network – whether via the DWP or otherwise – would be very welcome. Of course, no strings should be attached in terms of advice agencies’ autonomy in taking up cases or challenging DWP decisions.

2.12 The Green Paper comments that the DWP would wish to assess whether such advocacy support would be “value for money”. As one of our member organisations pointed out, this risks placing the emphasis on how much disabled people are costing the system, rather than on ensuring that everyone can access the system effectively and with dignity and respect.

2.13 Additionally, the DWP should introduce a dedicated helpline to assist people who need to make use of the Special Rules for Terminal Illness or are in the proposed Severe Disability Group. While engaging with the DWP’s terminal illness review, many people living with motor neurone disease and other terminal conditions felt that a dedicated helpline would greatly ease their ability to navigate the system and receive the support they need in order to claim.

Mobility

2.14 The importance of the mobility component of Personal Independence Payment (PIP) in promoting independent living should be recognised. There should be more emphasis on encouraging claims and less on resisting them.

2.15 The “20-metre rule” for PIP enhanced mobility support should be restored to a more realistic 50 metres.

2.16 A participant in the Motability scheme who is challenging a decision not to award the necessary level of a qualifying benefit should be able to keep using the scheme for 18 months, to ensure they do not lose their Motability vehicle before an appeal hearing.

This period should be renewable if an appeal or further legal challenge is ongoing after 18 months.

2.17 The criteria, scope and detailed rules regarding the Motability scheme should be reviewed, in consultation with disability organisations^{iv} and disabled people. In particular, there are strong arguments for wider access, including extension to Attendance Allowance claimants who have mobility problems.

3. Improving employment support

3.1 This section of the Green Paper includes: the Access to Work (ATW) and Disability Confident schemes; the Work Capability Assessment (WCA); the role of Work Coaches; the role of local organisations in supporting disabled people and people with health conditions into employment; support in health settings; employment support for more severely disabled people; support provided digitally; and the transition from education to the labour market.

3.2 There are many important questions here around the interface between work and non-employment. In our view, the key challenge is to provide actual jobs for those with the capacity to work and the right level of long-term support for those for whom employment is not a realistic short-term prospect.

3.3 Relatively little work has been done to understand the effectiveness of past and current employment schemes. A comprehensive and detailed review should be commissioned by the DWP to establish what works and what does not, regarding how successful various support schemes are in getting disabled people into work and supporting them to stay in work.

Access to Work

3.4 The DWP should continuously monitor the available funding for ATW to ensure it can keep pace with demand.

3.5 The ATW scheme is insufficiently publicised and many employers are unaware of the potential support available. The DWP should promote ATW more widely among employers and disabled people who are in work.

3.6 ATW could be more effective by providing more holistic assessments that encompass working hours, working practices and addressing employers' concerns, instead of focusing too narrowly on a list of equipment and support that ATW can fund. The DWP should review the ATW assessment and the support that it can fund, with a view to broadening its potential applications.

3.7 There can be long delays between applying for support and receiving equipment. This could mean that disabled people are unable to start a new role until this support is in place. This may dissuade employers from hiring disabled people, if they feel that accessing this support is difficult. The DWP should examine how it can speed up the ATW process to ensure there are no perverse incentives for employers not to hire disabled people.

3.8 A number of DBC member organisations have been involved in the establishment and continuing work of the ATW Stakeholder Forums. The DWP should regard these Forums as an ongoing source of relevant feedback and expertise.

3.9 The DWP should review the range of data collected on the ATW scheme, in consultation with the Stakeholder Forums. Data on the pattern of use of the scheme – for example, demographically, geographically and across sectors – can help to target promotion.

Work Capability Assessments

3.10 Over the years, the disability sector has consistently highlighted a range of structural issues with the WCA, including the system's inability to account for the barriers that disabled people face when seeking to access employment.

3.11 A more holistic WCA would take into account "real world" factors such as mobility issues, including access to suitable transport; skills gaps; and the actual availability of relevant employment in the local economy.

3.12 WCAs should take place promptly (say, within three months) and the practice of seeking to discuss work-related activity with claimants, before a WCA has determined whether or not they have the capability for such activity, should cease. The argument that

such discussions are necessary to avoid losing touch with the labour market would be redundant if WCAs were less tardy.

Claimant Commitments and sanctions

3.13 The onus should be on the DWP to ensure that each Claimant Commitment is constructive, realistic and well thought through. The claimant should be fully involved in the discussion and clearly informed as to how to challenge a Claimant Commitment that they consider unsatisfactory.

3.14 If a Claimant Commitment is unsuitable – involving job-seeking or other work-related activities that are unrealistic – it is very important that the claimant challenges it and gets it changed. Agreeing to an unrealistic plan of action is setting yourself up to fail – and the penalty for not complying with the agreement could be, under the current system, a damaging fine (a "sanction").

3.15 For Claimant Commitments to become an effective and fair tool that truly supports disabled people, the DBC believes that the “fear” element that comes with the threat of sanctions must be removed. We are pleased to note that the DWP seems increasingly to recognise the negative impact of sanctions and hope that this change of emphasis will be sustained.

3.16 The DBC wants to see Claimant Commitments focus on what barriers a claimant experiences to accessing employment and to link to high-quality, tailored employment support. Claimants must be listened to and their needs and views reflected in the Claimant Commitment. There is a widespread view in the disability employment field that there is a conspicuous lack of tailoring of employment support to claimants' needs and circumstances, reflected in the relatively poor performance of employment programmes in getting disabled people into work.

3.17 The DBC believes that removing sanctions and providing high-quality, individually tailored employment support will go some way to restoring trust and supporting a move towards a fairer benefit system that works for disabled people.

3.18 There is a need for research into the effectiveness of Claimant Commitments. Evidence of actual jobs that would not otherwise have been secured would do much to confer credibility.

The DWP should be commissioning research and asking questions if the answers are not encouraging. As noted above, employment outcomes for disabled people do not so far have a strong track record.

3.19 It is important that Claimant Commitments should start from a point of no employment-related conditionality for a claimant awaiting a WCA and scaling up as and where appropriate thereafter. That is, building work-related activity steadily, in partnership with the claimant.

3.20 The DWP should collaborate further with disability organisations and with disabled people to better understand what effective models for supporting disabled people to move towards work look like.

3.21 The DWP must ensure that those applying conditionality receive specialist training and education in disability and its impact on employment; continued training and development throughout their careers; and are able to demonstrate qualifications and competence in this area.

3.22 The DWP should develop detailed guidance for staff, with the involvement of disability organisations, on the appropriate use of the Claimant Commitment, specifying the situations in which different levels of conditionality would be applicable, with multiple real examples. This will help to ensure that conditionality is applied appropriately and consistently by Work Coaches.

3.23 The DWP should commit to increasing and protecting the number of Disability Employment Advisers in future and ensuring they receive continuous training in order to help them effectively to support Work Coaches.

3.24 Employment-related activity on the part of someone in the Employment and Support Allowance (ESA) Support Group or the equivalent UC Limited Capability for Work-Related Activity (LCWRA) Group should always be voluntary and specifically requested by the claimant – not mandated. It should be provided by somebody with expertise in the claimant's condition.

3.25 It has been suggested, in these and earlier discussions, that decisions on financial entitlements and on employment support

should be separated, in order to encourage interest in work-related activity among claimants in the ESA Support Group and UC LCWRA Group. This is difficult, given that, in anything like the current system, labour market status is a key determinant of benefit level. If it is to work, employment support would need to be disengaged from any review of benefit status and provided quite separately. Otherwise, claimants would have a well-founded fear that interest in a possible eventual move towards the labour market might trigger a sharp income loss with no realistic prospect of a job.

3.26 Employment-related activity on the part of someone in the ESA Work-Related Activity Group or the equivalent UC Limited Capability for Work (LCW) Group should, as noted above, be agreed with the claimant. Compulsory work-related conditionality, backed up with the threat of sanctions, is a negative and profoundly uninspiring approach. High-quality employment support, backed up by the real chance of a job not too far down the line, is the way to inspire confidence.

3.27 The DWP must provide disabled people with channels to report pressure to undertake unsuitable back-to-work activity.

3.28 People with severe and progressive conditions in the ESA Support Group or UC LCWRA Group should not be contacted regarding employment support opportunities. For severe and progressive conditions such as, for example, motor neurone disease, it will get to a point where a return to work is no longer possible and having permanently to leave the workplace is sadly an inevitability. Reaching out to people who are in these circumstances would therefore be a waste of time and resources and potentially distressing for the individual involved.

3.29 The DWP should indeed go further and look at support for people who need to transition out of the workplace. Those with severe and progressive conditions will be able to continue working for a time with the right support but will eventually need to leave. The DWP must address how people in these circumstances are best supported.

Work-related activity and benefit levels

3.30 As will be apparent from the above, we believe that it is essential that the ESA Support Group and UC LCWRA Group, or equivalent in terms of financial support and conditionality, should be maintained as part of any new arrangements resulting from any review of the WCA.

3.31 We also consider that the ESA Work-Related Activity component (and the equivalent UC LCW component) should be restored. Their abolition for new claims from April 2017 has caused hardship to many disabled people who have no realistic prospect of work in the near future, while often detrimentally affecting their health and increasing social isolation, thus also stepping up pressure on health and social services.

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

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

3.34 Moreover, because of the way UC is structured, restoring this component would also help some disabled people in low-paid work, who generally fare badly in comparison with the legacy system.

UC assessment and payment cycles

3.35 The assumption within UC that calendar monthly wage payments are the norm was always wrong, being less likely to be true the lower down the income scale. The continuing trend towards fluctuating hours and incomes exacerbates this. Fluctuating incomes have always been a headache for means-tested benefits, but their increasing incidence combines with UC's calendar monthly model to create growing problems.

3.36 There is a need to move towards more flexible assessment and payment cycles. This would no doubt create administrative

and computer program challenges, but the real world would seem to require it.

The UC taper

3.37 UC has a taper (withdrawal rate as income rises) of 63% of the net increase. This is generally lower than in the legacy benefit system, but still very high, especially where it interacts with local Council Tax Reduction schemes (most of which also involve a taper). So most of a wage increase is still lost.

3.38 The DBC has not yet developed a specific proposal to address this problem. The case for a reduction in the withdrawal rate is clear, but what the taper should be and where it should sit in our existing package of UC proposals remains to be considered. However, we draw attention to the fact that UC has not solved the problem of high marginal deduction rates.

Self-employment

3.39 The role of UC in relation to self-employment should be revisited, in consultation with relevant labour market experts, to achieve a more credible balance between opening up opportunities and realistic assessment of a business's prospects. In particular, purely arithmetical financial calculations should be replaced by a more holistic assessment of the viability of a business.

3.40 In determining the minimum income floor, the number of hours that claimants can reasonably be expected to work will be an important issue for many disabled people and clear guidance (developed in consultation with disabled people and disability organisations) will be needed.

PIP as an in-work benefit

3.41 There should be greater appreciation of the importance of PIP as an in-work benefit, helping many disabled people to meet the extra costs of disability in a working life, above and beyond those met by the ATW scheme.

Reasonable adjustments and employers' awareness

3.42 The Government should ensure employers are aware of their legal duty to accommodate disabled employees' requests for reasonable adjustments and flexible working under existing legislation and should take action where they are not.

3.43 The introduction of a reasonable adjustment requirement in respect of carers should be explored, in consultation with carers and carers' organisations. This would greatly enhance the ability of carers to combine their caring responsibilities with some paid work, should they so wish.

3.44 More widely, there is work to be done in improving employers' awareness not only of their legal responsibilities, but also the potential contribution of disabled employees, as well as (as noted above) the support available through the ATW scheme.

3.45 Information made available to employers should cover a range of disabilities and health conditions, including those that are invisible and/ or fluctuating. It should also promote greater understanding that an employee may experience more than one at once, possibly both a physical and a mental health condition. For example, musculoskeletal problems and mental health conditions are the two largest causes of lost working days in the UK and often co-exist.

Disability Confident

3.46 More should be required of employers in order to secure membership of the Disability Confident scheme, including a greater focus on disabilities and health conditions that are invisible and/ or fluctuating. This would increase its prestige, making it more attractive to employers, as well as boosting its credibility among disabled people.

Young people

3.47 To prepare and support disabled young people moving into employment, the Department for Education and DWP should work together to ensure disabled young people are aware of the full range of support options available to them, including ATW. This could be provided as part of careers guidance.

3.48 Disabled students should have an unfettered ability to claim benefits, to enable them to receive appropriate education and consequently find fulfilling work.

4. Improving the DWP's current services

4.1 This section of the Green Paper considers: different approaches to conducting assessments; repeat assessments where someone has a condition that is unlikely to change; decision-making and appeals; and the transition from child Disability Living Allowance (DLA) to PIP.

4.2 The area of assessments, decision-making and appeals is among the most controversial aspects of the current system. One proposal here that will cause debate is a possible "Severe Disability Group" that could bypass detailed assessment and any reassessment. It would essentially apply to claimants who do not qualify for the special rules for terminal illness but may still have severe and lifelong conditions that will not improve. It would "build on existing successful measures such as the Severe Conditions Criteria for ESA/ UC".

4.3 This sounds constructive and in itself is very welcome. Many people whose conditions will regrettably not improve are currently not assessed as meeting the Severe Conditions Criteria which exempt them from reassessments. This is an opportunity to put that right.

4.4 However, some readers of the Green Paper will, rightly or wrongly, suspect a Trojan horse for redefining and curtailing access to higher rates of ESA and of UC – so we will be hoping for clear assurances here. As noted above, we consider it essential that the ESA Support Group and UC LCWRA Group, or equivalent in terms of financial support and conditionality, should be maintained as part of any new arrangements.

The application process

4.5 The DWP should produce simplified claim forms, in consultation with disability organisations and disabled people.

4.6 These should be easily available, including in jobcentres, in accessible formats such as audio-described and easy-read, as well as downloadable online.

4.7 Claims should also be easily submitted, through whatever channel is appropriate for the claimant – for example, in person (via a home visit if necessary), by post, e-mail, telephone or online.

4.8 There should be no need to return forms within arbitrary time limits.

4.9 We recognise that the Green Paper proposes to provide greater assistance to claimants in establishing their initial claim. However, some will want help from an independent source. National and local strategies are needed to channel resources to charities and other advice agencies, so they are better able to assist people in completing all disability benefit application forms. Completing the application form in an effective way requires significant understanding of the application and assessment processes. This could form part of the local advice and advocacy strategies discussed above.

4.10 Meanwhile, a number of our member organisations look to the DWP to help claimants fill in application forms, where there is no other local source of help. This is “an imperfect but incredibly useful service” as one put it. Unless and until local independent sources of support reach sufficient capacity, this function within the DWP should be scaled up to meet demand.

4.11 Many claimants will need support not just with initial claims, but also with ongoing claim maintenance – so there need to be support options not only for making, but also for managing, claims.

Assessments

4.12 The DWP should automatically issue claimants with a copy of their assessment report, in their required format. This would increase scrutiny and therefore help to raise standards. Assessors would know that all claimants will be able to see any inaccuracies or misleading statements, which should encourage greater care and accuracy.

4.13 Wherever feasible, claimants should have choice as to the assessment method: face-to-face; audio; video; or on the papers.

4.14 Claimants should have a clear option of audio or video recording of non-paper assessments. Assessment reports often contain errors and many disabled people do not trust assessors to act fairly and independently.

4.15 Where an assessment diverges from the account given of their condition by the claimant, this difference must be clearly explained.

4.16 There should be a thorough review of the various assessment criteria (“activities” and “descriptors”). There should be meaningful involvement of disability organisations and disabled people in this process, across a range of disabilities and health conditions, physical and mental, to ensure criteria are fair and truly reflect a person’s capacity to work or the extra costs they face.

4.17 The descriptors should allow more scope for claimants to describe the way that their disability affects them on a day-to-day basis. This would assist the assessor to understand more fully the extent of how the claimant’s disability affects their daily life.

4.18 Assistive technology should not perversely become a threat to independent living by reducing benefit entitlements and this should be borne in mind in any review of activities and descriptors.

4.19 There is a particular need to take into account fluctuating conditions and not address them by means of a “snapshot” or “typical day”.

4.20 Where a condition is known to deteriorate over time, the system should also note unsuccessful claims and automatically advise the claimant at scheduled intervals that a new claim may succeed if their condition deteriorates at a later stage.

4.21 We welcome the Green Paper’s recognition of the need for more thorough and holistic assessments. This brings with it the need to make available more assessors and ensure that they are given more time to conduct assessments and write reports.

4.22 We welcome the recognition of the need for greater support during and following the assessment. This is consistent with the DBC's call for a support co-ordinator, who would help the claimant to draw up a support plan, on a voluntary basis. For the support plan to be meaningful, the Government must fundamentally improve the support available to disabled people, across a spectrum of needs.

4.23 A frequent criticism of the assessment process is that assessors often lack a sufficient understanding of the claimant's disability or health condition. We recognise the logistical difficulty of always matching specialist expertise to particular conditions. However, if an assessor does not have specialist knowledge of the condition they are assessing, it must be a requirement that they have accurate and up-to-date information readily available and can consult with experts who do have such knowledge. The support system for assessors must be designed accordingly.

4.24 The DWP should work with contracted assessment providers significantly to improve assessors' overall knowledge and understanding of disabilities and long-term conditions (including, as noted above, that a claimant may experience more than one at once, possibly both a physical and a mental health condition).

4.25 Due attention must be given to practical considerations relating to an assessment, especially where travelling is involved. For example: there should be flexibility regarding the location of face-to-face assessments; providers should be unable to double-book claimants; there should be no alterations to scheduled assessments – cancellations, time or location changes – without plenty of notice being given; telephone calls must be answered promptly; there must be safe and comfortable waiting areas for face-to-face assessments (claimants often have to arrive early, in order to minimise the risk of arriving late); and the potential need for reasonable adjustments should always be considered.

4.26 The frequency of re-assessments for all benefits related to disability and health should be reviewed. The objective should be to eliminate pointless or excessively frequent reassessments, which are wasteful of resources and stressful for claimants. The Green Paper's thinking around the projected Severe Disability Group is a step in the right direction here.

4.27 The Green Paper's projected Health Impact Record – enabling claimants to record the impact of their condition over time – could be helpful in some circumstances, but could presumably lead to a reduction rather than an increase in support. It might also become a source of stress. Opinions among our members differed as to its potential usefulness or otherwise. If it went ahead, checks would need to be maintained to ensure that a new assessment took place before support was reduced following the uploading of new evidence. Due attention would also need to be paid to the confidentiality of the document.

4.28 The transition from child DLA to PIP is particularly challenging. Supportive, high-quality assessment and decision-making and readily available advice and advocacy are crucial. As one of our member organisations powerfully remarked: parents of disabled children are often exhausted by constant medical procedures and appointments, constant battles to access services and equipment they need at the time that they need it, in addition to the day-to-day worry and huge burden of responsibility of keeping their child healthy, happy, and developing. Child DLA or PIP should assist them – not provide them with another complex battle to fight.

4.29 As the DWP already contacts families to identify if an appointee is needed, this call could be used to explain the differences between DLA and PIP and highlight that independent advice can help.

4.30 Also, the rule allowing DLA to continue to age 17 to facilitate a claim to be determined could be modified so awards of DLA can continue up to age 17 if PIP is refused, to allow mandatory reconsiderations and appeals to be completed.

4.31 Moreover, the upper age limit for child DLA in any case needs reviewing. In Scotland (where new benefits are being introduced to replace DLA and PIP) it is already the case that young people receiving DLA can now continue to get it until they turn 18, although they can opt to move to PIP earlier if they so wish. We recommend that this provision should be extended to the rest of the UK.

4.32 The DWP must re-establish direct responsibility for assessment quality and publish regular improvement plans to

ensure assessors are conducting assessments consistently and to a high standard.

4.33 There should also be established an independent Regulator of Benefit Assessments.

Supporting information and medical evidence

4.34 The DWP should commission an independent review of the evidence-gathering processes to explore ways to:

- support health and social care professionals to provide better-quality evidence, for example guidance and templates;
- ensure the duties and responsibilities of the assessor, the DWP and claimant are clear and observed;
- make sure the DWP has a strategy to communicate to claimants and health professionals the evidence that will be most useful for the claim;
- ensure evidence supplied by relevant professionals (medical or otherwise), friends and family members is given due consideration.

4.35 From the start of the process, claimants should be encouraged to obtain up-to-date evidence and should be paid or reimbursed for any costs.

4.36 The DWP should provide better guidance on what constitutes good evidence. Disabled people often need to source and present evidence to substantiate their claim but are given little support in doing so.

4.37 The DWP should work with medical practitioners to develop better-quality evidence for claimants. Often, medical evidence that claimants are able to obtain merely gives a diagnosis, while saying little about someone's needs and day-to-day difficulties.

4.38 Professionals such as occupational therapists, physiotherapists, support workers, social workers and mental health workers may be well-placed to provide supporting evidence.

4.39 To restore confidence in the process, assessors should be obliged to review all supporting evidence provided by a claimant, with penalties if they do not. The assessor report is currently given more weight in decision-making, which is resulting in too many ill-advised decisions. The DWP should ensure that other types of evidence are given equal weight to assessment reports. Interviews provide only a brief window into an individual's life and often lead to inappropriate or inaccurate judgements about their capability.

4.40 The use of "informal observations" in assessments should cease.

4.41 The DWP should ask benefit claimants at the start of a claim if they wish information from other claims to be considered, but should only do so where permission is given.

Mandatory reconsideration

4.42 Those looking at a decision again when it is challenged by the claimant should not be able to see the previous decision-maker's conclusions. This will increase impartiality. There are too many cases of mandatory reconsideration (MR) reports being copied from the original decision.

4.43 Claimants going through MR should in all cases be given the opportunity to provide oral evidence of how their condition affects them. Often, decisions are changed at the appeal tribunal because of new oral evidence. Giving this at an earlier stage will improve the process.

4.44 The DWP should commission periodic independent reviews of the application, assessment and decision-making processes, including MR.

Appeals

4.45 Targets should be introduced for the length of time cases need to wait to be heard by a tribunal. Some people have to wait up to a year for a hearing. A target will help reduce waiting times.

4.46 The number of tribunal panel members should be increased, so that tribunal waiting times can be brought down to more reasonable levels.

4.47 Tribunals are increasingly moving online. It is important that this process should be carefully monitored, so as to assess both advantages and disadvantages for disabled claimants.

4.48 Full audits should be conducted of decisions that are subsequently changed at tribunals. This will help restore confidence in the system and provide ways of improving decision-making.

4.49 There is a serious problem where extra costs benefits such as PIP are reduced or terminated and there is a lengthy wait for an appeal to be heard. Consideration should be given, in consultation with disability organisations and disabled people, as to whether the Scottish Short-Term Assistance scheme should be replicated in the rest of the UK.

Communications

4.50 All communications with claimants must be clear, specific and in the claimant's required format.

4.51 The DWP should establish a "tell us once" service, across all DWP-administered benefits, for reasonable adjustment requests.

4.52 A final point on every aspect of the application, assessment and decision-making processes: as one of our member organisations put it, while there are obviously logistical and practical requirements, the system must allow for compassion, empathy, and support – this must filter through every part of the process.

5. Re-thinking future assessments to support better outcomes

5.1 This section of the Green Paper overlaps to a substantial degree with the previous one. It looks at PIP and WCA activities and descriptors; fluctuating health conditions; the significance of changing working practices and assistive technology; different sources of supporting evidence; specialist support available to assessors and decision-makers; timing of reviews; and personalised employment and health support plans.

5.2 Because of the degree of overlap, our comments on these issues are included in the previous section.

6. Exploring ways to improve the design of the benefits system

6.1 This section of the Green Paper introduces some potentially very controversial themes: a possible new single benefit to replace both PIP and ESA (and UC equivalent); ways of persuading people with higher levels of disability to take the possible financial risk of trying out work-related activity (covered in this submission in section 3 above); and options for swapping (albeit voluntarily) benefits for goods or services.

Benefit rates

6.2 One key issue on which the Green Paper is silent is the adequacy of the various benefit rates.

6.3 Although (except for years in which they have been frozen) benefits are normally uprated annually according to an index of inflation, the initial amounts to which that uprating is applied have not been assessed for adequacy. (It is our understanding that there has been no official assessment of adequacy since an unpublished internal study in the early 1960s – not acted upon).

6.4 We would like to see policy in relation to benefit rates informed by research on minimum income standards along the lines of that conducted annually by the Centre for Research in Social Policy at Loughborough University for the Joseph Rowntree Foundation. The Government should regularly commission such research, not least in relation to the benefit rates that particularly pertain to disabled people. As one of our member organisations put it: nobody should rely on charity to meet basic needs and it is fundamental that benefit rates meet an acceptable cost of living.

6.5 Nor is this merely a matter of subsistence. Independent living requires that disabled people should be able to afford to take part in the range of social and cultural activities that most of society takes for granted.

6.6 In this context, we were surprised to learn, during the consultation period, that the DWP had commissioned (from

NatGen) research on the subject of "The uses of health and disability benefits". We understand that the Department has been in possession of the report of this research since well before the commencement of the current consultation but has not referred to it in the Green Paper (or its long list of supporting evidence) and has since indicated that it does not intend to publish it. This report is obviously of direct relevance to discussions around current and future support for disabled people.

6.7 Moreover, the withholding of this information seems clearly to contravene the Government's own protocol on publication of research findings, which states that:

"The products of government social research and analysis will be made publicly available. The primary purpose of social research commissioned and conducted by government is to inform decisions about policy and delivery, but it also plays a role in wider policy debate. The presumption is that products from government social research will be made publicly available.

There will be prompt release of all government social research and analysis"^v.

6.8 The DBC has written to the Secretary of State for Work and Pensions to request that the report from this research is made available among the other source material that organisations and individuals can access to inform responses to the Green Paper. Even if it regrettably misses that deadline, it is still a matter of public interest and will continue to be highly relevant to discussions leading to a White Paper in 2022. It should be published.

6.9 The DBC has campaigned for the retention of the £20 per week "uplift" to UC (and Working Tax Credit) and for its extension to "legacy" and analogous benefits. However, this was on the basis that £20 was the figure politically in play – like the underlying benefits themselves, there was no official assessment of its adequacy.

6.10 Some claimants achieve a standard of living below even that represented by the formal benefit rates. This can be for a number of reasons:

- Failure to claim full entitlements.
- Various restrictions on the levels of rent eligible for Housing Benefit or UC.
- Restricted Council Tax relief following the abolition of Council Tax Benefit.
- Various deductions for debt, including repayment of UC advances.
- The benefit cap.
- Abolition of payments for most third and subsequent children in UC and Tax Credits.

6.11 The DBC has not yet explored all of these, but can offer the following comments on some of them:

6.12 **Take-up:** the failure to claim entitlements should be addressed via regular and well-funded take-up campaigns, which could be delivered in association with the local advice and advocacy strategies proposed above. There is also a need to update our understanding of non-take-up. It has long been known that lack of awareness of the existence of a benefit, or of the eligibility criteria; difficulty in navigating complex claims processes; and the effects of stigma, are all factors discouraging take-up. It has also been suggested by some of our members that fear of authority – for example, “getting into trouble” by making a mistake with the claim – is sometimes the issue. It could also be that some groups of disabled people are less likely to claim than others. The DWP should commission research to update our understanding of under-claiming.

6.13 The **benefit cap** is flawed for all claimant groups (as in-work benefits were excluded from its original in- and out-of-work income comparisons, so it was highly inaccurate even before the threshold was further arbitrarily reduced) but the extra costs of living with a disability or health condition, including for those in the ESA Work-Related Activity Group or equivalent in UC, make these claimants particularly vulnerable. Some disabled people are in a protected category (such as receiving PIP or being in the ESA Support

Group or UC equivalent) but many are not. We therefore recommend that the benefit cap should be discontinued.

6.14 The “**2-child policy**” has been much criticised, not only for the hardship it causes, but also for the worrying underlying notion that people on low incomes (including where financial disadvantage is associated with a disability) should have more restricted choices regarding family size than their more affluent counterparts. Moreover, it lacks logic: even if the dubious underlying philosophy is accepted, there is also the assumption that parents are in a position to predict their income security for the next 18 years or so. In the real world, this is only true of a small number of people with very large financial reserves to fall back on: everybody else is vulnerable to the potential financial shocks of life risks such as illness, unexpected disability and loss of a partner or job. We recommend that the 2-child policy should be discontinued.

Freezing benefits

6.15 The DBC is opposed to freezing benefit rates. Inflation erodes the real value of benefits, which are often inadequate to start with. The benefit freezes and below-inflation increases of recent years have been a major factor in reducing the incomes of disabled people and pushing them into poverty. Although some disability-related benefits and elements have been exempt from freezing, others have not – and in any case, all means-tested benefits are relevant, as disabled people are disproportionately likely to be receiving them.

6.16 The DBC has argued that the affected benefits should be uprated by the Consumer Prices Index (CPI) + 2% for four years, to restore the losses sustained during the freeze; and the “Local Housing Allowance” (in Housing Benefit and UC) should be restored to at least the 30th percentile of local private sector rents (while better than freezing, CPI uprating is not relevant to rental inflation).

Universal Credit

6.17 Within UC, there is a pattern of gainers and losers, but the losses for disabled people are considerably greater than the gains.

6.18 A principal cause of losses for disabled UC claimants is the reduction or removal of elements relating to disability that obtained within the legacy system. The DBC has therefore developed detailed proposals for the restoration of lost disability elements to UC^{vi}.

6.19 Broadly, these cover: additional support for disabled people who do not have a carer; support for carers; support for parents of disabled children; and increasing and simplifying support for people in work or looking for work.

6.20 These proposals are set out in detail as recommendations R92 to R105 inclusive in section 7 below.

6.21 The length of wait for a first payment of UC is now dependent in part on whether the 2-week run-on of legacy benefits is in play. But there is still a delay. In “managed migration” and voluntary transfer cases, this should be removed as follows:

a.) for claimants in work, their last month’s earnings should constitute their assessed income for their first UC payment;

b.) for those out of work, their legacy benefits should be converted to UC, without a break.

6.22 It should be acknowledged that, although arguably better than nothing, advance payments are not a solution to built-in delay, but an alternative problem, as they are in effect loans that will reduce claimants’ incomes to very low levels as they are repaid.

6.23 The DBC is also opposed to the 5-week wait in other cases. All UC advances for disabled people should take the form of non-repayable grants.

6.24 NB that our position is based on the experiences of disabled people, but we are aware that loans and consequent repayments also cause problems for other groups of UC claimants.

6.25 As and when “managed migration” resumes (the small-scale Harrogate pilot is currently paused) there should be no termination of existing benefits until an award of UC has been determined.

6.26 Beyond the above considerations, we have not revisited in this submission the many other detailed issues around “managed migration”, as they would take disproportionate space for a process currently on hold. We shall no doubt return to them^{vii}.

Income replacement and extra costs benefits in the future

6.27 Long-term, the Green Paper floats the possibility of a single new benefit that could both provide support for disabled people on a low income and with the extra costs of disability.

6.28 We have concerns that a single poor assessment could, at a stroke, knock out all benefit support, leaving the claimant in serious financial trouble while the decision was being challenged.

6.29 Moreover, there are fundamental structural issues, related to the different natures of the current benefits.

6.30 UC is a means-tested benefit that supports people on low incomes, both in and out of work and whether or not there is a disability or health condition. For all the disadvantages of means-testing (notably complexity, issues around “aggregation” of couples, take-up problems and high marginal deduction rates) we acknowledge the cost barriers and (particularly as regards housing costs) structural difficulties of entirely replacing means tests.

6.31 However, we certainly do not wish to see means-testing extended to benefits that are currently non-means-tested.

6.32 There are contributory versions of ESA and Jobseeker’s Allowance. They have their own problems (notably contribution requirements and the frequent need for means-tested top-ups) but to a significant extent they provide support to claimants without the problems of means-tests.

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

6.34 We believe that a single income replacement and extra costs benefit would threaten to introduce means-testing into extra costs benefits and to displace contributory benefits. We therefore do not support the idea.

Services

6.35 The Green Paper asks about “alternatives to financial support which could better enable independent living”.

6.36 We agree that the social security system functions within the context of the services available to claimants and that the two should operate in harmony. For example, high-quality health and social care services should reinforce the function of disability benefits in promoting independent living; high-quality employment services can move people from out-of-work benefits into jobs (possibly supported by in-work benefits); and a sufficient supply of social housing would go a long way towards eliminating the problems that housing costs create within the benefit system.

6.37 We also acknowledge the creative relationship between services and benefits exemplified by the Motability scheme (although this is not without its problems).

6.38 However, we would not wish to see benefits displaced by services. Benefits are entitlements, whereas services can be – and frequently are – rationed to a degree that makes access to them problematic. Social care springs to mind. There have been two Government proposals in the last 15 years to phase out Attendance Allowance and transfer the funding to the (severely rationed) local authority social care system. On both occasions, the proposals were withdrawn, once the likely consequences for claimants and for independent living were highlighted.

6.39 Adequacy of provision and co-ordinated strategy are therefore issues both for services and for the social security system, but simple trade-offs should be avoided.

7. Conclusion and summary of recommendations

7.1 The following is a summary of the recommendations set out in the course of this submission. They are in the order in which they arise in the document, not necessarily of priority. There has mostly

(with some exceptions^{viii}) not been an opportunity to cost those that would require significant financial investment: this can be addressed as and when they are explored further – which we hope will follow in the wake of the Green Paper.

R1 There should be fully-funded local provision of comprehensive welfare rights advice and advocacy, for all existing and prospective claimants. Liaising with benefit services and through both direct access and well-organised referral systems, such an advice and advocacy network could form the basis of the advocacy support that the Green Paper envisages.

R2 There should be an associated ongoing training programme for advisers (of whatever agency and including volunteers).

R3 The DWP should rescind its unsustainable policy of demanding repeated “explicit consent” in order to communicate with UC claimants’ advisers.

R4 The DWP should introduce a dedicated helpline to assist people who need to make use of the Special Rules for Terminal Illness or are in the proposed Severe Disability Group.

R5 The “20-metre rule” for PIP enhanced mobility support should be restored to a more realistic 50 metres.

R6 A participant in the Motability scheme who is challenging a decision not to award the necessary level of a qualifying benefit should be able to keep using the scheme for 18 months, to ensure they do not lose their Motability vehicle before an appeal hearing. This period should be renewable if an appeal or further legal challenge is ongoing after 18 months.

R7 The criteria, scope and detailed rules regarding the Motability scheme should be reviewed, in consultation with disability organisations and disabled people. In particular, there are strong arguments for wider access, including extension to Attendance Allowance claimants who have mobility problems.

R8 The social security and employment support systems should be designed to provide actual jobs for those with the capacity to

work and the right level of long-term support for those for whom employment is not a realistic short-term prospect.

R9 A comprehensive and detailed review should be commissioned by the DWP to establish what works and what does not, regarding how successful various employment support schemes are in getting disabled people into work and supporting them to stay in work.

R10 The DWP should continuously monitor the available funding for Access to Work to ensure it can keep pace with demand.

R11 The DWP should promote ATW more widely among employers and disabled people who are in work.

R12 The DWP should review the ATW assessment and the support that it can fund, with a view to broadening its potential applications.

R13 The DWP should examine how it can speed up the ATW process to ensure there are no perverse incentives for employers not to hire disabled people.

R14 The DWP should utilise the ATW Stakeholder Forums as an ongoing source of relevant feedback and expertise.

R15 The DWP should review the range of data collected on the ATW scheme, in consultation with the Stakeholder Forums.

R16 A more holistic Work Capability Assessment should take into account “real world” factors such as mobility issues, including access to suitable transport; skills gaps; and the actual availability of relevant employment in the local economy.

R17 WCAs should take place promptly (say, within three months) and the practice of seeking to discuss work-related activity with claimants, before a WCA has determined whether or not they have the capability for such activity, should cease.

R18 The onus should be on the DWP to ensure that each Claimant Commitment is constructive, realistic and well thought through, backed up by high-quality, individually tailored employment supported. The claimant should be fully involved in the discussion

and clearly informed as to how to challenge a Claimant Commitment that they consider unsatisfactory.

R19 This positive approach should replace sanctions, which should no longer be applied to disabled claimants.

R20 The DWP should commission research into the effectiveness of Claimant Commitments. Evidence of actual jobs that would not otherwise have been secured would do much to confer credibility.

R21 Claimant Commitments should start from a point of no employment-related conditionality for a claimant awaiting a WCA and scale up as and where appropriate thereafter. That is, building work-related activity steadily, in partnership with the claimant.

R22 The DWP should collaborate further with disability organisations and with disabled people to better understand what effective models for supporting disabled people to move towards work look like.

R23 The DWP must ensure that those applying conditionality receive specialist training and education in disability and its impact on employment; continued training and development throughout their careers; and are able to demonstrate qualifications and competence in this area.

R24 The DWP should develop detailed guidance for staff, with the involvement of disability organisations, on the appropriate use of the Claimant Commitment, helping to ensure that conditionality is applied appropriately and consistently by Work Coaches.

R25 The DWP should commit to increasing and protecting the number of Disability Employment Advisers and ensuring they receive continuous training in order to help them effectively to support Work Coaches.

R26 Employment-related activity on the part of someone in the ESA Support Group or the equivalent UC LCWRA Group should always be voluntary and specifically requested by the claimant. It should be provided by somebody with expertise in the claimant's condition.

R27 If decisions on financial entitlements and on employment support are separated, then employment support will need to be disengaged from any review of benefit status and provided quite separately.

R28 The DWP must provide disabled people with channels to report pressure to undertake unsuitable back-to-work activity.

R29 People with severe and progressive conditions in the ESA Support Group or UC LCWRA Group should not be contacted regarding employment support opportunities.

R30 The DWP should indeed go further and look at support for people who need to transition out of the workplace. The DWP must address how people in these circumstances are best supported.

R31 The ESA Support Group and UC LCWRA Group, or equivalent in terms of financial support and conditionality, should be maintained as part of any new arrangements resulting from any review of the WCA.

R32 The ESA Work-Related Activity component (and the equivalent UC LCW component) should be restored.

R33 There is a need to move towards more flexible UC assessment and payment cycles.

R34 The role of UC in relation to self-employment should be revisited, in consultation with relevant labour market experts, to achieve a more credible balance between opening up opportunities and realistic assessment of a business's prospects. In particular, purely arithmetical financial calculations should be replaced by a more holistic assessment of the viability of a business.

R35 In determining the minimum income floor, the number of hours that claimants can reasonably be expected to work will be an important issue for many disabled people and clear guidance (developed in consultation with disabled people and disability organisations) will be needed.

R36 The Government should ensure employers are aware of their legal duty to accommodate disabled employees' requests for

reasonable adjustments and flexible working under existing legislation and should take action where they are not.

R37 The introduction of a reasonable adjustment requirement in respect of carers should be explored, in consultation with carers and carers' organisations.

R38 Efforts should be stepped up to improve employers' awareness not only of their legal responsibilities, but also the potential contribution of disabled employees. Information made available to employers should cover a range of disabilities and health conditions, including those that are invisible and/ or fluctuating. It should also promote greater understanding that an employee may experience more than one at once, possibly both a physical and a mental health condition.

R39 More should be required of employers in order to secure membership of the Disability Confident scheme, including a greater focus on disabilities and health conditions that are invisible and/ or fluctuating.

R40 To prepare and support disabled young people moving into employment, the Department for Education and DWP should work together to ensure disabled young people are aware of the full range of support options available to them. This could be provided as part of careers guidance.

R41 Disabled students should have an unfettered ability to claim benefits.

R42 The DWP should produce simplified claim forms, in consultation with disability organisations and disabled people.

R43 These should be easily available, including in jobcentres, in accessible formats such as audio-described and easy-read, as well as downloadable online.

R44 Claims should also be easily submitted, through whatever channel is appropriate for the claimant – for example, in person (via a home visit if necessary), by post, e-mail, telephone or online.

R45 There should be no need to return forms within arbitrary time limits.

R46 The Green Paper proposes to provide greater assistance to claimants in establishing their initial claim. However, some will want help from an independent source. National and local strategies are needed to channel resources to charities and other advice agencies, so they are better able to assist people in completing all disability benefit application forms. This could form part of the local advice and advocacy strategies proposed at R1 above.

R47 Meanwhile, a number of our member organisations look to the DWP to help claimants fill in application forms, where there is no other local source of help. Unless and until local independent sources of support reach sufficient capacity, this function within the DWP should be scaled up to meet demand.

R48 Many claimants will need support not just with initial claims, but also with ongoing claim maintenance – so there need to be support options not only for making, but also for managing, claims.

R49 The DWP should automatically issue claimants with a copy of their assessment report, in their required format.

R50 Wherever feasible, claimants should have choice as to the assessment method: face-to-face; audio; video; or on the papers.

R51 Claimants should have a clear option of audio or video recording of non-paper assessments.

R52 Where an assessment diverges from the account given of their condition by the claimant, this difference must be clearly explained.

R53 There should be a thorough review of the various assessment criteria (“activities” and “descriptors”). There should be meaningful involvement of disability organisations and disabled people in this process.

R54 The descriptors should allow more scope for claimants to describe the way that their disability affects them on a day-to-day basis.

R55 Assistive technology should not perversely become a threat to independent living by reducing benefit entitlements and this should be borne in mind in any review of activities and descriptors.

R56 Assessments must take into account fluctuating conditions and not address them by means of a “snapshot” or “typical day”.

R57 Where a condition is known to deteriorate over time, the system should note unsuccessful claims and automatically advise the claimant at scheduled intervals that a new claim may succeed if their condition deteriorates at a later stage.

R58 More thorough and holistic assessments will bring with them the need to make available more assessors and ensure that they are given more time to conduct assessments and write reports.

R59 We welcome the recognition of the need for greater support during and following the assessment. This is consistent with the DBC’s call for a support co-ordinator, who would help the claimant to draw up a support plan, on a voluntary basis.

R60 If an assessor does not have specialist knowledge of the condition they are assessing, they must have accurate and up-to-date information readily available and be able to consult with experts who do have such knowledge. The support system for assessors must be designed accordingly.

R61 The DWP should work with contracted assessment providers significantly to improve assessors’ overall knowledge and understanding of disabilities and long-term conditions.

R62 Due attention must be given to practical considerations relating to an assessment. For example: there should be flexibility regarding the location of face-to-face assessments; providers should be unable to double-book claimants; there should be no alterations to scheduled assessments without plenty of notice being given; telephone calls must be answered promptly; there must be safe and comfortable waiting areas for face-to-face assessments; and the potential need for reasonable adjustments should always be considered.

R63 The frequency of re-assessments for all benefits related to disability and health should be reviewed. The objective should be to eliminate pointless or excessively frequent reassessments.

R64 There is no consensus among our members regarding the potential usefulness or otherwise of the Green Paper's projected Health Impact Record. If it goes ahead, checks will be needed to ensure that a new assessment takes place before support is reduced following the uploading of new evidence. Due attention would also need to be paid to the confidentiality of the document.

R65 The transition from child DLA to PIP requires supportive, high-quality assessment and decision-making and readily available advice and advocacy. As the DWP already contacts families to identify if an appointee is needed, this call could be used to explain the differences between DLA and PIP and highlight that independent advice can help.

R66 The rule allowing DLA to continue to age 17 to facilitate a claim to be determined could be modified so awards of DLA can continue up to age 17 if PIP is refused, to allow mandatory reconsiderations and appeals to be completed.

R67 The upper age limit for child DLA in any case needs reviewing. In Scotland (where new benefits are being introduced to replace DLA and PIP) it is already the case that young people receiving DLA can now continue to get it until they turn 18, although they can opt to move to PIP earlier if they so wish. This provision should be extended to the rest of the UK.

R68 The DWP should re-establish direct responsibility for assessment quality and publish regular improvement plans to ensure assessors are conducting assessments consistently and to a high standard.

R69 There should also be established an independent Regulator of Benefit Assessments.

R70 The DWP should commission an independent review of the evidence-gathering processes to explore ways to: support health and social care professionals to provide better-quality evidence; ensure the duties and responsibilities of the assessor, the DWP and claimant are clear and observed; make sure the DWP has a

strategy to communicate to claimants and health professionals the evidence that will be most useful for the claim; and ensure evidence supplied by relevant professionals (medical or otherwise), friends and family members is given due consideration.

R71 Claimants should be encouraged to obtain up-to-date evidence and should be paid or reimbursed for any costs.

R72 Assessors should be obliged to review all supporting evidence provided by a claimant, with penalties if they do not.

R73 The use of “informal observations” in assessments should cease.

R74 The DWP should ask benefit claimants at the start of a claim if they wish information from other claims to be considered, but should only do so where permission is given.

R75 Those looking at a decision again when it is challenged by the claimant should not be able to see the previous decision-maker’s conclusions.

R76 Claimants going through mandatory reconsideration should in all cases be given the opportunity to provide oral evidence of how their condition affects them.

R77 The DWP should commission periodic independent reviews of the application, assessment and decision-making processes, including mandatory reconsideration.

R78 Targets should be introduced for the length of time cases need to wait to be heard by a tribunal.

R79 The number of tribunal panel members should be increased, so that tribunal waiting times can be brought down to more reasonable levels.

R80 Tribunals are increasingly moving online. This process should be carefully monitored, so as to assess both advantages and disadvantages for disabled claimants.

R81 Full audits should be conducted of decisions that are subsequently changed at tribunals.

R82 There is a serious problem where extra costs benefits such as PIP are reduced or terminated and there is a lengthy wait for an appeal to be heard. Consideration should be given, in consultation with disability organisations and disabled people, as to whether the Scottish Short-Term Assistance scheme should be replicated in the rest of the UK.

R83 All communications with claimants must be clear, specific and in the claimant's required format.

R84 The DWP should establish a "tell us once" service, across all DWP-administered benefits, for reasonable adjustment requests.

R85 Policy in relation to benefit rates should be informed by research on minimum income standards. The Government should regularly commission such research, not least in relation to the benefit rates that particularly pertain to disabled people.

R86 The report of the research commissioned by the DWP from NatCen on the subject of "the uses of health and disability benefits" should be published.

R87 Failure to claim benefit entitlements should be addressed via regular and well-funded take-up campaigns, which could be delivered in association with the local advice and advocacy strategies proposed at R1 above.

R88 There is also a need to update our understanding of non-take-up. The DWP should commission research to update our understanding of under-claiming.

R89 The benefit cap should be discontinued.

R90 The "2-child policy" should be discontinued.

R91 Benefits affected by the recent freeze should be uprated by the Consumer Prices Index + 2% for four years, to restore the losses sustained during the freeze; and the "Local Housing Allowance" (in Housing Benefit and UC) should be restored to at least the 30th percentile of local private sector rents.

R92 A Self-Care Element should be introduced into UC, paid at the same rate as the Carer Element to anyone who does not have someone caring for them who is claiming Carer's Allowance or the Carer Element or Premium.

R93 The Self-Care Element (and correspondingly the Carer Element) should be increased by £30 a month, so that those on UC who would have qualified for the Severe Disability Premium in the ESA Support Group have no less additional support on UC than in the legacy system.

R94 The lower rate of the Disabled Child Element should be restored to its level in the legacy system.

R95 Anyone entitled to any award of PIP or DLA should automatically be entitled to the Disabled Person's Work Allowance.

R96 Those who are awarded some points in a WCA but not sufficient points to qualify as having LCW should still be entitled to the Disabled Person's Work Allowance.

R97 Someone with a serious health condition or impairment with a GP note saying that their condition or impairment limits their ability to work should automatically be entitled to a WCA to test their entitlement to the LCW or LCWRA addition and the Work Allowance, regardless of their earnings.

R98 Work Allowances should be additive and two Work Allowances should be awarded if there are two disabled workers in a household – the second Work Allowance to be paid at the lower rate.

R99 The Carer Element and the LCW or LCWRA component should be additive.

R100 To ensure that disabled people with a mortgage are not prevented from trying work or keeping in touch with their workplace, support with mortgage interest should be available to those with a mortgage earning less than the lower Work Allowance, as well as to those not working.

R101 Anyone who has qualified for support with mortgage interest and then moves into work should not have to wait to requalify for

mortgage interest support if in less than a year they need to stop working.

R102 Restoring the LCW element would assist disabled people unable to work, disabled people looking for work and those in work. The LCW element should therefore be reinstated, as per recommendation R32 above.

R103 In order to simplify the elements within UC to reflect the fact that they are there now both to support those who are unable to work but also to cover the additional costs disabled people face in work, someone entitled to any element of PIP or DLA should be entitled to the LCW element as well as the Disabled Person's Work Allowance – except that someone entitled to the Enhanced Daily Living Element of PIP or the Higher Rate Care Component of DLA should be entitled to the LCWRA element as well as the Disabled Person's Work Allowance.

R104 Under-25s in the LCW group should be entitled to the 25 and over living costs element.

R105 To ensure that contribution-based benefits and occupational pensions are not rendered worthless by UC, income other than earnings should be subject to a taper, not taken pound for pound.

R106 The varying waiting periods for a first payment of UC should be removed, whether for “managed migration”, “natural migration” or voluntary transfer cases.

R107 As and when “managed migration” resumes, there should be no termination of existing benefits until an award of UC has been determined.

R108 No structural changes should be made to current benefits that would see means-testing extended to benefits that are currently non-means-tested.

R109 There should be a co-ordinated strategy between benefits and services, but in the interests of independent living, benefits must not be displaced by services.

7.2 As we observed at the beginning of this submission, while the discussion is welcome, the Green Paper takes us only part of the way towards achieving a better future and we have reservations regarding some of the proposals. There is still much work to be done. Opportunities need to be maximised and pitfalls avoided.

7.3 Meanwhile, the DBC considers that our recommendations (above) would constitute a constructive and much-needed investment in the wellbeing and in the social and economic participation of disabled people and those with long-term health conditions. We hope that they will prove of interest to the Government as further work is developed.

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Appendix 1: glossary of abbreviations

ATW	Access to Work
CPI	Consumer Prices Index
DBC	Disability Benefits Consortium
DWP	Department for Work and Pensions
ESA	Employment and Support Allowance
GP	General Practitioner

LCW	Limited Capability for Work
LCWRA	Limited Capability for Work-Related Activity
MR	Mandatory Reconsideration
PIP	Personal Independence Payment
UC	Universal Credit
WCA	Work Capability Assessment

Appendix 2: notes and references

ⁱ We use the term “disabled people” in this submission to refer both to disabled people and to people with long-term health conditions.

ⁱⁱ This will be available, at around the same time as this submission, at <https://disabilitybenefitsconsortium.com/dbc-reports/>

ⁱⁱⁱ Association of Mental Health Providers, Association of Directors of Adult Social Services, Association of Directors of Public Health, British Association of Social Workers, Centre for Mental Health, Child Poverty Action Group, DBC, Homeless Link, National Association of Welfare Rights Advisers, Race Equality Foundation and Rethink Mental Illness, 19/11/20: [Social Security Benefits and Health and Wellbeing: The Case for Change – Association of Mental Health Providers \(amhp.org.uk\)](#)

^{iv} We use the term “disability organisations” in this submission to include those which are user-led.

^v **Publishing research and analysis in government: GSR Publication Protocol**, Government Economic & Social Research Team, HM Treasury, May 2015 (Principles 1 & 2).

^{vi} Originally set out in **Mending the holes: restoring lost disability elements to Universal Credit**, Sue Royston, DBC, Sept. 2019; summarised, with updated costings, in **Supporting disabled people, in and out of work: submission to the**

Comprehensive Spending Review 2020, DBC, 17/9/20:
<https://disabilitybenefitsconsortium.files.wordpress.com/2020/10/dbc-2020.09-csr-submission-final-1.doc>

^{vii} Meanwhile, see **Response to SSAC consultation on Universal Credit (draft) (transitional provisions) (managed migration) amendment regulations 2018**, DBC, 19/8/18.

^{viii} Our proposals to restore lost disability elements to UC have been costed relatively recently: see note vi.