

## Annex 5A: DWP ignores anything it has from the NHS, but always wants more

Government Departments, acting in the name of the Secretary of State to the Crown, often believe there is no data they want to which they should not have the right of access. Some of the most egregious examples of this are the steps the Home Office takes against those who have the least political power. The lesson Government has taken is “databases really bloody matter”.<sup>1</sup>

### **DWP already has access to evidence on claimants from the NHS, but ignores it**

As part of the welfare safety net, DWP makes a ‘medical assessment’ of claimants,<sup>2</sup> against DWP’s own criteria,<sup>3</sup> using staff delivering DWP contracts.<sup>4</sup> DWP’s own statistics<sup>5</sup> show that the assessment process doesn’t work, precisely *because* so many decisions are being overturned on appeal – a measure entirely independent of the direct evidence from claimants on their experiences of the assessment process.

During the process, DWP requests “supporting evidence” from every claimant on their disability. DWP heavily discounts the experiences of individuals – ‘because they would say that, wouldn’t they?’ – and substitutes its own assessment, made in a few minutes, after having made disabled people walk up stairs, seemingly to show that because they can, they should be able to do so at any time. This system costs DWP more to run, in terms of both civil service staff and contractor costs, than it would cost to pay everyone PIP who claims it.<sup>6</sup>

The “supporting information” that claimants often provide is from their NHS clinicians; NHS doctors who are treating the patient / claimant, who know a great deal about both the patient and the condition(s) they live with, for which they need support from the welfare state. This evidence is generally formal, detailed, and provided as specific NHS letters under NHS letterheads, signed by NHS clinicians – often leading NHS clinicians, recognised by the NHS as experts in their field.

Being recognised as an expert by the NHS is not the same as being recognised by DWP. DWP’s processes do not weigh NHS evidence highly. To quote one anecdote, “Anyone can sign an NHS letter” – as if DWP never checked the authenticity of any other documents that it is provided. Indeed, in its own staff guide on conducting fraud investigations, it lists the “most common method of obtaining evidence” as “gathering documents, claim papers, handwriting, and departmental system prints”.<sup>7</sup>

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<sup>1</sup> <https://twitter.com/rcolvile/status/1361678789416222721>

<sup>2</sup> <https://www.gov.uk/pip/when-your-pip-claim-is-reviewed>

<sup>3</sup> These criteria are the primary test, with little discretion left to contracted staff.

<sup>4</sup> Only some of whom may have some actual medical training...

<sup>5</sup> “...almost two thirds (64%) of the 200,000 appeals cleared at tribunal hearing were overturned in favour of the customer (130,000 were overturned, while 70,000 upheld the original DWP decision)”:

<https://www.gov.uk/government/statistics/personal-independence-payment-april-2013-to-april-2020/personal-independence-payment-official-statistics-to-april-2020>

<sup>6</sup> Unpublished Cabinet Office assessment.

<sup>7</sup> <https://www.privacyinternational.org/long-read/4395/shedding-light-dwp-part-1-we-read-uk-welfare-agencys-995-page-guide-conducting>

Given DWP's structural intransigence, that its appeals process is flawed, and that the courts *do* read evidence provided, which DWP simply refuses to, it is not only unsurprising but virtually inevitable that DWP loses two-thirds of claims when taken to independent tribunal.

**DWP should receive *no additional NHS information*<sup>8</sup> until it uses the information that it has already been given, in the same way that the tribunals already do. When DWP starts believing NHS evidence, this will be reflected in the tribunal statistics. Until these change significantly, it is simply not credible for DWP to demand yet more data.**

Quite aside from the numerous clinical, moral, and legal reasons to object to such broad 'data sharing' powers, the first argument against them is that DWP has given **no evidence** that it needs more information from the NHS. And, on the contrary, there is an abundance of evidence that DWP does not use the information it already gets. As evidenced throughout Annex 1 on the data links between DWP and HMRC,<sup>9</sup> that data is in a database does not mean the systems and processes of DWP use it any better than when it is in a letter.

### **Data "sharing" has wider consequences**

The Home Office scouring medical details to which it has access in order to find reasons to reject claims it is dealing with is well documented.<sup>10 11 12</sup> For the same reason that the Home Office publicly defends these practices, DWP would be expected to do the same – causing undue harm to the NHS, and to the necessary candour between patient and doctor. Such harms will end up costing the NHS (and thus the taxpayer) far more in both staff time and treatment costs.

Just as the former Health and Social Care Information Centre, now NHS Digital, created significant public disquiet when it was revealed it was passing patients' data to the Home Office on request, so the statutory 'Safe Haven' for the NHS in England cannot be the body which hands patients' data to DWP and still expect to be trusted.

In the past, the only place such data would have been collated was the GP surgery – the same GPs whose letters DWP currently ignores – but with the advent of NHSx's "Shared Care Records" and related initiatives, DHSC and NHS England will have patients' data under their control to release to other parts of Government.<sup>13</sup>

Replicating the broken model of CDEI,<sup>14</sup> it seems the lasting legacy of NHSx, its Long Term Plan and 'streamlining' of IG will be to have regularised the handing of people's medical records to those who, in a significant number of cases, end up making patients' health situation far worse.

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<sup>8</sup> [https://www.theregister.com/2019/02/19/dwp\\_health\\_data\\_tool/](https://www.theregister.com/2019/02/19/dwp_health_data_tool/)

<sup>9</sup> <https://medconfidential.org/2020/universal-credit/>

<sup>10</sup> <https://www.gponline.com/immigration-agency-asked-gp-deliver-deportation-notice-patient/article/1457721>

<sup>11</sup> <https://www.independent.co.uk/news/uk/home-news/home-office-nhs-data-sharing-immigration-enforcement-a8761396.html>

<sup>12</sup> <https://www.doctorsoftheworld.org.uk/what-we-stand-for/advocacy/immigration-enforcement-in-the-nhs/>

<sup>13</sup> See, for example, both <https://www.api.gov.uk/nhs/#national-health-service> and <https://www.api.gov.uk/dwp/get-medical-details/#get-medical-details>

<sup>14</sup> <https://twitter.com/medConfidential/status/1357037423172141061>