Northern Ireland Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Incapacity Benefit Reassessment: DEL/SSA Briefing

30 May 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:
Mr Alex Maskey (Chairperson)
Mr Mickey Brady (Deputy Chairperson)
Ms Pam Brown
Mr Gregory Campbell
Mr Michael Copeland
Mr Mark Durkan
Mr Fra McCann

Witnesses:

Mr Terry Park	Department for Employment and Learning
Ms Margaret Boyle	Social Security Agency

The Chairperson: We now have a presentation on incapacity benefit and income support reassessment. We have a briefing from the Social Security Agency (SSA). Margaret Boyle and Terry Park are with us this morning. You are both very welcome. I remind you that the evidence session will be recorded by Hansard.

Margaret and Terry, I will leave it to you. After your presentation, we will ask any questions that arise.

Ms Margaret Boyle (Social Security Agency): Mr Chairman and members, thank you for your invitation to come here today to talk to you about the progress made so far on incapacity benefit reassessment, including details of the support that is provided to claimants by the Department for Employment and Learning (DEL) following completion of the reassessment process. In December 2012, the Committee for Social Development received an update on incapacity benefit reassessment progress as of September 2012. I will now provide a further update on the progress of reassessment as of February 2013, including details of the support that is provided to claimants by DEL following the reassessment process.

The reassessment exercise was originally projected to affect approximately 76,000 claimants. The latest information indicates that the number of claimants who actually need to be reassessed is 83,627. The reason for the difference is that fewer people than projected moved off incapacity benefit in advance of going through reassessment. The last cases are expected to commence reassessment in March 2014.

Claimants who undergo reassessment are required to take part in the work capability assessment. The work capability assessment focuses on the functional effects of an individual's condition rather than the condition itself. The process will result in one of three possible outcomes. Claimants may be placed in the support group or work-related activity group, or have their incapacity benefit entitlement

disallowed. The work capability assessment is used to determine a person's ability to engage in work or work-related activity. That is to ensure that all who are able to work are given assistance to help them back into employment. The outcome of the work capability assessment does not mean that everyone is ready to take up work immediately.

It is recognised that the incapacity benefit caseload will include customers with very different needs, given the broad range of medical conditions. Those claimants who are considered to have no limited capability for work who move on to jobseeker's allowance (JSA) will receive support from an employment service adviser from DEL. Advisers also provide support and assistance to those who are entitled to employment and support allowance (ESA) who are placed in the work-related activity group. Claimants with the most severe conditions will move into the support group in ESA and will not be required to participate in work-focused activity. However, they can avail themselves of the services that are provided by DEL voluntarily.

The SSA has met the target for the second year, with 50,789 claimants having started the reassessment journey. Of those claimants, 43,942 claimants have been assessed by a healthcare professional, and 30,317 are entitled to ESA as a result of reassessment. The percentage of claimants being placed in the support group is 35·6%. The percentage of claimants being placed in the work-related activity group is 34·4%. The percentage of customers that are disallowed so far is 30%. So far, 70% of those who are disallowed from employment and support allowance appealed the decision. Of the 2,442 appeals that were heard by an independent tribunal to date, 1,535 have been upheld in the Department's favour. Some 285 claimants have appealed against being placed in the work-related activity group.

The incapacity benefit reassessment team continues to make good progress on delivering a good-quality service despite the sensitivities that are associated with the process. The Department for Employment and Learning is a key partner with the Social Security Agency in the delivery of the reassessment process. DEL's primary objective is to identify and ensure implementation of the optimum delivery model for individualised work-focused support for claimants who migrate from incapacity benefit reassessment to ESA and JSA. Claimants who are disallowed and subsequently make a claim for jobseeker's allowance will be interviewed by an employment adviser at their local jobs and benefits office and will sign a jobseeker's agreement. That agreement is a formal commitment by individuals actively to seek employment and engage with the employment service fortnightly to discuss the progress that they are making and to avail themselves of the help and support that the service has to offer.

Claimants who are placed in the ESA work-related activity group are also called in to engage with one of the Department's employment advisers. Those advisers have a specific responsibility and enhanced training to prepare them to deal with people who may have had health- and disability-related barriers to employment. ESA work-related activity group claimants will be invited to a minimum of three work-focused interviews with their dedicated employment adviser. Again, the full range of programmes and services will be offered, including a new employment programme called Work Connect, which was designed to help that group of people prepare for and move into employment. Work Connect has been in place since September 2012, and the early results and feedback are very encouraging.

Finally, people in the ESA support group access the employment service voluntarily, and almost 200 incapacity benefit-reassessed claimants have availed themselves of that opportunity. The Department for Employment and Learning has a number of programmes and services in place to help and support the incapacity benefit client group. Through the Disability Employment Service (DES), the Department has teams of specialised staff, including access-to-work advisers, disability employment managers and a team of occupational psychologists. Those staff provide a direct service to the clients, as well as playing a support role to the front line advisers in the jobs and benefits offices.

In addition, the Department has a number of contracted or funded employment service offerings that are delivered on its behalf by third-party organisations. Those include the condition management programme, Workable (NI), Access to Work, Steps to Work, the local employment intermediary service (LEMIS) and the aforementioned Work Connect. The Department has close and positive working relations with those programme providers, which consist primarily of community, voluntary and disability sector organisations. Latest figures indicate that more than 500 incapacity benefit reassessment clients have availed themselves of the Department's programmes, with around 140 moving into economic employment. Given the obstacles that many of those clients are trying to overcome — a large percentage have mental health issues, low-level qualifications and a minimum of recent work experience — coupled with the current economic and labour market conditions, both

Departments recognise the challenges that the group will continue to present. However, we are committed to doing everything that we can to help the incapacity benefit client group play a full and active role in society.

The reassessment of incapacity claimants remains on track, with the last cases, as I mentioned, expected to commence reassessment in March 2014. Both Departments continue to work closely to ensure that we properly assess and support people through correct and accurate benefit payment and appropriate employment support and assistance.

Thank you for your time. Along with Terry, I am happy to answer any questions that you may have.

The Chairperson: Thank you Margaret. A number of Committee members have indicated that they wish to ask questions.

Mr Copeland: Thank you. You indicate in your presentation that 9,134 claimants have appealed against the decision to disallow ESA and that 2,442 appeals have been heard, which seems to leave an enormous number of people in limbo, for want of a better word, in the appeals system. There is backup in there. It is that process that I want to seek some guidance on. In some cases, appeals are taking a year or more to come to an appeals position. As I understand it, the appeal is heard not on the basis of the claimant or customer's physical and/or mental condition on the day on which the appeal is heard but to test the legal safety of the decision on the date that it was taken. I do not want to be specific, but I cannot avoid it, and three cases were raised with Paddy Rooney the previous time that he was before the Committee. In some cases people had been to the appeal, and in the three cases, the disadvantage that the incumbents laboured under related to their mental and physical health, but primarily mental. As a result of the time that the case had taken to come to appeal, which they won, they were called again, within 17 days in one particular case, because the time period had elapsed since the original decision was made. That means that the appeals process and the medical assessment have to be gone through again, and, no doubt, an appeal will be lodged again. The whole process consumes time and an inordinate amount of money and gums up the system.

Is it not safe to assume that, at the appeal stage, when a claimant is being judged on a decision that was taken a year ago or, in some cases, longer, the medical people and the legal people would be fit to give a view that the decision was wrong on the date at which it was taken and to give their views on the current position? It is not right to be awarded a benefit at appeal backdated for a year only to be, within 17 days, put through the whole process again, especially if the primary indicators are mental health indicators. In some of those cases, the healthcare professionals did not make it clear whether they were qualified in the area of mental health to say, "This person has not improved", and to send the person for another medical assessment 17 days after an award is put in place. That is a waste of time. Do you follow that? It is a convoluted argument, but it is the way in which it is working in reality.

Ms Margaret Boyle: I will answer a number of points. On average, it takes about 28 weeks to deal with an appeal at the minute. That is 14 weeks with the Social Security Agency and 14 weeks with the Appeals Service. We are working through a backlog of appeals, and we have a recovery plan that we hope and plan to have met by July. You mentioned the medical evidence presented at the appeal, and you may know from our previous presentation that 87% of customers' appeals are upheld owing to additional evidence being presented on the day.

Mr Copeland: The evidence relates to the date and time at which the decision was made, because it will not consider anything that flows from that subsequently. In other words, it would have been available had it been sought.

Ms Margaret Boyle: A lot of attempts are made to request medical evidence from the customer. Initially, we ask when a disallowance is being considered, and medical evidence is requested a number of times throughout the process.

Mr Copeland: That is at the review stage as opposed to the appeal stage?

Ms Margaret Boyle: Yes.

Mr Copeland: I understand that.

Ms Margaret Boyle: Customers or their representatives often contact the ESA centre to discuss the appeal, and we are working very closely with the advice sector in particular to try to get medical evidence earlier than that. The review dates for customers are set by the healthcare professional, normally at the initial examination. As you know, it depends on the incapacity. I know that Paddy is investigating the cases that you raised with him.

Mr Copeland: I have the answers.

Ms Margaret Boyle: I know that.

Mr Copeland: I am interested in what you said about the date for review being set by the healthcare professional at the time when the decision is reached. That decision has already been challenged at the appeal and found to be flawed.

Ms Margaret Boyle: Yes, it has.

Mr Copeland: Is there any point, then? The real reason —

Ms Margaret Boyle: Yes, I understand what you are saying there.

Mr Copeland: In one case, a girl who has very real difficulties and mental health problems concluded herself that she was cured because she passed — or failed — and was found not to be capable of receiving ESA. She stopped taking her medication, and the upshot was that she tried to kill herself because she concluded that she was cured because she had been found fit for work.

Ms Margaret Boyle: The appeal was found in her favour, I take it? I assume so based on what you have said to me.

Mr Copeland: Yes, but she has been called again apparently because of the timescale, on the basis of a decision that was taken by the person who found her fit for work in the first place, a decision that was overturned at the appeal stage.

Ms Margaret Boyle: What you are really saying is that the outcome of the appeal needs to be considered in the context of the review date.

Mr Copeland: Precisely, because it is inflicting untold damage on people who can barely —

Ms Margaret Boyle: I will take that away and look at it in more detail.

Mr Copeland: Those are three cases that would not need to be reassessed or taken back again. Those are just three of mine. It does not make sense.

Ms Margaret Boyle: I will look further at that point for you.

Mr Copeland: I would be very pleased if you would.

Mr Brady: Thanks for the presentation. I think that the difficulty in all of this is the work capability assessment. You may or may not be aware of an article in 'The Guardian' on 16 May. It reported on comments from Greg Wood, a GP who worked for Atos. The article stated:

> *"Greg Wood, a GP who worked at the company as a senior adviser on mental health issues, said claimants were not assessed in an 'even-handed way', that evidence for claims was never put forward by the company for doctors to use, and that medical staff were told to change reports if they were too favourable to claimants. The doctor claimed he resigned in disgust at what was going on, saying that many doctors he had spoken to shared his concerns."*

He said:

> *"I think the Department for Work and Pensions is the real culprit here. It's the government training that makes Atos assessors do this."*

The article went on to say:

> *"The work capability assessment is used for the government's employment and support allowance'".*

It continued:

> *"the assessors were trained in such a way that they expected claimants to score too few points to qualify for ESA, and to award points 'begrudgingly'. The attitude drilled into assessors 'leans towards finding reasons not to award points', he claimed. The result was a bias against the disabled, he said."*

The article also stated:

> *"the British Medical Association called for the tests to be scrapped to prevent harm to the most vulnerable people in society. Wood said that although his contract with Atos had a confidentiality clause, he was breaking it in the 'public interest'."*

Dr Wood said:

> *'"In my experience [Atos assessors] are not free to make independent recommendations, important evidence is frequently missing or never sought in the first place, medical knowledge is twisted and points are often wrongly withheld through the use of an erroneously high standard of proof."'*

He went on to say:

> *'"In about a quarter of assessments important documentary evidence such as the claimant's own GP assessment is missing but the assessments go ahead regardless."'*

That is a damning indictment of the work capability assessment. That has been going on for a number of years. The year before last, the British Medical Association (BMA) in Scotland and England condemned it, and I think that that article adds to what people already thought about the work capability assessment.

I know that, in the past, the Department has said that it was not really it that introduced it but the Department for Work and Pensions (DWP). Social security is a devolved matter. Are you aware of the Department taking any steps to try to redress the situation? According to what we are being told by a senior doctor who worked for Atos, it is very clear that it is not doing what it is supposed to be doing.

Ms Margaret Boyle: You will be aware of the work capability assessment review that took place previously under Professor Harrington and is now under Dr Litchfield. Professor Harrington's view was that, although there were issues with the work capability assessment, it was not broken. He made a number of recommendations, all of which we have taken forward from a Northern Ireland perspective. As you know from a previous presentation, in Northern Ireland, the SSA monitors work capability assessments. We monitor the outcomes of the various assessments.

We are very much linked into the work capability assessment review and work with DWP colleagues on it. You may also be aware that Dr Litchfield is planning to come here in September.

Mr Brady: Professor Harrington never actually made it here, but hopefully —

Ms Margaret Boyle: Yes, but we have planned for that.

The work capability assessment review continues, and various parties' views on the assessment are taken into account. I am not aware whether they will be looking at the views of the doctor whom you referred to in particular.

Mr Brady: I want to give you an example that I have used before. It was brought to my attention and compounds what Dr Wood said. As the result of an assessment that was carried out here in the North, a 19-year-old with Down's syndrome was migrated from incapacity benefit to ESA. When his

mother went in his stead, because it was a tick-box exercise, the first question that she was asked was, "How long has he had the condition?" The second question was, "When do you think that he might get better?" When it was pointed out to the assessor that the son had Down's syndrome, the answer that his mother got was that they were there to fill in the form and not necessarily to discuss individual cases. I think that that highlights and compounds what is being said about work capability assessments, and it is incumbent on the Department to redress the inequalities that are occurring daily.

That is only one example. I have come across several cases when holding welfare rights clinics where examples have been given of people who have mental health problems being asked to count backwards from 400 to 350. That is a test for dementia. It is not a test for someone with mental health problems. One of the descriptors is this: do you actively rock back and forth in the chair? That is supposed to be symptomatic of mental health issues. Where do you go with all of that?

Ms Margaret Boyle: There are safeguards in place for helping and supporting vulnerable customers, including people with mental health problems. For example, we have mental health champions within the —

Mr Brady: I understand that. Let me say, with respect to Professor Harrington and his recommendations, that we daily come across examples of the situation getting worse. That sort of evidence coming from a senior adviser who worked for Atos goes a long way to highlighting the difficulties and inherent problems that there are, and have been, with the work capability assessment since its inception. I do not think that the Department is addressing those problems in the way in which they should be addressed. You hear more and more examples of people who have been put in a situation in which they are traumatised and are not really given any kind of sympathetic hearing by the assessor. In one case that I came across, someone was wearing a surgical boot given by Musgrave Park Hospital. The assessor did not even know what it was or its purpose. Then, when that was explained to him, he said that a friend of his had had the same injury and was now back playing football. I am not sure what relevance that has to a particular case. Those are the kinds of issues that people are coming up against daily. The Department needs to start addressing them.

Ms Margaret Boyle: From our monitoring of assessments, certainly no significant issues have been raised. When individual customers or complaints come to the attention of the agency, we investigate them thoroughly, and we talk to Atos, if required, to provide feedback. That is ongoing. Our monitoring process is robust, as I mentioned to you before. Individual cases are raised and we investigate. We are very much linked into the review of work capability assessment. I understand that Dr Litchfield is particularly interested in the mental health aspects and is looking into those.

Mr Brady: The difficulty for some people is this: Dr Litchfield worked for British Telecom (BT) before he came along to what he is doing now. There is a perception that the people who are doing all of this do not necessarily come from the right kind of background. Atos is a data-processing firm that has no particular experience of or background in doing what it does now. Obviously, it got the contract, just as Capita has the contract for transition from disability living allowance (DLA) to the personal independence payment (PIP). Capita is a consultancy firm that does a wide range of things, such as running courses on social policy issues, which I have been on. However, again, it has no particular background in doing what it will be doing, which is assessing people from a medical point of view. There is a perception abroad that this is a paper exercise that does not really address the problems that people are presenting with. If you consider that it is accepted that we have much higher rates of mental ill health, particularly among young people, those issues are not being addressed. Dr Wood, who is specifically qualified in mental health, has highlighted the fact that those issues are not being addressed.

Ms Margaret Boyle: From the agency's point of view, as I mentioned earlier, there are safeguards in place to support people with mental health difficulties. Atos personnel have received specific training across a wide range of areas that relate to the work capability assessment, including training in mental health. They have access daily to mental health champions and people who have expertise in the field.

Mr Brady: It is difficult to get away from the fact that here, you have a senior medical person, qualified in mental health, who says that Atos personnel are specifically told not to award points in particular areas. That is worrying, because it indicates that people are getting not an objective assessment but a subjective one, based on how assessors have been told to conduct that type of assessment. That is

extremely worrying. The Department needs to take steps to ensure that people are treated with dignity and respect and that the assessments are objective.

Ms Margaret Boyle: We monitor regularly through the assessment framework. The outcomes and detail of assessments are considered, and the training is looked at. There is continuous liaison with Atos on aspects of assessments, including complaints, and learning is taken into account.

Mr Brady: The difficulty for people going through the process is that because, in many cases, they are so traumatised, they do not bother to complain. They assume that that is the norm — and, of course, it should not be the norm — and that is why they do not complain.

You are talking about vulnerable people, particularly in terms of mental health, who are in such a position that they almost expect to be treated in the way that they are treated and, therefore, do not pursue the matter. That is why it is incumbent on the Department to ensure that objective assessments are carried out and people are not put in that position.

Mr Campbell: I want to return to the progress on incapacity benefit reassessment. There will always be individual cases, and it is important that they are looked at. However, I want to get an overview.

You said that the target of 50,000 having started the reassessment journey has been reached. Paragraph 9 of the Department's briefing paper outlines key data on the progress of the reassessment of incapacity benefit claimants. Of that 50,000, 44,000 were assessed by a healthcare professional. Is that right?

Ms Margaret Boyle: Yes; that is right.

Mr Campbell: Of that 44,000, is it the case that 30,000 — I will keep it in round numbers — are now entitled to ESA, 13,000 have had their benefit disallowed, and there are 648 other outcomes?

Ms Margaret Boyle: Yes.

Mr Campbell: It seems to me that the 44,000 who were assessed by a healthcare professional fall into three categories: 15,000 were placed in the work-related activity group; 15,000 in the support group; and 13,000 had their benefit disallowed.

Ms Margaret Boyle: Yes.

Mr Campbell: This is the big picture question on welfare reform: is it possible to get an average payment that is paid to people in those three categories and compare it with the average payment that those 44,000 people were getting 12 months ago? That is what people will judge welfare reform on.

Ms Margaret Boyle: An average of the benefit that they moved to?

Mr Campbell: Yes. They went through the whole process, were assessed, reassessed, and appealed. The bottom line in 2013 is what is the average payment in each of those three categories compared to what they were getting 12 months ago?

Ms Margaret Boyle: As a result of the outcome of the assessment and where people moved to?

Mr Campbell: Yes.

Ms Margaret Boyle: We should have information on that.

Mr Campbell: It would be very helpful if we could get it.

Ms Margaret Boyle: We have some data about where people moved, so I will look at that.

Mr Campbell: I understand that every individual will be different, but it would be useful to have an average payment.

Ms Margaret Boyle: I can look in some detail at information on where people moved to, although it is not possible to track every case.

Mr Campbell: I understand that.

Ms Margaret Boyle: However, we can certainly look into it. Are you talking about the average?

Mr Campbell: Yes.

Ms Margaret Boyle: We would have information between us on that. It is benefit payment. I will look at that.

Mr Copeland: I picked up on something that you said about robust monitoring. Do the figures that constitute robust monitoring indicate whether the 1,000 people who have had their appeals upheld had been assessed by any particular number or grouping of healthcare professionals, in other words are some healthcare professionals interpreting the rules more harshly? A substantial number of cases that I see overturned at appeal featured a fairly small number of healthcare professionals in the original decision.

Ms Margaret Boyle: No; we do not have that data at the minute. We do not look at that, and that is one of the things that we will look at as part of the framework.

Mr Copeland: I think that that should be looked at —

Ms Margaret Boyle: Yes.

Mr Copeland: — because, no matter what it is, the process that takes place will involve a degree of judgement. I understand that the purpose of the work capability assessment is to remove as much judgement as possible.

Ms Margaret Boyle: Yes. We plan to look at the appeals aspect in more detail, and I think that I mentioned that the last time.

Mr Copeland: I am very interested in those figures.

Ms Margaret Boyle: We recognise that there is a need to look at that in more detail, and we plan to do so. At present, the monitoring is of the various outcomes — the work capability assessments and what work people go into. We do not have information on individuals. We may have individual information if there is a complaint against somebody.

Mr Copeland: I assume that an appeal lodged by a claimant who had lost a benefit would be construed as a complaint against the person who occasioned that happening.

Ms Margaret Boyle: Yes.

Mr F McCann: Terry, I have a question, which I previously raised in the Employment and Learning Committee, on the migration of people from benefit through the assessment in the DEL process. Your paper to the Committee contains a breakdown of claimants, but one of the things that concern us is the professionalism of those assessing people's mental health. Mickey's always using the example of somebody who is bipolar being fine on the day of an assessment but not for the next three or four weeks. However, the people who assess them may say, "Well, you seem fine". How do you pick up on and deal with that?

You also talk about mental health champions or champions in general. What organisations provide those champions? Is it up to the person to decide that they want somebody who may be a champion to represent them? May we have a breakdown of that? Mickey raised the valid point that we could probably sit here all day and go through individual cases that we have each dealt with; but, at the end of the day, it is about the quality and professionalism of the people appointed to look into this. You mentioned the figure of 50,789 claimants and said that the 43,942 who have been assessed by healthcare professionals as being OK did not have to go through another process.

Ms Margaret Boyle: No. That is the number of people who have been assessed. There have been different outcomes, depending —

Mr F McCann: So a sizeable number of that figure assessed by Atos might not have appealed or gone on to the next stage of appeal?

Ms Margaret Boyle: They have not been reassessed yet. Twelve thousand nine hundred and seventy-seven have had their benefit disallowed following the work capability assessment, so a breakdown of the 43,942 shows that 30,317 are now entitled.

Mr F McCann: In raising the issue of the qualifications of the assessors, I used bipolarism as an example of people who may find themselves OK on the day but not on the next or following days. How is that assessed?

Ms Margaret Boyle: The mental health champions I referred to are Atos staff. They have specific training in mental health; they are not brought in from an external organisation.

Mr F McCann: One of the things that we asked about before was the level of training. In, I think, 2007, Mickey and I had amendments on the then Welfare Reform Bill about the level of qualifications and the type of training that staff were given. At that time, we were told — Mickey can correct me — that people were given six weeks' training to take them through different aspects.

Ms Margaret Boyle: As you may know, the registered medical practitioners are registered nurses; they carry out assessments. The definition of a healthcare professional from that perspective and the qualifications required were agreed with the agency before the contract was awarded. Healthcare professionals employed by Atos must have three years' post-registration full-time equivalent experience across a range of relevant clinical disciplines. Specific training is then given by Atos when they are employed. They must be fully qualified and registered nurses and doctors who have full and unconditional registration. Specific training is given as well. Is that helpful?

Mr F McCann: Not really. I understand that; we had that information before. However, when people migrate from incapacity through the processed ESA, there is a process in which they are put into different groups. It is unfair on DEL staff to have to try to assess people who may have serious psychological or mental health problems. How do you assess that if a person may be fine one day and not the next?

Mr Terry Park (Department for Employment and Learning): I will pick up on that. The employment service advisers are not expected to make any medical diagnosis whatsoever. By the time people are in ESA, or even some of the JSA clients who have come across through the incapacity benefit (IB) reassessment process, they are deemed fit for some type of work or capable of looking for work. Internally, we have a team of occupational psychologists who provided a lot of support prior to the IB reassessment process; in fact, from when incapacity benefit was about and the move to employment and support allowance in 2006. They case-conference regularly with the employment service advisers. Advisers will often raise issues at conferences about clients they are concerned about, particularly those with mental health issues.

The clients are mandated to take part in work-focused interviews; they are not mandated into any work programme. We offer clients access to experts. The condition management programme, which is delivered on behalf of DEL by the five health trusts, has mental health nurses, physiotherapists and occupational therapists. We also partner Action Mental Health for the employment programmes; again, however, that is for clients who decide that they want to take part in work-related activity. Often, if a client is going through medical treatment, they will not be forced to engage in any further work-related activity until such times as they feel able. They are always invited back to take part voluntarily.

Mr F McCann: Do the people doing the assessments have in front of them the medical records of the people who are coming through so that they have an understanding of what they are dealing with?

Mr Park: No. They will have information from the Social Security Agency on the back of the work-capability assessment. It will have minimal information on the medical condition of the individual. It will have the primary medical conditions that they presented with when they went through the work-capability assessment. I have observed the interviews, and quite a strong personal relationship builds

up between the employment service adviser and the employment and support allowance and JSA clients. Through that conversation, they will pick up a lot of information about what the individual is presenting with, and, often, they are dealing with a combination of mental health issues, physical issues and, often, non-health-related issues. That is the issue with the employment and support allowance clients. You will see in the briefing that some clients are trying to deal with drug and alcohol dependency, so those issues arise, and, in those situations, the adviser often signposts the individual for help that is outside the domain of the employment service. There is basic information that, for confidentiality reasons, is presented to the adviser before meeting the individual for the first time, but it is during the interview and the ongoing engagements that they will pick up the additional information that allows them to determine, first, how close they are to the labour market, secondly, which, if any, of our internal programmes they might be best suited to, and, thirdly, and probably just as importantly, any signposting references that they want to make for them.

Mr Brady: Margaret, you made the point that the mental health champions are Atos staff. I presume that Dr Wood may have been a mental health champion because he was dealing specifically with that, and it is clear from what he was saying that there is a fundamental flaw in how staff treat people, in their attitude and how they are trained almost to have that attitude. The fact that they are Atos staff does not send out waves of reassurance to me or the people that they will be dealing with. If you take his view as someone who has worked in the process, it diminishes any legitimacy, in a sense, that Atos may have as mental health champions. It is in that process, and he is clearly saying that people in that process are being told to lean in a certain way towards claimants. Perhaps that needs to be looked at. When mental health champions were initially mooted, it was my understanding that they would be independent, but they are in the Atos framework. The criticism of Atos is huge and continues to grow; it does not reassure people.

Ms Margaret Boyle: As I have said, from the monitoring that we have in place in the agency on Atos, that has not been an issue for us, except for the article that you mentioned. From our perspective, the training provided and the outcomes known to us, notwithstanding some particular cases —

Mr Brady: Your monitoring is predicated on the basis that Atos is doing objective assessments; however, it is clear from the evidence that we are getting that it is not.

Ms Margaret Boyle: I have a point to add on the training that Atos staff get. Their appointment is not confirmed until they are monitored, and they must have four A-grade examinations carried out.

Mr Brady: Are they monitored by other Atos staff?

Ms Margaret Boyle: No; they are monitored by our health assessment adviser, who confirms their appointment.

Mr Durkan: Thank you for your presentation and your answers. I have a question about the departmental staff resource. There are teams in every one of the 35 offices. Were jobs lost or was there a reduction in the number of people employed as a result of the transition from the old incapacity benefit?

Mr Park: No staff were lost from the teams in the jobs and benefits offices. In fact, in the first two years of IB reassessment and as part of the project, we gained 77 staff specifically to deal with the additional clients coming across over the three years of that period. Therefore we have a combination of employment service adviser teams in all the jobs and benefits offices and job centres, some of which deal specifically with clients who are on employment and support allowance. All staff across JSA and ESA have received disability-related training. The people who deal with the employment and support allowance have received very specific training internally and also from many of the partner organisations. Margaret mentioned that we have a partnership relationship with Action Mental Health, Mencap and the Cedar Foundation, and they deliver training to advisers. They regularly work hand in glove with them, so there is ongoing communication, even when dealing with a specific client. The staff resource has actually increased.

Mr Durkan: That specialism should be retained as we move into universal credit.

Mr Park: Yes. There is an integration process. We will not lose the expertise. However, we are trying to spread that across the teams as we move towards universal credit, notwithstanding the partnership arrangements that we will maintain with the external organisations. That is only natural.

We can do so much internally, but we value and appreciate that, at times, it is best for the expert organisations to deal with those clients.

The Chairperson: You have heard that members have recurring evidence that about one third of all claimant appeals is upheld. A large number of people in any sphere clearly suggests that there is an inherent flaw in the system, which is the recurring one third of successful appeals. The process is not as accurate as people would like it to be.

Most members have expressed concerns about mental health assessments and the qualifications of Atos or whoever. Is it possible for us to get a breakdown — Fra mentioned this — that will tell us how many people with a mental health accreditation are working as assessors? Your evidence tells us that there are five occupational psychologists, and 50% to 60% of incapacity benefit reassessment clients have some form of mental ill-health as a primary or secondary condition. All the information that we get seems to keep telling us that, and that is our view. I do not want to misrepresent anybody, but we get the impression that mental health issues come second place in all these considerations. That is the view that is left in our minds. As I said, information tells us that mental health seems to be the biggest area of concern, and we end up with one third of appeals being successful. We touch on that issue routinely, but can we get an actual breakdown? You are getting a clear message that members are not content with our information about mental health assessments. We want to know how many people are involved, their qualifications, how many people are employed and so on to deal with those matters.

Ms Margaret Boyle: For clarification, are you talking about the end-to-end process from the actual examination through to the Department for Employment and Learning staff who are involved in the process?

The Chairperson: Yes, in so far as the appeals are concerned, because by the end of the process, one third of appeals is successful, which tells us that there is a flaw somewhere. We are constantly being told that, when it comes to making a decision, you can ask for more information. We keep asking why you do not get all that information at the start. It is vague and continues to be vague. The Minister's response at Question Time this week made it even worse, and I want to check Hansard. People think that mental health issues play second fiddle to physical health issues. We want firm, clear information on what cadre of people in the Atos operation are mental health professionals, how many of them there are and their accreditations. It is important that we get a further breakdown on the one third of appeals that is successful. What is it in connection with? What are the recurring messages? Is it individuals, is it a small number of individual assessors, or are there particular conditions that are not being identified early enough? Most of us believe that it is related to mental health.

Mr Copeland: I am curious about whether there are any indications of the number of healthcare professionals who have disqualified themselves either at the beginning of or during an assessment on the grounds that they do not feel qualified to address a claimant's requirements.

Ms Margaret Boyle: Are you talking about stopping an examination or prior to an examination?

Mr Copeland: In other words, if someone with specific mental health difficulties attends a work capability assessment and an assessor — the healthcare professional — does not feel qualified, are there any instances when an assessor has said, "I am sorry; I am not qualified in that field" and stopped it?

Ms Margaret Boyle: I am not aware of the detail of that, but I will establish it for you.

Mr Copeland: That would be very interesting.

Ms Margaret Boyle: I mentioned that safeguards are in place for contact with customers and visits to customers who may be vulnerable because of, for example, a mental health issue or may not attend a medical examination or respond to that. However, I hear your points about examinations, and I explained what we have in place at present.

The Chairperson: I am sorry, Margaret, but we were told that — I cannot remember the exact term — before decisions are taken to disqualify a claim, a person gets a phone call.

Ms Margaret Boyle: Yes.

The Chairperson: Some of those phone calls result in a decision-maker changing a decision. In addition, one third of appeals is successful, so there are many faults in the system. Somebody may make a decision to disqualify a claimant but by the next stage, which is a phone call, a number of those claims are allowed again. Of those whose claims continue to be disallowed, one third is successful on appeal. That is too many, and it is recurring. Something is not right, and we are not getting to the bottom of what is not right.

Ms Margaret Boyle: The call is made before a disallowance. It is to talk to a customer.

The Chairperson: It is on the basis that a claim will be turned down. Those phone calls have resulted in X number of people having their claim allowed.

Ms Margaret Boyle: The decision to allow or disallow a claim lies with the decision-maker and not with Atos.

The Chairperson: The recommendation to that decision-maker will have been to disallow the claim.

Ms Margaret Boyle: Before it is disallowed, the decision-maker wants to find out —

The Chairperson: I appreciate that, but the person who carried out the assessment determined that the claim will be disallowed. That recommendation went to a decision-maker. Let us not split hairs: a decision was taken to disallow a claim, which is a fair part of the system. A decision-maker then makes a phone call to a claimant: "I am being told that your claim has been disallowed." As a result of that conversation, a number of people's claims are allowed.

Ms Margaret Boyle: Yes, they are.

The Chairperson: One third of the people whose claims are disallowed win their cases on appeal. That is too large a number and too big a margin of error. Something is wrong in the system. We keep raising the issue, and we cannot hit the nail on the head.

The mental health assessment is an issue of general concern. We want further information on how many people are employed, what their accreditations are, and how many of the people who are recommended to be turned down or are turned down but win their cases have mental health-related issues. That is very important, because we need to drill down and establish why a large number of people win their cases on appeal. They should not have been turned down in the first place. We want to drill down deeper, Margaret, with all due respect.

Ms Margaret Boyle: I will look at that in detail for you.

The Chairperson: I appreciate that you are working on that.

Mr F McCann: Far more people are turned down in an Atos assessment than the one third who appeal. There are probably thousands more who are reassessed by officials in the Department who overturn the Atos decision. The question came up because people went through the formal assessment and were given zero points. We are questioning the Atos way of dealing with the issue, and we can get into debates and arguments about monitoring. A number of assessments take place outside that, and health professionals go to people's homes to do assessments. How long are they allocated per person?

Ms Margaret Boyle: I understand that the average time allocated is between 45 minutes and an hour. I will check out the details of home visits, but the actual examination takes around that time.

Mr F McCann: It is my understanding that between seven and nine minutes are allocated per home visit. Even then, the way in which a person is assessed leaves a lot to be desired.

Ms Margaret Boyle: Home visits are the exception; most examinations take place in the centre. It depends on the circumstances. Home visits take place for DLA, for example, as I am sure you know.

Mr F McCann: The reason why I raise that is that, for issues associated with mobility, people were asked how far they could walk and were then asked to walk. Based on walking five steps, they were assessed as being able to walk 200 yards.

Ms Margaret Boyle: I will check the timing for you, but my understanding is that home visits take considerably longer than seven minutes.

The Chairperson: Margaret, I will finish on this point and put the issue about one third of appeals being successful into another context. I would imagine that if maintenance contractors working for the Housing Executive were failed on more than one third of the jobs that they carried out, they would lose the contract. In this case, the contract has been awarded to Atos, and there is an associated cost. A number of its jobs have failed. Had that been a window replacement for the Housing Executive, an inspector would say that the contractors had made a mess of it and would not be paid. Ultimately, more than one third of the jobs were deemed failures. A contractor would lose a contract. In addition, we are paying for the appeals process out of the block grant. Taxpayers are being hit with a double whammy. The process is flawed, and we are paying for it. That is why it is a matter of concern to all of us to drill down and to get to the root of the problem. Most of us believe that the majority of the problems are to do with mental health, which is why we focused on that today.

Ms Margaret Boyle: I will follow that up. Some 87% of customers' appeals are upheld because additional meta-evidence is provided on the day, some of which relates to mental health aspects. A substantial number of customers bring additional evidence on the day.

The Chairperson: That is why we keep arguing that that information should be got or sought in the early stages so that that problem does not arise. The fact is that that information is not sought. I am simply rehearsing the fact that we are very concerned about those recurring patterns. We do not seem to be able to crack them, and it really is not good enough. That is what we are saying. I appreciate, Margaret, that you will come back to us on some of that further drill-down information.

Thank you, Margaret and Terry, for your presence today. It is a difficult and complicated issue. However, as you appreciate, it is a matter of concern to all of us, including you. We look forward to your response.