

Disability Living Allowance reform

TUC submission to the DWP consultation

Summary

- The TUC agrees that DLA eligibility rules can be confusing and that the claim form is very complicated.
- But this does not justify a reduction in the scope and generosity of the benefit.
- Disabled people are more likely than non-disabled people to face poverty and restricted life chances. If there is a weakness in the current system of provision, it is that it is not generous enough, not that it is too generous.
- The TUC does not agree that the benefit should be focused on people facing barriers to independence and integration that are more serious. Even disabled people with moderate or minor impairments face extra costs.
- The TUC supports an “expenditure equivalence” approach to defining the extra costs of disability.
- Contrary to many newspaper stories, fraud and malingering are rare among DLA claimants.
- The DWP should carry out an urgent investigation into how the proposed reforms would affect carers.
- The TUC opposes the exclusion of people in residential care homes from the mobility component.

Introduction

- 1 The TUC is the voice of Britain at work. With 58 affiliated unions representing more than six million working people from all industries and occupations, we campaign for a fair deal at work and for social justice at home and abroad. We negotiate in Europe, and at home we build links with political parties, business, local communities and wider society.
- 2 The TUC appreciates the importance of DLA reform and we are grateful for this opportunity to comment on the government's proposals.

Positive elements of the proposed reforms

- 3 The TUC agrees that some aspects of Disability Living Allowance should be reformed. We agree with the consultation document that the long forms faced by claimants and the uncertainty about entitlement are drawbacks and that people with sensory or communications impairments can find the claims process particularly difficult. In 2007 DWP research reported that claiming DLA without the support of a professional adviser can be very difficult:¹

the application forms are found by customers to be lengthy and complicated, with a key issue appearing to be the need to typify or quantify everyday experiences, when it is common for different disabilities and illnesses to result in variable impacts. This is particularly difficult for those with sensory or mental health problems, who largely find the forms inapplicable. For those who do not have professional help, this is notably problematic.

- 4 We also agree that Disability Living Allowance reflects many of the assumptions that were common twenty years ago, basing entitlement too frequently on impairment. This is not in accordance with the social model of disability. Other things being equal, we would support measures to address these problems.

The new test of eligibility

- 5 This does not mean, however, that it is now time to replace DLA with a benefit that covers fewer people or provides a lower level of benefit. The new Personal Independence Payment, outlined in the consultation document, seems to have been designed primarily with a view to cutting spending.
- 6 A clear indication of this can be found in the fact that the eligibility test for the new benefit was planned *before* the benefit itself. The “objective test” was announced in the June Budget, where it was described as a test for DLA, not a new benefit. At that point, the only indication that the government had any objective other than cutting spending was an aside in the Chancellor's Budget speech about “significantly improving incentives to work” (which seemed to betray ignorance of the fact that DLA is not an out-of-work benefit). The commitment to making savings was, however, crystal clear, and Mr Osborne put this proposal in the context of concerns that “the costs have quadrupled in real terms to over £11 billion, making it one of the largest items of government

spending.”² Furthermore, the detailed budget documents described the objective of the reform as “a 20 per cent reduction in caseload and expenditure once fully rolled out.”³

- 7 Disability Living Allowance was the most progressive and positive benefit reform to be introduced by the last Conservative government and the creation of a new lower rate for the care element was a particularly important innovation. Cutting back to two rates for each component gives the impression that the main reform is to abolish the lowest rate of the care component, which will force many claimants out of entitlement – with knock-on effects for other benefits and for the CA of their carer (if any.) In May 2010, 880,000 people who received DLA received the care component at the lower rate, 28 per cent of the total.⁴

Focusing on those with the most severe impairments

- 8 The TUC does not agree that DLA should be re-focused to support those with more severe problems at the expense of those at the other end of the scale. Even people with mild or moderate impairments face extra disability-related costs; twenty-five years ago the groundbreaking OPCS disability surveys revealed that even people in the lowest severity category faced an average of £3 a week extra costs, whilst those in category 10 on average were spending an extra £12 a week. These averages hid many people paying a lot more and when PSI re-analysed the OPCS data they found:⁵
- 30,000 people paying more than £50 a week;
 - 70,000 people paying £30-£50 a week;
 - 190,000 people paying £20-£30 a week;
 - 840,000 people paying £10-£20 a week.
- 9 In his literature survey for the Department, Tibble noted⁶ that researchers have come to differing conclusions about the relationship between severity of impairment and additional costs. Those who have found that there is a relationship have also found that, while costs may be lower at the less severe end of the spectrum, they do still exist.
- 10 DLA is not an out of work benefit, but the relationship between likelihood of employment and severity will throw a light on this discussion. People who face barriers to employment are likely to face barriers in other aspects of their lives. Berthoud found that even people with a severity grade of “minimal” were less likely to be in work than non-disabled people:⁷

Distribution and characteristics of severity grades

Grade	Percent of total	Mean impact score	Percent in work
None	81.5	0	77%
Minimal	1.9	0.44	70%
Low	6.6	0.96	63%
Moderate	3.2	1.26	53%
High	3.5	1.57	43%

Severe 3.2 2.44 27%

11 In her foreword to the consultation document the Minister for Disabled People says:

It is only right that support should be targeted at those disabled people who face the greatest challenges to leading independent lives.

12 Once the decision to cut total spending is accepted this approach is unavoidable, but unions do not accept that spending should be cut. The poverty of disabled people as a group argues otherwise and the evidence suggests that if there is a fault with DLA spending it is that it is too low, not too high.

Disabled people and poverty

13 Disabled people are particularly likely to face poverty. The Households Below Average Income Statistics show that working age people who live in households that include a disabled person are significantly more likely to be poor than other people. Those living in households where someone receives DLA are also more likely to be poor:

Status	Proportion Poor (%)	
	Before Housing Costs	After Housing Costs
No disabled adult, no disabled child	14	19
No disabled adult, at least 1 disabled child	20	28
At least 1 disabled adult, no disabled child	23	29
At least 1 disabled adult, at least 1 disabled child	29	38
Receiving Disability Living Allowance	20	25

14 We have here taken living in a household with an income below 60 per cent of the equivalised median as the poverty threshold. The picture is similar when we look at the position of children, where we also have data for the risk of suffering a combination of low income and material deprivation (not having items from a list of 21 key goods and services).

Status	Proportion Poor (%)		
	Low income & material deprivation	Before Housing Costs	After Housing Costs
No disabled adult, no disabled child	14	20	28
No disabled adult, at least 1 disabled child	21	25	35
At least 1 disabled adult, no disabled child	28	29	40
At least 1 disabled adult, at least 1 disabled child	34	34	42
Receiving Disability Living Allowance	22	19	28

15 The key difference from the previous table is the effect of receiving DLA – cutting the number of families with children receiving DLA is likely to increase the number of children in poverty.

16 Disabled people are especially likely to be low-paid. In 2009, disabled people were more likely to earn less than £7 per hour; this remained true after taking into account gender, part-time work and level of qualifications:⁸

Proportion low-paid

	With work-limiting disability	No work-limiting disability
Full time men	17%	11%
Full time women	21%	16%
Part-time men and women	49%	39%
Higher education	13%	7%
A level or equivalent	21%	18%
GCSEs A* - C	35%	26%
GCSEs < C	47%	35%
No qualification	65%	50%

17 Taking £1 billion in DLA away from disabled people will make an already poor group even poorer.

Is DLA meeting a real need?

18 Disabled people repeatedly insist on how important DLA is for them. One of the research reports quoted in the consultation document⁹ reported:

DLA recipients of working age were unanimous in expressing views that DLA made a big difference to them. All the adult DLA recipients in our study group were people who had been living on low out-of-work incomes for some time. Typical comments were that DLA ‘enables me to live’. Some said, without DLA, they would not be able to pay their bills, or get the help they needed. Parents of child recipients who were living on low incomes said their children’s lives would be adversely affected, for example, spending less on items needed for their disabled child, such as extra lessons. However, the more generally reported effect would be reduction in living standards for the whole family.

How well is DLA meeting that need?

19 The consultation document describes how the numbers of people claiming DLA and expenditure on the benefit have grown over time. Unions believe that this is because independence and integration in an environment where access is still patchy at best costs a lot more than governments have realised. The consultation document wistfully recalls the low expectations of demand in the 1970s when disability ‘costs’ benefits were first introduced. But those early reforms (though visionary and generous by the standards of their day) were limited to dealing with the abject poverty that disabled people and their families faced if they merely survived. Since then, our understanding of what a ‘costs’ benefit should achieve has moved on. In a parallel to our new understanding of the role of social care, people across the political spectrum see benefits as having a role in promoting integration and independence and many of us believe they are vital tools in promoting the equality of disabled people.

- 20 Against that standard, the problem with DLA is not that too many people receive too much, but that it does not meet these costs in full. In 1998, a (currently unavailable) DSS report found that only 40 to 60 per cent of those eligible for DLA actually received it.¹⁰ More recently, Berthoud and Hancock looked at DLA/AA recipients and care and concluded that whilst these benefits did significantly boost claimants' incomes, they left them "little or no better off than other Income Support and pension credit claimants." While this suggests that these benefits are (just about) adequate, it is worth bearing in mind that they also found that "the weekly amounts involved are not enough to pay for the care theoretically required."¹¹
- 21 A second report quoted in the consultation document points out that "Most studies conclude that disabled people's needs are not fully met through services, and the cost of private provision to meet needs is not fully covered by extra costs benefits."¹² A third¹³ outlines an "expenditure equivalence" approach to measuring the extra costs of disability that establishes how much extra income is needed to make sure that a disabled person could achieve the same standard of living as a similarly placed non-disabled person. The report mentions recent Irish and Australian studies using this approach that have found that extra costs could reach up to 49 per cent of disposable income and that a large number of disabled people face some level of extra costs.
- 22 The consultation document asks for views on the extra costs faced by disabled people. DWP research¹⁴ into how people use their DLA and AA found that they felt that the most important use of the benefit was in maintaining independence and control. In line with this, DLA and AA were being spent on:
- Personal care;
 - Transport;
 - Food;
 - Fuel;
 - Home maintenance;
 - Health;
 - Telephones and computers;
 - Social activities;
 - Giving presents, gifts and 'treating'.
- 23 Disabled people would be likely to spend less on all these activities without these benefits. All of them are likely to involve extra costs for some disabled people.

Is malingering a large-scale problem?

- 24 In recent weeks there have been a number of newspaper stories that have claimed that there are many fraudulent claims for disability benefits.¹⁵ Some of these stories relate to the Work Capability Assessment for Employment and

Support Allowance, not DLA but stories about fraud in disability benefits tend to reinforce each other and reinforce the belief that large cuts in these benefits are justified.

- 25 In fact, DLA fraud is comparatively rare. Statistics published last year by the DWP¹⁶ showed that overpayments due to fraud accounted for a smaller proportion of spending on DLA than on Income Support, Jobseeker's Allowance, Pension Credit, Housing Benefit, Carer's Allowance or Council Tax Benefit. Fraud accounted for just 0.5 per cent of DLA spending. All fraud is wrong and any amount is too much but focusing on this issue as if it were one of the most important features of the system is unbalanced.
- 26 Berthoud's most recent research provides a convincing rebuttal of two common arguments: that the number of disabled people "can't" have risen in recent years and that increasing numbers are due to the availability of benefits like DLA. Using General Household Survey data for the numbers who say they have a "limiting long-term illness" his calculations show that the prevalence of disability "rose gradually between the mid-1970s and the mid-1990s, before falling gradually over the following ten years." The employment penalty faced by disabled people, however, "followed a different pattern. It rose very slowly at first, increased rapidly between 1987 and 2000, and then steadied." Contrary to saloon bar wisdom, "most of the growth in the prevalence of limiting long-standing illness, and most of the rise in the disability employment penalty, has affected people at the more severe, rather than the less severe, end of the spectrum. This suggests that the underlying trend is a true one, not simply associated with people's reports of, or responses to, trivial conditions."
- 27 The consultation document expresses concern that the number of DLA claimants has risen faster than the number of disabled people and some commentators have taken this to mean that the increased expenditure on the benefit is fraudulent or unnecessary. Berthoud's research provides an authoritative response: changes in the social security system cannot explain the patterns of changes in the prevalence of disability or the extent of disabled people's employment disadvantage; the gap between the two opened up in the mid-1990s, a period when the social security system did not change much.¹⁷
- 28 There is a risk that the reforms might actually reduce the number of disabled people in paid work. A survey by the Disability Alliance found that 25 per cent of respondents were in employment but half of them feared that they would have to give up their jobs if they lost the support for independence that DLA offers.¹⁸

Conditionality

- 29 DLA is a largely unconditional benefit – anyone with sufficient care and mobility needs faces few other conditions. The consultation document asks about whether applicants should be required to access advice and support. Unions would tend to argue against such an obligation. For one thing, it may be hard to guarantee the availability of such advice and support across the

country – surely a minimum requirement before making its use obligatory. For another, health and social care staff are usually reluctant to work with clients who have been forced to see them. Such obligations run counter to their professional ethos and tend to create an atmosphere in which progress is more difficult. Such an approach would run counter to the emphasis on empowerment and the commitment to user-led services that Ministers avow.

Issues for carers

- 30 Unfortunately the consultation document does not analyse how the proposed reforms will affect carers. Not only will carers be affected by the whole family's lower income if the person they care for loses entitlement to benefit, these changes could affect their eligibility for Carer's Allowance, Carer's Premium and other passported benefits.
- 31 The TUC supports the call by Carers UK for the government to carry out such an analysis as soon as possible. Carers are worried that it is still unclear how eligibility for Carer's Allowance would be established under the new system. We agree with Carers UK that it would be a mistake to bring CA into the Universal Credit. This would effectively make CA a means-tested benefit, depriving thousands of carers of entitlement.

Mobility component and people in residential care homes

- 32 Trade unions are strongly opposed to the decision to restrict PIP eligibility for people in care homes to the first 28 days of their stay. We opposed this policy when it was announced in relation to DLA in the Spending Review and we oppose it as an element of the new benefit.
- 33 The Treasury policy costings document¹⁹ justified this on the grounds that people already lose the care component when they enter a residential home and that people in hospital are not entitled to the mobility component. But these are not fair comparisons. People in hospital lose the mobility component because they are less likely to need it while in hospital.
- 34 People in residential homes lose their care component because the residential home now provides the care, it won't be providing their mobility support. Because of this change thousands of people will be unable to get out of their residential homes. The Treasury costings document explicitly says that the Motability scheme will be included in this cut. It is still unclear what will happen to the 3-year leases that most beneficiaries use to get their cars (or to the hire purchase agreements used by a minority.)
- 35 Some of the activities people in residential homes will find more difficult include: visits to friends or family, shopping trips or nights out. Taking it away from people in residential care homes will only save £135 million - less than 0.1% of total spending on social security – but eighty thousand disabled people will be very badly affected.²⁰ Older disabled people are particularly likely to be hit by this change, but many younger people will also be affected, especially young people with learning disabilities. As Mark Goldring, the Chief Executive of Mencap, explained:²¹

They rely on this money to access the community and live a fulfilled life. Through this cut the government is targeting some of society's most vulnerable people who cannot always fight for their rights themselves. It also suggests that the government does not believe that people in residential care who receive DLA are entitled to live independently.

This cut will take us back to the days when people were left in care homes with just four walls for company and will undo decades of progress. Mencap is calling for the government to urgently review this proposal and prevent this devastating blow to some of the UK's most vulnerable people.

The qualifying period and repeated testing

36 The consultation document sets out the qualifying period for Personal Independence Payment:

“... the benefit will only be available to people with a long-term health condition or impairment. Individuals will have to qualify for the benefit for a period of six months and be expected to continue to qualify for a further six months before an award can be made.”

37 The qualifying period for DLA is three months; this is doubled in the PIP (except for terminally ill people.) A waiting period of six months before someone can access the support they need to operate as a full member of society is very harsh.

38 People with sudden onset conditions (such as encephalitis or epilepsy) have immediate needs, often have to deal with debilitating treatment and face extra costs from an early point.

39 The Prospective Test is more worrying. There are conditions – such as some cancers – where prognosis is inherently uncertain and fluctuating conditions (such as many mental health conditions) where it is in the nature of the illness that predicting a patient's future level of need is difficult. For some conditions the success of treatment may be related to a patient's positive outlook; many patients' coping strategies for much-feared conditions involve a faith that they will get better. In both cases, forcing people to prove that they will still need support in six months will be problematic.

40 For similar reasons we believe that some claimants should not be subjected to frequent re-testing of their eligibility. Such re-testing will be stressful – and probably costly.

Other policies

41 Although the Department is only consulting about plans for Disability Living Allowance, it would be wrong not to mention some other planned benefit reforms that we think have worrying implications for disabled people.

42 In particular, we are opposed to time limiting contributory Employment and Support Allowance for those in the Work Related Activity Group to one year.

- 43 The 10 per cent reduction in Housing Benefit for people who have been claiming Jobseeker's Allowance for more than 12 months will be disproportionately likely to affect disabled people. Disabled people who become unemployed are more likely than non-disabled unemployed people to become long-term unemployed and this measure – which will pay no regard to whether or not an unemployed person has been trying to find employment – will penalise some of the most vulnerable unemployed people. Disabled people often need more expensive housing than non-disabled people and will therefore be particularly likely to lose their homes because of this measure.
- 44 Disabled people will also be hit by the local authority cuts. As local authorities respond to the cut of more than a quarter in their funding from central government, they will understandably prioritise their statutory obligations. Discretionary spending – such as support for innovative employment projects for disabled people – will inevitably be the first casualty (especially as it is not ring-fenced.) We are aware that the Royal National Institute of Blind People, for instance, is particularly concerned about this issue, reporting that “a number of local authorities have proposed a reduction in bus services, which could mean blind and partially sighted people having to plan more journeys by car, or abandon their travel plans completely.”²²

Notes and references

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- 1 *Knowing and Understanding Disability and Carers Service Customers*, Janine Hawkins, Carol Goldstone and Meena Bhagat, DWP Research Report 439, 2007, p. 91, <http://research.dwp.gov.uk/asd/asd5/rports2007-2008/rrep439.pdf>
- 2 The Chancellor's speech is at http://www.hm-treasury.gov.uk/junebudget_speech.htm
- 3 *Budget 2010 Policy Costings* http://www.hm-treasury.gov.uk/junebudget_documents.htm
- 4 DWP Information Directorate: Work and Pensions Longitudinal Study.
- 5 “Meeting the Costs of Disability”, Richard Berthoud, in *Disability and Social Policy*, PSI, 1991, p 70, <http://www.psi.org.uk/publications/archivepdfs/Disability%20and%20social/BERTHOUD.pdf>
- 6 *Review of the existing research on the extra costs of disability*, 2005, Mark Tibble, DWP Working Paper 21, p. 21. <http://research.dwp.gov.uk/asd/asd5/WP21.pdf>
- 7 *Trends in the Employment of Disabled People in Britain*, Richard Berthoud, ISER, 2001, p. 42.
- 8 “Low Pay and Disability”, *The Poverty Site*, <http://www.poverty.org.uk/54/index.shtml> accessed on 11/02/2011 22:18.
- 9 *The impact of Disability Living Allowance and Attendance Allowance: Findings from exploratory qualitative research*, 2010, DWP Research Report No 649, <http://research.dwp.gov.uk/asd/asd5/rports2009-2010/rrep649.pdf>
- 10 *First findings from the disability follow up to the family resources survey*, P Craig and M Greenslade, DSS Research Summary 5, 1998, quoted in “Prediction of successful application for disability benefits for people with arthritis using the Health Assessment Questionnaire”, D. S. Memel, J. R. Kirwan, C. Langley, S. Hewlett and M. Hehir, *Rheumatology* (2002) 41 (1): 100-102 <http://rheumatology.oxfordjournals.org/content/41/1/100.full#ref-4>
- 11 *Disability Benefits and Paying for Care*, R Berthoud and R Hancock, ISER Working Paper 2008-40, 2008, 5 <http://www.iser.essex.ac.uk/publications/working-papers/iser/2008-40.pdf>
- 12 *Review of the existing research on the extra costs of disability*, 2005, Mark Tibble, DWP Working Paper 21, p. 1. <http://research.dwp.gov.uk/asd/asd5/WP21.pdf>
- 13 *Review of the international evidence on the cost of disability*, 2008, DWP Research Report 542.

14 *The impact of Disability Living Allowance and Attendance Allowance: Findings from exploratory qualitative research*, Anne Corden, Roy Sainsbury, Annie Irvine and Sue Clarke, DWP Research Report 649, 2010, <http://research.dwp.gov.uk/asd/asd5/rports2009-2010/rrep649.pdf>

15 For instance, on 11 February the *Daily Telegraph* claimed "Two in three benefit claimants are fit for work."

<http://www.telegraph.co.uk/news/newstopics/politics/8317141/Two-in-three-benefit-claimants-are-fit-to-work.html> On the same day, the *Daily Mail* headlined "Nearly 2 MILLION on sickness benefit for years fit for work."

<http://www.dailymail.co.uk/news/article-1355790/Incapacity-benefits-Nearly-2-MILLION-sickness-claimants-fit-work.html?ito=feeds-newsxml> *The Sun* managed "Fit as a Fiddler."

<http://www.thesun.co.uk/sol/homepage/news/3405399/68-on-sickness-benefits-can-work.html> And the *Daily Express* was comparatively restrained, with "70% of Britons on 'Incapacity Benefits' found to be fit for work."

<http://www.express.co.uk/posts/view/228427/70-of-Britons-on-incapacity-benefits-found-to-be-fit-to-work>

These stories related to Employment and Support Allowance. DWP figures (*Employment and Support Allowance: Work Capability Assessment by health condition and functional impairment*, DWP, 2011,

http://research.dwp.gov.uk/asd/workingage/esa_wca/esa_wca_25012011.pdf) show that, of claims since 2008, the breakdown at initial assessment was:

- 22 per cent were awarded benefit;
- 39 per cent were found fit for work;
- 36 per cent had claims that were closed before their assessment was complete;
- 3 per cent were still being assessed.

Having one's case closed before the assessment is complete does not normally mean that a claimant was trying to claim a benefit they knew they were not entitled to. Often it means that the claimant missed an appointment, or filled in a form incorrectly and had to start their claim again. The 39 per cent figure for those found fit for work is not quite what it seems either - 33 per cent of Fit for Work decisions are appealed and 40 per cent of these appeals are successful. So 39 per cent "fit for work" should actually be 34 per cent. These statistics have been widely reported as meaning that a large majority of people claiming ESA are in fact fit for employment, when the figure is more like a third.

16 *Fraud and Error in the Benefit System: October 2008 to September 2009*, DWP, 2010, http://statistics.dwp.gov.uk/asd/asd2/fem/fem_oct08_sep09.pdf

17 Berthoud, 2011, pp. 47 – 8.

18 *Disabled people fear cuts will make life 'not worth living'*, DA, 2011, <http://www.disabilityalliance.org/dlareformpress.htm>

19 *Spending Review 2010 Policy Costings*, HMT, DWP, HMRC, 2010, p. 10, http://cdn.hm-treasury.gov.uk/sr2010_policycostings.pdf

20 *Don't Limit Mobility*, Mencap, Leonard Cheshire Disability, Sense and 24 other disability organisations, 2010, p. 2.

21 "Mencap Calls for Government to Rethink Unfair Disability Living Allowance Cut", Press Release, 2-11-10,

<http://www.mencap.org.uk/news.asp?id=19563&pageno=&year=&menuId=91>

22 *More Than Meets the Eye*, published in January 2011, p. 10.