

House of Commons
Houses of Parliament
London SW1A 0AA

9th December 2020

Attention of: Justin Tomlinson MP

Dear Mr. Justin Tomlinson,

We write to express concern about unnecessary barriers preventing claimants of Personal Independence Payment (PIP) from evoking their right to record their assessments. As the Minister for Disabled People, we write to ask you to consider supporting our proposal for a rule change, to prevent further cases where some of the most vulnerable people in our society suffer, having been blocked from access to the funds they are entitled to.

Members of our action group have given testimony of their overwhelmingly negative experiences of PIP assessments – specifying demeaning treatment and inaccurate written reports by assessors amongst other issues. It is clear these are not isolated incidents; Government figures¹ show high numbers of complaints about PIP assessments and reports by DNS² (Jan 2017) claim ‘widespread dishonesty’ by PIP assessors. The failures of this system are further evidenced by Government figures³ showing that 73% of claimants who are refused PIP following their assessment, win their case when taken to tribunal. This is an astonishingly high figure, proof of the poor quality of the assessment.

Given these appalling reports about PIP assessments, the increasing cost to the taxpayer since the introduction of PIP⁴, and the tragedy of the recent case of 27 year old mother Phillipa Day⁵ (Nov 2020) who committed suicide following the cancellation of her disability benefits because of missing paperwork, we are consoled that claimants are at least guaranteed the right to record their PIP assessment, so that they have evidence to take to tribunal if required. However, in what appears to be a cynical move to prevent this being practically possible for most PIP claimants, rules have been introduced which pose a physical and financial barrier to recording assessments, as well as additional anxiety.

The rules⁶ state that you must provide your own audio-recording equipment and produce two identical copies of the recording on audio cassette or CD. It is stated that the most commonly owned equipment that allows for audio recording - mobile phones and laptops - are ‘not suitable mediums’ for recording assessments. Both CDs and audio cassettes are redundant technologies. Portable dual CD writers unattached

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https://www.independent.co.uk/news/uk/home-news/disability-benefit-assessment-complain-uk-government-a8894341.html?fbclid=IwAR14xiHQsKtWapciFDTK9Lx26uU8BBH5TWUQ_FZjIQiPKDkmttoX63HDF2Q

2

<https://www.disabilitynewsservice.com/pip-investigation-assessment-reports-show-widespread-dishonesty-by-nurses/>

3

<https://www.gov.uk/government/statistics/tribunals-and-gender-recognition-certificate-statistics-quarterly-october-to-december-2018>

<https://www.disabilityrightsuk.org/news/2019/january/obr-welfare-trends>

4

https://www.theguardian.com/society/2020/nov/05/family-of-mentally-ill-single-mother-accuse-dwp-of-failing-to-protect-her?CMP=Share_iOSApp_Other

5

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918328/pip-assessment-guide-part-1-assessment-process.pdf

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to computers are not commercially available at all. The cost of purchasing two audio cassette recorders with the needed cassettes, casing and cables comes to £120⁷, making it unaffordable for most benefits claimants. In addition, cassette recorders are notoriously unreliable and provide poor audio quality⁸. This presents an insurmountable barrier to claimants wishing to evoke their right to have an audio record of the event.

Research undertaken by International Disability Law Clinic at the School of Law, Leeds University⁹ (June 2019) states that:

- The **Department of Work and Pensions' (DWP) delay** in honouring its commitment to put in place recording equipment at every mandatory medical assessment for a PIP, constitutes a **breach of the Government's obligations** under the Equality Act 2010, the European Convention on Human Rights Article 6 and the UN Convention on the Rights of Persons with Disabilities Article 13 – as well as its public law obligations;
- The **Ministry of Justice's (MoJ) failure** to assess (or indeed to acknowledge) the harm that results from the absence of recording equipment at SSCS Tribunal hearings – constitutes a **breach of the Government's obligations** under the Equality Act 2010, the European Convention on Human Rights Article 6 and the UN Convention on the Rights of Persons with Disabilities Article 13 – as well as its public law obligations.

Our action group submits that in lieu of the Government providing the equipment for claimants to be able to record their assessments, the rules must immediately be changed to allow claimants to use digital devices accessible to them (such as mobile phones) to record their assessments.

Audio Specialist Robin Warren offers their signature to this letter as confirmation that there is no technological basis to argue that CD or audio cassettes provide a more robust form of evidence than a digital recording, if the same process is followed for submitting the recording during the assessment. Just as claimants would be required before leaving to provide a copy of the tape to the assessor, so under this proposal, the claimant would email the digital audio file to the assessor whilst in the room. There would, in this set up, be no opportunity for the claimant to alter or edit the digital file, as real time editing requires sound, a digital audio workstation and if attempted would be clearly visible to the assessor. Therefore it poses no greater risk than if the claimant took out a razor blade in order to edit a cassette tape.

We'd be happy to meet with you, if you would like to discuss this issue further. We urge you to consider this proposal and effect a rule change as quickly as possible, and treat this case with the urgency it requires given human lives are at stake. Thank you for reading this letter, and we are in anticipation of your help.

Yours sincerely,



Carina Murray



Kevin Walton



Pritpal Attalia



Liza Vallance



Hannah Kemp-Welch



Kirsty Reynolds



Robin Warren

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https://recoveryinthebin.org/put-pip-and-wca-assessments-on-the-record/?fbclid=IwAR2vWhDaPoB1mLM6Omo-jeOOv6AfKwf3VBoKiAnrOrZaYzrWNspPrWM_SZl

⁸ <http://www.muzines.co.uk/articles/how-it-works-the-cassette/3533>

⁹ <http://www.lukeclements.co.uk/wp-content/uploads/2019/06/For-The-Record-2019.pdf>