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Maria Miller MP
Parliamentary Under Secretary of State and Minister for Disabled People
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Dear Maria Miller,

Re: Disability Living Allowance reform

I am writing to urge you, as Minister for Disabled People, to recall the Public Consultation on Disability Living Allowance (DLA) reform, and to cease work on reform of this benefit, due to serious flaws in the consultation paper. As such, the consultation questions are deeply skewed and any answers will be likely to support wholesale reform. This is both unfair and unwise, and will cause hardship for many disabled people. In this letter I will begin by discussing the problem with your case for reform, and then address the consequences of reform.

First, the case for reform. The reasons given for DLA reform are not robust, with little evidence to support the case for reform and, importantly, no independent academic research. My use of the word 'little' in this context refers to the two pieces of internal DWP papers used as evidence to build the entire case for reform – a footnote for one reference appears twice on consecutive pages. Thus the case for reform falls apart upon even cursory examination.

The wildest claim to support reform is that 'evidence suggests that DLA can also act as a barrier to work'. This passage is footnoted, referring to "Disability Living Allowance and work: Exploratory research and evidence review, 2010, DWP Research Report No. 648" (RR No.648). This report also finds that "the main factor affecting the employment rates of disabled people is their disability or health condition" and that "a larger than average proportion of DLA recipients also appears to be affected by the specific types of impairment that carry the greatest employment disadvantage for disabled people" – yet these findings are not reported in the consultation paper, thus skewing discussion.

In fact, though the report claims that there exists a "perception of disability permanently precluding work is prevalent among individuals with disabilities not already in employment", there is **no evidence** cited in the report that suggests DLA could be a barrier to work. The section and all references to it in the consultation paper could be interpreted as an attempt to misdirect, and should be removed forthwith. Further, it should be noted that the consultation commits the statistical crime of confusing correlation with causation. Whilst RR No. 648 does provide evidence that low employment is correlated with claiming of DLA, this in no way implies that one causes the other.

It could be suggested that the lack of evidence pointing to a need for reform has meant that misdirection was used in an attempt to convince the public that DLA reform is necessary. In particular, the graphs presented as Figure 1 and 2, on page 8 of the consultation paper, used to show the DLA caseload increasing at an alarming rate, are flawed in many ways, not least in the

fact that no baseline is established for when take-up of DLA by people with disabilities plateaued after its introduction in 1992/93. There are further issues regarding the number of Pensioners as the report ignores demographic trends to show that there is a dramatic increase in claims by people over State Pension age. This is particularly questionable since a Pensioners' eligibility for DLA would usually depend on their receipt of DLA prior to this – otherwise, they would be eligible for Attendance Allowance, as I am certain you are aware.

Figure 2 is also misleading as it could be read carelessly as showing that 8% of the population claim DLA. I am loath to interpret this as intentional misdirection but it is, at the very least, a sloppy drawing of graphs. Another example of sloppiness is the first sentence of paragraph 15 of the first chapter, on page 7 of the consultation paper, reading “In just eight years, the numbers receiving DLA has increased by 30 per cent.” This sentence is utterly meaningless and a misuse of statistics although, once again, I do not wish to interpret this negatively. Yet another example of the spurious use of statistics is Table 1 on Page 9 which presents the “Distribution of current caseload by rate combination”. This table appears between two paragraphs – 16 and 17 – arguing that the current system is too complex and the benefit is not understood. This is an odd, and potentially misleading, place for this data to be displayed.

Beyond misuse of statistics, sloppy presentation of data and lack of evidence, there are further points to be queried. Whilst RR No. 648 does give evidence that DLA is complex and not understood by all claimants, as suggested in paragraph 19 on page 10, this is surely grounds for improving the current system rather than expensively replacing it with an entirely new one. Likewise the assertion, in paragraph 18 of page 9, that there is no system to check that rewards remain correct. The statement that “Two-thirds of people currently on DLA have an indefinite award, which means that their award may continue for life without ever being checked to see if it still reflects their needs” is a rhetorical tautology. Indefinite awards are given to claimants with conditions that will not improve. Whilst it is not unreasonable that medical advances in the treatment of a certain condition should prompt re-evaluation of those cases, this could be achieved by augmenting DLA rather than replacing it.

The core argument of the consultation paper is that DLA is a benefit not fit for purpose. Paragraph 9 on page 6 of the consultation paper states that: “DLA is a benefit that provides a cash contribution towards the extra costs of needs arising from an impairment or health condition.” The arguments presented in paragraphs 14 and 15 of page 8, claiming that the benefit is not fit for purpose, do not touch upon the original purpose of DLA or offer any argument as to why it is failing to meet its original purpose. The information presented is that the DLA caseload and expenditure is a “lot more than was originally expected” and the aforementioned misuse of statistics on the increase in DLA claims. No arguments are presented as to why this means that DLA is not fit for purpose. The only way an argument can be construed is to look at the issue with a preconceived idea that there is an acceptable level of DLA claims prior to evaluating the health and impairment of claimants.

Finally, paragraph 2 betrays this preconception by stating: “We believe that now is the right time to reform DLA”, yet offers no qualification or reasoning for this belief. Paragraph 3 continues by saying that: “We must ensure that our resources are focused on those with the greatest need”, with no qualification or definition of the term “greatest need”. This could be pointed to as a suggestion that those with “lesser needs” will have to struggle unsupported with their impairment, and that the definition of needs is at the whim of the Secretary of State for Work and Pensions.

The arguments above demolish the case for reform presented in the consultation paper, dealing with each point made in the consultation paper. I will now address the second part of the consultation paper, explaining why the reforms intended by the DWP will be harmful to disabled people.

Paragraph 4 of Page 11 begins by stating that: “Central to Personal Independence Payment will be

a new, fairer, objective assessment, which will allow us to identify those who face the greatest need, in a more consistent and transparent manner.” The previous section of the paper do not suggest that the current DLA assessment is unfair or that it is not objective, and neither is there evidence that it is inconsistent or lacking in transparency. The current system is assessment by a variety of resources; information from a carer or support worker, the person’s GP, specialist consultant or physiotherapist. Trying to slim down this evidence base to on homogeneous assessment will mean that the impact of disability on the individual is ignored. This is definitely not objective. Paragraph 4 also states that: “We are developing the new assessment in collaboration with a group of independent specialists in health, social care and disability, including disabled people.” What ‘independent’ means is that a private company such as Atos will be contracted to run assessments. This will include meeting with an ‘independent’ healthcare professional – not necessarily qualified as doctors - working for the assessors. The objections to a private company using unqualified staff who know their jobs depend on keeping to strict targets aimed to reduce numbers qualifying for a particular benefit are too many to list.

Paragraph 12 on page 13 of the consultation paper suggests that: “The criteria on which DLA is currently based, on care and mobility needs, are subjective and unclear.” It could be argued that this statement is subjective and unclear as there is no qualification of the statement, and no evidence is offered in support. As suggested in the previous paragraph, the lack of a formalized set of criteria for DLA awards is due to the varying impact of disability, meaning that such a ‘tick-box’ test would not be objective either. The following paragraph in the paper suggests that ‘care’ and ‘mobility’ may not be the best proxies for the additional costs faced by disabled people. The paragraphs also state that “there is currently conflicting evidence on the factors that affect the extra costs that disabled people face in the 21st Century”. The very fact that the only two DWP research reports cited to support offer conflicting evidence raises questions about the DWP’s choice to accept one piece of evidence above the other.

Paragraph 14 of page 13 offers the example: “‘mobility’ as currently defined concentrates on an individual’s ability to walk, not their ability to get around more generally.” It is true, generally, that people with disabilities are more mobile as aids and access have improved. However, this additional mobility has come with extra financial costs, such as new mobility aids, adapted vehicles, taxis. Moreover, it is crucial to remember that additional mobility does not mean universal mobility. Paragraph 15 of page 13 suggests an intention to refocus the Personal Independence Payment (PIP) at those most impaired in their ability to carry out a range of activities, because: “There is some evidence to suggest that individuals whose impairments have the greatest impact are likely to experience higher costs.” This statement is bizarre, as this is exactly what DLA does. Paragraph 16 on page 14 discusses splitting PIP into a ‘mobility’ component and a ‘daily living’ component, with two rates for each component. This suggests that the change from DLA will be a vastly expensive rebranding exercise, as modifying DLA could achieve this..

Paragraphs 17 and 18 on page 14 argue that “The individual must have a long-term disability” in order to claim PIP, so that “an individual’s health condition or impairment must be expected to last a minimum of 12 months”. This will punish those who suffer debilitating short- and medium-term illnesses, but eventually recover their mobility and ability to care for themselves. Whilst people are ill over the short- or medium-term, they will have mobility and/or care needs and face the same extra costs as those with long-tem conditions. They may even have to purchase mobility or care aids for their temporary conditions. Yet this consultation paper seems to ignore their needs. Long-term conditions are also targeted as paragraph 19 on page 15 suggests the end of automatic entitlement for certain conditions. The example of renal dialysis automatically entitling on to the medium-rate care component of DLA is given, and it is argued that: “As a result, eligibility for DLA is sometimes based on medical condition rather than the impact of that condition, meaning that support is not always appropriately targeted.” The meaning of this sentence and argument is completely opaque, unless it is to suggest that one should be denied support because they are too ill to use it; a thoroughly distasteful argument which I refuse to believe that the DWP countenanced.

Paragraph 20 on page 15 of the paper confirms that PIP will continue to apply the same presence and residence criteria as DLA, but may consider a habitual residence test. This will impact on workers not born in this country who develop a disability. This seems extremely harsh as, although it will make PIP consistent with other benefits, whatever one's attitude to immigration, I cannot believe that anyone would argue that a foreign-born individual living in this country should be denied support if unfortunate enough to become disabled.

Paragraph 21 of page 15 argues for the full removal of PIP from individuals in "hospitals or similar institutions or care homes". As care homes take income and savings into account, this will mean that care home residents no longer have any independent income to pay for short journeys or other ways of retaining independence, and become entirely institutionalized.

Paragraph 24 on page 16 states that: "We remain committed to the social model of disability. The new assessment will not be based solely on the medical model of disability and focused entirely on an individual's impairment, but will instead focus on the ability of an individual to carry out a range of key activities necessary for everyday life. " The meaning of this statement is unclear. Paragraph 26 adds little clarification, stating: "Activities we assess could include, for example, planning and making a journey, and understanding and communicating with others. The extent to which an individual could carry out these activities would determine their eligibility for Personal Independence Payment and the level of their award." As I have argued above, such a tick-box approach to the impact of disability is counter-productive and not objective. A person able to complete the activities in your example may still need the same type of support as another who cannot.

Paragraphs 27 and 28 state that PIP will "take greater account of the successful use of aids and adaptations as part of the Personal Independence Payment assessment". This means that successful use of aids – including wheelchairs – could mean that claimants are not eligible or eligible for a lower rate of PIP. This is a ridiculous suggestion. For example Tanni Grey-Thompson – one of the most successful athletes of all time – is a 6 times winner of the London marathon. She is obviously 'successful' in her navigation of London streets. Yet she will face the additional costs of her mobility needs just like any other person with a disability. The general truth is that successful use of an aid does not negate additional mobility costs.

There are other minor points that I could raise, and will do so if you proceed with the Public Consultation. For now I will turn to my conclusions.

The point that most angers me is the focus on DLA as a disincentive to work, which is both false and disingenuous. People who receive DLA do often have lower work expectations as the reform consultation paper suggests, and rightly so as many conditions and impairments make work impossible. Disabled people are often unable to compete equally in the labour market, because of ignorance and fear amongst employers and a lack of willingness to consider making adjustments that may well be relatively cheap and straightforward but are perceived as too onerous. People with high rate awards have the highest levels of impairment and are most likely to be unable to work, regardless of benefits. Those who do work are often only able to do so because of the aids, support or adaptations that DLA or Access to Work allows them to purchase. The focus on moving to work has no place in discussion about DLA other than to make the important clarification that DLA is not work related, and exists to assist with the additional cost incurred when living with an impairment or long-term health condition.

Other problems include the fact that the PIP proposals will see some current recipients of social care losing financial benefits now paid at least in part to the local authorities for receipt of that care. This will force the LAs to make up the shortfall in funding or, more likely, cut care packages. Another aberration in the recommendations made is the impact of these plans on independent living, making that harder to deliver. Removing DLA from those who receive care packages, and especially those in residential care, will not promote independence. Lastly, some people may lose

money as the aids and adaptations they use to enable them to live with their impairment or long term health condition will be seen as negating the need for that financial support, ignoring the fact that the DLA Mobility Component may be the only way of paying for adaptations such as wheelchairs or taxis.

Although the caseload may be cut, PIP will still look very much like DLA. The current system allows for automatic entitlement to DLA for certain conditions. The new system will not allow for this, and will re-asses all claimants every few years. This is not only foolish but also costly as automatically entitled conditions are by nature the most severe and incurable. The only things achieved are the extra cost of unnecessary assessment, and hardship for severely ill people. Further waste comes from ignoring the fact that, unfortunately, people will remain disabled and have impairment-related support needs even if they no longer meet the new thresholds under PIP. They will be ignored up to the point they become seriously ill and end up costing the NHS and local authorities more in terms of hospitals and residential care. Further, the proposed reforms don't take into account the reality that some conditions are severe but acute. Not supporting people with acute illness and disability makes it more likely that this will become a costly long-term problem therefore increasing dependency.

There is a strong feeling amongst people with disabilities that the Coalition Government have declared war on us, with a continual ratcheting since the Emergency Budget in June 2010. Announcements on Employment and Support Allowance, Incapacity Benefit, and Disability Living Allowance have made us feel that the Government is scapegoating us and removing the support on which we depend. Iain Duncan-Smith's comments to The Sun newspaper [01/12/2010] suggesting that Incapacity Benefit claimants were partly to blame for a large fiscal deficit caused by a recession, a bail-out of the banks and quantitative easing. The only way that you can convince people with disabilities that you are not hostile towards us is to halt the current process DLA Reform. Whilst there may be ways to improve DLA, they do not involve replacing it with a new benefit, and neither do they involve removing anyone from the claimant caseload.

I am sending a copy of this by post, and expect your prompt personal reply with distinct reference to each and every point I have made. I am forwarding copies to the Secretary of State for Work and Pensions, and to the DLA Reform Team in your department. I am also forwarding this letter to Hywel Williams MP who represents my constituency, and to Lady Tanni Grey-Thompson. I am sure my MP will read it with great interest, and I know that he will wish to raise a number of searching Parliamentary questions regarding the conduct of DWP during the compilation of the DLA reform consultation paper. I await your reply.

Yours sincerely,

Rhydian Fôn James

cc: Hywel Williams MP (Caernarfon); Baroness Grey-Thompson; The Rt. Hon. Iain Duncan Smith MP , Secretary of State for Work and Pensions; DLA Reform Team