

NAWRA comments on the DWP's evidence to the Public Accounts Committee on 21 May 2018

1. NAWRA welcomed the opportunity to give evidence to the Committee on 21 May 2018. Below are our comments on the evidence from the DWP which was given after our contribution. It is referenced by the relevant question numbers.
2. **Q48** Mr Schofield alleges that letters sent to claimants said 'You could be entitled to income-related benefits'. We do not believe the letters did state this, or at least not reliably. The letter in the appendix to our written report to the Committee (sent to Caxton House in July 2014) sets out a typical award letter which demonstrates how confusing the letters were. It is not clear whether or not the claimant is in receipt of income-related benefits or not.
3. **Q54** Mr Schofield states that the operating instructions for migrating were changed in June 2014. Firstly it was clearly changed before that, as evidenced by the internal guidance supplied at [post 33 of the rightsnet discussion thread](#). However, even if we take Mr Schofield's version, the approach to migration was changed in June 2014 following DWP's acceptance that its actions amounted to official error (paragraph 3.4 of the NAO report). This was four months before the decision in [LH](#) clearly showing that the judgment was not material in changing the DWP's awareness of its actions being an official error. This is confirmed by Mr Schofield's quote from the NAO timeline at Q55 – 'The DWP issued new advice to its decision-makers to prevent future errors'.
4. **Q66** Mr Schofield again claims that the court cases established the position of the law. His evidence is completely inconsistent. As set out above he had already admitted that the DWP clearly knew the law and had agreed it was an official error prior to the court cases.
5. **Q76 and Q77** Mr Schofield again contradicts himself At Q76 he agrees that the DWP's internal arbitration panel in April 2014 concluded that it was official error, while at Q77 he alleges that it was the LH decision in October 2014 which established the error.
6. Mr Schofield's conflicting evidence is repeated again at Q91 even when pushed to reconcile the fact that the June 2013 internal guidance spelt out in black and white that it was one benefit and failure to assess it as such was official error, with his claim that LH was the defining point.
7. **Q95** Mr Schofield correctly identifies that the priority is paying claimants the money they are entitled to. The money that they are entitled to is the full amount that they have been deprived of – that is not blanket compensation but paying them the money that the DWP should have paid them at the time.
8. It is also not blanket compensation to repay for items such as prescription charges where they have been applied incorrectly.
9. **Q103** Mr Schofield attempts to put the blame onto claimants – despite agreeing at Q77 that it was not claimant error. And, as previously stated, the DWP has provided

no evidence of the letters that allegedly told claimants they may be entitled to income-related benefits and the evidence from claimants says otherwise.

10. In summary, NAWRA believes that the DWP have been disingenuous in the extreme. The DWP knew it was in error and it is hiding behind a court case, which was not relevant to the course of events, in order to mitigate its own losses at the expense of severely disabled people who are living, and have been living for some years, below the basic minimum amount that the government assesses they need to live on.
11. **Universal credit to ESA migration** - On a point separate to the IB to ESA conversion, Mr Schofield states at Q51 that they will apply the lessons learned as people are moved across from legacy benefits to universal credit, and at Q117 he repeats that the feedback loop will ensure similar problems are dealt with. We refer the Committee to the problems that are arising as ESA claimants migrate to universal credit and are not getting the correct elements included, as raised in our oral evidence to the Committee. NAWRA's correspondence on this issue with the then Secretary of State David Gauke, and also Neil Couling, can be seen on the [NAWRA website](#) which highlights that there remains a reluctance on the part of the Department to engage with welfare rights advisers with a view to resolving problems at the earliest possible stage.
12. **Standard of ESA letters** - During the evidence hearing, reference was made to the standard of ESA letters and the difficulty comprehending them. As an example I attach a recent letter sent to a claimant on 5 March 2018. The letter starts by saying that the rates of benefit will change from 9 April 2018 but at no point in the letter does it tell her what the rate of benefit from that date will be. However, there is a stream of meaningless dates and figures followed by a calculation relating to 2012!



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WV99 2GP



Phone ~~0345 6088545~~ 0800 169 0310
TEXTPHONE for the deaf/hard of
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Date 5 March 2018

Dear Miss [redacted]

**YOUR CLAIM FOR EMPLOYMENT AND SUPPORT ALLOWANCE
CHANGES IN THE EMPLOYMENT AND SUPPORT ALLOWANCE RATES PAYABLE**

We have looked at your claim again following a recent change.

From 9 April 2018 the rates of some Social Security benefits may change.

From 6 June 2012 your Employment and Support Allowance will be £178.05 a week.

From 10 April 2013 your Employment and Support Allowance will be £181.15 a week.

This is because of:

a change in money coming in.

From 9 April 2014 your Employment and Support Allowance will be £184.80 a week.

This is because of:

a change in money coming in.

From 8 April 2015 your Employment and Support Allowance will be £186.90 a week.

This is because of:

a change in money coming in.

From 15 June 2016 your Employment and Support Allowance will be £175.80 a week.

This is because of:

a change in deductions from your Employment and Support Allowance

From 12 April 2017 your Employment and Support Allowance will be £176.90 a week.

This is because of:

5 March 2018

MISS [REDACTED]

REF: [REDACTED]

a change in money coming in.

From 28 June 2017 your Employment and Support Allowance will be £180.75 a week.

This is because of:

a change in deductions from your Employment and Support Allowance

From 5 July 2017 your Employment and Support Allowance will be £188.00 a week.

This is because of:

a change in deductions from your Employment and Support Allowance

This is because of:

a change in money coming in.

We have used the tax years ending 5 April 1986 and 5 April 1987 to assess your claim.

We will credit you with National Insurance contributions while claiming Employment and Support Allowance.

You are required to immediately report any change in your circumstances to us, or the circumstances of your partner if you have one.

The attached sheet shows how we worked out your money. If you want more information please get in touch with us. Our phone number and address are at the top of this letter.

This assessment is based on how much the law says you need to live on. You have not paid, or been credited with, enough National Insurance Contributions for them to be used in this assessment.

HOW THE MONEY WILL BE PAID

The money will be paid every two weeks for as long as you are still entitled to Employment and Support Allowance.

We will pay your Employment and Support Allowance into your account. (Your account details are known to us but have not been stated in this letter for security reasons). Any payments made to you will be paid into this account. Tell us straightaway if your account details change.

A payment of £376.00 has already been issued to you for the period from 21 February 2018 to 6 March 2018.

If you want a full explanation of why your Employment and Support Allowance has changed, please get in touch with us. Our phone number and address are at the top of this letter.

WHAT TO DO IF YOU THINK THIS DECISION IS WRONG

If you think the decision is wrong, please get in touch with us by telephone or in writing, **within one month of the date of this letter**. If you do not contact us within one month of the date of this letter we may only be able to change the decision from the date you contact us. Our telephone number and address are on the front page of this letter.

You can appeal against this decision, but you cannot appeal until we have looked at the

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MISS [REDACTED]

REF. [REDACTED]

decision again. We call this a **Mandatory Reconsideration**.

You, or someone who has the authority to act for you, can:

- ask us for an explanation of the decision, or
- ask for a written statement of reasons for the decision, if we have not already sent one
- ask us to look at the decision again, to see if it can be changed. There may be some facts you think we have overlooked, or you may have further information that affects the decision.

When we have looked at the decision again, we will send you a letter explaining what we have done. We call this a **Mandatory Reconsideration Notice**. This will include the information you need to be able to appeal.

If you disagree with our record of your contributions, please tell us at once. We will check your records and tell you the result. If you still disagree you can ask for a formal decision.

PLEASE KEEP THIS LETTER FOR YOUR INFORMATION

It will help us if you have this letter when you make any enquiries or need an explanation about the decision.

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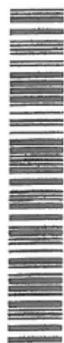
MISS [REDACTED]

RE [REDACTED]

How Employment and Support Allowance has been worked out

The Employment and Support Allowance Award

The payment of Employment and Support Allowance is based on your National Insurance Contribution records and any additional amount the law says you need to live on.



.....	
Your living expenses	£71.00
Extra money because you are severely disabled	£58.20
Extra money because of the Disability Income Guarantee	£14.80
Limited capability for work addition	
Extra Money because you are in the Support Group	£34.05
Which gives a total income-related amount	£178.05

Income and Benefits

DLA - Care Comp for you
is not counted as income towards Employment and Support Allowance.

DLA - MOBIL COMP for you
is not counted as income towards Employment and Support Allowance.

No income will be taken off your Employment and Support Allowance

Your income-related amount is £178.05 less total income of £0.00

So your income-related entitlement is £178.05

The amounts on this page apply from 6 June 2012 to 21 August 2012.

Yours sincerely

J Hatfield J Hopkins

Manager