

nawra

national association of
welfare rights advisers

Safeguarding vulnerable claimants Work and Pensions Committee Inquiry

NAWRA Response

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The National Association of Welfare Rights Advisers

1. The National Association of Welfare Rights Advisers (NAWRA) was established in 1975 as the Welfare Rights Officers' Group, and then the National Welfare Rights Officers' Group before becoming NAWRA in 1992. It represents advisers from local authorities, the voluntary sector, trade unions, solicitors, and other organisations that provide legal advice on social security and tax credits. NAWRA currently has more than 200 member organisations.
2. We strive to challenge, influence and improve welfare rights policy and legislation, as well as identifying and sharing good practice amongst our members.
3. NAWRA holds four conferences throughout the year across the UK, attended by members from all sectors of the industry. An integral part of these events are workshops that help to develop and lead good practice.
4. Our members have much experience in providing both front line legal advice on benefits and in providing training and information as well as policy support and development. As such NAWRA is able to bring much knowledge and insight to this consultation exercise.
5. NAWRA is happy to be contacted to provide clarification on anything contained within this document. NAWRA is happy for details and contents of this response to be made public.

Executive summary

6. NAWRA's response to this inquiry was informed by an online survey as well as seeking views at one of our conferences attended by around 200 members. In summary, members felt that DWP –
 - should be accountable and have a safeguarding responsibility due to its role providing essential financial support to some of the most vulnerable people in society;
 - should be more transparent about the measures it is taking to safeguard claimants including having a clear escalation route to advanced customer support service leads (ACSSLs), and placing the criteria for IPRs in an easily accessible place on gov.uk including a clear referral process;
 - did not provide enough choice in how claimants can access benefits, or enough support to help them make a claim and manage it;
 - failed to provide clear, accessible and accurate advice – examples were provided of unnecessary 'gatekeeping' or inaccurate advice given by DWP helplines;
 - did not enable easy communications with third parties such as advisers;
 - do not have a clear system for easily identifying vulnerable claimants;
 - was inconsistent in its approach to vulnerable claimants – while there were some instances of good practice, these were occasional rather than the norm; and

- failed to make vulnerability checks before deducting money from a claimant’s award such as deductions for debt or sanctions.
7. As a result, NAWRA sets out a series of recommendations including to –
- Use a ‘trauma-informed’ approach to dealing with claimants, for example by –
 - Holding a proactive discussion with the claimant at the start of a claim to find out any reasonable adjustments needed;
 - Not carrying out unnecessary reviews;
 - Sharing information between sections to ensure claimants do not have to unnecessarily repeat themselves;
 - Using the implicit consent model for universal credit in line with all other benefits to enable third parties to speak more easily on a claimant’s behalf; and
 - Building in more time for appointments for vulnerable claimants so they are not rushed and ensuring a private room is offered.
 - Provide clear and reliable escalation routes.
 - Develop a system for additional support markers on claimants records similar to that used by PIP.
 - Develop and publish clear policies in relation to preventing harm and ensure they are followed consistently.
 - Publish the criteria for Internal Process Reviews and the process to refer to it.
 - Ensure that a discussion is held with a claimant before any deductions are applied to an award (whether deductions for debt or sanctions) to ensure that they will not result in harm.
 - Provide regular follow up after a sanction to check the claimant understands their obligations to comply and also has accessed hardship payments where appropriate.
 - Ensure that claimants are signposted to independent advice and ensure that funding is in place for agencies to provide it in a timely manner.

DWP’s responsibilities and accountability

8. Almost 98% of survey respondents felt that DWP should have a safeguarding responsibility. Key reasons included –
- Similar to other public bodies, the DWP owes a duty of care to its claimants.
 - DWP is a statutory safeguarding partner by virtue of section 6(7)(d) *Care Act 2014*¹.
 - DWP’s policies, practices and procedures can have a huge impact on the wellbeing of vulnerable claimants and they should have a duty to ensure that they are not causing harm - safeguarding should be embedded in all aspects of DWP’s approach.
 - One of the biggest risks to vulnerable people is poverty or losing their income – because DWP has power to affect this, a duty to protect against the consequences goes hand in hand with it.
9. Parameters that could be used to define the duty could include –

¹ <https://www.legislation.gov.uk/ukpga/2014/23/section/6>

- Giving options to the claimant about how contact should be carried out eg in person or by phone.
- If action or inaction by the Department could lead to harm, then either steps should be taken to avoid it or a referral should be made to an appropriate organization.
- No money should be withdrawn without a check in person to check the claimant's safety – this includes sanctions.
- A vulnerable flag should be placed on the records of claimants who may need extra support as with PIP² and external agencies should be able to request this.
- Appropriate systems should be in place to share information within and without the DWP to protect the claimant.
- Ensuring any third parties that are involved, eg advisers, are kept fully informed of progress or developments in relation to the claimant.
- Proactively identifying claimants who may be at risk and taking action where there may be a need for safeguarding from other organisations.

10. 78% of survey respondents felt the DWP was not adequately transparent about its safeguarding measures for vulnerable claimants, including how the IPR process works and what is being done to implement lessons learned – the remaining 22% were unsure. Similarly, 80% felt that the DWP was not adequately transparent about how it is held accountable in relation to its safeguarding failures, with only 2% of the remainder feeling the DWP was sufficiently transparent.

11. Comments in relation to transparency included –

- It is difficult to know the different responsibilities of DWP leads – in particular, it appears that external agencies cannot generally make direct referrals to the advanced customer support service leads (ACSSLs).
- All too often, when complaints are made, no information is given about changes that are being made to the system in response to the issue.
- Call handlers often refuse to give information to identify themselves – there is an unwillingness to take accountability.
- When advisers raise issues of vulnerability these are not reliably taken into account – many advisers report cases where they had explained a claimant's difficulty in attending face to face appointments and no account was taken of this.
- DWP often fail to record complex support needs on claims when they should do.
- Many DWP staff do not seem to be aware of their duties under section 42 of the *Care Act 2014*³ to share information to support safeguarding enquiries.

Case study 1

I had a claimant who couldn't leave the house with long-standing agoraphobia and mental health issues. She had been providing fit notes to go for WCA but she missed some work-focused interviews (WFIs), didn't communicate well and got sanctioned. She tried to rearrange but they insisted she attend the jobcentre to present her fit note in person and would not reconsider the sanction unless she attended. I got involved at that point and

² <https://questions-statements.parliament.uk/written-questions/detail/2023-01-30/135440>

³ <https://www.legislation.gov.uk/ukpga/2014/23/section/42>

they agreed on the journal that she could have a phone interview instead, but then they sent her another face to face appointment and insisted it had to be face to face. Each time the claimant had these set backs she withdrew and it was hard for her to engage with me and tell me what was happening. By this time the sanction had been going on for 3 months and she was at high risk of eviction, the housing cost element didn't cover full rent and she couldn't make up the shortfall while sanctioned. She had no money and had to rely on friends and family and was destitute. We put in a complaint and they agreed to do the new WFI on a video call instead of in the jobcentre. It isn't clear if this example has been sent for review but it was put in on an online complaint and that sped everything up. Just to note on this case that they did know she had had no money at all for 3 months, had mental health issues etc.

Case study 2

I have had clients who were actively suicidal at the time of the health assessment who have been asked how they had planned their suicide... and no safeguarding referral or process followed by DWP.

Ensuring benefits are accessible

12. Vulnerable claimants face many challenges when trying to make a new benefit claim including –

- Getting accurate and reliable information – there is inconsistency in what DWP/call centre staff say and it is not always accurate – information on gov.uk is not easy to find.
- Inappropriate gatekeeping – see case study 3.
- Getting independent help and advice – there is a lack of funding for advice and some geographical areas are hit worse than others – a strong advice sector is an important safeguard for claimants and must be fully funded.
- Avoiding the risk of fraud and financial abuse.
- Not having enough choice about what channel to use – some may struggle with digital claims, while others may find phone claims or paper claims difficult – a claimant should be able to choose the channel which they feel most comfortable with.
- Difficulty submitting digital forms if you don't know the answer to all the questions.
- Claim process doesn't always collect relevant information to apply law correctly eg – in order to apply the exemption to the single room rate for housing costs for under 35s.
- Experiencing long waits on the phone.
- Difficulties setting up three way calls.
- Language problems due to poor literacy or English not being the first language.
- Decisions not always being given formally with appeal rights set out.
- Not having ID or other evidence that is required

- Experiencing fear and lack of understanding about what needs to be provided or done, both at the start of the claim and to maintain it.

Case study 3

Claimant's daughter phoned to start a claim for PIP for her mum and was told, after checking her mum's NI number that there was 'no point' in her applying for PIP as she was in receipt of carer's allowance. Daughter felt 'stupid' and didn't continue with the claim. Following advice from an advisor, the daughter rang back and was told there was a message on the screen saying she was 'not eligible' to claim PIP. The call handler said he could not take the claim any further and refused to accept the claim.

Case study 4

A 17 year old was sent away to try and obtain documents himself - he failed to return and the claim was closed. A Social Worker had to intervene. It would have been better if the DWP could have contacted the Social Worker in the first instance?

13. While survey respondents said the Help to Claim service can be very effective, many commented that the loss of the face to face facility and the change made to operate it on a national rather than local basis has meant that the service cannot support claimants as it did when it was first in operation – vulnerable claimants often need face to face support and local knowledge in order to successfully register a claim.
14. Comments were also made that, while Help to Claim may work to get the initial claim registered and first payment made, after that things can fall apart as the support goes no further.
15. In terms of what DWP could do to improve support for vulnerable people to make a claim and to ensure they do not delay, the following were suggested –
 - Ensure there is a full choice of channel available to make claims including claims in person, home visits, paper claims, phone claims and digital claims.
 - Extend backdating provisions to provide more flexibility where claimants have not managed to claim in time for good reason.
 - Provide email/phone numbers/escalation routes for professionals to use so that issues can be easily resolved.
 - Have more support within the jobcentre for Help to Claim and fund other external support that claimants could be referred to directly.
 - Proactively check with each claimant (perhaps on claim form) whether, and what, reasonable adjustments are needed and ensure they are in place – ensure a vulnerability flag is put on the case where it will always be seen.
 - Have a process whereby claims which are started but not completed are followed up, particularly where it has been indicated that reasonable adjustments are needed.

- Work collectively with external organisations who are supporting the claimant and provide more funding for those organisations.
- Bring back the implicit consent model.⁴
- Ensure that staff on the helpline are adequately trained and are not giving advice that they are not qualified to give.
- Ensure that it is clear a claim can still be made even if the claimant doesn't have a national insurance number or a bank account.
- Change the story that goes with claiming benefits – entitlement rather than 'scrounging' and come from a position of belief rather than challenging.

Preventing harm

16. In terms of DWP's current measures to ensure vulnerable claimants are safeguarded against harm and their effectiveness, NAWRA members commented that

- The Advanced Customer Service Support Leaders (ACSSLs) could be very helpful. However, DWP currently has a policy whereby external organisations cannot refer direct to them which means they are far less accessible (although some advisers have managed to keep a contact number).
- One adviser observed that the Special Point of Contacts (SPOCs) had developed a good working relationship with their Care Leaver's Service enabling them to get issues resolved more quickly.
- Additional support markers are used on PIP cases to ensure that a claim is not terminated if a form is not returned. However, no equivalent system is used in universal credit and claims are 'closed' all too easily – see case studies below.
- The escalation lists – a list of phone numbers to use to escalate cases where normal routes have failed – have not been updated since April 2022. The DWP has told stakeholders that it is reviewing its escalation processes but nothing has materialised in the past 18 months.
- While advisers have observed different measures being used eg use of the visiting service, referrals to Adult Social Care and sometimes even the police, these measures do not seem to be consistent and seem to depend on the individual member of staff rather than there being evidence of a policy or procedure with certain steps always being taken.
- Where advisers are supporting a claimant, DWP do not reliably keep that adviser up-to-date with developments which means claimants can slip through the net much more easily.
- Resources are an issue - one adviser commented 'they have a system but it is only as good as those who manage it' and said they had spoken to someone who worked on the universal credit helpline who told them that on one day they had just two managers to contact for the whole country to ask for assistance with safeguarding cases.
- Systems which had been observed to work effectively, although unfortunately not consistently, included –

⁴ <https://www.gov.uk/government/publications/working-with-representatives-guidance-for-dwp-staff>

- Case conferencing before sanctioning;
 - PIP/UC85 reports where assessor had filled in a referral to a claimant's GP to inform them of suicidal ideation;
 - The vulnerability policy within debt collection; and
 - Division of lump sum payments into smaller amounts.
- However, many advisers commented that they did not see effective measures in operation – overall it seemed that what happened was much more down to the individual rather than a clear policy.

Case study 5

On one occasion the jobcentre was made aware the client can not access the online claim and needs help with accepting claimant commitments - no visit was arranged, not sure what contact was arranged but the end result was claim closure.

Case study 6

A client was sanctioned for around 6 months and had been living off the food he found in bins. I attended jobcentre with this customer a few years ago and asked if they are aware the customer could not read and write - they replied they only have 10 minutes for appointments and wouldn't ask this question or do much to find out.

17. 64% of survey respondents felt that the DWP did not have an adequate understanding of the vulnerable claimants that use the benefit system and the support they require – the remaining 36% only felt that they did 'sometimes'.
18. 95% of respondents felt that DWP did not do enough to monitor the wellbeing of vulnerable claimants and the remaining 5% only felt that they did enough 'sometimes'.
19. 82% of respondents felt that DWP did not have sufficient processes in place to ensure that benefits are not withdrawn from vulnerable claimant when there is a risk that it will cause serious harm to the claimant and a further 16% felt that they only sometimes had processes in place.
20. Examples of these failures include –
 - Deductions being made from a universal credit award before the rest of the claim had been correctly established ie all elements in place.
 - Pensioners had had their pension stopped, sometimes for a year, where they have failed to reply to a letter.
 - Despite serious concerns being logged in a journal by an adviser, there was a failure to put in place any protections.
 - When claimants are sanctioned, there is no follow up or check to see if they need further support due to their money loss.

- 97% of sanctions are for failure to attend appointments⁵ when this will often be due to vulnerability but no checks are made.
- Within universal credit, there is no proactive discussion about vulnerability.
- Inappropriate pressure towards an online claim where it is clear the claimant does not have the skills/ resources to maintain it.
- Unnecessary reviews being carried out - eg new claimant commitments, health assessments – which then result in loss of benefit if claimant fails to engage.

Case study 7

A 23 year old care leaver on universal credit and with a diagnosis of Autism Spectrum Condition, ADHD and epilepsy. There is evidence on the Adult Social Care system of numerous self harming attempts by cutting himself with sharp objects and that this service user uses self harming as a coping mechanism for dealing with stress or negative outcomes in his life. He disengaged from the jobcentre due to a mental health crisis and was sanctioned.

Case study 8

A 56 year old Polish man who has lived and worked in the UK for 18 years. He lost his job in 2022 and claimed universal credit. There was a problem with claiming the housing costs element and he went into rent arrears. He stopped taking his anti-depressant medication and began using alcohol to self medicate against the stress of the situation which quickly deteriorated and reached crisis point where he was no longer able to function due to alcohol dependence and abuse. He disengaged from the Job Centre and was also sanctioned.

Note: Both cases above have the same features in common. Both cases should have had the limited capability for work-related activity element applied to them and had their conditionality reduced to a minimum but due to their health conditions, vulnerabilities and crisis circumstances had not been able to submit a sicknote and engage with the WCA process. They therefore did not have the protection against sanction that they should have had. The sanction decision in both cases had caused a severe worsening of the crisis situation and a severe risk of harm in each case. The 23 year old man had become highly distressed and agitated and at high risk of further self harm. The 56 year old man was described by a relative on his Adult Social Care notes as “trying to drink himself to death”.

Case study 9

I helped a client to report via her journal what her mental health problems are and what easements she requires. She is unable to go out in daylight without support, so asked for all appointments by telephone. We specified regulations, case law and guidance in support of this. She continued to be given face to face appointments and each time had to ask for it to be converted to telephone, and if it was not converted to telephone she had

⁵ <https://www.gov.uk/government/statistics/benefit-sanctions-statistics-to-may-2023-experimental>

to give reasons for failing to attend afterwards every time to avoid a sanction. On 6 February she missed an appointment and once again explained her mental health as her reason for failing to attend. She was sanctioned and received a payment of only £26 to live on for a month from 27 March 2023.

Note: Despite intensive support from the adviser the mandatory reconsideration was unsuccessful and it had to go to appeal before the sanction was removed.

Case study 10

17 year old schoolgirl advised 'not entitled as in full time education', sent away from Jobcentre and claim closed. No attempt to ask about circumstances (she was recently bereaved and without parental support) or consider why she might have a tenancy at such a young age. No follow up. No attempt to contact landlord. No decision issued so no appeal rights.

21. On a scale of 1 to 100, NAWRA members gave DWP a score of 22 for how successfully it worked with external agencies to ensure that important information is shared between organisations.
22. More than two-thirds of members (70%) were not sure whether DWP had a framework in place to review the effectiveness of its cross-agency communication and collaboration with a further 28% feeling that they didn't.
23. More than half (52%) of member felt that the guidance for dealing with vulnerable claimants – including the universal credit six point plan framework (which was referenced in the questionnaire) – was inadequate. The remainder were unsure.
24. Comments in relation to the above included –
 - In some cases advisers had built up very good relationships with their local DWP which had helped get sanction decisions overturned in a matter of days. However, there were also comments about inconsistency between areas and turnover of staff changing things.
 - Some organisations covered a large geographic area, or were national, and did not have the capacity to build local relationships. In addition, the DWP are not proactive in building relationships and one social landlord said the jobcentre had not responded to an idea of regular meetings.
 - In relation to the six-point plan comments were made that –
 - It needed more examples;
 - There should be guidance on de-escalating phrases or what to say when a client says they will hurt themselves;
 - There was no indication on the plan as to where previous threats would be recorded or ways to record whether this was something that had happened before;

- It says that you can assume a third party can manage the situation, even if they are just a friend or neighbour, without any real guidance as to how to assess if they are competent to do so;
 - It is reactive, presenting threats of self-harm or harm to others as events stripped of any context – the cause of the behaviour, and whether DWP failures might be part of it, are not explored;
 - It fails to address the systemic, negative impact of the Department’s culture on very vulnerable people; and
 - It doesn’t deal adequately with vulnerabilities like self-neglect – as in the case of Errol Graham – and the effect that removing benefits could have.
- Where advisers felt the plan was adequate some commented that it does not reliably get used.

Reviewing failures in safeguarding

25. On a scale of 1 to 100, NAWRA members gave the IPR process of investigating allegations of case mishandling a score of 18.
26. More than two-thirds (69%) of survey respondents did not know the IPR criteria for accepting a case review (a google search failed to find it although we were later able to locate it in the DWP annual report and accounts⁶). Of the remainder, half were unsure and the other half said they were not appropriate.
27. In respect of improving the criteria, members commented –
- Lack of availability made it difficult to make constructive comments - the criteria should be published on gov.uk and easily accessible – it is not acceptable that the only place to find them is embedded in the annual report and accounts.
 - It was felt that the DWP was not transparent – rather there was a culture of being defensive – trying to protect reputations rather than admitting wrong doing.
 - An independent body should review the process.
28. 44% of respondents felt that the DWP are not adequately implementing lessons learned from IPRs to ensure that mistakes are not repeated – the remainder were unsure. It is worth highlighting again that, were the DWP more transparent and willing to accept accountability, this could change things considerably.
29. 74% of respondents did not think DWP had effective processes in place to identify and address larger systemic issues around safeguarding.

Conclusion

30. Many of the claimants DWP work with will have undergone some kind of trauma – defined as *‘when an event, or series of events, overwhelm an individual’s capacity to*

⁶ <https://www.gov.uk/government/publications/dwp-annual-report-and-accounts-2022-to-2023/dwp-annual-report-and-accounts-2022-to-2023>

psychologically self-regulate and can negatively affect the individual's internal wellbeing, inter-personal relationships, and functioning in society in their lives'. Research⁷ highlights the importance of services taking into account trauma when dealing with their customers –

'Services that are 'trauma-blind' (i.e., that fail to adopt a trauma-informed perspective) may (mis)interpret client behaviours as aggressive, unreasonable, disrespectful or manipulative. In contrast, trauma-informed services situate people's behaviours within the context of what has happened within their lives, enabling service providers to anticipate, and overcome, some of the barriers that can prevent clients from engaging fully. Trauma-informed care therefore involves a 'paradigm shift' for organisations from pathological narratives of 'what is wrong with you?' to instead asking clients 'what happened to you?'. Trauma-informed services recognise that 'any person seeking services or support might be a trauma survivor, and therefore proactively redesign their operations to avoid inadvertently re-traumatising service users.'

31. NAWRA believes it is essential that DWP undertake a trauma-informed approach in all their dealings with claimants. This could include –

- Proactive discussion with a claimant at the start of a claim about their needs and any reasonable adjustments that they require (eg choice about channel of communication, situations to avoid, need for a private room for meetings) and making sure that this is clearly recorded and adhered to.
- Not carrying out unnecessary reviews but using information that is already held on the system where possible.
- Ensuring that information held by the DWP is shared between sections so that claimants do not have to keep repeating themselves.
- Where requested, liaising with third parties without unnecessary repeated checks for consent including using the implicit consent model within universal credit as with other DWP benefits, and ensuring that DWP keep advisers/support workers informed where consent has been given.
- Ensuring that work coaches have sufficient time to allow claimants to say what they need to say without being rushed and a private room should always be offered if face to face – flexibility should be built into the appointment system so that more time can be used if needed.

32. Other recommendation to improve the DWP's approach to supporting vulnerable claimants and protecting them from harm include –

- Providing a clear and reliable escalation route for all DWP benefits including referral to ACSSLs from third parties if appropriate.
- Developing and publishing clear policies in relation to preventing harm and ensuring that these are followed consistently – this should include having in place procedures to monitor whether they are being followed and proactively taking action where they are not.

⁷ <https://s31949.pcdn.co/wp-content/uploads/Scullion-et-al-2023-Towards-a-trauma-informed-social-security-system.pdf>

- Ensuring that the criteria for Internal Process Reviews are held in an accessible place on gov.uk with a clear referral process.
- Having a system for placing ‘additional support markers’ on the cases of universal credit claimants who are known to be vulnerable (as used with PIP).
- Ensuring that there is a discussion with a claimant before any new deductions are taken from a benefit award (whether deductions for debt or sanctions) to ensure that they will not result in harm.
- Where a claimant has been sanctioned, providing regular follow up to ensure the claimant is not experiencing hardship and that they have taken all action needed so that the sanction is cleared as quickly as possible.
- Ensure that claimants are signposted to independent advice, and that funding to the sector is increased so that agencies can provide it in a timely manner – a strong advice sector is an essential safeguard for claimants.

33. NAWRA believes that, without doubt, DWP owes a duty of care to its claimants who will include some of the most vulnerable in society. It is of paramount importance that the Department does all it can to ensure that claimants do not come to harm, and that it is transparent in the steps it is taking to ensure that this is the case. In addition, if things do go wrong, the Department should openly acknowledge it and set out the actions it is taking to ensure mistakes are not repeated.