HOUSE OF COMMONS

Public Accounts Committee

Oral evidence: Employment and Support Allowance, HC 975

Monday 21 May 2018

Ordered by the House of Commons to be published on 21 May 2018.

Watch the meeting

Members present: Meg Hillier (Chair); Sir Geoffrey Clifton-Brown; Caroline Flint; Luke Graham; Gillian Keegan; Shabana Mahmood; Stephen Morgan; Anne Marie Morris; and Lee Rowley.

Sir Amyas Morse, Comptroller and Auditor General; Adrian Jenner, Director of Parliamentary Relations, National Audit Office; Joshua Reddaway, Director, NAO; and Marius Gallaher, Alternate Treasury Officer of Accounts, HM Treasury, were in attendance.

Questions 1–158

Witnesses

I: Geoff Fimister, Policy Co-Chair, Disability Benefits Consortium; and Daphne Hall, Vice-Chair, National Association of Welfare Rights Advisers.

II: Emma Haddad, Director, Working Age Benefits, Department for Work and Pensions; Peter Schofield, Permanent Secretary, Department for Work and Pensions; and James Wolfe, Director for Disability Employment and Support, Department for Work and Pensions.

HOUSE OF COMMONS

Report by the Comptroller and Auditor General

Investigation into errors in Employment and Support Allowance (HC 837)

Examination of witnesses

Witnesses: Geoff Fimister and Daphne Hall.

Q1 **Chair:** Welcome to the Public Accounts Committee on Monday 21 May, 2018. We are here today to do a couple of things. After our first panel, we will welcome the new Permanent Secretary at the DWP to his first hearing as Permanent Secretary—I am sure he is thrilled. He has been in post since January, and this will be his first time in front of us.

Also, we will be looking at a National Audit Office Report on errors in the employment and support allowance and how that has been administered. It has left a large number of people—an estimated 70,000—owed money in unpaid benefits. The NAO's Report is a reminder that when the Department makes errors, it has a big impact—something that, as a Committee, we highlight and that, as MPs, we see very much at our surgeries.

The average underpayment for each person affected, just going back to 2014—there is an argument about how far we go back on that—is around £5,000, but in some cases it is more, so it is significant for the people involved. There are wider issues about how the DWP works and how it can deal with such errors when they arise. We will ask the Permanent Secretary about that. I warn him now that a range of other issues are on the agenda. I am sure he is fully prepared for all of that.

On our first panel we have Daphne Hall, vice-chair of the National Association of Welfare Rights Advisers, the body that first started picking up some of these issues.

Daphne Hall: It was the rightsnet website that picked it up. I work for rightsnet, but I am also the vice-chair.

Q2 **Chair:** It was the website, where your members are very active.

Daphne Hall: Our members are active on it, yes.

Q3 **Chair:** Thanks for that clarification. That's important.

Geoff Fimister is the policy co-chair for the Disability Benefits Consortium. Thank you very much for coming. We want to get a flavour of how the ESA issue has affected people on the frontline. Before we finish, we would like you also to give us any other concerns that you have or issues that you think we should raise with the Department.

Daphne Hall, on the issue of ESA, which came through some of your members, can you talk us through how people first noticed this and began to realise that there was a trend coming through?

Daphne Hall: It was probably 2013 or 2014. The thread started in 2014. Advisers had been seeing people come in. They were not coming in because they were getting the wrong level of benefit, because they did not know. It has to be said that the standard of the DWP letters was shocking.

Even as an adviser, trying to make head or tail of what someone was on and why was really difficult. People were seeing it and just dealing with clients on an individual basis, but there were too many of them. I thought, "Something's going wrong here." At the first posting, someone said, "I'm seeing loads of these. Is anybody else?" They wondered whether it was a local issue.

Then, within 24 hours, it was coming from all over—Scotland, Wales and other places in England—that they were all seeing the same. So I think probably it was at the beginning of 2014 when advisers realised it was systemic, and that is when we started—other than just dealing with individual cases—to try and escalate it to a more national level. The first letter went off in July 2014 to Caxton House to try and bring it up at national level.

Q4 **Chair:** Was it from the national association?

Daphne Hall: It was from an individual adviser in Derbyshire, who is a member, but he took it upon himself to write the letter, and he shared it on the thread so that people could see what was going on.

Q5 **Chair:** So, effectively, one individual uncovered this?

Daphne Hall: He is the one that started it off, to his credit.

Q6 **Chair:** I should think a lot of people want to give him a pat on the back or buy him a pint.

Daphne Hall: Yes, he is owed a pint for sure. Definitely.

Q7 **Chair:** Geoff Fimister, I don't know whether your advisers were picking up this issue at the same time. How has it affected the people that your organisation supports?

Geoff Fimister: The Disability Benefits Consortium represents more than 80 individual organisations across the range of disabilities. For DBC members, obviously employment and support allowance is an issue that will affect a significant proportion of their clientele to one degree or another, whether that is in the support group or the work-related activity group. Clearly, the transition from the earlier benefits to ESA is something that we have all been interested in. We have picked up on cases where it has gone wrong in the kind of way that Daphne describes. It is something that is common to the advice sector in general.

Q8 **Chair:** Since this has been uncovered, obviously there have been some actions by the Department. Now people you are advising are aware they have lost the money—or are they yet? Obviously it is going through the Department bit by bit. This 70,000 people—

Daphne Hall: Yes, there will be lots of people out there who do not know. The bit I forgot to say before was that a lot of people were coming in because they had had fines from the NHS Business Services Authority, because they had claimed free prescriptions or free dental treatment, and they were on the contributory benefit. That is how a lot of the cases came to advisers. Then the advisers did a check and realised.

It is difficult to know. There are still cases coming up where people did not know. They have not seen the press. I know it has been in the press, but a lot of the people who are affected by it perhaps will not have realised the impact. I imagine there are thousands and thousands out there who do not yet know what is happening. Certainly, when the DWP did its pilot of contacting people—the pilot of the trawl they have now started—initially they were phoning people cold, which was a bit difficult. They are now doing a letter first, but a lot of people did not know what this was about. There are people who do not know.

Q9 **Chair:** Geoff Fimister, do you know of people who do not yet know, but who may have paid out other costs, such as for their dental treatment?

Geoff Fimister: I couldn't point to specific research on that issue but, generally speaking, where people are living below the level they should be living at, these are quite large amounts of money relative to the low incomes that people experience on benefits. Whenever, in the benefits world, you do a benefit take-up campaign and you find people not claiming benefits that they should be claiming, or if you are doing debt advice and you are trying to maximise their incomes and enable them best to cope with outgoings, you constantly come across the scenario where difficulties of all kinds with paying bills and dealing with outgoings result from being on an income level lower than they should be on. That is absolutely a common experience.

Q10 **Shabana Mahmood:** What is your general experience of seeing issues arising in the benefits system and trying to communicate with the DWP? What is your perception of their attitude towards people such as yourselves and towards vulnerable claimants when they are raising issues with the system?

Daphne Hall: Are you talking on an individual level, or when we do more national liaison?

Shabana Mahmood: A bit of both, actually, but more on the national liaison for a big issue like this.

Geoff Fimister: I can give you very live examples. I have dealt with the DWP and its predecessors for many years. I always find officials, on the whole, as individuals, co-operative and amiable, but I feel there is a lack of an institutional sense of urgency when something actually does go wrong.

I am a consultant to the Thomas Pocklington Trust, in the visual impairment field, and we do a lot of work jointly with the Royal National Institute of Blind People as well. At the moment, we have two issues on the go with the personal independence payment, where we have two sets of guidance that we think are incorrect.

We think that they do not fit the legislation or the case law, and we think that sooner or later claimants will have to be identified, and it will have to be sorted out. In one of these instances, it appears that independent assessment services have actually devised the guidance themselves without the Department's knowledge. I think that is worrying in terms of the contract management.

We have those two sets of guidance likely to cause a need for retrospective payments. We finally have a meeting with officials later this week to discuss those two issues, and that is some four months after we first drew it to officials' attention. While that is going on, more and more cases are being wrongly decided and will have to be identified. To be fair to the DWP, they would say that they do not agree with us that the guidance is incorrect, but we think that it is.

Q11 **Chair:** I am not sure that I heard right. Did you say that some of the assessment centres had devised the procedure themselves?

Geoff Fimister: Yes, this is PIP—daily living, activity 6, which concerns help with dressing. The Thomas Pocklington Trust started getting reports, initially from the north-west, that claimants were not being awarded points for needing help with dressing. To cut a long story short, we discovered that there was guidance that said that a visual impairment in itself was not sufficient to score points. That just isn't right.

We probed that, and we got hold of documentation from Independent Assessment Services quoting the guidance in some detail, which they said was DWP guidance. The Department initially wouldn't acknowledge that the guidance existed. They eventually decided that it did, but said that it had been developed by IAS without their knowledge, and that that shouldn't have happened.

They say it is an isolated occurrence, but we don't know how many assessors actually received this guidance and how many cases it affected. We will talk to the Department about that later this week. Nevertheless, the guidance exists and is out there, and it is being used to make wrong decisions.

Q12 **Shabana Mahmood:** You said "lack of an institutional sense of urgency", which I thought was quite a nice way of putting it. Do you think that is more pronounced when dealing with cases in which claimants—particularly the most vulnerable—have been underpaid, as opposed to where overpayments occur in the system? Please be frank.

Daphne Hall: That is a really pertinent point. Yes, if somebody has been overpaid, the letters come quickly. Going back to your initial question, it is a real mix. I represent NAWRA on rightsnet's operational stakeholder meetings, which are national meetings with staff. It is a real mixed bunch. I have to say that there are some people there who are really good and who really fight hard to try to sort things out, and we bring things to their attention. They sometimes hit a brick wall within the bureaucracy of the DWP; they are trying to make the changes, but they can't.

Another example of one we are fighting at the moment is where people move from ESA to Universal Credit—what they call "natural migration"—because of a change in their circumstances, which is typically moving house or something. The extra bit that they got in ESA because they have limited capability for work or work-related activity should automatically be transferred over into their Universal Credit, but it hasn't been. At the beginning, it wasn't happening at all.

It has been improved, but it is done clerically. It involves a decision maker filling in a form and sending it off to ESA and getting it back, and lots are slipping through the net. We raise it over and over with stakeholders. I don't think four months is too bad, because we have been raising this for well over a year now. We raised it with stakeholders. Eventually, NAWRA wrote to David Gauke, who was then the Secretary of State, in approximately October or November. He passed it on to Neil Couling.

Q13 **Chair:** Just so we know, who is Neil Couling?

Daphne Hall: He is the director general of Universal Credit. We had a bit of correspondence, which I am sorry to say ended with Neil Couling accusing NAWRA of scaremongering by raising the issue, which I thought was completely inappropriate. We hadn't taken it to the press, we hadn't tweeted about it—we had just written to him to say that we were concerned and that the issue needs resolving. That is what we are there for—to try to sort things out, not to make things difficult. He basically blanked us; he didn't want to know. I found that really unconstructive.

Geoff Fimister: If I might just add to that, my feeling is that you can essentially see why the DWP would be reluctant to concede that there was a systemic problem that required a trawl, because those trawls are very resource-consuming and take time, and staff have to be diverted from other things, so I can see why there is a reluctance to concede that. The problem with that is that the thing spins out before it is finally conceded, and it then becomes a bigger problem.

Q14 **Shabana Mahmood:** It becomes a much bigger task later on. I just want to come back to what Ms Hall said about some people in the system—frontline staff—wanting to make changes and hitting a brick wall. Do they express to you the reasons why that happens?

Daphne Hall: For example, through the stakeholders forum we have some very good contacts in Universal Credit. We can just email them, and they email us to ask things. They can sometimes get things sorted just like that. They will really make their best effort to do that. However, they sometimes hit a brick wall when they are trying to change things.

For example, on the ESA to Universal Credit move, I know they were trying, but it wasn't progressing. I am not saying that the DWP don't want to try to resolve that—I think they do—but sometimes they don't listen when we try to raise things. That is what it feels like. We raise things over and over. We have evidence that shows that things are wrong. I often send them a thread from the forum, because then they can see what is happening and that it is happening all over. They really appreciate that.

Sometimes, when getting the ball rolling and making the changes, it seems like things could be done quite simply. Maybe I don't understand it; you think there would be tweaks that they could do. We suggested training or guidance going out. Sometimes it's just hard to make things happen.

Q15 **Caroline Flint:** The DWP is probably one of the few Government Departments that can command and control from the centre. It seems so to me, being a former employment and welfare Minister. What do you think should change? Benefits do change over time—we know that. They have to be fit for purpose for the age we live in. What lessons do you think there are from this to improve? In trying to get certainty before something is delivered on the ground, and to ensure that things are better and that people understand what they are meant to be doing, what changes would you like to see?

Geoff Fimister: A greater sensitivity to what is happening on the ground in issues that may be systemic and may cause a problem. There needs to be a better upward flow of information from the frontline, as it were. When people such as the agencies that Daphne and I am representing raise things, they should always be taken seriously, because these are, on the whole, pretty skilful welfare rights advisers, and they do not raise things for the fun of it. So it is a question of escalating upwards to a more senior level more quickly. Reading the NAO Report, I think that has been conceded by the Department, but I think it would certainly help.

Daphne Hall: Pretty much the same thing: communication, listening and communicating back if they need more information. We are there. We want to get it resolved as quickly and easily as possible.

Q16 **Caroline Flint:** Which should be the Department section that you can go to and know that you will get a response?

Daphne Hall: The stakeholders forum—that's what it is there for. We have three monthly meetings, but we can email them in between, and I am regularly emailing. It is not that nothing gets us on—I don't want to create that impression. Some things can work, but sometimes it seems to hit a brick wall. I don't know whether that is more within the DWP. We raise it and get it there, but it is what happens after that. Sometimes it works and sometimes it doesn't, so it is difficult for us to know always why it does and why it doesn't. There are definitely some people who are more open to suggestions than others. But I guess that is always the way.

Geoff Fimister: There are several stakeholder forums of one kind or another. They could certainly be a vehicle for that sort of communication, but there is also communication with the DWP's own frontline staff, because, in my experience, they are often quite knowledgeable, and they pick things up themselves, so there is a channel that needs developing there.

Daphne Hall: The unions—the PCS—sometimes raise issues, if things are coming up, as well.

Q17 **Caroline Flint:** What you seem to be saying—I don't want to paraphrase you too much—is that there is a structure there, which could be used. Information is fed in through that. It is just that, in this particular situation, it was just not acted upon.

Daphne Hall: Yes, I think that is probably fair.

Geoff Fimister: That is exactly what has happened with the examples with PIP that I gave. We raised it with the PIP stakeholder forum, as I say, about four months ago, and we are only just getting a meeting together.

Daphne Hall: The UC one is going over a year, and it is still not sorted. This is people being underpaid again—the same sort of thing.

Q18 **Sir Geoffrey Clifton-Brown:** I represent the National Star College, which helps some of our most severely less-abled youngsters to get some independent living and independent work, if possible. The errors in this allowance would in some cases cause some very severe hardship. How sympathetically and urgently are the DWP now treating these cases?

Daphne Hall: I can give you a case study from someone who spotted in January this year that they had been underpaid. It took them eight or nine phone calls and a complaint, and then they finally got paid at the beginning of March. The client was suicidal by then. Interestingly, they backdated it in full, to prior to October 2014, which is what they have been doing. Virtually all the cases up to 2017 were backdated in full, because they knew it was an official error. Suddenly, they found this court case—well, maybe we will come back to that.

Q19 **Sir Geoffrey Clifton-Brown:** Has your workload increased? Because of the recognition by the Department, they now know they are entitled to it. Has your workload increased as a result?

Daphne Hall: It is a bit early days for that, because the trawl only started at the beginning of April; up until April it was only cases that were coming to advisers' attention as and when. Now that the letters are going out—that started at the beginning of April—I haven't really picked that up yet. I guess people will be going in with their ESA3 forms, which is the form they have to fill in, and that might increase things, but it is a little bit early at the moment to know.

Q20 **Chair:** I suppose you may also get people coming in asking whether they are affected, even if they have not had a letter.

Daphne Hall: Yes.

Geoff Fimister: The general experience in the disability field is that the advice services are at full stretch anyway because there has been an increase in problems with the standard of decision making in both PIP and ESA. The Work and Pensions Committee has done a lot of work on that. Whether we would be seeing an increase or not is hard to say, given the pressure that is there anyway.

One of the things that concerns me—we were talking about arrears before—is that most claimants probably wouldn't know there was something wrong with their arrears payments. They wouldn't be familiar with that. I certainly endorse the point that we would regard this as official error and that it should be fully backdated.

Chair: And there is that legal dispute at the moment, which we will certainly raise with the Permanent Secretary.

Q21 **Anne Marie Morris:** It seems to be a very clunky system. Whenever the Government decide to move to a different benefit system there are almost artificial timelines and deadlines put into this, which simply does not seem to work. I am not entirely clear why. If you understand why, I would love the clarity.

My second question is about what happens to somebody who goes through the work capability assessment and does not get into the WRAG group or a group that would give them ESA. They then appeal, and on appeal it is found that they would be in a group that would entitle them. Do they get lost in the system or have they been time-barred from then going after what they are entitled to under ESA?

Daphne Hall: If it was a new claim for ESA it would not be relevant, so you are thinking about someone who is on ESA getting called in for the work capability assessment. It should be fine, because, as I understand it, with the trawl they are looking at every case migrated from incapacity benefit between the beginning of 2011 and the end of 2014, regardless of what happened to them after that. It is the point of migration that is key. Anyone, whether they have stopped being on benefit, have got better, have died, have moved on to Universal Credit—whatever it is—as I understand it, and we have had meetings with them, the trawl should pick up everyone. If they were migrated from incapacity benefit to ESA they should be okay and get picked up.

Q22 **Anne Marie Morris:** This is my final question. We are looking at a very serious error here, which has disadvantaged many people very seriously and very significantly. The focus now is to get them the money that was owed to them. Should there be a separate issue about maladministration for what they have, if you like, suffered? Their lives have been fundamentally changed and there is a financial cost to that. Is that something that any of your individuals have looked at?

Daphne Hall: In our report, one of our recommendations was that they should not only backdate in full because it was an official error. They told the NAO in April 2014 that they knew it was an official error, so they cannot really then say that this legal case six months later established the legislative thing. They already knew how the legislation was interpreted. That was just a standard upper tribunal decision saying that they had got the thing wrong. It was not a test case; it was just another upper tribunal decision.

So they should get it backdated in full—get all the money back—and yes, one of our other recommendations was that there should be financial redress. There is a policy for that. It is a means-tested benefit which, as we know, is the bare minimum the Government think you need to live off. Some of these people were getting only two thirds of their correct rate of money.

The disability premiums they were missing out on are there to meet the extra costs of disability—perhaps extra heating, taxis so they are not so isolated, or a special diet. It could be any number of things. These people were living—for years, some of them—without that money. It is incomprehensible what it would have done to their lives.

Q23 **Chair:** The compensation thing is always interesting because it can take a lot to prove, trawling through old paperwork, what you could get. Have you suggested a formula for compensation?

Daphne Hall: I think the priority is to do the backdating and then the compensation.

Geoff Fimister: We haven't come up with a formula, but when the dust of the various legal challenges that are on the go at the moment settles, if the 21 October 2014 limit stands at the end of that—I hope it won't—there is a very strong moral case for the DWP to compensate claims anyway, going back before that, for the amount. I understand that the DWP will know how much has been truncated by the limit.

Chair: That is food for thought, given that the Permanent Secretary is here and listening. Anne-Marie Morris, did you have anything else?

Q24 **Anne Marie Morris:** I guess it would be quite interesting to know about these additional payments. The Chair asked whether there was any way that you could assess that. Clearly, when the Government say, "There is this much owing", they are not taking account of any of that. If you did try to take account of that, do you think we are looking at doubling these sorts of figures? Can you quantify it?

Daphne Hall: I am not a compensation expert; I wouldn't know.

Geoff Fimister: If we are talking about a scenario where the October 2014 limit stood, then in each individual case the DWP will know how much has been lost before that date, and at the very least there will be a case for compensating people to the equivalent of that loss.

Q25 **Anne Marie Morris:** But is that included in the figures that are in this report, or is that—?

Geoff Fimister: Yes, the gross cost is, but my understanding is that in individual cases the DWP will also have that information.

Daphne Hall: Having done the trawl, if the legal case is successful and they do backdate it, they will have all the information to pay everybody; they won't have to do a second trawl. They will have the information there to pay out. So, as Geoff says, they have got that information.

Q26 **Luke Graham:** Just a quick question. Acknowledging the kind of passporting that applies to the ESA, do you know the extent to which some of the claimants have missed out on other benefits, because they have been cut short on ESA? Do you have any idea of the scale of that problem, or its extent?

Daphne Hall: I do not think we can quantify it, can we? I mean, it is all the standard passporting things, like the dental costs, free school meals, access to budgeting loans. I think it is virtually impossible to quantify what people couldn't get.

Geoff Fimister: I know of no evidence that would enable us to quantify that, but it has been a matter of concern to advice agencies that the trawl in fact does not take that into account.

Q27 **Chair:** The trawl doesn't cover that?

Daphne Hall: No, because the prescription stuff is NHS Business Services Authority, so they don't have that information. And, of course, if someone doesn't apply for a budgeting loan, you can't quantify it.

Q28 **Chair:** Wow. I can see the ambulance-chasing lot getting into this as well, potentially.

Q29 **Shabana Mahmood:** On section 27 and the ongoing legal challenge, what is your sense of the extent to which claims have been paid and backdated in full—so, to the date of migration, or even post that ruling? I know that you said you have just had a case.

Daphne Hall: Yes, in 2018 and there were lots in 2017. In our report—I don't know whether you saw—there were some charts, because I basically asked that: "When was the backdating to?" And by far the majority—I think it was around about 70%—were backdated all the way, sometimes with a bit of a fight, but sometimes very easily. It just depended.

I am just looking at the graph. Yes, about 65% got it all the way back to the date of migration and it would be the more recent cases that didn't. Somewhere on the thread, there is someone ringing up the DWP and the person there says, "Oh, they've realised there's a lot of these cases. We're now limiting the backdating. They've put an amendment in." And I think that was probably around about the 2016 or 2017 time, when they were looking for something to let them off the hook a bit; that's my view.

If a claimant gets overpaid, they come straight at you; if it's their fault, they have to pay it all, even if it was done completely innocently, and they can have a civil penalty on top. That is what happens to the claimant. And here we've got these people who are severely disabled. By virtue of the fact that a lot of them are in the support group, they are not likely to get back to work. The DWP has assessed them as that and the DWP is trying to limit money that those people were legally entitled to.

Q30 **Chair:** Aside from that, of course, there is a large number of people—70,000—to go through this process. Are you able to help influence whether some of the most vulnerable people get dealt with earlier in the queue?

Daphne Hall: No. I am picking up from advisers that if you try and sort of jump the queue, and get in there first, they sort of say, "We're doing it on our own"—they go off to Oldham.

Q31 **Chair:** I can see the arguments both ways.

Daphne Hall: Yes. It's difficult because do you try and push it through?

Q32 **Chair:** But if somebody is really struggling, because they are—

Daphne Hall: Advisers are trying to do it so that what happens now is that if you pick one up, it gets sent—there may be some other centres, but Oldham is certainly one of them. I think there were four centres. And then I think it's a matter of how much you phone them and pester them; you might get it pushed through quicker. But then somebody else gets moved down. It is really difficult; it's going to take a full year to do. It's a long time. And some of these people might still not be on the right money while they are waiting for that.

Q33 **Chair:** While you are here, and we have the Permanent Secretary in the room and we are about to ask him questions, are there any other issues that you think need particular attention, or that we or our sister Committee, the Work and Pensions Committee, should highlight with the DWP, in terms of the service that your clients are getting?

Daphne Hall: Particularly the moving of people from ESA on to Universal Credit. It is not as bad as it was—there have been some improvements—but people are still slipping through the net. Engaging with us and talking to us about it would be—

Chair: It sounds like "Help!" is what you are saying.

Daphne Hall: Yes—if Mr Couling would like to come back to me.

Chair: There was a smile from the Permanent Secretary at that point, so that is good.

Geoff Fimister: Mine would be the recommendation of Paul Gray's independent review of PIP and of the Work and Pensions Committee's examination of ESA and PIP, that assessment reports should be automatically available to claimants. If that were to happen, it would have a behavioural effect on the quality of the assessments, which would be a big step forward and quite a simple thing to do.

Daphne Hall: We could probably go on for longer, but—

Q34 **Chair:** We are all for openness on this Committee. I cannot speak for the

Committee, but I hear what you are saying. Thank you very much indeed. It is helpful to hear from you; it makes it really live. As you say, some very vulnerable people are affected by this and are now waiting potentially up to a year to get their money back—and in one big lump, which has its own challenges. Will that affect anyone's entitlement to other benefits?

Daphne Hall: That reminds me of the point I wanted to make. If the DWP will accept that it is official error, as it is, there is legislation—I cannot remember the exact one—that says any capital is disregarded for as long as you remain entitled to that benefit, whereas the standard one is just for 52 weeks. Obviously, for those people with £20,000 sums, it is very important to have that disregarded. That is another really important thing to establish.

Chair: That is when clerical error is agreed?

Daphne Hall: Official error, yes. If they accept that it is official error, it gets—sorry, if it is more than £5,000 it gets that—but that is the key amount really, because at £6,000 your benefit starts to get affected.

Chair: Do you have anything to add to that Mr Fimister?

Geoff Fimister: No, I agree with it.

Daphne Hall: We always agree!

Chair: Thank you for your time. The transcript of this and the rest of the hearing will be up on the website uncorrected in the next couple of days, so have a look. Our colleagues at *Hansard* are excellent, so I do not think you will have any problems, but please look at it. Feel free to stay for the second half of the session if you wish. Thank you for coming in today.

Examination of witnesses

Witnesses: Emma Haddad, Peter Schofield and James Wolfe.

Q35 **Chair:** Welcome to our second panel of witnesses. I will not repeat what I said before, except to welcome Peter Schofield in particular, who is the Permanent Secretary in the centre of the panel. He has been at the Department for Work and Pensions since January and has managed to avoid a hearing in front of us since then.

This will be the first of many times spent together. We are looking forward to it, and I am sure you are too. We are particularly keen to cover a number of issues, as well as the substance of the National Audit Office Report. I should also welcome the other witnesses. From my left to my right, we have James Wolfe, who is the director for disability employment and support at the Department for Work and Pensions and Emma Haddad, who is the director for working-age benefits at the Department for Work and Pensions. I think you have been in front of us before, Ms Haddad?

Emma Haddad: Not the PAC, but other Select Committees.

Chair: Forgive me. It is good to have a woman from the Department in front of us, so welcome to you. We want to talk a bit about Universal Credit, as you might expect, but before we do that, I want to pick up on the issues raised by our sister Committees—the Work and Pensions Committee and the Treasury Committee.

Obviously, we have all been following the Motability issues—the excessive pay and the challenges there. They have come out with their report today, which is very timely. Motability is obviously a charity. In their hearing, Frank Field, the Chair of the Work and Pensions Committee, asked whether they would open up their books to the National Audit Office. Although we understand some negotiations are under way, the National Audit Office has not received formal notification of that. Can you update us, Mr Schofield, on where that is at?

Peter Schofield: Absolutely. It is great to be here, and thank you for your welcome.

Chair: You say that now.

Peter Schofield: Well, ask me at the end!

You asked about Motability. We have now seen a letter from the chair of Motability, Lord Sterling, to the Chairs of the Committees, as you say. I am really glad to say that the chair has now agreed that for the purposes of, I think, section 6 of the National Audit Act 1983, Motability can now go on that list of bodies that the National Audit Office can review for value-for-money purposes. I am delighted we have got to that point. I think that now, formally, it is for the Comptroller and Auditor General to agree to take forward a value-for-money study. I very much hope that he will.

Q36 **Chair:** How long will that permission run for? Is it a permanent arrangement?

Peter Schofield: I think it can be done on that basis for around three years. I think our intention is that this is very much for value-for-money purposes, and not that the Comptroller and Auditor General becomes a formal auditor of Motability. I think he will be relieved by that. It is very much to do exactly as you said, Chair: it is to enable the National Audit Office to look at whether the unique status that Motability has is leading to the sort of benefits that we want to go to claimants actually materialising, including the full effect of having a lower credit rating and the formality and clarity of how the payments are directed.

Q37 **Chair:** I sense from your demeanour that you are perfectly happy with that arrangement. Is that a fair assessment?

Peter Schofield: Look, our Secretary of State wrote asking for this to happen, so we are very pleased that it will happen now, subject to Sir Amyas's willingness to do this. I look forward to seeing what conclusions are raised by the National Audit Office review.

Chair: Perhaps I can ask, Sir Amyas, what you are now going to do. This letter is winging its way to you as Comptroller and Auditor General. Can you share with us your plans about what you are now going to do with Motability?

Sir Amyas Morse: I will offer a few thoughts. One is that I have not yet received the letter; I will certainly answer it when I do. Assuming it is in line with what I have been led to expect, of course we will accept to do some work. What we will try to do is understand the major elements in the Motability operation, because you cannot pick and choose unless you can see it all fairly clearly and understand how it works—how the financing works and all that stuff works.

You need to do that because you need to look at the pay levels: what they are being paid to do, what they are in charge of, whether there is good public value in the assignation of mobility allowance—all that. We are aiming to travel around, do a pretty thorough job of understanding and produce an accountant’s report about all of that.

I am not disappointed to learn that I am not being installed as a temporary financial auditor. We will try to do a really thorough job of understanding with, as in all our work, no preconceptions about it.

Chair: Thank you for that, Sir Amyas. We are all looking forward to seeing that, and hats off to the Chair of the Work and Pensions Committee for pressing Motability in the hearing to offer up this, although it has taken a while to get here. Once the letter arrives, we will hopefully be in the right place.

On Universal Credit, I am going to ask Gillian Keegan to get an update from you, Mr Schofield, on where things are at.

Q38 **Gillian Keegan:** Can you start by giving us an update on how the roll-out of Universal Credit is going and some data and stats on how much has been rolled out so far?

Peter Schofield: We are rolling out now. We slowed down the roll-out to enable us to implement the Budget changes. If you recall—you know all about those. Those were put in place through January, February and the final one was put in place in April. We are now able to accelerate the roll-out to jobcentres.

Q39 **Chair:** To be clear, this is the two-week extra payment for a housing—

Peter Schofield: That was the last one to go out, in April. We got rid of waiting days in February; I think it was 14 February. Then in the new year, the first one we introduced was extending the advances. You can now get your full anticipated monthly entitlement as an advance, and you pay back over 12 months, rather than six. All those things we have put in place. That is the entirety of the £1.5 billion package announced by the Chancellor in November. We slowed the roll-out. I think we were only doing 10 jobcentres a month through that period. In May, we are doing 41. We are then increasing to 60 a month from June onwards, with the aim to have completed the roll-out to all jobcentres by the end of 2018.

Q40 **Gillian Keegan:** Where you have rolled it out, do you have any data or figures on the take-up of alternative payment arrangements? I think that is where people need to have some kind of loan system or something to help them if they have a disconnect between the payment cycle and the rental cycle, for example.

Peter Schofield: In the housing element of Universal Credit? Yes. I do not have the data with me, but I can certainly write to the Committee with further details. We are, as you know, currently discussing a report on Universal Credit with the National Audit Office anyway, so I am anticipating—

Chair: That you'll be back.

Peter Schofield: I am anticipating that I'll be back, but I can certainly write to you.

Q41 **Chair:** I think it might have been Neil Couling who was in front of us before who said that it was a very low percentage of what was available. Do you know if it has gone up, or stayed static? Can you give us even a ball park?

Peter Schofield: It has been going up. The key thing that we have done is introduce the landlord portal, in response to quite a lot of stakeholder discussion about things that we could do to facilitate the whole process. The landlord portal and introducing the concept of "trusted landlords" makes it much easier. Where a landlord who is a trusted partner believes that a claimant who is moving from housing benefit into Universal Credit, whatever their circumstances, and that the housing element should be paid direct to the landlord, it makes it much easier for that whole process to work effectively.

Q42 **Gillian Keegan:** Do you have any data on how many Universal Credit claimants are choosing that option? Is it a choice to get housing benefit paid directly?

Peter Schofield: I think you were asking for more detail on that, Ms Keegan. I can certainly provide you with that. It is a discussion. They can ask for that; it is also a discussion that landlords can raise, if they are a trusted partner. It makes it much easier for that whole process to work.

Q43 **Gillian Keegan:** Do you have a final business case now to proceed to the managed migration? Is that in place?

Peter Schofield: We have a final business case agreed with the Treasury. As I say, the National Audit Office has been looking through that final business case and is writing a report, which we are currently discussing.

Q44 **Gillian Keegan:** Is that finally agreed with the Treasury?

Peter Schofield: Yes.

Q45 **Gillian Keegan:** Can you give us an update on split payments and the automation of split payments? Do you have a plan to automate split payments—split bank accounts?

Peter Schofield: Again, I can write to you on that. I don't know the—

Chair: The DWP Select Committee got a bit of an update on this at the end of April, but I wonder if there is any update since then.

Peter Schofield: I don't think we have any more updates on that, but if you like I can write to you, or we can talk about it when Neil and are back in.

Chair: Thank you. We'll make a judgment on that.

Q46 **Caroline Flint:** Lots of people who are on ESA will be transferring over to Universal Credit. I know we are coming on to more detail, but what changes have you made from your learning from what we will be discussing later on? Have you made any changes—more staff training, for example, so that they know what they are doing?

Peter Schofield: Absolutely. We are absolutely aware of the point that the previous panel was making. We are doing a number of things in terms of training, and looking, in time, to automate that process. I think the last panel—I might need to re-read the transcript—although they were concerned, recognised that we were improving on this. This is an area where we need to make sure that, as we roll out, we improve.

Chair: That brings us very nicely to Ms Shabana Mahmood.

Q47 **Shabana Mahmood:** Thank you very much. If we go right back to the beginning of the ESA roll-out project, it was a pretty complicated process to migrate people from the much older benefits of IB and so on, on to ESA. What assessment of the risks of that migration process did your Department identify at the point that process began? What were the risks that you were aware of?

Peter Schofield: The legislation was passed in 2008. The work around the whole process of migrating was done in 2010. There was an independent review, a pilot, and the Social Security Advisory Committee looked at the whole process. We identified that this was going to be complex, but I think that the whole process that we used is brilliantly set out, if I might say so, in the NAO Report. It sets out, in paragraph 2.3, the sort of consideration and process that we went through. We put in place a process that, at the time, we believed was the right one, consistent with the legislation.

Q48 **Shabana Mahmood:** Thank you for that, Mr Schofield. And yet the process seems to have been flawed because it has missed something that now seems wholly straightforward. There are two types of benefit. One leads you to getting more money because there are premiums attached to that aspect of the benefit, and people were not put on to that path when they should have been. Why was all of this review work from 2008 to 2010 so flawed?

Peter Schofield: Let me start by saying that, clearly, the courts found that we had got this process wrong, and I am sorry for the fact that this happened. Hopefully that sense came out of the Report as well.

Everything that we are doing right now is trying to make sure that we can put this right and get the money to the people who are entitled to it. I want to get that point in, but you rightly pushed back to what was going on in 2010.

We commissioned an internal review of what happened so that we could look into this. It is referred to in paragraph 3.15 of the NAO Report. Looking back, reading the paperwork, and trying to think about what was being thought about at the time, people put in place a process that they felt was going to reduce the burden on the claimant. After all, the claimants were going to have to go through a work capability assessment. If these were people who currently were not claiming income-related benefits, then I think it was felt at the time that we did not need to put them through a process of capturing again all of their income data.

At the time—it is set out in paragraph 2.3—we wrote to them and said, "You could be entitled to income-related benefits", and we also phoned them. The data that we have got suggests that some 130,000 people who were initially moved across to contribution-only ESA were then subsequently moved to income-related ESA. I imagine that was because they were responding to the communication that we raised with them at the time. Quite rightly, and as this Report clearly sets out, the approach was wrong in law. That is what the 2014 case and also the 2015 case made clear, so we have now got to put that right.

Q49 **Shabana Mahmood:** With respect, I am not so worried about the law; the law will take care of itself. I am worried about the approach of the Department when it creates processes for very big changes that have a massive impact on the lives of the most vulnerable in our society.

So, with respect, I am going to carry on pushing back on this point because it is not just a matter of clarification of law. It is a matter of the process. On that process point, you say that you carried out trials and a pilot, which obviously missed something that now seems glaringly obvious to everybody that should have been spotted at the outset, but the Social Security Advisory Committee did ask for a pause and that advice was ignored. Why was that?

Peter Schofield: We wanted to move on. The Government decided that they wanted to move on and progress with the roll-out of ESA. I do not believe the Social Security Advisory Committee raised this issue as a reason not to progress. We reviewed the views of SSAC and this point was never raised. Neither, as you say, was this raised in our pilot.

Look, we got it wrong. I am not going to defend the fact that we got it wrong, because that is clearly what the court has said. In a sense, you are asking me to justify that. As I say, none of the people moving across were claiming income-related benefits at the time. If they were, they would have been on income support at the time. Everyone who was on income support within this group moved on to the income-related ESA. So these people were not claiming income-related benefits.

As we would often do, we try and communicate with customers. We wrote to them, we phoned them, and 130,000, we believe, then moved across. That has left 70,000, according to our sample and the work that we did during the second half of last year, who we believe did not move across, did not respond to our letters, and did not respond to our phone calls. As a result we need to put that right. I am committed to putting that right as quickly as we can.

Q50 **Shabana Mahmood:** I will pick up on that in a moment. I just want to finish on the point about the process when the migration took place. Was any legal advice taken to test the robustness of the system that was being created for the migration?

Peter Schofield: This is one of the things that came out of our internal review, which has been reviewed by the National Audit Office as part of its Report. As far as we can see, there was a lot of work going on between policy and operational colleagues to develop and refine the mode for migrating people away from incapacity benefit into ESA, but we cannot see any evidence that they had legal support at that point. That clearly is not what we should do. That is not the process, and it is not something that we would do going forward.

Q51 **Shabana Mahmood:** Many changes to the benefit system happen, and many migrations from one system to another have to take place in your Department. How often is it the case that these different individuals within your organisation do not talk to one another and that legal advice is not taken at the outset?

Peter Schofield: I think it is very rare, in my experience. The next big migration we are looking at, of course, is Universal Credit.

Shabana Mahmood: Indeed, and we have already been talking to you about Universal Credit.

Peter Schofield: Exactly. There are a clear number of lessons that we have learned and that we will apply when we move people across from legacy benefits on to Universal Credit. We have changed the whole procedure, so we will make absolutely sure that there is legal advice at this point. There will be legal advice throughout.

I guess the key thing is that we will be treating every migration as a new claim, so we will be capturing income data at that point alongside everything else. We will make sure that we get it right as part of the claim.

Q52 **Caroline Flint:** What is quite interesting about this is that we have a reassessment process for all sorts of things for people in receipt of benefits of one form or another, because the Department says, “Well, something might change—we’ve got to reassess people.” You do not seem to have used that same logic when migrating people from a legacy benefit to a new one, to say, “We’ve got to have a check and balance here to reassess people, because something might have changed, or we might not have the information that is necessary, because it is more complicated to move them from one to the other.” Why is that?

Peter Schofield: Ms Flint, you are asking about what was done in 2010. Our internal review has reviewed that, and clearly the procedures that should have been followed to get legal advice were not. Paragraphs 2.3 and 2.4 set out a little bit the mindset of where we were in 2010 and what people were trying to do. I think that my colleagues at the time had all the right intentions. They did not want to put people through an onerous customer journey. They wanted to move them across—

Q53 **Caroline Flint:** I am not trying to suggest that somehow there was a secret plan to deprive people of what they were entitled to, but if you look at paragraph 3.2 of the NAO Report, on page 23, first of all it says that the Department has not "been able to find specific instances of correspondence because its records only go back to 2014." I find it quite interesting that there is no record before that. It also says, "We have also seen advice for decision-makers from June 2013, which shows that the issue was raised by front-line staff before this date." What is the mindset of an organisation that is not listening to the views of the people, most importantly, working and advising individuals on the ground and not hearing, literally, from the coalface what is happening?

Peter Schofield: Our internal review looked at that, actually, and assessed what was going on in 2013 into 2014.

Q54 **Caroline Flint:** What was the mindset then? What do you think the mindset was when somebody from the frontline met many people and put back into the Department, "Look, hold it. There is a problem here. This is happening"? You obviously have the stakeholder committee and everything else. What is it that, at the centre, seems to say, "Computer says no"?

Peter Schofield: But that isn't what happened, with respect, Ms Flint, back in 2013, into 2014. At that point, we had a process where people were looking at the guidance for people in the frontline—the operational instructions—and they realised, in the light of what people were finding as things came to decision makers, that there was something wrong. That led to an arbitration panel within the Department in April 2014. That then led, in June 2014, as is set out in the Report, to the whole operating instructions for migrating being changed.

Q55 **Chair:** There is a handy timeline in figure 8, on page 24, which is a useful aide-memoire for us all.

Peter Schofield: Yes, it is a really useful timeline actually. You have the timeline, and then below that you have various boxes. The one in June 2014 says, "The Department issued new advice to its decision-makers to prevent future errors". I am stopping the sentence at that point, but the NAO are right to say that we did not address historic cases.

Q56 **Caroline Flint:** But that does not take away from the fact that, at the outset of a major change to this form of benefit—from incapacity benefit to ESA—there was not the forethought about potential different scenarios that might occur, and how individuals are therefore assessed as they migrate. Also, there was information coming back into the Department.

Although there was a guidance change in 2014, the Department still waited to 2017 to really get anything done.

Peter Schofield: No, I disagree with that. The guidance meant that, for any migration after that point, we would collect income data. We closed the door at that point. The challenge that you as a Committee could put to me after that is, "Okay, you closed the door, but why did you not then address the ones that had already gone through the migration?" I am anticipating your future questions. The first part of your question, Ms Flint, looked back to what was going on in 2010. Let us remember that in 2010 we had two benefits: we had income support, which was available to people with health conditions and was income-related, and then we had incapacity benefit, which was a contribution-based benefit. We were migrating into ESA, which itself had two elements.

I think the logic that was being applied was that the two elements roughly equated to those two previous benefits. Rather than put the claimants through the burden of an income test, if you have got people not claiming an income-related benefit—we are all constantly trying to encourage people to take up the benefits to which they are entitled—and you are moving them across to the equivalent benefit in the ESA, then you should do the test that is ESA-specific, which is the work capability assessment. This was the logic, and it was wrong. Why put them through an income test?

Q57 **Caroline Flint:** In that case, why was the sampling not done of some of the people who might be affected to see if there were any anomalies—for want of a better word—that did not fit in nicely with the process?

Peter Schofield: I think that is why we did a pilot in 2010, and it did not emerge from the pilot.

Q58 **Caroline Flint:** It was not good enough.

Peter Schofield: Well, it did not emerge from the pilot.

Shabana Mahmood: It would be easier if you just said it was not good enough. A bit of candour would be welcome.

Q59 **Chair:** You said no legal advice was taken and it should have been. Have you uncovered any other examples where legal advice was not taken? Are you planning to do any work on anything else?

Peter Schofield: As I say, we conducted an internal review that looked at this whole situation, and it uncovered—

Q60 **Chair:** This situation, yes, but did you look at other areas where you have had changes and not taken legal advice? It is quite an easy thing to check. That is not a very big job. There are a lot of benefits, but not many that are changing all the time.

Peter Schofield: I think that's right. I personally have not done a formal check.

Q61 **Chair:** You have only been there since January, so I would expect you might not have done. Can you let us know in writing?

Peter Schofield: Yes.

Q62 **Shabana Mahmood:** If we just go back to the roll-out, following on from Ms Flint's questions, we heard evidence in the previous session from Ms Hall—I think you were here for it—about your staff at the coalface who are dealing with our constituents as these changes are being made and their lives are being massively affected. Those staff raise concerns, but they do not go anywhere. I believe Ms Hall said they hit a brick wall. Why does that happen?

Peter Schofield: I heard her say that. I have been permanent secretary since January, and I was director general for finance from July 2016, so I have been in the Department for a couple of years. One of the great privileges of doing the job I am now doing is that, as well as spending time in London, I spend the last two days of my working week each week around and about meeting frontline staff. It does not feel like they are not willing to tell me what is going on and that they are not willing to challenge, because they very much are. The sorts of issues described by the previous panel are the issues that are raised with me on an ongoing basis. I am there listening to staff on a regular basis.

Another element of the culture that I have been pleasantly surprised about is the way in which, as we adapt and change, we allow and invite comments in from frontline staff. In Universal Credit full service, for example, there are very clear mechanisms where, as a frontline member of staff using the system, you are encouraged to say, "You know what? That was fine, but it could have been better if we did it this way." We feed those comments up.

In this role, I have sat alongside staff in jobcentres and said to them, "What have you seen?" They have said, "Well, we recommended this," and I have asked, "Did you ever see it change?" and they have replied, "Actually, we did." I have also spent time with a product team who sit just across the way in Caxton House, learning about how they interpret all this information that comes from the frontline in the way that they adapt Universal Credit. There is a culture of listening to frontline staff, but we are an organisation with 84,000 colleagues all across the country, so I cannot pretend we do this perfectly all the time.

Since I started, I have set out four key leadership priorities for the Department, which are actually relevant to the discussion we are having today. One is that leadership should be open and engaging, building on what has been done before. The second is that we need to work in teams in the way that we work across from operations to policy, to change, to digital, to finance. The third is that we need to work very closely and effectively with stakeholders—with other Government Departments. As the Chair will know, before joining DWP I was in charge of housing policy at DCLG. I want us in DWP to work in a way in which we join up effectively with other Government Departments to help to solve some of the big challenges facing public policy, but also to work with partners locally on the ground.

Q63 **Chair:** That is three.

Peter Schofield: The fourth is that I want us to be a workplace where everyone can achieve their potential—a workplace that recognises and reflects the community that we serve, and where everyone can achieve at their best. Those are the four things we have been talking about as a Department and as a leadership team. We start from a good place in many of those areas, but there is always more we can do. I accept that, and that is one of the things I want to do as I lead the organisation going forward.

Q64 **Shabana Mahmood:** Those are all very warm words—we will come on to whether they can be realised. I smiled when you said you had founds things to be pleasantly surprised about in terms of culture at the DWP. I have to say that, in the eight years I have been an MP, I have only ever found things to be unpleasantly depressed about when it comes to DWP culture. Your staff—

Peter Schofield: I think—

Shabana Mahmood: Let me put my point to you. Your staff say, not just to people like Ms Hall and the campaigners and advisers in this area, but to me, too, that they raise and escalate concerns but there is very much a "Computer says no" culture at institutional level. Surely, you accept that the experience of the ESA roll-out is at least indicative of cultural institutional failure?

Peter Schofield: No, I don't accept that. I apologise for interrupting you. One of the things I was going to suggest is that, if you have not done so already, you go and visit your local jobcentre and spend time—

Shabana Mahmood: I do not need advice about how to engage with stakeholders on my patch, Mr Schofield.

Q65 **Chair:** We have a standing invitation, I am sure.

Peter Schofield: You always have.

Chair: We are giving you leeway as it is your first outing as permanent secretary. We have had your four-point plan, and we have had a generous offer to visit jobcentres. I think we get the picture. You can schmooze us as much as you want; you still have to answer Ms Mahmood's question.

Q66 **Shabana Mahmood:** Yes, it would be really helpful if you now addressed the point about cultural institutional failure at the DWP in relation to the roll-out of ESA.

Peter Schofield: I think there were three phases in this whole thing, which are set out clearly in the Report. The first phase took us to 2014, when we changed the guidance for decision makers and we had the court cases that established the position of the law, although the final case was in 2015.

Q67 **Shabana Mahmood:** I hesitate to cut you off, but I don't need the phases. We have read the Report. I know what is in the Report. We know what happened.

Peter Schofield: Okay. The big challenge is really what was going on from the judgment in that court case in 2015 and the point in May 2016 when the urgency of doing something about this became clear through the process of analysing the fraud and error statistics for 2015-16, which were published two years ago. That is a big challenge. The issue is giving enough priority to these sorts of situations, where the courts have said, "You've got your interpretation wrong." I don't think that is a culture—I am pushing back on your description. What we do need to do is improve the priority that we give to putting these sorts of cases right.

Q68 **Shabana Mahmood:** Mr Schofield, I am pushing right back. This is not about the court judgments; this is about your staff, at coalface level, telling you, "There is a problem, and it's a big problem. People who are the most vulnerable in our society are suffering as a result." You are saying that, from 2016 onwards, you had got to the bottom of it, or at least some element of the systemic problem was coming forward and being well understood, but in February 2017 the advice you gave to Ministers was to do more analysis. It begs the question what further analysis you thought you needed, when all these problems had been stacking up and your Department had known about them from 2013 onwards.

Peter Schofield: Crucially, in February 2017, we believed we needed clear legal advice on what our liability was, what people were entitled to and what we needed to do. The National Audit Office have been through that and know that that is what we were doing at that point. We went to counsel to get legal advice, and we were then able, in July 2017, to be very clear about what we were required to do, at which point we started the process of the sample of 1,000 cases.

Q69 **Chair:** Can I just pick up on the cultural issues Ms Mahmood has raised? We are all MPs, and we repeatedly have constituents coming to see us at our surgeries with letters from your Department that are frankly incomprehensible. In fact, sometimes I have had the privilege of having an auditor sit with me, and they also have sometimes found them pretty challenging. Maybe it comes under "open and engaging", I am not sure, but certainly under "working with stakeholders". You have a four-point plan; are you going to make those letters better so that we and our constituents can understand them? It is very scary when you are being told you have been overpaid £5,000, but in a very wordy way.

Peter Schofield: I will give you another example. I sat in a Brighton jobcentre about two weeks ago, alongside a work coach, and a claimant came in with a letter. I am afraid that the permanent secretary at the DWP did not fully understand the nature of the letter. You can imagine what I did when I got back into the Department, and that letter will be changing. We have to get this right. One of the points this Report gets into is how we address issues around fraud and error more broadly, which I am sure you will want to come on to. One of those is that we need to make it easier for claimants to come forward and to understand what we are asking for, so that they can give us the right information, and we can get the claims right first time.

Q70 **Chair:** We will hold you to account on the letters. We are a good little litmus test for you here.

Peter Schofield: When you spot those letters, send them to me.

Chair: We will send you our worst ones. That is a challenge for the Committee—the top few bad ones each month.

Q71 **Shabana Mahmood:** Following on from that, you will have heard some of the evidence in the earlier session. Like all the other MPs, I am a veteran of trying to decipher DWP letters. It seems to me that when DWP makes an overpayment, you are very quick—straight off the bat with a threatening letter and lots of action being taken against people who, frankly, cannot afford to pay the money back. Certainly in my constituency that is often the case.

Where the underpayment is concerned, this episode seems to suggest that your Department is not that interested in dealing with the issues. What do you have to say about your clear difference of approach when it comes to communicating with claimants about overpayments as opposed to where an underpayment has occurred?

Peter Schofield: I am very happy to hear of specific cases if you want to bring them to my attention. As the Committee knows, we have a target for reducing the level of underpayment. We have a focus on reducing the level of overpayments. Both are considered by the Comptroller and Auditor General when he reviews our accounts at the end of the year. I would love to be the first accounting officer for 29 years to avoid a qualification of my accounts. Both sorting out overpayments and sorting out underpayments matter.

Shabana Mahmood: First, with respect, you had to be pushed to have a target for your underpayments. It did not happen automatically. I don't think you can clock that as a win for your Department. Secondly, I believe the target takes you only to the level of underpayment in 2014-15. I don't think that is any big success to want to write home about. Mr Schofield, I am talking about the approach and the corporate, institutional attitude that your Department has in relation to overpayments and underpayments. You are a brave man if you try to tell any Member of Parliament on this Committee that you have to have been around the system for a very long time before you clock that there is a big difference of approach between overpayments and underpayment. So I invite you again to show that you are really listening to the point that we are making and explain why that differential between overpayment and underpayment and cultural attitude at your Department occurs.

Peter Schofield: I think that the big issue we needed to address was giving priority in cases where the courts have said that there is an underpayment, to get on and progress that. Since we did our internal review of this particular case, this has been identified as an issue, so I have created a new governance board that is responsible for keeping an eye on these situations as they emerge. It is chaired by a member of my executive team. It is intended to focus on giving the right priority to getting on and progressing these, so that when we trade off between the pressures of running the operation on a day-to-day basis and going back and sorting out mistakes that have been made in the past, we give the right priority to that. So that is what I have done; I have created that board and it is meeting. The board will hold the rest of the Department to account to make sure that we make these payments.

Q72 **Shabana Mahmood:** Okay, Mr Schofield, let us move on from underpayments, because I don't think we are going to agree, and I don't think I can push you any further on your Department's attitude.

Between 2013 and 2017, the period when concerns were being raised—the period in which we can verify, up to the acceptance of legal responsibility to pay—lots of people in your Department were aware but they were not talking to one another, and it took the fraud and error team escalating matters for things to come straight to the top. Why were so many people in your Department asleep on the job?

Peter Schofield: I think you are talking about the period from June 2015 until May 2016, and it goes back to the point I was making earlier, about us not giving enough priority to this alongside other things that we were doing in the Department. The internal review has gone through this and identified some information about some of the discussions that were going on—I think it is referred to in the Report.

Joshua Reddaway: I suspect that you are referring to when the fraud and error team first picked it up, which was in 2014 through to—

Chair: I think you were referring to the earlier date.

Peter Schofield: Our internal review concluded that it was right to wait until the conclusion of the DJ court case, which—if you look on page 17—was the June 2015 case. I can understand why we were waiting for that case, because although with hindsight the advice we got in 2017 was that the October 2014 case was even more important, actually the June 2015 case was a conversion case, so there is an argument for saying that we were right to wait for that. But from that period onwards, certainly until May 2016, you are right to challenge us on why we were not making more progress in getting on with this.

Q73 **Shabana Mahmood:** I am right to challenge you, and I am challenging you now but not really receiving much by way of answer, so why weren't you picking this up?

Peter Schofield: Well, all I can say—and this is what our internal review suggested—is that at a time when we had other competing work pressures we did not put enough priority on sorting this out.

Q74 **Shabana Mahmood:** Would you like to apologise to our many constituents who have been affected as a result of that lack of priority given to underpayments to the most vulnerable in our society?

Peter Schofield: Yes, absolutely; I am sorry. That was a comment I made at the very beginning: I am sorry that we have not got on with it. But we are getting on with it now, and I can assure all of your constituents and claimants involved that we are giving this the top priority. Not only that but, as I said earlier, the new governance board will make sure we always do that in the future.

Q75 **Shabana Mahmood:** Do you also accept that it was wrong for you to originally try to suggest that this might be as a result of claimant error as opposed to official departmental error?

Peter Schofield: I think the courts said very clearly—

Q76 **Shabana Mahmood:** I don't want to know about the courts; I want to know about you and your Department—your staff; your officials. Do you accept that the initial attempt to categorise this as claimant error—it believe it went to internal arbitration—was wrong? That should not have happened.

Peter Schofield: Yes, our internal arbitration panel in April 2014 concluded exactly what you have said, and that was right.

Q77 **Shabana Mahmood:** Do you accept that it was wrong to try to say that it was claimant error as opposed to official error?

Peter Schofield: Yes. It wasn't claimant error. It was very clear from the court's judgment—as it happened, the October 2014 hearing was the crucial one—that we should have treated the two elements of ESA as a single benefit.

Q78 **Shabana Mahmood:** It was clear to everybody but your Department. I am glad you have accepted that now.

I want to pick up on the issue of section 27 of the Social Security Act. I appreciate that there are legal issues pending, but would you confirm to me that you agree with the evidence given in our previous session about some cases, potentially a large number, that have been settled where back-dated payments have been made from the date of migration, rather than the date of the 2014 court case?

Peter Schofield: As the Report states, we got authoritative legal opinion on this through the course of early 2017. We knew the position in July 2017, and the legal advice at that point was that section 27 should apply, and should be applied back to the LH court case, which was on 21 October 2014. What we did before that—

Q79 **Shabana Mahmood:** I am aware of that, but the backdating to the date of migration has occurred. We heard of a case earlier on that goes from January 2018 where there has been a full backdating to the date of migration, not the date of court case. Do you accept that this has occurred, and is occurring still, which flies in the face of your decision to apply the 2014 ruling?

Peter Schofield: That was a surprise to me, and I am very happy to follow up with the previous panel.

Q80 **Chair:** Do the other officials recognise what has been described?

Emma Haddad: I would be interested to hear more detail about the case from January 2018, because it should not have been happening that we backdate pre-21 October 2014. There is possibly one case.

Chair: It sounds like we will have to pursue that outside this meeting. We will get information, write to you and make sure that we are in that loop.

Q81 **Anne Marie Morris:** I can't help thinking, Mr Schofield, that you are more concerned about the numbers than people on benefits and the catastrophic lives they have led since the error was made. Is this really just a numbers game?

Peter Schofield: No, it is about people's lives.

Q82 **Anne Marie Morris:** Then when you said to Ms Mahmood that you apologised, do you think that it is enough just to look at the finances and wait for legal advice? Do you think that there is something that you should be doing now for some people who are, frankly, living a quality of life that I think any Government would say is unacceptable?

Peter Schofield: Absolutely. What I need to do now is get them the money to which they are entitled. That is absolutely my priority.

Q83 **Anne Marie Morris:** Don't you think it is a bit late?

Peter Schofield: It may be late, but we need to get on and do it, and we will do it by April.

Q84 **Anne Marie Morris:** I like the four leadership messages, but I heard absolutely nothing about how you are going to implement it and measure it. That does not give me much comfort. How are you going to do it? How are you going to make it happen? How are you going to measure it? How will that help all these claimants?

Peter Schofield: I guess there are a number of ways of measuring it. I do not want to go through all four of those, and come up with a way of measuring those.

Anne Marie Morris: No, don't.

Chair: No, this isn't a confirmation hearing—we don't quite have that power.

Q85 **Anne Marie Morris:** I want to know, Mr Schofield, what you are going to do about it. I don't want theory and I don't want promises. Physically, what are you going to do?

Peter Schofield: I am going to pay them.

Q86 **Anne Marie Morris:** But you are not going to do that tomorrow, are you?

Peter Schofield: I am doing it at the moment. I am doing it every day. Day by day, we are paying more people. We have now recruited the full team, but we have been paying since August 2017.

Q87 **Anne Marie Morris:** How long will it take you to pay everyone?

Peter Schofield: By April.

Q88 **Anne Marie Morris:** And are you absolutely bullet-proof convinced that you have collected in your data everybody who was affected?

Peter Schofield: Yes. Emma could talk you through the whole process, if you like.

Q89 **Anne Marie Morris:** I don't want the whole process; I just want to know whether you are confident.

Peter Schofield: Yes, I am. I have sat with one of the teams as they have made an outgoing phone call to someone affected just to hear myself what the process is. It is very thorough. Even in what actually turned out to be a relatively straightforward case, the phone call itself took half an hour. We went through very thoroughly a whole host of pieces of information about income.

Anne Marie Morris: I am delighted that you are so hands-on. The trouble is that one person being hands-on is not going to change the culture, as Ms Mahmood referred to. It is great to hear the case studies, but it still does not convince me that you really are on top of it. It is not you that we need to be on top of it—well, we do, but we need everybody else to be too.

Chair: We will have a very quick question from Caroline Flint, and then go over to Shabana Mahmood and then Mr Morgan.

Q90 **Caroline Flint:** When you assess what people should be reimbursed or rebated, will that include looking at all the other potential benefits they have missed out on? Will it include whether they have incurred penalties, for example because of debts, as a result of not being paid the right money?

Peter Schofield: No, what we are doing is looking at what they are legally entitled to and getting on and paying that.

Q91 **Shabana Mahmood:** Mr Schofield, I just want to pick up on the evidence you just gave me about the court cases. I have an extract here from your June 2013 guidance that makes it very clear—it says it in black and white—that it was official error. However, today you have told us in evidence that you were waiting for the legal cases in 2015. How do you reconcile those two facts?

Peter Schofield: I am going to pass to James for more chapter and verse on that. However, I think there is a difference here between claimant error and official error on the one hand, and categories of official error on the other. Figure 3 on page 17 sets out the key point, which is that the October 2014 court case made it clear that, whereas before we might have treated income-related ESA and contribution-based ESA as two separate benefits—remember what I was saying earlier about what we were migrating from and on to—those were a single benefit. At that point, that then meant conclusively that, when moving someone on to either element of that benefit, you had to assess them on the other element.

Q92 **Shabana Mahmood:** Mr Schofield, our exchange was about a lack of urgency in dealing with these cases at an institutional level. You said to me that you were waiting for law cases in 2015, but your own internal guidance acknowledges the official error.

James Wolfe: The key point here—I appreciate the desire to remove the legal complexity, but unfortunately it is highly relevant here—is that, at that point in time in 2013, it was quite right that those cases would have been viewed as official error, because the courts had not at that point said that a claim for any element of ESA was a claim for the whole benefit. That changes the whole basis on which those claims were being looked at and reassessed.

It is easy to look back, with the benefit of hindsight, as if this was glaringly obvious, but the situation has actually evolved over time as we have discovered more about the problem. In 2013 there was insufficient evidence that this was a systemic problem of law. That was then clarified by those later judgments, so the situation did change.

Q93 **Shabana Mahmood:** But that is a judgment from a case that had nothing to do with this benefit. The 2014 decision was an unrelated issue—it just happened to make a finding about ESA—so you can't expect to say with any credibility that that was the case that you were waiting for, which led to the lack of urgency at institutional level.

Peter Schofield: But James makes an interesting point. This came up in our internal review. The one that everybody focused on at the time, because it was a conversion case, was the DJ case, which in the end was not resolved until June 2015. When we did our assessment when we had our legal advice at this time last year—it was concluded by July last year—the lawyers looked at this and said, "No, the key point of law was actually one that had previously been established back in October 2014," which is why we paid back to 21 October 2014, not June 2015.

Chair: We can discuss the legal knots, but there are a lot of people out there waiting for money.

Q94 **Stephen Morgan:** We heard powerfully earlier from one of the witnesses about the impact that errors were having on people's lives and their mental health. I thank them for that. What do you have to say to those affected?

Peter Schofield: Look, I am sorry to all those who were affected. I say to them that we will put this right, and as quickly as we can. We have set ourselves until April to do that.

Q95 **Stephen Morgan:** Do you think that is an adequate response to the 70,000 people affected?

Peter Schofield: I think paying them the money to which they are entitled is the thing that they will most care about, and I want to get on and do that.

Q96 **Stephen Morgan:** What about compensation?

Peter Schofield: We don't pay blanket compensation in situations where the courts have told us to interpret a piece of legislation in a particular way. We don't do that.

Q97 **Stephen Morgan:** Why not?

Peter Schofield: I have a responsibility, as accounting officer, and I have looked carefully at this in the context of "Managing public money". The key point here is not to create precedents that put the taxpayer at risk.

Q98 **Stephen Morgan:** But this had a significant impact on people's lives. Don't you think they are owed more than what you are offering? Some form of compensation surely makes sense.

Peter Schofield: The position is that we don't pay blanket compensation.

Q99 **Chair:** Mr Schofield, you are kind of hiding behind the law. There was an acknowledgement in the Department that there was an error, regardless of the legal position or what the eventual judicial review comes up with. If there was an official error, there are consequential benefits that people didn't get for a start—that is potentially quantifiable, or a formula could be introduced—but you have not considered it at all at any step of the way. I know you weren't here all the way through, but has anyone? You have analysed it as an accounting officer, but has there been any other discussion about compensation packages?

Peter Schofield: I have looked at the general question of whether we should pay compensation in this way, in this situation, and concluded that it doesn't fit with the basis of "Managing public money", so no, we are not paying blanket compensation in this situation.

Q100 **Stephen Morgan:** Will you then be undertaking a full impact assessment of the errors at all?

Peter Schofield: We are paying what people are legally entitled to, so we are going through case by case, person by person, what they are legally entitled to.

Q101 **Chair:** Just to be clear, if you were paying prescription charges or something—the passported benefits—would people individually be able to get those refunded, if they can prove that they had to pay them?

Peter Schofield: We are not introducing a blanket compensation scheme—

Chair: That is not what I asked. You are looking at them individually—

Peter Schofield: All I would say, because I don't particularly want to get drawn on individual circumstances, as individual circumstances are about individuals—

Chair: I haven't asked about anyone's individual circumstances. I am saying, if—in, say, a class action of 300 people who had paid prescription charges—one person had paid prescription charges, which are a benefit they should have had if they had been on the right rate, will you ensure that they are reimbursed for those additional costs?

Peter Schofield: No. I have assessed this from the point of view of an accounting officer, and I don't believe that is consistent with "Managing public money".

Q102 **Chair:** An absolute blanket no—it just seems really hard. If you were on a lower level than you should have been at the time, and you were paying out from a lower income level anyway—

Peter Schofield: I know. I understand why the Committee is making that point.

Q103 **Caroline Flint:** You keep talking about what people are legally entitled to, but if the process had been implemented in the right way, they would have been entitled to those passported benefits. They are part of the package of what they would have been entitled to.

Peter Schofield: I guess that, at the end of the day, the point is that no one was prevented from claiming an income-related benefit. At the time we did this migration, we wrote to people to say, "You could be entitled to income-related benefits." As I said before—

Q104 **Caroline Flint:** I understand that you didn't tell them that they might be better off in the letter you sent. To be honest, to most people—it is a human thing—if you see something saying that you will be better off, you might take a bit of notice.

Peter Schofield: The NAO is right on that. I have myself looked at the letter. We believe that something like 130,000 people responded and did migrate across.

Chair: I shall bring Stephen Morgan in to continue this.

Q105 **Stephen Morgan:** How will you ensure that the process is completed accurately and on time?

Peter Schofield: I might bring Emma in on this, but the key point is that, as your previous panellist said, we are looking through all 300,000 cases that could be covered by this. These are people who migrated between the end of 2010 or the beginning of 2011 and 2014, and who were migrated on to the contribution-only ESA benefit. We will go through those in great detail.

Q106 **Stephen Morgan:** From reading the NAO Report, it looks like you are still developing a process for those who have died. Will you say a bit more about where that has got to and what you propose to do?

Emma Haddad: We are still finalising that process for deceased claimants. We are looking at the best way to contact people—where we have got next of kin, it is an easy process, but where we haven't we are working with—

Q107 **Stephen Morgan:** Is there a timeline for that?

Emma Haddad: We are hopefully starting that in June—

Q108 **Stephen Morgan:** Hopefully, or definitely?

Emma Haddad: Not definitely, hopefully.

Chair: So you are starting the process for people who have died. Is that those without next of kin, or all deceased claimants?

Emma Haddad: It is all deceased claimants, taken as a—

Q109 **Stephen Morgan:** Why has that taken so long?

Emma Haddad: Because we want to do it as compassionately and carefully as possible. It is a tricky process to get in touch with people who do not have a next of kin on our system.

Q110 **Stephen Morgan:** How many people do you think that affects?

Emma Haddad: I do not know off the top of my head. I will have to write to you.

Q111 **Stephen Morgan:** That would be helpful. Finally, I want to ask about how you would ensure that this exercise does not impact on the service already being received by ESA claimants.

Peter Schofield: Emma is running both, so she can talk about that.

Emma Haddad: This exercise has had to be staffed and resourced completely separately from any normal business on ESA. It has had a demand of 400 people. They have been separately resourced. I have taken 400 of my most experienced processors—genuinely—because it is quite a complicated process looking back several years over people's cases. They have then been backfilled, so they are two completely separate resourcing issues.

Q112 **Chair:** If 400 great people are being moved, are you really sure that will not have an impact somewhere else? Will we see another problem arise because you have taken your best team?

Emma Haddad: I am hopeful that it will not. We have the right resources in place on both, and there is lots of quality checking and training that goes into both.

Q113 **Chair:** We were all shocked when we saw the figures in the NAO Report about what it is costing—about £14 million. Is that still your estimate?

Emma Haddad: Yes.

Q114 **Luke Graham:** I want to look a bit more at what lessons have been learned and what potential problems or opportunities there are going forward. One area that the NAO Report brought up, in paragraph 1.11, was internal reviews. Certainly the NAO's analysis—the analysis that led to the DWP taking some actions—still raises some concerns. Even in its most recent financial audit, it raised the concern that the DWP still has to do more work to "realise the benefits of its work on fraud and error." Should we be concerned that there are further problems in your statistics? Have we got another ESA problem hidden away somewhere?

Peter Schofield: Thank you for the question. There is a small section, which I could pad out, on page 27, in terms of lessons learned, but I think you are asking a broader question around fraud and error and around some of the wider points raised on fraud and error throughout the Report. In answer to Ms Mahmood's questions earlier, I wanted to emphasise that both overpayments and underpayments matter, and we need to bear down on those.

As the Report says, and as the NAO separately referred to in the annual report and accounts at the end of last year, we do have a more structured approach to tackling fraud and error than we had before. A number of things have been done. In January last year, we brought the policy, operational and change teams that have responsibility for fraud and error together into a single directorate under a single director, who I can hold accountable for driving down levels of fraud and error going forward. We have a much better way of getting a handle on the causes of fraud and error, benefit by benefit. We have what is called a heat map, where, as we analyse the data, we can go through and see how much fraud and error is related to different elements of the claim process, benefit by benefit.

Q115 **Luke Graham:** On your heat map, how hot is ESA? Are there any other hotspots that we should be looking out for?

Peter Schofield: On ESA, the latest data shows that, from 2016-17 to 2017-18, underpayments went down from 2.9% to 2.6%. I would love them to be lower than that—clearly we want to get them lower than that. There are other areas of heat, I suppose, if you put it that way. Housing benefit is an area of significant levels of fraud and error.

One of the key things that comes out of our work on fraud and error is the importance of the way we design benefits, to design fraud and error out of the system. On Universal Credit, for example, as we introduce it, we are not currently measuring fraud for the full service; we are for the live service, but for the full service there are elements which design some of the risk of fraud and error out of what will be the successors to housing benefit and ESA. In particular, when we look at the way that we have to change the level of benefit according to changes in earnings, we have the direct feed from HMRC on real-time earnings, which enables us to be ahead of the game. The key thing is to use some of that for prevention as well as for detection.

Q116 **Luke Graham:** That is understood. It is good to know that you have got the heat map and that you have tightened up the risk analysis, so we should not have a repeat of an ESA-type situation again in two, three years' time.

Peter Schofield: Well, this is what—

Chair: He is asking you to put your head on the block.

Peter Schofield: I know—you are, aren't you? So I am obviously starting to squirm.

Chair: You have got your four-point plan, so surely nothing can go wrong.

Peter Schofield: I've got my four-point plan. Shall I just go back to that?

Look, the logic of this is, as we become structured and more focused, we should be able to get a better handle as these things emerge. Clearly, as we introduce new benefits, new things come along that we need to plan for and design out of the system. We need to get a handle on that. The great thing about rolling out Universal Credit in the way that we are is that it gives us the opportunity to test and learn as we go along and to make changes to clamp down on levels of overpayment and underpayment.

Q117 **Luke Graham:** Do you find, with Universal Credit and the direction of travel with most of the other benefits, that you now have a tight enough feedback loop that, if you encounter similar problems again, those will be tackled in a timelier manner than they were in the case of ESA? Obviously, that has taken a number of years—as you have already said, a number of people even died waiting on some of this benefit. I am looking forward, rather than trying to kick you for things past. Can you now say, "We've got the risk analysis, and we've got an effective feedback loop to make sure that this doesn't happen again—or, if it does, that we can tackle it within six to 12 months"?

Peter Schofield: We do. As I said, under single leadership, with a new director now responsible for all that, we should certainly do that. You can rightly challenge me as to what was going on, certainly after June 2015, as Ms Mahmood has already, but the reality is that it was a structured approach to fraud and error that identified this in May 2016. People looked at that ESA underpayment figure, which had gone up quite significantly just in that year as a percentage of the benefit, and were able to say, "What is going on?" and to target that. That structured approach identified something that you could rightly say should have been spotted earlier by other people.

Q118 **Luke Graham:** Some of the NAO's analysis helped highlight that—it was not just internal processes.

Peter Schofield: We have an ongoing dialogue with the NAO. I hope the NAO feel it is a fruitful one—I certainly do. The Comptroller and Auditor General writes his own report in our end-of-year accounts on what he thinks of what we have done. I took away some positives from Sir Amyas's review back in June last year, but clearly there is further work to be done.

Q119 **Luke Graham:** Understood. Looking at some of the underpayment rates, it looks like the state pension is the gold standard, or the benchmark. There is a very low rate there—it is 0% or 0.1%. Do you think the ESA target of 0.9% of expenditure is challenging enough, especially when you are looking at the 2011-12 underpayments being 0.8%?

Peter Schofield: Yes, but the latest statistics show that they were 1%, so we clearly need to improve our performance to get down to that level.

Q120 **Luke Graham:** Help me with that. How many people does that 0.9% of expenditure represent? The average underpayment is £5,000, so we can do some simple division, but I hope you know approximately what 0.9% in pound terms means in people terms.

Peter Schofield: We can do it in terms of the amount of money at stake, of course. It is £1.7 billion in underpayments. The reason I am hesitating is that the way we calculate that is by sampling and looking at individual claims, and then working this out as a quantum of money. I think I would be misleading the Committee, to be honest, if I were to try to do some sort of—

Q121 **Luke Graham:** The point I am making is that a number of my colleagues questioned you about culture and making sure that the DWP is focused on people as well as the process. I understand and appreciate that the DWP is systemic, and certainly in my constituency, where they are looking to devolve some powers, local devolved authorities are finding out the difficulties with having a system like that, too. But I find it a little concerning that the most senior people cannot tell me approximately how many people a percentage represents. That is ultimately who it impacts. By setting a target—you are getting close to last year—of 1% or 0.9%, you are basically saying, "I'm okay with this level of fraud or underpayment." How many people? Is it 10,000? Is it 5,000? Is it 20,000? That is important, and it goes to the point that my colleagues made about the cultural emphasis in the DWP being on the numbers and not necessarily on the people.

Peter Schofield: We are all about the people, to be honest. That is what we are all about.

Q122 **Luke Graham:** With the greatest respect, Mr Schofield, the answer you just gave did not reinforce that.

I will move on to a couple of other questions. In our prior session, Ms Hall from the National Association of Welfare Rights Advisers mentioned a number of cases where claimants had got their full historic repayment from pre-2014. I want to try to fill out the figures. Let's play the analysis through and say you do decide to go all the way through. We have the estimate of £100 million to £150 million of historic repayments, but in the original set of costs we also have an estimated £340 million of historic repayments. We then have £680 million of extra payments, looking forward from 2018 to 2023.

My question is: if we do take on the additional historical payments pre-2014, are there any additional future costs, in addition to that £680 million, because you would maybe be taking in some additional people and additional claims going behind the 2014 line?

Peter Schofield: No, we wouldn't be taking any additional people in. Figure 4 is actually quite helpful in understanding the different nature of the claimants. There is a court case ongoing about our interpretation of section 27 of the 1998 Act. We shall wait and see.

Q123 **Luke Graham:** My question is really whether you think there is any further liability beyond your central estimate of £680 million on future costs. If there were further historical claims, would that stretch the envelope further?

Peter Schofield: No. Paragraph 2.11 has got the payments looking back and then looking forward. It's the same people.

Q124 **Chair:** You have 400 of your best staff working on this right now. Will they have to go back to 2011, if there was a decision—we don't need to get into why—to go through the paperwork again? Or would you be able to pay that quickly?

Peter Schofield: I don't want to speculate about it while the court case is going on. We have to go back and establish when they migrated.

Q125 **Chair:** So once you have that figure it is—easy is not the right word—easier, is it?

Peter Schofield: We are collecting as much data as we can, right back to the point of migration, because we need to, even for this exercise.

Chair: So you will have the information to act quicker.

Peter Schofield: We could act quicker, but obviously let's see.

Q126 **Luke Graham:** Can I just go back to the target question? Obviously, you have the four-point plan that you went through earlier. Do you have a pathway to get to a pensions level in fraud and errors in underpayments? Have you got a map to get you down from 0.9 to something more reasonable, such as 0.5 or 0?

Peter Schofield: On fraud and error, on overpayments and underpayments, every benefit has its own challenges, which is why we are taking this structured approach. The pensions population is, by its nature, a very stable population. We know how many people are coming through. The nature of the benefit is such that it is much easier to avoid fraud and error.

Q127 **Luke Graham:** Is 0.9 just a stable target, or is it a dynamic target where you are saying that looking ahead, you are new in the role, and you are going to sit there and say, "No, I want this down to 0.5 and that's what it should be about"?

Peter Schofield: I am going to play the boring accounting officer point on that, just because Amyas is watching. The point I would make is that I want to get the right balance here. I want to get this down as low as possible, but it will get to a point—this is true of overpayments as well as underpayments—where chasing that last overpayment or underpayment costs so much to chase it down that it is not worth doing.

Quite rightly, the Controller and Auditor General would say to me, "Is that a value-for-money thing to be doing?" That sounds like a rather boring way of responding, but part of this structured approach is trying to find out where that sweet spot is for over and underpayments.

Q128 **Luke Graham:** I do appreciate that. To reflect back my accountant side from my previous life, if we were drawing out the curve of looking at the cost, where would you draw that line where the marginal cost would be so much higher than the marginal benefit? Is it at 0.9 or is it 0.8, 0.7 or 0.4? If you are saying that it is based on an analytical approach, I fully support that. I am just asking you where it is on that curve.

Peter Schofield: That is a really good question and to be honest, I don't know the answer, in part because we are embedding this structured approach and because technology—being able to look at data in different ways through data matching—opens up new possibilities. It may mean that that sweet spot moves over time, hopefully to a lower level.

We are pioneering things such as data matching on underpayments. For example, where we have situations where our data about someone suggests they should be claiming a premium when they are not, that enables us to trigger some response. Those are the sorts of things we could do more of as we introduce more automated benefits and as we make the most of the opportunities to use data in different ways.

Q129 **Luke Graham:** Okay. Last two points, if that is okay, Chair. One is more for Ms Haddad, because it is on that delivery point, returning to the questions the Chair put about the staff. Obviously, 400 staff have moved over. You have 245, so you are 155 short. There is a lot of stress on DWP and lots of calls on its time, so can you assure the Committee that no other projects have been sunk or cut off as a result of this staff movement?

Emma Haddad: No they haven't, I can assure the Committee. All of our customer services are resourced on the basis of demand. I know what demand I have across the working-age benefits, therefore this is additional demand. Everything is resourced to demand.

Chair: With £14 million estimated costs, which shocked us all.

Q130 **Luke Graham:** Chairman, one final question. How can you improve? This service has obviously let a number of people down. Ms Haddad, from a delivery point, what solid steps will you take from today, looking forward, to really help people with severe illness and disabilities to access welfare?

Emma Haddad: I think I would go back to what the Permanent Secretary said earlier. When I am out and about chatting to my 12,000 staff, they are all absolutely passionate about customer service. They want to do exactly the right thing and make sure people get their correct money within the confines of the processes, so we are building on that. I take their frontline ideas all the time and I take their feedback, and we have got very strict quality checking regimes in place.

Q131 **Luke Graham:** I appreciate that. If we ever get into a situation again where the staff or the teams do not take timely legal advice, which is what leads to the mistake that we have had with ESA, what would now be the mechanism that you have set in place to address that?

Emma Haddad: I don't think we would come across it again because we now have proper systems and checks in place. Whenever a new operational instruction is being drawn up, there is a strict list of people who have to sign it off, including lawyers and then ultimately a senior official.

Chair: So it will not happen again. Two quick-fire questions from Anne-Marie Morris and then we will move on.

Q132 **Anne Marie Morris:** Following on from Mr Graham, you have effectively said you have made no provision for any judgment that means you would have to pay out pre-2014 and you have made no provision for any compensation, yet you say that you could pay very quickly if suddenly the court went against you and you got a figure back to 2011. Have you made any calculation of the amount involved, and, if so, what is it?

Peter Schofield: It is the figure in 2011.

Q133 **Anne Marie Morris:** But that does not include pre-2014 plus the compensation. It depends. There will be some people who have found themselves in a position that actually means they would have, in terms of compensation because of maladministration, substantially more than I suspect you have included in that figure.

Peter Schofield: As I say, we are not paying compensation. The figure includes the estimate of the costs that we made in November 2017, were we to pay back to the point of migration. In the way we apply section 27 of the 1998 Act, we do not believe that that is what we should be doing.

Q134 **Anne Marie Morris:** Right. Then just clarify for me whether that includes back to 2011 in terms of what they should have been paid—the historic cases that Ms Flint has raised in terms of the benefits they should have had and then what they should get for maladministration—because things have happened to them in their lives that have had a financial consequence.

Peter Schofield: So this is the ESA entitlement, which is what they are legally—

Q135 **Anne Marie Morris:** Could we forget the word "legally" for a minute, because at the moment, with the court case, we do not know what is in and what is not? I am just trying to work out what is in it because my concern is that that is an underestimate of what the Department would have to pay if all three elements that I have talked about actually had to be paid out by the Department?

Peter Schofield: To be absolutely clear, you talked about three elements and this covers one element, and it is very clear in 2011 what it covers.

Chair: Right. That has answered the question.

Q136 **Caroline Flint:** Mr Schofield, you have talked about DWP as a people organisation. It is a people organisation. It deals with so many people on so many different issues. I have to say that ESA should be a better deal compared to incapacity benefit. But you seem to make a rod for your own back and you talk about priorities, so here's a cost-saving measure.

Why are you still embarking on a process whereby people with motor neurone disease, even though they are on ESA, will have to be reassessed before they get to the point where they will never be reassessed again? That is the case, isn't it? If you are new coming on to ESA with motor neurone disease, you will have that assessment and no more, but if you are currently on ESA and have motor neurone disease, you will have to have another reassessment before you will be able to have the certainty that that is something you will not have to go through again. Surely that is a cost-saving measure and that will help staff to get on with other things.

James Wolfe: The short answer is that we will not have the information from their previous assessments that we would need under the law to apply the severe conditions criteria that you are talking about. It is highly unlikely that anyone in that case would be invited to a face-to-face assessment.

Q137 **Caroline Flint:** Why will you not have the information that granted them ESA in the first place if they have got motor neurone disease, which, to all intents and purposes, is a debilitating disease that they will eventually die from?

James Wolfe: There are two slightly different things. The important answer to that is that for someone in that position they should not be invited to a face to face assessment. Based on what we know on paper, we should be able to do a paper-based assessment for that individual. What we do not have, because the severe conditions criteria were not in place when they were originally assessed, is the information that we would need to apply that to them without that assessment—but it would not necessarily be a face-to-face assessment.

Q138 **Caroline Flint:** So they get an ESA now on the basis that they have motor neurone disease, but you are saying that that is not enough to just say, "That is all we need. You do not have to be reassessed again." That is not enough?

James Wolfe: That is the way the process works, yes. But it would not necessarily be a face-to-face—

Q139 **Caroline Flint:** But my constituent, Mr Les Wood, had to go and have another face-to-face just the other week for his ESA.

James Wolfe: Again, we would need to see the details of the individual case—

Q140 **Caroline Flint:** How many people have you worked out will not have to have a face-to-face, and will just have paper-only? Have you done the sums for that?

James Wolfe: I will have to let the Committee know after the session.

Chair: I think, Mr Wolfe, we will want to write to you, because at least two members of the Committee have direct cases of this not doing what you think it is doing on the ground. It is a small sample, but we worry that that is the tip of an iceberg and that it is not just motor neurone disease, but other people with lifelong issues that may be affected. We will take that offline. I do not need to tell you that you need to be very worried if Ms Keegan and Ms Flint, let alone the Committee, are joining forces to take this on. We will move on now.

Q141 **Sir Geoffrey Clifton-Brown:** The sword of Damocles hung over 2,000 staff who were working for HMRC on tax credits, and were due to move to DWP to deal with Universal Benefit. They were based in Dundee and Preston. What has happened to them?

Peter Schofield: This was part of an original plan to move people across to manage Universal Credit. Where we have got to is that we have been looking ahead at the workload in the way that Emma described earlier. For all our benefits, we look at the amount of work we expect to come in and the likely number of people that we will need to deliver it. We have realised that we do not need as many people, so we are offering HMRC staff the opportunity to stay in HMRC if they want to. Those that we need—the numbers that we need—we will bring across. We are talking to HMRC about that in great detail.

Q142 **Sir Geoffrey Clifton-Brown:** How many in numbers are you anticipating will transfer across?

Peter Schofield: It is a much smaller number. I will have to write to the Committee with the latest number, but it is much smaller.

Q143 **Sir Geoffrey Clifton-Brown:** That has an impact on whether you will take up any space in the new Government super-regional offices. Is the DWP going to redeploy its staff into those regional offices or not?

Peter Schofield: It depends on different—that is a wider question, one we are talking to the Cabinet Office about, in terms of where we need to be for our operations. We are in the process of a very big estate programme as we get out of a 20-year contract that we had with Telereal Trillium and move forward into something much more flexible.

In some parts of the country, we are able to be in the central Government hub. In other places, it does not work for our business in the same way. Recently, in Cardiff, for example, we announced that we will be north of Cardiff in a place called Treforest, rather than in central Cardiff. That is the nature of what we need in terms of where we need to be for our operation.

Q144 **Sir Geoffrey Clifton-Brown:** Given that we are dealing with a substantial number of people's lives, when do you think you will be able to conclude that process?

Peter Schofield: In terms of HMRC, that is something we are working closely with HMRC on and that I am talking regularly to Jon Thompson about. I want to make sure I update the Committee with the very latest position, so why don't I write to you to give you an update?

Q145 **Sir Geoffrey Clifton-Brown:** And when do you expect to complete the general move into the regional hubs—the exercise you are undertaking with the Cabinet Office?

Peter Schofield: We are doing it on a case-by-case basis, to be honest. Different hubs come onstream at different stages. At the point when the Cabinet Office brings those hubs through, it has to link into what we are trying to more broadly with our estate programme, which is slightly further advanced because our 20-year contract came to an end on Easter Saturday—at the end of March. Every time the Cabinet Office is ready to make an announcement, we are able to talk about our involvement in that. Broadly speaking, for our staff, they know where they stand for the moment—for many, many offices around the country.

Q146 **Sir Geoffrey Clifton-Brown:** I still don't think I got an answer to my question. When do you expect that process to be complete?

Peter Schofield: I suppose the point I am making is that we have now moved away from a 20-year contract with all our buildings. Instead of being locked in to a certain number of buildings for 20 years, we now have much more flexibility.

In a sense, the answer to your question is that we will never finally be settled, because we will need to be actively reviewing our estate all the time as lease breaks come up. Many of the leases we have recently signed have lease breaks in 2023 and there will be a process of work running up to those lease breaks to decide where we want to be going forward. It needs to link to what we need, both the nature of the scale of our operation and the number of people we need over the long term.

Q147 **Sir Geoffrey Clifton-Brown:** Is that a rather long-winded way of saying that eventually all your people will operate out of the Government hubs? If that is the case, what does that say about locally delivered services?

Peter Schofield: No, sorry, it is not at all. The nature of our operation is one where we need to be locally based. Of course jobcentres need to be locally based. We have the opportunity in some parts of the country to bring together some of our back-office functions into larger hubs. Treforest in south Wales is an example of that. We have a different strategy on that from HMRC, for example, because we need to be locally based, particularly for jobcentres.

Q148 **Chair:** That is interesting, because HMRC tell us that part of the reason they are doing it is because it is Government policy to have Government hubs, so the back-office staff in a place like Morpeth or Benton—

Peter Schofield: Okay, but we have a retail estate with our jobcentres.

Q149 **Chair:** We recognise that Jobcentre Pluses need to be where people are, but you have Benton and Morpeth, places where you have large tracts of staff. Are you saying categorically today that you are not going to move those into these 13 hubs?

Peter Schofield: Some of them we will, but not all of them.

Q150 **Chair:** And are you taking into account the economic impact? If you took the DWP staff out of Morpeth, it would more than decimate it—the town would never be the same again. You transformed the town.

Peter Schofield: I understand that. I was actively involved in the decision around Treforest in my old job as finance director general. We looked at the financial and economic implications. We spent a lot of time talking to the Welsh Government as well about where we should be. Treforest has much better access to many of our existing staff who commute from the valleys. It is a much better location to recruit and retain the people we want to recruit and retain than the central Cardiff hub.

Q151 **Chair:** And there is no pressure from the Cabinet Office to make you move into the hubs?

Peter Schofield: You can imagine we had a conversation about that—

Q152 **Chair:** So the answer is, "Yes, there is."

Peter Schofield: —but we weighed up considerations in the way I have described, and I had lots of conversations with John—

Chair: That is interesting, because only today I was talking to some HMRC staff who were telling me that 73 people in one of their offices will have to take redundancy because they cannot travel to the new centres due to caring responsibilities.

We are heartened by what we have heard of your approach, but given that this is a public hearing, we may hear some evidence from people; we will write to you if we do. A couple of very quick points: on posthumous payments for ESA staff, Ms Haddad, is there a time limit on when that money can be paid to the estate? What happens if you find the next of kin, but not for some time? Will there be a time limit on when those payments can be made to the deceased's estate?

Emma Haddad: I don't think so, no.

Q153 **Chair:** So there will be provision in the DWP budget for all these claimants, even if you cannot yet trace their next of kin?

Emma Haddad: Yes. In the same way as any claimant who is not deceased, if we cannot contact them after several attempts but they come forward in the future, we will pay them.

Q154 **Chair:** That is good to know. Earlier, in a discussion about PIP, we heard the idea of assessment reports being available to claimants. Is that something that is potentially on the cards?

James Wolfe: We have recently responded to the Work and Pensions Committee on improvements that we will make to PIP. I think our focus is on recording at the moment, which I know is something that the Select Committee and other reviewers have been very keen on.

Q155 **Chair:** So the answer is no. Is that what you are saying?

James Wolfe: Well, no. We have talked to a lot of claimants. There is not a huge demand from claimants themselves for this, and they can request it if they want to receive it, so I am not sure it is—

Q156 **Chair:** So they can request it. If I were having a PIP assessment, I could ask for a copy like I'd ask for my health records or something?

James Wolfe: Yes.

Q157 **Chair:** And you'd get the actual assessment document that someone has written down on?

James Wolfe: I'd have to check exactly what you'd get.

Peter Schofield: Do you want us to double check?

Q158 **Chair:** Yes. That is quite useful to know, if that is the case. That is not my experience, but I have only had a handful of cases relative to your total. On the PIP assessments, why are so many appeals now being lost? It has gone up quite substantially, hasn't it? Mr Schofield, you are new in the job. Have you been looking at this?

Peter Schofield: I think the Secretary of State, or perhaps the Minister for Disabled People, referred to the numbers in orals and topicals only this afternoon. I think we are still on 9% of cases coming to appeal and 4% overturned on appeal. It is around the same—about 8% and 4%—in ESA. I think that is right, Mr Wolfe? James has the numbers right in front of him.

Chair: Our sister Committee also continues to pursue this. I thank you very much for your time. As ever, the transcript will be up on the website uncorrected in the next couple of days. Welcome to the Public Accounts Committee as permanent secretary; we look forward to seeing you often.

Peter Schofield: I look forward to it.

Chair: Really? You say that now. We have obviously given you a soft ride this afternoon. Thank you very much.