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for Work &  
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Rt Hon Sir Stephen Timms MP  
Chair of the Work and Pensions Select  
Committee  
House of Commons  
London  
SW1 0AA

7 March 2023

Dear Stephen,

Thank you for your letter of 21 February 2023, requesting further information about the department's work implementing the MH Upper Tribunal (UT) judgement on PIP assessments and the recent PIP MH administrative exercise.

We started to implement the MH UT decision on 25th June 2018 and on the same day began an administrative exercise to identify existing claimants who may be affected. When planning the administrative exercise, we met with a wide range of representatives from disability charities and specialist mental health organisations, welfare advice services and local government to understand their views and explain the actions we were taking. We completed this administrative exercise in November 2022.

I have set out answers for each of your questions below.

1. *After the refinements during the exercise planning stage, what was the department's estimate for the number of claims which would need reviewing as part of the administrative exercise.*

When planning an administrative exercise, the department develops forecasts based on available data. Early estimates are produced based on assumptions and before knowing the full detail of which claimants will be eligible for additional payments. There is always a risk that these early estimates do not fully capture the effect of the administrative exercise on caseload and expenditure and will change. Once an administrative exercise begins and case managers begin reviewing cases, we are then able to refine our forecasts based on emerging data. As a result, assumptions about the scale of an administrative exercise may change.

Our initial estimates for MH were very uncertain. The estimates for the MH legal case provided in the Equality Analysis, published in February 2017 were based on a sample of 60 PIP cases with 'anxiety conditions' and assumptions about the proportion of claimants that would move to a higher scoring descriptor for mobility activity 1. We used data from this small sample and applied them to our initial forecasts.

Later estimates for the Spring Statement 2018 were based on a much larger random sample. To develop this estimate, we carried out a 'test and learn' exercise, where case managers were asked to indicate whether claimants might be affected by the judgment. Although the cases in the test were broadly representative of the PIP caseload, we did not then have the final guidance. Thus, case managers could only identify claimants who might benefit, rather than those who would benefit. At the time we noted that our estimates were still uncertain, and these early assumptions are likely to have led to the estimates being larger than the actual numbers reflected in our recent publication.

*a. Were the department's original and revised estimates subject to independent or external review;*

The original and revised estimates have not been subject to an independent or external review. However, we are confident that our approach is robust.

*b. What steps has the department taken to prevent a similar miscalculation in the future for claims which will be subject to a review;*

As mentioned above, when estimating the potential number of claims affected by the administrative exercise, we use data that is available at that point. We develop a set of assumptions on which we forecast potential spending and we gather as much evidence as possible to inform those assumptions and refine them in the planning process.

To understand the potential scale of an administrative exercise, the department scans the PIP caseload to identify those who will need their claim reviewed as a result of a judgement. Early estimates are always subject to uncertainty and are refined as the exercise progresses.

*2. How, if at all, were claimants informed that their claim would be subject to review as part of the administrative exercise.*

The purpose of an administrative exercise is to ensure claimants receive their correct entitlement. This may be where; a decision of the Upper Tribunal (UT) or a court judgment creates binding new case law, or a systematic error has been identified in how we process claims.

For this administrative exercise, every person who was contactable, who had their claim reviewed, received a letter which set out the judgment and explained our decision in their specific case.

Also, we sent letters to claimants who were less likely to benefit to tell them that the department did not think that they were affected and giving them an opportunity to ask for their claim to be reviewed if they thought they might be affected by the

judgement. We informed the House of our intention to do this in this WMS: [Written statements - Written questions, answers and statements - UK Parliament](#).

Information about the changes to PIP entitlement and the administrative exercise was published at the following link: [Overwhelming psychological distress and journeys: changes to PIP law from 28 November 2016 - GOV.UK \(www.gov.uk\)](#).

In addition, we also published the following material about the review process: ADM memo 16/18: PIP mobility activity 1, effect of UT decision MH v SSWP (PIP) [2016] UKUT 531(AAC) ([publishing.service.gov.uk](http://publishing.service.gov.uk)); [FAQ - Implementation of legal decisions MH and RJ.pdf \(parliament.uk\)](#)- [Updated\\_FAQ\\_Completion\\_update.pdf \(parliament.uk\)](#).

*3. Please provide a full list, in addition to the three listed at page 3 of the FAQs of reasons why claims were excluded from the administrative exercise in the revised estimate.*

In my WMS of 15 December 2022, I informed the House about how we have prioritised claimants who are most likely to benefit, to make back dated payments as quickly as possible ([Written statements - Written questions, answers and statements - UK Parliament](#)).

Claimants excluded from the exercise are:

- Anyone who could not benefit from the exercise as they were already on the highest rate of the Mobility component.
- Cases where there was a tribunal decision on the claim related to the MH UT decision. This is because the department is unable to over-ride a decision of the First-tier Tribunal on the basis that their decision is wrong in law. So, any PIP claim that was decided by a First-tier Tribunal that should have considered the MH UT decision has been removed from the administrative exercise caseload. However, claimants who had a DWP and Tribunal decision made on their claim during the period of the 2017 Amending Regulations were offered a review, if they thought they were affected by the MH UT decision.
- Those excluded from a review by a case manager, as their claim was subsequently considered by a Tribunal.
- Any claimant unlikely to benefit from the UT decision: through our continuous monitoring of the exercise, we were able to determine what type of cases were benefiting from a review. This enabled us to focus on claimants most likely to benefit, so that we could pay them more quickly. We wrote to other claimants unlikely to benefit, letting them know about the exercise and giving them the opportunity to ask for a review if they think they could be affected. We removed these cases from the administrative exercise caseload. However, where claimants have contacted us, we have reviewed their claims and notified them of our decision (where claims were disallowed before the MH judgement, our advice to claimants has been clear that if the claimants think the MH judgement affects them, they can make a new claim at any time).

*4. What assurances can you provide that a satisfactory review of cases has taken place when additional information was only sought from claimants “if there was not enough evidence to make a decision”; a. what constituted “not enough evidence”.*

For an objective determination of a claim, case managers always consider the evidence to establish the facts of the case and then apply the UT decision. For most cases in the MH administrative exercise, the department already held the evidence required and could make an informed decision. The evidence was drawn from the claimant's original claim, including their original application and reports from health professionals.

Other cases lacked enough evidence to make a decision as there were areas of doubt, inconsistency, or changes in needs. In such cases, case managers sought further information by contacting claimants, their representatives, or health care professionals, either by phone or in writing, to get fuller evidence to establish the facts to enable them to then finalise their review decision.

As I mentioned above, we also wrote to claimants asking them to get in touch with us if they did not agree with the decision, or thought we did not have all the evidence we needed. Although the exercise is complete, claimants can still ask for a review, if they think they are affected and should be reviewed.

*5. Will the administrative exercise be subject to an independent review or evaluation.*

The department is keen to take steps to avoid further administrative exercises in the future, given the financial costs, negative impact on customers and reputational damage to the department, and also to ensure that any administrative exercise is conducted in a fair, proportionate and efficient way.

My officials use the department's Lesson Learned Methodology and Procedure Framework which provides a consistent approach to evaluation and improvement to identify improvements for the future. They are shortly to convene an internal workshop to identify lessons learned and to share this learning with colleagues embarking on similar exercises.

In addition, the Government Internal Audit Agency is planning a review in March 2023 to evaluate the lessons learned from completed administrative exercises.

My officials will consider the outcomes of both reviews and take forward any improvements. I do not consider there is need for an independent review or evaluation.

With best wishes,

Yours ever,



**Tom Pursglove MP**  
Minister of State for Disabled People, Health and Work



## Work and Pensions Committee

21 February 2023

**Tom Pursglove MP**  
**Minister for Disabled People, Health and Work**  
**Department for Work and Pensions**  
(By e-mail only)

Dear Tom,

### **Personal Independence Payments (PIP) and the MH judgment**

I am writing in relation to the department's work implementing the MH Upper Tribunal judgment on PIP assessments, including the recently completed DWP administrative exercise to identify existing claimants who may have been affected by the judgment.

The [FAQs](#) published by the department in December 2022 summarise the work undertaken to implement the judgment. They acknowledge that the number of claims considered as part of the administrative exercise were considerably smaller than anticipated at the outset of the exercise: 990,000 rather than the expected 1.6 million. The document explains that the 1.6 million estimate was "refined during planning for the exercise and gaining better understanding of who would be included".

It would be helpful if you could provide the following information:

1. After the refinements during the exercise planning stage, what was the department's estimate for the number of claims which would need reviewing as part of the administrative exercise;
  - a. Were the department's original and revised estimates subject to independent or external review;
  - b. What steps has the department taken to prevent a similar miscalculation in the future for claims which will be subject to a review;
2. How, if at all, were claimants informed that their claim would be subject to review as part of the administrative exercise;
3. Please provide a full list, in addition to the three listed at page 3 of the FAQs, of reasons why claims were excluded from the administrative exercise in the revised estimate;
4. What assurances can you provide that a satisfactory review of cases has taken place when additional information was only sought from claimants "if there was not enough evidence to make a decision";
  - a. what constituted "not enough evidence"; and
5. Will the administrative exercise be subject to an independent review or evaluation.

I would be grateful for your response to these questions by Tuesday 7 March. As is usual practice with the Committee's correspondence I will be publishing this letter and your response on the Committee's website.

Yours sincerely,

A handwritten signature in black ink that reads "Stephen Timms". The signature is written in a cursive style with a horizontal line above the name.

**Rt Hon Sir Stephen Timms MP**  
**Chair, Work and Pensions Committee**