Frank Field
Chair, Work and Pensions Select Committee

Dear Frank,

13th July 2019

Thank you for your letter of 4th July 2019, regarding the release of updated figures for the PIP administrative exercise.

You asked a number of questions and I’m happy to provide more detail on the areas you mention.

Firstly, you asked for more information on the basis for our original estimates. To put this into context, as part of the regular fiscal planning rounds, we often need to estimate the costs of legal judgments before we have either the full information on the outcome of the judgment or the detailed guidance drawn up to deliver the judgment. That means we have to develop a set of assumptions on which we forecast potential spending. In each case we aim to gather as much evidence as possible to inform those assumptions. However, there is always a risk that the resulting estimates do not fully capture the effect of the guidance itself on caseload and expenditure.

The financial impact of the MH judgment was particularly difficult to estimate given the information available at the time on how the impact of the health condition might translate into points scores, as part of the PIP assessment process. Our basic approach involved drawing and reviewing samples of PIP cases based on advice from medical policy advisers about the potential impact of the judgment on eligibility for the benefit. We then used the results from these samples in our benefit forecast models to generate caseload and expenditure figures compared to our baseline forecast without the judgment.
The estimates for the MH legal case provided in the Equality Analysis, published in February 2017 were based on a sample of 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 sample and applied them to our forecasts at the time. We were only able to take a relatively small sample of around 60 cases at the time and this added to the uncertainty around the estimates.

Later estimates we produced for the Spring Statement 2018 were produced on the basis of a much larger, random sample. For this, we carried out a ‘test and learn’ exercise, where case managers were asked to indicate whether claimants may be affected by the judgment. Although the cases in the test were broadly representative of the PIP caseload, we did not have the final guidance at the time. We therefore asked case managers to identify claimants who may benefit, rather than those who definitely would benefit. This is likely to have led to the estimates being larger than the actual numbers. We therefore said that our estimates were uncertain, being produced before we had analysed the full detail of who would be eligible.

Following our decision not to appeal the judgment of the High Court in the judicial review which quashed the 2017 amending regulations, we worked to implement the MH judgment. This was a complex and substantial exercise and we were keen to engage with stakeholders to ensure that the process would be comprehensive and fair. As I mentioned in my letter, this involved consulting with MIND and other key stakeholders on the revised guidance.

We have always been clear, since PIP was introduced, that the threshold for overwhelming psychological distress was a high one. The revisions to the guidance we made were in line with the judgment that was handed down; only if a claimant is suffering from overwhelming psychological distress will anxiety be a cause of the claimant being unable to follow the route of a journey. The fact that a claimant suffers psychological distress that is less than overwhelming does not mean that the claimant is not following the route safely and to an acceptable standard. The judgment specifically said that the threshold is a very high one – not just a high one. In line with the judgment, claimants who are anxious or worried do not satisfy the terms of the higher descriptors because they can complete journeys unaccompanied without being overwhelmed.
As part of the implementation of the new guidance, there was a comprehensive training programme and bespoke communication in place for decision-makers, as well as robust quality assurances processes, as I mentioned in my letter, which means that we have confidence in the decisions being made as part of the administrative exercise.

In terms of the guidelines for DWP staff reviewing cases, we have a number of initiatives in place, both at the time of the implementation of the judgment and since, including:

- an Advice for Decision Making (ADM) Memo which explains the UT judgment and the decision-making aspects;
- staff ‘Your Calls’ where the memo was delivered to Case Managers (CMs). This provided an opportunity for the CMs to be given the communication verbally and ask questions;
- before, during and after the ‘Your Calls’ the CMs were invited to submit questions and a frequently asked question document was prepared to support the CMs;
- CMs were invited to a Medical Policy ‘Your Call’ in August 2018 where the UT judgment was discussed, covering, for example, issues such as ‘overwhelming psychological distress’ and the ‘majority of days’;
- for a 6-week period (1st August to 12th September) CMs working on the administrative exercise had Assessment Provider support to provide medical expertise to assist decision-making. This was provided on site for 4 weeks and by phone for 2 weeks;
- CMs also have operational instructions on the processes they needed to follow; and
- in addition, all CMs working on the administrative exercise undergo a specific training course which walks them through the guidance using case scenarios before they work on live cases.

All staff involved in reviewing these cases [Case Managers] receive additional upskilling specific to the exercise, followed by a period of consolidation. This includes assurance checks to ensure this learning is embedded.

On quality assurance, all decisions are underpinned with a variety of quality and checking approaches, which allow us to focus on the overall quality and consistency of decisions. This ensures that the changes are understood and there is consistency across all areas.
A Line Managers Assurance process is in place, the purpose of which is to ensure that Case Managers are equipped with the skills to make consistent, reasonable, robust and quality decisions, ensuring we get the decision right from the outset.

We have also invested in the role of Quality Assurance Managers [QAMs] to support, coach and mentor our Case Managers, to provide advice on complex cases to further ensure consistency.

In addition, calibration meetings are held with staff from across the PIP customer journey, and Quality Assurance Managers, to discuss feedback from checks, agree consistency, and to identify points of clarification. This sharing of knowledge and understanding has allowed us to identify what is going well and what can be improved.

More generally, we have also liaised extensively with Assessment Providers (IAS and Capita), outside of the administrative exercise, over the implementation of the judgment and final guidance as well as ensuring the quality and consistency of assessments. This included:

- Supporting and quality assuring the training modules developed by Assessment Providers
- Holding several workshops last summer to discuss the judgment’s implications and to clarify the interpretation of Overwhelming Psychological Distress
- Implementing a mechanism for raising and answering queries from Assessment Providers related to the activity
- Holding an audit calibration meeting with Assessment Providers to ensure consistency of approach between providers and DWP
- An audit process for dealing with concerns about the assessments for the activity

While all this gives me a lot of comfort that we have the right framework in place to ensure we make the right decision, it is just as important to me what we observe on the ground. Every person who has been reviewed receives a letter that sets out the judgment and explains our decision in their specific case. It clearly tells them how they can get in touch with us if they do not agree with the decision or they think we do not have all the evidence we need. The numbers who have got in touch with us because they think we have made the wrong decision are extremely small. This gives me further assurance that the processes we have in place appear to be working well, but I and my officials are obviously happy to hear of any specific feedback on the exercise. We
are intent on making sure everyone who is affected by the judgment is identified and gets the support they are entitled to.

Lastly, on your final point, I would like to reassure you that we are on track to finish the exercise in 2020 as planned. We have put considerable resources into the exercise, so that we can check claims and pay people as quickly as possible.

Kind regards,

Justin Tomlinson MP
Minister for Disabled People, Health & Work