

The Rader PIP review: next steps

At a glance

The first independent review of the Personal Independence Payment Assessment Process in Northern Ireland is now complete. The review was carried out in 2018 and the Department for Communities set out its interim response in November.

This briefing paper provides:

- a) A summary of the Rader PIP Review's recommendations and the Department for Communities' response to them;
- b) A brief analysis of the Rader PIP Review and recommendations for next steps.

The next PIP review, which is scheduled for 2020, affords an opportunity for the Department to examine some of the issues that fell outside the scope of the Rader Review.

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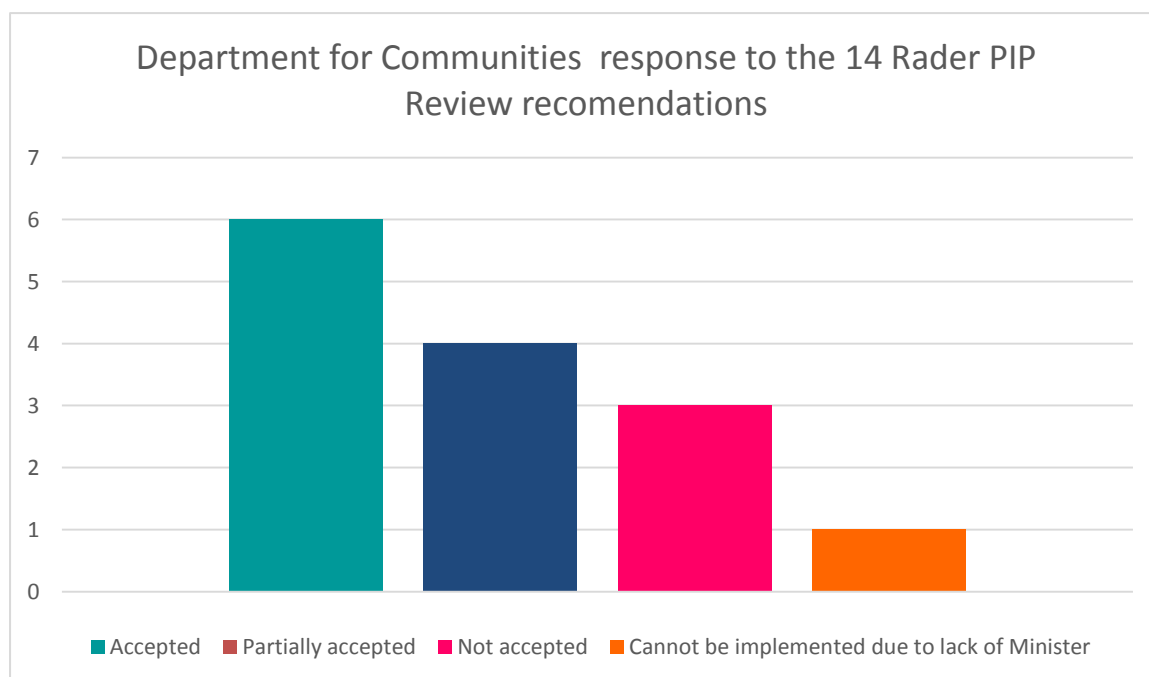
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Introduction

1. With the introduction of Personal Independence Payment (“PIP”) in Northern Ireland in 2016, the Department for Communities (“DfC”) committed to undertaking two independent reviews.¹ The first report was conducted by Walter Rader and was published in June 2018.² The second report is scheduled for 2020. DfC issued its interim response to the Rader PIP Review recommendations in November 2018. This briefing paper summarises the Rader PIP Review recommendations and the departmental response to them.

Summary of recommendations

2. The Rader PIP Review issued fourteen recommendations. As outlined in the table below, the majority of the recommendations were either fully accepted or partially accepted.



3. The following table summarises the Rader PIP Review recommendations and the Department’s response to them.

¹ Welfare Reform (Northern Ireland) Order 2015, Article 95

² Walter Rader, ‘PIP: An Independent Review of the Assessment Process’ (June 2018)

Problem	Rader recommendation	Department for Communities (“DfC”) response to recommendation
<p>1. There is a poor understanding of PIP among claimants / family members.</p>	<p>DfC should coordinate a series of information and outreach events to improve awareness of PIP.</p>	<p>Accepted</p> <p>DfC will commence this in January 2019 and will work with thematic support groups and advice sector. DfC has also <u>developed 5 videos</u> to help claimants understand PIP.</p>
<p>2. There is a lack of understanding including of the roles and functions of different aspects of the PIP journey.</p>	<p>DfC should update terminology and simplify and consolidate the terms used.</p>	<p>Accepted</p> <p>DfC has begun reviewing terminology. DfC is also tracking developments in GB where DWP has commissioned research to support improvements to the PIP2 questionnaire.</p>
<p>3. During the initial claim telephone call, claimants are asked if they wish any DLA medical evidence to be taken into account. This is sometimes misinterpreted as claimants not needing to submit any further evidence.</p>	<p>The use of DLA evidence to support reassessment cases should cease.</p>	<p>Not accepted</p> <p>DfC maintains its position whereby claimants are offered the option of having their DLA evidence considered as part of their PIP assessment.</p>
<p>4. The written material about the assessment process is unclear.</p>	<p>DfC should review all written material including initial letters and subsequent decision claimants to ensure clarity</p>	<p>Accepted</p> <p>DfC accepts the need for clear communications. As above, DfC is tracking DWP’s research and will discuss with stakeholders in NI including the Disability Consultative Forum.</p>
<p>5. Claimants with specific communications needs can find it difficult to apply for PIP and to communicate with DfC and Capita.</p>	<p>DfC should ensure that claimants with communication needs do not face unnecessary obstacles in applying for PIP. Staff training should be reviewed.</p>	<p>Accepted</p> <p>DfC maintains its commitment to improving accessibility and will: shortly implement a Video Relay Service for sign language users; reinforce the various options that are available to claimants with telephony staff; and track any digital developments in DWP with regards to an online claim.</p>
<p>6. Claimants with a short-life expectancy can be considered under the Special Rules for Terminal Illness process. However, the evidential requirements can be difficult/distressing.</p>	<p>The requirement that a medical practitioner needs to confirm a 6 months life expectancy should be removed; it should be sufficient that the medical practitioner indicates that the claimant has a terminal illness.</p>	<p>DfC cannot implement</p> <p>DfC does not indicate whether it agrees with this recommendation. It explains that implementing a different approach to the Special Rules would depart from the ‘parity principle’ and would require Ministerial direction; this cannot be implemented at present.</p>

Problem	Rader recommendation	Department for Communities (“DfC”) response to recommendation
<p>7. Claimants can find it difficult to obtain an input from their GP.</p>	<p>DfC should reach agreement with the relevant professional bodies about obtaining a GP Short Summary Report to support the PIP2 submission. This should be requested for every claim.</p>	<p>Partially accepted</p> <p>In general, DfC’s focus is on a functional rather than a medical history. DfC is monitoring developments in GB where DWP is working with the assessment provider to develop a ‘Function First’ approach. However, DfC accepts that some non-functional clinical information can be relevant and is working with British Medical Association to consider how GP Short Summary Reports could be provided. This will be subject to a cost/benefit analysis and will require Ministerial approval.</p>
<p>8. Relevant information sent to DfC is not always promptly shared with Capita due to internal systems.</p>	<p>DfC should introduce steps to ensure that Capita are made aware, as early as possible in the process, when additional evidence is received with the PIP2 and advised that it will follow. Capita should be afforded time in the process to await any additional evidence.</p>	<p>Accepted</p> <p>In October 2018, DfC implemented a revised process at the Mail Opening Unit to ensure that all information reaches the PIP Computer System more promptly.</p> <p>NB: DfC does not respond to the suggestion that Capita should be afforded more time in such cases.</p>
<p>9. Some claimants are required to attend face-to-face assessments in cases where a Paper-Based Review would be more appropriate. This can have a negative effect on their health.</p>	<p>DfC should establish a short term ‘Task and Finish’ group to develop a set of criteria detailing which conditions would be more appropriately addressed through the Paper-Based Review Approach.</p>	<p>Partially accepted</p> <p>DfC recognises that the initial review should identify cases where a Paper-Based Review is more appropriate. However, DfC does not want to place limitations on the evidence gathering process by exempting some claimants from a face-to-face assessment based on their conditions. DfC has worked with Capita to enhance the ‘decision making matrix’ and will discuss at the Disability Consultative Forum in 2019. Further, if the claimant has a progressive condition with no prospects of improvement, DfC has instructed Case Managers to consider making an ongoing award in some situations. Such awards will not have an end date and will be subject to a ‘light touch’ review.</p>

Problem	Rader recommendation	Department for Communities (“DfC”) response to recommendation
<p>10. The current process of (re)scheduling assessments can be stressful for claimants. Communication can be poor. The layout of the room can create additional stress for claimant.</p>	<p>DfC should urgently address issues including the scheduling of assessments; better communication of same; ensuring that reasonable adjustments are taken into account; ensuring that the layout of the assessment room is suitable for the claimant and any accompanying person.</p>	<p>Accepted</p> <p>DfC has amended the process to give more flexibility for frontline Capita staff to reschedule appointments. The appointment letters have been improved to make it clear that appointments can be rescheduled and now meet the Plain English Crystal standard. DWP is looking at how requests for home assessments are dealt with in GB and DfC is monitoring. DfC has begun discussions with Capita about the lay-out of the assessment room</p>
<p>11. There is often a lack of trust in the assessment partly due to the Assessor not being a specialist in the particular condition, displaying a lack of understanding, or seeming to be disengaged, etc.</p>	<p>DfC and Capita should develop enhanced training for Assessors specific to certain groups of conditions. If a claimant can show s/he is affected by one of these conditions s/he should have the opportunity to see an Assessor with enhanced training relevant to their condition, or to have a Paper-Based Review</p>	<p>Not accepted</p> <p>DfC maintains that the PIP assessment is a functional rather than a clinical assessment. Whether a health professional is a specialist in a given area, should not impact on their ability to carry out a functional assessment.</p> <p>DfC is satisfied with the formal approval process and the extensive training for Assessors to ensure that they meet DfC’s experience, skills and competence requirements</p>
<p>12. Widespread concerns about the accuracy of assessment reports.</p>	<p>DfC should introduce audio-visual recording of assessments in both home and assessment centre locations.</p>	<p>Partially accepted</p> <p>DfC acknowledges that, while in theory, claimants can audio record their assessments, in practice the complexity and potential costs means that very few take up this option.</p> <p>DWP intends to pilot video recording of assessments in GB and DfC is tracking developments. DfC will also carry out a pilot of audio recording in NI (but gives no date for this action point).</p>

Problem	Rader recommendation	Department for Communities (“DfC”) response to recommendation
<p>13. The practice of Assessors drawing on informal observations can cause upset and reduces faith in the process. Questions about self harm/suicide can be inappropriate and also distressing.</p>	<p>a) DfC should work with Capita to remove or revise the use of informal observations to support Assessors’ reports. If revised, Assessors should be required to justify the conclusions which they have drawn from their observations.</p> <p>b) All questions about suicide and self harm should be removed from the assessment.</p>	<p>Accepted (recommendation 10a)</p> <p>DfC maintains that it will continue to use informal observations as part of the PIP (and ESA) assessment. However, DfC accepts that informal observations must be factual observations and not opinions. DfC Case Managers have been advised to challenge the observations, if they deem them unjustified, to ensure their correct application.</p> <p>Partially accepted (recommendation 10b)</p> <p>Capita has completed a review of its processes for observing both the mental and cognitive state of claimants where suicidal intent or self-harm may be relevant. This has resulted in updated guidance to Assessors to ensure that the subjects of suicide and self-harm are only addressed where it is relevant and that this is done in a sensitive and professional manner. The delivery of training on this revised guidance to Assessors commenced on 1 October 2018.</p>
<p>14. Claimants do not currently have access to the Assessor’s report unless they appeal the refusal of the PIP award.</p>	<p>A copy of the Assessor’s Report should be made available to claimants along with the decision letter.</p>	<p>Not accepted</p> <p>DfC is committed to improving communications (see above), it does not accept the need to issue more paperwork (i.e. the Assessor’s report) with the decision letter.</p>

Analysis and next steps

1. The Rader PIP Review process drew on a variety of sources to gain insight into the PIP assessment process. This included a public call for evidence (15 Jan – 16 March 2018), which attracted 330+ responses; meetings with representative organisations, charities and support groups (this included a meeting convened by Law Centre (NI) with the advice sector), observations of a number of face-to-face assessments at Capita assessment centres across NI; meetings with Capita operational staff and senior management, meetings with a range of Departmental staff including those involved in PIP initial contact, Case Managers, and those involved with Mandatory Reconsideration and Appeals; an analysis of official statistics; meetings with elected representatives; and meetings with professional bodies representing doctors and health care professionals.³
2. In response to the Review's public call for evidence, Law Centre identified twenty nine discrete recommendations, grouped into seven key recommendations. We are pleased that a number of Law Centre's key recommendations have been agreed including:
 - Improved communications to increase understanding of the PIP journey and the concept of functional assessment
 - Consideration of access to audio recording of face-to-face assessments
 - Improved processes to better identify vulnerable claimants and ensure that reasonable adjustments are *always* considered
 - Consideration of an agreed process for accessing medical evidence, etc.
3. The Review has, however, omitted some important issues in relation to the assessment process. Most strikingly, the Review gives no consideration to the role of carers. This is difficult to understand and urgently needs rectifying. The Department should **now consider the evidence collected by the Rader PIP Review on the issue of carers to implement an action plan.**
4. In response to the Rader PIP Review call for evidence, the Law Centre highlighted the need for an agreed process for carers to input into the assessment

³ Rader PIP Review para 6

Extract of LCNI response to Rader call for evidence on carers

Claimants often report that companions (carers / family members) are not given an opportunity to make an input at the assessment. The DWP *PIP Assessment Guide* is largely silent on how the Department should treat evidence submitted by carers and it seems that any input depends on the discretion of Assessors. We consider this to be a missed opportunity: companions are likely to have very valuable information about a claimant's abilities. Indeed, given the purported focus on function, it seems that such information should be integral to the PIP process. In GB, DWP has agreed to work with the assessment providers to investigate how assessments could be better structured to incorporate input from companions.⁴ We welcome this and urge the Department to take a similar approach.

Accordingly, we recommend that DfC commits to ensuring that evidence of carers is given sufficient weight and that the assessment process is revised to ensure that carers are formally included.

5. Regrettably, the scope of the Review from the outset was limited to the *assessment process* and therefore did not consider wider PIP policy, underlying principles or policy intent. This is unfortunate. The 2020 Review affords an opportunity for DfC to consider the PIP issues that fall outside of the assessment process. A wider review is particularly important given that the PIP process impacts on a significant portion of the NI population.⁵ Key issues that should be considered are:

- **The need for improved accountability and transparency through the regular publishing of PIP data, which would include appeal data and Capita performance data.**⁶
- **An independent complaints process that looks at *all* aspects of the PIP journey.**

6. Additionally, a number of other Law Centre recommendations to the Rader PIP Review remain valid and require further examination:

- DfC should ensure that all DLA claimants who do not qualify for PIP are properly informed of the Supplementary Payment available; a warm

⁴ DWP, 'Government's response to the Second DWP Independent Review of the PIP Assessment' (December 2017), Annex A p 25.

⁵ Rader PIP Review para 27

⁶ DfC publishes some PIP data on its website. This data is limited and does not include data relating to Mandatory Reconsiderations, appeals and outcomes. As per email correspondence with TAS (6 March 2018), we understand that The Appeals Service compiles some appeals data but that it is not regularly published. DfC should obtain and publish comprehensive PIP data.

handover to the Independent Welfare Changes Helpline should be considered.

- DfC Decision Makers should consider the *availability/accessibility* of particular services relevant to the claimant's condition. If absent / inaccessible, this should be duly noted and the claimant's own evidence should be given greater weight.
- DfC Decision Makers should provide reasoning for rejecting any evidence or giving it little weight.
- DfC Decision Makers should make their *own* decisions on whether Further Evidence changes the decision to award PIP without the need to seek advice from Capita.
- Capita should be required to complete the assessment in the same day.
- DfC should clarify the process by which claimants report changes in circumstances and renew PIP claims.
- DfC should urgently review the Mandatory Reconsideration process and consider whether it is an effective remedy for claimants.
- DfC should work with the Tribunal to action the recommendation of a feedback loop as proposed at the fourth WCA review so as to ensure that learning is communicated to the Assessor and Decision Maker.⁷
- DfC should consider the effectiveness of the auditing process and should ensure that auditing information is more easily obtainable for claimants; see the forthcoming Law Centre paper briefing paper.

Conclusion

7. We look forward to engaging with DfC – including through the Disability Consultative Forum – on the implementation of the Rader PIP Review. We also request that the advice sector is given an early opportunity to discuss the scope of the 2020 review.

December 2018

⁷ Dr Paul Litchfield, 'An Independent Review of WCA – Year 4' (Dec 2013) Para 26 page 79
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/265351/work-capability-assessment-year-4-paul-litchfield.pdf

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