

**WRITTEN QUESTION TO THE MINISTER FOR SOCIAL SECURITY  
BY DEPUTY G.P. SOUTHERN OF ST. HELIER  
ANSWER TO BE TABLED ON TUESDAY 20th JANUARY 2015**

**Question**

Will the Minister inform members on what basis the tests used to assess award of Income Support impairment components are founded and when they were last reviewed by the Department or the relevant U.K. authority?

Is the Minister satisfied that these tests represent an accurate and complete picture of applicants' functional abilities, especially in the case of mental impairment, variable and multiple conditions and those difficult to diagnose such as Chronic Fatigue Syndrome?

In particular, is the Minister content that these judgements are made by Social Security officers without medical training on the basis of Department for Work and Pensions guidance and internet reading?

Is the Minister satisfied that the Department's appeals process, whether applied to medical (impairment) or other components of Income Support, or to the sanctions regime applied to breaches of Actively Seeking Work or leaving work without sufficient reason, is fit for purpose?

Further, has the Minister obtained legal advice on whether an appeals process which contains a "second determination" tick-box exercise followed by a complex process lasting between 3 and 6 months is human rights compliant given that an applicant's condition could be worsened due to stress following denial of benefit?

**Answer**

The tests used to assess the award of the Income Support impairment component were designed at the start of Income Support with the assistance of medical experts who had participated in designing the UK system and in training large numbers of staff on the mainland to deliver similar assessments. The Department continues to make use of experienced UK experts to train local assessing staff and to carry out periodic reviews to ensure that the tests are functioning as intended. Changes to the tests are made on expert medical advice, most recently in 2014 when the descriptors relating to epilepsy were updated to reflect changes made to the equivalent tests in the UK.

I am satisfied that the assessment process designed for Income Support is an appropriate way to obtain an accurate and complete picture of the applicant's functional abilities. The process is designed to take into account evidence presented by the applicant and to match this against evidence from a General Practitioner and/or specialist medical reports. Separate areas of the assessment deal with physical, sensory and mental capability and they can be applied to mental impairment, as well as variable and multiple conditions. The assessment process is not centred on a specific diagnosis, but is designed to take into account the effect of any and all medical conditions on a person's functional abilities, whether these are subject to a formal diagnosis or not. Where there is medical evidence that a condition affects everyday function according to the criteria set under law, an award will be made.

The assessment process used by Income Support is designed to be administered by officers who do not have professional medical qualifications. The role of the officer is to assess the evidence that has been

provided, rather than to take medical judgements. Where evidence is not clear, a medical board can be used to gather the additional evidence needed. The specialist officers who work in this area of benefit assessment have my full confidence. Officers undertake an intensive period of training from experts who perform the same function for DWP staff in the UK. Determining officers have access to medical professionals to request advice, but also make use of a range of reference material including the DWP website which is regularly updated.

Furthermore, I am completely satisfied that the Department's appeal process is fit for purpose. Any adult included in an Income Support claim has the right to request a second determination (i.e. a review or reconsideration) of any decision made under the Income Support Law that affects their household. This request will be dealt with by a different officer who will fully review the original decision. The applicant is given full opportunity to understand the first decision and present additional evidence to support their case. If they are still dissatisfied with the outcome of their second decision, they are given the opportunity to appeal to an independent tribunal organised by the Judicial Greffe.

Appeals in respect of medical components are considered by a dedicated Income Support Medical Appeal Tribunal. This body is chaired by a qualified lawyer, who is supported by both a GP and a member of the public with an interest in disability issues. Other appeals are referred to the Social Security Tribunal. In both cases, the tribunal applies the law and its decision is binding on the Department, but appellants may appeal to the Royal Court if they feel that the law has been misapplied.

I strongly reject the use of the term "tick box exercise" to describe the review process and I can reassure Members that the appeals process is fully human rights compliant. The process of internal review and external appeal is extremely thorough and gives the claimant informal and formal opportunities to both understand and challenge the original decision, and to submit additional evidence.

In cases where the claimant chooses to submit additional evidence, the end to end appeal process can last several months, as new evidence is submitted and assessed. For example, reviews and/or appeals are often put on hold to await the outcome of a specialist appointment at the hospital, or the return of test results. It would not be fair nor proper to conclude a review or hold a tribunal hearing where the applicant is unable to present supporting evidence that they know is pending.