

President of the Appeal
Tribunals Northern Ireland
Annual Report
2021 – 2022

REPORT BY THE PRESIDENT OF APPEAL TRIBUNALS
ON THE STANDARDS OF DECISION MAKING
BY THE DEPARTMENT FOR COMMUNITIES

The total number of appeals registered during the year to which this report relates was 4269, of which 661 were monitored.

Unfortunately, there has been a large increase in the overall level of incorrectness. During the previous year it was 5.8% compared with 9.2% this year. Across all cases monitored the decision maker was judged to have made an incorrect decision in 61 cases. The figures illustrated reveal that there was a considerable degree of variation in the level of incorrectness of initial decisions across different benefits. The largest number (27) of initial incorrect decisions were in respect of Universal Credit (UC). This represents 12.5% of all UC monitored appeals (216). That is unnecessarily high and causes me considerable concern.

The overall percentage of correctly made decisions altered by the tribunal was 36.9%. As with previous years the decisions in this category were altered because the Tribunal accepted evidence which the Decision Maker was unwilling to accept, or the Tribunal was given additional evidence which was not available to the Decision Maker.

The most common categories of appeals registered during the year were in respect of Personal Independence Payment (PIP) (2086) and Employment and Support Allowance (ESA) (682). 11.1% of the monitored PIP cases and 8.3% of the monitored ESA cases were assessed as having an incorrect initial decision. These percentages are much higher than in the previous year.

Once more this report reveals concern about the number of ESA, PIP and DLA decisions being overturned as a result of the provision of further medical evidence. The same issue arises with UC appeals which involve a work capability element. I repeat my request that the Department consider what further steps can be taken prior to hearing in order to source additional medical information from or on behalf of appellants. Once more I respectfully suggest that, as a matter of standard practice in all such cases, a report should be obtained at an early (pre-decision) stage from a general practitioner. This is linked to my overall view that there is a systemic problem with the Healthcare Professional (HCP) assessment process. I repeat the comments made in last year's Foreword. It is quite probable that if HCP assessments were more efficient and reliable, it would be unnecessary to provide so

President's Foreword

much additional medical and other evidence prior to and at hearing. This would save judicial and administrative time and would also lead to a much more robust and sustainable initial decision-making process.

In my previous reports I mentioned that I have written to senior officials within the various branches of the Department with a view to improving decision-making in individual cases and in order to raise issues of general concern. This practice has continued, and I am pleased to note that the Department remains receptive to the practice. I continue to believe that it enhances decision-making generally and assists both the tribunal and the Department. I acknowledge the constructive engagement of senior officials with this process.

I am extremely grateful to my excellent staff, led by Nuala Burns, for their extremely hard work in compiling the information on the basis of which this report has been created. I also acknowledge the efforts of our Legally Qualified Members in completing the monitoring forms which formed the statistical base for the report.



John Duffy

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Introduction

This report examines the standard of decision-making in relation to registered appeals from April 2021 to March 2022. The objective of the study was to estimate the level of incorrect initial decisions made by the decision maker in appeal cases by benefit.

Methodology

The methodology for undertaking this exercise reflects the fact that the level of appeals for a particular benefit is governed by both the number of persons claiming a particular benefit and the complexity of the benefit.

For some benefits a random selection of registered cases was selected by means of random numbers. The benefits in this category were Attendance Allowance, Disability Living Allowance, Employment Support Allowance, Personal Independence Payment and Universal Credit.

For other benefits where the expected number of cases was small, a complete census was the preferred methodology. In this respect all cases relating to Bereavement Benefit, Carer's Allowance, Child Maintenance, Compensation Recovery, Income Support, Industrial Injuries Disablement Benefit, Jobseekers Allowance, Maternity Allowance, State Pension and Social Fund were examined.

However, it should be noted that in a number of cases across all benefits (except Maternity Allowance and State Pension), monitoring was not carried out due to the cases being withdrawn or a pre-hearing clearance. No cases were monitored in relation to Pension Credit as none were registered.

At final hearing the Legal Members are asked to identify whether or not the decision made by the decision maker is altered.

The sample was designed to enable reporting for the whole year, by benefit. Inferences with regard to all appeals by sampled benefits are in Appendix 1.

Note that in some cases there may be a time lag between an appeal being received and subsequently registered by TAS due to a variety of clerical reasons.

Sample and Sample Analysis

The table below (Table1) shows the total number of cases registered by benefit, the number monitored, the number of decisions incorrectly made in the first instance and the 'incorrect' percentage, in the period.

As referenced previously, some benefits required a census of cases and such benefits are indicated by bold type. Benefits marked with * in the Table have a sample size of less than 30 and therefore we cannot make reliable inferences about the expected level of error.

Table 1

Category	Total registered	No. Monitored (sample size)	Initial decision incorrect	Percentage Incorrectness
Attendance Allowance*	37	23	0	0.0%
Bereavement Benefit*	4	3	0	0.0%
Carer's Allowance*	24	7	3	42.9%
Child Maintenance*	43	9	0	0.0%
Compensation Recovery*	4	1	0	0.0%
Disability Living Allowance	320	97	2	2.1%
Employment Support Allowance	682	145	12	8.3%
Income Support*	13	7	1	14.3%
Industrial Injuries Disablement Benefit*	29	6	1	16.7%
Jobseekers Allowance*	28	20	2	10.0%
Maternity Allowance*	1	1	0	0.0%
Personal Independence Payment	2086	117	13	11.1%
Social Fund*	15	6	0	0.0%
State Pension*	3	3	0	0.0%
Universal Credit	980	216	27	12.5%
TOTAL	4269	661	61	9.2%
<i>Bold type indicates a census of case and * indicates a sample size of less than 30</i>				

Chapter 2 - The Sample and Sample Analysis

Across all cases monitored, the decision maker was judged to have made an incorrect decision in 61 cases, representing 9.2% of all cases monitored.

From Table 1 it is evident that there is a considerable degree of variation in the level of incorrect initial decisions across benefits.

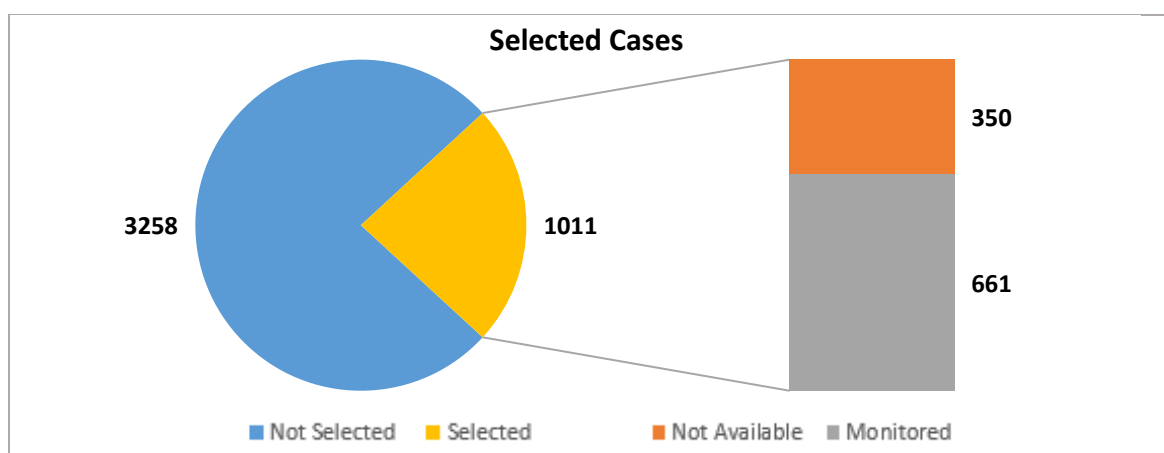
Of those benefits where a complete census was recommended, there were no cases assessed as having the initial decision incorrectly made for Bereavement Benefit, Child Maintenance, Compensation Recovery, Maternity Allowance, State Pension and Social Fund. It should be noted that the total numbers of cases available to be monitored for these benefits are small and so the results need to be treated with caution.

In cases where a census was used, any incorrect decision may have a significant impact on the percentage of incorrectness again distorting the results.

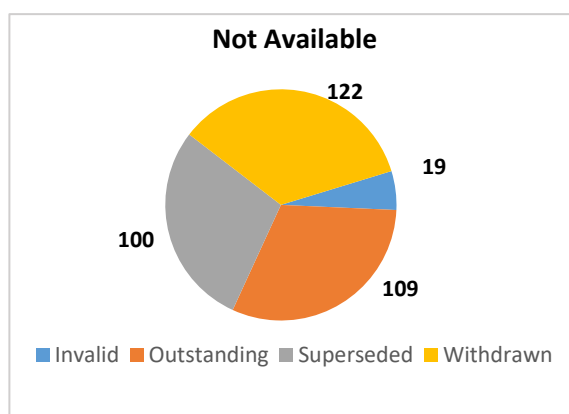
In the sample of cases monitored, one benefit had no incorrect decisions registered: Attendance Allowance.

Statistical Breakdown of Registered Appeals and Appeals Selected for Monitoring

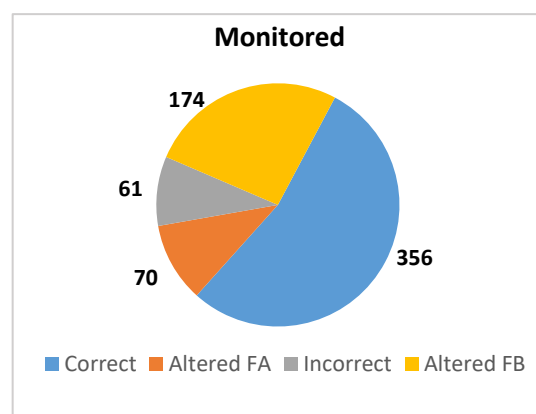
In the year 2021/22 there were 4269 appeals regarding decisions made by various decision makers from the Department for Communities (the department).



There were 1011 appeals selected for monitoring of which 661 cases were available and 350 cases were unavailable due to the report form not being available before the data closing date or the appeal being cleared before hearing.



Of the 350 unavailable cases 241 were cleared before hearing, of which 122 were withdrawn and 100 received a more favourable decision prior to the tribunal hearing. There were 109 outstanding report forms at the data closing date. For various reasons the remaining 19 were not accepted as valid appeals.



Of the 661 monitored cases 61 were found to be incorrectly made by the Decision Maker and a further 70 were altered due to evidence that the decision maker was not willing to accept (FA) and 174 where the tribunal was given additional evidence that was not available to the decision maker (FB).

Variation Across Benefits

Figure 1: Incorrectness of Initial Decisions by benefit type

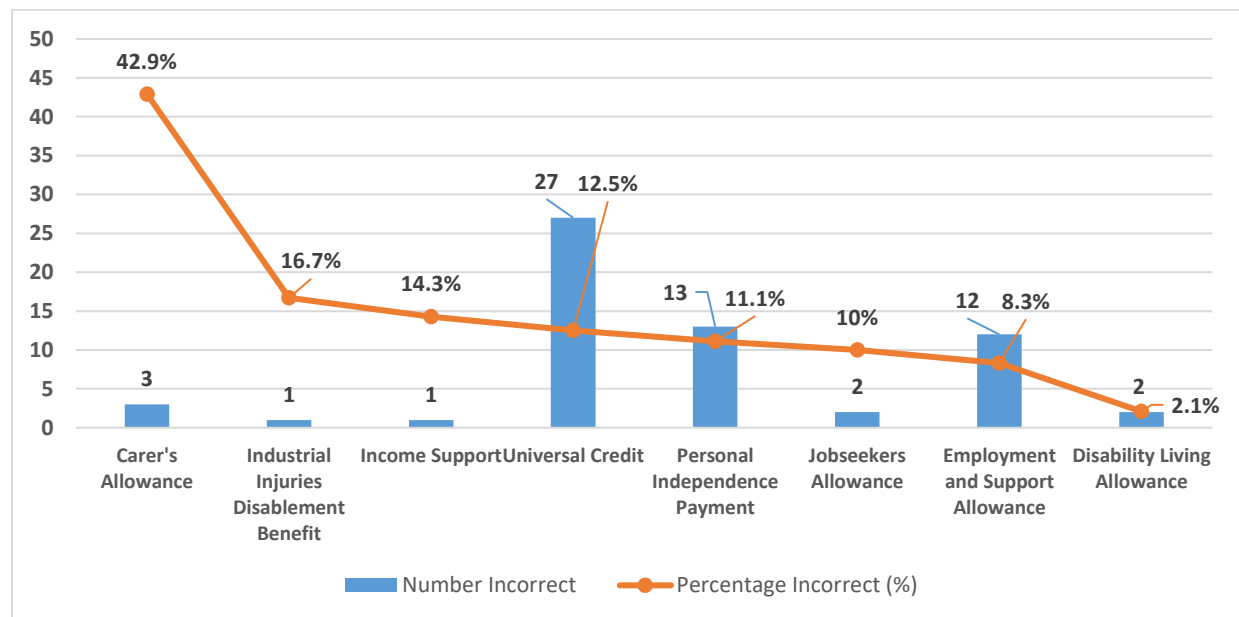
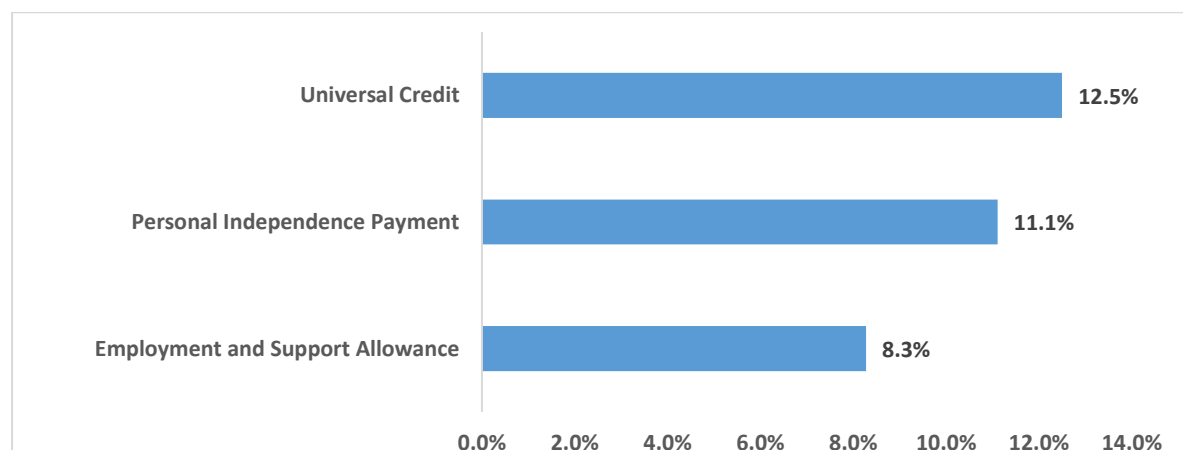


Figure 1. shows graphically the variation across the remaining benefits. Where present; levels of incorrectness in the initial decision range from 2.1% of 97 Disability Living Allowance cases to 42.9% of 7 Carer's Allowance cases (**Note very small numbers of cases for some benefits**).

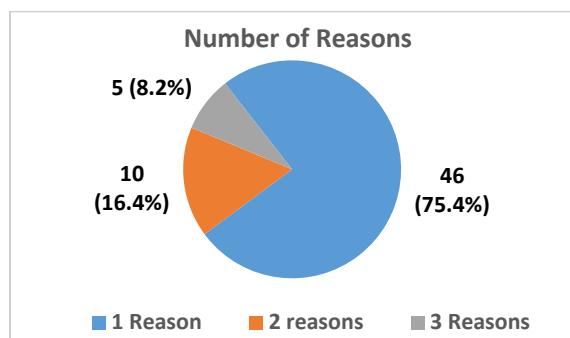
Personal Independence Payment and Universal Credit accounted for 48.9% and 23.0% of all cases registered respectively, reflecting both the number of people claiming the benefit and also the complexity in delivery of the benefit. The level of incorrectness in the initial decisions made in the sample for Personal Independence Payment was 11.1% and for Universal Credit it was 12.5%.

Figure 2: Incorrectness of Initial Decisions by the three Benefits with the Largest Number of Cases Registered (%)



Reasons for the Initial Decision being Incorrectly Made

When an initial decision is deemed incorrect the reason or reasons for this are recorded. In the period April 2021 to March 2022 there were 61 monitored cases where the initial decision was deemed incorrect. There were 81 reasons recorded for these 61 cases.



In the majority of cases (75.4%) where the initial decision was incorrect, a single reason was given for incorrectness. However, there were ten cases (16.4%) where two reasons were given for incorrectness, and five cases (8.2%) where three reasons were given.

Table 2 below sets out the reasons for incorrectness and the number of occurrences within incorrectly made decisions.

Table 2: Reasons for Incorrectness

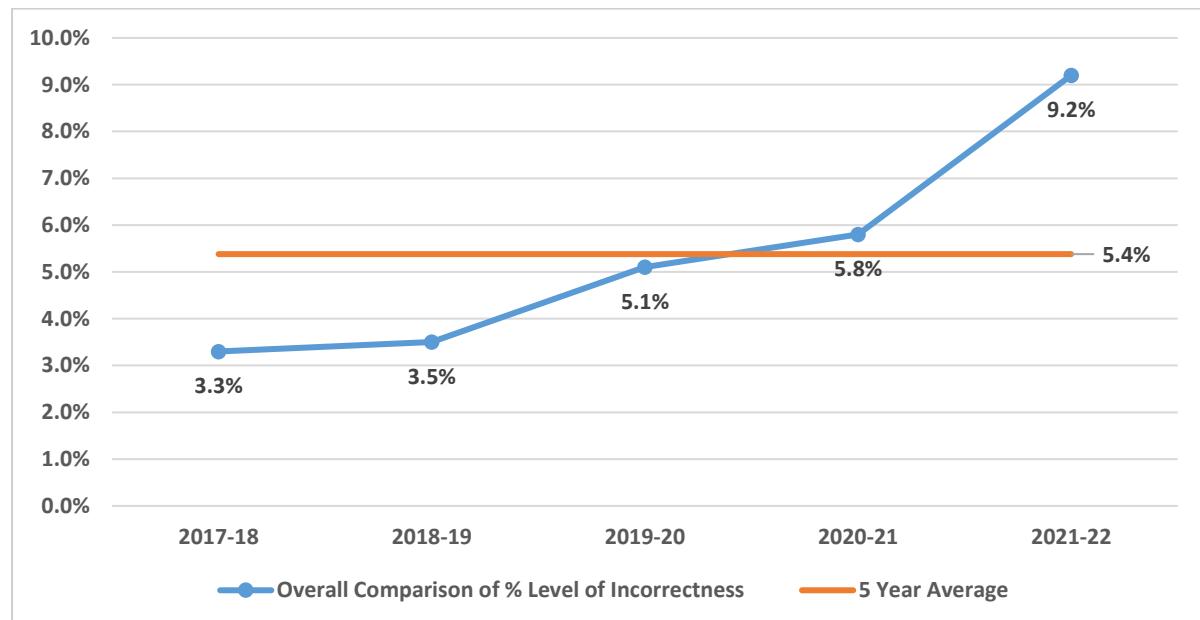
Reason for Incorrectness		Number of Occurrences	% of Total
F1	Insufficient facts/evidence due to inadequate investigation of the claim or revision	13	16.0
F2	Failed to request adequate medical guidance or expert reports relevant to the decision	3	3.7
F3	Failed to identify a finding(s) which needed to be made on the basis of the rules of entitlement relevant to the claim or revision	6	7.4
F4	Misinterpretation/misunderstanding of the evidence available to the officer	20	24.7
F5	Took into account wholly unreliable evidence	1	1.2
F6	Disregarded relevant evidence	25	30.9
F7	Failed to identify/resolve an obvious conflict in the evidence	6	7.4
F8	Did not action additional relevant evidence provided after his decision was made and initiate a revision	0	0
F9	Made errors of calculation	1	1.2
R1	Did not give adequate reasons for his decision when requested under regulation 28 (1) (b) of the Decisions and Appeals regulations 1999	1	1.2
L1	Did not identify the correct legal rules relevant to the claim/revision	2	2.5
L2	Misinterpreted the legal rules relevant to the claim	3	3.7
L3	Failed to identify a change in legal rules relevant to the claim/revision	0	0
L4	Overlooked a relevant Commissioners decision/Court decision which was/should have been available	0	0
L5	Failed to obtain additional legal advice necessary to deal with the claim	0	0
O	Other error discovered	0	0
TOTAL		81	100

The most common reason for incorrectness was 'The officer disregarded relevant evidence' (F6), given 25 times, representing 30.9% of all reason given.

Comparison of Levels of Incorrectness over a Five Year Period

Figure 3 below compares the overall level of incorrectness over the five year period from 2017/18 to the current report.

Figure 3 Comparison of Overall % Levels of incorrectness



The graph compares the fluctuation in level of incorrectness for years 2017/2018 to 2021/2022.

In the years 2017/18 to 2020/21 the overall level of incorrectness identified steadily increased from 3.3% in 2017/18 to 5.8% in 2020/21. In the current year the level of incorrectness stands at 9.2%. Overall this is a substantial increase and represents a 5 year average of 5.4%.

An analysis of the individual benefits over the five year period is set out in the individual benefit sections.

Correctly Made Decisions Overturned by the Tribunal

Of the 661 cases monitored, 244, representing 36.9%, were altered by the tribunal. These cases were correctly made by the decision maker in the first instance.

Table 3 explains why correctly made decisions were overturned by tribunals.

Table 3 Definition of Correctly Made Altered Decisions

Reason Decision was overturned	
FA.	The tribunal accepted evidence which the officer was not willing to accept. Neither conclusion was unreasonable.
FB.	The tribunal was given additional evidence which was not available to the officer who made the decision.

Table 4 sets out on a 'by benefit' basis the number and percentage of cases where the decision was overturned by the tribunal due to the way in which existing evidence and additional evidence was considered by the tribunal.

Table 4 Overall Figures for Correctly made Altered Decisions

Category	Monitored (sample size)	Total Altered	Percentage Altered	No. FA	Percentage FA	No. FB	Percentage FB
Disability Living Allowance	97	65	67.00%	15	15.50%	50	51.50%
Personal Independence Payment	117	57	48.70%	22	18.80%	35	29.90%
Employment Support Allowance	145	47	32.40%	16	11.00%	31	21.40%
Universal Credit	216	63	29.20%	12	5.60%	51	23.60%
Attendance Allowance*	23	6	26.10%	2	8.70%	4	17.40%
Jobseekers Allowance*	20	3	15.00%	2	10.00%	1	5.00%
Carer's Allowance*	7	1	14.30%	0	0.00%	1	14.30%
Income Support*	7	1	14.30%	1	14.30%	0	0.00%
Child Maintenance*	9	1	11.10%	0	0.00%	1	11.10%
Industrial Injuries Disablement Benefit*	6	0	0.00%	0	0.00%	0	0.00%
Social Fund*	6	0	0.00%	0	0.00%	0	0.00%
Bereavement Benefit*	3	0	0.00%	0	0.00%	0	0.00%
State Pension*	3	0	0.00%	0	0.00%	0	0.00%
Compensation Recovery*	1	0	0.00%	0	0.00%	0	0.00%
Maternity Allowance*	1	0	0.00%	0	0.00%	0	0.00%
TOTAL	661	244	36.9%	70	10.6%	174	26.3%
<i>Bold type indicates a census of case and * indicates a sample size of less than 30</i>							

Chapter 2 - The Sample and Sample Analysis

Overall Disability Living Allowance (DLA) had the highest percentage of correctly made decisions in both categories overturned by the Tribunal with 65 cases representing 67.0%. DLA also had the second highest percentage of cases where additional evidence provided before or at hearing influenced the outcome of the case (FB).

Universal Credit (UC), Personal Independence Payment (PIP) and Employment and Support Allowance (ESA) also had significant percentages of appeals overturned in the FB category with 51 cases (23.6%), 35 cases (29.9%) and 31 cases (21.4%) respectively. These were altered due to the availability of additional evidence provided before or at hearing stage.

Personal Independence Payment had the highest percentage of decisions overturned in the FA category with 22 cases representing 18.8%. The other larger benefits DLA/ESA/UC also had significant numbers in this category. In these cases the tribunal took a different view of the evidence before the decision maker.

Summary and Conclusion

This report represented an analysis of appeals registered between April 2021 and March 2022.

In total 4,269 appeals regarding decisions made by the Department for Communities were registered between April 2021 and March 2022. Of these, 661 cases, representing 15.5% of all those registered, were monitored to assess the level of incorrectness amongst initial decisions. No appeals were registered in relation to Pension Credit.

Across all monitored cases the level of incorrectness among initial decisions was 9.2%. There was a variation in the level of incorrectness of initial decisions across benefits. No incorrect initial decisions were recorded for a range of benefits including Attendance Allowance, Bereavement Benefit, Child Maintenance, Compensation Recovery, Maternity Allowance, State Pension and Social Fund. For instances where incorrect decisions were recorded, they ranged from 42.9% (Carer's Allowance) to 2.1% (Disability Living Allowance) **(Note very small cases numbers, for example in relation to Carer's Allowance, that may distort results).**

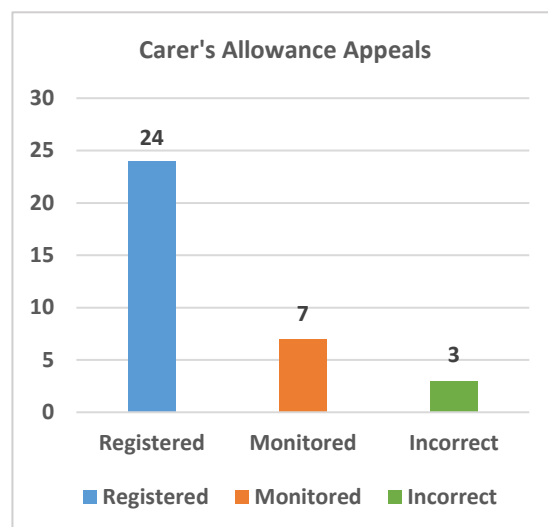
A majority (75.4%) of cases where the initial decision was assessed as incorrect cited one reason for this incorrectness. The main reason recorded for the incorrectness in initial decisions was 'The officer disregarded relevant evidence' (F6).

Carer's Allowance

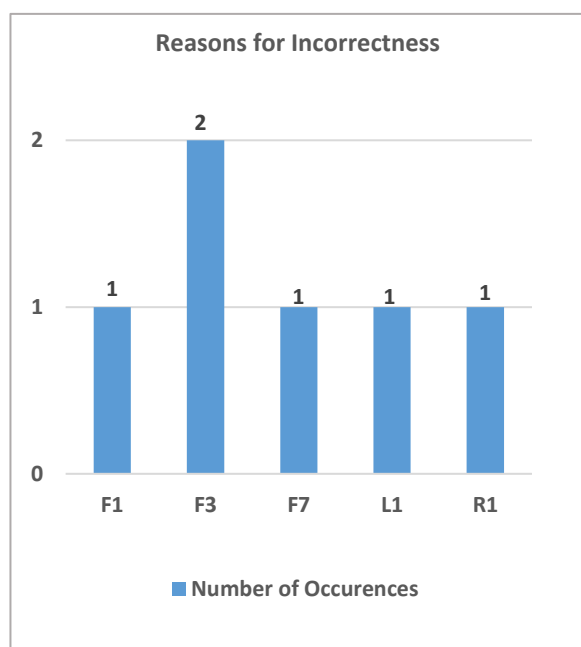
Incorrectly Made Decisions

29.2% of all Carer's Allowance appeals were monitored. The level of incorrectness was 42.9%.

This is a decrease in standards on previous years as no incorrectly made decisions have been identified from year 2016/17.



The small sample size should be noted and caution in interpreting these figures is recommended as in all years the numbers available were very small.



There were 3 incorrectly made decisions in this category, with 6 reasons recorded for incorrectness.

The main reason identified was "the officer failed to identify a finding/s which needed to be made on the basis of the rules of entitlement relevant to the claim or revision" (F3). This occurred in 2 of the incorrect cases representing 33.3% of all reasons.

**See table on page 9 for explanation of all reasons*

Legal members of the tribunal made the following comments:

Incorrectly Made Decisions - Comments made by Legal Members of the Tribunal	
1.	The department failed to include in the submission dates/forms in relation to uprating notices. No evidence on the 'papers' that such notices were ever sent.
2.	Proof of earnings has not been provided by the department. Tribunal cannot find evidence of overpayment.
3.	Allegation that a person was not entitled to Carers Allowance as he was employed and had earnings above the prescribed limit. Department failed to properly investigate the "alleged" employment.

Correctly Made Decisions Overturned by Tribunal

In 1 case, representing 14.3% of those monitored, while correctly made by the decision maker, the decision was overturned because the Tribunal was given additional evidence which was not available to the officer who made the decision.

Reasons for Overturning Correctly Made Decision	Number of Cases
FA The tribunal accepted evidence which the officer was not willing to accept. Neither conclusion was unreasonable.	0
FB The tribunal was given additional evidence which was not available to the officer who made the decision.	1

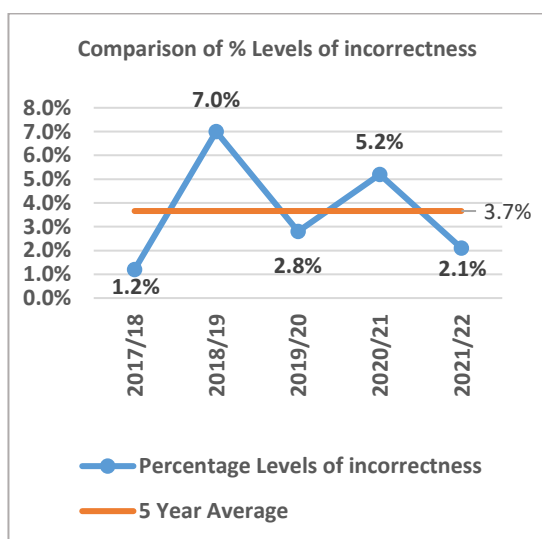
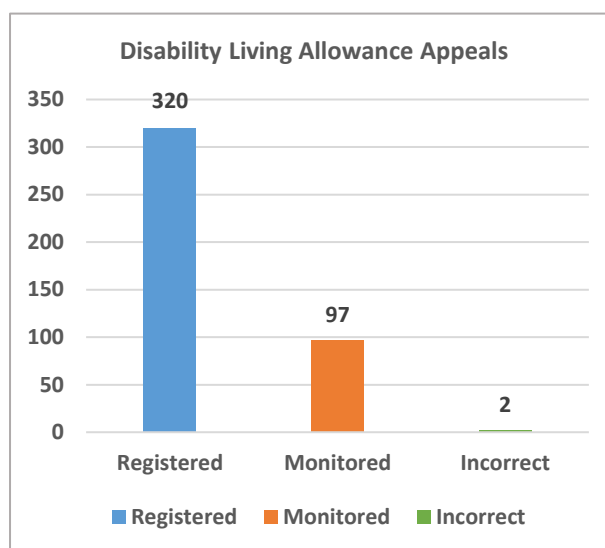
Comments / Recommendations

None

Disability Living Allowance

Incorrectly Made Decisions

Disability Living Allowance is one of the larger appeal categories in this reporting year. 30.3% of all appeals received were monitored and there were 2 incorrectly made decisions identified. The level of incorrectness recorded was 2.1%. This is an improvement in standards of 3.1% on the previous year where the level of incorrectness recorded was 5.2%.



5-Year Analysis

The level of incorrectness identified increased from 1.2% in 2017/18 to 7% in 2018/19. In the following two years it fluctuated between 2.8% in 2019/20 and 5.2% in 2020/21. In the current year the level of incorrectness has decreased to 2.1%.

When averaged over the 5 year period, the level of incorrectness is 3.7%.

There were two incorrectly made decisions identified with two reasons recorded for incorrectness. The reasons identified were “The officer failed to identify a finding(s) which needed to be made on the basis of the rules of entitlement relevant to the claim or revision” (F3) and “The decision was based on a misinterpretation/misunderstanding of the evidence available to the officer (F4)”.

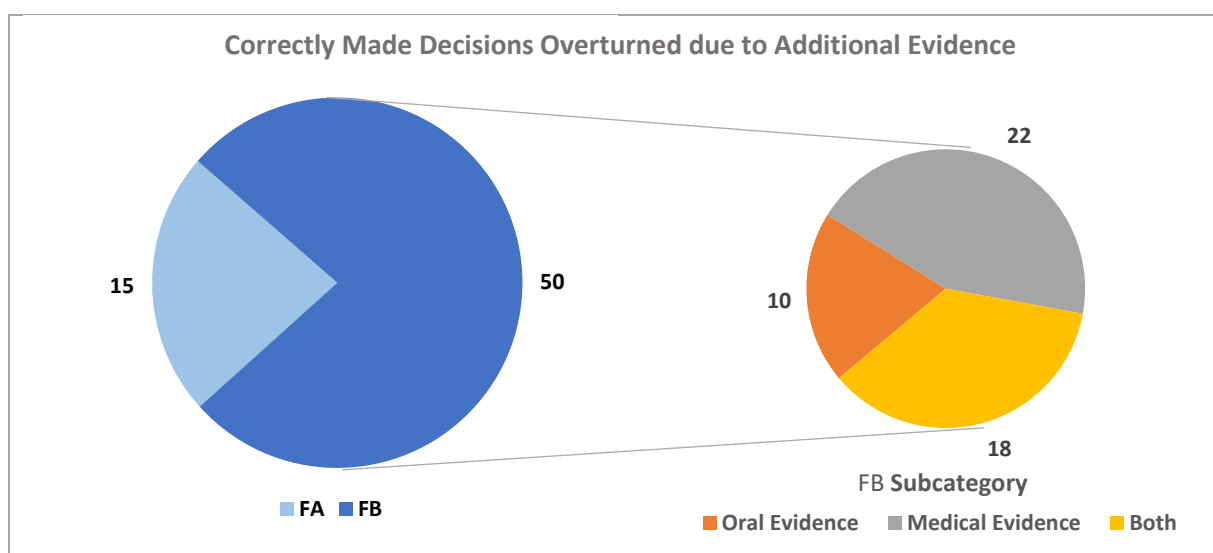
Legal members of the tribunal made the following comments:

Incorrectly Made Decisions - Comments made by Legal Members of the Tribunal	
1.	Appeal allowed. Higher rate mobility component. Higher rate care component. Misinterpretation of the evidence.
2.	We were influenced by the evidence and educational reports which indicated vulnerability. The Appellant had reduced social skills. The Appellant is in a support class. The Appellant had additional needs frequently needing supervision. All the reports were detailed, insightful and available to the Decision Maker.

Correctly Made Decisions Overturned by the Tribunal

In 65 cases, representing 67.0% of those monitored, while correctly made by the decision maker, were overturned because the tribunal either accepted evidence which the decision maker was unwilling to accept (15 cases), or the tribunal was given additional evidence that was not available to the decision maker (50 cases).

Reasons for Overturning Correctly Made Decision	Number of Cases
FA The tribunal accepted evidence which the officer was not willing to accept. Neither conclusion was unreasonable.	15 (23.1%)
FB The tribunal was given additional evidence which was not available to the officer who made the decision.	50 (76.9%)



In 10 cases the direct evidence of the appellant or a witness was the sole reason for the decision being overturned. In a further 22 cases a combination of medical evidence by way of GP or hospital records, or a medical report from the GP or a Consultant, resulted in the tribunal reaching a different decision than the decision maker. In the remaining 18 cases the tribunal was influenced by direct oral evidence and additional medical evidence. Overall, the decisions in 40 cases, representing 41.2% of cases monitored were influenced by the availability of additional medical evidence to the tribunal. As highlighted in all previous reports, these results continue to demonstrate that relevant information is available from claimants and medical professionals prior to making the decision on a claim.

Chapter 4 - Social Security Benefit Decisions – Disability Living Allowance

The table below sets out a selection of comments made by legal members of the tribunal in appeals where additional evidence was received.

Correctly Made Decisions - Comments made by Legal Members of the Tribunal	
1.	Credible and convincing evidence of day and night care needs in excess of another child of similar age.
2.	The Tribunal found the Appointee a reliable and honest witness who gave compelling evidence of attention and supervision needs.
3.	The Tribunal accepted the oral evidence as it was supported by the reports and letters handed in. The reports and letters available to the Tribunal supported the claimed level of disability.
4.	The additional evidence both written and oral were considered to be supportive of an award.
5.	The Tribunal, on the basis of additional evidence received, awarded the highest rate of the care component of DLA. Additional medical evidence was received.
6.	The school records including the letter from Head of Year 10 and the accompanying school attendance records provided clarity to the grounds of appeal and revealed evidence relevant to the entitlement rule to both the care and the mobility components of DLA. They were supportive of the case made by the Appointee. The additional evidence corroborated the Appointee in respect of the impact of Perthes Disease in right hip and Osteochondritis in left knee on the Appellant's function in respect of both the care and mobility component at decision date. The Appellant was experiencing bilateral impairment in function of their legs. Their complaints of pain and balance issues were in keeping with the nature of the conditions and their medical management. The Appellant may require surgical intervention in due course. They had been absent from school due to the conditions. They are exempt from PE. The evidence, particularly the medical evidence and the school reports, and the nature of the conditions did not warrant a higher award of either component.
7.	The Appellant is entitled to high rate care and high rate mobility. The Decision Maker correctly applied the legislation and evidence. The Tribunal had further evidence and heard from the Appellant's parents.
8.	The Tribunal accepted evidence about the additional care needs of the Appellant. Their parents were genuine and credible witnesses.
9.	Middle rate care night time needs supported by medical evidence in GP notes - poorly controlled brittle asthma which was deteriorating.

10. The Appointee was a credible witness. Additional evidence generally supportive. The child's needs were found to be substantially in excess of those of a normal child of the same age, in respect of daytime supervision.
11. The reports handed in were quite detailed and the panel on the basis of the reports were sympathetic pending clarification of some points by Appellant. Oral evidence of the Appellant was very convincing and such was the detail contained in the reports handed in that the panel were able to make a decision in favour of the Appellant.
12. The Tribunal were given notes about the Appellant's sight loss. They suffered from epilepsy and at nights can be disorientated. If they needed to go to the bathroom there could be dangers for them. They refer to family members being on standby. We had regard to the Appellant's representation and their underlying medical condition. We identified a medical need that the Decision Maker (DM) had not noted.
13. Medical evidence and oral evidence supported decision made. Appeal allowed, re-instated higher rate care, awarded low rate mobility.
14. The Appointee was a credible witness and was supported by the contents of a report from a speech and language therapist. Having heard the Appointee and perused all documentary evidence the Tribunal concluded that the child fell within the criteria for Low Rate Care and Low Rate Mobility (DLA).
15. The Appellant is not entitled to mobility but is entitled to high rate care. Care needs as described by medical notes. The reports we had were clear and set out the relevant issues. The Decision Maker correctly applied the legislation, had medical evidence and was given evidence. The Tribunal had additional evidence.
16. Specialist reports were supportive. Oral evidence was credible. The Tribunal considered and accepted that the evidence before them merited an award for a fixed period.
17. This Appellant is on an exceptionally high dosage of ADHD and ASD medications (Quetiapine 30mg and Diazepam) and has erratic nocturnal enuresis.

Comments / Recommendations

My comments below from the previous year continue to be relevant as the position has not changed to any significant degree.

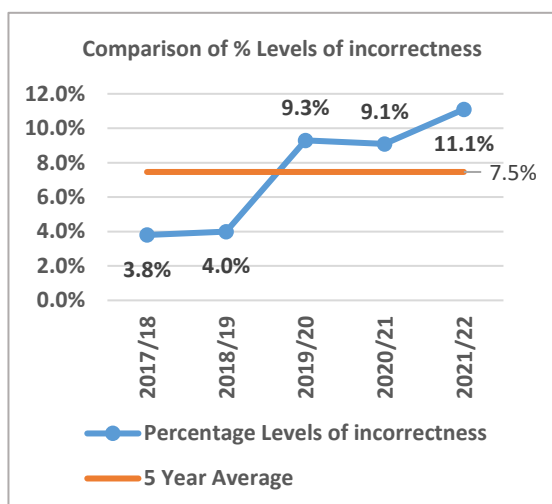
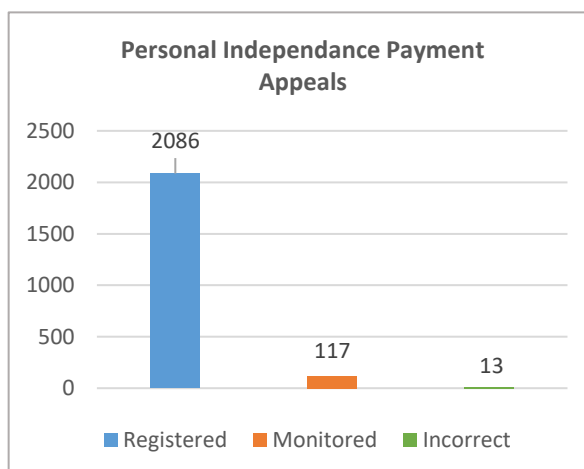
2020/2021 Comments / Recommendations

The issues identified in this report remain similar to those mentioned in previous reports. In last year's report I pointed out that there continues to be concern about the number of decisions which are overturned due to further medical evidence. The Department is once more asked to consider what further steps can be taken to obtain additional medical evidence either at source from the medical profession or directly from the claimant prior to decision-making. The comments from legally qualified members illustrate the fundamental importance of having focussed and relevant medical evidence, usually in the form of GP notes and records, available to the tribunal at hearing stage.

Personal Independence Payment

Incorrectly Made Decisions

Personal Independence Payment (PIP) is the largest appeal area in this reporting year, accounting for 48.9% of all appeals registered. 5.6% of all appeals received were monitored and the level of incorrectness identified was 11.1%.



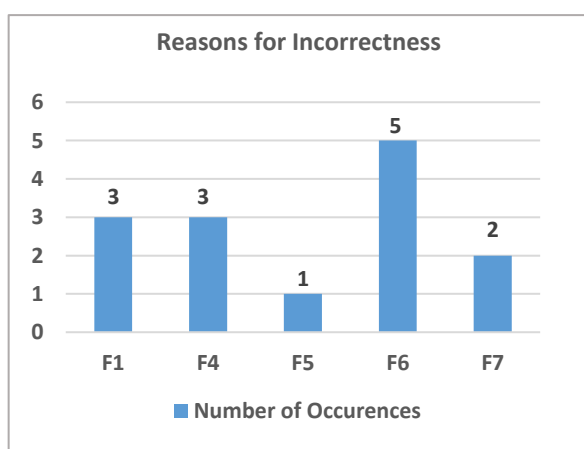
5-Year Analysis

The level of incorrectness identified has increased steadily from around 4% in 2017/18 and 2018/19 to just over 9% in 2019/20 and 2020/21. In the current year the level of incorrectness increased again to a high of 11.1%.

When averaged over the 5 year period, the level of incorrectness is 7.5%.

There were 13 incorrectly made decisions in this category, with 14 reasons recorded for incorrectness.

The main reason identified was “The officer disregarded relevant evidence” (F6). This occurred in 5 of the 13 incorrect cases representing 35.7% of all reasons.



**See table on page 9 for explanation of all reasons*

Chapter 4 - Social Security Benefit Decisions – Personal Independence Payment

The table below sets out a selection of comments made by legal members of the tribunal in those cases identified as incorrectly made.

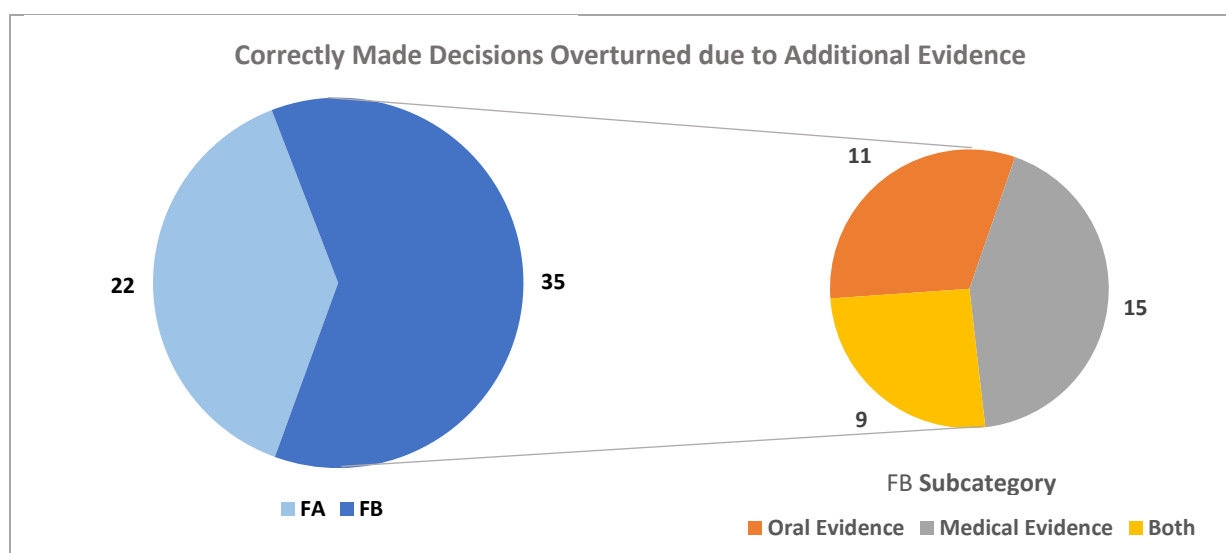
Incorrectly Made Decisions - Comments made by Legal Members of the Tribunal	
1.	The Department in a later award awarded enhanced - both components and we deemed this reasonable for our dates as well. Consultant neurologist estimated mobility at 10% in report 9 months after the closed period, but we were of view it applied also to the decision date. Other activities mirrored the later award where Department awarded enhanced – both components. This was reasonable given effect of Multiple Sclerosis. It is difficult to see why the Department would maintain their position that the Appellant is only entitled to two points for the closed period when awards were made both before and after the period.
2.	Panel requested and obtained additional information regarding Appellant's employment and reasonable adjustments that were made. Written and oral information confirmed Appellant's difficulties in following instructions, commands and processes. Would need support and supervision.
3.	Standard mobility plus daily living for 10 years. The Appellant had multiple severe chronic illnesses which would impact on their life substantially, supported by medical evidence already in the appeal papers.
4.	The Tribunal placed greater weight and relevance on the evidence in the case than the Departmental Officer who appeared to simply rely on the report from the Healthcare Professional with no further consideration of other medical information. The reasons for the decision are that on the balance of probabilities the medical evidence supported the Appellant's restrictions as claimed.
5.	Later claim after refusal - Healthcare Professional's report only 7 months after date of decision awarded further points and difficult to see how those points not merited in this appeal. Likely that the Healthcare Professional's report findings 7 months after our decision date also applied at the relevant time.
6.	Medical report provided to Department by the Appellant outlined diagnosis of autism and clear difficulties engaging face to face. Accepting Appellant's own oral evidence regarding impact of their condition. Independent medical evidence confirms diagnosis and limitations engaging face to face.
7.	Tribunal accepted Universal Credit (UC113) Assessment report. Department appeared to overlook Mental Health aspects of Appellant's conditions and did not take UC113 report properly into account.

8. The Appellant was awarded points for needing aids to complete activities 1, 4 & 5. The Assessor originally awarded 2 points for activity 8. The rationale for the points being awarded was based on the Appellant suffering from pins and needles, cramps, muscle spasms and numbness, reduced power in lower limbs and balance issues. The original report was audited, and the dressing (activity 8) points were then removed. This was completely irrational and at odds with the points that remained. The Tribunal addressed the inconsistency within the original decision. The additional 2 points for dressing resulted in an award of standard rate PIP daily living. This is an example of a weak and poorly conducted audit.
9. The Department did not adequately consider the mental health difficulties resulting from the Appellant's alcohol addiction. The Tribunal concluded that the Appellant needed prompting across multiple daily living activities.
10. The Tribunal considered that too much reliance was placed upon the Appellant's version when there was little or no corroborative evidence to support their claims. The Tribunal did accept that the high level of anti-depressant and anxiety medication levels were indicative of a problem that could impact upon Mobility and Daily Living activities but not to the degree accepted by the Department and the Examining Healthcare Professional. We do not believe that adequate account was taken of the contents of the medical notes and records by the Healthcare Professional or the Decision Maker.
11. The mobility component was removed on the basis of a telephone conversation. The Decision Maker had no evidence of a Musculoskeletal exam and yet they disputed the evidence of the Appellant of limited mobility. Appellant was awarded points in ESA for mobility. There was insufficient evidence of mobility to supersede the decision of Appeal Tribunal in 2019.
12. Original Healthcare Professional awarded 10 points on daily living. Both Medical Member and Disability Member of the Tribunal feel this more credible than decision to remove 4 points on paper reconsideration/audit. We relied on original Healthcare Professional's assessments. We found this report credible in light of other evidence provided including medical notes.

Correctly Made Decisions Overturned by the Tribunal

In 57 cases, representing 48.7% of those monitored, while correctly made by the decision maker, were overturned because the tribunal either accepted evidence which the decision maker was unwilling to accept (22 cases), or the tribunal was given additional evidence that was not available to the decision maker (35 cases).

Reasons for Overturning Correctly Made Decision		Number of Cases
FA	The tribunal accepted evidence which the officer was not willing to accept. Neither conclusion was unreasonable.	22 (38.6%)
FB	The tribunal was given additional evidence which was not available to the officer who made the decision.	35 (61.4%)



In 11 cases the direct evidence of the appellant or a witness was the sole reason for the decision being overturned. In a further 15 cases a combination of medical evidence by way of GP or hospital records, or a medical report from the GP or a Consultant, resulted in the tribunal reaching a different decision than the decision maker. In the remaining 9 cases the tribunal was influenced by direct oral evidence and additional medical evidence. Overall, the decisions in 24 cases, representing 20.5% of cases monitored were influenced by the availability of additional medical evidence to the tribunal. As highlighted in all previous reports, these results continue to demonstrate that relevant information is available from claimants and medical professionals prior to making the decision on a claim.

Chapter 4 - Social Security Benefit Decisions – Personal Independence Payment

The table below sets out a selection of comments made by legal members of the tribunal in appeals where additional evidence was received.

Correctly Made Decisions - Comments made by Legal Members of the Tribunal	
1.	Standard daily living and standard mobility - 5 year award. Credible oral evidence provided by the Appellant and their mother at hearing which was supported by the nature of the conditions from which they suffer.
2.	The oral evidence enabled us to flesh out the paperwork in order to form an impression of the Appellant's restrictions. We had the Appellant's GP records plus their own testimony. This supported the restrictions as per our scoring. The medical evidence provided was adequate and detailed and covers all relevant areas. The Decision Maker correctly applied the legislation to the available evidence. We had the advantage of hearing directly from the Appellant and making our own assessment.
3.	Photographs, consultant evidence and recent arthroscopy revealed more significant issues requiring surgery etc. Essentially objective evidence of severity of injury.
4.	A combination of the panel meeting the Appellant and taking time to hear evidence (Healthcare Professional was with mother only) and panel accepting on the overall evidence that the Appellant's restrictions were severe.
5.	The Department stated no Occupational Therapist involvement and no memory issues. The GP records indicated otherwise. Telephone assessment by Healthcare Professional was inadequate. We had advantage of GP notes and records as well as further oral evidence.
6.	Multidisciplinary reports reflected the functional impact on the Appellant, e.g. stroke, mental health and physical health problems. The Appellant's complaints were consistent in keeping with further medical evidence. The decision reflects these and functional impairment due to stroke, cognitive and mental health issues, balance problems and impact of fatigue and alcohol excess.
7.	The Appellant was in receipt of enhanced rate mobility. They had been awarded 6 points for daily living. The Tribunal had recently given the Appellant a further two points for daily living making a total of 8 points and awarding standard rate daily living. Given the short time frame between the decisions and after hearing evidence from the Appellant, the panel considered that this appeal should be similarly decided.
8.	Extensive radiological evidence and GP surgery attendance detailing level of problems experienced. Aids required for food preparation, washing, toileting and dressing.

9. We were provided with GP notes and records after we requested same at a previous hearing and Appellant provided them. Evidence within the notes of real difficulties and support of oral evidence provided at external hearing. Appellant went from 3 point to enhanced Daily Living and standard mobility. We had the benefit of a very experienced representative. Medical evidence of self neglect and self care issues. Drugs and alcohol addiction and mental health issues following serious assault. Oral evidence accepted. Medical evidence was very persuasive - not available to Disability Assessor or Decision Maker.
10. An award of standard rate daily living for an ongoing period. There was additional evidence within the GP notes from the Appellant's specialist in Rheumatology about the debilitating effect on the Appellant's function as a result of their psoriatic arthritis. Although this was post-decision evidence, it provided relevant evidence in relation to the Appellant's function at the date of decision. The Capita report failed to adequately consider the relevant legislation and the Appellant's ability to perform the activities safely, repeatedly and to an acceptable standard and within a reasonable timeframe.
11. Oral evidence accepted by the Tribunal (to certain extent) allowing points to be awarded for daily living aids. Panel accepted lack of change from original preceding decision.
12. GP Notes enabled the Tribunal to have a better understanding of the functional restrictions faced by the Appellant. The GP notes supported the need for an aid to assist with dressing, which in turn resulted in the Appellant reaching the 8 point threshold for Daily Living.
13. The medical records confirmed a significant deterioration in the Appellant's mental health and return to alcohol abuse following heart surgery. The Tribunal awarded standard rate daily living for a fixed period of 3 years and as it was satisfied that the Appellant needed prompting for activities 1,3,4,6, and 10. The deterioration in the Appellant's mental health occurred after the date of claim but before the date of the Department's decision. It was therefore necessary to amend the prescribed dates so that the 3 month prospective test was met.
14. Clear on evidence that the Appellant had evidence of significant health problems causing significant functional difficulties. Appellant had been awarded 11 points daily living and 12 points mobility by Department. Appellant then submitted additional evidence. Panel awarded 15 points daily living and 12 points mobility without needing to take any oral evidence. Overwhelming medical evidence.
15. Appellant awarded standard rate of PIP in both components. Relied on the oral evidence and impression made by the Appellant in the light of the medical evidence provided. The Appellant's condition was unusual, and it was valuable to hear their evidence in the light of the medical evidence.
16. A face to face hearing with the Appellant together with the GP notes and records verified the conditions and difficulties set out in the written submission. Appellant entitled to Standard Rate in respect of both Daily Living and Mobility Components.

Comments / Recommendations

My comments below from the previous year continue to be relevant as the position has not changed to any significant degree.

2020/2021 Comments / Recommendations

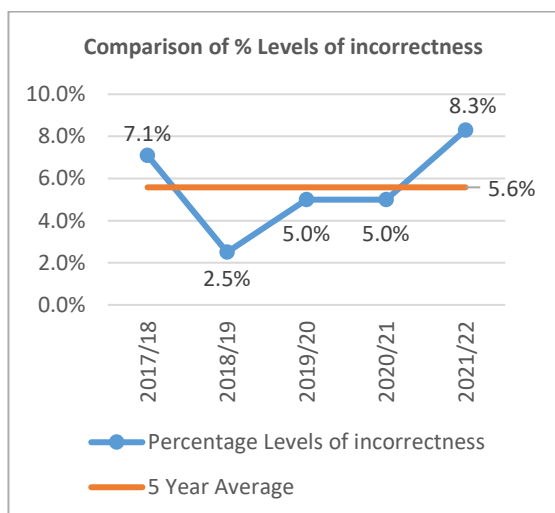
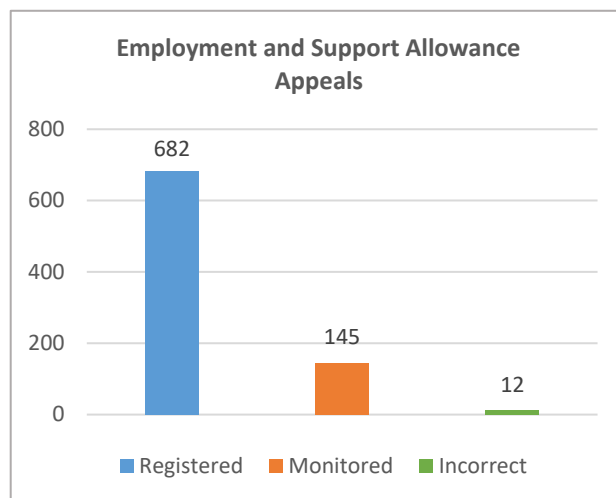
The issues identified in this report remain similar to those mentioned in previous reports. In last year's report I pointed out that there continues to be concern about the number of decisions which are overturned due to further medical evidence. The Department is once more asked to consider what further steps can be taken to obtain additional medical evidence either at source from the medical profession or directly from the claimant prior to decision-making.

The comments from legally qualified members illustrate the fundamental importance of having focussed and relevant medical evidence, usually in the form of GP notes and records, available to the tribunal at hearing stage.

Employment and Support Allowance

Incorrectly Made Decisions

21.3% of all appeals received in this category were monitored. The level of incorrectness was 8.3%. This is a decrease in standards by 3.3% on the previous year which recorded that 5.0% of decisions were incorrectly made.

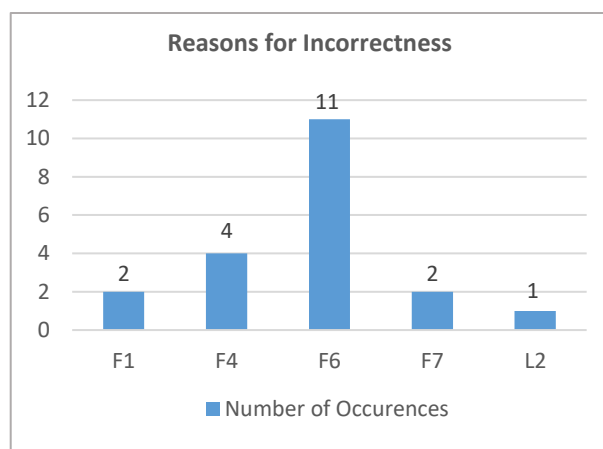


5-Year Analysis

The level of incorrectness identified improved from 7.1% in 2017/18 to 2.5% in 2018/19. It increased again to 5% in 2019/20 and 2020/21. A further increase to 8.3% occurred in the current year.

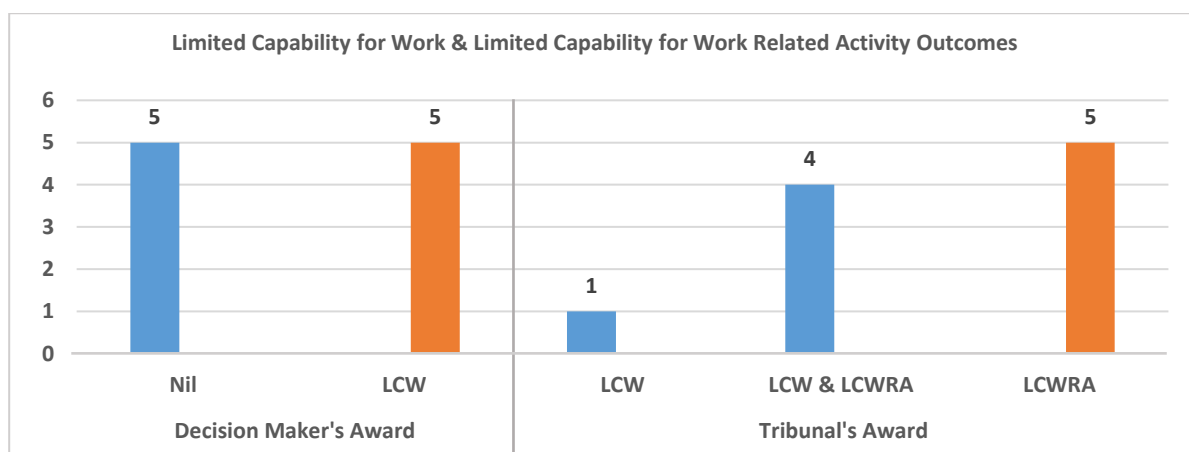
When averaged over the 5 year period, the level of incorrectness is 5.6%

There were 12 incorrectly made decisions identified in this category, with 20 reasons recorded for incorrectness. The main reason identified in 11 of the 12 incorrect cases was “The officer disregarded relevant evidence” (F6). This accounts for 55.0% of all reasons.



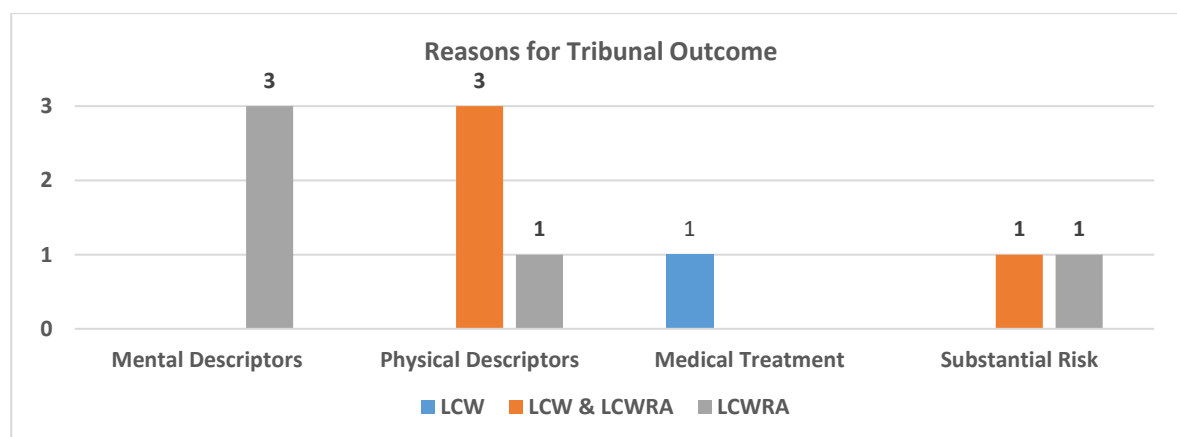
**See table on page 9 for explanation of all reasons*

The table below gives a breakdown of the initial decision under appeal and the tribunal outcomes in cases identified as incorrectly made where the issue under appeal was the Limited Capability for Work (LCW) and /or the Limited Capability for Work Related Activity (LCWRA) tests. There were 10 cases in this category representing 83% of all the issue identified as incorrectly made.



In 5 of the 10 cases, the appellant did not have an award of LCW. The tribunal awarded both LCW and LCWRA in 4 of these and LCW only in the remaining case as the appellant was under medical treatment. In the other 5 appeals the appellant had an award of LCW and the tribunal also awarded LCWRA.

The table below gives a breakdown of the categories where points were awarded or where there was substantial risk to another person.



There were two other incorrectly made decisions identified and the issues for decision by the tribunal were entitlement due to capital rules and whether benefit had been overpaid and was recoverable.

The table below sets out a selection of comments made by legal members of the tribunal in those cases identified as incorrectly made.

Incorrectly Made Decisions - Comments made by Legal Members of the Tribunal
<p>1. (F4) Healthcare Professional's telephone assessment - no limb assessment completed. Healthcare Professional and Departmental Officer appear to have misunderstood the Appellant's claims of back pain, the treatment and medical management and nature of the condition. (F6) Relevant medical evidence from orthopaedics (08.02.10) and MRI results (11.08.21). (F7) Conflicts between Appellant's claims, the medical evidence and Healthcare Professional report. The impact upon them was credible and in keeping with the diagnosis, results, of investigated treatment and medical involvement. The Healthcare Professional's report did not reflect an understanding of the nature of the Appellant's back problem. The Department's supplementary response including the reconsideration decision did not recognise the significance of the Appellant's evidence and in particular the report from orthopaedics and the MRI results of 11.08.21. Healthcare Professional - Telephone assessment (no limb assessment completed. Section 4 of the appeal submission states "The Department took this into consideration when reviewing this claim". However, there was no explanation to demonstrate this.</p>
<p>2. The Decision Maker did not appear to have properly taken into account the medical evidence from the Consultant. The Examining Medical Professional covered all relevant areas in adequate detail.</p>
<p>3. Serious historical mental health problems. Telephone assessments are really of no value whatsoever, particularly in mental health cases and cases where examinations via cathartic leads are absolutely required.</p>
<p>4. The Decision maker awarded LCW but not LCWRA. While none of the Schedule 3 descriptors were satisfied in themselves, the Appellant's inability to go out of their house alone or to engage with others unaccompanied meant a real risk to their health if required to undertake some of the potential work related activities. Regulation 35(2) applied whereas Assessor/Decision Maker concluded wrongly on basis of verbal/telephone assessment that their condition had improved.</p>
<p>5. Support group appeal. Inadequate grounds for supersession. Appellant has limited capability for work and work related activity - unable to cope with any changes. Supersession based on telephone assessment which noticed Appellant's anxiety and ability to cope yet the Healthcare Professional indicated only minor difficulties. Appellant seemingly adversely assessed due to lack of inputs, yet GP notes included that they are instead ready for counselling. Evidence from the Appellant and their representative</p>

indicated high level of functional impairment not adequately assessed by Department. Department relied on telephone assessment (which was largely supportive of Appellant) to supersede existing award with inadequate evidence to support the conclusion.

6. Tribunal found limited capability for work. In-patient in hospital - Reg 21. Clear evidence of inpatient stay not addressed by Department.

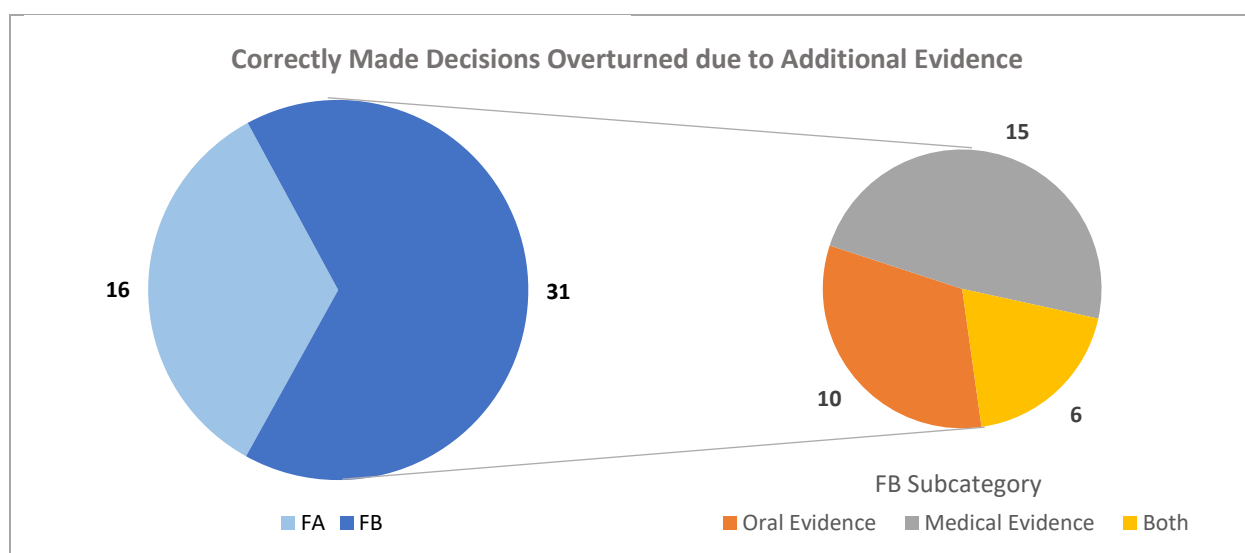
7. There was relevant medical evidence in the submission, in particular a psychiatric report. Appellant placed in support group.

8. Accepted that the Appellant should not be treated as having notional capital. A sum of actual capital that should have been disregarded was treated as notional capital and intention of Appellant assessed rather than rules on what should be disregarded.

Correctly Made Decisions Overturned by the Tribunal

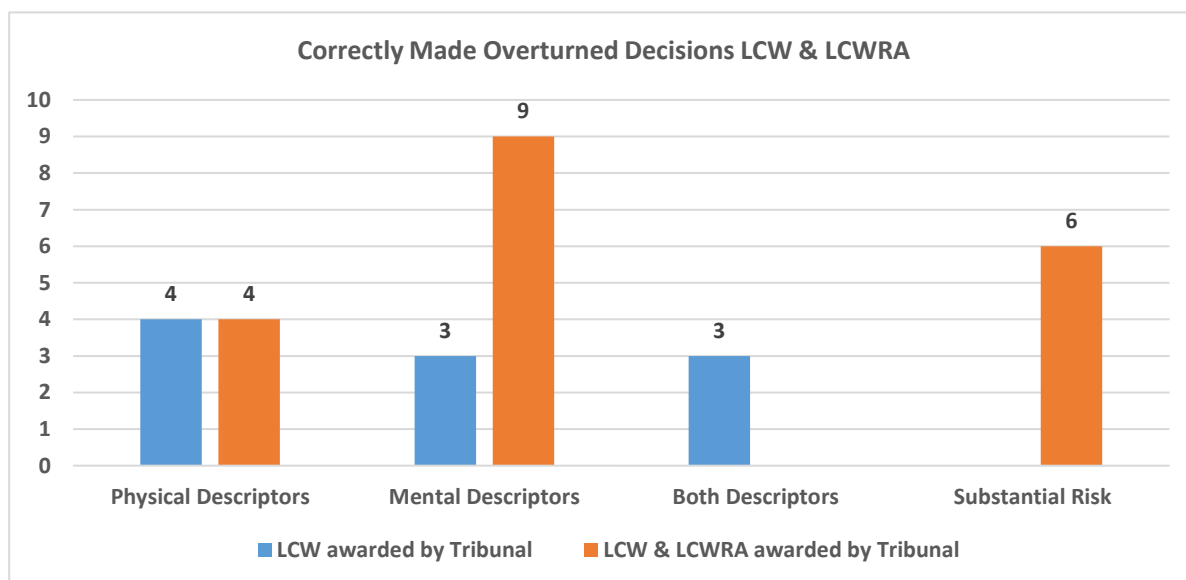
In 47 cases, representing 32.4% of those monitored, while correctly made by the decision maker, were overturned because the tribunal either accepted evidence which the decision maker was unwilling to accept (16 cases) or the tribunal was given additional evidence that was not available to the decision maker (31 cases).

Reasons for Overturning Correctly Made Decision		Number of Cases
FA	The tribunal accepted evidence which the officer was not willing to accept. Neither conclusion was unreasonable.	16 (34.0%)
FB	The tribunal was given additional evidence which was not available to the officer who made the decision.	31 (66.0%)



In 10 cases in the FB category the sole reason for the decision being overturned was the direct oral evidence of the appellant or a witness. 15 cases turned on the content of medical evidence by way of GP or hospital records, or a medical report from the GP or a consultant. In a further 6 cases a combination of direct oral evidence and medical evidence, resulted in the tribunal reaching a different decision than the decision maker. Overall, the decisions in 21 cases, representing 14.5% of cases monitored were influenced by the availability of medical evidence to the tribunal.

The table below gives a breakdown of the tribunal outcomes in cases identified as correctly made where the issue under appeal was the Limited Capability for Work (LCW) and /or the Limited Capability for Work Related Activity (LCWRA) tests. These appeals were overturned due to additional evidence provided at or before the hearing date.



There were 29 cases identified representing 20% of appeals monitored. In 10 of these cases (7%) the appellant did not have an award of LCW. 4 of these 10 were overturned based on the appellant satisfying the physical descriptors, 3 on mental descriptors and 3 where points were awarded under both physical and mental descriptors.

The remaining 19 cases representing 13% had an award of LCW but not LCWRA. The tribunal confirmed the LCW award in all cases and also awarded LCWRA. 4 cases were overturned based on physical descriptors, 9 on mental descriptors and the remaining 6 on the question of substantial risk to any person.

There were two other correctly made decisions overturned and the issues for decision by the tribunal were an overpayment of benefit and whether the claimant had good reason for late return of ESA form.

The table below sets out a selection of comments made by legal members of the tribunal in appeals where additional evidence was received.

Correctly Made Decisions - Comments made by Legal Members of the Tribunal	
1.	Appellant put into support group. Learning difficulties and mental health meant they fell within remit of Regulation 35 (2).
2.	The panel accepted the Appellant's oral evidence and how their conditions impact them. Panel accepted Appellant has limited capability for work related activity and would struggle to engage with even family and friends.
3.	The Tribunal decided that the Appellant should be treated as having limited capability for work related activity under Regulation 35. Additional evidence was provided.
4.	Evidence of significant mental health issues. There was sufficient evidence to award support group.
5.	GP notes enabled the Tribunal to see the genuine mental health problems experienced by the Appellant.
6.	Appellant's Representative had picked up ESA3 form but was ill from that date and did not return to work for 5 weeks. They immediately returned the form on their return to work. Made point considering good reason as returned as soon as they were able. Not a long period of time and Appellant should not be penalised for actions of their Representative.
7.	The Tribunal found Appellant's evidence in relation to their mobility was consistent and supported by medical evidence and Occupational Therapist's assessment. Tribunal accepted evidence that Appellant's mobility significantly limited and qualified LCW and LCWRA. Significant delay between assessment and decision due to Covid restrictions.
8.	The Appellant had been awarded ESA but wanted to be placed in the support group. Panel satisfied sufficient evidence on papers to place Appellant in support group. Additional medical evidence was provided to Tribunal by Appellant. This was a paper case, no oral evidence taken.
9.	GP notes and records shows relevant consultations before and then in and around date of decision relating to Appellant's mental health and supportive of a lack of improvement in their mental health from the previous 2017 award of LCW. Appellant's mental health has not improved since 2017. This would have an impact on their ability to cope with change, get about and socialising.
10.	The Appellant is to be treated as having limited capability for work and work related activity as they satisfies Regulation 35 (2) of the ESA Regulations (NI) 2008.

11. On balance, we decided to accept the oral evidence provided by the Appellant at the hearing in respect of their mobility at the cumulative effect of their conditions and supportive letter from GP.
12. The Tribunal had available to it medical records which supported the case being made by the Appellant. Appellant placed in support group for ESA.
13. Tribunal found the Appellant scored highly in the mental health descriptors - 54 points in total and was not capable of work related activity. Oral evidence given by the Appellant, their mother and their representative. The Appellant completed interview on the phone on their own and did not give a true picture of their disability. Assessment by Health Care Professional was over the phone due to Covid restrictions. In cases like these where Appellant has mental health problems such as ASD, they can only be properly assessed in a face to face setting.
14. The documentary evidence was strongly indicative of severe mental health issues. The medical evidence presented was strongly supportive of the Appellants assertions. The presenting officer supported the award made by the Tribunal.
15. In view of the additional evidence provided the Department's representative conceded that it was appropriate to award an additional 6 points in the activity of 'Getting About'.
16. Submission from Citizens Advice Bureau & GP notes - clear problems of mental health. Vulnerable adult. GP notes very supportive. Panel persuaded by GP notes. Chronic condition and restrictions arising from the condition. Must have this support to go out and deal with things.
17. The Appellant had produced additional evidence in the form of limited GP notes. These were helpful in corroborating the Appellant's various claims and restrictions, to the extent the panel was content to award points. Medical evidence was not available to the Decision Maker, but good practice would have dictated further enquiry on the part of the Decision Maker was necessary to reconcile the conflict. They are not duty bound to accept the Examining Healthcare Professional's report.

Comments / Recommendations

My comments below from the previous year continue to be relevant as the position has not changed to any significant degree.

2020/2021 Comments / Recommendations

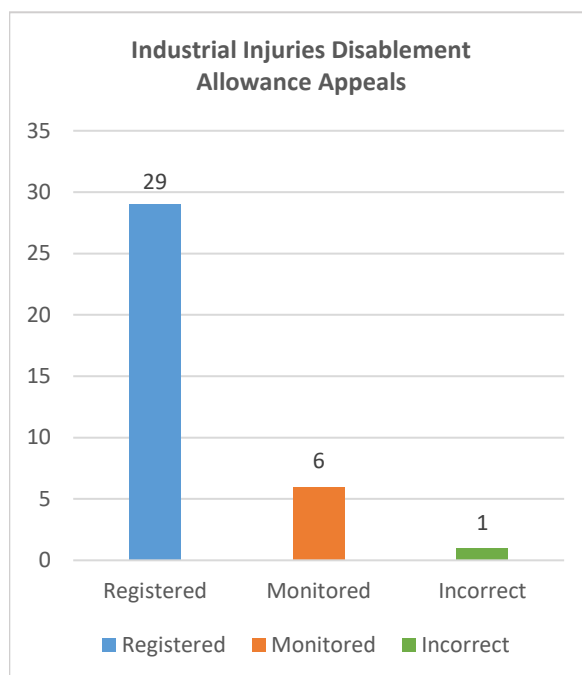
The issues identified in this report remain similar to those mentioned in previous reports. In last year's report I pointed out that there continues to be concern about the number of decisions which are overturned due to further medical evidence. The Department is once more asked to consider what further steps can be taken to obtain additional medical evidence either at source from the medical profession or directly from the claimant prior to decision-making.

Industrial Injuries Disablement Benefit

Incorrectly Made Decisions

20.7% of all Industrial Injuries Disablement Benefit appeals were monitored. The level of incorrectness identified was 16.7%. This is a decrease in standards on previous years as no incorrectly made decisions have been identified since 2016/17.

However, the small number of appeals available for monitoring in all years should be noted and due to this, caution in interpreting these figures is recommended.



There was 1 incorrectly made decision identified in this category. The reason was “the officer misinterpreted the legal rules relevant to the claim” (L2).

Correctly Made Decisions Overturned by Tribunal

There were no correctly made decisions overturned by the Tribunal in the 2021 – 2022 reporting period.

Comments / Recommendations

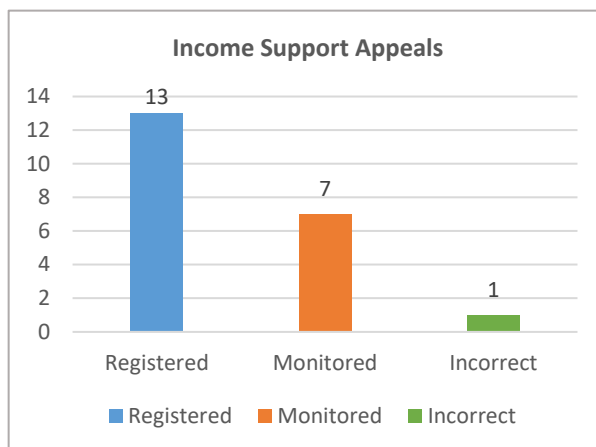
None

Income Support

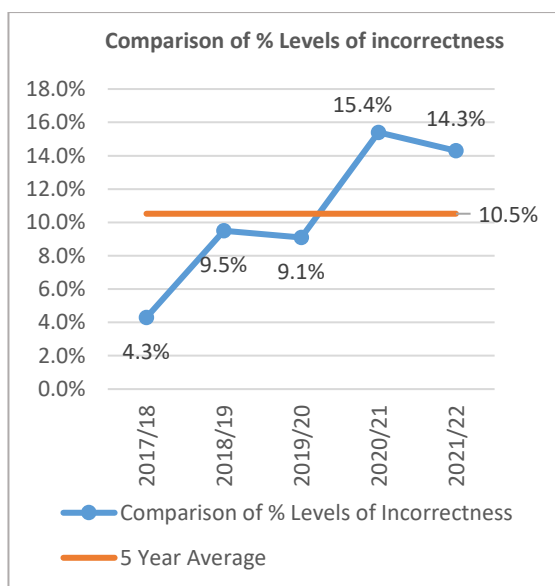
Incorrectly Made Decisions

53.8% of appeals received in this category were monitored. The level of incorrectness identified was 14.3%.

However, given the small number of appeals available for monitoring, caution in interpreting this result is advised.



There was 1 incorrectly made decision in this category. The reason identified was “the decision of the officer was based on insufficient facts/evidence due to inadequate investigation of the claim or revision” (F1).



5-Year Analysis

The level of incorrectness identified has increased from a low of 4.3% in 2017/18 to 9.5% and 9.1% respectively in years 2018/19 and 2019/20. A further increase to 15.4% occurred in 2020/21. The current year records the level of incorrectness as 14.3%

When averaged over the five year period, the level of incorrectness is 10.5%.

The results should again be read with caution given the small numbers available for monitoring in all years.

Chapter 4 - Social Security Benefit Decisions - Income Support

The table below sets out the comment made by legal members of the tribunal in the case identified as incorrectly Made.

Incorrectly Made Decisions - Comments made by Legal Members of the Tribunal

Department failed to record on its systems any detail of some meetings with the Appellant who was deaf. It failed to follow proper protocols when dealing with persons with serious disabilities. Very poor treatment of an Appellant by the Department. The Presenting Officer at hearing was helpful in resolving matters.

Correctly Made Decisions Overturned by the Tribunal

In 1 case, representing 14.3% of those monitored, while correctly made by the decision maker, was overturned because the tribunal accepted evidence that the decision maker was unwilling to accept.

Comments / Recommendations

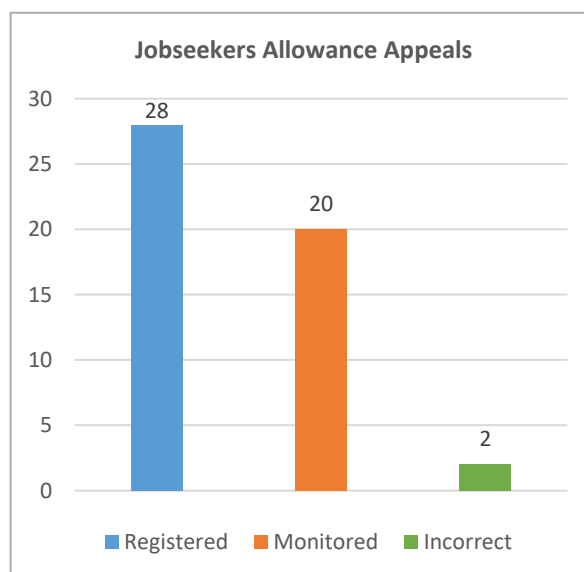
None

Jobseekers Allowance

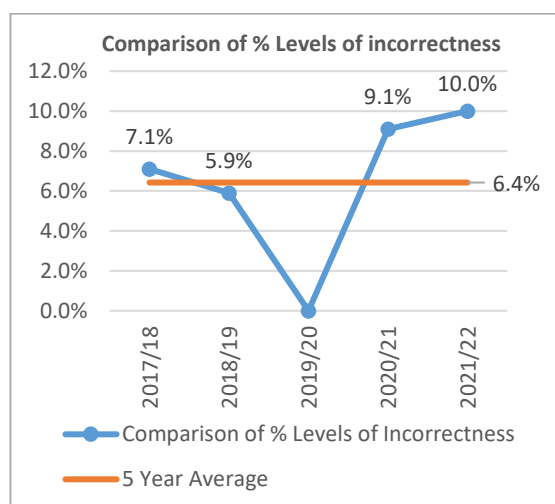
Incorrectly Made Decisions

71.4% of all Jobseekers Allowance appeals received were monitored. The level of incorrectness identified was 10.0%. This is a slight decrease in standards on the previous year which recorded that 9.1% of decisions were incorrectly made.

However, given the small number of appeals available for monitoring, caution in interpreting this result is advised.



There were 2 incorrectly made decisions in this category. The reasons for incorrectness identified were “the decision of the officer was based on insufficient facts/evidence due to inadequate investigation of the claim or revision” (F1) and “the decision was based on a misinterpretation/misunderstanding of the evidence available to the officer” (F4).



5-Year Analysis

The level of incorrectness identified improved from 7.1% in 2017/18 to 5.9% in 2018/19 and again to 0% in 2019/20. In 2020/21 it increased to 9.1%. In the current year the level of incorrectness has been recorded as 10.0%.

When averaged over the five year period, the level of incorrectness is 6.4%.

The results should again be read with caution given the small numbers available for monitoring in all years.

Chapter 4 - Social Security Benefit Decisions - Jobseekers Allowance

The table below sets out the comments made by legal members of the tribunal in those cases identified as incorrectly made.

Incorrectly Made Decisions - Comments made by Legal Members of the Tribunal	
1.	The Tribunal accepted that the Appellant did not misrepresent nor fail to disclose information to the Department. The overpayment is not recoverable. The Department's own papers clearly demonstrated that the relevant information was already on the Department's Search Light system. The Department compounded the matter by unacceptable delay in conducting an enquiry and investigation. Poor investigation by the Decision Maker.
2.	The Department failed to take into account all of the facts.

Correctly Made Decisions Overturned by Tribunal

In 3 cases, representing 15.0% of those monitored, while correctly made by the decision maker, were overturned because the tribunal either accepted evidence which the decision maker was unwilling to accept (2 cases) or the tribunal was given additional evidence that was not available to the decision maker (1 case).

Reasons for Overturning Correctly Made Decision		Number of Cases
FA	The tribunal accepted evidence which the officer was not willing to accept. Neither conclusion was unreasonable.	2 (66.7%)
FB	The tribunal was given additional evidence which was not available to the officer who made the decision.	1 (33.3%)

Comments / Recommendations

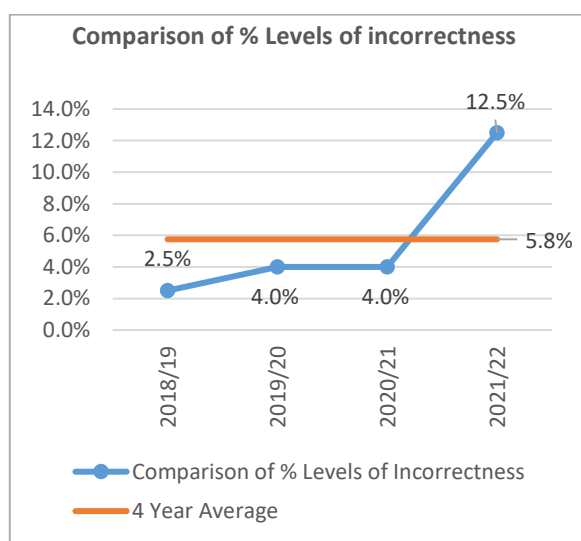
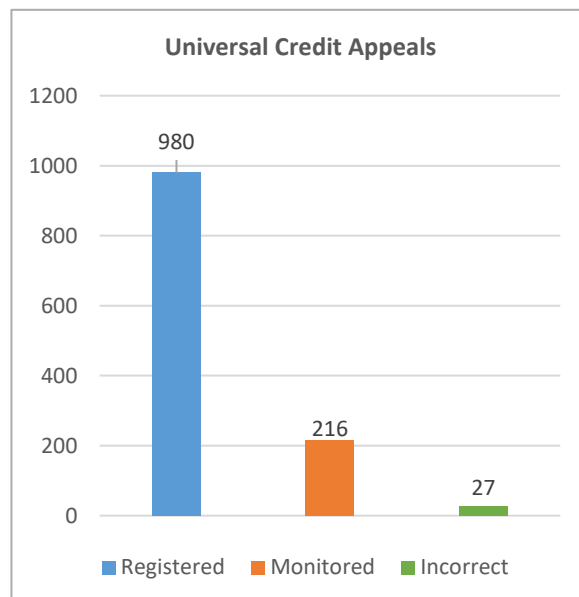
None

Universal Credit

Incorrectly Made Decisions

Universal Credit (UC) was a new benefit introduced in 2018-19 which replaces Income Support, Income based Jobseekers Allowance and Employment Support Allowance.

22.0% of all appeals received were monitored and the level of incorrectness identified was 12.5%.

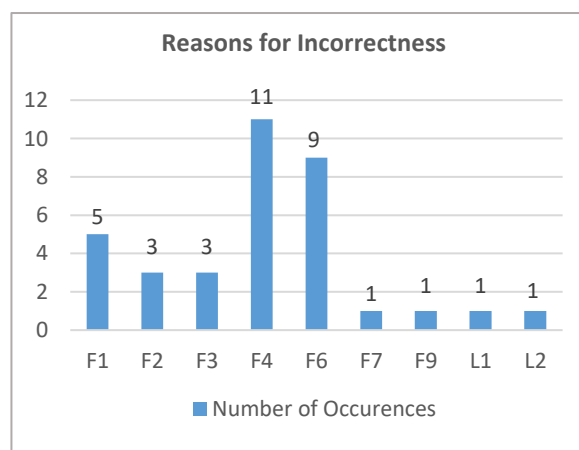


4-Year Analysis

The level of incorrectness identified has increased from 2.5% in 2018/19 to 4.0% in both 2019/20 and 20/21. It increased again to 12.5% in the current year.

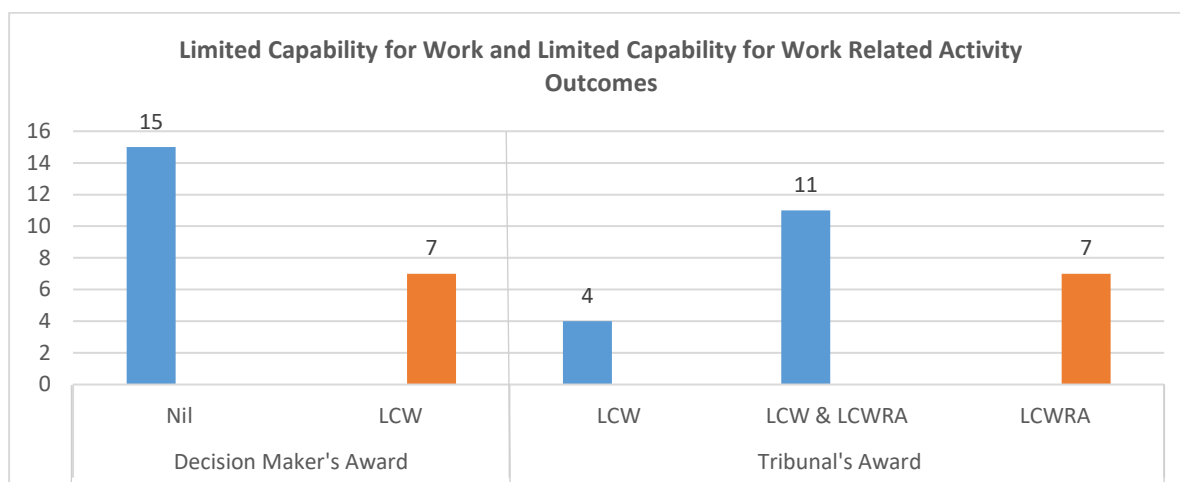
When averaged over the four year period, the level of incorrectness is 5.8%.

There were 27 incorrectly made decisions in this category, with 35 reasons recorded for incorrectness. The main reason identified in 11 of the 27 incorrect cases was "The decision was based on a misinterpretation/misunderstanding of the evidence available to the officer" (F4). This accounts for 31.4% of all reasons.



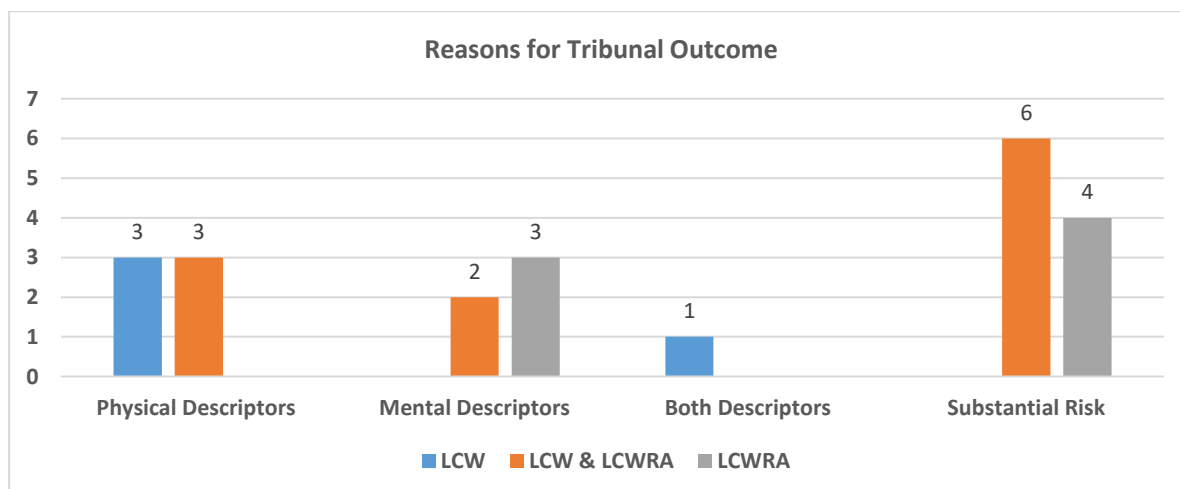
**See table on page 9 for explanation of all reasons*

The Table below gives a breakdown of the initial decision under appeal and the tribunal outcomes, in cases identified as incorrectly made where the issue under appeal was the Limited Capability for Work (LCW) and /or the Limited Capability for Work Related Activity (LCWRA) tests. There were 22 cases in this category representing 81.5% of the issues identified as incorrectly made.



In 15 of the 22 cases, the appellant did not have an initial award of LCW. The tribunal awarded both LCW and LCWRA in 11 of these and LCW only in the remaining 4 cases. In the other 7 appeals the appellant already had an award of LCW and the tribunal also awarded LCWRA.

The table below gives a breakdown of the categories where points were awarded or where there was a substantial risk to any person.



In 5 other appeals the issues before the tribunal were entitlement due to notional capital

(1 case); habitual residence (1 case) and 3 overpayment of benefit appeals.

The table below sets out a selection of comments made by legal members of the tribunal in those cases identified as incorrectly made.

Incorrectly Made Decisions - Comments made by Legal Members of the Tribunal
1. Poor decision diagnosis of health issues - but clear information to show Appellant suffering from symptoms at time of decision. Decided Appellant's health would be substantially at risk if they were found fit for work and work related activity- awaiting operation.
2. Officer failed to give adequate weight to the Appellant's long history of seizures and absences. Tribunal was satisfied on the evidence of the Appellant that they experienced frequent absences and these affected their ability to perform the activities noted.
3. This was an overpayment and recovery of benefit appeal which was incorrectly treated as one appeal, whereas there clearly should have been 2 separate appeals - one regarding entitlement and one regarding overpayment. The Decision Maker repeatedly referred to 'closing' the claim (with retrospective effect) and listed Article 10 of the Social Security (NI) Order 1998 as the relevant legislation, yet failed to set out what decision on entitlement was being reviewed (in any case, the circumstances, which were that there had been a relevant change of circumstances) arguably supported supersession. A series of what can only be described as chaotic decisions (where the claim was suspended, then 'closed' - 'with retrospective effect' - then reopened and closed again) only set out to confuse what should have been a fairly straightforward issue i.e. that Claimant failed to disclose in a timely manner that they were living with their partner at a time when they received Universal Credit as a lone parent.
4. The Tribunal decided Appellant met criteria 1 of Schedule 7 of UC Regulations NI 2016. UC assessment failed to give significant weight to Appellant's back, neck and shoulder pains that impeded on their ability to mobilise.
5. The Appellant's oral evidence was convincing and taken with the PIP evidence they were entitled to an award of 27 points. The Appellant suffers from medical conditions which affects their ability to mobilise, sit and stand and pick up and move. Decision maker did not investigate the claim adequately.
6. The Officer misunderstood/misinterpreted the available evidence in relation to the Appellant's significant difficulties with change (Appellant has Autism). Tribunal found on the evidence that Appellant has Limited Capability for Work Related Activity. Case quite clear as evidence, including the diary of Mother (Appointee) indicated that she was doing the work related activities for her son and that even then this was causing

distress to him. Also evidence from the Appellant's educational establishment (that he was disruptive/not attending) was not taken into account by the Decision Maker.
7. The decision was altered because the Officer failed to take proper account of the medical evidence and its impact on the Appellant. The Appellant's movements were restricted and found to be in line with the medical evidence pertaining at the time of the decision.
8. It appears the decision maker took a very literal view on when/what date limitations started and commenced the award 3 months after date of decision when in our opinion the limitation existed prior to date of decision and any post diagnosis (especially knees) related to the circumstances pertaining earlier. A later Healthcare Professional assessment found LCWRA based on mobilising due to bilateral pain. This was back dated by the Department because they seem to have decided the Appellant had steroid injections and accepted limitations from that treatment date. Whereas the Tribunal considered that it is credible the injection came some months after the pain and limitations. Relying on medical evidence we awarded 15 points for mobility and this led to LCW and LCWRA for the 3 month closed period.
9. Found to have limited capability for work and to be treated as having limited capability for work related activity under regulation 41. Appellant appears to have a learning disability, and limited insight into their functioning. Telephone assessment was not an appropriate means of assessing this Appellant.
10. The medical evidence indicated that the Appellant's mental health had not improved, but more likely had deteriorated. The Tribunal did not agree with the Decision Maker's decision to remove the Appellant from the support group in light of this medical evidence.
11. The Appellant was awarded 30 points by the Decision Maker in the Universal Credit award. However, they did not receive 15 points in any one activity. The Tribunal determined that there was sufficient evidence on the papers without needing to hear any oral evidence, that the Appellant should have been awarded 15 points for coping socially. This meant the total points awarded were 36 points and because appellant scored 15 points in just one activity they were placed in the support group. The medical evidence in the Capita medical assessment was compelling that the Appellant would have significant problems coping with social engagement. This should have been afforded significant weight by the Decision Maker and it was not.
12. Epilepsy case - Labourer by occupation aged 64 'risk' not considered by Department. Schedule 4 and 9 of the Universal Credit Regulations 2016 applied.
13. On medical evidence within the submission papers the Tribunal decided that the Appellant has severe mental health issues. Medical evidence was supportive of Appellant.
14. Overpayment was calculated incorrectly. A new figure was provided by the Department's representative at hearing and agreed by the Appellant. Overpayment

basis was incorrect and was not the result of any failure by the Appellant to provide correct information.

15. Core assessment report. Outlined extent of family support required. Insufficient evidence to supersede the previous award in this case. The submission was not clear on the type of decision under appeal, supersession was only mentioned once in the appeal submission at Section 2 Schedule of Evidence. Copies of the decision notice letters only were included in the submission not the actual decision itself. On balance the Tribunal were conscious of delay and were able to proceed in spite of these omissions from the submission.

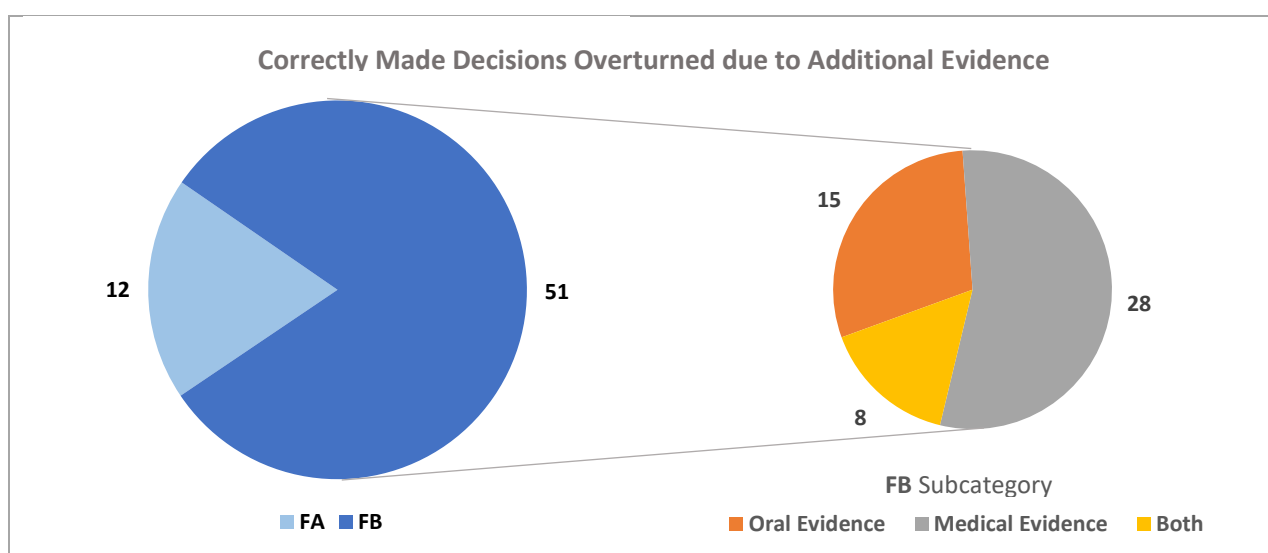
16. The Tribunal concluded that the UC Healthcare Professional's assessment and the Decision Maker had not given sufficient weight to the Appellant's mental health issues.

17. Overpayment wrongly calculated. Less payments made to Appellant than indicated by Department.

Correctly Made Decisions Overturned by the Tribunal

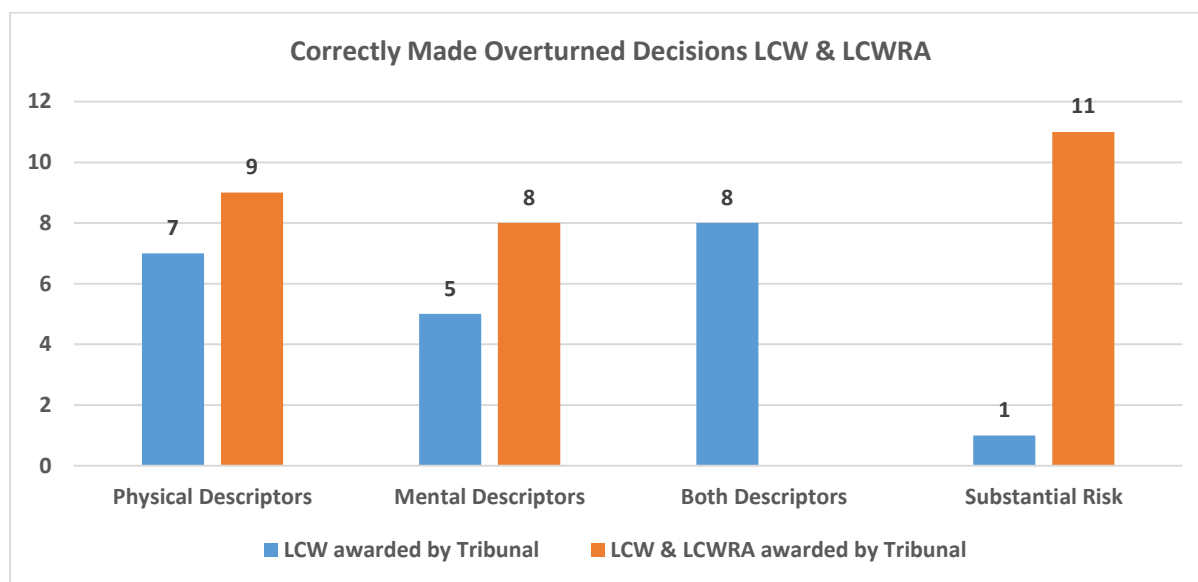
In 63 cases, representing 29.2% of those monitored, while correctly made by the decision maker, were overturned because the tribunal either accepted evidence which the decision maker was unwilling to accept (12 cases) or the tribunal was given additional evidence that was not available to the decision maker (51 cases).

Reasons for Overturning Correctly Made Decision	Number of Cases
FA The tribunal accepted evidence which the officer was not willing to accept. Neither conclusion was unreasonable.	12 (19.0%)
FB The tribunal was given additional evidence which was not available to the officer who made the decision.	51 (81.0%)



In 15 cases the sole reason for the decision being overturned was the direct oral evidence of the appellant or a witness. 28 cases turned on the content of medical evidence by way of GP or hospital records, or a medical report from the GP or a consultant. In a further 8 cases a combination of direct oral evidence and medical evidence, resulted in the tribunal reaching a different decision than the decision maker. Overall, the decisions in 36 cases, representing 16.7% of cases monitored were influenced by the availability of medical evidence to the tribunal.

The table below gives a breakdown of the Tribunal outcomes in cases identified as correctly made where the issue under appeal was the Limited Capability for Work (LCW) and /or the Limited Capability for Work Related Activity (LCWRA) tests. These appeals were overturned due to additional evidence provided at or before the hearing date



There were 49 cases identified in this category. In 21 of these cases the appellant did not have an award of LCW. 7 of the 21 were overturned based on the appellant satisfying the physical descriptors; 5 on mental descriptors; 8 where points were awarded under physical and mental descriptors and 1 appeal where an award was made due to substantial risk to any person.

The remaining 28 cases had an initial award of LCW but not LCWRA. The tribunal confirmed the LCW award in all cases and also awarded LCWRA. 9 cases were overturned based on physical descriptors; 8 on mental descriptors and the remaining 11 on the question of substantial risk to any person.

In addition to this category of appeal, there were a further 2 correctly made initial decisions overturned due to additional evidence. One was an overpayment of benefit and the other was entitlement to Housing Costs.

The table below sets out a selection of comments made by legal members of the tribunal in appeals where additional evidence was received.

Correctly Made Decisions - Comments Made by the Legal Members of the Tribunal	
1.	The Tribunal received letters from the Appellant's GP indicating that subsequent to the not entitled decision they had surgery for cancer of the kidney. This had resulted in a new award by the Department. We took the view that at the time of the decision under appeal they would have been unwell with the condition. Furthermore, we had the benefit of hearing directly from the Appellant which confirmed they had a number of conditions including issues with their needs. Combining the various conditions we found that their claim of being unable to repeatedly mobilise 50 meters was reasonable. The papers also indicated wear and tear in both knees. They had referred to breathlessness and discomfort which was consistent with evidence elsewhere. The Examining Medical Professional report provided was detailed and made appropriate comments based upon the evidence presented.
2.	The Appellant satisfies the conditions in relation to paragraph 4 of Schedule 9. The Appellant is suffering from a specific illness, disease or disablement by reason of which there would be a substantial risk to their physical and mental health were they found not to have limited capability for work related activity.
3.	The Appellant has a number of conditions. The Decision Maker noted these but did not feel this affected scoring functions in the physical but saw some mental health evidence. The Tribunal had the benefits of GP notes and heard from the Appellant. There was a subsequent award but the Decision Maker provided limited details.
4.	The Tribunal had GP records which were not available to the Department at the time of decision. GP records confirmed conditions which functionally impact the Appellant.
5.	The Appellant gave oral evidence for almost 45 minutes. The Appellant was a credible and probative witness.
6.	Demonstrated a much more significant trauma than appeared on the papers. LCW but no LCWRA due to genuine difficulties with hand tremor (as evidenced by GP notes).
7.	Exceptional circumstances apply, Regulation 40(4)(i) of Schedule 8. The Appellant has limited capability for work. Appellant aggressive. Regulation 40(4)(i). Tribunal agreed with zero points but after hearing evidence from the Appellant were satisfied that Regulation 40(4)(i) of Schedule 8 applied.
8.	The Tribunal found the Appellant's oral evidence persuasive and in particular that they had put on a brave face to the Healthcare Assessor. This masked their genuine mental health problems.

9. The Tribunal accepted oral evidence of the Appellant who had a significant disability and awarded 9 points for mobilising and 6 for activity nine. The Tribunal found that the Appellant had limited capability for work and their Universal Credit was to be reassessed accordingly.
10. Clear evidence of a clinical nature in GP reports that the Appellant was at risk of harm to self and others. Noted that Department subsequently accepted evidence sufficient to put them into support group from a later date but no noticeable change in condition i.e. better or worse.
11. The medical evidence confirmed there was no functional restriction experienced by the Appellant as per the Department's decision, however, it also set out how the Appellant remained unable to return to work despite their desire to do so as a result of pending investigations in relation to their condition. The restrictions preventing the Appellant from returning to work are having a detrimental impact on their mental health and supported the decision that the Appellant falls within the provisions of Schedule 8.
12. The medical records indicated a long history of alcohol dependence and mental health problems, supporting the award made by the Tribunal. The medical evidence was supportive of the claim made by the Appellant and on their behalf in the papers
13. The medical evidence was strongly supportive of the contentions made by the Appellant in their appeal. The panel was satisfied on reading the papers and consideration of all available evidence, and noting the history of previous and subsequent awards, that the Appellant at the relevant date had sufficient difficulty with their mobility to fall within the descriptor dealing with a person's difficulty in mobilising up to 50 meters on a regular basis.
14. Clear indication of restriction with mobilising due to temporal neuropathy. Restriction with reaching due to bilateral shoulder pain. Accepted medical evidence as supporting what Appellant put forward - on balance limited capability for work due to mobilising, standing and sitting and reaching.
15. Evidence strongly supportive of the Appellant's case and relevant to the issues. Appellant previously and subsequent to decision under appeal was put in support group by the Department. Medical evidence strongly supportive. The appeal submission at Section 3 does not make it clear from the outset that the Appellant has LCW it states that they do not have LCW and LCWRA. In my view this had resulted as in many of these cases in confusion. This can also lead to pre-hearing administrative difficulties.
16. Tribunal preferred the evidence within the GP notes. The Appellant clearly has considerable mental health difficulties which probably contributed to their inability to communicate difficulties and restrictions to the Healthcare Professional. Department made no attempt to investigate depth of the Appellant's claims by reference to clinical material.

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|-----|--|
| 17. | Additional evidence in the form of observation of the Appellant by the Tribunal. Reports from Primary Mental Healthcare Team revealed a significant mental health condition which corroborated the Appellant's claim and was supported by their presentation at hearing. Long history of anxiety, depression, and paranoia. Primary Mental Healthcare Team reports were very helpful to the adjudication. They were of a high standard and relevant to the entitlement rules. (LCW LCWRA). |
| 18. | The medical records provided sufficient corroboration of the restrictions claimed by the Appellant. Tribunal awarded LCW but not LCWRA on the basis of the oral evidence/medical records. |
| 19. | The Tribunal was in receipt of medical evidence which the Departmental Decision Maker did not have at the time of the original decision. The Appellant ought to have been treated as having limited capability for work and limited capability for work related activity owing to substantial risk to himself if not so treated. |
| 20. | Oral evidence of the Appellant provided sufficient evidence to demonstrate award. Appellant's oral evidence highlighted their mental health conditions to warrant an award. This appeal highlights the importance of oral hearings for Appellant and benefit of them being represented to be able to give their evidence. |

Comments / Recommendations

I have considerable concerns about the general standard of Universal Credit (UC) decision making. The number of UC appeals monitored (216) was higher than in any other benefit category. It also had the highest level of overall incorrectness (12.5%). It is concerning to note from the comments of Legally Qualified Members that some overpayments have been miscalculated. The decision making in one overpayment appeal was described as 'chaotic'.

I urge all UC decision makers to consider the decision of the Upper Tribunal in *R -v- SSWP (UC)* [2024] UKUT 2017 (AAC). It is important to consider issues such as 'revision' and supersession'. The failure to do this could be addressed with appropriate training.

The figures and tables at pages 41 to 45, together with the comments by Legally Qualified members, reveal some poor decision making relating to the Work Capability element of UC. This could be addressed with appropriate training, possibly with the assistance of colleagues in ESA branch.

Others

Attendance Allowance, Bereavement Benefit, Child Maintenance, Compensation Recovery, Maternity Allowance, Social Fund and State Pension

Category	Total Registered	Total Monitored	Total Incorrect	FA	FB
Attendance Allowance	37	23	0	2	4
Bereavement Benefit	4	3	0	0	0
Child Maintenance	43	9	0	0	1
Compensation Recovery	4	1	0	0	0
Maternity Allowance	1	1	0	0	0
Social Fund	15	6	0	0	0
State Pension	3	3	0	0	0

With the exception of Attendance Allowance where a selection of cases was by way of a random sample, a complete census of appeals received was undertaken in the remaining benefits listed above. As explained in Chapter 2 a number of appeals across all benefit areas were not available for monitoring due to a number of issues for e.g. withdrawal of the case or because the department reconsidered the decision and made a more advantageous decision prior to hearing.

There were no incorrectly made decisions identified in any of these benefit categories. Again with the exception of Attendance Allowance and Child Maintenance there were no decisions overturned due to the tribunal accepting evidence which the officer was not willing to accept (FA), or the Tribunal receiving additional evidence that was not available to the decision maker (FB).

It should however be borne in mind that given the small numbers of appeals available to be monitored for these benefits the results need to treat with caution.

Comments / Recommendations

The small sample makes it difficult to make an objective judgment in these cases.

Summary of Comments / Recommendation

Disability Living Allowance	<p>My comments below from the previous year continue to be relevant as the position has not changed to any significant degree.</p> <p><u>2020/2021 Comments / Recommendations</u></p> <p>The issues identified in this report remain similar to those mentioned in previous reports. In last year's report I pointed out that there continues to be concern about the number of decisions which are overturned due to further medical evidence. The Department is once more asked to consider what further steps can be taken to obtain additional medical evidence either at source from the medical profession or directly from the claimant prior to decision-making.</p> <p>The comments from legally qualified members illustrate the fundamental importance of having focussed and relevant medical evidence, usually in the form of GP notes and records, available to the tribunal at hearing stage.</p>
Personal Independence Payment	<p>My comments below from the previous year continue to be relevant as the position has not changed to any significant degree.</p> <p><u>2020/2021 Comments / Recommendations</u></p> <p>The issues identified in this report remain similar to those mentioned in previous reports. In last year's report I pointed out that there continues to be concern about the number of decisions which are overturned due to further medical evidence. The Department is once more asked to consider what further steps can be taken to obtain additional medical evidence either at source from the medical profession or directly from the claimant prior to decision-making.</p> <p>The comments from legally qualified members illustrate the fundamental importance of having focussed and relevant medical evidence, usually in the form of GP notes and records, available to the tribunal at hearing stage.</p>

Employment and Support Allowance	<p>My comments below from the previous year continue to be relevant as the position has not changed to any significant degree.</p> <p><u>2020/2021 Comments / Recommendations</u></p> <p>The issues identified in this report remain similar to those mentioned in previous reports. In last year's report I pointed out that there continues to be concern about the number of decisions which are overturned due to further medical evidence. The Department is once more asked to consider what further steps can be taken to obtain additional medical evidence either at source from the medical profession or directly from the claimant prior to decision-making.</p> <p>The comments from legally qualified members demonstrate that further medical evidence produced at hearing often greatly assists the tribunal in reaching a decision.</p>
Universal Credit	<p>I have considerable concerns about the general standard of Universal Credit (UC) decision making. The number of UC appeals monitored (216) was higher than in any other benefit category. It also had the highest level of overall incorrectness (12.5%). It is concerning to note from the comments of Legally Qualified Members that some overpayments have been miscalculated. The decision making in one overpayment appeal was described as 'chaotic'.</p> <p>I urge all UC decision makers to consider the decision of the Upper Tribunal in R -v- SSWP (UC) [2024] UKUT 2017 (AAC). It is important to consider issues such as 'revision' and supersession'. The failure to do this could be addressed with appropriate training.</p> <p>The figures and tables at pages 41 to 45, together with the comments by Legally Qualified members, reveal some poor decision making relating to the Work Capability element of UC. This could be addressed with appropriate training, possibly with the assistance of colleagues in ESA Branch.</p>

Other

The small sample makes it difficult to make an objective judgement in these cases.

Appendix 1 - Inferences and Sampling Error

This appendix relates to appeals registered between April 2021 and March 2022.

As mentioned in the body of the report it is possible for some of the sampled benefits results to make inferences with regard to all appeals for the relevant benefit in the time period.

The analysis that follows relates only to benefits where a sample was selected. The benefits where a complete census was taken do not affect the confidence interval, hence in the table below the 'ALL' category refers to benefits where a complete census was taken and those sampled. The minimum sample size for reliable inferences to be made with regard to sampled benefits has been taken as 30.

In making inferences regarding all appeals from a sample of appeals a degree of uncertainty is introduced to the process. This uncertainty means that the actual level of incorrectness in the initial decision is represented by a range with the sample result being the mid-point of the range. The range has been constructed so that we can be 95% certain that the actual level of incorrectness in the initial decision lies within the range. Ninety-five percent is known as the confidence level. The table below shows the relevant benefits, the sample result and the associated range.

Benefit	Percentage Incorrectness in the Initial Decision	Confidence Interval (\pm %)
Attendance Allowance*	0.0%	0.0%
Disability Living Allowance	2.1%	2.4%
Employment and Support Allowance	8.3%	4.0%
Personal Independence Payment	11.1%	5.5%
Universal Credit	12.5%	3.9%
ALL¹	9.2%	2.0%

¹ Note ALL refers to both benefits that were sampled and those that had a complete census taken

*Less than 30 Sampled/ Monitored

Considering all monitored cases in the time period we can state that;

We can be 95% certain that the true level of incorrectness among all initial appeal decisions in this period is between 7.2% and 11.2%, i.e. $9.2\% \pm 2.0\%$.

N.B. Each benefit generates its own workload of appeals. This is dependent both on the volume of initial claims processed and on the complexity of the benefit. The benefit may be complex in terms of the process to be followed, of the facts to be gathered and interpreted or of the underlying legal principles to be applied. More complex benefits are more likely to generate a greater proportion of disputes. It is also likely that decisions relating to the more complex benefits will be found to be incorrect. The aggregated total of appeals and outcomes thus covers such a wide range of different circumstances that the meaning of the information is uncertain.

Similarly, if we consider Employment and Support Allowance registered appeals, we can state that we can be 95% certain that the true level of incorrectness among all related appeal decisions in the period is between 4.3% and 12.3%, i.e., $8.3\% \pm 4.0\%$.

The remaining benefits can be analysed in the same manner.

Appendix 2 - Benefit Appeal Profiles

This appendix relates to appeals registered between April 2021 and March 2022. It draws together the information in the body of the report to produce a pro forma for each of the main benefits. Benefits with less than 30 cases monitored will be marked with *.

All Benefits	
Number of Cases Registered	4269
Number of Cases monitored	661
Number of Initial Incorrect Decisions	61
Percentage Incorrect	9.2%
Confidence Interval	2.0%
Total Number of Reasons	81
Main reason for incorrect initial decision: The officer disregarded relevant evidence (F6). Identified in 25 of the 61 incorrect cases and accounts for 30.9% of all reasons.	

Attendance Allowance	
Number of Cases Registered	37
Number of Cases monitored	23
Number of Initial Incorrect Decisions	0
Percentage Incorrect	0.0%
Confidence Interval	0.0%
Total Number of Reasons	0
Main reason for incorrect initial decision: No Incorrect Decisions.	

Disability Living Allowance	
Number of Cases Registered	320
Number of Cases monitored	97
Number of Initial Incorrect Decisions	2
Percentage Incorrect	2.1%
Confidence Interval	2.4%
Total Number of Reasons	2
<p>Main reason for incorrect initial decision:</p> <p>The officer failed to identify a finding(s) which needed to be made on the basis of the rules of entitlement relevant to the claim or revision (F3) and The decision was based on a misinterpretation/misunderstanding of the evidence available to the officer (F4).</p>	

Personal Independence Payment	
Number of Cases Registered	2086
Number of Cases monitored	117
Number of Initial Incorrect Decisions	13
Percentage Incorrect	11.1%
Confidence Interval	5.5%
Total Number of Reasons	14
<p>Main reason for incorrect initial decision:</p> <p>The officer disregarded relevant evidence (F6). Identified in 5 of the 13 incorrect cases and accounts for 35.7% of all reasons.</p>	

Appendix 2 - Benefit Appeal Profiles

Employment and Support Allowance	
Number of Cases Registered	682
Number of Cases monitored	145
Number of Initial Incorrect Decisions	12
Percentage Incorrect	8.3%
Confidence Interval	4.0%
Total Number of Reasons	20
Main reason for incorrect initial decision: The officer disregarded relevant evidence (F6) Identified in 11 of the 12 incorrect cases and accounts for 55.0% of all reasons.	

Universal Credit	
Number of Cases Registered	980
Number of Cases monitored	216
Number of Initial Incorrect Decisions	27
Percentage Incorrect	12.5%
Confidence Interval	3.9%
Total Number of Reasons	35
Main reason for incorrect initial decision: The decision was based on a misinterpretation/misunderstanding of the evidence available to the officer (F4). Identified in 11 of the 27 incorrect cases and accounts for 31.4% of all reasons.	

APPEAL REPORT FORM

YEAR XX

Section 1 Benefit claimed:

Name of appellant:

Address:

NINO:

Appeal reference:

Date of Decision Appealed:

Decision maker/Office:*

Date and venue of **Final** Hearing of Appeal:*

**To be completed by tribunal Clerk*

If the appeal is adjourned, report should be forwarded to next tribunal and President's Secretariat informed.

Section 2 Date Summary Decision Issued:

If the decision of the Departmental Officer was not altered by the Appeal Tribunal, please indicate if that decision was made correctly.

Yes

☐

No

☐

If the answer is No, please explain.

Appendix 3 - Questionnaire

Section 3 If the decision of the Departmental Officer was altered by the Appeal Tribunal, please provide details of the summary decision.

What are the reasons, if provided, for the decision of the tribunal

The decision of the Department was altered because (tick the boxes where appropriate)

- FA ☐ the tribunal accepted evidence which the officer was not willing to accept. Neither conclusion was unreasonable
- FB ☐ the tribunal was given additional evidence which was not available to the officer who made the decision. Such evidence was;
- ☐ in the form of an expert report handed in;
- ☐ an expert report obtained by the tribunal;
- ☐ given by a witness;
- ☐ given by the appellant
- F1 ☐ the decision of the officer was based on insufficient facts/evidence due to inadequate investigation of the claim or revision
- F2 ☐ the officer failed to request adequate medical guidance or expert reports relevant to the decision i.e. medical reports from a consultant/details of property interests/ details of business accounts/ adequate valuations (Article 12(2) of the 1998 Order)

Appendix 3 - Questionnaire

- F3 ☐ the officer failed to identify a finding/s which needed to be made on the basis of the rules of entitlement relevant to the claim or revision
- F4 ☐ the decision was based on a misinterpretation/misunderstanding of the evidence available to the officer
- F5 ☐ the officer took into account wholly unreliable evidence
- F6 ☐ the officer disregarded relevant evidence
- F7 ☐ the officer failed to identify/resolve an obvious conflict in the evidence
- F8 ☐ the officer did not action additional relevant evidence provided after his decision was made and initiate a revision
- F9 ☐ The officer made errors of calculation
- R1 ☐ the appeal was made because the officer did not give adequate reasons for his decision when requested under regulation 28(1) (b) of the Decision and Appeals Regulations 1999

There was a legal error in the decision because:

- L1 ☐ the officer did not identify the correct legal rules relevant to the claim/revision
- L2 ☐ the officer misinterpreted the legal rules relevant to the claim
- L3 ☐ the officer failed to identify a change in legal rules relevant to the claim/revision
- L4 ☐ the officer overlooked a relevant Commissioners decision/Court decision which was/should have been available to him
- L5 ☐ the officer failed to obtain additional legal advice necessary to deal with the claim

Appendix 3 - Questionnaire

Section 4 The decision of the Departmental Officer was defective because: (please indicate the relevant category/ies and, where there is more than one defect, an explanation should be given of each);

Section 5 In cases where medical or other expert reports were considered by the Departmental Officer, have you any comments to make on the standard of the reports?

Section 6 Please make any other comments you wish about (a) the manner in which the claim was dealt with by the decision maker; and (b) issues raised by the appeal which you wish to draw to the attention of the president.

Legal member
Date:

Time Taken to Complete: