



Sheila Gilmore MP
Edinburgh East Constituency

15 May 2014

Sir Andrew Dilnot
UK Statistics Authority
1 Drummond Gate
London
SW1V 2QQ

Our Ref: MB/GILM02002/02131962
Your Ref:

Dear Sir Andrew

I wrote to you on 30 April 2014 regarding Work Capability Assessment Reconsideration Statistics. I argued the Government cannot maintain that the publication of statistics on reconsideration will only become necessary once the DWP's quarterly WCA statistics start to cover the period since the introduction of mandatory reconsideration in October 2013, because claimants have been encouraged to use the reconsideration procedure since October 2008. I am writing to you again now as I have some further evidence to back up this last claim.

On 7 May 2014 the Work and Pensions Select Committee, of which I am a member, heard from HH Judge Robert Martin, President of the Social Entitlement Chamber, First-tier Tribunal. Judge Martin said:

[B]efore mandatory reconsideration came in, the Department would reconsider every appeal that was sent to it.

He then went on to say:

Under the old system, if a claimant was dissatisfied with a decision on entitlement to benefit, they could fill in a very simple appeal form setting out why they thought it was an incorrect decision and send it to DWP. On receipt, DWP would reconsider its decision. If it revised that decision in the claimant's favour, it just substituted the new decision; the appeal would automatically lapse by operation of law—sorted. Under the new system, if a claimant is dissatisfied with a decision, they ask for a mandatory reconsideration, it goes to the Department and the Department again can change their decision or stand by it. On this occasion, if they stand by it, the ball goes back to the claimant's court; the claimant has to weigh up whether or not it is worthwhile to appeal. They have to fill in a new form, a notice of appeal form, and send it off to the tribunals service to process.

He also said:

I am very keen to see what the overturn rates are under mandatory reconsideration.

I was then able to question Judge Martin on this specific point:

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Q100 *Sheila Gilmore: Would you find it helpful, on that basis, if we saw separately published statistics on the outcomes of reconsiderations?*

HH Judge Robert Martin: Yes, plus it would be necessary to have a baseline: what was the revision rate before mandatory reconsideration? In the past, this Committee has received some spasmodic evidence on overturn rates and I have seen something like the same. However, we really need to look at the overturn rates, now, benefit by benefit.

Q101 *Sheila Gilmore: The problem at the moment is that the reconsideration decisions, whether it was the previous system or the current one, are simply included as original decisions, in effect. There are only decisions and appeal statistics; there is not a figure for the middle. It is not separately published at the moment.*

HH Judge Robert Martin: No.

You can read the full transcript of this session here:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/work-and-pensions-committee/employment-and-support-allowance-and-work-capability-assessments/oral/9486.html>

In my previous letter I argued that the Minister responsible for this area of policy – Mike Penning – should not have argued, as he did, that publication of reconsideration statistics is not necessary at present – clearly it is. Again I would be grateful if you confirm whether you agree with my assessment of the situation.

I would of course also be grateful for your response on the other two related issues I raised in my previous letter – the role of Ministers in directing the publication of statistics, and the lack of practical impediments to publishing reconsideration statistics.

Yours sincerely

A handwritten signature in black ink that reads "Sheila". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

Sheila Gilmore MP
Edinburgh East