Northern Ireland
Assembly

PUBLIC ACCOUNTS COMMITTEE

OFFICIAL REPORT
(Hansard)

‘The Administration and Management of the Disability Living Allowance Reconsideration and Appeals Process’

14 October 2010

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:
Mr Paul Maskey (Chairperson)
Mr Roy Beggs (Deputy Chairperson)
Mr Gregory Campbell
Mr John Dallat
Mr William Irwin
Mr Trevor Lunn
Mr Patsy McGlone
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Mr Stephen Moutray
Ms Dawn Purvis

Witnesses:

Mrs Siobhan Broderick	)	Northern Ireland Courts and Tribunals Service
Mr Will Haire	)	
Mr Mickey Kelly	)	Department for Social Development
Mr Stephen McMurray	)	
Mr Tommy O'Reilly	)	

Also in attendance:

Mr Kieran Donnelly	)	Comptroller and Auditor General
Ms Fiona Hamill	)	Treasury Officer of Accounts

The Chairperson (Mr P Maskey):

Today we are addressing the report 'The Administration and Management of the Disability Living Allowance Reconsideration and Appeals Process'.

Mr Haire, you are very welcome to this meeting, which is about matters that are to do with disability living allowance (DLA). Can you introduce the team that you have with you today, please?

Mr Will Haire (Department for Social Development):

Yes, Chairperson, and thank you. Tommy O'Reilly has just joined us as chief executive and accounting officer for the Social Security Agency (SSA). Mickey Kelly is assistant director of the pensions, disability and care service, and he runs the agency side of DLA. Stephen McMurray is my director of financial management, and he has, until now, been running the appeals service. As members are aware, that was handled in the Department, but Siobhan Broderick, who is now head of reform in Northern Ireland Courts and Tribunal Services, has joined us because she has taken over leadership in that area. I hope that that represents the range of areas that we cover.

The Chairperson:

OK; thank you. I know that you have been here before, so you know the system. I will start by asking some questions, and we will then bring in the other Committee members.

I would like to turn your attention to figure 1 on page 12 of the report, which shows that there is a huge number of appeals. Figure 2 on page 18 also shows that an increasing number of the agency's decisions are overturned on appeal, and we know that those cases can sometimes take a long time to conclude. Why is that?

Mr Haire:

About 10% of our cases are appeals to the system, and, of those, 3% end up being overturned, as you say. That number has been rising slightly, but our figure is still much lower than that of our GB counterparts. Conall MacLynn, who will be before the Committee next week, emphasised in his report that the key reason for that increase is that additional evidence that was not available when the agency made its decision was brought to the tribunal's attention. That is why the tribunal was able to make a different decision. In approximately 70% of cases, the tribunal agrees

with the agency's original decision. However, in 30% of cases, the tribunal makes a different final decision, generally because more evidence in the form of GP reports or oral evidence is made available.

Although the trend has been increasing, I stress that the number of appeals has declined from approximately 14% to 10%. We are trying to focus on better decision-making at an earlier stage as a way of reducing that figure. All the reports by Conall MacLynn and Professor Eileen Evason, who also looks at our work, have emphasised that the quality of our decision-making is seen to be good.

The Chairperson:

OK. Many of the members here, or the staff in their offices, deal regularly with DLA cases. The thinking out there is that, the first time that someone applies for DLA, they will be refused automatically and the case will then go to appeal. That refusal is almost seen as automatic. I am not saying that that is the case, but many who work on the DLA cases think that that is true.

Some of the forms can be very difficult to fill in, and medical advice may need to be obtained about applicants. One concern that I have is that, if someone is good at filling in forms, they could possibly be selected for DLA the first time that they apply, but if they were are not so good at filling in the forms, they would be more likely to be refused. Indeed, that may have more of an effect on the vulnerable in society who are not as able or equipped to fill in the form. Quite a lot of the time, those people are refused. Is there any way that the form could be simplified? Will the Department be taking any initiatives on that?

Mr Haire:

I am going to ask Mickey Kelly to come in on that question, as it is a key part of his work. The legislation requires us to look for a lot of evidence. I think that we have succeeded in reducing the form from 48 pages to 39 pages long. We are working on the use of plain English and other approaches and on getting other forms of assistance to people.

Mr Mickey Kelly (Department for Social Development):

We have taken a number of steps over time to try to simplify the form, and, as the permanent secretary said, it has been reduced from 48 pages to 39 pages. I am aware that some members here and people in their constituency offices help applicants to fill in the forms, given that they

are quite complex and detailed.

The form is quite interesting in its own way. We must strike the right balance between overburdening people with what may be unnecessary questions while having questions that are sufficient to allow them to describe their needs in detail. That is a fine balance that we are working hard to achieve. We have included an example of the information that we want be given in each part of the form, and that is one of the major steps that we have made in improving the form. We recently tested a child claim form for children under 16, and that was well-received by the voluntary sector and the other sectors that work with children.

We also regularly consult with the voluntary sector and bodies such as Citizen's Advice, Advice NI, Disability Action and the Belfast Law Centre about the form. We are not for one minute being complacent about the form, and we are always working hard to improve it.

The Chairperson:

Are all the agencies content with the forms, or have they suggested areas where they could be improved?

Mr M Kelly:

As we do each iteration of the form, which we generally do once a year, we look at what changes have been made in England and what changes we want to make in Northern Ireland. We share the form with the agencies in advance of that and give them an opportunity to comment on it.

The Chairperson:

OK. Thank you for that. Other members may want to delve deeper into that issue. Paragraph 1.9 states that responsibility for the administration of the appeals process transferred from your Department to the former Court Service, which is an agency of the Department of Justice. That happened very recently. Perhaps you can tell us how that has affected the DLA appeals process and the service provided to DLA appellants to date. Have there been any improvements? If not, what improvements are expected in future?

Mr Haire:

Obviously, that transfer happened relatively recently. We have been working closely with Siobhan and her team for a while. When the report was concluded, the overall end-to-end process

took 31 weeks. It now takes 22 weeks, so, on average, the system is working. Over the past couple of years, we have seen a steady improvement in the processing time. Having worked through all the recommendations that came out of the 2005 report, as well as the efforts that our predecessors and Mickey, Stephen and the team made over the past while, we have seen the timings reduce by 50%. Therefore, we are getting better information. However, the transfer to what was known as the Court Service has the great advantage, which Leggatt pointed out about the form, in that the Department is no longer involved in the appeals system. The system has been separated, and it is now much clearer and better. We tried to be very fair previously, but that division makes the process much better. There is also great strength in putting our system in with with the Tribunals Service, which will be responsible for other appeals processes, because it will bring professionalism and understanding of appeals systems to the process. I will ask Siobhan to comment on the wider theme.

Mrs Siobhan Broderick (Northern Ireland Courts and Tribunals Service):

As the permanent secretary said, we assumed responsibility for the management of tribunals in April. We then put in place a single manager who has responsibility for a number of aspects of DLA and other appeals, including the office of the president, the appeals service and the social security commissioners. Therefore, for the first time, we have a single manager who has oversight of the whole appeals process when it gets to the appeals service. We have put in place a modernisation strategy across the tribunals to look at ways to improve the services. That includes how we engage with customers and putting standards in place. Therefore, we have published the standard for DLA cases to be listed for the first time for nine weeks, and we will produce a report for customers in a customer newsletter, which will be available to them from October.

We have also put in place standards for services that customers can avail of. Again, those are published and are accessible to customers. We also want to look at how we improve professionalism in the team. We have offered NVQs to teams of tribunal clerks in the appeals service and in the office of the president so that their professionalism can be improved. They are already exceptionally well trained, and we have provided them with an opportunity to further that training in conjunction with the Courts and Tribunals Service. We have also put in place an apprenticeship scheme for the administrative assistants (AA) and administrative officers (AO) in the appeals service to allow them to improve their communication and literacy skills.

The Chairperson:

Thank you for that. If that is working, the time for tribunals should be reduced.

Mr Haire:

The process now takes an average of 22 weeks, which is an improvement. However, the benefit is a complex one to administer, as many of you will have experienced. It is a complex issue, and, as the report indicates, some cases take longer. Some cases have gone to the High Court, for example, and that obviously slows things down. There is a continuous improvement issue, because going to appeal is a stressful and stress-related issue for people, and we want to see how best to handle that question and how best to communicate it. Therefore, we have to continually work at it.

The Chairperson:

My questions are about setting the scene, and other members will delve into the issue.

Mr McQullian:

I see from paragraph 2.10 that the agency and the appeals service's computer systems are not compatible. Was that not considered in 2007 when the appeals service's system was upgraded? What will be done to rectify that?

Mr Stephen McMurray (Department for Social Development):

When the report was issued, we were still designing the report mechanism for the new system that was installed for the appeals service. We have put a lot of time and effort into considering that report, and we have taken on board the Audit Office's comments about trying to make processes as seamless as possible and putting in place an end-to-end process that we can monitor. We have been able to do that with the new system, which is working very well at producing timely, online reports for use not just by the appeals service but by the agency and the president. The feedback from the three groups concerned is that it is working well.

We looked at integrating the system with a separate one that the agency operates. We did a cost-benefit analysis to see whether they could be fully integrated. However, the cost of doing that was shown to be prohibitive to any benefits that we would get. Therefore, we thought that it would be better to further enhance our current system by speeding it up, and by making sure that it covered the whole process and that it was seamless from a customer point of view, which was

an important part of its design.

Mr McQuillan:

Is cost the reason that the two systems are not compatible?

Mr McMurray:

Yes.

Mr McQuillan:

Paragraphs 2.37 and 2.41 deal with the feedback process. What value do you see in gathering feedback? Do you agree that that should cover the process, when it begins in the agency, right through to an appellant's experience of the tribunal?

Mr Tommy O'Reilly (Department for Social Development):

We are committed to trying to ensure that we get continuous feedback from the agency. At the moment, and as Mr Kelly outlined, we are in constant contact with the voluntary and community sector, from which we receive feedback about the services that we provide. That helps to inform us about our processes. We also get individual complaints that are raised with the agency, and we try to ensure that actions that are appropriate in response to such complaints are taken forward.

We want to work with the Northern Ireland Courts and Tribunals Service to see how we can improve the end-to-end process. The Courts and Tribunals Service will conduct surveys with appellants, information from which we will use, in conjunction with our feedback from the voluntary and community sector, to make further changes to the service.

Mr Beggs:

Mr Haire, figure 2 on page 18 of Audit Office report shows that the quality of decision-making has generally been high. For instance, in 2006-07, 0% of decisions were overturned on appeal as a result of an error. However, your update letter of 4 May indicated that there was a deterioration to 4·3%. Do you have an explanation for that?

Mr Haire:

As I said, it is a complex benefit to implement. A lot of our training emphasis is on decision-makers. We also have senior teams that continue to work with our decision-makers to improve

that. In that year, we went up 4·3%, but last year I think that it was only 2%, so we improved again. We will always find a certain amount of error in what is a highly complex benefit to deliver. As you know, the decision is not about a claimant's medical condition; it is about a situation and how it affects individual lives, around which there is a large amount of case law and other considerations. Mistakes are made, and people will appeal the decisions, and I will come to that process. We put a heavy emphasis on training and development, but given where the benefit lies, we cannot entirely eradicate error. We just have to keep on bearing down on it as best we can. The figures are moving in the right direction, and our aim must always be to have zero mistakes.

Mr Beggs:

Your update letter of 4 May 2010 also indicated that, at that stage, figures were still not available for 2008-09 and 2009-2010. The period covering 2008-09 was some 13 months after the close of the year. When you are looking at the overall performance and gathering your figures to identify whether there has been a change and a need for retraining, is it not a problem if there is a significant delay in the feedback?

Mr Haire:

The delay is due to the time that it takes the president to put together his report and survey. In comparison with his GB counterpart, the relatively small size of Northern Ireland and the group mean that he has difficulty doing that. It takes him longer to close his cases to see what the outcomes are. Therefore, there will always be a delay. A couple of years ago, we were, frankly, waiting for too long before receiving and processing those reports. However, as the Audit Office report indicates, that time has been reduced significantly, and, in September, we received the 2008-09 report. Therefore, we have significantly reduced the delay. Clearly, we want to get reports as soon as possible.

One element that we are trying to strengthen is a forum between the agency, the Court Service and the president. That forum will have regular meetings about the issues to try to get feedback about the experiences that are happening all the time. Although annual reports and surveys are important, the issue is to link the various institutions fairly regularly through informal and formal meetings and to get feedback that addresses the sorts of problems that you are getting at. We are trying to strengthen those systems, and they are having an impact.

Mr Beggs:

It would be helpful if you could forward to us the latest figures so that the Committee can consider them for its report.

Paragraph 2.17 states that the main reason for decisions being overturned on appeal has been the production of additional evidence that had not previously been available to the agency when it was coming to its decisions. I notice that, in the past two years, approximately one third of all cases have been overturned for that reason. Are you satisfied that the agency is doing all that it can to get the relevant information, including medical evidence, before reaching a decision, or are staff being driven by the need to make quick decisions and hit time targets? If a case proceeds unduly quickly because the information is not available, additional burdens are being created by introducing appeals that would not otherwise happen.

Mr Haire:

Perhaps Mickey will talk about that. However, we are very conscious of trying to get the balance right, and we have refined the process by which we try to get medical evidence from GPs, for example. Tribunals in Northern Ireland, as well as the president, look for GP notes that are of a much higher level than required in GB. There are particular complexities with our rights and access to GPs' notes. However, we do a lot of work to try to get the necessary information, and, at all stages, we emphasise to the people who are claiming the benefit that they need to provide as much evidence as they have. We are constantly coming back to them to do that, and we are trying to get the information from GPs. Ultimately, our aim must be to get a process that involves a quick resolution. If we were to cause problems by rushing our stages, as you quite rightly say, that that would be ridiculous and a waste of people's time.

Mr M Kelly:

I assure you that there is no undue pressure to clear cases quickly or timeously. The qualitative nature of our work is important, and that is reflected in the figures that we produce and in what the president says about our quality. The majority of our forms are now issued, following a request, through our contact centre in CastleCourt. When people phone up, at that stage we have a quick conversation to tell them that it is important that they give us all the information that will help us to make their claim. Medical evidence is important, and virtually all claims in Northern Ireland are decided with medical evidence from either a general practitioner, an independent examiner or a healthcare professional. Therefore, it is not the case that we are not getting the

medical evidence; the medical evidence that the president obtains is GPs' notes.

We have talked to our colleagues in the Department for Work and Pensions (DWP) about this issue, which raises some questions about the policy intent behind the benefit. The policy intent behind the benefit was never for access to GP records to be a prerequisite. We, therefore, have to be careful that getting those records does not run contrary to the current policy intent of the benefit, subject to how that might change going forward. I should add that we send a clinical-based report to doctors that is based around the questions that we need answered to help us to make our decision. If we had access to GP records, we could be contravening the legislation, because the information collected would not actually be relevant to a DLA claim. As you know, patients' medical records contain lots of information other than that about their disability.

Mr Beggs:

You indicated how complex the area is.

Mr M Kelly:

Absolutely.

Mr Dallat:

You will know that appeals are continually being cancelled or deferred because medical evidence is not available. You must also be aware that doctors are making a right oul penny out of this craic by charging up to £50 for the privilege of supplying somebody with their own medical records. At the end of the day, no matter what you say, decisions are reached on the strength of the medical evidence that is provided. Therefore, if I lived in an area where the doctor was compassionate and helpful, I would have a better chance of receiving DLA than I would if I lived in an area where the doctor did the tick-box exercise, got paid for it but then did nothing afterwards. Given that there are wide variations in success rates, can you tell the Committee whether anything can be done to create some kind of level of playing field across the North? I am quite sure that at least some of that wide variation in success rates relates to the degree of co-operation from GPs.

Mr Haire:

The key issue for all of us is the coalition Government's announcement that they will look at DLA generally. They are thinking of taking that issue forward, which will involve looking at the

medical assessment and processes and so forth. My Minister has already made representations about that. It is key that we get ourselves involved in that process, and, if it is to go forward, it is also key that we understand how it will happen to ensure that it is done appropriately and fairly. That is where we are.

However, from what we understand and read in the papers, it will be several years before that initiative will impact on the process, because legislative changes are required, and it may take some time to get there. However, a more controlled system may be the outcome of such a reform.

Mr O'Reilly:

In response to your point about the availability and amount of evidence that an individual GP submits, it is fair to say that one of the benefits of having an independent appeals service is that there is still recourse for an individual to get the agency's decision looked at again. They can require that all the medical evidence, including all the GP notes, be submitted to enable an independent medical member to make an assessment. The individual concerned also has the right to appear in front of that tribunal. There are, therefore, some safeguards in place. I take your point that there may be issues, but we are certainly not aware of any of the nature that you described. However, the right of the individual to have their case reconsidered is built into statute, and that recourse is available.

Mr Dallat:

I will not prolong this line of questioning, Chairperson. However, I should say that I represented someone recently where the appeal was postponed in the expectation and hope that the doctor would provide more medical evidence. As a public representative, I was asked to write to that doctor to encourage them to produce the file. I think that that was wrong. However, we will leave it at that.

Mr Beggs:

My question is about the growing problem of long-term sickness in the agency's appeals unit. The information about that is available at paragraph 2.48 and in the update to figure 7, which is in your letter of 4 May. If I am reading those correctly, the percentage of days absent has grown from 5·1% to 7·7% to 9·2% to the latest figure of 10·4% in 2008-09. It would be very significant to have 10·4% of any workforce missing. If a private sector company operated like that, it would

probably be out of business, because it would have lost 10% of its income. Why is that happening, and what are you doing to correct it?

Mr O'Reilly:

Those are fair comments about the levels of sickness. I can answer that by describing the various stages that were involved in our response. To ensure that the service was not disrupted by that level of sickness, we responded immediately by developing an action plan in the agency that transferred some staff from other sections of the DLA service to ensure that the appeals service would continue to be supplied with the relevant documentation.

We have also been implementing an attendance management policy in the agency. That is being driven forward through the line to ensure that all procedures and policies that we have in place are being fully implemented. As a result, there has been a further reduction in the number of days lost. Last year, that was down to just over 9·5%, and, until the end of August this year, the level of sickness was at 3·29%. We are not complacent about that. We are continuing to follow very aggressive attendance management policies right across the agency to ensure that staff are aware of their responsibilities and that line managers undertake their responsibilities in managing absence so that public services are protected.

Mr Beggs:

Thank you for that very competent answer.

Ms Purvis:

Paragraphs 2.21 to 2.28 deal with the attendance of presenting officers at tribunal hearings. That has been an area of contention for nearly 10 years. What value do the Department and agency place on presenting officers attending DLA tribunal hearings?

Mr Haire:

The Department has a role as amicus curiae, or friend of the court. We clearly have a role to be there to assist in the courts' deliberations. In more complex cases where the benefit or the issue presenting is complex, we send presenting officers to assist as best we can. We want to ensure that the tribunal has the evidence and can understand the issues. This year, we have sent presenting officers to around 31% of cases, which is twice the GB level.

At the time that the report was produced, one issue was that there was benefit to us and to the presenting officers in getting feedback from the decisions. We could then use that feedback to improve our decision-making processes. However, as our officers are, rightly, out of the room when the tribunal deliberates and makes its decisions, the truth is that we were not getting anything of particular value that would improve our decision-making. It was not worth our while. We were faced with the blunt point that, if we send presenting officers to the tribunal, they are not making decisions. They are not at their desk or working with the public trying to make the decisions in the first instance. Given that, therefore, the overall time limit would expand. If we sent people to sit in hearings during the tribunal stage, the overall process would not be benefitted but delayed, particularly as tribunal decisions are often made because new evidence to the hearing appears. That does not create any benefit for our overall decision-making processes, particularly because the tribunal elucidates that and then makes the decision. Therefore, having a presenting officer in attendance does not help the process, and there is not much of a gain in it. That is why we focus very much on assisting in those cases where the complexities mean that the tribunal needs assistance.

We do not see value in having 100% attendance. In fact, we would see that as slowing down the overall process. However, we are keen to see whether we can address some of the concerns that the president of the appeals tribunals has on the issue of information, and we will continue that dialogue with him through the forum that we want established.

Ms Purvis:

Are you going to try to reach agreement with the president on the types of cases that presenting officers should attend?

Mr O'Reilly:

We want to work with the president and the Courts and Tribunals Service to revise the guidance for our presenting officers and to understand where we believe there is benefit in their being in attendance at a tribunal.

I would like to make one other point about attendance. We regard ourselves as friends of the courts at tribunals. We are there on the Department's behalf to present the reasons why we made a decision. It is for the tribunal to review that decision. One of the concerns that we have about presenting officers attending 100% of the time is that there is a real danger that tribunals could be

turned into much more adversarial events. It is the right of citizens to present their case and be represented by a third party if they so wish and for the tribunal to make an assessment based on the evidence that the tribunal has received from the Department and that is presented on the day. If we start to put presenting officers there, the process suddenly becomes adversarial. We do not believe that that benefits justice or the claimants and the appellants. It would make the process much more stressful than it currently is.

Ms Purvis:

A number of issues arise from that.

The Chairperson:

Are they on the same theme?

Ms Purvis:

Yes, they follow on from that point.

Is any pattern or trend forming in the outcome of hearings that presenting officers attend?

Mr M Kelly:

Not necessarily. We have not found any particular patterns or trends. It was mentioned earlier that most of the cases that are overturned at appeal tribunals have been overturned because of new evidence from the appellant or because of consideration of the GP records that have arrived on the day. As the permanent secretary indicated, we are not present during the panel's deliberations. It is a complex process, in that the panel has to give different weights to a number of different pieces of evidence. Presenting officers not being in attendance at that particular discussion does not affect the outcome of the tribunal.

It is important to note, and the report mentions this, the qualitative nature of the submissions that we provide on the cases that we do not attend. Those submissions are much more detailed than those that are provided to colleagues in GB. Therefore, we feel that our written submissions set out the facts quite well in that sense.

Ms Purvis:

Mr Haire, you mentioned the value of feedback for presenting officers, albeit that they are not in

the room when decisions are being made. You set up a presenting officers' feedback database in April 2007. How useful is that, given that it is only the presenting officer's opinion that is on that database, rather than information from the tribunal on the reasons why decisions were overturned?

Mr Haire:

We recognise that that is a limitation of the database. Obviously, we get some information and some sense from people's experiences, but that database is only one of a whole series of feedback systems that we have, which include medical input and training. It plays a role, but we recognise its limitations, given that we were not present to hear the decisions being made. It is right that we are not involved in the deliberative stage, but the system cannot be perfect.

Ms Purvis:

How are you getting direct feedback on decisions that are overturned?

Mr Haire:

We can get the statements of reason as appropriate. We can ask the tribunal to give us a statement of why it has made a decision. We also get feedback through the annual reports from the president, who looks at the overall process. He emphasises that over 90% of the decisions that are overturned have been so because more information is being disclosed at the tribunal stage, either in oral hearing or through interrogation of the GP notes.

Ms Purvis:

I will come to the annual reports in a minute. However, I want to finish my point about presenting officers' attendance. Both the Department and the president have proposed a consideration of an alternative dispute resolution (ADR) process. In the report we are told that the president said:

> "that attendance by Presenting Officers at appeal hearings may make it possible to agree a benefit decision with many appellants who attend hearings without the need for a tribunal hearing."

That is, in effect, a form of alternative dispute resolution. The president makes the case for presenting officers attending tribunals to try to resolve cases without the need for formal hearings. Should that not be considered?

Mr Haire:

As you are aware, there is a formal reconsideration stage at the beginning of the appeals process, whereby we look at the evidence again. About 14% of cases are resolved at that stage by our going back and looking at the evidence. Therefore, we have our own alternative mechanism right at the beginning of the process.

If we had a presenting officer present, all the costs of the tribunal would have been realised: all the necessary people would have been made available, and, in getting GP notes, we would have spent the £250,000 that we have to spend annually. If all that were possible, and if there were an issue at the door of the tribunal, there would be no saving in costs. I also believe that, in many cases, the actual tribunal is what gives people resolution, because they can talk to the people who will make the final decision. I am not sure that the particular form of alternative dispute resolution mechanism that the president suggested would be cost-effective or achievable.

In GB, some work was done on identifying an alternative dispute resolution mechanism. Various lawyers examined cases to see whether they could lift some out or resolve them and talk to people. However, that only prolonged the case in question. It did not resolve it; it actually worsened the overall timescale, because it was just producing another hope, and people were not brought to a final resolution. I think that you have to accept that a tribunal may be the only way to resolve certain cases, because there is a final decision-maker at that point.

However, early on in the process, we could get on the phone to people more often and get better evidence before the day. We have to continually try to find solutions to see whether we can cut the figures down, because it is expensive to run tribunals. I suppose I am coming to the conclusion that I do not think that the president's proposal is going to solve that problem. However, I am totally with him on the fact that we have to continually try to see whether there are ways of cutting the process off more rapidly and finding a solution.

Ms Purvis:

Chairperson, I will let Patsy say something, but I want to come back to that issue.

Mr McGlone:

Thank you for that, Dawn. I am sure that many of us have been at a tribunal where a presenting officer has been in attendance, and we have seen how the dynamics of the room change when

they are not there. I think that that places the panel in quite an invidious position, where they have to, either by proxy or by taking the role of devil's advocate, try to tease out what the Department should be there to tease out and present to them. In those cases, that almost borders on changing the burden that is on the panel when it makes its determination.

Leading on from that, you said that the Department or the Social Security Agency can, quite rightly, ask for the statement of reasons after the determination has been made. Many of us have also been in that position. I would like to ascertain whether you have done any sort of internal research on how many of those cases in which the determination has found in favour of the appellant has had no presenting officer in attendance. On the basis of the statement of reasons, how many of those cases has the Social Security Agency subsequently referred to the social security commissioner?

Mr Haire:

I am not aware of any analysis that has been done on the commissioner, I am afraid. I do not think that we have done any work on that.

Mr M Kelly:

No, we have not.

Mr McGlone:

I am talking about another bite of the cherry, which is another appeal all over again. I am interested to hear whether there is any correlation between a presenting officer not being there to fulfil their duties and the referral of cases to the social security commissioner. I do not know how or whether you can find that out.

Mr O'Reilly:

In total, about 200 cases have been referred to the commissioner on a point of law.

Mr McGlone:

Are those specifically DLA cases?

Mr O'Reilly:

No, they are across the board; they apply to all benefits.

Mr McGlone:

I am interested to know whether there is some correlation between the non-attendance of presenting officers and what happened subsequently.

Ms Purvis:

Mr Haire mentioned the of the appeals tribunals's annual reports. Page 22 of the Audit Office report refers to delays in the publication of the president's reports. By the time that they are published, they are two to three years out of date. The latest information on appeals that are held due to error by the agency relate to 2007-08. Why are there such delays in publication?

Mr Haire:

As I said, it takes time to report, because the president must follow through and see how some of the sample cases are resolved. It takes longer for those to work through and to get the relevant data. In England, a snapshot of all tribunals is taken on a given day, and access to data is easier. As I said, a couple of years ago, that process was very slow. The Department received the 2007-08 report in February of this year and published it on 20 May. The report for 2008-09 was received on 17 September, and we are doing what we have to so that we can get that out fairly quickly. Therefore, we are achieving a faster turnaround time. The size of the sample and the president's method of working means that the turnaround time will remain slower in Northern Ireland than in GB, but we are trying to reduce the timescale.

Ms Purvis:

Why does the Department, not the president, publish the report?

Mr Haire:

I presume that that is a legislative requirement. Is that correct?

Mr M Kelly:

Yes.

Mr Haire:

Legislation requires it to be done that way.

Ms Purvis:

Surely that would give the Department an opportunity to decide on the most favourable time to publish the report.

Mr Haire:

Were we to be Machiavellian, that would undoubtedly be the case. However, that is a fair point: we should be accountable for getting the report out as rapidly as we can.

Ms Purvis:

It is about standards of decision-making. Although that impacts on the work, it does not take two to three years to do so.

Mr Haire:

That is a very fair point. Perhaps, going forward, we should look towards the Courts Service. Maybe there should be separation, but, as I said, it is stated in legislation that the process must be done in this way, and that is how it is handled.

Mr O'Reilly:

The president's report is one of a number of sources that we use to assess decision-making and its effectiveness. The agency also has a team that selects and independently reviews cases to ensure that decision-making is in line with the guidance. We also have the joint standards committee, which is chaired by Eileen Evason. That committee lays its report in the Assembly, and it reports annually on the standards of decision-making across all our benefits services. The president's report is another external review of our decision-making and of the reports that we provide.

Ms Purvis:

Does that also look at the time that is taken to deal with claims end to end?

Mr O'Reilly:

The joint standards committee also reports on the time that it takes for us to make decisions and to process cases.

Mr McGlone:

Paragraph 1.12 deals with the agency and the appeals service's backlog. Those figures are almost

two years out of date. Do you have you any figures for the agency and the appeals service as of 31 March 2010? Do you have more contemporary figures?

Mr Haire:

With respect to that backlog, which we have been able to get on top of, Mr Kelly may have some exact figures on that.

Mr M Kelly:

At this point in time, the agency has about 600 appeals outstanding.

We generally receive about 600 appeals a month, so at this point, we have about a month's work in hand. If we base that on our target of clearing each case within eight weeks, we consider that an acceptable head of work. The team works through the appeals. When we receive an appeal, it is not just a simple matter of constructing documents. That is because the appeal writer is part of the process, so they have an informal look at the decision to see whether the case should go to appeal. They correct any anomalies that they see in the decision. Therefore, at this point, the work-in-hand situation is quite healthy.

Mr McGlone:

You said something about eight weeks. Eight weeks to do what? Is that eight weeks from the receipt of form GL24 until the documentation goes to the appeals service?

Mr M Kelly:

That covers the time until the documentation goes either to the customer or to the Northern Ireland Courts and Tribunals Service. Our target for that part of the process is eight weeks.

Mr McGlone:

How do you define an acceptable level of backlog?

Mr O'Reilly:

We define that as acceptable if work is in the backlog for less time than it takes to process it. Presently, our target is 40 days, but we are over-performing in the amount of time that is taken. That means that we will revise next year's performance targets so that we can achieve further improvements.

Mr McGlone:

Turning to figures 8 and 9 on page 33, the performance against target is commendable, although in 2007-08, performance against the 40-day target for actual average clearance time for preparing and issuing the DLA appeals submission to the appeals service slipped a bit. Is there any particular reason for that? Do you have contemporary figures that show an improvement in that area?

Mr Haire:

Yes, and improvement has been steady. In 2008-09, we managed 37 days, and, by 2009-2010, that was down to 26 days. In the year to date, the rate is running at nearly 30 days, so we are well within target. Since we sorted out staffing, resourcing and other issues, we have had a much better handle on processing. That means that there is no longer a 50-day backlog.

Mr McGlone:

Although this may be a matter for next week's meeting, if you look at figure 9 on page 33, can you tell me whether you have any views about the length of time that it takes to complete the tribunal process?

Mr Haire:

Some elements of the system are obviously about getting a case to first hearing, and that lies really much more in the appeals process. The work of the tribunal then becomes involved; however, you will obviously want to talk to the president about that.

Mrs Broderick:

There are two parts to the process. First, the first listing of a case is an administrative target, which is currently nine weeks. To date this year, the performance on that target is 9·9 weeks. Secondly, once a case is listed, setting a target to process it is a matter for the president of the appeals tribunals. According to management information that we have, we know that, to date, we are doing that in just over 16 weeks.

Mr McGlone:

I want to tease out something else, because this gets to me somewhat. On some occasions, an adjournment, which can delay the appeals process, is the Department's responsibility, whereas, in

other cases, it is the appellant's responsibility. Nevertheless, if further evidence is required, people are entitled to bring a case before the appeals tribunal and to seek permission for an adjournment. However, another element, which is the availability of medical records, kicks in quite frequently, although I do not know what you can do about it. A number of times, I have landed at an appeals tribunal only to find that medical records are not there. That certainly is not your organisation's fault, because the presenting officer may have had another case to deal with that day, they may have been there for just that day or they may have had to go back home or to the office. Is there any way to make sure that medical notes are present? I know of cases where the doctors simply refuse to release medical records. Obviously, this discussion overlaps with any that we might have on the appeals service's work. However, the reason that doctors give for refusing to release the documents is that medical records have been lost in the past. That can lead to a difficult situation. Have you given any thought to how that could be alleviated so that, as happens in 99·9% of cases that go to appeal, it is not a matter of the clerk coming out, saying that they do not have the medical records, there is an adjournment, the medical records have to be found and you are back there again in two or three months?

Mrs Broderick:

We recognise that that is an issue. Some 40% of the adjournments of appealed DLA cases are due to the GP notes and records not being available. We have a system whereby we get the records with the consent of the GP and appellant. We inform the GP of the date on which the case is listed, and we send them a reminder letter. We try to phone the GP to say that we need the records within three days. We do not want to keep the GP notes and records, which, more often than not, are the original records, in our possession for longer than we need to. There is obviously a balance to be struck between our obtaining the records in time for the hearing and not keeping them any longer than we need to. I think that there may be a benefit in looking at how the processes work in the context of the lean systems that we are trying to roll out in the appeals service.

Mr McGlone:

Have you had any thoughts on how you could do that?

Mrs Broderick:

We may have to go back and look at how cases are listed and engage directly with the British Medical Association (BMA).

Mr McGlone:

That is a fair point. OK; thanks for that.

The agency and the appeals service claim to monitor progress, but can you explain why a reconsideration would take up to 165 days, as is indicated in figure 11 on page 34 of the report? I know from experience that those reconsiderations can be turned around fairly quickly. Indeed, some may argue that they are turned around possibly a wee bit too quickly. There could be a perception that cases go out the door because a decision has been made already, and people are left to take the case to appeal. Why would a reconsideration take up to 165 days?

Mr O'Reilly:

There are undoubtedly individual cases that take a lot longer than we want them to. You have already discussed some of the relevant issues, such as the availability of medical evidence and people submitting additional evidence for our consideration. We always want to ensure that we get through the process as quickly as possible. The report mentions a reconsideration that took 165 days, but we must recognise that that is one case out of a sample of 75. On average, 8,000 cases come in to us annually. Specific cases may take a lot longer, but that is determined by the availability of the information that we require to make a decision.

In the DLA system, we have mechanisms whereby we review the length and history of cases. Our managers pull those reports regularly and check to ensure that we have all the information that we require. We make follow-up calls to GPs and consultants to ensure that we get the necessary information. Before we can make a decision, we have to go through that process to ensure that all the information that the claimant wants us to consider is available. Therefore, we review the process continually, but there will be individual cases in which that situation arises, mainly because all the evidence is not available.

Mr McGlone:

In a review, the evidence is normally presented within a one-month period or thereabouts.

Mr O'Reilly:

In a fresh claim or a reconsideration —

Mr McGlone:

I was referring specifically to a reconsideration.

Mr O'Reilly:

The reconsideration must concern an issue on which additional information that we do not have is asked to be taken into consideration.

Mr McGlone:

Mr Lunn had to go, but he wants me to run through a few of the questions that he was going to ask. Mr Haire, figure 15 on page 37 indicates that the appeals service's target times have been reducing progressively. However, performance, particularly when taking an appeal to its first hearing, has been relatively disappointing. Indeed, the update of 4 May shows that it appears that that performance is deteriorating. Looking at the figures in figure 15, can you tell us what steps can be taken to reverse any decline? Have the figures that you gave earlier changed suitably in-year?

Mr Haire:

There has been an issue with first appeals, due to the 3·5% annual increase in appeals. There has been a problem, and our figure for target times has stayed stubbornly just above that level over that time. That is clearly one area on which we want to keep working. Although we have seen, as I said, a 50% reduction in the overall processing time, bits of the process are proving chunkier and more difficult to move. Indeed, you put your finger on one of those areas. We will have to keep working on that to see whether there are ways that we can work through that particular bit and, through our lean processes, get that figure down. Indeed, Siobhan's team is now responsible for that.

Mr McMurray:

In 2007-08, the 10-week target was met. In the following two years, those targets slipped a bit to 11 weeks. However, the times have since come back to roughly nine weeks. Therefore, we are below the 10-week target time and back on track.

Mr McGlone:

I will stay with figure 15, which deals with percentages and other figures. We could perhaps deal with these issues separately, but how many cases are not overturned at review or, as it is called,

reconsideration? Of those cases, how many subsequently wind up at appeal or tribunal? Do many, or any, people move straight to appeal? I normally advise people to go for a review in the first instance.

Mr O'Reilly:

The figures in the report show that, on average, we have received approximately 8,000 cases for reconsideration, of which just over 6,000 progress to full-stage appeal at tribunal. Anyone submitting a case straight to appeal has to go through the agency, because we have to provide the evidence to the appeals tribunal. On average, around 12% of our total caseload goes for reconsideration, and around 10% of our total caseload goes to full appeal.

Mr McGlone:

Is that minus 2%?

Mr O'Reilly:

Yes, because 2% of cases are decided at that point.

Mr McGlone:

Can you tell me in actual numbers, as opposed to percentages, what we are looking at?

Mr O'Reilly:

There is an approximate total of just under 8,000 reconsiderations.

Mr McGlone:

Is that the 12%?

Mr O'Reilly:

Yes, and of that, just over 6,000 cases go through to appeal.

Mr McGlone:

I have to ask about the reconsideration process itself. If so many cases that have been asked to be reconsidered eventually wind up at appeal anyway, what is the value of a reconsideration, other than that for the 2% of decided cases?

Mr Haire:

Initially, reconsideration is a formal alternative to the dispute resolution mechanism. By taking a reconsideration, a case does not need to go to appeal. Therefore, there are no tribunal costs and a quicker decision is made. We are required by law to have that process, which is one issue, and it is, in a sense, a formalised ADR system that gives a quicker solution. It does seem to help us to take forward —

Mr McGlone:

The problem is, as we see with many people, that 12% minus 2% of all cases still go to appeal. Therefore, I am trying to establish the merit of reconsideration.

Mr O'Reilly:

Reconsideration is another appeals mechanism. It is an independent review of the original decision-makers' decision. A reconsideration takes account of all the evidence that the original decision-makers had, plus whatever other evidence the appellant has put forward. All that is then reviewed.

Mr McGlone:

I will perhaps query your use of the word "independent", which has come up at other Public Accounts Committee (PAC) hearings and been teased out. It will be teased out a lot more before we are finished. Are you saying that the review is conducted by officials other than those who made the decision?

Mr O'Reilly:

Yes.

Mr McGlone:

Thank you; that is fine.

I want to say one thing about the DLA branch. I know that Mr Kelly has always been at the end of the phone to sort out cases when required. It is always useful to have someone efficient there to do that and to make sure that those cases are dealt with.

Mr McLaughlin:

I also have a couple of cases to discuss.

Mr M Kelly:

The service extends to all MLAs.

Mr McLaughlin:

Mr Haire, I want to discuss the correspondence that you had with the Committee Chairperson about customers who have autistic spectrum disorder. It seems to me that there are a number of issues, and, in the earlier part of our discussion, you acknowledged that there are deficiencies in the data systems and the data capturing mechanisms. Your letter is helpful in a number of ways, because you gave us a definition of qualification and you set out the mechanisms that the tribunal would rely on to come to decisions.

Interestingly, you indicated in your response to the second question today that there is no central register of information on the proportion of the population that has autism. In the commentary on the quality of the decision-making process, you reflect that it is generally sensitive to the qualifying conditions. Clearly, however, if there is no central register, that can affect the specific function that we are discussing here, as well as a range of other government-sponsored services for people who need support. Have you made a formal representation about the quality of information and the compilation of a central register? Such a register would help you and, I suspect, a number of other agencies.

Mr Haire:

We are developing our understanding of autism, and, clearly, we must ensure that we keep ourselves well informed of it. All our decision-makers recently had a half-day training session specifically on autism and how it presents itself. Our particular challenge, as Mickey Kelly emphasised, is to determine how autism affects claimants' day-to-day living. The issue is not the particular designation of an individual's medical condition, so I am not clear exactly how a central register would address the issues with this particular benefit. However, Mickey may have some thoughts on that. I am not sure that, given our current state of understanding, a central register would resolve the issue. In saying that, however, I do not want to indicate anything other than our commitment to keep trying to work on the issue and to understand it better in our process.

Mr M Kelly:

Autism is one disability that people have, and we take it very seriously, as we do a range of other conditions. We have refresher training for decision-makers who deal with a range of disabilities. In addition to autism training, we have carried out medical awareness sessions on the effects of cancer, brain-induced injuries, fibromyalgia and ME. Notwithstanding that, more recently, we have looked in particular at cases involving children who may have autism or other conditions. We now have a discrete team, as opposed to a range of decision-makers, that processes DLA claims from children. In the case of autism in particular, those decision-makers use new online medical guidance that has been written by DWP medical experts, with, most importantly, input from the National Autistic Society. As the permanent secretary said, we are developing our learning and knowledge of the particular system in that context. We work hard at training our decision-makers to be aware not just of the disability but the effect that it has on people's care and mobility needs.

Mr McLaughlin:

I already acknowledged that the training has been effective. I also acknowledge that considerable understanding and sensitivity are demonstrated to customers who present with certain conditions. However, an underlying assumption has been made about the matter. In many ways, autism is generally accepted as being a Cinderella element of our overall system of care for people in the community. Incidences are under-reported, and there are issues with assessment. The existence of a central register would in itself put a focus on ensuring that those historical anomalies and gaps in provision are addressed. Therefore, a register would help more people than just those in your organisations. For example, some, particularly older people, could present, and they may not be recognised as suffering from autism. The system is very gradually becoming more sensitised, and detection rates are improving, although we do not have statistics for that in front of us. However, some customers could present with the effects of a range of disabilities. A judgement would then have to be made about what is a primary or secondary disability, and, in my view, medical reports that may not be complete on autism would have to be relied on. Judgement would also have to be made about which of the disabilities is having the particular effect, but autism may not be ranked in that context.

Therefore, there is an underlying assumption that all those suffering from the range of autistic spectrum disorders are recognised, assessed, statemented and so forth and that we know who they

are. That means that, when they present to you or to anyone else, that can be taken that into account. However, I am making the case that your quality of decision-making is impaired by the fact that the system that you and others have to depend on is incomplete and, in my opinion, inefficient.

You rely on the IT system of the Department for Work and Pensions, but that does not have specific categories for dealing with the autistic spectrum either. These people could, in my view, be acting with the utmost integrity, but the vulnerability in the decision-making process, particularly when dealing with appeals or representations about unfair outcomes, is that you are blindsided to an extent. You are certainly vulnerable to being double-guessed. Surely all that would add up to a very strong argument for you to represent your concern and press the case of the benefits that a central register would have for all concerned, even if it is not your direct responsibility to deliver such a register.

Mr Haire:

As a Department, we have no expertise in that area. Clearly, we want to work with whatever the best method may be, and people who have expertise in this area can help us to guide our decisions to make sure that there is a right way. The Department has not considered whether we have a position on a register, but we do not doubt that we have to ensure that we keep informed of ongoing debates and involve ourselves in the issue.

Mr McLaughlin:

These are cross-cutting interests, with the Department of Health, Social Services and Public Safety and the Department of Education having a clear input. Will you consider whether there is a benefit in raising the issue with your colleagues at senior leadership level either in the Department or its appropriate agencies?

Mr Haire:

As you say, the Department of Health has the lead in the area, and we see strong merit in trying to deal with a particular need in the community. We want the best information from people in the community so that we can make the best decisions. We are very much involved in those interdepartmental discussions. However, I have not considered the question of a register one way or another.

Mr Mc Laughlin:

I am asking you to consider it. We are talking about the administration and management of the disability living allowance, yet you do not record cases by disability.

Mr Haire:

The system that is there —

Mr McLaughlin:

Such cases are not recorded in the current system. Surely it is time to do something about that.

Mr Haire:

As we move towards a reform of the DLA, I suspect that there will be a lot of issues that we can take fundamental stock of. The policy has not been looked at for the past 20 years.

Mr McLaughlin:

I will have to study Hansard to see whether I got a yes or a no. What do you think; what did I get?

Mr Haire:

A definite maybe.

Mr McLaughlin:

I do not think that that is good enough for me. *[Laughter.]*

To return to the subject, can I take it that I have made a point that merits some exploration and that will allow us to follow up on that issue?

Mr Haire:

Absolutely. You have made your point very clearly. We recognise the seriousness of the issue. I cannot tell you exactly what our take on it will be, but we will certainly consider our position.

Mr McLaughlin:

That is much closer to a definite maybe. I will settle for that for this afternoon.

Mr Dallat:

At the beginning of the session, reference was made to how training had improved and the opportunities that exist for new qualifications and so on. What kind of training do panellists take, particularly on their attitude to those who come before them? I will tell you in a minute why I am asking that.

Mr Haire:

Training is an issue that the president, who is coming before the Committee next week, deals with.

Mr Dallat:

I am ahead of the game and have perhaps forewarned you of my question. Is it ahead of the game to ask about the meeting places for tribunals?

Mrs Broderick:

There are 18 such venues across the jurisdiction.

Mr Dallat:

Recently, I attended three tribunals in Coleraine courthouse. They were going on at the same time as a rape case, a murder case and some other awful case. Is that the correct environment for people who are distressed and ill and who have had to be coaxed out into the open in the first place?

Mrs Broderick:

You are looking at courthouses in the context of criminal cases. However, courthouses have a wider remit in that civil and family matters and, now, tribunal matters are dealt with there. Quite a significant number of DLA cases are heard in Coleraine courthouse. As we move to an integrated Courts and Tribunals Service, I see an opportunity to look at using courthouses as venues for other hearings across the jurisdiction. However, we would do that only after consultation with stakeholders. Coleraine courthouse has been used as a venue for appeals for quite a while.

Mr Dallat:

I am aware of that, and, to be honest, most days the place is as quiet as a mouse. However, on

that particular day, infamous cases, to which I will not refer, were being heard, and it struck me that that was not the place for people in a distressed state. They did not need to be sharing open space with the kinds of people who were attending those court cases.

Mrs Broderick:

We will look at that in the context of how we use venues. However, in trying to get value for money from the estate, we use courthouses. As you said, most of the time, using it as a venue for appeals service hearings is the best use of Coleraine courthouse. We are trying to get value-for-money from our civic buildings.

Mr Dallat:

I would not argue against the concept or principle of using courthouses in the wider sense. However, at the same time, is it that you want people to feel a tinge of guilt that they have done something wrong, and is that why tribunals meet in courthouses?

Mrs Broderick:

No.

Mr Dallat:

No?

Mrs Broderick:

As a court service official, no.

Mr Dallat:

I can tell you that the answer is yes. In Coleraine, there is a town hall and all sorts of other places in which a tribunal could meet. However, I do not know the costs that are involved, so I cannot contest that.

Mr McGlone:

To pick up on that point, perhaps you do not appreciate this, but a lot of people who I represent are up to high doh. John has given one example, which is perhaps a more extreme case, in which a hearing was held at the same time as a high-profile criminal case. People involved in tribunals are up to high doh about having to go to any venue. For them, a courthouse equals crime, and we

must remember that we are talking about people who have never been across the door of a courthouse in their puff. Also, in some cases, we are dealing with people who are profoundly disabled.

Depending on which venue a case is being heard in, there is not always somewhere for people to go to sit down and look through the medical records. I have been at venues where I have seen people look through records on their knees as they tried to hoke through this and that and make notes. As you know, you can travel for an hour an half to get to a venue, as I do to get to Omagh, and for an hour and a half to get back, and you can spend that time looking at medical records with the Tribunals Service. However, that is just not practicable. In common with the panel, the first glance you are getting of the medical records is on the morning or afternoon of the hearing. Therefore, a table and a chair or a table to accompany the chair would, quite often, be useful to give people the capacity to deal with that stuff.

Mrs Broderick:

We are looking at the venues, and we keep them under review. However, like everything, a cost is attached. We have provided new furniture that comes from former Court Service stock in some venues. However, we need to strike a balance between getting the cost right and trying to provide the best facilities that we can. We take that into account when we book the venues. More often than not, if there are extra rooms, we use them. However, if there is an additional cost, we may not be able to afford it. In some venues, no extra rooms are available to hire.

Mr McGlone:

I am not even talking about an extra room. A table would be useful. You can get them at IKEA or wherever. I am sure that they are not that wild dear.

Mrs Broderick:

The difficulty is that they are not our venues.

Mr McGlone:

I know that. The owners would perhaps rent them to you for a nominal fee. My only point is that the provision of a table is not the most extreme expenditure and will help to take people, who, in many cases, are disabled, through their medical notes. There has to be a table or two about the place to get those people sorted.

Mr Beggs:

I want to go back to the issue of whether the presenting officer attends the appeal hearings. I see that, in GB, that occurs about only 10% of the time and when there are more complex cases from which some learning is likely to come out. Why do we use a different approach? It seems that we bring a presenting officer when there has been a written submission. Why are two different processes being used?

Mr Haire:

Ultimately, the aim is the same. We argue that we send presenting officers to complex cases where we can assist the tribunal by being present. We give a slightly more generous interpretation of a difficult case than do our counterparts in GB, and, therefore, we probably send a higher proportion of officers to a greater proportion of cases. However, we send them on the basis of the same principle. The argument is whether we will gain information from doing so and improve our decision-making. As I suggested earlier, although we do not see that as the prime reason for our attendance in early discussions, we thought, early on, that it might produce some benefit. However, our view now is that that is not the real reason for our being there; we are there to assist the tribunal in making its decision. We put a little bit more resource into that than do our counterparts in GB, but the principle is the same.

Mr Beggs:

Do tribunals not have the ability to make their own decision? If a tribunal is an appeal mechanism, it ought to be able to make the decision itself. I find it strange that presenting officers have to be there to interpret whatever evidence has been presented in writing.

Mr Haire:

If the issue in question is extremely complex, we think that, by being there and explaining the nature of our decision and why we made it, it may help them to resolve the issue.

Mr M Kelly:

One complexity with DLA in particular is that 11 different rates of benefit are applicable in certain circumstances. Therefore, it is complex, in that there are fluctuations between the rates that are applicable. At times, in that case, the attendance of a presenting officer helps the tribunal and helps to clarify any issues in our written submission. The Audit Office report refers to the

fact that our written submissions are much more detailed than those of our colleagues in Great Britain and, consequently, we send more presenting officers than they do. The president has commended our approach, whereby our submissions are of a high quality and we send more people.

The Chairperson:

You will be glad to hear that there are no other questions. We are meeting the president of the appeals tribunals next week, so we may need to ask you further questions in writing after that. On behalf of the Committee, I thank you all very much for coming today.