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Chairperson Social Development Committee
Room 347
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Our ref: SUB/1028/2008

10th December 2008

Dear David

MEMORANDUM OF REPLY – RESPONSE BY THE DEPARTMENT FOR SOCIAL DEVELOPMENT TO THE REPORT ON THE COMMITTEE FOR SOCIAL DEVELOPMENT’S CONSIDERATION OF THE ADMINISTRATION OF DISABILITY LIVING ALLOWANCE

I write to you regarding the motion resolved by the Assembly on 20 October “That this Assembly approves the Report on the Committee for Social Development’s Consideration of the Administration of Disability Living Allowance and calls on the Department for Social Development to implement the recommendations”.

I want to once again commend the Committee and recognise its hard work in bringing forward this report.

The report was comprehensive and contained a number of detailed recommendations which have been given very careful consideration by my Department. The attached Memorandum of Reply sets out the Department’s response. During the debate I mentioned that there has been significant improvement in the administration of DLA since 2005 and last year the PSA targets for accuracy and claims clearance were exceeded. We are not complacent and this report is helpful as we continue to drive out further improvements.

*Sincerely
Margaret*

MARGARET RITCHIE MLA
Minister for Social Development

 Peter McCallion
INVESTOR IN PEOPLE

**Response by the
Department for Social Development
to the Report on the Committee for
Social Development's Consideration of the Administration of
Disability Living Allowance**

The Administration of Disability Living Allowance

1 The Committee restricted its consideration of Disability Living Allowance to its administration and therefore the Report does not address any issues in relation to the benefit legislation. It identified a number of areas where it believes administration can be improved, including:

Data collection

Self-assessment claim form

Gathering evidence at initial claim stage

General practitioner reports

Examining Medical Practitioners

Equality of treatment

Official to oversee decision-making

Attendance of Presenting Officers at appeal tribunals

Closer working with the President of Appeal Tribunals

2 The Committee made the following 13 recommendations which have been considered by the Department as follows:

Recommendation 1

The Committee recommends that the Department implements a robust, efficient and cost effective system to collect data on disallowances/unsuccessful applicants who enter into the disputes process.

Department's response: The Department accepts this recommendation and can advise that a recent enhancement to the Department for Work and Pensions IT systems for processing benefits, which we use for administering our benefits also, will enable the capture of data in relation to disallowances/unsuccessful applicants who enter into the disputes process. It will take time for data to build and the Department should be in position by mid 2009 to interrogate the system and analyse the management information on these case types.

Recommendation 2

The Committee recommends that the Department consults widely with its customers; advice bodies; general practitioners; health visitors; Decision-Makers etc. to ascertain their views on how the current Disability Living Allowance claim form could be improved.

Department's response: It is widely acknowledged by all concerned that Disability Living Allowance is a particularly complex benefit and the current layout of the claim form has been designed to capture information about a customer's mobility and care needs in keeping with the legislative requirements for deciding entitlement to the benefit. Notwithstanding this the Department shares the Committee's desire to make continuous improvements to the Disability Living Allowance claim form and will continue as recommended to consult with key stakeholders as part of that process which includes the four main voluntary organisations, Citizens Advice Bureau, Advice (NI), the Law Centre and Disability Action. Indeed through this consultative process a recent enhancement to the form has seen a reduction in the length of the form from 47 pages to 39. As part of the improvement process we have also secured a Plain English Award in respect of this revised form. In addition work is underway to examine the Disability Living Allowance renewal claim form currently in use with a view to reducing its length.

Recommendation 3

The Committee recommends that the Department implements a robust, efficient and cost effective system to collect data on all further evidence sought by Decision-Makers, to allow proper monitoring and analysis.

Department's response: The Department accepts this recommendation and can advise in keeping with the response to recommendation 1 that a recent enhancement to the Department for Work and Pensions IT systems for processing benefits, which we use for administering our benefits also, will enable the capture of data in relation to all further evidence types sought by Decision-Makers on claims. Allowing time for the data to build more meaningful information for monitoring and analysis will become available in due course.

Recommendation 4

The Committee recommends that the clearance time targets for those cases that require particular types of evidence, or further evidence, should be redefined to ensure that decisions are both timely and correct.

Department's response: The Department notes the Committee's concerns however, the current Public Service Agreement targets set for DLA are in relation to accuracy and clearance times which the Department believes strikes the necessary balance for delivering both timely and correct decisions. Clearance times are measured and reported on the average time taken which recognises that some claims will take longer to clear depending on the complexity of the case and the need to gather more evidence from at times several different sources. Management controls are in place to ensure that all claims are processed in a timely and accurate manner.

Recommendation 5

The Committee recommends that the Department, in consultation with general practitioners, the advice sector and other relevant stakeholders, considers the issue of general practitioner reports, including standards of completion; relevance of questions; the amount of reliance placed on the reports by Decision-Makers; and, the fee paid for completion.

Department's response: The Department notes the Committee's concerns and can advise that a new style report is currently in use following a national review of General Practitioner (GP) reports which took place in conjunction with the British Medical Association. The new style report no longer asks functional based questions such as help the customer may need with washing, dressing and cooking a main meal which in many incidences the GP felt unable to answer. The new report requests clinical based information only which has resulted in a significant increase and improvement of completion by GPs. While Decision-Makers do request reports from GPs they also avail of numerous other sources of evidence from Health Care Professionals as detailed by customers on their claim forms, for example Consultants, Community Psychiatric Nurses and Physiotherapists. In line with the recommendation the Department will continue to consult with key stakeholders to ensure that the GP report currently used remains fit for purpose. The Department implemented its current fee structure for paying GPs for completion of such reports on a parity basis to that which pertains in the Department for Work and Pensions in Great Britain, which was agreed by the British Medical Association.

Recommendation 6

The Committee recommends that the Department carries out a survey of all Disability Living Allowance claimants who have undergone a medical assessment, to seek their views and establish a level of satisfaction.

Department's response: The Department accepts the recommendation and plans are in place to implement this in the next financial year.

Recommendation 7

The Committee recommends that claimants are notified of the identity of the Examining Medical Practitioner in their appointment letter.

Department's response: The Department accepts this recommendation and from January 2009 all appointment notifications will include the name of the Examining Medical Practitioner.

Recommendation 8

The Committee recommends that the Department examines whether claimants in similar circumstances or with similar needs are treated equitably in terms of periods of awards.

Department's response: The Department notes the Committee's concern but would emphasise that entitlement to Disability Living Allowance is not based on a persons disability but on their particular needs arising from it, which can differ substantially from person to person. Periods of award are only restricted by Decision-Makers when an improvement is likely to occur and this will depend on the individual circumstances of each case. To assist Decision-Makers when determining periods of award on-line Medical Guidance is available which has been developed by medical experts. This guidance, which is also available externally to any interested party, provides Decision

Makers with general advice and broad parameters on the likely duration of care and or mobility needs within specific disabilities and helps to ensure a consistent approach is adopted. Independent monitoring of our standards of decision making has identified no mistakes in relation to the periods of awards and we continually keep this aspect under review to ensure compliance with the legislative requirements for entitlement to Disability Living Allowance.

Recommendation 9

The Committee recommends that the Department appoints a senior official, with adjudication expertise, to oversee all Departmental decision-making.

Department's response: The Department notes the Committee's concern and can advise that the Chief Executive of the Social Security Agency has responsibility for monitoring and reporting on decision-making standards. In 1999 a Northern Ireland Joint Standards Committee (the Standards Committee) for the Social Security and Child Support Agencies was set up to oversee monitoring arrangements. The Standards Committee is responsible for assuring the Chief Executive that the Agency is monitoring its decision-making procedures effectively; is reporting on its performance; has procedures in place to get feedback from its monitoring results so that improvements can be made; and finally reporting to the Chief Executive on the decision-making process and, where necessary, recommending changes to it. An annual report into accuracy and decision-making is published and laid before the Northern Ireland Assembly. The Standards Committee is independently chaired and members include senior officials from the Agency and the Head of Audit in the Department. The Department is satisfied that this provides a robust system of governance and accountability arrangements for decision-making which is also in line with that which is in place in Great Britain.

Recommendation 10

The Committee recommends that in reconsideration cases, the Department revises its procedures to allow a second request for an appeal to be processed within the same timeframe as the first appeal, had the decision not been reconsidered.

Department's response: The Department accepts the Committee's recommendation and can advise that with effect from 1 December 2008 revised procedures have been put in place to ensure second appeal requests following a favourable reconsideration will be fast tracked and cleared, where possible, within the original timeframe of the initial appeal request.

Recommendation 11

The Committee recommends that Decision-Makers seek and consider evidence from a wider variety of sources before reaching their decisions, and make better use of medical records.

Department's response: Decision-Makers already seek evidence as appropriate (medical and non medical) from a wide range of sources as detailed by customers on their claim forms for example Consultants, Community Psychiatric Nurses and

Physiotherapists and from non medical sources such as Social Workers and Schools. The on-line Medical Guidance currently used by Decision-Makers, which has been developed by medical experts, also provides guidance on the best source of evidence in relation to specific disabilities. In line with the recommendation the Department will ensure that Decision-Makers continue to seek evidence from a wide variety of sources. In relation to the use of medical records the Department has sought legal advice which has advised that the Department would not have power to collect information about an applicant's health which went beyond what was necessary to establish whether the applicant was entitled to benefit. Accordingly any activity to request medical records for use in determining DLA claims would be regarded as unlawful. The current GP report captures the required information necessary in order to establish entitlement to Disability Living Allowance.

Recommendation 12

The Committee recommends that Presenting officers are present at every appeal tribunal hearing.

Department's response: The Department notes the committee's recommendation to attend every appeal hearing. At present the Department seeks to optimise existing resources by attending appeal hearings that it regards as complex. This equates to just over a third of all Disability Living Allowance hearings. There is a pre determined set of criteria which is used to decide which cases the Presenting Officer should attend. This approach recognises that in certain instances the attendance of a presenting officer is helpful to assist the Tribunal on matters of clarity which might arise from the written appeal submission because of the complex nature of the case. In the remainder of cases the written appeal submission provided by the Department fully identifies and address all the points at issue in the appeal that need to be considered by the Tribunal.

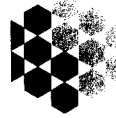
Recommendation 13

The Committee recommends that the Department supplies the President of Appeal Tribunals Northern Ireland, with all relevant information to allow him to have independent oversight of the entire appeal process. In particular, the President should be supplied with timely information on appeals made.

Department's response: The Department has noted this recommendation and is engaging with the President of the Appeals Tribunal to establish his requirements.

LINES TO TAKE

- The Committee for Social Development report recognises the importance of Disability Living Allowance, the complexities of the benefit and the difficulties the Department faces in administering the benefit.
- I welcomed the work undertaken by Committee in producing the report. The majority of the recommendations in the report have been accepted and the Memorandum of Reply sets out the response to each recommendation in detail.
- The recommendations of the Committee will be helpful as we continue to strive for further improvements in the delivery of Disability Living Allowance.



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Our ref: COR/79/2009

10/2 February 2009

Dear David

Thank you for your letter of 21 January 2009 in which you welcomed the acceptance by my Department of a number of recommendations made by the Committee in its report on the Administration of Disability Living Allowance. I have set out in the **Annex** a response to each of the specific issues raised by the Committee at its meeting on 15 January 2009. The Committee also requested information on the latest findings of the Northern Ireland Standards Committee. I have enclosed the most recent annual report titled "SSA Annual Report on Decision Making and Case Accuracy covering the period 1 January 2007 to 31 December 2007", which was published on 29 January 2009 and laid before the Assembly on that date along with a copy of the most recent interim quarterly report considered by the Standards Committee covering the period 1 July 2008 to 30 September 2008.

*Sincerely
Margaret*

MARGARET RITCHIE MLA
Minister for Social Development



INVESTOR IN PEOPLE

Issue 1

With respect to Recommendations 1 and 3, that the Department continues to advise the Committee on its progress in capturing and analysing data on disallowances and unsuccessful applicants who enter the dispute system and on further evidenced sought by Decision-Makers.

Departments Response

The Department will advise the Committee on progress regarding the capturing of data to provide more specific information in relation to unsuccessful applications, evidence gathering and dispute activity. The first reports are expected to be available in mid 2009.

Issue 2

With respect to Recommendation 2, that the Department advises the Committee on claimant feedback to the introduction of the new, shorter DLA form.

Departments Response

The new shortened Disability Living Allowance claim form became available for customer use on 24 November 2008 and key customer representative groups both nationally and locally such as Citizens Advice Bureau, Advice (NI), the Law Centre and Disability Action were involved in the design and content of this form, which is reviewed on a regular basis. Disability & Carers Service (NI) meets routinely with these groups quarterly and will seek their feedback on the form at the next quarterly forum meeting, which is scheduled to take place in March 2009, and will advise the Committee in due course.

Issue 3

With respect to Recommendation 6, that the Department shares the findings of its DLA satisfaction survey in 2009-10.

Departments Response

The Department will share with the Committee the findings of the Satisfaction Survey 2009-10 of customers who have undergone a medical examination when the results become available.

Issue 4

With respect to Recommendation 10, that the Department publishes clearance times for second appeals.

Departments Response

The Department has an actual average clearance time target of 40 days for processing all DLA appeals and the time taken to process second appeal requests forms part of the overall measurement of performance. This ensures a fair and equitable service to all customers who appeal. A discrete target for second appeals only would not accurately reflect performance as in some instances depending on when the second appeal is received from the customer the 40 day period may have already elapsed. However the Department have put processes in place to ensure that second appeal requests are processed in a timely manner.

Issue 5

The Committee requests that the Department particularly reconsiders its response in respect of the monitoring and governance of DLA decision -making. The Committee maintains that recognising the complexity of DLA; the large number of appeals and to avoid inconsistency in outcomes, a senior official with adjudication experience should be appointed to oversee DLA decision-making. Further to the above it would be greatly appreciated and would enhance the Committee's understanding, if the Standards Committee's most recent report on DLA decision-making was to be made available.

Departments Response

The Department has reconsidered it previous response however remains satisfied that the existing arrangements in place provide a robust system of governance and accountability for all benefit decision-making. This is in line with that which is in place in Great Britain and it also meets the legislative requirements stipulated in Article 76 of the Social Security (Northern Ireland) Order. The Northern Ireland Standards Committee most recent annual report titled "SSA Annual Report on Decision Making and Case Accuracy 1 January 2007 to 31 December 2007", which includes DLA decision making, was published on 29 January 2009 and laid before the Assembly on that date. A copy of this report is enclosed along with a copy of their most recent interim quarterly report covering the period 1 January 2007 to 30 September 2008, which was considered at their last meeting on 3 February 2009

Issue 7

The Committee also requests that it be advised in respect of the Department's engagement with the President of the Appeals Tribunal in the augmentation of his role to include oversight of the entire DLA appeal process.

Departments Response

Since the publication of the Committee's Report on the Administration of Disability Living Allowance the Department has engaged with the Office of the President of Appeal Tribunals to establish their requirements. The President's Office has since provided clarity around the oversight role and this specifically relates to his office being notified at the outset of an appeal being lodged in the Department. Work is continuing in this area to agree how best to progress this.



S O C I A L S E C U R I T Y A G E N C Y

Standards Assurance Unit, Level 2 West Design Centre, Corporation Street

Standards Assurance Unit
Quarterly Report to the Northern Ireland Joint Standards
Committee
on
Decision Making and Case Accuracy Standard
in the Northern Ireland Social Security Agency
Sample Period of Report:
1 July 2008 to 30 September 2008

Part 1

Summary

- 1.1 This is the third quarterly Report for the 2008 year (“the Report”) on the standard of decision making and case accuracy within the Social Security Agency (SSA).
- 1.2 The Report details the results of the monitoring checks carried out for the sample period 1 July 2008 — 30 September 2008.

Background Methodology

- 1.3 Since May 2002 sample month the decision-making and case-accuracy checks have been more closely aligned and a decision-making error will only be reported if a payment error also exists. However, all errors, which are identified, will be reported back to operational managers and staff for the purpose of continuous improvement and to enable them to take remedial action. For revision / supersession decisions, the check is based on the last business event.

Decision Making

- 1.4 The decision-making check will continue to examine the 4 main areas as follows:-
 - *evidence* — is there sufficient evidence on which to base a decision?
 - *determination of questions*— have all relevant questions been determined?
 - *findings of fact*—have correct findings of fact been drawn from the evidence available at the time the decision was made?
 - *interpretation and application of the law*—has statute and case law been correctly interpreted and applied?

In addition to the 4 main areas the check will also consider the effect of evidence received since the date of the last decision, which would have caused a revision/supersession of the award. Retrospective evidence will also be taken into account.

1.5 Tables 1 and 2 set out the latest figures for the standard of decision making for the periods 1 July — 30 September 2008 and the year to date 1 January — 30 September 2008, respectively. Details of these standards versus the benchmarks are also set out in Appendix 1 and the types of decision-making errors are shown in Appendix 2.

Table 1

Benefit	Decision Making July - September 2008 (including deemed errors)					
	Total cases monitored	No cases incorrect	Comment Rate	DM Standard	DM Benchmark	Variance
Income Support	30	0	0%	100%	92%	8%
Jobseeker's Allowance	35	0	0%	100%	95%	5%
*Social Fund Compilation	70	2	3%	97%	95%	2%
Disability Living Allowance	3	0	0%	100%	95%	5%
Attendance Allowance	9	0	0%	100%	96%	4%
Carer's Allowance	20	0	0%	100%	96%	4%
Incapacity Benefit	26	0	0%	100%	95%	5%
Severe Disablement Allowance	2	0	0%	100%	96%	4%
Maternity Allowance	30	4	13%	87%	95%	-8%
Industrial Injuries Disablement Benefit	9	0	0%	100%	95%	5%
#State Pension	13	0	0%	100%	96%	4%
Widows Benefit/Bereavement Benefit	14	0	0%	100%	96%	4%
#State Pension Credit	44	5	11%	89%	92%	-3%

*Social Fund is now reported in compilation format to maintain parity with the Department for Work and Pensions

#New £1.50 De-minimus rule applies

Table 2

Benefit	Decision Making Year to Date January - September 2008 (including deemed errors)					
	Total Cases Monitored	No Cases Incorrect	Comment Rate	DM Standard	DM Benchmark	Variance
Income Support	88	4	5%	95%	92%	3%
Jobseeker's Allowance	99	0	0%	100%	95%	5%
*Social Fund Compilation	152	8	5%	95%	95%	0%
Disability Living Allowance	26	0	0%	100%	95%	5%
Attendance Allowance	25	0	0%	100%	96%	4%
Carer's Allowance	46	0	0%	100%	96%	4%
Incapacity Benefit	80	0	0%	100%	95%	5%
Severe Disablement Allowance	18	0	0%	100%	96%	4%
Maternity Allowance	90	4	4%	96%	95%	1%
Industrial Injuries Disablement Benefit	17	0	0%	100%	95%	5%
#State Pension	48	1	2%	98%	96%	2%
Widow's Benefit /Bereavement Benefit	40	0	0%	100%	96%	4%
#State Pension Credit	143	14	10%	90%	92%	-2%

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1.6 Table 3 shows the total number of incorrect decision-making cases for the sample period 1 January — 30 September 2008 and the number of those cases that were deemed as incorrect due to the relevant documentation not being referred to the monitoring teams within the specified 28-day time limit. It also demonstrates the effect that the removal of those cases can have on the decision-making standard.

Table 3

Decision Making January - September 2008							
Benefit	Total cases monitored	No cases incorrect	No of cases treated as incorrect(not sent to SAU within 28 days)	Total cases incorrect	DM Standard	DM Standard excluding 28 day cases	DM Benchmark
Income Support	88	4	0	4	95%	95%	92%
Jobseeker's Allowance	99	0	0	0	100%	100%	95%
*Social Fund Compilation	152	7	1	8	95%	95%	95%
Disability Living Allowance	26	0	0	0	100%	100%	95%
Attendance Allowance	25	0	0	0	100%	100%	96%
Carer's Allowance	46	0	0	0	100%	100%	96%
Incapacity Benefit	80	0	0	0	100%	100%	95%
Severe Disablement Allowance	18	0	0	0	100%	100%	96%
Maternity Allowance	90	3	1	4	96%	97%	95%
Industrial Injuries Disablement Benefit	17	0	0	0	100%	100%	95%
#State Pension	48	1	0	1	98%	98%	96%
Widow's Benefit/Bereavement Benefit	40	0	0	0	100%	100%	96%
#State Pension Credit	143	14	0	14	90%	90%	92%

*Social Fund is now reported in compilation format to maintain parity with the Department for Work and Pensions

#New £1.50 De-minimus rule applies

Part 2

Standard of Decision Making and Case Accuracy

1 July — 30 September 2008

Introduction

- 2.1 This part of the Report details the standard of decision making and case accuracy for the 6 main benefits, Income Support, Jobseeker's Allowance, Disability Living Allowance, Incapacity Benefit, State Pension and State Pension Credit. Monitoring exercises were carried out on all social security benefits during sample period July—September 2008. The general position on the other benefits is explained in paragraphs 2.40—2.59.
- 2.2 A chart is provided under each benefit area comparing performance for the following sample periods January—March 2008, April—June 2008, July—September 2008 and year to date.

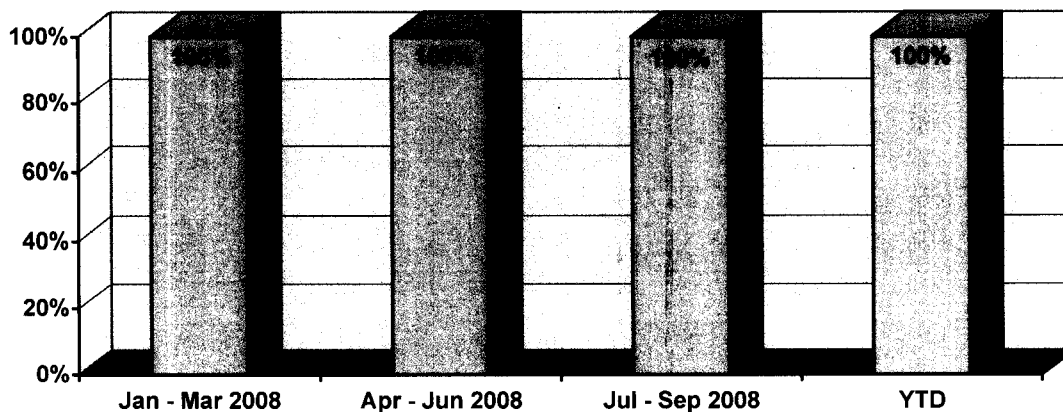
Disability Living Allowance Decision Making

- 2.15 To establish the standard of decision making 3 cases were examined and were found to be correct. The decision-making standard was 100%, 5% above the decision making benchmark of 95%. The table overleaf shows the breakdown of performance under each of the different types of decisions monitored:

Decision Type	No of cases checked	No of cases incorrect	% of decisions correct
Claims	2	0	100%
Supersessions	1	0	100%
Overall Performance	3	0	100%

- 2.16 The chart below compares the decision-making standard with the first and second quarter in 2008 and gives the year to date position.

DLA Standard of Decision Making



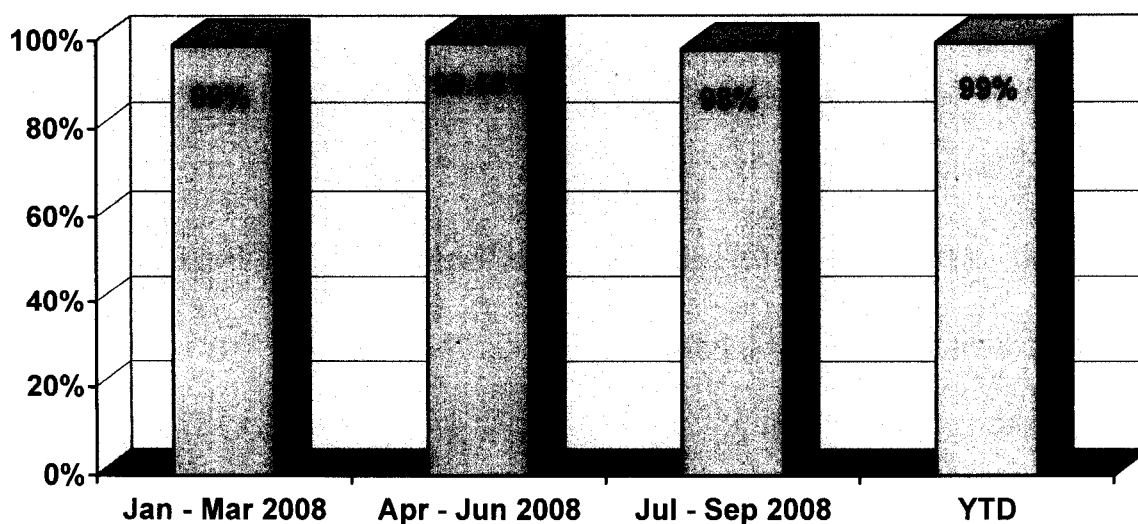
Disability Living Allowance Appeals (January – September 2008)

2.17 A special exercise was undertaken to examine the standard of appeal submissions. A total of 30 cases were examined and 2 comments were raised resulting in an overall standard of 93%. The comments were due to the submission containing an incorrect decision and insufficient evidence.

Disability Living Allowance Case Accuracy

2.18 To establish the case-accuracy standard 103 cases were examined and 101 cases were found to be correct. The case accuracy standard was 98%, 3% above the case accuracy benchmark of 95%. The chart overleaf provides a comparison of case-accuracy standard with the first and second quarter in 2008 and gives the year to date position.

DLA Case-accuracy Standard



- 2.19 *Conditions of Entitlement* accounted for both errors raised and were due to the incorrect award made for one or both components and disability conditions not being satisfied.
- 2.20 Please see Appendix 5 which details errors recorded in the year to date under each of the key aspects of the benefit scheme.