

Transcript - Benefitscast October 2026

David Stickland: [00:00:05] Hello, it's our October Benefitscast. Our regular round up of all things benefits in our Social Security System. This month it's myself and Will Hadwen, joined by Lindsay Fletcher. Good to see you both. And as I usually do, Will, let me start by asking you what's the first topic you've got this month?

Will Hadwen: [00:00:25] Um, well, my first topic is The Independent Case Examiner's report for the last financial year, which was 2025 to 6. And as you would expect, I think anyone who works in benefits would expect the number of complaints has gone up.

David Stickland: [00:00:40] Okay.

Will Hadwen: [00:00:40] Um and it's gone up quite a lot. Um it depends where you compare it to, but if you compare it to um the financial year which ended in April 2020, it's gone up, almost three times. Right. The interesting thing is that the complaints have gone up, but only around 50% of complaints are upheld so, so I thought that was interesting and I think it doesn't really go into the reasons for that, but perhaps people maybe misunderstand what a complaint is for and when you can complain and when it's useful to complain. Um, or, or maybe actually people think the DWP have given bad service when they haven't, I don't know. But, I will say that they are extremely thorough investigators and you can tell that from reading their report. It's well worth a read.

David Stickland: [00:01:27] Okay. Um, and you mentioned Will that perhaps people um, may maybe, perhaps don't understand exactly sort of how this features in the wider complaints sort of system. So, um, you know, what is the Independent Case Examiner, how does it fit into the sort of wider complaints system and you know, how should, how, how should we approach this?

Will Hadwen: [00:01:53] Um, well it's the independent authority that investigates reports about the DWP, including the Department for Communities in Northern Ireland. But it is um a service that you can only use once you've been through the DWP complaint system. So you have to go through the DWP complaint system, you have to get a response from them that says this is our final response and it will signpost you to ICE - Independent Case Examiner. Um and

um you can only complain about things like delays, wrong advice. You could complain about a poor decision, but it's not actually going to change the decision. That's the important thing. But you could still complain about this decision was rubbish because the person making it didn't understand the law and it took me this long to, to get it put right. But even so, that wouldn't change the decision. The decision has to be changed in the usual way by mandatory reconsideration and appeal in almost all situations. So I wonder if that's, that's part of the confusion. So you, you could use it for delays, wrong advice, poor administration, failure to follow procedure, maybe. Especially if that's led to harm or loss. Um, like if somebody had been let down by the service that was meant to help vulnerable people claim UC on migration, that might could be a valid reason for a complaint.

David Stickland: [00:03:23] Okay, great. So it's, it's more about process rather than the decision itself. And it's important, as you say, it's important that people will have gone through the DWP complaints process first. And this is kind of the next part of that.

Will Hadwen: [00:03:35] That's right, that's right. I don't see why you couldn't complain about DWP being bad at making decisions and ignoring their own guidance, for example, but it wouldn't change the decision. That's the important thing to remember. Yeah.

David Stickland: [00:03:47] Okay. So separate to the legislative sort of process. That's right, that's right. Good. Okay, cool. And we'll of course include the links on our website so people can take a look.

Speaker 2: [00:03:57] Yeah, just very quickly, some really egregious examples that people will be familiar with. Delays in MR responses and failure to consider additional evidence is one of them. And then another one is failure to pick up that somebody really should be submitting fitnotes and starting what they call the health journey and just failing to advise a claimant of that, even though they several times mentioned their ill health. So I could go on. But if you've got, if you've got time to read it, um then do.

David Stickland: [00:04:29] Okay, great. Those are some useful examples. Thanks. Lindsay, good to see you. Uh, I wonder what, uh, the first item is you've, you've brought with you this month.

Lindsay Fletcher: [00:04:38] Thanks, David. So mine is a recent report on whether a benefit medical, so for the WCA or PIP, whether the format used to carry it out, so like face to face, phone or video. Right. Whether that actually overly affects the end result, the outcome. And the main result is they don't think it does. So they don't think it overly affects the outcome decision reached from the from the survey and the statistics they recorded for a period. Um so this is for new claims only they've looked at over a period. Um so obviously WCAs and PIP medicals used to be mainly face to face. And then since Covid they switched to predominantly over the phone with a few being video and some still face to face. And then it stayed that way kind of post Covid.

Lindsay Fletcher: [00:05:42] So obviously there's, there's pros and cons for all of them for the clients experience. Um, but the findings have said that the stats show there's little evidence that the mode use produces much different outcomes. And for example, for for PIP, they've said roughly 50% of the people who applied for PIP got awarded some PIP after a video assessment.

David Stickland: [00:06:09] Right.

Lindsay Fletcher: [00:06:09] And 49% got awarded some PIP after a phone assessment, and again, 50% after a face to face. So very, very similar.

David Stickland: [00:06:20] Right. Almost identical. Yeah.

Lindsay Fletcher: [00:06:22] Almost identical. One interesting thing. It doesn't actually say what rate of PIP people were awarded after their medicals. Just they got some PIP.

David Stickland: [00:06:32] Okay.

Lindsay Fletcher: [00:06:32] So it's impossible to tell if maybe they would have got a higher award if they'd had a different medical mode used. We don't know. Um, but yeah, 49 to 50% got some PIP no matter the format used. And then for the, the WCA again, very similar between 58% and 61%. That was the difference in the outcomes of people who got LCWRA after the WCA medical. Um and 17 to 20% got LCW after the medicals depending on the mode. So not a huge difference. Um, and in the report (we'll share the, um, the link in our sources) it

also reminded us about that paper based decisions are possible as well in theory. Okay. Um, I think we often forget about them because they are quite rare that they will reach an outcome just based on the papers and without actually speaking to the claimant at all. Um, and the stats did show that 10% of cases for PIP were decided on the papers.

David Stickland: [00:07:46] Okay.

Lindsay Fletcher: [00:07:47] But I thought surprisingly out of them 10% they decided to do on the papers. They only actually awarded some PIP in 70 to 80% of them decisions, which I thought was quite surprising because they decided the evidence was clear enough that they could go ahead and make a decision on the papers without a medical, but then refused 20 to 30% of them claims without actually seeing the client. Um, there's probably reasons for that. Some clients might have just said, no matter what, I don't want a medical, I can't deal with it. Just make a decision on the papers potentially. But I thought that was quite interesting.

David Stickland: [00:08:27] Oh, that is interesting. But am I understanding this correctly then. Lindsay. So, um, in, in 10% of cases, I think you said a decision was made on the papers only. So without there being a medical assessment of any form and, and in those cases, um, in of 70 to 80% of those were made, were made an award.

Lindsay Fletcher: [00:08:52] Yeah, but you would expect that because the evidence should be quite obvious. I see why they decided to award it.

Will Hadwen: [00:09:00] You'd expect them to be mostly very strong candidates for getting paid. But it is interesting that any of them get refused and you sort of wonder what's going on there. Yeah, yeah.

David Stickland: [00:09:12] Okay.

Lindsay Fletcher: [00:09:13] If my client was refused on a paper, I'd be like, well, why did you not insist on a medical or at least try?

Will Hadwen: [00:09:19] Yeah, yeah. Yeah, exactly. Yeah. Me too.

David Stickland: [00:09:22] Okay. That isn't I guess there might be reasons for that, but, um. Yeah. Okay. So these, these statistics are mostly very, very similar as you suggest, and perhaps some differences in terms of the rates as, as, as you mentioned before, um, of course there might be um, reasons why people might like to or might prefer one mode or one type of an assessment over another. If, if someone would, would prefer, prefer that how do they raise that during the claims process for people that might not be familiar with this? Yeah.

Lindsay Fletcher: [00:09:56] So usually like if you're having a WCA, you'd get the WCA50. So that's the best place to put on, if there's a specific mode or format you would prefer. Um, and the same with the PIP form there is, you can put it on there. I think they will always try and accommodate someone's request if they can, but there will always potentially be situations where the DWP think well no that's not suitable. Extreme examples. Like obviously if there's a client with a history of aggression or things they might not be willing to do a face to face one. Or if a client really struggles to communicate, they might say, well, no, we don't think you could cope. We'd get the best outcome from a phone one. We want to see you. Um, sure. I think the main thing to take away is whatever's going to be best to enable your client to cope with the process, to participate as best as they can and put the best case forward.

Lindsay Fletcher: [00:10:55] I think that's the best mode. And it shouldn't, in theory, affect the outcome. So don't necessarily insist the client has to push themselves to go face to face. If that's going to cause them a lot more pain or anxiety just because they might, you know, some advisors might think you're going to get a better outcome. Right. There're pros and cons for all of them, but whatever I think is going to enable them to participate in the process is, is the best option.

Will Hadwen: [00:11:24] Yeah. And of course, the Equality Act applies if there's a particular mode that is not accessible to somebody, they can say so.

David Stickland: [00:11:30] Great. Thanks, Lindsay. Thanks, both. Uh, that's all good. Uh, Will, uh, so it's back to you for your second item. What's that?

Will Hadwen: [00:11:38] Yes. So my second item is, um, a recent decision. And it's called Joyce versus SSWP. Obviously, we'll put the links in the sources as usual. And this particular PIP claimant has a condition that meant he couldn't control his eyes in the normal way. Um, spasms

that affected his eyelids and sometimes his eyes would shut without him being able to control it. And that would obviously make daily living and mobility very difficult. Um, but the tribunal relied on there being certain things available to him, such as special strips to keep his eyes open or even some special glasses. Right. Um, despite that, despite those apparent findings, they didn't award points for aids or appliances, without explanation. So that was a bit weird. Um, and there was also some evidence the client gave which was ignored. So he said that he tried the strips and they weren't strong enough. That seemed to have been ignored. His representative had said that special glasses weren't widely available and it wasn't even clear that they existed. And that's appeared to be ignored as well. And his submission that if you wore a patch over the worst affected eye, that would be difficult because he would of course have to get used to seeing with one eye and that would affect his confidence. And again, it seemed that the tribunal didn't consider that evidence or at least didn't explain why they hadn't taken into account when deciding that he could carry out the activities reliably. And so that's going to be reheard. It doesn't mean that he's going to get PIP. Um, he may or may not. Uh, but the point here being that a tribunal can't just say, oh, there's some, some aids that could help. We won't allow points for them, but we also won't allow points for not being able to do these things.

David Stickland: [00:13:32] Mm. Okay. That's interesting. And I'm thinking also about the, the claims process more generally, not just about this appeal hearing where things seem to have gone quite wrong for various reasons, thinking about the whole issue of aids. Yeah. More generally, because I think, as you're suggesting, sometimes the use of aids means that you should be awarded some points because of the use of the aids and that didn't happen in this case. Perhaps it should have done. That's right. Um and then at the same time, you've got to look at the sort of activity itself and whether one can complete the activity reliably with all of those things, as you mentioned, is it available? Can I use it? Etc.. And I'm wondering about the claims process more generally because as people listening to this might be sort of filling out forms and helping people throughout the claims process, I guess it's just as relevant, right? Even when you're setting up the form.

Will Hadwen: [00:14:27] It's just as relevant. So if there is an aid and, um, pretty much anything might be an aid if it replaces or improves your function. Um, it just depends somewhat on the context, but um, you should mention it if there's something that you're using, which helps you

to do the thing and you know that you're, you're doing it in a way that perhaps a person without your disability wouldn't do it. Once you've discussed with your advisor, you're aware that you're effectively using an aid, then you should mention it. Equally, if you know of any aid that may have been suggested and it's not available, including because you can't get it on the NHS and you can't afford it, that could be a reason why it's not available. Um then it would be useful to say so. Um and even more so if you've tried an aid or maybe it doesn't work for you. So you might have tried an aid to help with mobility. And it's always important to read the descriptors in moving around because some they say different things about aided and unaided. But anyway, if you've if you've tried a specific aid for walking and you can't use it, maybe because you can't grip. So you. It's been suggested that you use a stick or, or a walker, but you can't because the grip in your hands is not strong enough or it hurts. Then you can explain that. And that would be useful evidence to the tribunal when it's considering whether an aid or appliance is available and whether it would assist. And then they can go on to consider the descriptors in that context.

David Stickland: [00:15:54] Lovely. Great. Thank you Will, that's all useful stuff. Thanks. Uh, Lindsay, I think it's your second item. Is that right? Yeah.

Lindsay Fletcher: [00:16:06] Um, so some PIP another PIP case law, um, called Nikolajenko V SSWP. So that was about the difference between familiar and unfamiliar journeys for the mobility descriptor. Yep. Um, so this client was profoundly deaf and the tribunal accepted he couldn't manage to do an unfamiliar journey alone. Okay. But for some reason, they found that he could manage a familiar journey alone, right and the upper tribunal said that the first tier tribunal didn't explain the reasoning properly of the of the difference for him in why he couldn't cope in an unfamiliar but could apparently cope in a familiar.

David Stickland: [00:16:51] Right.

Lindsay Fletcher: [00:16:51] The. The client's argument was his deafness created the same problem on both type of journeys, whether it's familiar or unfamiliar. He needed somebody with him for support.

David Stickland: [00:17:03] Right.

Lindsay Fletcher: [00:17:05] I can only assume that the first tier tribunal was thinking that on a familiar journey, he'd know where he was going. He wouldn't need to ask anyone for directions. He wouldn't need to necessarily listen for announcements, or he'd know where the safe crossings were to. It doesn't matter if he couldn't hear the traffic. Um, but apparently the tribunal, the judge said something which I have heard myself several times now and seems to be becoming quite common theme. The judge referred to the idea that if there's a some kind of diversion or an unexpected change during a familiar journey, then that effectively means it becomes an unfamiliar journey.

David Stickland: [00:17:50] Okay.

Lindsay Fletcher: [00:17:51] So they're no longer considering help needed on a familiar journey because this is now an unfamiliar journey. Because something's happened.

David Stickland: [00:18:00] Yeah. Right. Exactly. And when you set out for that journey, you didn't know that, right?

Lindsay Fletcher: [00:18:04] I don't think it's that simple. I think the risk of the being delays, diversions, fights breaking out, announcements to leave by a different exit on a train, you know, they can all occur in the normal course of a familiar journey. And that has to be taken into account when you're considering if that client can manage a familiar journey, it doesn't necessarily mean that that's no longer a familiar journey. You know, for me, it's it's all part of what could happen on a, on a familiar journey. It isn't always going to be exactly the same right and all go perfectly to plan.

David Stickland: [00:18:45] Yeah. So that, that, that's, um, you mentioned the whole issue of possible sort of changes, diversions sort of thing. That's, that's a sort of tangible thing that we can sort of take away, I think is, you know, sort of what would happen if kind of thing is a perfectly legitimate sort of question to have in our minds. Right. And, and I, and I wonder, could this is clearly in this case, the, the claimant was, was, was profoundly deaf, but could this extend to other situations, other health conditions, other disabilities? I wonder.

Lindsay Fletcher: [00:19:15] Yeah, it's a really important one for all people who are considering points for mobility for journeys. So it's obviously always going to depend on the individual case

and the individual disability. It could be someone's got learning disabilities. It could be mild, they could be severe. Um they could have autism, they could have sight problems. And the most important thing was the tribunal just, they didn't explain their thought process. They didn't justify the reasoning as to why he could do one journey, but not another one. So much applies to other health conditions and they have to consider, you know, what difficulties they face, what risks could occur, the potential severity of the harm, you know, worst case scenario and getting run over. Um, so yeah, very much applies to all health issues.

David Stickland: [00:20:02] Okay. Got it. And Lindsay, we're not saying that in this case that this person is necessarily entitled or is going to get an award, this is going to be heard by another tribunal, right? Because as you say, it was the the, the tribunal erred in the way that it went about it and didn't give its reasons correctly. So we're not saying that all in all situations, it will necessarily lead to an award. We're just saying that these things ought to be considered when weighing everything up.

Lindsay Fletcher: [00:20:29] Like with Will's it just seems quite nonsensical. Like what what they've said, like if you're going to have these problems on an unfamiliar journey, then surely some of these issues are going to occur on a familiar journey. So the same risk is there, right? So yeah, it needs to be justified and explored more thoroughly.

David Stickland: [00:20:46] Thanks. Uh. Very good. So we've got a short while left. This time, I think, to look at our, um, last couple of issues. So Will, what's your final item, I wonder?

Will Hadwen: [00:20:57] So my final one is another bit of case law and it's about DLA but, but the principle that I want to take from it is not specific to DLA at all. And the case is called *Hawksby versus Secretary of State for Work and Pensions*. And given it was about DLA, it's about a child. So it was actually his mum as the appointee who took the case. Right. Um but the point in this case is that um the mother gave some evidence about his night time needs. He'd been given DLA care, middle rate, no mobility. Um, and you might know that to get DLA higher rate you have to have care or supervision needs both day and night. Right. So the, the first tier tribunal said that there was no corroborative evidence about night time needs, and they referred to the mother's evidence as assertions. So that along with some of the things that they said, suggested that they weren't allowing her evidence to be evidenced by itself, that they thought it had to be corroborated by something else. Right. It didn't fully explain that. I didn't

give reasons for rejecting her evidence. Um, it's I to me it strongly implied and the judge agreed that they had mistakenly thought that her evidence had to be corroborated, and that's why they didn't consider it. So that is a really useful backup. It's not the only case about that sort of thing. There are other cases that mention this, that, um, somebody's own verbal evidence or written evidence about their condition or their child's condition can be evidence. Um, and unless there's some reason to doubt. It's such like a credibility. Um, you've got to explain why you're not going to consider it on its own merits.

David Stickland: [00:22:49] Right. Thanks. So that's useful to remember, isn't it? Um, I guess there's situations where there won't be available medical evidence. And so people will find themselves in this situation. And it's useful to know that you can still succeed. And as you say, it should be looked at in this sort of wider context. And yeah, is it consistent? Um, uh, you know, is it credible, etcetera, etcetera. So that's, that's good to know. And as, as you said, I think at the beginning, this is not something that is, um, specific just to Disability Living Allowance. This should be applied more generally, right?

Will Hadwen: [00:23:22] Yeah. Yes. So it really, in any case where you need evidence, which is most benefit decisions, especially ones that go to appeal. It's good to have medical evidence and I always say if you can get it, then get it. Um, but if you can't, and there might be reasons why you can't. Um, maybe the claimant hasn't seen a medical professional for many years. Etc. etc. then it is okay to go ahead and use their own evidence. I think there might be one exception to that is that is where if your claimant lacks capacity, then you might want someone else who knows the claimant to give evidence rather than them because it might not be um, yeah, legally might not be okay. But other than that, generally, uh, somebody's verbal statement about their condition is evidence.

David Stickland: [00:24:13] Right. Very good. Great. Thanks, Will. Lindsay, we've just got time for your final item. What's that, I wonder?

Lindsay Fletcher: [00:24:23] Just another report on the tribunal statistics. I think it's the end of the quarter, isn't it? It's report. Report? Okay. Yeah. Um, so tribunal statistics for obviously benefit appeals for the last quarter. Yep. Many welfare rights advisers listening won't be surprised to hear that the amount of outstanding appeals has increased by 63%. So compared

to this time last year, there's 63% more outstanding appeals waiting to be heard, which is the highest level for many years.

David Stickland: [00:24:57] Massive.

Lindsay Fletcher: [00:24:58] Yeah. Um. Average waiting time is 37 weeks. Um. So, you know, and that's already after someone's waited for the decision and then an MRN and, you know, Mandatory Reconsideration Notice, then lodge the appeal, you've got another 37 weeks for a potentially for a hearing date. So, you know, it's a long process, but and we're still on similar statistics that we've been, that we've had for years, that about 60% of decisions are actually changed when you eventually get a hearing. Okay. And PIP alone, 67% of decisions are changed when you finally get a hearing. So if your client can cope with the wait and the stress and with your support, it just, you know, it's worth persevering. And another interesting statistic is DLA appeals have increased by 187% compared to last year, which is huge increase. Didn't really give any reasons. Are they being more strict, with being refused and more people trying to apply. Is it linked to cost of living that people are that, you know, short on cash and desperate for any extra money they can try and get they're making. There's more people making possible DLA claims and they're being refused. I don't know, but yeah, 187% extra DLA appeals.

David Stickland: [00:26:33] That's huge. Yes. Well, it's good to have those facts laid out, Lindsay. I guess it doesn't change anything in terms of the way we work, other than, as you say, to make sure that people kind of hang on in there and see it through to the end, because it is very often worth it eventually.

Lindsay Fletcher: [00:26:51] Definitely worth it. Delays in DWP producing appeal papers as well. And then very short being quickly listed for a hearing after we finally get the appeal papers. So um yeah, just increases our work, our caseload. Um so yeah, it's tricky times for all advisers. I'm sure everyone will agree who is watching.

David Stickland: [00:27:12] Yeah. Lovely. Well, well thank you for setting that out. It's useful. It's good to know. Uh, helpful. Thank you. Um, that's us done. I think that's our six um items gone through. Um, as ever, thank you both very much. And thanks everyone for listening. Till next month. See you. Goodbye.

Will Hadwen: [00:27:29] Bye bye.