Storage of sensitive DWP benefit files contracted out

The DWP has contracted out the management of sensitive benefit files to the private sector despite MPs having raised strong concerns last year about the potential impact on the security of the files and the confidentiality of the information they hold.

In a Parliamentary debate in July 2003, MPs heard that the Government intended to hand over responsibility for the management and storage of files held by the DWP – that contain personal and confidential data on millions of citizens – to the private sector. Files are currently kept in secure locations around the country until they need to be worked on by local benefit offices, and with 124,000 requisitions for files every month, staff employed in the file stores turn around 90% of non-priority requests within 24 hours, 100% within 48 hours, and 100% of priority fax requests within one hour of receipt.

However, with the Government having refused to consider the possibility of an in-house bid for the work, predicting that contracting it out would save between £10 million and £20 million, MPs had expressed concerns about what guarantees there would be that files would remain secure and confidential; how the quality of service would be maintained; and what remedies the Government would have if a private sector contractor failed.

In response the then Minister for Work Desmond Browne had offered reassurance that the future service would be delivered by a “single, proven, modern information-handling system” and that the DWP has a “long history of working closely with people outwith the public sector” – “…the private sector has shown that it is fully capable of managing services and that, in particular, it can ensure that the confidentiality of sensitive records of individual customers is fully respected … there is no evidence to suggest that, except in isolated cases, any of that information has leaked out or been treated other than confidentially.”

NB – In March 2004, the Public and Commercial Services Union (PCSU) – that represents more than 90,000 DWP staff – also expressed concern about the contracting out of file storage. In its view, the move, along with the “modernisation” of the DWP involving a 30,000 reduction in its workforce, may be the “starting pistol to a wave of outsourcing functions”.

However, despite the concerns expressed by MPs and the PCSU, on 16 August 2004 the DWP signed a seven-year, £70 million contract with Capita – the UK’s “leading provider of integrated professional support service solutions” – for the provision of a “records management service”. Under the contract, Capita will undertake organisational, process and IT related technological enhancements to improve access, retrieval and tracking of approximately 60 million social security and disability benefit claim forms and associated files. The initiative is the first time that the DWP has implemented a database to track and manage benefit files – the previous supplier had used a barcode system.

In addition, the company will be responsible for moving 44 records storage points across the UK to one central facility at Heywood in Lancashire. The migration project will take three years of the seven-year contract.

On the contract being signed, Paul Pindar, Chief Executive of Capita welcomed “the skilled and experienced staff … transferring to Capita (who) will play a key role in the success and future development of this service” and heralded the “opportunity to help DWP increase efficiency by introducing new working processes and enhanced technology” as a “significant step forward for all involved”.

Mike Day, head of support service projects at the Commercial Policy and Procurement Division of the DWP, said that “we are working closely with Capita to ensure that a seamless transition takes place for the service and all employees” and confirmed that the project will be “more cost effective for the department and tax payers.”
EMP’s evidence and bias

The Court of Session in Scotland has held that, where an Examining Medical Practitioner (EMP), whose evidence was being considered by a DLA appeal tribunal, had previously sat as a medical member of a tribunal with both the Chairman and the disability member, an informed observer would perceive a real risk of sub-conscious bias on the tribunal’s part in favour of the EMP’s evidence.

The Court heard that in the two years prior to the appeal tribunal hearing one of the three EMPs, Dr. B, (whose evidence was in the end accepted by the tribunal) had sat as a medical member of the tribunal, with the chairman during 22 sessions, with the disability member during 14 sessions and with both the chairman and the disability member during 3 sessions.

The Court of Session held that if one expert is professionally known to the members, through having sat with them and advised them on how to approach medical evidence, there is a danger that they will apply their knowledge of him, consciously or unconsciously, to an assessment of the weight to be given to his evidence as against the other reports, where the doctor concerned might not be known to the tribunal.

The Court of Session said –

“… it is clear, in our view, that the frequency of occasions on which Dr. B had sat with the chairman and disability member was not – and indeed cannot – be left out of account.

… the former member of the Tribunal was one of a number of expert witnesses whose conflicting evidence had to be assessed, not even in person but simply on paper. Bearing in mind the influence which Dr. B may reasonably be expected to have exerted during his previous dealings with two of the three members of the Appeal Tribunal, we can well understand how this state of affairs would be … worrying in the eyes of the fair-minded observer.”

The Court of Session’s decision – Secretary of State for Work and Pensions v. a decision of the Deputy Social Security Commissioner of 19th February 2003 in application for a Disability Living Allowance by Helen Cunningham – is available from www.scotcourts.gov.uk.

White Paper proposes unified tribunal system

The government has published a White Paper that sets out proposals for bringing tribunals provided by central government, including benefit appeal tribunals, together into a unified system.

The White Paper – Transforming Public Services: Complaints, Redress and Tribunals – takes forward the proposals for the reform of tribunals set out in the Leggatt report that was published in August 2001. In addition it looks at how reform might help to improve standards of decision-making across government and, where things go wrong, promote quicker and more effective means of dispute resolution, so that fewer cases come before tribunals.

The Department for Constitutional Affairs suggests that as a result of the reforms tribunal users can expect, for example –

- a properly national network of hearing centres providing greater accessibility;
- better information about the tribunal process;
- better advice and support;

- reduced or more appropriate waiting times; and
- better standards of original decision-making – the new organisation will have a statutory duty to work with decision-makers to improve the system as a whole.

However the White Paper also questions the need for tribunal users to be represented in many cases –

“… the extent to which publicly funded advocacy is necessary or desirable in tribunals remains a matter of debate … hearings are intended to be less formal and adversarial in nature which ought in time to reduce the need for representation. The relevant law may also be simpler than in many court cases and even where it is not in many tribunals there will rarely be a need for a party to concern themselves with technical evidential issues or to deploy the traditional lawyer skill of cross-examination of witnesses.”


DWP decision-makers lack confidence?

WP decision-makers should have the confidence to question evidence and decision-making in cases prior to appeal, and where necessary review the decision, according to a new report from the President of Appeal Tribunals.

The President suggests that the agencies involved should be more proactive –

“If, at the stage when the appeal is lodged, decisions were reviewed in a proactive way discrepancies resolved, evidence obtained, carefully weighed and where necessary further information sought, I am sure many appeals could be resolved before they even reach the Appeals Service.

Decision-makers themselves must have the confidence to question the evidence and the decision-making prior to appeal and where necessary review the decision. We see far too many cases where the decision is clearly unsupportable but a submission has been written nevertheless.”

The report by the President of Appeal Tribunals on the standards of decision-making by the Secretary of State is available from www.appeals-service.gov.uk.

HB for students in “halls of residence”

New regulations have been issued in relation to the Housing Benefit entitlement of students living in “halls of residence”.

In force from 1 August 2004, the Social Security (Students and Income-related Benefits) Amendment Regulations 2004 (SI.No.1708/2004) provide for certain full-time students who would be eligible for Housing Benefit – for example lone parents, student couples with children, and disabled students – but who are treated as not liable to make payments because they live in accommodation provided by their educational establishment, to now be eligible for HB.

Part-time students who may be renting accommodation from their educational establishment may also benefit from the new regulations, but only if they would be eligible for HB if they were a full-time student.

NB – The above regulations also provide for new rules in relation to income and capital disregards for students entitled to Income Support, JSA and HB/CTB.
New Deal support to be combined under a single programme

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inister for Work and Pensions Jane Kennedy has confirmed the Government’s intention to bring all New Deal support together under a single programme, removing different rules for different claimants.

The proposals would create a New Deal unique to each individual through a ‘pick and mix’ approach, that would involve –

- new freedoms and greater power to give local job advisers the flexibility to tailor a wider range of training and support to each individual’s personal needs;
- more power and new local budgets controlled by local managers to purchase training and support to tackle local problems and meet individual needs with, for example, clothes, equipment and travel; and
- specialist programmes to help people with specific problems such as former drug addicts, alcoholics or homeless people.

NB – the proposals follow the publication in May 2004 of the strategy paper – Building on New Deal: Local solutions meeting individual needs.

Advice sector involvement in delivering government e-services

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itizens Advice, the Inland Revenue and the DWP are in talks about a 6-month pilot that would explore the potential for voluntary sector advice organisations to act as intermediaries for government e-services.

In a speech to a recent Government computing conference, Citizens Advice chief executive David Harker said that, with over 90% of bureaux now connected to the Citizens Advice secure IT network, and over 90% of bureaux now connected to the Citizens Connect programme is to develop a role for bureaux as intermediaries.

Mr Harker said –

“There could be big wins for bureaux, for citizens and for benefit and tax credit offices too, if bureaux could make and track claims online. It would cut down the re-work and numerous phone calls, letters and faxes now needed to resolve benefit and tax credit queries. … We are currently discussing with the Inland Revenue and the DWP how we could pilot, over the next six months, a real world example of intermediary access within our bureaux, in order to work towards solutions and national standards for these and other issues. We hope that this pilot will test out the issues, show the benefits, and lead to a national role for bureaux as expert, trusted intermediaries.”

Attendance of Presenting Officers at tribunal hearings

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ith the Council On Tribunals having recently expressed concern about the continuing decline in the attendance of Presenting Officers at tribunal hearings, the DWP has given a commitment to reverse the trend.

In a witness statement to a tribunal of commissioners – in CIS/1459/2003 – a “very experienced civil servant in the Department for Work and Pensions responsible for policy administration” reported that, in future, if a tribunal directs that a Presenting Officer attend a hearing, then such an officer will attend (or make a timely application for a postponement, if attendance is not possible). In addition, he gave a commitment that the Secretary of State is developing criteria to identify cases of complexity that require a Presenting Officer and, in those cases, a Presenting Officer will attend whether or not a tribunal has made an express direction.

NB – the tribunal of commissioners did however hold that a tribunal erred in allowing an appeal simply on the basis that the DWP failed to provide a Presenting Officer despite having been directed to do so, as it was a still under a duty to carry out its investigatory function.

‘Rationalising’ the number of Housing Benefit providers

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he prospect of “delivering significant economies of scale” by regionalising the processing of Housing Benefit has been raised in a recent report commissioned by the Government.

Sir Peter Gershon was asked by the Government in August 2003 to consider the scope for public sector efficiency savings. His subsequent report focused on ‘releasing resources out of activities which can be undertaken more efficiently into front line services that meet the public’s highest priorities’, and influenced the outcome of the 2004 Spending Review that will see the DWP lose 30,000 posts by 2007/08.

With the processing of DLA and tax credits, for example, already undertaken in a small number of regional centres, the Gershon report considers the scope for also ‘rationalising’ the number of Housing Benefit providers –

“Public sector efficiency has also been driven forward over recent years by a number of individual reforms undertaken by departments and other public sector bodies. For example, shared back office projects have been developed in the wider public sector such as Capita’s administration of housing benefit payments for Westminster Council in its service centre in Blackburn.

… The Review team looked across transactional services delivered by central Government departments (such as DWP…) and local government (for example the payment of Housing Benefit by local authorities). Its key interim findings included that … significant duplication exists, for example across organisations in relation to payment of housing benefits … The main suggestions were to … rationalise the number of providers of the same transactional services, such as housing benefit, thereby delivering significant economies of scale …”

Sir Peter Gershon’s report – Releasing resources to the front line – is available from www.hm-treasury.gov.uk
Developing national occupational standards for legal advice

The National Occupational Standards (NOS) for Legal Advice Project — led by a coalition of representative bodies from across the Not-for-Profit, public and private sectors — is holding a series of workshops later this year to give advice workers the opportunity to provide feedback on its progress in developing national occupational standards, that define the skills, knowledge and experience needed to deliver areas of social welfare law.

The workshops, to be held between October and December 2004 — in Birmingham, Bridgend, Bristol, Cambridge, Llandudno, London, Manchester, Newcastle, Nottingham, Plymouth, and York — will focus on a draft ‘functional map’ drawn up by the Project that identifies the functions that people carry out on a day-to-day basis as part of the process of providing legal advice, including in relation to —

- assisting people to understand and exercise their options and legal rights by providing an independent, confidential and accessible service which delivers information, advice and/or representation;
- developing high quality legal information and advice services;
- providing high quality information and advice services to clients;
- influencing local and national legislation and policy based on client evidence and identified needs of the community; and
- supporting members (individuals or organisations) to enhance their capacity to provide services.

Further information on the workshops (including how to book), and copies of the functional map are available from www.nos4advice.org.uk.

New shortened DLA claim form

The DWP has announced that it is to pilot a further shortened DLA claim form in Glasgow from 6 September 2004.

The introduction of the latest claim form follows pilots of a shortened form in London and the South East in 2003, and of an ‘interactive’ telephone claiming process in Glasgow.

Under the new system, the ‘interactive’ telephone claiming process has — at least temporarily — been dropped and some of the prompts to help complete the pack have been reintroduced.

The new shortened form is 23 pages long, compared with the 42 pages of the standard claim form. However, the explanatory notes have doubled in size, and repeated cross-referencing between the notes and the claim form is required. In addition, the space for claimants to give evidence about their condition has been reduced and the ‘Statement from the person who knows you best’ has been removed altogether.

More information on the DLA claim form pilot is available from www.benefitsandwork.co.uk.

Direct Payment Exceptions Service to be phased in

The Government has confirmed that the Exceptions Service, for those claimants who cannot open or manage a bank account following the conversion of benefits and pensions to Direct Payment (see review 105), is to be phased in.

Responding to a parliamentary written question in the Commons, Work and Pensions Minister Chris Pond said on 7 July —

“We have always recognised that there will be a small number of people who cannot pay by direct payment. These people will be moved to cheque payment. Our current plan is for a gradual switchover to cheque payment starting in October 2004 through to the end of February 2005.”

By March 2005 all claimants, including pensioners, will have moved from order book to another method of payment. The last pension book foils can be dated no later than 28 February 2005.

Extension of Pension Credit backdating

Following the Chancellor’s Budget announcement (see review 104), new regulations have been issued that introduce more generous rules for the backdating of Pension Credit claims.

Whilst applications for Pension Credit received before 6 October 2004 can already be backdated up to 12 months, for applications received on or after 6 October 2004 the maximum period of backdating allowed is currently set at 3 months.

However, the Social Security (Claims and Payments) Amendment (No. 2) Regulations 2004 (SI.No.1821/2004) amend the current rules so that all Pension Credit claims made on or after 6 October 2004 can be automatically backdated for up to 12 months (providing all the conditions for entitlement are fulfilled throughout that time).