

**Department for Work and Pensions**

**Industrial Injuries Disablement Benefit (IIDB) Scheme**

**Consultation Report**  
June 2007

# Executive summary

The Government has made Welfare Reform a priority, building a new welfare state for the 21<sup>st</sup> century focused on rights and responsibilities. The review is part of Government's commitment to help more people move off benefits and back into work.

The government's overarching aim is to ensure that

- no-one is left behind;
- an injury at work does not mean someone is written off and consigned to a life on benefits;
- the people who need the resources most, are those who receive them.

The consultation asked for answers to questions that address the key issues that will shape an occupational scheme for injuries and diseases caused through work that will best meet the needs of our society, beyond financial compensation alone, today and for the future.

The review addresses questions such as what is the purpose of a 'no-fault' occupational injuries and diseases scheme; who should be covered by a new occupational injury scheme; and whether employers should do more to help reduce the risks of work related accidents and illness occurring.

The Department thanks the Industrial Injuries Advisory Council (IIAC) for help in compiling this consultation summary.

This report on the consultation exercise does not commit the Department for Work and Pensions (DWP) to any particular line of action or programmed spend. Views will be considered before a decision is made on the nature of the reform.

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# 1 Introduction

## 1.1 Background.

On 29 January Jim Murphy, the Minister for Employment and Welfare Reform, announced the review of the Industrial Injuries Disablement Benefit (IIDB) scheme. A copy of this announcement is attached at Annex A.

IIDB provides compensation and benefits for people who are injured or made ill through work. The benefit was introduced in 1948 when 61% of jobs were in heavy industry. This has now halved, with 70% of today's workforce in office and service occupations.

The review is part of the government's commitment to help more people move off benefits and back into work.

## 1.2 Developing the long term solution.

In developing a long term solution, the Government is committed to having a full dialogue with interested parties. This consultation was one part of this dialogue.

Initial views were sought on

- the purpose of the scheme,
- occupational support,
- decision making,
- coverage,
- funding and
- international comparisons.

The main aim of the consultation was to seek the views of stakeholders to help us shape an occupational scheme which will best meet the needs of our society, beyond financial compensation alone, today and for the future.

## 2 Consultation

### 2.1 Background

A consultation paper was published on 29 January 2007 to ask for initial views and ideas to provide a solution which will best meet the needs of our society, beyond financial compensation alone, today and for the future. In addition to the formal consultation, officials met with a number of key stakeholder groups (in London, Leeds and Glasgow) to discuss the long term solution.

The consultation ended on 22 April 2007.

DWP would like to thank all those who responded to the consultation document and attended the stakeholder meetings.

### 2.2 What this report does

Part 3 of this report provides a summary of the issues raised by consultees, which will inform the development of policy proposals. It captures the key issues raised by respondents during the consultation period. We have not, of course, been able to include absolutely every point raised or quotations from every organisation. But we have considered every contribution to ensure that this report provides a fair and balanced representation of the responses received. It includes two responses from Northern Ireland.

Part 4 summarises the conclusions.

# 3 Summary of responses

## 3.1 Answers to Specific Questions

### 3.1.1 Purpose

#### **What is the case for a ‘no-fault’ occupational injuries and diseases scheme?**

The majority of respondents were in favour of a no fault compensation scheme. Many expressed the opinion that a no-fault scheme

- ensures equal and consistent protection for those who suffer injuries no matter who is at fault or where there is no fault at all,
- recognises the drop in income and impact of the loss of faculty and ability caused by industrial injury and disease,
- allows people to carry on working in a different job, possibly at a lower income,
- provides a safety net for those unable to obtain damages,
- Admin costs controlled and transparent.

Many said that that, with changes, the current scheme could be used to achieve an appropriate and fair mechanism of targeting ‘no fault’ compensation.

There was a single view that the scheme works well and should be left alone.

The Association of Personal Injury Lawyers (APIL) said

*“APIL believes that the principle of a ‘no-fault’ occupational injury scheme forms an integral part of an equitable welfare system, and remains as valid as ever. Providing adequate support to those who have suffered injury, disease or loss through no fault of their own is a fundamental aspect of a civilised society.*

*It is equally right and fair that particular recognition and compensation should be available for those who have been injured in the course of their work, while contributing to the country’s economy and wealth.*

*As is reiterated in the consultation paper, those able to work are and should be expected to do so by both the state and the wider community. The flipside of this norm must be that society as a whole shares the risks and losses of the minority of workers who had the misfortune to suffer an accident.”*

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The TUC pointed out that the Tort scheme is not always available because it is sometimes impossible to prove employer negligence, the employer may not be traced, or it may be difficult to prove exposure by one particular employer

Like many other respondents EEF, The manufacturers' organisation linked a no fault scheme to rehabilitation. They said

*“The purpose of any benefit scheme should be to assist and support a return to normal life, which includes work. Currently people are delayed in recovery by the system. 'No Fault' schemes would reduce legal administration and would encourage people to return, if the 'longer you're off the more you get' thinking is removed. No-fault rehabilitation could provide a rapid solution resulting in the employee getting better quicker. Offering rehabilitation also helps to decrease recovery times and therefore decrease overall costs.”*

There were some criticisms of the current system

- it takes too long to process claims,
- the rules and process are too complicated and
- not enough information about the scheme is readily available.

### **What should the purpose of such a scheme be?**

All felt that the scheme should provide financial assistance.

The majority of recipients were of the opinion that the purpose should be to provide care and rehabilitation to assist people back to work or to give them independence.

Various ideas were put forward to minimise personal financial loss through the provision of financial assistance. These included

- re-introduction of Reduced Earnings Allowance (REA),
- payment of full pay for number of weeks,
- abolition of the 90 day waiting period for IIDB,
- introduction of a new allowance linked to rehabilitation and
- paying other heads of damages including loss of pension rights.

There was support for linking such a scheme to prevention. The Trade Union Congress (TUC) said

*“In addition the scheme should link to prevention to ensure that there is a financial incentive on employers to prevent their employees becoming ill or injured”.*

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Most were agreed that those unable to return to work should continue to receive financial support.

Both the TUC and GMB were concerned that the issue of mobility of workers should be taken into account when considering reform. The GMB said:

*“Generally, GMB believes that a reformed scheme’s purpose needs to take into account the mobility of workers in terms of both occupations and location in the modern industrial world particularly where cumulative injuries arise often after relocation.*

*The scheme should be multi-purposed: it should provide a lump sum, a regular payment, or both, for those who have been injured or made ill through work. Such a scheme must also seek to support those who may be able to return to work through access to rehabilitation. In those cases where the individual’s earning power has been reduced as a result of the accident or illnesses the scheme should ensure that there is an adequate income replacement benefit, by way of a restored Reduced Earnings Allowance.”*

There was concern from some respondents about how any changes would impact on those receiving payments under the current scheme. The Forum of Asbestos Victims Support Groups (FAVSG) said

*“The government intends to dovetail the IIDB Scheme with its welfare reform programme which aims to significantly increase the employment rate for disabled people. In seeking to achieve this aim it would be wrong to ignore the needs of those, such as asbestos victims, who are rendered incapable of work, or who are affected late in life due to long-latent disease, or to reduce existing scheme provision in any way whatsoever.”*

### **Should it be a compensation scheme, a benefit scheme, or both?**

There were no suggestions that the IIDB scheme should be abolished, although most had suggestions on changing the scheme. Most were of the opinion that it is a compensation scheme and should remain one. The CBI felt the terms were unhelpful and it is the objectives to be achieved from the scheme that should be considered.

The FAVSG said

*“The key question for stakeholders is whether the no-fault IIDB Scheme should be a comprehensive no-fault scheme, incorporating substantial compensation and rehabilitation and prevention, or continue as a second-rate provider of minimal compensation. We argue in favour of significant improvements to the IIDB Scheme which will reduce reliance on tort, but leave tort as an option, especially for those seriously disabled.”*

As in the consultation exercise on improving claims handling for mesothelioma cases there were requests that IIDB should be disregarded for income assessment

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purposes. The view put forward was that IIDB is not an income replacement benefit but is “compensation for loss of faculty”. As such it should be completely disregarded or at least a percentage of it disregarded for Income Support and Pension Credit purposes.

These respondents included

- FAVSG,
- the All Party Parliamentary Coalfield Communities Campaign Group,
- the All Party Parliamentary Group on Occupational Safety and Health
- Amicus the Union,
- the Occupational & Environmental Health Research Unit, University of Stirling.

It was pointed out that the difference between weekly/monthly payments or lump sum payment affects receipt of means-tested benefits – weekly payments are off-set to the disadvantage of the poorest members of the labour force.

### 3.1.2 Occupational Support

#### **What support should a scheme offer and how should any support be provided?**

The majority of correspondents suggested that the remit of the current scheme be extended to include support for rehabilitation and injury prevention.

Views put forward included

- any scheme of this nature needs to be holistic in providing support for claimants,
- making benefit payments to compensate for lost income,
- rehabilitation support to assist with a return to work, and
- the provision and monitoring of both vocational and medical rehabilitation within any new scheme.

Whilst all groups supported rehabilitation as part of the new scheme there were calls for the protection of those who would not benefit from this type of help.

Thompsons solicitors said

*“There will however be cases where rehabilitation is inappropriate or unsuitable and where that occurs individuals must not be penalised for failing to take up the option of*

*rehabilitation. If it fails they must not be penalised in terms of the benefits they receive.”*

The CBI said that time-limited financial support should be provided to allow access to services for rehabilitation, support for active life and access to work.

The TUC said

*“The TUC believes that any person who successfully claims Industrial Injuries Disablement Benefit should have, at the same time as their medical assessment, a programme for rehabilitation. The scheme should fund a package of rehabilitation measures available to those who may benefit. In addition consideration should be given to the reintroduction of a reduced earnings allowance to those who may be able to return to work at a reduced capacity and who suffer financial loss as a result.”*

### **How should a new scheme be integrated with measures for prevention, rehabilitation, retention, retraining and return to work?**

The TUC expressed concern that there is no link at present between prevention of accidents/diseases and the IIDB scheme.

Thompsons Solicitors commented on the problems faced by union safety representatives who are being refused time to train and carry out their duties. They made the point that the new scheme should enhance the role of the safety representative in legislation.

Others felt that there should be a better link to RIDDOR notification so that unreported accidents can be followed up and lead to sanctions against the employer.

Most respondents welcomed the principle behind the reform of IIDB to support and encourage people in receipt of IIDB to move into employment, where they are able to do so. The CBI commented on the different types of help that may be required to motivate a return to work. They said

*“There are 4 main categories of injury that can be identified where different motivators will be required to stimulate return to work or active life, whether in the state-funded, privately funded or a mixed system.*

- 1. Accidents where cause and effect is easily determined and blame can be more easily attributable. Compensation for accidents could be covered by a system where there is greater predictability. This could be structured to incentivise improved safety performance.*
- 2. Prescribed diseases clearly attributable to work, particularly those where there is a long latency and less likelihood of being able to identify and trace an employer, could be dealt with by a separate fund where support is necessary and rehabilitation and return to work would have to be assessed for individuals.*

3. *Those conditions where it is not easy to make a clear attribution of harm to employment conditions but where certain work conditions could exacerbate the condition (e.g. asthma) and support would be required for rehabilitation, retraining and return to work.*
4. *Those conditions where it is not easy to make a clear attribution of harm to employment conditions but where both work and general life activities exacerbate the conditions (e.g. stress and MSD) could be supported for rehabilitation, retraining and return to work.”*

Suggestions on how this may be achieved ranged from the setting up of new units or departments to administer IIDB and facilitate injury prevention, to assessing new IIDB claimants for their eligibility for the Pathways to Work scheme.

An employer, Broadbent, said

*“Rehabilitation and return to work activities are difficult for many, particularly small employers and more often a threat to employers. Disability discrimination claims are almost a certainty. A new scheme should not penalise financially someone trying to get back to work or the employer financially until a “return to work” is complete, with or without Reduced Earnings Allowances.”*

Some made the point that there is a need for greater rehabilitation which can only be met by tackling the desperate shortage of rehabilitation and treatment facilities.

Concerns were expressed about delays in rehabilitation, which can often permanently damage victims’ opportunities to return to work and that consideration of medical rehabilitation and return to work should not be restricted to those who happen to qualify for IIDB.

The Association of British Insurers (ABI) suggested that new claimants should be assessed for their eligibility for the Pathways to Work scheme.

### **3.1.3 Decision Making**

#### **How can we ensure that the principles of equity, transparency and simplicity are met?**

Most respondents were of the opinion that the rules of access to the scheme and payments should be standardised, placed in the public domain, subjected to peer review, with appeal procedures in place, and written decisions made available on contested cases and payments standardised.

There was also a call for expert medical advisors. FAVSG gave the opinion that the current advisors are

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*“..... insufficiently trained in their role and in our opinion their assessments are inconsistent and in some cases, based on inadequate evidence.” Success at appeals is high and suggests a high rate of poor assessments.”*

With regard to access of information the TUC made the point that currently

*“..... there is a lack of simple, good quality, accessible information on the scheme and the claims process. This follows a review by the DWP into the number of leaflets and booklets that were produced. The TUC is particularly concerned about the lack of a simple guide to the scheme in paper format.”*

This view was echoed by all three of the All Party Parliamentary Groups who said that they were

*“..... particularly concerned about the lack of information in paper format.”*

David Hamilton MP made the point that the information currently provided needs to be improved. People find the system complex and are “baffled” by the information they are given.

Amicus suggested that

*“A clear, transparent process for decision making is the key to a better understanding with leaflets and advice in plain English and supported by advice helplines for claimants.”*

### **How should inclusion of injuries and diseases in the scheme be decided?**

The respondents were of the opinion that the Industrial Injuries Advisory Council (IIAC) has shown itself to be an extremely capable body and is well respected due to its tripartite nature and its recommendations. Some felt that it had the support of both sides of industry as well as the scientific and medical community.

However, concern was expressed that IIAC’s standards of proof relied on scientific data being available, and that the effectiveness of the scheme was impeded by lack of available research and research funding.

Some respondents felt that IIAC could greatly benefit if its ability to recognise new patterns of ill-health were not so restricted as they presently are, i.e. by the conditions which must be satisfied before a disease is prescribed in section 108 (2) of the Contributions and Benefits Act 1992. The interpretation given to these conditions is that the disease can only be prescribed if “the risk to workers in occupation is substantially greater than the risk to the general population, and the link between the disease and the occupation can be established in each individual case or presumed with reasonable certainty”.

In particular there were calls for the inclusion of stress related illness and musculoskeletal injuries to be included in the new scheme.

There was also support for the introduction of disease or injury on an individual basis on the balance of probability in that particular case. The GMB made the point this may be necessary to allow inclusion of the modern day work related illnesses. They said

*“In practice, where diseases occur in the general population, IAC looks for evidence that “the risk of developing the disease is more than doubled in a given occupation.” It is this criteria, linked with the lack of consistent diagnostic criteria for some illnesses, and the lack of research data, which has made it impossible for IAC to recommend prescription for many modern occupational diseases. GMB believes that the criteria should be reviewed to allow inclusion where there is a reasonable certainty that a disease is a specific risk of occupation.”*

### **How should the decision on entitlement be decided?**

Suggestions included the introduction of an informed network of agencies and specialist services enabling a person to access the services at any one point with case managers to oversee the appropriate delivery of the services required to ensure the individual is properly and swiftly rehabilitated.

Some suggested that decisions should continue to be made by Decision Makers in Jobcentre Plus.

Many suggested that criteria should be clearly drawn up and advertised and not obscured by complex regulations.

Welfare Rights Service (Lancashire County Council) stated that the methods by which the percentage level of assessment is reached are not clear, and are open to scepticism, particularly in the assessments just below 14% (the level for benefit entitlement). Simplification, possibly along the lines of the Personal Capability Assessment’s points system, would make the scheme more transparent

Many suggested that the decision on entitlement to any new compensation and rehabilitation scheme will require input from a variety of sources. Suggestions included information provided by the claimant, and employer and GP.

#### **3.1.4 Coverage**

### **How could the scheme best meet the needs of individuals affected by injury or disease caused through work?**

The scheme needs to provide a holistic approach to the needs of any claimant was a point made by many of the respondents. Suggestions included

- appropriate medical rehabilitation,
- a weekly benefit or lump sum financial compensation but also vocational rehabilitation to assist with a return to work, where possible and appropriate.

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It was also suggested that vocational rehabilitation should include assistance with a gradual return to work if a claimant is able to return to his/her previous employment.

With regard to additional injuries or diseases to be covered the FAVSG suggested

*“By adopting an Individual Proof system and reducing the excessively high standard of doubling of risk many more injured workers, especially women, who are often affected by musculoskeletal injuries, would be covered by the scheme.*

*The scheme must take into account the prevalence of current conditions which result in the majority of absence from work due to occupational causes, especially musculoskeletal disorders and stress. As the decline in injury and disease due to the era of heavy industry continues, and existing claimants from that era die, the scheme will be virtually redundant if it does not adapt to include modern work injury and disease. It is, therefore, essential that the rules for prescription of occupational disease is revised.”*

Some unions felt that in addition more funding should be made available for research into the occupational nature of those diseases and illnesses which are prevalent within the working population.

### **Who should be covered by a new scheme?**

There was wide support from parliamentary groups, support groups and unions for including the self-employed workers in some way. Many workers who are designated self-employed are contract workers whose working conditions are set by their contractor and they are, in effect, employees.

There was some support for including individuals injured through environmental exposure provided they were injured through contact with an employee, or contamination from a workplace.

A number supported recommendations that modern work related illnesses such as musculoskeletal diseases or stress-related conditions should be covered under the scheme.

The majority favoured reforming the current system, rather than a complete abolition or replacement of the existing IIDB scheme.

The TUC and GMB make reference to the fact that female workers are, proportionally, more likely to suffer from musculoskeletal diseases and stress related illnesses than men. These diseases are not currently covered and this is reflected in the breakdown in the number of successful IIDB claimants by gender.

### 3.1.5 Funding

#### How should any new scheme be funded?

The majority recommended a state funded scheme. There was some support for levies against insurers and employers from unions and support groups. Although there was some recognition that any such levy should reflect the current state of industry.

*“The TUC would therefore argue very strongly against any kind of insurance-based system. It believes that the scheme should be funded in part through the state as at present, and in part through a social fund levied on employers in proportion to the claims within that particular sector or industry. However any such levy should reflect the current position of employers rather than historical one to ensure that industries are not saddled with a significant financial legacy for past exposure and to encourage industries to improve their performance in the future.”*

#### Who would administer a new scheme?

Many recommended that DWP should administer the new scheme whilst recognising the need to link into rehabilitation schemes.

#### How can any new scheme be made simpler, and more cost effective, to administer?

Some such as the TUC stated that the way the current scheme was administered was already cost effective

*“The administration of the Industrial Injuries Disablement Benefit scheme is currently extremely cost effective. With administrative costs of 2%, it already provides extraordinary value for money. Were other forms for administering the scheme to be looked at there is little doubt that there would be a significant increase in the overall costs.”*

APIL said

*“The mechanisms for claiming and assessing eligibility for IIDB are, on the whole, fair and straightforward. Whereas the consultation paper asks how the system could be made “simpler, and more cost effective, to administer” (Q13), APIL does not accept the premise that the current system is overly complex or costly to administer.*

*The administrative costs are low, and decisions are logical and justified. Precisely because IIDB requires no fault to be proven, is not means tested, and not dependent upon National Insurance contributions, the system avoids some of the complexities of other state benefits, and is thus more user-friendly, and less bureaucratic. Awards*

*are made expeditiously and usually correct and appropriate within the rules of the scheme.”*

**How should any future scheme relate to other forms of compensation or benefit and ensure that any benefits in the scheme do not conflict with existing benefits?**

Most respondents recognised the need for a holistic approach to the needs of an injured person and that workplace compensation, benefits, and rehabilitation should be looked at as one.

There was a suggestion that, provided there were no losers, it would simplify the benefits system if Constant Attendance Allowance could be combined with DLA/AA.

**3.1.6 International Comparison**

**What can we learn from international comparisons?**

Many were of the opinion that what worked well in one country may not work so well here.

The CBI said

*“Although there are lessons to be learnt from other systems they are all under funding pressures. They are all different in detail, funding and payment arrangements and these differences are compounded by the countries taxation, welfare and healthcare systems that all to some extent involve the State. It is not possible to cherry pick the ‘desirable’ elements without a full understanding of the effects of other parts of the system.”*

The TUC and All Party Parliamentary groups advocated a mixture of a list system (list of prescribed diseases as is currently the case) and individual proof (where a person can show that, on the balance of probability, their illness was caused by their occupation).

The TUC said

*“The recent report by Professor David Walters at Cardiff University on international comparisons shows that there is no simple solution that can be introduced from another jurisdiction. The UK system is, by far, the scheme with the lowest administrative costs, yet it also has extremely low rates of successful claims. There are advantages to both the list and the individual proof system which is why the TUC is advocating a mixture of both, however it appears that an insurance-based system would be totally inappropriate within the UK given that there is also a Tort system operating.”*

## 4 Conclusions

The Government's overarching aim is to ensure that

- no-one is left behind
- an injury at work does not mean someone is written off and consigned to a life on benefits
- the people who need the resources most, are those who receive them.

One hundred and forty consultation letters were sent out and fifty-five responses were received from individuals, firms or representative bodies from the insurer, employer, legal communities and support groups. A list of those responding to the consultation who did not ask for their response to be kept confidential is attached at Annex B.

There is no one solution that will incorporate all the suggestions made by stakeholders.

The majority of suggestions are for changes to the current scheme whilst recognising the need to incorporate rehabilitation.

## Annex A - Press Release

29 January 2007 - DWP extends review of welfare system

A review of the Industrial Injuries Disablement Benefit (IIDB) scheme was announced today by Jim Murphy, Minister for Employment and Welfare Reform.

IIDB provides compensation and benefits for people who are injured or made ill through work. The benefit was introduced in 1948 when 61% of jobs were in heavy industry. This has now halved, with 70% of today's workforce in office and service occupations.

The review is part of the government's commitment to help more people move off benefits and back into work. At present IIDB claimants do not automatically have access to support such as Pathways to Work, which helps people with health conditions to return to work, education or training.

Jim Murphy said:

“ The time is right to look at the kind of occupational injury scheme we need for the future. IIDB was introduced in 1948 to serve a specific purpose. The workforce and the labour market have changed radically since then, with a huge shift away from the heavy industries and women now forming half the workforce.

“We want your views on what this scheme should look like in the 21st century. We want healthy and safe workplaces. We want to ensure that no-one is left behind; that an injury at work should not mean someone is written off and consigned to a life on benefits. We want to make sure that the people who need the resources most, are those who receive them.”

The review will address questions such as what is the purpose of a 'no-fault' occupational injuries and diseases scheme; who should be covered by a new occupational injury scheme; and whether employers should do more to help reduce the risks of work related accidents and illness occurring.

## 4.1 Annex B - Respondents

All Party Parliamentary Coalfield communities campaign group  
All Party Parliamentary Group on Safety and Health  
Association of British Insurers (ABI)  
AMICUS  
Aron John Reynolds  
Asbestos Support Groups' Forum (England)  
Association of Personal Injuries Lawyers (APIL)  
ATOS origins  
Beachcroft LLP  
Bill Lawrence  
Broadbent  
Campaign Director, Backinjury.TV - Harry Todd  
Citizens Advice Bureau NI  
Confederation of British Industry (CBI)  
David Hamilton MP  
Debbie Gassor  
Disability Alliance  
E D Clark  
EEF, The Manufacturers' Organisation  
Faculty of Occupational Medicine  
GMB  
Hazards Campaign  
Health and Safety Commission & Health and Safety Executive  
Humphreys & Co  
Institute of Occupational Safety and Health  
Jayne Joyce Green  
JobCentre Plus  
JobCentre Plus Mansfield  
Jon Trickett MP  
Law Centre NI  
Liberata  
Margaret Vandecasteele  
Michael Clapham MP  
Miners Parliamentary Group  
Mrs Morrison  
National Association of Schoolmasters Union of Women Teachers  
National Union of Mineworkers  
Neil Bateman  
Occupational & Environmental Health Research University of Stirling

## **Industrial Injuries Disablement Benefit (IIDB) Scheme – Consultation Report**

Occupational Lung Disease Service at the Birmingham Chest Clinic

OEDA

Peter Farrington

RCN WING

Richard I Shannon

Rights Advice Scotland

Rotherham Occupational Health Service

RSI Action

STUC

Thompsons solicitors

TUC

UK Major Ports

Welfare Rights and Debt Advice Service

Welfare Rights Service Lancashire County Council