

New evidence of corporate giant's influence on welfare reform

New evidence suggests that an insurance giant that could make huge financial gains from government reform of incapacity benefit played a much larger part in influencing those reforms than it previously admitted.

Last month, Unum, the UK's largest provider of "income protection insurance" (IPI), denied that it had attempted to influence government policy on welfare reform.

Campaigners believe that tougher welfare rules – particularly those replacing incapacity benefit (IB) with the new employment and support allowance (ESA) – could persuade more people to take out IPI, and so boost Unum's profits.

Unum has denied that it stands to gain from the reforms, even though it launched a major media campaign this year just as the coalition government began a three-year programme to reassess about 1.5 million existing IB claimants through a new, stricter test, the work capability assessment (WCA).

But now [a detailed memo has emerged](#), which was submitted to the Commons work and pensions committee in 2002 and was written by Joanne Hindle, Unum's corporate services director.

In the memo, Unum calls for fundamental reform of the welfare system, while it says the government "must ensure both that work always pays more than benefits, and more importantly that it is clearly seen to do so".

The memo includes proposals with a strong resemblance to reforms introduced several years later by the Labour government, when it replaced IB with ESA.

The Unum memo suggests retaining a form of IB for those "genuinely incapable of undertaking any work whatsoever", as Labour did with the ESA support group.

And it suggests a new benefit for those with "limited capacity to work", who would be "properly supported in their search for and transition into work", a suggestion which mirrors the ESA work-related activity group introduced by Labour.

The memo also says Unum was "actively engaged" with the government on sharing best practice on returning disabled people to work, while its executives had "met with [government] officials to help better understand the nature of the IB casebook, and to discuss how our commercial experience and expertise might be more widely applied".

Hindle stresses in her memo that the company – then known as UnumProvident – "is confident that its policies and approach to [IPI] claim management and rehabilitation can be

replicated more widely for those on IB” and would “particularly welcome the opportunity to put them into practice”.

The subsequent reform of IB was hugely controversial, with widespread anger among disabled people at the severity and inflexibility of the WCA, and the number of claimants subsequently found “fit for work”.

The anger has grown over the last 18 months under the Conservative-led government, with claims that its reforms – which are even harsher than those introduced by Labour – are merely a cover for cuts to welfare spending and are plunging tens of thousands of disabled people further into poverty and distress.

The disabled activist who has done most to raise concerns about Unum’s influence is Mo Stewart, a retired healthcare professional and veteran of the Women’s Royal Air Force, [who has been researching Unum for nearly a year](#).

She said it was “incomprehensible that Unum have denied benefiting from the ongoing radical welfare reforms when the wording of some of the reforms closely mirror” comments in the memo submitted by the company.

She said: “The recent mass marketing of Unum IPI, combined with the excessive publicity about the ongoing destructive welfare reforms, is no doubt reminding the able-bodied ‘squeezed middle’ population to be prepared in case of unexpected serious health or disability difficulties which, inevitably, will lead many to invest in IPI from this American corporate giant.”

Further information has emerged this week suggesting that Unum had influence within the Department for Work and Pensions as the government was drawing up its proposals for IB reform.

Last month, Unum admitted that two of its executives – a doctor and an occupational therapist – were involved in “technical working groups” set up by the government in 2006.

The working groups were asked to review the assessment that was being used at the time to test disabled people’s eligibility for IB.

Unum told Disability News Service (DNS) that the working groups met just once and that the company had “no further influence” on the design of the test’s eventual replacement, the WCA.

But a response by the Department for Work and Pensions to a Freedom of Information Act request from DNS suggests that the Unum officials were present at three meetings of one working group and at least five of the other.

This week, Unum repeated its denial that it had influenced the welfare reforms of the Labour and coalition governments.

John Letizia, Unum's head of public affairs, said in a statement: "While Unum, like the vast majority of Britons, believes a review of the current welfare system is necessary, we are not working to influence the government to reduce welfare benefits as you seem to be suggesting.

"Rather, given our expertise in income protection and vocational rehabilitation, we have been one of a number of entities from industry, trade unions and health invited from time to time to participate on committees and provide input to government.

"Our primary interest is in promoting the role the private sector can usefully play not only in helping people to protect themselves should illness or injury occur, but also to achieve a successful return to work where possible.

"Income protection does not replace state benefit, but it is a vital protection for the 'squeezed middle' who would not be able to maintain their current lifestyle should something unexpected occur. This would also provide significant direct and indirect benefit to the state.

"At no time have we influenced the government on the design of the reforms to the welfare state or on the level of benefits that claimants receive.

"Additionally, as you know, it is ultimately the government and not Unum or any other third party that makes decisions about policy matters."

He added: "Whilst we are always willing to answer questions... please understand that we do not intend to continue to discuss events from 10 years ago or engage in a back-and-forth that is based on a false premise, particularly if your mind is made up as it appears to be."

17 November 2011

Government admits Royal Mail plays major role in opening confidential post

The government has finally admitted that large numbers of confidential medical questionnaires – submitted by disabled people as part of their benefit claims – are being opened by Royal Mail staff.

Disabled activists [first suggested early last month](#) that ESA50 questionnaires were being opened by Royal Mail, before being forwarded to Atos Healthcare, the company that carries out "fitness for work" tests for the government.

Information suggesting the practice was widespread was contained in a response from the Department for Work and Pensions (DWP) to a Freedom of Information Act (FIA) request.

Disabled people were outraged that Royal Mail staff could be opening and handling detailed and sensitive personal information, for example about their medication, communication difficulties, incontinence, and panic attacks.

Disabled activist Sue Marsh, who wrote about the FIA request [on her blog last month](#), said filling in such forms was the one time that most disabled people “sit down and really face exactly how their illness or disability limits their life”.

She said: “You are writing things on those forms that you probably do not even tell your mum or your partner.”

One of the disabled people who commented on Marsh’s blog said she felt as if she had been “punched” when she read how the forms were being opened by Royal Mail staff.

She had to declare on her ESA form how she had been raped – because of its impact on her mental health – as well as including her address, telephone number and the fact that she lives alone.

She said it was “morally and ethically wrong” that the forms were being opened by Royal Mail staff, as well as being “frightening and humiliating and degrading”.

Another person who commented on the blog said her disabled daughter’s form had included the fact that she had been gang-raped, and that – if she knew Royal Mail employees were accessing that information – she would be “terrified” that it could be misused.

The government originally failed to comment on the claims, before eventually insisting, late last month, that the practice was restricted to one Royal Mail “opening unit”, which dealt with forms for just one Atos testing centre, in Flowers Hill, Bristol.

But the DWP has now admitted – despite repeatedly insisting that only one Royal Mail unit was involved – that the practice is far more widespread.

The discrepancy only emerged after Conservative employment minister Chris Grayling wrote a letter to Marsh’s mother, appearing to accept that the practice was common and noting her concerns “about the security of personal data” on the forms.

Nearly two weeks after Grayling’s letter was forwarded to the DWP press office by Disability News Service, a senior DWP press officer finally admitted that the practice was not just restricted to one Royal Mail unit in Bristol.

He confirmed this week that ESA50 forms and other DWP mail were also being opened in Royal Mail centres in Edinburgh, Falkirk, south London and Preston, while insisting that the previous – inaccurate – information had been provided by DWP “in good faith”.

He said there had “been no attempt by the department to mislead anyone, and we would certainly apologise if anyone felt that had been the case”.

He said the ESA50 forms opened by Royal Mail staff were “processed in a separate and secure location designated for DWP mail”, while the post opening was monitored by CCTV, among other security measures.

Marsh said discovering that it had taken the DWP so long to find out what was going on made her almost as angry as realising there was “another tier of people who get to read these details and that no-one knew about it”.

She said: “Those of us used to dealing with the DWP know their left hand does not know what their right hand is doing, but to find it is systematic through the whole DWP, and that even their press officers don’t seem to know what is going on, is really worrying and quite frightening.”

17 November 2011

IDS ‘panders’ to Daily Mail again, hours after promising to change his ways

A cabinet minister has been heavily criticised after again appearing to encourage national newspapers to run stories attacking disabled benefit claimants.

Last week, work and pensions secretary Iain Duncan Smith was criticised by the work and pensions committee for “pandering to the Daily Mail” and sending out misleading press releases about incapacity benefits.

Duncan Smith protested that he was unable to control how the media covered welfare reform stories, but promised that his department would improve the way it dealt with statistics on disability benefits.

Just 24 hours later, he provided quotes to selected news organisations – including the Daily Mail – suggesting that thousands of disabled people were receiving disability living allowance (DLA) they were not entitled to.

He told them: “At the moment, hundreds of millions of pounds are paid out in disability benefits to people who have simply filled out a form.”

The figures actually show that only 16 per cent of successful new DLA claims were awarded on the basis of just a claim form.

The Daily Mail reported that a “staggering 94 per cent of new claimants for Disability Living Allowance started receiving their payments after only filling out paperwork”.

But this paperwork can include a report from the claimant's GP, their social worker, or a hospital, or even their application for employment and support allowance, the new out-of-work disability benefit, which has been heavily criticised for the severity of its assessment regime.

The newspaper said critics were warning that "thousands of benefits cheats were being allowed to 'slip through the net' while changes to the system come into force".

Neil Coyle, director of policy for Disability Alliance, said many of the "16 per cent" were probably disabled people whose support needs were so high that they needed assistance from social workers to fill in their form, which was why government decision-makers did not need any further evidence of their impairment.

The government's own figures show that overpayment of DLA due to fraud is just 0.5 per cent of spending.

Campaigners and politicians pointed out that the government's release of the figures – and Duncan Smith's comments – came just four days before the House of Lords was due to discuss plans in the coalition's welfare reform bill to replace DLA with a new personal independence payment (PIP), and cut spending by 20 per cent.

Dame Anne Begg, the disabled Labour MP who chairs the Commons work and pensions committee, said she was "very, very disappointed" with the apparent behaviour of Duncan Smith and his Conservative ministerial colleagues.

She said: "Chris Grayling did it, Iain Duncan Smith did it on Wednesday. They are apologetic, and say that it is not them who are doing it and that they can't control the press.

"Inevitably, a day later a press release comes out that manages to be interpreted by the media in a negative way as far as disabled people are concerned.

"I don't know if it is coincidence or not. It has happened on more than one occasion. I am very, very disappointed that despite constant ministerial assurances that they are not doing it, this keeps happening."

Dame Anne said she would be discussing the issue with colleagues on the committee.

The disabled peers Baroness [Jane] Campbell, Baroness [Rosalie] Wilkins and Baroness [Tanni] Grey-Thompson all mentioned the Daily Mail story during debates on the bill in the Lords this week.

Baroness Wilkins, a Labour peer, called on the government to "rebut" these "wildly inaccurate press reports which are helping to stoke disability hate crime".

When approached by Disability News Service, a Department for Work and Pensions (DWP) spokeswoman declined to provide details of how the DWP and Duncan Smith had briefed the media on the DLA figures, although she did email his statement.

She declined to say whether the release of the figures was connected to this week's discussion of the bill in the Lords; whether Duncan Smith would be taking any action to correct the Daily Mail story; whether he had personally briefed journalists on the figures; whether the latest press release cast doubt on the sincerity of his comments to the work and pensions committee; and whether he was concerned about a possible increase in targeted hostility towards disabled people as a result of the DWP's media briefings.

Coyle said the government's proposals to impose new regular assessments of all disabled people receiving PIP were "nonsensical".

He said: "If you have a genuine medical condition backed up by independent medical evidence, why should the government waste tax-payers' money and cause stress and anxiety to disabled people and their families, which can aggravate health conditions?"

Stephen Lloyd, the Liberal Democrat MP who accused Duncan Smith last week of "pandering to the Daily Mail", declined to comment on the latest DWP press release.

17 November 2011

Peers debate key DLA reforms: Government to think again on qualifying period

The government has agreed to reconsider a key aspect of its disability living allowance (DLA) reforms, after disabled peers said the measure could cause serious financial hardship to people who have just become disabled.

The government wants to increase from three to six months the period of time a long-term health condition or impairment must last before someone can claim personal independence payment (PIP), the planned replacement for DLA.

But the disabled peer Baroness [Tanni] Grey-Thompson said the first months were "often the period when extra costs are at their greatest, and just as people are trying to adjust their outgoings, they are also adjusting to the impairment or illness", while she did not believe such people would be able to secure support from other sources.

The Liberal Democrat peer Baroness [Celia] Thomas, who proposed an amendment to the bill that would return the qualifying period to three months – as it currently is with DLA – said this was necessary because some long-term conditions can have a "sudden onset", while others can only be diagnosed "several weeks after the onset of symptoms".

A third disabled peer, Baroness [Jane] Campbell, said increasing the qualifying period to six months would mean “another delay for people who find themselves in an appalling situation, in a crisis, and having to face even further barriers to the support that can give them some independence, enable them to get back into the community and return to their families as soon as possible”.

Lord Freud, the Conservative welfare reform minister, said the introduction of a six-month qualifying period was not intended to save money, but to ensure PIP focused on those with long-term needs.

But he said the government would reconsider the issue and “look very closely at what we are hearing, not only from here but from elsewhere”.

17 November 2011

Peers debate key DLA reforms: Government rejects test pilot plea

A disabled peer has failed to persuade the government to postpone the re-assessment of existing disability living allowance (DLA) claimants until it has piloted the new testing regime.

Baroness [Jane] Campbell called on the government to order a year-long trial of how the assessment process works for new claimants of its proposed personal independence payment (PIP) – followed by an independent review – before it starts using the test to re-assess existing DLA claimants.

The government plans to replace DLA with PIP through its welfare reform bill, which is in its committee stage in the House of Lords.

Baroness Campbell told fellow peers that trialling the new PIP assessment was “absolutely necessary” and warned that a review was needed so the government could avoid the problems caused by the introduction of the widely-criticised test for out-of-work disability benefits, the work capability assessment.

She said: “I am sure that the government wish to avoid introducing another assessment system which invites such public controversy and which seems to represent such poor value for money.”

Lord Freud, the Conservative welfare reform minister, said one year would not provide enough time for the assessment process to “bed in”, while the assessment itself had been heavily tested by disabled people.

But Baroness Campbell said this had just been “testing out questions and testing the ground, not the life that a person will have to lead after they have been given their award”, and said it was “absolutely crazy” not to carry out a trial.

She also called for disabled people’s organisations to be involved in the PIP assessment process, and for disabled people with the highest impairment-related costs to only face a fresh assessment every five years, if their impairment was unlikely to change in that time.

But Lord Freud said the government did not feel it would be “appropriate to make blanket rules for particular groups of people”.

Baroness Campbell also failed to persuade the government to take a “social model” approach to assessing eligibility for PIP.

She said the government had “said repeatedly that they want to help disabled people to overcome the barriers that they face to leading full and independent lives” but that its civil servants had “so far largely designed a medical model test with a tweak of social model now and then”.

She said: “Unless the assessment is clearly based on a social model approach the system will not be able to accurately identify which people really need to receive support from PIP.

“Disabled people know that many of the barriers they face do not directly arise from their own bodies, their conditions and impairments, but from social, environmental and practical barriers such as inaccessible transport, unsuitable housing or living in social isolation with nobody to support them.”

Baroness [Tanni] Grey-Thompson said the social model had been “a lifeline” when she was growing up, with parents who “brought me up to believe that having an impairment was not my fault”.

She said: “The social model outlines very clearly how disabled people can play their part in society. We should not take this for granted because it would be too easy to forget what the social model is.”

Lord Freud said the PIP assessment was intended to be “somewhere in between” the social model and the medical model, and it was “not administratively feasible to assess every aspect of disabled people’s lives, every barrier they face or every cost they might incur”.

But Baroness Campbell warned that “using a points-based, tick-boxed” approach would fail to capture enough information about the barriers and costs faced by disabled people.

17 November 2011

Peers debate key DLA reforms: Cuts 'will end support for hundreds of thousands'

Government plans to reform disability living allowance (DLA) and cut spending by 20 per cent will deny help to many disabled people least able to access alternative support, a disabled peer has told the House of Lords.

Dame [Tanni] Grey-Thompson called on the government to abandon plans to remove support from DLA claimants with the lowest care needs, as part of its welfare reform bill.

She said the government plans would end support for 652,000 working-age adults who currently receive the lowest of the three rates of the care component of DLA, with disabled children and older people with lower needs "set to follow" in the future.

She said removing this support would "exacerbate the care funding crisis, as disabled people would not be able to manage – in particular those with low-level need".

The disabled Labour peer, Baroness [Rosalie] Wilkins, added: "It is hard to believe that abolishing the lower rate will do anything more than remove much needed help from large numbers of people.

"This may help the government to reduce the DLA budget but the costs will undoubtedly turn up elsewhere in public expenditure, whether it is in the costs of increased health needs or in the implications for social services budgets."

Lord Low, another disabled peer, said the proposal was "one of the principal causes of the fear and apprehension" disabled people were feeling about the DLA reforms.

Lord Freud, the Conservative welfare reform minister, said the proposal to move from three care rates to just two was intended to simplify the system and make it easier to understand, but the government also wanted to "prioritise support" for those whose impairment "has most impact on their ability to participate".

He added: "Some people will receive more support under our proposals; some the same; and some less."

But he said the government had not yet decided how many people would lose all support under the new system.

17 November 2011

Peers debate key DLA reforms: Government to look again at renaming DLA

The government has agreed to reconsider plans to completely change the name of a key disability benefit, after it heard the new name would be confusing, misleading and could add to hostility towards disabled people.

The disabled peer Baroness [Jane] Campbell called on the government not to rename disability living allowance as “personal independence payment”, but instead to call the new benefit “disability living costs allowance”.

She told peers debating the committee stage of the government’s welfare reform bill: “Those disabled people who need to take advantage of its intent must clearly understand what it is for and who is entitled to it.

“The name should also prevent any media or general public misunderstanding about its purpose.”

She said the government’s proposed new name was inaccurate because it was “supposed to address in a small way disabled people’s extra costs of living with impairment and disabling barriers”.

Baroness Campbell said she had consulted widely with disabled people and disabled people’s groups such as Broken of Britain, as well as members of the National Centre for Independent Living and the government’s Equality 2025 advisory network of disabled people, and “all agreed that the term ‘disability living allowance’ is a far more accurate description of what the benefit is for”.

Baroness [Rosalie] Wilkins, the disabled Labour peer, added: “Now more than ever, this week’s shocking press headlines vilifying disabled people as scroungers could not teach us more clearly that it is essential that the press and public know what this benefit is for, that they are given no excuse for the misinformation, and that the name spells out clearly what is in the tin. It is a disability living costs allowance.”

Baroness Campbell’s proposed amendment to the bill drew striking levels of cross-party support, including backing from Lord Newton, who as Tony Newton was the Conservative secretary of state responsible for introducing DLA in 1992.

Lord Freud, the Conservative welfare reform minister, claimed the new name had “found favour in many quarters”, but agreed to ask Maria Miller, the disabled people’s minister, to reconsider the name and “seek further feedback from disabled people”.

Baroness Campbell said she was “thrilled” that the government had agreed to reconsider the issue, and also said she liked a slightly different version of her suggested name – “personal disability costs payment” – that had been proposed by a fellow peer.

17 November 2011

'Free' special schools go-ahead is 'disaster', say campaigners

The decision by the government to give the go-ahead for the first three special schools to be set up under its "free schools" programme has caused anger and dismay among campaigners for inclusive education.

Education secretary Michael Gove announced this week that he had approved the opening of special free schools in September 2012 in Southampton, Peterborough and Leeds. A further 17 applications were unsuccessful.

Gove encouraged those that had been unsuccessful to resubmit "even stronger" applications, and said he was "committed to both increasing and improving the provision available to children with special educational needs (SEN)".

But Tara Flood, director of the [Alliance for Inclusive Education \(ALLFIE\)](#), described news of the three new special schools as "a disaster".

She said: "It is so counter to what I think the sector wants and what I think disabled children and young people deserve."

She said the evidence showed that setting up free schools would strip resources from local authorities and existing mainstream schools.

Schools that want to lead on inclusion were already finding it difficult, because of the way learning was measured and resources were allocated, she said.

She added: "That is going to become that much more difficult when the money for SEN is spread across even more education providers.

"The government is taking the position of 'to hell with disabled children's and young people's human rights to inclusive education', as set out in Article 24 of the UN Convention on the Rights of Persons with Disabilities."

She said the government's decision to allow the new special schools to open was "a complete disregard of what is a fundamental human right".

She added: "It is also the case that the creation of three new 'free' special schools, at a time when local authority budgets are already facing decimating cuts, can only make it much worse for parents who want their disabled child to be included in a local mainstream school."

Free schools are non-profit making, independent, state-funded schools, that are outside the control of local education authorities. They can also employ unqualified teachers.

The three new special schools are Rosewood School in Southampton, for pupils aged two to 19; the City of Peterborough Special Academy, for four to 18-year-olds, which will be built on the same site as a new mainstream academy; and The Lighthouse School in Leeds, for students from 11 to 19.

The veteran disabled activist Micheline Mason, joint organiser of [Reverse the Bias](#), which campaigns against the government's pledge to "remove the bias towards inclusion" in the education system, said she was "extremely worried" by the announcement.

She said: "Free schools are another component of the relentless drive to support privilege, inequality, and class and disability discrimination, by the right wing.

"They are also a very convenient tool to divide parents and distract them from becoming allies to their children and supporting our struggle for inclusion."

Meanwhile, a new report shows that children with SEN have made "remarkable progress" under a pilot programme set up under the Labour government.

[The Achievement for All programme](#), which has been running in about 450 schools for the last two years, saw children with SEN make greater progress in English and maths than other children with SEN across the country, while a "significant number" exceeded the progress of children without SEN.

The pilot also narrowed the gap in attainment between children with and without SEN.

Sarah Teather, the Liberal Democrat children's minister, said the government would provide £14 million to help fund the roll-out of the programme across England.

The key aim of the programme is to improve attainment in English and maths through "close tracking of progress and intervention", working to engage families in their children's learning, and removing barriers such as bullying and emotional problems.

17 November 2011

Gemma Hayter murder: Case proves urgent need for research on hate crime motivation

The latest of a series of horrific murders of disabled people has shown the urgent need for research into what motivates the men and women who commit such hate crimes, campaigners believe.

The call came after the publication of [a serious case review](#) into the murder of Gemma Hayter, a young disabled woman who was brutally beaten to death by five young people she considered her "friends".

Many of the circumstances surrounding Hayter's death are similar to those of other notorious hate crime murders in recent years.

Katharine Quarmby, a coordinator of the Disability Hate Crime Network and author of the book [Scapegoat](#), a ground-breaking investigation of disability hate crime, highlighted several similarities.

Hayter was killed by a group of young men and women, who she thought were her "friends".

She was also forced to drink urine. Several of the violent deaths Quarmby has studied have involved "dehumanising" the disabled person in some way using urine.

Quarmby said Hayter's death showed other "clear hallmarks" of a disability hate crime, and particularly the kind of "mate crime" in which disabled people – often those with learning difficulties, like Hayter – are befriended and then groomed and exploited.

Quarmby said the case highlighted the urgent need for research into the kind of people who carry out disability hate crime, their motivation and "some kind of profile of what a disability hate crime looks like".

This kind of "perpetrator analysis" was a key recommendation of the Equality and Human Rights Commission's inquiry into disability-related harassment, which reported in September and is currently out for consultation.

Quarmby believes such research will make it easier for police, prosecutors and judges to use section 146 of the Criminal Justice Act, which allows for stricter sentences for disability hate crimes, although not presently for murders.

She said: "I think we have enough cases to profile what these cases look like, who is doing them and what the markers are.

"Without perpetrator analysis, the police will never move forward and each case will [continue to] be treated in isolation."

Simon Cole, chief constable of Leicestershire police, and mental health and disability lead for the Association of Chief Police Officers, said: "Improving the way in which the police service recognises and responds to harassment and abuse of disabled people is a significant challenge facing policing and we can only be successful by working in partnership with disabled people and other public bodies.

"One of the seven areas the EHRC is looking at is how well we understand the motivations of those individuals who perpetrate crimes against disabled people and in our response to the EHRC we will be looking at how best we can take this forward, and this will include perpetrator analysis."

He added: “I urge disabled people to continue to come forward and report crimes against them so that perpetrators can face the consequence of their actions in the courts.”

17 November 2011

Gemma Hayter murder: Review highlights missed opportunities to offer protection

A new report has highlighted the missed opportunities and failures of local agencies in the lead-up to the “truly abhorrent” hate crime murder of a young disabled woman.

[The serious case review](#), published this week, concluded that there was “no evidence” that Gemma Hayter’s murder could have been prevented by the many agencies that dealt with her in the years leading up to her death.

But the review details a series of missed opportunities for the local council, police, health and other agencies to have taken action to protect her from a string of hate crimes.

Gemma Hayter had been diagnosed with learning difficulties and autism as a child, and attended a special school and residential college, but her diagnosis was over-turned as a young adult.

This lack of an “official diagnosis” became a “key factor” in preventing her receiving “timely and effective social care support” during the last four years of her life, the review concludes.

It describes how Hayter’s life became increasingly “risky and chaotic”, with several contacts a month with the police during 2008, mostly because “friends” – although not the five young people later convicted over her death – were repeatedly stealing from her, forcing her to give them money, and exploiting her.

At one stage, in 2008, Warwickshire police referred her to social services for a “safeguarding referral”, but their concerns were not investigated.

No “safeguarding” action was taken to protect her, despite “clear evidence that she was at risk of significant harm”, says the review, while there was “little evidence” that the various agencies were working together and sharing information about her case.

Effective intervention might have prevented her from becoming “sucked into the company of people who were leading such chaotic lifestyles and who were not going to be mindful of her welfare”, the review adds.

On 9 August 2010, Hayter was lured to a flat in Rugby, Warwickshire, where she was subjected to a horrifying series of physical assaults.

During the four-hour ordeal at the hands of five young people she thought were her friends, she was violently and repeatedly assaulted, including being head-butted, hit with a mop, and forced to drink urine from a can of lager.

She was later led to a disused railway line, where she was again violently beaten, stabbed, kicked, stripped and had a plastic bag placed over her head. Her badly beaten body was found the next morning by a jogger.

Three of the five young people who attacked her – Daniel Newstead, Chantelle Booth, and Joe Boyer, all of Little Pennington Street, Rugby – were found guilty of murder. Two others – Jessica Lynas, of Little Pennington Street, and Duncan Edwards, of Rounds Gardens, Rugby – were convicted of manslaughter.

The review makes a series of recommendations for local agencies, including Warwickshire County Council, Warwickshire police, various health bodies, and Warwickshire Safeguarding Adults Partnership Board (WSAPB), which described the crime as “truly abhorrent”.

They include recommendations on safeguarding, care assessments, the need for agencies to work together more effectively, and community safety and disability hate crime.

A county council spokeswoman accepted that it should have carried out a safeguarding investigation in 2008, but the system at the time “placed too much emphasis on formal diagnosis, and... did not easily identify multiple vulnerability concerns”, a system which it said has since changed.

Wendy Fabbro, WSAPB’s chair and the council’s strategic director of people services, said there was “a shared determination amongst all agencies to learn the lessons from this review and act upon the recommendations”.

She said the council apologised “sincerely” for the failings identified in the report “and are determined to do everything we can to work with other agencies and the community to improve the safeguarding of vulnerable adults”.

A Warwickshire police spokeswoman said the force had “appropriately” recorded and investigated each alleged offence against Hayter, while there was “no indication that the crimes reported were disability hate crimes so they were not investigated as such”.

She said: “Officers did, however, recognise that Gemma was potentially at risk of harm due to her circumstances, details of which were referred to the appropriate agencies.

“The serious case review acknowledges this but has recommended that in future those referrals from the police should be followed up to ensure that action has been taken.

“It also recommends that when advice is given to an individual reporting a crime we should record exactly what advice has been given [rather than just recording ‘advice given’, as the review states].”

She added: “There is no evidence that Gemma’s murder could have been prevented or predicted, but the safeguarding adults partnership, which includes Warwickshire police, agrees that if she had had better support from all the agencies the risk of her being harmed by people who took advantage of her vulnerability would have been reduced.

“Warwickshire police fully supports and accepts the findings of the serious case review and will implement the specific recommendations within it.”

17 November 2011

Government defeats high court challenge over legal aid cuts

A disabled people’s organisation has failed in its first attempt to challenge the government in the high court over its sweeping cuts to legal aid.

Disability Law Service (DLS) was seeking a judicial review of the cuts proposed by justice secretary Ken Clarke through his legal aid, sentencing and punishment of offenders bill.

The bill will cut about £350 million a year from the £2 billion legal aid budget for England and Wales by 2014-15.

Campaigners have warned that the proposed cuts will lead to the “decimation” of the civil law system and cause huge problems for disabled people, particularly at a time when the government is introducing radical reforms of the benefits system.

DLS had told the court that plans to remove advice on benefits and wills from the legal aid system would breach the Equality Act. Nearly three-fifths of people who seek advice for benefits appeals are disabled or ill.

But Clarke’s lawyers had argued that disabled people did not need legal aid to challenge benefits decisions because the relevant laws were simple and such claims were “essentially financial in nature” and so less important than “fundamental issues such as those involving a person’s safety or liberty”.

Sean Rivers, a social welfare solicitor at DLS, said Clarke’s statements “clearly show that he has no understanding of the effects of cutting disability benefits upon the most vulnerable in society”.

He said: “The removal of welfare benefits from the scope of legal aid may devastate this area of law, leaving the most vulnerable with no-one to assist them in appeals against the secretary of state.”

Clarke’s lawyers had argued that an equality impact assessment carried out by his department complied with the Equality Act.

They also argued that only parliament had the right to scrutinise this compliance, rather than the courts. The judge, Mr Justice Nicol, agreed with the government and ruled against DLS, which now plans to appeal.

Although DLS accepts that the bill cannot be withdrawn or amended, it wants Clarke’s actions declared unlawful.

A Ministry of Justice spokeswoman said: “Disability Law Service has renewed [its] application for permission to proceed with the judicial review, so we cannot presently comment as legal proceedings are ongoing.”

The case is the latest in a series of high-profile court challenges of decisions by public bodies to slash services and spending in the wake of the coalition’s deficit reduction plan, and came in the same week that two disabled men won a high court case challenging cuts to their support by Isle of Wight Council.

16 November 2011

Court victory for disabled men who faced cuts to care

Two disabled men have won a high court case that challenged a local authority's cuts to their support.

Isle of Wight Council planned to save £2.5 million a year through a tightening of eligibility for support and increased charges, which campaigners feared could have seen 2,000 disabled people on the island lose some or all of their support.

The case is just the latest in a series of high-profile judicial reviews of decisions by public bodies to cut spending and services in the wake of the government's deficit reduction plan.

The latest case challenged the decision to restrict eligibility, which Isle of Wight Council had estimated would save about £1.5 million a year.

The council wanted to fully fund support only for those with "critical" needs and provide "targeted support" to those whose needs risked becoming critical, rather than fully funding those with both substantial and critical needs.

Lawyers for the two men – who both have autism and high support needs – argued at the high court in London that there were failures in the council's consultation process and a lack of clarity over exactly how the changes would affect disabled people.

The judge, Mrs Justice Lang, concluded that the council's new eligibility policy was unlawful.

She also ruled that the council had failed to have "due regard" to the need to promote disability equality under the Disability Discrimination Act, and that its consultation document had not provided enough information for service-users and their families to understand how the changes would affect them.

The document failed to provide any detail about how many people's support would be cut, or about the costs and potential savings, or what types of services would or would not be included under the revised criteria.

Alex Rook, from lawyers Irwin Mitchell, which represented the two men, said the ruling would provide "comfort and peace of mind" to thousands of disabled people on the island, and deliver a "very clear message to all councils in England and Wales".

He said: "If a council seeks to make cuts to its budget for adult social care, it cannot do so by only meeting certain needs designed to keep someone safe, but neglecting their overall quality of life.

“Ultimately, authorities considering making further cuts can’t just do so by withdrawing support in areas they consider to be less significant. The courts have upheld the position that they are obliged to go beyond just keeping people safe.”

He added: “The judgment also makes it very clear that if a thorough and full consultation process is not carried out when considering proposed cuts to services to disabled adults, the courts will quash the policy.”

The council will now reinstate the services that were cut under the new eligibility policy and continue providing support for those with “critical” and “substantial” needs until it can draw up a new policy.

The council, which claimed it “genuinely sought to undertake a thorough and proper process of consultation”, said it would not appeal.

It added: “We accept the judge’s decision that that we did not provide sufficient information and that, in our attempts to explain what was a complex decision, we unintentionally breached some elements of the guidance.

“We will immediately comply with the judge’s ruling and return to the previous eligibility threshold whilst we consider our next steps.”

But the council stressed that its new charging policy for adult social care remained unaffected by the judgement.

16 November 2011

News provided by John Pring at www.disabilitynewsservice.com