1. I am reminded that the Tribunal of Commissioners hearing the case in R(DLA) 4/06the Tribunal of Commissioners found at [102]

…. For example, commonly a claimant has some physical disorder (eg a disc problem), but owing to psychological problems (or “psychogenic overlay”) experiences physical symptoms to a substantially greater extent than would have been expected as a result of the physical disorder alone

1. Mr. Commissioner (now Upper Tribunal Judge) Jacobs considered the issue of pain in CDLA/0902/2004. The then Commissioner held at [14]- 15 ]

14 “Medical experts on pain no longer believe that there is a direct and proportionate relationship between (a) a disease or injury and (b) the nature and level of pain that a person experiences. This is reflected in the definition of pain by the International Association for the Study of Pain:

‘An unpleasant sensory and emotional experience associated with actual or potential tissue damage, or described in terms of such damage.’

15 Now that those medical professionals who are expert in pain do not recognise a direct link between clinical findings and pain, it is no longer rational for tribunals to reason simply from the clinical findings on examination to the level of pain that a claimant experiences. Tribunals must investigate the evidence of the claimant’s pain and explain how they have dealt with it. As there is no direct causal link between disease or injury and pain, the only direct evidence of pain can come from the claimant”

The Commissioner also noted at [12]

It always arises as a factual issue:

* what pain does the claimant experience?
* how does it affect the claimant’s activities

1. The HCP reported that the medication prescribed was “low level” but this should not necessarily indicate that the pain experienced was also “low level”. Judge Jacobs also noted in CDLA/0902/2004 at [24]

The claimant’s medication

The nature and dosage of medication may be an indicator of a claimant’s pain. If the medication is not consistent with the level of pain described by the claimant, the tribunal must investigate as far as it can. There may be a credible explanation for an apparent discrepancy. It is not unknown for claimants to dislike taking medication for a prolonged period. And some pains respond better to medication than others. On the other hand, it is also not unknown for GPs to over-prescribe