



House of Commons
Work and Pensions Committee

Employment and Support Allowance and Work Capability Assessments

First Report of Session 2014–15

*Report, together with formal minutes relating
to the report*

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The Work and Pensions Committee

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Summary

Employment and Support Allowance (ESA) is the benefit paid to people who are unable to work because of ill health or disability. Concerns about the operation of ESA, and in particular the assessment used to help determine eligibility—the Work Capability Assessment (WCA)—have grown steadily since it was introduced by the previous Government as a new benefit in 2008, and were first examined by this Committee in 2011.

The current Government has made some welcome adjustments to the WCA as a result of the four independent reviews which have taken place since 2010. But problems with the ESA process persist, and many claimants continue to report a stressful and anxiety-provoking experience.

The scale and complexity of the challenge in determining eligibility for an incapacity for work benefit which is claimed by millions of people, with a vast range of conditions and disabilities, which affect them in very different ways, cannot be under-estimated.

Weaknesses in the operation of ESA

The WCA itself is flawed in that it frequently fails to provide an accurate assessment of the impact of the claimant's condition on their fitness for work or work-related activity. However, the problems with ESA are wider than this: it is also failing to fulfil its intended purpose of helping those claimants who can do so to “achieve their full potential through work” through an accurate assessment of the health-related employment barriers which an individual faces and, crucially, linking this directly to tailored employment support.

The outcomes of the ESA claims process are too simplistic. Claimants can be found “fit for work” and are then ineligible to claim ESA. Claimants found to have such limited functionality that they cannot undertake any work-related activity are placed in the Support Group, where they are subject to no work-related conditionality. This leaves a large and disparate middle group of claimants who are not yet fit for work, and may even have a deteriorating condition, but who are required nonetheless to undertake activity which is meant to help them find work in the longer term. These claimants are placed in the Work-related Activity Group (WRAG). The WRAG covers too wide a spectrum of claimants with very different prognoses and employment support needs.

Contract for the WCA

Concerns about the WCA have culminated in the Department for Work and Pensions (DWP) negotiating an early exit from the contract with the private sector provider, Atos Healthcare.

The re-letting of the contract provides an opportunity to address some of the problems with the WCA itself and with the wider decision-making process for which DWP is responsible. The Government must ensure that this interim re-letting of the contract is used to improve the service to claimants and to build confidence in the fairness of the claims process.

The re-let contract needs to set robust and transparent service standards for the new provider including on: accessibility of premises; appointment systems; quality of assessments; timely delivery of reports; and level of training for assessors on mental and cognitive conditions and those which are progressive and/or fluctuating. The Government has acknowledged that the re-let contract is likely to cost more. This can be justified so long as DWP monitors it rigorously to ensure service standards are met. It will need to ensure that DWP staff have the necessary level of contract management expertise to exercise this role effectively.

Redesign of the WCA and ESA end-to-end process

The flaws in the existing ESA system are so grave that simply “rebranding” the WCA by taking on a new provider will not solve the problems: a fundamental redesign of the ESA end-to-end process is required, including its outcomes, and the descriptors used in the WCA. This will be time-consuming and complex but the redesigned ESA assessment process needs to be in place by the time a completely new contract, involving multiple providers, is tendered in 2018.

This redesign needs to focus on what the purpose of ESA is—helping people move back into work where this is possible. It should ensure that the health barriers to employment that an individual faces are properly identified, and that employment support needs are effectively evaluated. Work-related conditionality and employment support should then be matched to the identified employment barriers and tailored more closely to individual circumstances.

As part of this process, DWP should reintroduce an assessment of health-related employment barriers now, and then incorporate this type of assessment into the redesigned ESA process.

Shorter term improvements

In the meantime, a number of steps need to be taken to ensure claimants receive an improved service and outcomes. These include:

- DWP taking overall responsibility for the end-to-end ESA claims process, including sending out information-gathering forms to claimants, and deciding whether they need a face-to-face assessment, rather than this being the role of the contracted assessment provider.
- DWP deciding whether “supporting evidence” on the impact of a claimant’s condition or disability on their functional capability is needed and, crucially, it proactively seeking it, rather than leaving this to claimants, who often have to pay for GPs to provide it. Where evidence is identified as necessary, it should be sought from the most appropriate health and other professionals, such as social workers, and occupational therapists, rather than relying on GPs.
- Greater use of paper-based assessments to place people in the Support Group.

- Unnecessary reassessments should be avoided, and decisions on reassessment intervals should be made in the best interests of claimants and be a good use of public funds.
- An acknowledgement that the “descriptors” used to assess functional capability in the WCA are imperfect; accompanied by a more sensitive and common-sense application of them in the WCA and benefit decisions.
- Clearer communication with claimants throughout the process, including on what the decision on eligibility means for them in practice, in terms of the amount of money they will receive and for how long; the work-related conditionality associated with the level of benefit awarded; and their right to ask for reconsideration or to appeal the decision.

Mandatory reconsideration and appeals

A high percentage of ESA decisions are challenged at appeal and a significant proportion of these decisions are overturned by tribunals. Fewer cases being taken to appeal would be a positive development, both in terms of public cost and stress for claimants. Mandatory reconsideration (MR) by DWP of challenged outcomes before they go to tribunal, which was introduced in 2013, therefore has the potential to be beneficial.

However, DWP needs to set a reasonable timescale for the MR process, rather than this being left open-ended. The current illogical arrangement whereby claimants seeking MR are required to claim Jobseeker’s Allowance (JSA) instead of ESA should be abolished. Official statistics showing the impact of MR on the number of appeals and on outcomes for claimants should be published as a matter of urgency.

Where cases do go to the appeal stage, DWP and the contracted provider need to learn from the process by ensuring that the reasons for overturned decisions are disseminated to decision-makers and assessors and properly considered. The introduction of provision of summary reasons for decisions in tribunals is welcome and DWP should set out how it plans to use this feedback effectively.

1 Introduction

In this text of this report, our conclusions are set out in **bold type** and our recommendations, to which the Government is required to respond, are set out in ***bold italic*** type.

ESA implementation

1. Employment and Support Allowance (ESA) was introduced by the previous Government in October 2008 for working-age claimants making a new claim for financial support on the grounds of illness or incapacity. It replaced Incapacity Benefit, Income Support by virtue of a disability and Severe Disablement Allowance (collectively known as “incapacity benefits”). According to DWP, ESA was designed to enable claimants “to achieve their full potential through work and to help them to gain independence from benefits” and focuses on what claimants “can do, rather than what they cannot”.¹

2. ESA is a benefit which affects the lives of millions of people. The total caseload of new ESA claims received by the end of September 2013 was 3.5 million; the total caseload for IB reassessments was 1.4 million. The latest published statistics show that there were 2.46 million ESA/IB claimants in November 2013. The monthly caseload of ESA new claims ranged between 65,000 and 75,000 in the year to September 2013.²

3. ESA is paid to people who have “limited capability for work” (who are placed in the Work-related Activity Group (WRAG)), and people who have “limited capability for work-related activity” (who are placed in the Support Group). The Work Capability Assessment (WCA) was introduced to determine whether a claimant falls into one of these two groups or is fit for work. It is a face-to-face functional assessment carried out by Atos Healthcare (“Atos”), a private company with which DWP has a long-standing contract for medical assessments. The process for claiming ESA is described in more detail in Chapter 2.

4. There are two types of ESA:

- Contribution-based ESA: regardless of their income, a person can claim contribution-based ESA if they have sufficient National Insurance contributions.
- Income-related ESA: this can be paid to a claimant on its own or in addition to contribution-based ESA if their income is below a particular level.³

5. In April 2011, the Government began reassessing people entitled to Incapacity Benefits (IB) to determine their eligibility for ESA using the WCA. IB migration was expected to finish by spring 2014 but its completion has been delayed by the problems affecting ESA claims which are discussed in this report.

1 [Archived DWP content](#), April 2010, accessed 7 July 2014

2 DWP, [Employment and Support Allowance: outcomes of Work Capability Assessments, Great Britain - tables](#), June 2014, tables 1A and 10; and [DWP Statistical Summary](#), June 2014, Table 1.1

3 [Gov.uk webpage](#), accessed 7 July 2014

Independent reviews of the WCA

6. Section 10 of the Welfare Reform Act 2007, the underpinning legislation for ESA, requires the Secretary of State to lay an independent report before Parliament each year for the first five years of the WCA's operation. The current Government appointed an independent reviewer, Professor Malcolm Harrington CBE, to assess the effectiveness of the WCA. Professor Harrington, an occupational health specialist, published three annual independent reviews, in 2010, 2011 and 2012.⁴ In his third review, Professor Harrington noted that “whilst progress has been made there remains more to do”.⁵ Dr Paul Litchfield OBE, an occupational physician and Chief Medical Officer and Director of Health, Safety and Wellbeing for BT, was appointed to carry out the 2013 review and has recently issued a call for evidence for the 2014 review, which will be the final one.⁶

Background to this inquiry

7. We published a report on the Incapacity Benefit reassessment in July 2011. This highlighted a number of concerns about ESA and the WCA, and particularly about the service which claimants received from Atos.⁷ It became clear to us from constituency work and extensive media coverage in the two and a half years following our report that these concerns have not yet been adequately addressed.

8. In July 2013, DWP itself identified issues with the service Atos was providing. It stated that there had been “a reduction in the quality of written reports which are produced by Atos following assessments”. The Department said that this was “contractually unacceptable” and that it would “apply all appropriate contractual remedies to ensure quality and value”.⁸ The action to address the quality of Atos reports meant that the speed of throughput of assessments reduced, leading to backlogs in processing ESA claims. DWP then announced in March 2014 that it had agreed an early exit from the WCA contract with Atos, and that a new provider will be appointed later this year.⁹ We decided that it would be timely to conduct a new inquiry into ESA, to examine the reasons for the current problems and to assess progress since our 2011 report.

9. We announced terms of reference and issued a call for evidence for the inquiry in February 2014. We received over 200 written submissions. More than half of these were from individuals, providing personal accounts of their experience of the WCA and ESA

4 Professor Malcolm Harrington, [An Independent Review of the Work Capability Assessment – year one](#), November 2010, and the [Government's response to Professor Malcolm Harrington's Independent Review of the Work Capability Assessment](#), November 2010; Professor Malcolm Harrington, [An Independent Review of the Work Capability Assessment – year two](#), November 2011, and the [Government's Response to Professor Malcolm Harrington's Second Independent Review of the Work Capability Assessment](#), November 2011; and Professor Malcolm Harrington, [An Independent Review of the Work Capability Assessment – year three](#), November 2012, and the [Government's Response to Professor Malcolm Harrington's Third Independent Review of the Work Capability Assessment](#), November 2012

5 Professor Harrington, [An Independent Review of the Work Capability Assessment – year three](#), November 2012, Executive Summary, para 11

6 Dr Paul Litchfield, [An Independent Review of the Work Capability Assessment – year four](#), December 2013, and the [Government's response to the year four independent review of the Work Capability Assessment](#), March 2014; [Fifth Independent Review of the Work Capability Assessment: Call for evidence](#), June 2014

7 Work and Pensions Committee, Sixth Report of Session 2010–12, [The role of incapacity benefit reassessment in helping claimants into employment](#), HC 1015, Chapter 3

8 HL Deb 22 July 2013, [cols WS151-52](#). See also DWP press release, 22 July 2013, [“Hoban – taking action to improve the Work Capability Assessment”](#)

9 HC Deb, 27 March 2014, [cols 56-57WS](#)

claims process. We held five oral evidence sessions with: organisations representing people with disabilities and health conditions; the two independent reviewers of the WCA; representatives from the Ministry of Justice and the Tribunals Service, which deal with benefit appeals; Atos; and Rt Hon Mike Penning MP, then Minister for Disabled People, and DWP officials. We also held an open public meeting in Newcastle in May, which provided a further opportunity to hear personal accounts of the ESA process. We are grateful to everyone who contributed to the inquiry, particularly the individuals who took the trouble to share their experiences with us.

2 ESA claims process and outcomes

10. To claim ESA, an individual must first contact Jobcentre Plus (JCP), either by telephone or by submitting a form (ESA1), and provide some basic information. Once the claimant has provided a medical certificate or Fit Note (issued by a GP), then ESA is paid to them at an initial assessment rate, which is equivalent to the amount paid to people claiming Jobseekers Allowance (JSA). At this stage, all cases are referred to Atos Healthcare, which then sends claimants a Limited Capability for Work Questionnaire (ESA50). In completing this form, claimants are asked to provide information about their health conditions or their disability, and their physical and mental, cognitive and intellectual functions. Claimants can also submit additional information that they wish to be taken into account in their claim. Once this form has been submitted, Atos makes a decision on whether, on the basis of the information provided, the claimant can be placed in the Support Group, or whether a WCA is necessary.¹⁰

11. Those invited to undergo a WCA are required to attend an Atos assessment centre. A Health Care Professional (HCP) employed by Atos will assess the person making a claim. The assessment is based on points being awarded against a number of measures of functionality, based on a set of “descriptors”. The assessor will then pass on a report, along with an overall recommended “score”, to a DWP decision-maker (DM).¹¹

12. The DM decides whether the claimant is fit for work, or is to be placed in the WRAG or the Support Group. They make this decision by taking account of the Atos report and the recommended score, alongside the ESA50 and any other supporting evidence provided. If the claimant has reached the 15-point threshold required to be placed in the WRAG, the DM will also consider whether the claimant meets one of the 16 further criteria to be placed in the Support Group. Claimants not assigned to either the WRAG or Support Group are considered to be fit for work and are not awarded ESA.¹²

Trends in ESA outcomes

13. DWP’s commentary on the latest ESA outcome statistics refers to “the bedding down of the benefit, with distinct growth in the Support Group and decline in the WRAG from April 2011”.¹³ Statistics for each of the outcome groups are shown below.

Fit for work claimants

27% of new claimants were found fit for work in the period July to September 2013. This compares with 64% when ESA was introduced in 2008.¹⁴ For migrated IB claimants, the figure was 11%, down from 27% in the second quarter of 2012.¹⁵

10 Dr Litchfield, *An Independent Review of the Work Capability Assessment – year four*, December 2013, Chapter 1, paras 8-16; [Gov.uk webpage](#), accessed 7 July 2014

11 DWP, *A guide to Employment and Support Allowance - the Work Capability Assessment*, January 2013, pp 8-16; Dr Litchfield, *An Independent Review of the Work Capability Assessment – year four*, December 2013, Chapter 1, para 11

12 Dr Litchfield, *An Independent Review of the Work Capability Assessment – year four*, December 2013, Chapter 1, paras 12-16

13 DWP, *ESA: outcomes of WCAs, Great Britain*, Quarterly official statistics bulletin, 12 June 2014, Results, p 6. The outcome of appeals is likely to increase percentages in both the WRAG and the Support Group.

Work-related Activity Group (WRAG)

The proportion of new ESA claimants placed in the WRAG rose from 24% when the benefit was introduced in 2008 to a high point of 30% at the end of 2010, but has fallen steadily since to 16% in the third quarter of 2013. This is in the context of an overall increase in the numbers eligible for ESA, from 36% in 2008 to 73% in 2013. For reassessed IB claimants, the latest figures show that the percentage of claimants placed in the WRAG fell from 22% to 17% compared to the previous quarter.¹⁶ In the second quarter of 2012, the comparable figure was 38%.¹⁷

Support Group

The latest ESA statistics covering the period July to September 2013 show that the proportion of new claimants assigned to the Support Group increased from 49% to 57% compared to the previous quarter. In the same period 72% of IB claimants being migrated to ESA were placed in the Support Group, an increase of 6 percentage points.¹⁸ In the first 18 months of ESA, only 6% of new claimants were assigned to the Support Group.¹⁹ At the start of the IB reassessment process the Government estimated that 20% of claimants would be assigned to the Support Group.²⁰

14. The Secretary of State has referred to claimants “languishing” on IB.²¹ Figures for the latest quarter show that, rather than “languishing” inappropriately on IB, 89% of IB claimants who were reassessed were entitled to ESA, with the vast majority being placed in the Support Group.²²

The claimant experience

15. Throughout this inquiry, we have heard from a large number of claimants, and their relatives and support workers, who shared with us their experiences of claiming ESA, and particularly in going through the WCA. Some of these people wrote to us; others came along and described their experiences at the public meeting we held in Newcastle. Many reported feeling dehumanised, ignored or questioned inappropriately. Some felt that the progress they were making towards recovery, and then moving back into work, was hampered rather than aided by the anxiety caused in facing the WCA. While it might be expected that those who believed that they were placed in the wrong group felt aggrieved, we also heard from those who felt that they were placed in the most appropriate group in

14 DWP, [ESA: outcomes of WCAs, Great Britain](#), Quarterly official statistics bulletin, 12 June 2014, Results, p 2

15 DWP, [ESA: outcomes of WCAs, Great Britain](#), Quarterly official statistics bulletin, 12 June 2014, Results, p 12; DWP, [ESA: outcomes of WCAs, Great Britain](#), Quarterly official statistics bulletin, April 2013, p 4

16 DWP, [ESA: outcomes of WCAs, Great Britain](#), Quarterly official statistics bulletin, 12 June 2014, Results, pp 2 and 12

17 DWP, [ESA: outcomes of WCAs, Great Britain](#), Quarterly official statistics bulletin, April 2013, p 4

18 DWP, [ESA: outcomes of WCAs, Great Britain](#), Quarterly official statistics bulletin, 12 June 2014, Results, pp 2 and 12

19 DWP, [Employment and Support Allowance: Work Capability Assessment by health condition and functional impairment: Official Statistics](#), October 2010, Executive Summary

20 See Work and Pensions Committee, [The role of incapacity benefit reassessment in helping claimants into employment](#), para 154

21 [Speech of the Secretary of State for Work and Pensions to the Ways and Means Committee, House of Congress](#), 27 June 2012, accessed 09 July 2014

22 DWP, [ESA: outcomes of WCAs, Great Britain - tables](#), 12 June 2014, table 10

the end, but who also felt that the process had still been a harrowing and stressful ordeal for them.

16. It is too early to predict whether the current trends in ESA outcomes will stabilise. However, we note the recognition within the ESA system that a higher proportion of claimants than initially expected are not fit for work and are therefore eligible for ESA, and that, of these, many need the higher level of benefit and absence of work-related conditionality which the Support Group provides. Nevertheless, it is clear that many claimants still find the process very stressful. Many find themselves in an outcome group which does not reflect their health barriers to employment, because the current system is not sufficiently sophisticated to cope with the wide variety in prognosis and impact which arises from the huge range of conditions which claimants present with.

17. In the next chapters, we raise concerns about the current system and set out a number of shorter-term changes which we believe will help ameliorate some of its most egregious flaws. However, our overall conclusion is that the design of the ESA benefit and assessment process is so problematic, particularly in relation to the confusion and limitations of the outcome groups, that its inefficiencies and the detriment inappropriate decisions cause to claimants can only be resolved in a fundamental redesign of the ESA claims process over the next few years. Our views on what this redesign process should consider are set out in Chapter 8.

3 Improving the claims process: DWP's role

Simplifying the process

18. Dr Litchfield considered the process for claiming ESA as part of his fourth review of the WCA. He recommended that, in the medium term, DWP carry out an impact assessment into changing the process so that DWP, and not the assessment provider, issues the ESA50 and decides whether a paper-based assessment can be completed or whether obtaining more evidence is necessary, either through a face-to-face assessment or seeking further documentary evidence. Where a paper-based assessment was judged to be sufficient, DWP would not then need to refer the case to the assessment provider.²³

19. Dr Litchfield believed that the current system was “over-complex” and that “stripping out some of that complexity would help in speeding things up.” This would also improve the process, because the DWP decision-maker would then be at the “front end”, which would “reinforce the injunction that they are in control”.²⁴ Dr Litchfield also suggested that changing the system in this way would avoid a “potential conflict of interests” that may arise from the provider of face-to-face assessments also making the decision about whether a claimant needed to be assessed face-to-face, for which it receives a payment.²⁵ DWP has agreed to carry out the impact assessment recommended by Dr Litchfield.²⁶ When we asked the Minister whether he considered it important to make a decision about whether to adopt this change before the new contract was drawn up, he told us “A lot of this will be in the contract.”²⁷

Collecting supporting evidence for claims

20. As part of this revised process, DWP would make the decision about whether further evidence was necessary and how best to obtain this. Currently, when a HCP assesses the ESA50 and any additional evidence initially provided by the claimant, they can decide to seek further evidence from the healthcare professional named on the ESA50 where they consider that “there is a clear possibility that an examination [face-to-face assessment] may be avoided”.²⁸ We have heard evidence that they primarily seek this evidence from GPs, even though, as Mind pointed out, a claimant’s GP may not always have the best insight into the effect of the claimant’s condition on their functionality.²⁹ Aside from this, responsibility primarily lies with the claimant to obtain supporting evidence if they want it

23 Dr Litchfield, [An Independent Review of the Work Capability Assessment – year four](#), December 2013, Chapter 6, para 30

24 [Q274](#)

25 [Q275](#)

26 [Government’s response to the year four independent review of the Work Capability Assessment](#), March 2014, Annex A, recommendation 26

27 [Q486](#)

28 Training and Development: ESA Filework Guidelines (for Health Care Professionals), June 2012, p 17. Atos is also required to request further evidence from the named medical professional in certain circumstances, including where there is reference to self-harm or suicide on the ESA50 – see p 18 for details. The guidance also states that further evidence “should not be requested simply to confirm that an examination is required or to obtain further information to assist the examining HCP.”

29 [Q30](#)

considered as part of the process. Claimants can have a number of problems obtaining this evidence, including health professionals charging for it, or even refusing to provide it.³⁰

21. DWP has frequently stated that the claimant presenting further evidence at the tribunal stage is one of the key reasons for so many decisions being overturned on appeal.³¹ When we put it to the Minister that DWP being more proactive in seeking the evidence at an earlier stage would address this problem, his view was that, whilst DWP would “help the claimant as much as possible [...] at the end of the day the claimant is doing what it says on the tin; they are claiming a benefit.”³² We also heard that it not always clear to either claimants or care professionals what types of additional information would be useful and relevant to DWP and the assessors in coming to a decision.³³ The Minister accepted that “there is some work to be done” to make sure professionals know what evidence will be most helpful.³⁴

Paper-based assessments

22. Dr Litchfield believed that putting DWP at the forefront of the process in the way he suggested would increase the number of paper-based decisions, which would also result in “speeding things up”.³⁵ In 2012, almost 62% of the new ESA claimants placed in the Support Group were assessed on paper only and around 68% of the decisions to place reassessed IB claimants in the Support Group were made without a face-to-face assessment.³⁶ A number of witnesses would like to see an increase in the amount of Support Group decisions which are made on paper.³⁷ Zacchaeus 2000 Trust (Z2K) pointed out that face-to-face assessments are distressing for claimants, and that more paper decisions where possible would save money and reduce the delays for face-to-face assessments.³⁸

Paper-based assessments and the WRAG

23. New ESA claimants can only be placed in the Support Group on a paper-based assessment; it is not possible for them to be placed in the WRAG without a face-to-face assessment. However, IB claimants being reassessed for ESA can be placed in either the Support Group or the WRAG without a face-to-face assessment. Between autumn 2010 (when the trials of IB reassessment began) and March 2013, 214,000 IB claimants were reassessed and placed in the WRAG without a face-to-face assessment.³⁹

30 See for example Z2K ([WCA0019](#)) para 41; and Centre for Mental Health, Hafal, Mental Health Foundation, Mind, Rethink Mental Illness, Royal College of Psychiatrists, Scottish Association for Mental Health, ([WCA0142](#)) para 19. The current policy on seeking further evidence is subject to an ongoing judicial review, with ESA claimants arguing that DWP should always seek further medical evidence for an ESA claim from those with a mental health condition, and as a minimum, DWP should always consider doing so – see [2013 UK UT 259 AAC](#) and [\[2013\] EWCA Civ 1565](#) for further details.

31 See for example [Qq478 and 489](#); see also oral evidence taken on 29 October 2012 from DWP witnesses on the DWP Annual Report and Accounts, [Q104](#); and evidence taken on 21 November 2012 from DWP witnesses on ESA [Q62](#).

32 [Q515](#)

33 Diverse Cymru ([WCA0133](#)); Oxfordshire Welfare Rights ([WCA0068](#)) para 4

34 [Q516](#)

35 [Qq274-75](#)

36 [DWP response to FOI request 2014-69](#), 4 February 2014

37 See for example [Q26](#) [Citizens Advice]; and [Q48](#) [Z2K]

38 [Qq31 and 48](#) and Zacchaeus 2000 Trust (Z2K) ([WCA0019](#)) para 8

39 [DWP response to FOI request 2014-69](#), 4 February 2014

24. Z2K did not consider it to be “adequate” for claimants to be placed in the WRAG on the basis of a paper-based assessment. Parkinson’s UK also criticised this process because it meant that the decision was not being made on the basis of evidence about the claimant’s current state of health.⁴⁰ Iain Walsh from DWP explained that the rationale for the distinction between the use of paper-based assessments for IB reassessments and ESA new claims was that there “will be more written evidence available and relevant” about an IB claimant because of their existing claim. He did however emphasise that claimants would only be placed in the WRAG on the basis of paper-based assessment “when it is proper to do so”.⁴¹

25. The current ESA process is too long and complex. We agree with Dr Litchfield that it would be improved if DWP itself, and not the assessment provider, issued the ESA50 and decided whether a face-to-face assessment and/or additional evidence was necessary. This would both speed up the process and put the DWP decision-maker at the heart of the process. We recommend that this change be implemented when the new provider starts delivering the WCA.

26. As part of this new process we recommend that DWP decision-makers (DMs) proactively seek additional evidence, from both health and social care professionals, rather than placing the onus to do this on claimants (although claimants should retain the right to submit evidence with their ESA50 if they wish to do so). DMs are best placed to know whether additional evidence is necessary, whereas claimants may not know what evidence would be most useful or from whom to seek it, and may not be able to afford the significant charges which some GPs and other professionals require. Although this change may lengthen the decision-making period and may incur some additional public expense, this is likely to be balanced by a reduction in the number of appeals, which are expensive, time-consuming and stressful for claimants. DWP should also make clear guidance available to both professionals and claimants on what evidence is most useful in the process. This guidance should explain that supporting evidence needs to set out how a condition affects a claimant’s functional capacity. DWP might also wish to explore options for providing training on this for GPs and other professionals.

27. We also recommend that DMs give much more careful consideration to whether a claimant can be placed in the Support Group without having to undergo a face-to-face assessment. Paper-based decisions are quicker, cheaper and less stressful for claimants, and may well be possible for a greater number of claims than is currently the case. However, we do not believe that paper-based assessments are appropriate for placing people in the WRAG, as can currently happen with IB reassessments (but not ESA new claims), because moving a claimant to a lower level of benefit should be based on the widest available evidence, particularly given the additional job-search conditionality which arises from being in the WRAG. We recommend that DWP change this policy urgently so that IB claimants are not placed in the WRAG without a face-to-face assessment.

40 [Qq31-32](#)

41 [Q484](#)

Frequency of reassessments

28. ESA claimants are reassessed at regular intervals, either on paper or face-to-face. DWP considers that reassessing claimants is important in order to

[...] ensure that they are receiving the support they need for their current capabilities and needs, and determine whether the impact of their health condition or disability has improved or worsened, and whether they have adapted to their condition.

The DWP DM decides when the claimant will be called for reassessment, and the “frequency of these repeat assessments will depend on the prognosis given by the health care professional at the previous assessment.”⁴² HCPs can give the following prognoses: 3 months; 6 months; 12 months; 18 months; within 2 years; and in the longer term.⁴³ According to DWP, the prognosis of when a claimant should next be recalled for a reassessment is not an indicator of when a claimant is expected to be fit for work.⁴⁴

29. The issue of the timing and frequency of reassessments has been raised repeatedly by claimants, representative groups and by the independent reviewers.⁴⁵ It is disappointing that so little progress has been made. Dr Litchfield recommended that DWP consider a new reassessment period of five years for claimants in the Support Group “for people who have very severe incapacity resulting from brain disorders that are degenerative or which will not realistically improve.” DWP’s acceptance of this very limited specific recommendation was qualified by reference to it being “subject to the outcome of further scoping work”.⁴⁶

30. Professor Harrington believed that the frequency of reassessments was “illogical” and that the system did not take sufficient account of individual conditions. He believed that, with people with conditions such as Parkinson’s, “you might as well leave it for quite a long period of time” before they are reassessed because “unfortunately, the chances are that the person will have deteriorated in that length of time”. He acknowledged that the WCA was not a “diagnosis-based assessment”, but argued that “for certain diagnoses, such as Motor Neurone Disease, you know what the outcome is going to be, so the clinician has to take that into account, even though they do not use diagnosis alone as the basis for the assessment”.⁴⁷ The Minister told us that the frequency of reassessments is “something else we are looking at at the moment.”⁴⁸

31. In our 2011 report, we also pointed out that a number of claimants were being reassessed shortly after a successful appeal outcome.⁴⁹ Dr Litchfield recommended that DWP consider introducing a minimum period between a successful appeal and being

42 HC Deb, 28 February 2012, [col 238w](#)

43 HC Deb, 1 July 2014, [col 528w](#)

44 DWP [supplementary written evidence](#)

45 See for example [Q48](#) [Parkinson’s UK]; National Association of Welfare Rights Advisers ([WCA0116](#)), para 15; Disability Benefits Consortium ([WCA0173](#)), para 40

46 [Government’s Response to the year 4 independent review of the WCA](#), March 2014, p 41

47 [Q197](#)

48 [Q483](#)

49 Work and Pensions Committee, [The role of incapacity benefit reassessment in helping claimants into employment](#), para 148

called for reassessment. The Government agreed to consider the appropriate minimum period.⁵⁰

32. We acknowledge that reassessments are a necessary feature of the ESA system, to ensure that claimants remain in the correct benefit group with the right level of conditionality placed on them. However, reassessments are occurring too frequently, particularly for claimants with progressive conditions and ones which are unlikely to change. They also often take place too soon after successful appeals. Unnecessary reassessments are distressing for the claimant and a waste of public money. We recommend that DWP implements the recommendations of the independent reviewers on reassessment intervals without further delay, and that it looks again at whether its current reassessment criteria are in the best interests of claimants and are a good use of public funds. A speedy decision on this would assist the new contractor to plan its work.

Communication with claimants

33. A number of witnesses criticised the way in which DWP and Atos communicated with them as being unclear and confusing. Advice Plymouth told us that claimants were “confused by the array of terminology which the DWP use when confirming which group they have been allocated to”.⁵¹ Dr Litchfield recommended that all ESA-related letters and forms be “comprehensively reviewed” to ensure that they meet “Plain English standard” and that “decision letters set out clearly what the outcome means for the person concerned”. DWP has accepted this recommendation.⁵²

34. Jason Feeny from DWP told us that “there is an awful lot of difficulty in terms of communication with such a broad range of people”. He said that DWP was continually “updating” and “trying to review the letters” but pointed out that the legal basis for the decision has to be set out.⁵³ The Minister commented “I think that we would all agree that we can try to use more user-friendly language, but it is a very technical benefit, and that is part of the problem.” He believed that “the language that we are using in our letters has improved” but acknowledged that “it is not perfect, and we need to make sure that we improve it more.”⁵⁴

35. DWP pointed out that one of the ways it has improved communication with claimants is by introducing the “Decision Assurance Call”. Instead of the claimant only being informed about the outcome of their claim in a letter, they first receive a telephone call from the DM who has dealt with their claim. These calls were an important part of the communication process as they offered an opportunity for decision-makers to explain the reasons behind the decision and to ask the claimant whether there was more information

50 Dr Litchfield, [An Independent Review of the Work Capability Assessment – year four](#), December 2013, Chapter 4, para 43; DWP, [Government’s Response to the year 4 independent review of the WCA](#), March 2014, p 37

51 Advice Plymouth ([WCA0179](#)), para 6.1

52 Dr Litchfield, [An Independent Review of the Work Capability Assessment – year four](#), December 2013, Chapter 4, para 42; [Government’s Response to the year four independent review of the Work Capability Assessment](#), March 2014, Annex A, recommendation 13

53 [Qq415-16](#)

54 [Qq416 and 497](#)

that needed to be taken into account. These calls were now reaching 85% of claimants compared to 35% last year.⁵⁵

36. We welcome DWP's acceptance of Dr Litchfield's recommendation that all ESA-related forms and letters should be reviewed. We recommend that DWP improve the way it communicates with claimants, both in writing and in telephone calls. It should ensure that forms, including the ESA50, and letters are user-friendly and in plain English; the language used should be clear, with explanations of the more technical terms; and confusing legal explanations should be in footnotes or annexes rather than the main text. The terms "limited capability for work" (for those placed in the WRAG) and "limited capability for work-related activity" (for those placed in the Support Group) are very confusing for claimants. We recommend that DWP finds more meaningful terminology to use in explaining decisions on ESA claims to claimants.

Communicating with contribution-based ESA WRAG claimants

37. Since 30 April 2012, contribution-based ESA claimants placed in the WRAG have been able to claim the benefit for a maximum of 365 days (including time spent in the assessment phase while the claim is being processed). There is no time-limit on claimants in the Support Group or on income-based ESA in the WRAG.⁵⁶ We expressed concerns about the implications for claimants of the Government's decision to restrict ESA in this way in our 2011 report.⁵⁷

38. Witnesses in this inquiry identified that contribution-based ESA claimants placed in the WRAG often failed to appreciate what this meant in terms of their benefit coming to an end or the options for challenging the decision.⁵⁸ Claimants have a month to request mandatory reconsideration and then to appeal;⁵⁹ but if these claimants do not understand that their benefit will come to an end, they may not realise until it is too late that they could have appealed to be placed in the Support Group instead. Citizen's Advice believed that, if the Department persisted with this time-limit, its consequences should be clearly communicated to claimants, including information on the right to appeal.⁶⁰

39. Communication with contribution-based ESA claimants placed in the WRAG is particularly important because they need to understand that their ESA will terminate after a year. The consequences for claimants of the 12 month time-limit and the options available to request mandatory reconsideration of the WRAG decision and to apply for income-based ESA at the end of the time-limit should be clearly set out. We recommend that DWP ensure that these claimants receive specific and clear information on the implications of this claim outcome, including when the time-limit starts and when it will end, both in the decision letter and in the Decision Assurance telephone call.

55 DWP ([WCA0196](#)), para 7; [Q417](#)

56 DWP, [Changes to contribution-based Employment and Support Allowance](#), May 2012, page 2

57 Work and Pensions Committee, [The role of incapacity benefit reassessment in helping claimants into employment](#), paras 158-169

58 See for example Disability Benefits Consortium ([WCA0173](#)), paras 54-56; and Advice Plymouth ([WCA0179](#)), para 6.1

59 DWP ([WCA0196](#)), para 47

60 Citizens Advice ([WCA0160](#)) para 50

Appropriateness of the WRAG for people with long-term conditions

40. A number of witnesses were concerned that claimants with progressive conditions, and a prognosis that they were unlikely to see a change in their functional ability in the longer term, were being inappropriately placed in the WRAG. Between October 2008 and September 2013, 11,800 new ESA claimants and 73,100 IB claimants assessed for ESA were placed in the WRAG with a prognosis of “two years or more”.⁶¹ DWP has explained that “a prognosis of two years or more is defined as unlikely in the longer term.”⁶²

41. As noted above, Atos HCPs give “prognosis period advice” about when they think a claimant should be recalled for reassessment, based on “when there would be reason to expect a change in the claimant's functional abilities”.⁶³ A number of organisations representing those with progressive conditions point out that DWP guidance recommends that claimants should be given the prognosis of a change being unlikely in the longer term where the assessor finds “a substantial degree of functional impairment resulting from a serious medical problem which is chronic or will inevitably deteriorate further, even with optimal treatment.”⁶⁴

42. Donna O'Brien from Parkinson's UK questioned why people with progressive conditions were being put into the WRAG on the basis of this prognosis. She argued that anyone with a long-term prognosis should be placed in the Support Group.⁶⁵ Parkinson's UK, along with a number of other organisations representing people with progressive conditions, believed that these prognosis statements were “totally contradictory to the purpose of the WRAG”, given that this group was for claimants capable of work-related activity, and who are expected to be fit for work in the future.⁶⁶ DWP has told us that it is looking into this issue.⁶⁷

43. More than 80,000 new ESA claimants and IB claimants undergoing reassessment, many of them with progressive conditions, have been placed in the WRAG since ESA was introduced, with a prognosis statement that a change in their functional abilities is unlikely in the longer term. The purpose of the WRAG is to provide work-related support for people who are expected to be fit for work in the short to medium term. Work-related conditionality accompanies this designation. We believe that it is wholly inappropriate to place people in the WRAG if they have a condition which is unlikely to improve and which makes their prospect of returning to work remote. We therefore recommend that DWP changes its practice so that claimants with this prognosis are allocated to the Support Group and not to the WRAG.

61 DWP [supplementary written evidence](#)

62 HC Deb, 1 July 2014, [col 528w](#)

63 DWP [supplementary written evidence](#)

64 Cystic Fibrosis Trust, the Multiple Sclerosis Society, Parkinson's UK and the National Rheumatoid Arthritis Society ([WCA0154](#)), para 19

65 [Q32](#)

66 Cystic Fibrosis Trust, the Multiple Sclerosis Society, Parkinson's UK and the National Rheumatoid Arthritis Society ([WCA0154](#)), para 18

67 [Q501](#)

4 Design and application of the WCA descriptors

44. To determine eligibility for ESA, claimants are assessed on how their condition affects their ability to carry out 17 different activities. In relation to each activity, there are a number of “descriptors”, which set out a level of functionality. Each descriptor has a point score attached to it (either 15, 9, 6 or 0). Claimants are allocated points on the basis of which descriptor applies to them under each activity (if more than one descriptor applies, then the one that attracts the highest points is allocated). If a claimant is allocated 15 points across the 17 activities, then they will be considered to have limited capability for work and will be placed in the WRAG. If they also meet one of a further 16 “limited capability for work-related activity” descriptors, they will be placed in the Support Group. A full list of both sets of descriptors and a detailed explanation of the process is available in the DWP’s *Guide to ESA: the WCA*.⁶⁸

Effectiveness of the descriptors

45. It is obvious that achieving an appropriate WCA outcome for claimants, in terms of being found fit for work or placed in the WRAG or Support Group, is very heavily dependent on whether the assessment criteria are the right ones, and whether they are being applied properly. The effectiveness of the descriptors, especially for those with mental health or other fluctuating conditions, was criticised by a number of witnesses.⁶⁹

Application of the descriptors to fluctuating conditions

46. There was particular concern amongst witnesses about the way in which the descriptors are applied to fluctuating conditions. Z2K argued that: “There is a tendency, during the WCA, to give undue focus to claimants’ abilities on ‘good days’ [...] with little or no attention given to what they are able to manage on a ‘bad day’.”⁷⁰ It may be possible for a claimant to fulfil a task once; but the assessment needs to establish whether they can do it consistently and safely. The National Rheumatoid Arthritis Society referred to an example of a claimant being asked to write their name during an assessment, and being told that it was not relevant that they could not write more than 40 words without it being too painful.⁷¹

47. The WCA Handbook for HCPs carrying out assessments makes clear that “even in cases where the descriptor does not specifically mention the concept of ‘repeatedly and reliably’, this must always be taken into account”. It also specifies that HCPs must assess whether claimants are able to carry out the additional Support Group descriptors “reliably,

68 DWP, [A guide to ESA – the WCA](#), (ESA 214), January 2013. See pp 18-28 for descriptors. The guide also sets out on pp 10-12 circumstances in which the claimant may not be allocated 15 points or meet one of the limited capability for work-related activity descriptors but will nonetheless be placed in the WRAG or Support Group.

69 See for example Crohn’s and Colitis UK, ([WCA0100](#)), paras 1.1 – 1.18; National Association of Welfare Rights Advisers ([WCA0116](#)), paras 9-11; and Royal College of Nursing, ([WCA0143](#)), para 4.3

70 Z2K ([WCA0019](#)) paras 21-25

71 National Rheumatoid Arthritis Society ([WCA0174](#)), paras 3.5 – 3.8

repeatedly and safely”.⁷² James Bolton of DWP confirmed that the “repeatedly and reliably” requirement “has been an integral part of the assessment since the start. It is in the handbook; it is in the health professional training.” He told us that there was a specific Atos training model on fluctuations, that assessors have to ensure they take account of fluctuations in producing the assessment report, and that it “forms a key part of the audit criteria and the standards to which we hold them”.⁷³

Review of the descriptors

48. The adequacy of the descriptors was considered in Professor Harrington’s first review of the WCA.⁷⁴ The Government accepted the recommendation in his second review that a “gold standard review” of the descriptors be carried out.⁷⁵ The outcome of this “Evidence Based Review” (EBR) was published in December 2013. It compared the performance of the WCA against an Alternative Assessment (AA) devised by specialist disability representative groups.⁷⁶

49. The charities involved in devising the AA made clear to us that the EBR was an opportunity to suggest changes to the WCA descriptors, rather than to create a completely different assessment.⁷⁷ The AA was similar in many ways to the WCA, with both assessments using a structure based on activity headings and descriptors, and the 15 point threshold applied in both tests. The AA included two extra activities in addition to the 17 included in the WCA: “maintaining focus” and “executing tasks”. The AA required the HCP to record how often the claimant experienced a limitation denoted by a particular descriptor, with the intention of producing more accurate outcomes for those with fluctuating conditions. The AA also allowed 3 points to be allocated to a claimant in relation to some activities: under the WCA, claimants can only be allocated 6, 9 or 15 points in relation to a particular activity.⁷⁸

50. The AA was tested on 600 claimants undergoing the WCA at two different centres, Newcastle and Manchester, between March and September 2013. Claimants were first assessed by an Atos HCP using the current WCA. A second HCP then asked additional questions and gathered further information to allow the AA to be carried out. On the basis of these assessments, the HCPs then chose the descriptors that they felt applied best to the claimant. To compare the two assessments, the findings of the AA and the WCA were compared against the findings of panels of medical experts.⁷⁹

51. The EBR concluded that “The overall findings suggest that the WCA performed better than the AA—the WCA produced consistent results on the whole, and is an accurate indicator of work capability as compared with expert opinion.” In 77% of cases, the WCA

72 [Revised WCA Handbook](#), March 2013, paras 2.3.1 and 3.2.1

73 [Q430](#)

74 Professor Harrington, [An Independent Review of the Work Capability Assessment – year one](#), Chapter 8, paras 2–9

75 Professor Harrington, [An Independent Review of the Work Capability Assessment – year two](#), Chapter 3, para 63; [Government’s Response to Professor Malcolm Harrington’s Second Independent Review of the Work Capability Assessment](#), November 2011, p 16

76 DWP, [Evidence Based Review of the Work Capability Assessment](#), December 2013

77 Charities involved in the Evidence Based Review of the WCA ([WCA0170](#)), para 13

78 DWP, [Evidence Based Review of the Work Capability Assessment](#), December 2013, pp 11-13

79 DWP, [Evidence Based Review of the Work Capability Assessment](#), December 2013, Chapter 2

produced the same fitness to work outcome as the experts, compared to 65% of the cases assessed using the AA.⁸⁰

52. DWP has concluded from the EBR that “there is no evidence that changes to the WCA descriptors would significantly improve the overall assessment.”⁸¹ However, the review also highlighted that “The AA did reveal some areas—namely the way in which limitations and their fluctuations are noted, and the style of assessment discussion—which have relevance for ongoing refinement of the WCA.”⁸² In this context, it is worth noting that Dr Litchfield recommended that HCPs “should avoid reporting inferences from indirect questioning as factual statements of capability”.⁸³

53. Professor Harrington told that us it was a “big mistake” by the Government to reject changing the descriptors to take account of fluctuations in a claimant’s functional limitation, because “there is lots of evidence that fluctuation is very important in the prognosis for people’s individual cases, and for their work capability.”⁸⁴ The Minister told us that assessing fluctuation “is the next real area that we need to look at very carefully.”⁸⁵

Concerns about the testing of the AA

54. We were keen to ascertain why the AA was trialled by adding it on to the existing WCA, rather than as an entirely separate assessment. Professor Harrington, who had chaired the EBR steering group, told us that a separate assessment had been “plan A” but the scrutiny group had decided that it would be difficult, “in practical terms, or even in ethical terms”, to require claimants to complete two separate assessments, and that they had feared that there would a high drop-out rate if this were the case.⁸⁶

55. The charities involved in the EBR pointed out that they had had to design the AA to DWP’s timetable “without any financial or statistical assistance and without the opportunity to consult widely, pilot and refine the AA before the DWP commenced the testing.” The study also assumed that the expert panel came to the correct conclusion about a particular claimant’s fitness for work even though they did not meet the ESA claimants they were assessing.⁸⁷

56. The charities also raised concerns about the definition of fit for work used by the expert panels. In oral evidence, Mind highlighted that the expert panel identified that 83% of claimants deemed fit for work would need “on average, two or three” adjustments; 50% would need flexible working hours; and 24% would need a support worker.⁸⁸ The charities commented that it seemed that the WRAG would be more appropriate for claimants requiring this level of support and argued that this level of support is unlikely to be

80 DWP, [Evidence Based Review of the Work Capability Assessment](#), December 2013, pp 8 - 9

81 [Government’s response to the year four independent review of the Work Capability Assessment](#), March 2014, Chapter 3, para 14

82 DWP, [Evidence Based Review of the Work Capability Assessment](#), December 2013, p 51

83 Dr Paul Litchfield, [An Independent Review of the Work Capability Assessment – year four](#), December 2013, Chapter 4, para 40

84 [Q210](#)

85 [Q429](#)

86 [Q211](#)

87 Submission from charities involved in the Evidence Based Review of the WCA ([WCA0170](#)), paras 20 and 37

88 [Q12](#); Submission from charities involved in the Evidence Based Review of the WCA ([WCA0170](#)), paras 38 and 39

available.⁸⁹ We discuss the implications for employment support of the EBR findings in Chapter 7.

57. We put the charities' reservations about the EBR to DWP. James Bolton, Deputy Chief Medical Adviser, pointed out that the independent steering group had "signed up to the findings; they signed up to the methodology; they worked with us throughout; and they signed up to the conclusions and findings at the end."⁹⁰

58. We welcome the Evidence Based Review as a step towards evaluating the effectiveness of the WCA descriptors. However we do not believe that the Review was sufficient in itself to lay to rest concerns about the descriptors. There were factors both in the way the Alternative Assessment was piloted, and in how its outcomes were compared with those of the WCA, which limit its value as a comparative test. To help address the limitations of the descriptors in the short term, we recommend that DWP remind both Atos assessors and its decision-makers that they must take proper account, in coming to a decision, of the claimant's ability to undertake an activity reliably, repeatedly and safely. Clear guidance should be issued to HCPs to avoid reporting inferences from a claimant's responses as factual statements of capability (as recommended by Dr Litchfield), and instead to use follow-up questions to ensure that they fully understand the impact of a health condition or disability on a claimant's functionality. In the longer-term, DWP should reconsider the effectiveness of the descriptors as part of the redesign of the system that we recommend in Chapter 8.

89 Submission from charities involved in the Evidence Based Review of the WCA ([WCA0170](#)), paras 36-40

90 [Q426](#)

5 Future delivery of the face-to-face assessment

Current contractual arrangements

59. Atos is the sole contractual provider of the WCA. It carries out a range of medical assessments for DWP under the Medical Services Agreement, which has been in place since 2005. The original contract ran until 2012 and was then extended to August 2015.⁹¹ The Government and Atos have recently agreed to terminate the contract in February 2015, with a new provider commencing work in autumn 2014. Schedule 5 of the Medical Services Agreement specifies the service standards that DWP expects Atos to meet, for example in relation to the quality of reports. Under the contract, “service credits” (or penalties) can be applied where Atos has not met the expected service level. In 2012, the National Audit Office reported that only 10% of the service credits triggered had been applied, and criticised DWP for not seeking “adequate financial redress for underperformance”.⁹²

Claimants’ dissatisfaction with the service provided by Atos

60. Our 2011 report set out a number of issues which were giving rise to claimant dissatisfaction with the service Atos provided:

- Problems in Atos call centres resulting in claimants facing long call waiting times;
- Overbooking of appointments, which meant that claimants were sometimes sent away unseen;
- Inaccessibility of Atos assessment centres for wheelchair users and inadequacy in meeting other special needs arising from disabilities or health conditions;
- Rushed appointments and claimants feeling that they were not given sufficient opportunity to explain the impact of their condition and/or Atos healthcare professionals failing to engage or interact properly with the claimant; and
- Claimants feeling that the impact of their health condition or disability on their daily lives had not been accurately assessed.⁹³

Professor Harrington’s first independent review focused on similar concerns.⁹⁴ The evidence that we received for this inquiry, as well as the experiences that claimants shared with us during the public meeting in Newcastle, indicated that a number of these issues still

91 Work and Pensions Committee, [The role of incapacity benefit reassessment in helping claimants into employment](#), paras 82-84

92 National Audit Office, [Department for Work and Pensions - Contract Management of Medical Services, Report by the Comptroller and Auditor General](#), October 2012, Session 2012-2013, HC 627, Summary, para 8, and part 3

93 Work and Pensions Committee, [The role of incapacity benefit reassessment in helping claimants into employment](#), Chapter 3

94 Professor Malcolm Harrington, [An Independent Review of the Work Capability Assessment – year one](#), November 2010

remain.⁹⁵ A further concern raised in both our inquiries related to claimants being discouraged by Atos from bringing companions into assessments and/or companions not being allowed to participate when present, despite the guidance stating that this was permitted.⁹⁶ Dr Litchfield’s review recommendations included improving: the layout of the assessment rooms; and the guidance on claimants being able to bring companions into the assessment.⁹⁷

Expertise of Atos assessors

61. Witnesses have also suggested that assessors need to have greater specialism in conditions which are particularly difficult to assess, such as progressive and fluctuating conditions and mental and cognitive health. Mental health charities and Z2K argued that the WCA would produce more appropriate outcomes for claimants with mental health conditions if HCPs had appropriate mental health expertise, due to the complex nature of mental health problems and because claimants may find it difficult to communicate the full effects of their conditions.⁹⁸

62. Atos’s view was that their assessors were already “highly qualified” and that they needed a “breadth of experience” rather than being specialists in one area of medicine. Dr Graham pointed out that many claimants presented with multiple conditions, not just a single illness or disability. HCPs therefore needed to be able to assess the functional impact of all of these conditions effectively.⁹⁹

63. James Bolton from DWP agreed with Atos: he emphasised that the WCA was a functional not a diagnostic assessment. However, although a specialist would not be brought in to assess an individual based on their condition, “appropriate knowledge” was available within the organisation and a case could be referred to a colleague if an individual assessor did not feel confident to deal with it.¹⁰⁰

64. Following a recommendation in Professor Harrington’s first review, DWP introduced Mental Function Champions from May 2011, to “spread best practice amongst Atos healthcare professionals in mental, intellectual and cognitive disabilities”.¹⁰¹ Atos told us that they had had 60 Champions at one point, although the number had since dropped. Nevertheless, since January 2014, Champions had dealt with 4,500 calls from assessors.¹⁰²

95 See for example [Qc330-337](#) (on overbooking policy); National Rheumatoid Arthritis Society ([WCA0174](#)) para 1.2, and Inclusion London ([WCA0182](#)) para 3.25 (on accessibility of assessment centres); Crisis ([WCA0158](#)), para 2.6 and National Autistic Society ([WCA0150](#)), para 4.8 (on rushed assessments); and Action for ME ([WCA0096](#)), para 4.7 and Disability Benefits Consortium ([WCA0173](#)) paras 38 and 45 (on claimants feeling that they did not have an adequate chance to explain the effect of their condition).

96 Oral evidence taken on 18 May 2011 on Incapacity Benefit reassessment, HC 1015-I, [Q90](#); National Autistic Society ([WCA0150](#)) paras 5.1-5.5

97 Dr Paul Litchfield, *An Independent Review of the Work Capability Assessment – year four*, December 2013, Chapter 4, para 40

98 Centre for Mental Health, Hafal, Mental Health Foundation, Mind, Rethink Mental Illness, Royal College of Psychiatrists, Scottish Association for Mental Health, ([WCA0142](#)) paras 25-26; and Z2K ([WCA0119](#)) paras 35 and 36

99 [Q361](#)

100 [Qc472-3](#)

101 Professor Malcolm Harrington, *An Independent Review of the Work Capability Assessment – year one*, November 2010, Chapter 5, para 47

102 [Q361](#)

Dr Litchfield said there was evidence that they were being used by staff.¹⁰³ However, Mind believed that they had not made much of a difference.¹⁰⁴

65. Dr Litchfield recommended that the training for HCPs in mental health should be reviewed and that DWP should “strengthen its requirements for HCPs working on the contract to have suitable and sufficient previous experience of dealing with people with mental health problems so that they can contextualise their findings at assessment.” In response, DWP said that “suitable and sufficient” was “open to interpretation” and that it would be undertaking further work to establish whether it agreed with the principles behind the recommendation.¹⁰⁵

Quality of reports

66. Reports produced by Atos are audited by both DWP and Atos. Atos is subject to a “quality target” of at least 95% of its reports being of an acceptable standard. Reports are graded A to C.

- A grades mean the assessment fully meets the required standards;
- B grades mean some improvements are needed in the assessment report; and
- C grades mean the report is deemed to be unacceptable and does not meet the required standards.¹⁰⁶

95% of reports should therefore be graded at A or B. The Committee of Public Accounts has criticised the target for not being “particularly challenging”.¹⁰⁷

67. On 22 July 2013, DWP announced that an audit had “identified a reduction in the quality of written reports which are produced by Atos following assessments.” Atos had been instructed to “immediately enact a quality improvement plan”, which would involve retraining and revaluation of Atos assessors and 100% audit of reports produced by assessors who were below the required standard.¹⁰⁸ DWP has since reported that the improvement plan has led to “some real progress made by HCPs to meet the required standards.”¹⁰⁹

Concerns about targets for assessment outcomes

68. During our 2011 inquiry, some witnesses claimed that Atos assessors were encouraged through targets within the DWP contract to find people fit for work. DWP made clear at the time that this was not the case and that the Medical Services Agreement “does not include any provisions either from the Department or from Atos Healthcare to incentivise

103 Dr Paul Litchfield, [An Independent Review of the Work Capability Assessment – year four](#), December 2013, chapter 7, para 4

104 [Q38](#)

105 Dr Paul Litchfield, [An Independent Review of the Work Capability Assessment – year four](#), December 2013, Chapter 7, para 25; and DWP, [Government’s Response to the year four independent review of the Work Capability Assessment](#), March 2014, Chapter 7, para 9

106 DWP ([WCA0196](#)), para 147

107 Committee of Public Accounts, Twenty-third report of session 2012-2013, [Department for Work and Pensions: Contract management of medical services](#), HC 744, para 13

108 HL Deb, 22 July 2013, [col WS151-52](#)

109 DWP ([WCA0196](#)), para 155

health care professionals to find claimants undergoing the WCA fit for work". Atos confirmed that, contractually, it is paid for the number of satisfactory assessments it completes, not on the basis of the results of those assessments.¹¹⁰ However, concerns seem to prevail amongst claimants that there are targets for outcomes.

69. Kaliya Franklin, a witness to this inquiry, explained how, even though targets do not technically exist, "statistical norms" arising from regional and national comparisons of assessment outcomes produced by individual assessors may have the effect of giving assessors the impression that they are required to produce outcomes that meet an expected pattern. Assessors whose outcomes lie outside the norms may become subject to 100% audit of their assessments. She believed that assessors see the 100% audit as punitive, and that the norms therefore act as a "de facto target system". She argued that, as a result, the WCA is a "norms-referenced system".¹¹¹

70. We put these concerns to Atos witnesses. They acknowledged that this monitoring system is in place but confirmed that they have "no targets whatsoever". The purpose of the monitoring system was to ensure consistency of outcome for a claimant regardless of which assessment centre they visited, on what day, and which assessor they saw. Dr Graham of Atos Healthcare told us they went to great lengths to try to ensure assessors understood the purpose of the review system and made clear that, where an individual assessor's outcomes differed from the expected norm, this would only be identified as a problem to be addressed if the quality of the reports produced was inadequate.¹¹² We also asked Professor Harrington whether he had seen any evidence of Atos assessors being under pressure to reach targets. He told us:

They say not, and wherever I have gone anywhere they say not. This is purely anecdotal, but there was one Atos assessment centre I went to where the bosses walked out and I was left with a couple of the assessors having a cup of coffee at the end of the session, and they told me they were under pressure. That does not prove anything.¹¹³

71. It is very difficult to assess the extent to which those who implement a particular policy or deliver services believe there are targets, even where these do not officially exist, and what impact these impressions might have. It is necessary to have monitoring systems in place which throw up results from assessors which are significantly different from their peers, to ensure that claimants are treated fairly and consistently. However, it is also very important that claimants regain confidence in the objectivity and accuracy of the WCA. DWP should be alert to the risks which norms-based monitoring may create in this respect when agreeing auditing arrangements with the new provider.

110 Work and Pensions Committee, *The role of incapacity benefit reassessment in helping claimants into employment*, para 86

111 Kaliya Franklin ([WCA0129](#))

112 [Qq381-387](#)

113 [Q219](#)

Backlog in carrying out WCAs

72. DWP told us that there were 700,000 cases referred to Atos which were awaiting WCAs being completed: 390,000 were new ESA claimants; 230,000 were existing ESA claimants awaiting reassessment; and 80,000 were Incapacity Benefit claimants awaiting reassessment for ESA. The IB migration was due to be completed by April 2014 but this target had been missed; DWP told us that a million IB claimants had been assessed to date; 145,000 were yet to commence the migration process at September 2013; and 77,000 had begun the migration process but not completed it.¹¹⁴

73. Atos's explanation for the reasons for the backlog were:

- Under-estimates in DWP referral forecasts of the impact of regional variations, particularly affecting London and the home counties; and lack of flexibility within Atos to respond.
- The duration of the assessment had increased. One of the causes was changes recommended in the first Harrington Review, particularly the introduction of the “personalised summary statement” to supplement the box-ticking of descriptors. DWP had insisted that these changes should be “time-neutral” despite Atos's reservations about whether this was realistic. Atos was contractually obliged to implement such changes. It should be noted that in evidence to this Committee in March 2012 the then Minister for Employment gave this as a reason for a backlog which was then emerging, but which he stated was on track to be cleared by summer 2012.¹¹⁵ If it is the case that operating this relatively modest change remains problematic two years on, this is a matter for concern. It is important that this be resolved before a new contractor takes over.
- Capacity issues, arising from an attrition rate of 27% for assessors, and difficulty in recruiting sufficient additional assessors to accommodate increased flow, because of the negativity around Atos and the WCA.¹¹⁶

74. The Minister agreed that Atos had suffered from capacity issues, partly because of the number of its staff who had left “because of the abuse and threats”. Jason Feeney, the DWP Benefits Director, told us that the backlog had built up because Atos had not been able “to deliver the quality we want at the capacity we want”. As a result, the IB migration had been slowed down to around 5,000 referrals a month and reassessments of existing ESA claimants had also been reduced. In contrast to Atos, DWP had improved its timescales at both ends of the claims process: the time taken to refer a claim to Atos had reduced from 60 days to 28 days (in 93% of cases) since last autumn and decision-making on eligibility had reduced from 42 days to 12-14.¹¹⁷

114 [Qq455-8](#) and DWP [supplementary written evidence](#)

115 Oral evidence taken on 19 March 2012 on the Work Programme, HC 1903-i, [Qq4-9 and 29](#)

116 [Qq294; 316-322](#)

117 [Qq452-4; 458-9](#)

Atos's early exit from the contract

75. In March 2014, DWP and Atos decided to end the WCA contract six months early and a settlement has now been reached for Atos to exit the contract in February 2015. Atos told us that this had been “agreed mutually”, with both DWP and Atos coming to the conclusion that it was time for them to exit.¹¹⁸ The Minister’s view was slightly different: he said that, because it had become clear that Atos, DWP and the public lacked confidence in Atos’s ability to “perform what we were asking them to do”, he had come to the conclusion that “it was best to negotiate Atos an exit”. He had therefore reluctantly asked officials to negotiate with them, although breaking the contract “was the last thing I wanted to do”, given its size and complexity.¹¹⁹

76. Atos told us that, in fact, they had decided some time ago not to re-bid for the new contract which was then due to be introduced in August 2015. A number of factors led them to go beyond this and seek the early exit: the key ones were the “very toxic” environment in which their staff were being asked to work, including threats and security incidents; the lack of public understanding of the separate roles of Atos, DWP and tribunals in the process, leading to Atos being blamed for withdrawal or refusal of benefit; and the contract becoming less viable financially.¹²⁰

The new contract

77. DWP expects to award a contract to a new provider in October 2014. It will again be with a single provider. The Minister said “the most effective way to stabilise and then increase delivery is to bring in one national provider to deliver the Work Capability Assessment, initially using elements of the Atos infrastructure”, although “in the longer term” he remained committed to moving to multiple providers to increase competition. He said that his “absolute priority for the new provider will be to deliver the best service possible for claimants, increase the volume of assessments carried out and reduce waiting times”.¹²¹ He was very clear that the award of the new contract would not be “based on cost alone”, and he believed that this meant that it was bound to cost more.¹²²

78. The Minister told us that his preference for the new contract would have been “to start completely from scratch” but this would not now be possible because of the short time available to put a new contract in place before Atos withdraws. The new contract would have to be for three years, to make it viable for the new provider. The complete redrafting of the contract would therefore have to wait until 2018.¹²³ DWP had decided that the new contractor would “run alongside” Atos for six months from October 2014, because switching overnight would be “a catastrophe”. The new provider will also use Atos’s existing IT system and many Atos staff were expected to move to the new provider.¹²⁴

118 [Q282](#)

119 [Q447](#)

120 [Qq295, 323-325, 402](#)

121 HC Deb 27 March 2014, [col 56-57WS](#)

122 [Qq448 and 467](#), and DWP [supplementary written evidence](#)

123 [Qq463-467; 482](#)

124 [Qq461](#) and DWP [supplementary written evidence](#)

79. Atos was very clear that the “toxicity” surrounding the WCA would not disappear simply by taking on a new provider of the assessment. Lisa Coleman told us: “it would be massively over-simplistic to say that a new provider is going to fix all of the issues. It is very difficult to separate the private provider from what the policy is [...] other things would definitely need to happen.”¹²⁵ When we put this to the Minister, he told us that if it was a case of simply “rebranding” with a new provider, that would not solve the problems, but DWP and the new provider intended to “learn from the shortfalls of the previous way it operated”.¹²⁶

80. Atos has become a “lightning rod” for much public dissatisfaction with the benefit decisions people receive. This is unlikely to change if the WCA is simply “rebranded” by moving to a new provider, who will inevitably face a huge challenge in delivering the new contract. We recommend that the Government takes steps to communicate clearly to claimants, the wider general public and the media, that it is DWP which decides on benefit eligibility, not the contracted provider of the WCA, and that the face-to-face assessment is just one part of the decision-making process.

Service standards and effective monitoring

81. In our 2011 report on IB reassessment, we expressed concern about whether there were sufficient levers within the DWP contract with Atos to ensure that it “gets the assessment right first time”. We recommended that, when the contract was re-let, DWP reviewed the performance indicators and ensured that significant financial penalties were built in.¹²⁷ DWP argues that there are already “significant service credit penalties” in the existing contract with Atos and that these have been applied when necessary. The Minister confirmed that the new contract would contain clear service standards and penalties would be specified. However, he also intended to include incentives to encourage the new provider to go beyond the contract terms where possible.¹²⁸ This is an important point. Given the high degree of negativity which surrounds the existing WCA contract, it is difficult to see that taking it on would be immediately attractive to new providers. The inclusion of incentives in the new contract might make it more appealing.

82. To ensure that the new performance standards are rigorously monitored, the Minister said that DWP staff would now be embedded with the new provider, to increase the Department’s day-to-day understanding of its operations and ensure a more “joined up” approach. He explained that proper account would be taken of the fact that the new provider, through no fault of its own, would inherit a backlog of referrals and therefore part of the new contract would be “a feasible, sustainable recovery plan”.¹²⁹

83. Although some progress has been made, concerns remain about the accessibility of Atos assessment centres, the overbooking of appointments, and the manner in which some claimants are dealt with by assessors. We recommend that DWP specifies exacting service

125 [Q324](#)

126 [Q540](#)

127 Work and Pensions Committee, [The role of incapacity benefit reassessment in helping claimants into employment](#), para 93

128 [Q462](#)

129 [Qq450, 465-8](#)

standards relating to these aspects of the claimant's experience of the WCA in the new contract. The Minister made clear that the Government is willing to pay more for a service that meets the standards that claimants and taxpayers are entitled to expect. We welcome this acknowledgement that, as assessments are to remain part of the welfare system, they should be adequately funded.

84. If claimant confidence in the process is to be restored, the new contractor will need to demonstrate that its staff have the expertise necessary to carry out effective assessments of claimants presenting with the more difficult conditions, including those which are progressive, fluctuating or relate to mental and cognitive health. We support Dr Litchfield's recommendation that assessors should have suitable and sufficient experience in mental health. We recommend that this should be set out on the face of the contract and that DWP extend this to other conditions which are acknowledged to be difficult to assess.

Balancing volume and quality of assessments

85. Dr Bob Jones, an Atos HCP, told us that new arrangements were now in place allowing HCPs time "to do the work to a higher, more professionally satisfying standard." He said that the current rate of assessments was around 5 per assessor per day and that most HCPs would regard 6 reports as the right balance between productivity and quality. However, he believed that a new contractor would be under pressure to deliver 8 or more reports per assessor per day.¹³⁰ Atos confirmed that the current rate was 5.6 a day, although there had been a period when assessors were doing up to 9 day. If nothing in the policy or delivery model for the new provider changed, Atos believed that 5.6 would be about the right level.¹³¹

86. There have been fundamental problems with the current WCA contract in terms of meeting the requirements on throughput and quality. The current backlog of 700,000 cases awaiting assessment is unacceptable. People with health conditions and disabilities should not be left for months with uncertainty about their benefit entitlement. The fault does not lie with Atos alone; DWP has changed the contract a number of times and its own forecasts of referral levels have sometimes been inaccurate. DWP should also have done more to manage the contract effectively, to prevent the problems which have caused detriment to claimants occurring in the first place.

87. The new WCA contract needs to balance the quality of assessment reports with specified levels of throughput of referrals which avoid backlogs and delays to claimants. Achieving this balance will depend heavily on DWP providing accurate forecasts of referral levels, as well as the efficiency of the provider. To ensure transparency, we recommend that DWP publishes the forecast levels of referrals which will be specified in the new contract. These will need to include different levels to take account of: the initial

130 Dr Bob Jones ([WCA0203](#)), paras 8 - 12

131 [Qq374-376](#)

period when the backlog is being cleared; the period when the IB reassessment is being completed alongside new claims continuing; and then the period when steady state is achieved and only ESA new claims and reassessments of existing claims are being processed.

88. We recommend that DWP takes all necessary steps to assure itself that the new provider has the capacity to deliver both quality and quantity of assessments. Performance indicators should be challenging and transparent and financial penalties should be applied if specified standards are not met. However, given the extreme negativity around the existing contract, the WCA is unlikely to appeal to the few private contractors with the necessary capacity to take it on. DWP's willingness to offer incentives in the new contract, as well as imposing penalties, is therefore welcome.

89. DWP also needs to demonstrate that it has sufficient expertise and capacity to manage a contract of this size and complexity, to ensure value for public money and that claimants receive an acceptable level of service. This does not appear to have been the case with the Atos contract. If this capacity does not currently exist, we recommend that it be developed as a matter of urgency, bringing in expertise from other parts of Government if necessary. We welcome the Government's plans, in the longer term, to bring in multiple providers. This makes it even more important that DWP should develop its contract management expertise. Once the new contractor has been selected, we recommend that DWP make public the cost of the contract to the public purse (and how far that differs from the previous contract), the way payments will be calculated, and the basic service standards, including the average number of assessments to be carried out per assessor per day. Greater transparency on such matters would avoid some of the controversy which has dogged this benefit. The Government may also wish to take this opportunity to consider whether, in the light of the negativity around the delivery of the face-to-face assessment by a private provider, it would be more appropriate for the assessment process to be taken back in house.

6 Mandatory reconsideration and appeals

90. In our 2011 report on IB reassessment, we expressed concern about the high number of ESA appeals.¹³² In recent years, the proportion of ESA decisions appealed against, and the proportion of those that are overturned on appeal, has remained high: between April 2012 and March 2013, around 35% of fit for work decisions for ESA new claims were appealed against, and 33% of these were overturned on appeal. This equates to just over 1 in 10 initial fit for work decisions being reversed at tribunal.¹³³ In 2013-14, 232,639 appeals were lodged against ESA decisions. This clearly involves considerable expense to the public purse: the average cost of an appeal is estimated at £248;¹³⁴ and in 2013-14 the total cost to DWP of appeals was £69.9 million.¹³⁵ We were therefore keen to revisit this area, and to consider the steps the Department has taken to try and reduce the need for a large number of appeals.

Mandatory reconsideration

91. Mandatory reconsideration (MR) was introduced in April 2013 for Universal Credit and Personal Independence Payment claims, and in October 2013 for all other DWP administered-benefits and child maintenance cases, including ESA. Prior to its introduction, those wishing to challenge DWP's decision could immediately lodge an appeal with HM Courts and Tribunals Service (HMCTS). The introduction of MR means that those wishing to challenge a decision must ask DWP to reconsider it first, and only when DWP has done so may the person then proceed to appeal if they remain dissatisfied.¹³⁶ As part of this inquiry, we considered what impact the introduction of MR was having on those who had gone through the WCA process and wished to challenge DWP's decision. Some of the issues raised, and the recommendations we make, are equally applicable to the reconsideration of other DWP decisions.

92. DWP has stated that MR was introduced to:

- resolve disputes as early as possible;
- reduce unnecessary demand on HMCTS by resolving more disputes internally;
- consider revising a decision where appropriate;
- provide a full explanation of the decision; and

132 Work and Pensions Committee, *The role of incapacity benefit reassessment in helping claimants into employment*, para 146

133 DWP, *ESA: outcomes of WCAs, Great Britain - tables*, June 2014, table 3

134 Ministry of Justice, *Tribunals statistics quarterly: January-March 2014 - tables*, June 2014, table 1.4; [Q123](#)

135 HC Deb 7 July 2014, [col 103w](#). This breaks down as £28.7 million in DWP operating costs and £41.2 million paid by DWP to HMCTS for appeals handled in excess of the volume for which baseline funding was provided.

136 DWP ([WCA0202](#)) paras 45-51

- encourage claimants to identify and provide any additional evidence that may affect the decision, so that they receive a correct decision at the earliest opportunity.¹³⁷

93. HH Judge Robert Martin, President of the Social Entitlement Chamber of the First-tier Tribunal, believed that MR was based on a “false premise” as, prior to its introduction, DWP already reconsidered every decision that went to appeal. This information was also provided to us by the then Minister for Employment in March 2012, who stated that virtually all appealed decisions were already going through reconsideration, before it became mandatory.¹³⁸ Judge Martin argued that the introduction of MR was of “dubious advantage”, as the claimant now had to make two applications (one for reconsideration and one for an appeal to HMCTS), whereas under the old system they only had to make one. The only advantage he saw to its introduction would be if it led to “a much more rigorous reappraisal by the Department of its decisions.”¹³⁹ Jason Feeney told us that reconsideration of decisions was now a “much more rigorous, independent process”, as it was “more focused on getting further medical evidence where it is needed” and because it was now undertaken by independent teams in different locations to the original decision-makers.¹⁴⁰

94. Judge Martin also believed that the introduction of MR, rather than leading to a justified reduction in appeals, might discourage claimants who might have had “winnable” cases from appealing, because they found the process too onerous. He argued that it was “crucial” that research be undertaken into claimant behaviour in this respect.¹⁴¹ Z2K and Citizens Advice, although not against the principle of MR, were concerned about how it was operating in practice.¹⁴² These concerns are considered below.

Effectiveness of the policy: impact on the number of appeals

95. The most recent statistics show that there has been a large reduction in the number of appeals against ESA decisions received by HMCTS: in January to March 2014 there were 11,455 ESA appeal receipts, compared to 109,033 in the same period for the previous year. This represents a reduction of 89%.¹⁴³ Kevin Sadler, Director of Civil, Families and Tribunals, at HMCTS, told us that they were still working with DWP to understand the reasons for the reduction, but DWP operational decisions about slowing down the WCA process had affected the number of appeals: “If they make fewer decisions, we get fewer appeals.”¹⁴⁴

96. The Minister acknowledged that there were “lots of different reasons” for the reduction in the number of appeals. In the absence of a proper analysis at this stage, he was unable to say whether it was entirely down to the introduction of MR, but he was hopeful that it was at least in part down to changes that had been made to assessments. He assured us that

137 DWP, [Appeals Reform: An introduction](#), August 2013, p 4

138 Oral evidence taken on 19 March 2012 on the Work Programme, HC 1903-i, [Q6](#)

139 [Q96](#) Judge Martin retired from his post as President of the Social Entitlement Chamber of the First-tier Tribunal on 1 June 2014.

140 [Q504](#)

141 [Q98](#)

142 [Q57](#)

143 Ministry of Justice, [Tribunals statistics quarterly: January-March 2014 - tables](#), June 2014, table 1.4

144 [Q109](#)

DWP would be analysing the reasons behind the reduction.¹⁴⁵ Kevin Sadler believed that it was possible that the introduction of MR would reduce the proportion of decisions that are overturned on appeal but pointed out that, because it might also leave the tribunal with only the “most finely balanced cases”, it might not.¹⁴⁶

97. We have previously expressed concern about the high number of appeals against ESA decisions. Appeals are both expensive to the public purse and stressful for claimants and we welcome the introduction of mandatory reconsideration (MR) as a step towards reducing the number of unnecessary appeals. However insufficient information is currently available to allow us to evaluate whether it is likely to have this effect in the longer term. The reduction in the number of DWP decisions, due to temporary operational changes, is likely to have contributed to the significant reduction in appeals shown in the latest statistics, rather than representing a long-term change arising solely from MR. We welcome DWP’s assurance that an analysis of the reasons behind the reduction in appeals will be undertaken.

98. Mandatory reconsideration will be a success if it results in a reduction in unnecessary appeals to HMCTS. We are however concerned that its introduction may deter claimants who were likely to have been successful in their challenge from appealing, because the new dual process is more onerous. We recommend that the Department monitor claimant behaviour, to evaluate whether the policy is having this undesired effect, rather than fulfilling its intended purpose of ensuring a correct decision is reached more quickly and without needing to go to appeal.

Statistics on the operation of the policy

99. Statistics are not yet available on how many requests have been made for reconsideration of ESA decisions, and how many of these decisions were changed as a result. Current statistics on the outcomes of WCAs take account of adjustments to decisions that have been made following reconsideration; however a breakdown of the figures, showing the difference between the outcomes of initial decisions, and the outcomes once readjustments following reconsideration are taken into account, is not provided.¹⁴⁷ DWP has stated that, although data is being collected on the volumes and outcomes of MR, “it is not sufficiently robust and reliable to make available.”¹⁴⁸ DWP told us that it does not yet have a date for publications of the full statistics.¹⁴⁹

100. We recommend that the Department works with the Office for National Statistics to ensure that official statistics on the operation of mandatory reconsideration are published as a matter of urgency. These should include: volumes of reconsiderations received and processed since the policy was introduced; the outcomes of these reconsiderations; the overall impact on ESA outcomes; and the length of time it is taking for reconsiderations to be completed.

145 [Qg420-23](#)

146 [Q181](#)

147 DWP, [ESA: outcomes of WCAs, Great Britain](#), Quarterly official statistics bulletin, June 2014, para 1.1.1

148 HC Deb 8 April 2014, [cols 218-19w](#)

149 [Q509](#); DWP [supplementary written evidence](#)

Time-limits for mandatory reconsideration

101. Statistics are also unavailable on the time it takes for reconsiderations to be completed.¹⁵⁰ DWP does not have a target completion time for reconsiderations and a number of witnesses suggested that a target time or time-limit should be introduced.¹⁵¹ For “straightforward cases”, where it is not necessary for further information to be sought, DWP expects the process to take around 14 days. However, DWP emphasised that it could take longer, especially if additional information is needed, because the Department must allow claimants a month to submit it.¹⁵² Z2K told us that, in its experience, the time it takes “varies greatly from two months to much longer”.¹⁵³ The Minister said that the current time taken was affected by the backlog of ESA reconsiderations which had built up, but that DWP was “working on it.” He reiterated that he would not be setting a time-limit because of the need to allow time for additional evidence to be submitted. His view was: “If we get the decision right, then it is worth the time.” However he wished to speed up the process.¹⁵⁴

102. We acknowledge that DWP often needs to seek additional evidence as part of the reconsideration process, which can be time-consuming, and we agree that it is better for mandatory reconsideration to take a little longer if this results in the correct decision being made. However this should not be an open-ended process and we do not accept that either of these factors preclude DWP from introducing a reasonable time target for completion of reconsideration. The introduction of a time target would also help to drive better performance. We therefore recommend that DWP introduce and report against a reasonable time target for the completion of mandatory reconsiderations.

Eligibility for ESA and JSA during MR

103. Claimants deemed fit for work who request reconsideration of that decision are not able to claim ESA at the assessment rate; instead they can claim Jobseeker’s Allowance (JSA) if they are eligible. (Claimants who are placed in the WRAG and ask for reconsideration on the basis that they should be in the Support Group are paid ESA with the WRAG component during this period.) If, after MR, the claimant appeals to HMCTS, then assessment rate ESA is reinstated.

104. Certain conditionality requirements have always been attached to JSA. As part of the introduction of Universal Credit, all JSA claimants are now required to sign the Claimant Commitment, which requires them to undertake extensive job-search activities, which may be up to 35 hours a week, in return for receiving the benefit.¹⁵⁵ If claimants do claim JSA, they may be sanctioned if they do not fulfil the conditionality requirements. If claimants do not claim JSA, this can cause other problems, including a claimant’s Housing Benefit being

150 [Qq510-13](#); HC Deb 8 April 2014, [cols 218-19w](#)

151 [Q59](#) [Citizens Advice]; Z2K ([WCA0019](#)) para 55, St Mungo’s ([WCA0180](#)) para 2.5

152 HC Deb 25 November 2013, [col 121w](#)

153 Z2k ([WCA0119](#)) paras 51

154 [Qq505-6](#)

155 See Work and Pensions Committee, [The role of Jobcentre Plus in the reformed welfare system](#), paras 39-48 and 76-80

stopped because the local authority has been informed by DWP that the claimant is no longer in receipt of a relevant out-of-work benefit.

105. The Minister for Employment has previously said that “DWP advisers have the flexibility to tailor conditionality to suit a claimant’s circumstances and appropriate guidance is issued to DWP staff in Jobcentres.”¹⁵⁶ Despite this assurance, we have heard a number of reports of claimants being told by JCP advisers that they are unable to claim JSA on the grounds that they will not be able to meet the conditionality requirements because they are not fit for work.¹⁵⁷ This leaves claimants unable to claim either ESA or JSA and therefore financially vulnerable while their case is reconsidered. Jason Feeney told us that not all Jobcentre advisers had been aware of the flexibility to offer tailored conditionality but DWP had recently issued new guidance on this.¹⁵⁸

106. We have also heard reports that claimants are reluctant to claim JSA because they fear it will count against them in the reconsideration of their ESA decision.¹⁵⁹ A number of witnesses also point to the inappropriateness of requiring claimants to claim a fit for work benefit when they are arguing that they are not fit for work.¹⁶⁰ We have also heard that not paying claimants ESA during the MR may have the negative effect of deterring them from submitting further evidence at the MR stage, so that they can proceed to appeal more quickly.¹⁶¹

107. Citizens Advice pointed out that it is “time and resource intensive to move people from ESA to JSA and back to ESA within a few weeks” (with claimants becoming re-eligible for assessment rate ESA once an appeal has been lodged). Moreover, assessment rate ESA and JSA are the same amount of money, so there is no financial saving for the Department (unless it expects fewer people will claim JSA as a result).¹⁶² Therefore, not only is there no obvious saving, but there may be an administrative cost to this policy.

108. The Minister defended this approach: “A decision has been made by the decision-maker that that person is fit for some type of work—and that is the decision”. However it is also the case that claimants have been determined as fit for work during the appeal process, but in that situation they are paid ESA at the assessment rate. The Minister told us that he would look again at the policy.¹⁶³

109. We believe that it is inappropriate that those who have been determined by DWP to be fit for work and who have asked the Department to reconsider the decision are ineligible for assessment rate ESA. Although these people may be eligible to claim JSA, many are reluctant to do so because of the accompanying conditionality requirements. There has also been a problem with some Jobcentre advisers not being aware of the flexibility to modify the attached conditionality appropriately for these claimants.

156 HC Deb, 5 Nov 2013, [col 153w](#)

157 Disabled People against Cuts ([WCA0152](#)) para 60; Spartacus ([WCA0159](#)); Citizens Advice ([WCA0160](#)) para 39

158 [Q521](#)

159 Scope ([WCA0151](#)) para 4.12.1, Citizens Advice ([WCA0160](#)) para 39

160 [Q60](#) [Z2K] Public and Commercial Services Union ([WCA0102](#)) para 19

161 John Slater ([WCA0028](#)) para 2, Citizens Advice ([WCA0160](#)) para 39

162 Citizens Advice ([WCA0160](#)) para 37

163 [Q538](#)

Assessment rate ESA and JSA are the same amount of money, so there is no financial saving for the Department from the policy, and it may in fact cost the Department money due to the administrative burden of moving claimants from assessment rate ESA to JSA during reconsideration, and then back to assessment rate ESA if they decide to appeal. We therefore recommend that claimants deemed fit for work following the WCA process who have requested that the Department reconsider that decision be paid ESA at the assessment rate until they receive the reconsidered decision.

Role of tribunals in improving initial decision-making

Feedback from judges

110. In his independent reviews of the WCA, Professor Harrington pointed to the value of feedback from the tribunals in improving the initial decision-making process, and therefore reducing the number of appeals. In response, in June 2013 HMCTS introduced the provision of “summary reasons” on a “controlled start basis” for ESA cases where DWP’s decision was overturned or upheld. Written summary reasons are provided in the Decision Notice which is issued by the tribunal and sent to both the claimant and DWP after the hearing. This was introduced initially at four tribunals for ESA cases, and since April, summary reasons have been provided nationally in ESA and PIP cases.¹⁶⁴ HH Judge Martin explained: “It is national in that we are running it at those centres where we have the IT support that allows us to use computerised decision notices. The coverage is not 100%, but the majority of centres are now linking up and generating this.”¹⁶⁵

111. Judge Martin believed that summary reasons would not only enable decision-makers and HCPs involved in a particular case to learn what went wrong, but that “it is also possible to aggregate the data to find out whether there are systemic shortcomings.” He was however concerned about DWP being able to handle the volume of information it was receiving through this process. He pointed to the “crucial feature of feedback”, which is “that it should do something”.¹⁶⁶ Richard Mason from the Ministry of Justice agreed that there was “little point” collecting feedback unless it would be used, but he explained that DWP was using the feedback “in training for decision-makers, in reviewing their guidance for decision-makers, looking to identify trends and pulling out useful case studies”.¹⁶⁷

112. DWP acknowledged that communication between tribunals and its DMs about what happens in an appeal is an “important feedback loop”. It explained that it is using the summary reasons “to broaden its understanding as to why its decisions are upheld or overturned, and to identify areas where the approach to decision-making can be strengthened as a part of its continuous improvement work.”¹⁶⁸ The Minister told us that DWP needed to “listen very carefully” to the feedback given.¹⁶⁹ Atos told us that feedback

164 DWP ([WCA0196](#)) para 59 and [Q164](#)

165 [Q164](#)

166 [Q164](#)

167 [Q177](#)

168 DWP ([WCA0196](#)) para 59

169 [Q420](#)

from appeals would be helpful for its assessors but they do not receive this under the current arrangements.¹⁷⁰

113. We welcome the introduction of more extensive feedback from appeals through the provision of summary reasons by tribunal judges. However it is critical that this feedback is used effectively by the Department to improve the initial decision-making process. We recommend that, in response to this report, the Government set out how it plans to handle the volume of information it is now receiving through summary reasons, and how it will analyse and use it to improve the initial decision-making process. We further recommend that feedback from summary reasons is also shared with the new provider of the face-to-face assessment, so that it can be used to evaluate how assessments could be improved.

Efficiency of the appeals process

114. In our 2011 report on IB reassessment, we pointed to the significant delay in appeals being heard, taking on average 21.8 weeks to be disposed of at that time.¹⁷¹ The most recent statistics, for cases disposed of by the Social Security and Child Support Tribunals in the quarter January-March 2014, show that delays are still significant for some claimants: although half of all cases were cleared within 22 weeks or less, the average case clearance time was 25 weeks.¹⁷²

115. HMCTS witnesses explained that the capacity of the tribunal service had been a substantial cause of the delays in the past, However, Judge Martin believed that it now had the capacity to deal with the volumes and had made “tremendous inroads” in reducing the backlog of cases. Kevin Sadler explained that the initial appeal forecasts provided by DWP had been too low, “by a factor of 10”. He said that HMCTS had been working with DWP “ever since to get better forecasts and better management information.”¹⁷³

116. Another change in the process for challenging decisions, introduced at the same time as mandatory reconsideration, is “direct lodgement”. This change was intended to simplify the process and to bring it in line with other appeal processes in HMCTS.¹⁷⁴ Previously, claimants submitted their appeal to DWP, and it was then transferred to HMCTS. Under direct lodgement, claimants must submit a letter of appeal to HMCTS within a month of the MR letter being issued. Once HMCTS has received the required documentation, it will inform DWP that an appeal has been lodged. DWP will then consider the case again and may change the original decision being appealed at any time before the case is heard at the tribunal. It may also object to the appeal, for example if it believes it to be “unreasonably late” or “to have no likelihood of succeeding.”¹⁷⁵

117. DWP must provide a written response to the appeal. A hearing then takes place in the First-tier Tribunal. Kevin Sadler explained that delays in DWP providing its response

170 [Qq389-392](#)

171 Work and Pensions Committee, [The role of incapacity benefit reassessment in helping claimants into employment](#), paras 142 and 146

172 Ministry of Justice, [Tribunal Statistics quarterly: January-March 2014-tables](#), June 2014, table 4.2

173 [Qq90-91](#)

174 DWP, [Appeals Reform – An introduction, August 2013](#), p 4

175 DWP ([WCA0196](#)) paras 53 and 57

promptly had also been a factor in appeal delays. Before MR was introduced, it took nine weeks on average for DWP to provide its submission to a case.¹⁷⁶ A time limit of 28 days for returning a response in benefit cases will be introduced from October 2014 and DWP is currently working to that timeframe.¹⁷⁷ Kevin Sadler believed that “around 10 weeks” was the best outcome you might expect for the age of case at disposal in the tribunal. Based on an even flow of appeals, and with the current capacity, he expected that timescale to be met “often in this financial year”. However, he emphasised that he was “entirely dependent on what DWP send me.”¹⁷⁸

118. Officials explained that, when they receive an appeal, they currently notify DWP in a form sent by post. We challenged the efficiency of continuing to use a hard copy system. Kevin Sadler acknowledged that “in an ideal world with an IT system that did everything I wanted it to” these forms would be sent electronically and, indeed, an electronic appeal form accessible via the internet would also be a goal, if HMCTS had the funding available for this.¹⁷⁹

119. We welcome the efforts to streamline and speed up the appeals process by increasing the capacity of the Tribunals Service, and introducing direct lodgement and a target time for DWP to submit its case to the tribunal. We were, however, surprised to learn that documentation is exchanged between DWP and the Tribunals Service in hard copy through the post, given the Government’s emphasis on the benefits of using the internet for public services. There is clearly further scope for increasing efficiency and improving the service for claimants making an appeal by introducing an online appeal application form and enabling electronic transfer of documents between DWP and the HMCTS. We appreciate that there will be an initial cost, but the return in terms of speed and efficiency would be worthwhile. We recommend that the Government set out the action it intends to take in this respect in response to this Report.

176 [Qq95-96](#)

177 DWP ([WCA0196](#)), para 58

178 [Q135](#)

179 [Qq107-8 and 138](#)

7 Interaction between ESA and employment outcomes

Meeting the employment objectives of ESA

120. When ESA was introduced in 2008, the then Government said that its aim was to enable claimants “to achieve their full potential through work and to help them to gain independence from benefits”.¹⁸⁰ In oral evidence to this inquiry, DWP witnesses said that the aim of the ESA process was to determine whether or not someone is fit for work and that the WCA was intended to help draw a line between people with health conditions and disabilities who can work, and those whom it is not reasonable to expect to work.¹⁸¹

121. In our 2011 report we pointed out that the Government’s main objective for the IB reassessment was to help long-term claimants move back into work.¹⁸² The Government said recently that, as a result of the IB reassessment process, “720,000 more people are now being supported to prepare or look for work”. The latest statistics show that, up to September 2013, 250,000 IB claimants were found fit for work and 470,000 placed in the WRAG, out of 1.23 million reassessments.¹⁸³ It is therefore clearly very important that the right employment support is available for the significant number of people who may have been out of the labour market for some time, as well as new ESA claimants in these categories.

122. Claimants placed in the Support Group are not expected to undertake work-related activity. For those in the WRAG, there is an expectation that they will move into work in the short or medium term, with appropriate employment support. This support is currently provided through Jobcentre Plus, the Work Programme (WP) (the unified mainstream contracted employment support scheme introduced in 2011) or Work Choice, the specialist programme for people with health conditions or disabilities which have a more substantial impact on their capability to work.

Jobcentre Plus support

123. Our report earlier this year on Jobcentre Plus pointed out that over half of all working-age disabled people were either unemployed or economically inactive. Jobcentre Plus is the gateway for referrals to the Work Programme and Work Choice but also provides direct employment support to claimants. We examined the support available to ESA claimants through JCP and identified a relative lack of Disability Employment Advisers (DEAs) within Jobcentres to provide the specialist support which disabled people and people with long-term health conditions require. We regretted the fact that this meant that the vast majority of ESA claimants received only very infrequent support from

180 [Archived DWP content](#), April 2010, accessed 9 July 2014

181 [Qq439 and 443](#)

182 Work and Pensions Committee, *The role of incapacity benefit reassessment in helping claimants into employment*, Chapter 7

183 HC Deb 26 June 2014, [col 319w](#); DWP, *ESA: outcomes of WCAs –tables*, June 2014, tables 10-11

specialist DEAs, which often amounted to no more than two face-to-face interviews per year.¹⁸⁴

Work Programme support

124. In our 2011 report on the IB reassessment, we emphasised the important role the Work Programme would play in meeting the needs of ESA claimants.¹⁸⁵ In our 2013 report on the Work Programme, we examined how effective it was proving to be in providing employment support for ESA and ex-ESA/IB claimants. One of the problems we identified was a lack of accuracy in the ESA decisions: Work Programme providers were finding that a significant number of claimants with a “fit for work” outcome were clearly not able to work. We also observed that the Work Programme’s differential payment system, which was meant to incentivise providers to achieve sustained job outcomes for more disadvantaged claimants, including ESA and ex-ESA/IB claimants, was not having the desired effect. The first set of official Work Programme statistics published in November 2012 showed that a sustained job outcome was achieved for only 0.3% of ESA ex-IB referrals (compared to 3.5% across all payment groups).¹⁸⁶

125. A recent analysis found that only 5% of claimants in the WRAG supported through the Work Programme have moved into sustained work since 2011, against a target of 16.5%.¹⁸⁷ Analysis of the latest Work Programme statistics, covering the period to March 2014, by the Centre for Social and Economic Inclusion, found that, although performance of the Work Programme had improved overall, the only two groups which had not seen an improvement were ESA ex-IB claimants and ESA volunteers. The “new ESA claimants” group showed a substantial improvement; however, ESA claimants overall continue to have low performance; people with a disability are the least successful of the six groups of disadvantaged jobseekers in the Work Programme and are less likely to find sustained employment than lone parents, people over 50, and black and minority ethnic people.¹⁸⁸ Only 1 in 11 new ESA claimants joining the scheme in January to March 2013 achieved three months in work after 12 months (compared to 1 in 5 JSA claimants in the 18-24 age group, and 1 in 6 aged over 25, achieving 6 months in work at the 12 month stage).¹⁸⁹

126. When the Work Programme began in June 2011, only ESA claimants with a short term prognosis (3 months) were referred to it. From October 2012, this group was expanded to include those with a prognosis of up to 12 months. DWP points out that this means that, because WP job outcomes are measured over a two-year period, “many ESA claimants [...] could not possibly have registered a job outcome yet given the timescales required” However, it acknowledges that “we must do better for ESA claimants”.¹⁹⁰

184 Work and Pensions Committee, *The role of Jobcentre Plus in the reformed welfare system*, paras 71-75

185 Work and Pensions Committee, *The role of incapacity benefit reassessment in helping claimants into employment*, Chapter 7

186 Work and Pensions Committee, First Report of Session 2013-14, *Can the Work Programme work for all user groups?*, HC 162, paras 80-89

187 Catherine Hale, *Fulfilling potential? ESA and the fate of the WRAG*, June 2014, Executive Summary [statistic drawn from DWP statistics tabulation tool]

188 Centre for Social and Economic Inclusion, *Work Programme statistics: Inclusion analysis*, 19 June 2014

189 DWP, *Work Programme Official Statistics to March 2014*, June 2014, Summary and Key Findings

190 DWP ([WCA0196](#)) paras 105-109

Work Choice

127. A number of witnesses in our inquiry into the Work Programme pointed out that people with health conditions and disabilities were better served by the specialist disability employment programme Work Choice.¹⁹¹ However, most claimants referred to Work Choice are in fact JSA, not ESA, claimants. The latest statistics show that in 2013-14, out of a total of 27,170 Work Choice referrals, 18,120 were on JSA and only 5,190 on ESA/IB. In the period since Work Choice began in 2010-11, out of 69,440 referrals to Work Choice, 38,980 were JSA claimants and only 10,660 were on ESA/IB. There were 11,950 job outcomes for the JSA group and 3,320 for the ESA/IB group.¹⁹²

Effective assessment of health-related employment barriers

128. As we have made clear, the WCA plays a central role in determining the work-search conditionality placed on claimants. It also has the potential to indicate the level of support that a claimant might need to enter employment. During this inquiry we have tried to assess whether the WCA does this effectively, or whether trying to combine an assessment of employment support needs with a test of benefit eligibility means that neither task is performed effectively.

129. A number of witnesses believed that the WCA did not provide an accurate assessment of an individual's health barriers to employment. Scope argued that "It conflates the idea of what benefit someone should be on with what support people need to move back into the workplace. This is a fundamental flaw". Mind made a similar point.¹⁹³ Witnesses agreed that one solution to this would be to replace the WCA with two tests; one simple test to determine an individual's eligibility for benefit, and another more sophisticated test, to assess their particular employment support needs.¹⁹⁴

130. In this context, it is worth reiterating that when the expert panels involved in the Evidence Based Review assessed WCA outcomes, they identified that 83% of claimants deemed fit for work would need "on average, two or three" adjustments; 50% would need flexible working hours; and 24% would need a support worker.¹⁹⁵ If this is the case, a process needs to be in place to assess what these support needs are and how they can best be provided. When we put this point to DWP witnesses, they were not able to provide any clarity on what the implications of this finding were, in terms of assessment of a claimant's employment support needs.¹⁹⁶

Work-focused Health-related Assessment

131. The support an individual needs to get back to work was previously considered as part of the Work-focused Health-related Assessment (WFHRA). This assessment was carried

191 Work and Pensions Committee, [Can the Work Programme work for all user groups?](#), paras 98-99

192 DWP, [Work Choice Official Statistics](#), May 2014, table 5

193 [Qq5 and 17](#)

194 [Qq84 and 85](#)

195 [Q12](#); Submission from charities involved in the Evidence Based Review of the WCA ([WCA0170](#)), paras 38 and 39

196 [Qq442-3](#)

out by Atos, at the same time as the WCA. It focused on “what the individual was capable of doing and how to manage his/her condition at work” and its purpose was to “explore customers’ views about returning to work, what difficulties they faced in doing this, and what they thought they could do to move back into work.” Based on the WFHRA, the HCP would recommend steps to be taken to improve a person’s functional capacity and to help move them closer to entering employment. A report of the discussion in the WFHRA was sent to the claimant and their JCP adviser, for use in the Work-focused Interviews that claimants in the WRAG are required to attend.¹⁹⁷

132. The Government suspended the WFHRA in July 2010 for two years as it was “not delivering the intended outcomes”. DWP announced in April 2013 that the suspension would continue for a further three years “to properly evaluate the impacts of both the Work Programme and Universal Credit systems.”¹⁹⁸

133. Scope acknowledged that the WFHRA was “one way of having that conversation” about employment support needs, but believed it needed to go further, “in terms of looking at the package of support that people need and a more sophisticated and nuanced approach to exactly what support looks like and how people can access it”.¹⁹⁹ Lisa Coleman from Atos told us that its assessors had found the WRHFA “very useful and enjoyable work”. Although she did not disagree with the decision to suspend it, she believed that it remained important to separate “somebody describing their condition and how it affects them in their daily life” from looking at “the barriers to employment, which can often be different from their particular health conditions”.²⁰⁰

Sharing information with employment support providers

134. As we have noted, claimants deemed fit for work and who then claim JSA are likely to be supported to find work by Jobcentres and/or referred to the Work Programme. Claimants in the WRAG may also be referred to the Work Programme, depending on their prognosis. Work Programme providers have reported receiving little information about those who have been referred to them after making an ESA claim.²⁰¹

135. Professor Harrington recommended in his second review that “DWP consider ways of sharing outcomes of the WCA with Work Programme providers to ensure a smoother claimant journey.”²⁰² This was explored in pilots between July 2012 and August 2013. Although there is now some sharing of information with Personal Advisers in Jobcentres, information is not shared with Work Programme providers. Dr Litchfield pointed out that there were “clear advantages” in sharing the information and recommended that DWP

197 DWP, *Employment and Support Allowance: Customer and staff experiences of the face-to-face Work Capability Assessment and Work-focused Health-related Assessment*, 2010, p 2

198 HC Deb, 25 April 2013, [75WS](#)

199 [Q6](#)

200 [Qq349-351](#)

201 Oral evidence taken on 6 March 2013 on the Work Programme, [Q312](#) [Employment Related Services Association]

202 Professor Harrington, *An Independent Review of the Work Capability Assessment – year two*, November 2012, Chapter 3, para 72

address this issue with “some urgency”.²⁰³ DWP accepted this recommendation “subject to the outcome of further work on feasibility”.²⁰⁴

136. *There is a gap in the current system which means that a claimant’s employment support needs are not being properly assessed as part of the ESA claims process. In particular, claimants should not be found “fit for work” where they would only be able to enter employment if significant adaptations and support were provided. We recommend that DWP urgently reassess where in the process an assessment of health-related employment barriers could most appropriately take place—either by reintroducing the Work-focused Health-related Assessment (WFHRA) as a second stage of the WCA, or at a later stage as an extended version of the Work-focused Interview once the claimant is referred to Jobcentre Plus (or to the Work Programme). In the meantime, we endorse the recommendation made by both independent reviewers, that information obtained through the WCA process should be shared with Work Programme providers and JCP employment advisers.*

137. The effectiveness of employment support for people with disabilities and long-term health conditions has been a concern for us throughout this Parliament. We have closely followed developments since the independent review of such support, carried out for the Government by Liz Sayce, was published in 2011.²⁰⁵ We are conducting a separate inquiry into this area, beginning with an assessment of the effectiveness of the Access to Work programme. We intend to look at specialist disability employment support more broadly once the Government’s expected Disability Health and Employment Strategy, following on from the Sayce recommendations, is published.

203 Dr Paul Litchfield, [An Independent Review of the Work Capability Assessment – year four](#), December 2013, Chapter 2, para 59

204 DWP, [Government’s Response to the year 4 independent review of the WCA](#), March 2014, Annex A, recommendation 1

205 DWP, [Getting in, staying in and getting on: disability employment support fit for the future](#), A review for Government by Liz Sayce, June 2011

8 Redesigning the ESA and WCA process

The case for a fundamental redesign of ESA

138. As we have stated, although we hope that the shorter-term improvements we have recommended will be adopted, we are convinced that a more fundamental approach to improving ESA is necessary. ESA is trying to do two very different things. Because the main purpose is to help claimants “achieve their full potential through work”, much of the design is about identifying those who could work. As a result, not enough thought has been put into helping those whose condition is worsening but is not yet sufficiently advanced to warrant them being placed in the Support Group. However, as our assessment of employment outcomes in the previous chapter makes clear, ESA is not yet achieving its work objectives either. Therefore there is a need for a redesign of ESA.

Weaknesses in the ESA outcome groups

139. One of the key reasons for this ineffectiveness in achieving ESA’s employment objectives seems to us to be that, although the ESA claims *process* is complex, the *outcomes* it offers are too simplistic. As currently designed, the three outcome groups fail to reflect the widely varying needs of millions of people affected by the broadest spectrum of health conditions and disabilities, for whom the functional impacts on their capacity to work will depend on their individual circumstances.

Support Group

140. The Support Group appears to be the outcome group which is most closely meeting its objectives. Claimants in this group are not required to undertake work-search or work-related activity, reflecting the seriousness and longevity of their condition or disability (although they are able to do this voluntarily if they wish).

Fit for work claimants

141. The “fit for work” outcome group includes people who have recovered from a temporary health condition, or who have adapted to a disability, and who will move easily into work with the right support. However, it also includes people who face much greater barriers to finding work. As we have noted above, the expert panel involved in the EBR found that a high proportion of the sample group of claimants found “fit for work” using the existing WCA were identified as needing significant support to enable them to work. Although this support may be available to some, the “fit for work” classification needs to be regarded as conditional on this support being available to claimants with this level of need.

Work-related Activity Group (WRAG)

142. The WRAG is by far the most problematic of the three ESA outcome groups. As currently designed, the WRAG is the default for any claimant who cannot be identified as fit for work, but is not so ill or disabled that they cannot be subject to any work-related conditionality. This means that the spectrum of claimants in the WRAG is very broad—varying from those who are expected to recover from a health condition in three months, to those with progressive conditions which are expected only to worsen.

ESA and Universal Credit

143. Even without the need to address the employment outcome weaknesses in the ESA/WCA process, the benefit would have required reassessment in the next few years in any case, to take account of the introduction of Universal Credit (UC), which will bring together tax credits and existing working-age benefits, including ESA, into a single unified payment. Contributory ESA will remain outside UC but income-related ESA will be merged into it. The timetable for implementing UC has slowed considerably but new claims to UC are expected to be being made nationwide by 2016 and the bulk of existing claimants are expected to be migrated to UC during 2016-17 (although DWP has made clear that it expects about 700,000 ESA claimants in the Support Group to remain outside UC beyond the 2017 date for its full implementation, because of the sensitivities around migrating this particularly vulnerable group).²⁰⁶

144. We agree that an assessment of work capability of some sort is necessary for an out-of-work benefit paid on the basis of ill health and disability, and that eligibility should be based on functionality and not diagnosis. We also agree that this assessment should seek to distinguish between claimants who are unlikely to be able to return to work in the long-term, and those who, with the right support, could return to employment. Nor do we under-estimate the scale of the task involved in determining eligibility for an incapacity for work benefit, which is claimed by millions of people, with a vast range of conditions and disabilities, which may change over time and which affect individuals in different ways.

145. However, the current ESA system is not working as well as it should, particularly in terms of achieving the intended employment objectives for claimants. The ESA outcome groups are too simplistic: the WRAG has become a “catch-all” group for those claimants who do not meet the narrow criteria for being placed in the Support Group, but who are not fit for work. The conditionality attached to the WRAG, and the focus on moving into work in a relatively short period of time, means that this group, as it currently operates, is not appropriate for many of these claimants. Nor does the current WCA provide an accurate assessment of a claimant’s individual health-related employment barriers, or their distance from the labour market.

²⁰⁶ See Work and Pensions Committee, Fifth Report of Session 2013-14, [Universal Credit implementation: monitoring DWP’s performance in 2012-13](#), HC 1209, paras 23

146. *We recommend that the Government undertakes a fundamental redesign of the structure of ESA outcomes. This should focus on identifying changes to the assessment process, to ensure that the health barriers to employment that an individual faces are properly identified. For claimants in the WRAG, proper account needs to be taken of where they are on the spectrum of readiness for work. Work-related conditionality should be matched to the identified employment barriers. The support made available to help the individual move closer to work should be tailored more closely to their individual circumstances. It may be possible to use the different prognosis periods for when a claimant is expected to be fit for work as the basis for varying the conditionality and accompanying support. The redesign process will require a considerable amount of research, and will take time, but sufficient resources should be devoted to it to ensure that a new design is in place before the new multi-provider contract is tendered in 2018. The redesign will also need to take account of the implications for ESA of the introduction of Universal Credit.*

147. *The descriptors used in the WCA, and the way they are applied in the current points-based assessment, are not producing accurate outcomes of functional capacity in the workplace in many cases. The Evidence Based Review was a useful process, but more needs to be done to evaluate the effectiveness of the descriptors and to make them more responsive, particularly for claimants with progressive and fluctuating conditions, and those with mental, cognitive and behavioural difficulties. We recommend that the redesign of the ESA process includes a fundamental reassessment of the effectiveness of the design and application of the descriptors used in the Work Capability Assessment.*

List of conclusions and recommendations

In this List, conclusions are set out in plain type and recommendations, to which the Government is required to respond, are set out in *italic type*.

ESA claims process and outcomes

1. It is too early to predict whether the current trends in ESA outcomes will stabilise. However, we note the recognition within the ESA system that a higher proportion of claimants than initially expected are not fit for work and are therefore eligible for ESA, and that, of these, many need the higher level of benefit and absence of work-related conditionality which the Support Group provides. Nevertheless, it is clear that many claimants still find the process very stressful. Many find themselves in an outcome group which does not reflect their health barriers to employment, because the current system is not sufficiently sophisticated to cope with the wide variety in prognosis and impact which arises from the huge range of conditions which claimants present with. (Paragraph 16)
2. We raise concerns about the current system and set out a number of shorter-term changes which we believe will help ameliorate some of its most egregious flaws. However, our overall conclusion is that the design of the ESA benefit and assessment process is so problematic, particularly in relation to the confusion and limitations of the outcome groups, that its inefficiencies and the detriment inappropriate decisions cause to claimants can only be resolved in a fundamental redesign of the ESA claims process over the next few years. (Paragraph 17)

Improving the claims process: DWP's role

3. *The current ESA process is too long and complex. We agree with Dr Litchfield that it would be improved if DWP itself, and not the assessment provider, issued the ESA50 and decided whether a face-to-face assessment and/or additional evidence was necessary. This would both speed up the process and put the DWP decision-maker at the heart of the process. We recommend that this change be implemented when the new provider starts delivering the WCA.* (Paragraph 25)

Supporting evidence

4. *As part of this new process we recommend that DWP decision-makers (DMs) proactively seek additional evidence, from both health and social care professionals, rather than placing the onus to do this on claimants (although claimants should retain the right to submit evidence with their ESA50 if they wish to do so). DMs are best placed to know whether additional evidence is necessary, whereas claimants may not know what evidence would be most useful or from whom to seek it, and may not be able to afford the significant charges which some GPs and other professionals require. Although this change may lengthen the decision-making period and may incur some additional public expense, this is likely to be balanced by a reduction in the number of appeals, which are expensive, time-consuming and stressful for claimants. DWP should also make clear guidance available to both professionals and claimants on what*

evidence is most useful in the process. This guidance should explain that supporting evidence needs to set out how a condition affects a claimant's functional capacity. DWP might also wish to explore options for providing training on this for GPs and other professionals. (Paragraph 26)

Paper-based assessments

5. *We also recommend that DMs give much more careful consideration to whether a claimant can be placed in the Support Group without having to undergo a face-to-face assessment. Paper-based decisions are quicker, cheaper and less stressful for claimants, and may well be possible for a greater number of claims than is currently the case. However, we do not believe that paper-based assessments are appropriate for placing people in the WRAG, as can currently happen with IB reassessments (but not ESA new claims), because moving a claimant to a lower level of benefit should be based on the widest available evidence, particularly given the additional job-search conditionality which arises from being in the WRAG. We recommend that DWP change this policy urgently so that IB claimants are not placed in the WRAG without a face-to-face assessment. (Paragraph 27)*

Frequency of reassessments

6. *We acknowledge that reassessments are a necessary feature of the ESA system, to ensure that claimants remain in the correct benefit group with the right level of conditionality placed on them. However, reassessments are occurring too frequently, particularly for claimants with progressive conditions and ones which are unlikely to change. They also often take place too soon after successful appeals. Unnecessary reassessments are distressing for the claimant and a waste of public money. We recommend that DWP implements the recommendations of the independent reviewers on reassessment intervals without further delay, and that it looks again at whether its current reassessment criteria are in the best interests of claimants and are a good use of public funds. A speedy decision on this would assist the new contractor to plan its work. (Paragraph 32)*

Communication with claimants

7. *We welcome DWP's acceptance of Dr Litchfield's recommendation that all ESA-related forms and letters should be reviewed. We recommend that DWP improve the way it communicates with claimants, both in writing and in telephone calls. It should ensure that forms, including the ESA50, and letters are user-friendly and in plain English; the language used should be clear, with explanations of the more technical terms; and confusing legal explanations should be in footnotes or annexes rather than the main text. The terms "limited capability for work" (for those placed in the WRAG) and "limited capability for work-related activity" (for those placed in the Support Group) are very confusing for claimants. We recommend that DWP finds more meaningful terminology to use in explaining decisions on ESA claims to claimants. (Paragraph 36)*

8. *Communication with contribution-based ESA claimants placed in the WRAG is particularly important because they need to understand that their ESA will terminate after a year. The consequences for claimants of the 12 month time-limit and the options available to request mandatory reconsideration of the WRAG decision and to apply for income-based ESA at the end of the time-limit should be clearly set out. We recommend that DWP ensure that these claimants receive specific and clear information on the implications of this claim outcome, including when the time-limit starts and when it will end, both in the decision letter and in the Decision Assurance telephone call. (Paragraph 39)*

Appropriateness of the WRAG for people with long-term conditions

9. *More than 80,000 new ESA claimants and IB claimants undergoing reassessment, many of them with progressive conditions, have been placed in the WRAG since ESA was introduced, with a prognosis statement that a change in their functional abilities is unlikely in the longer term. The purpose of the WRAG is to provide work-related support for people who are expected to be fit for work in the short to medium term. Work-related conditionality accompanies this designation. We believe that it is wholly inappropriate to place people in the WRAG if they have a condition which is unlikely to improve and which makes their prospect of returning to work remote. We therefore recommend that DWP changes its practice so that claimants with this prognosis are allocated to the Support Group and not to the WRAG. (Paragraph 43)*

Design and application of the WCA descriptors

10. *We welcome the Evidence Based Review as a step towards evaluating the effectiveness of the WCA descriptors. However we do not believe that the Review was sufficient in itself to lay to rest concerns about the descriptors. There were factors both in the way the Alternative Assessment was piloted, and in how its outcomes were compared with those of the WCA, which limit its value as a comparative test. To help address the limitations of the descriptors in the short term, we recommend that DWP remind both Atos assessors and its decision-makers that they must take proper account, in coming to a decision, of the claimant's ability to undertake an activity reliably, repeatedly and safely. Clear guidance should be issued to HCPs to avoid reporting inferences from a claimant's responses as factual statements of capability (as recommended by Dr Litchfield), and instead to use follow-up questions to ensure that they fully understand the impact of a health condition or disability on a claimant's functionality. In the longer-term, DWP should reconsider the effectiveness of the descriptors as part of the redesign of the system that we recommend in Chapter 8. (Paragraph 58)*

Future delivery of the face-to-face assessment

11. *Atos has become a "lightning rod" for much public dissatisfaction with the benefit decisions people receive. This is unlikely to change if the WCA is simply "rebranded" by moving to a new provider, who will inevitably face a huge challenge in delivering the*

new contract. We recommend that the Government takes steps to communicate clearly to claimants, the wider general public and the media, that it is DWP which decides on benefit eligibility, not the contracted provider of the WCA, and that the face-to-face assessment is just one part of the decision-making process. (Paragraph 80)

Service standards and contract management

12. *Although some progress has been made, concerns remain about the accessibility of Atos assessment centres, the overbooking of appointments, and the manner in which some claimants are dealt with by assessors. We recommend that DWP specifies exacting service standards relating to these aspects of the claimant's experience of the WCA in the new contract. The Minister made clear that the Government is willing to pay more for a service that meets the standards that claimants and taxpayers are entitled to expect. We welcome this acknowledgement that, as assessments are to remain part of the welfare system, they should be adequately funded. (Paragraph 83)*
13. *If claimant confidence in the process is to be restored, the new contractor will need to demonstrate that its staff have the expertise necessary to carry out effective assessments of claimants presenting with the more difficult conditions, including those which are progressive, fluctuating or relate to mental and cognitive health. We support Dr Litchfield's recommendation that assessors should have suitable and sufficient experience in mental health. We recommend that this should be set out on the face of the contract and that DWP extend this to other conditions which are acknowledged to be difficult to assess. (Paragraph 84)*
14. *There have been fundamental problems with the current WCA contract in terms of meeting the requirements on throughput and quality. The current backlog of 700,000 cases awaiting assessment is unacceptable. People with health conditions and disabilities should not be left for months with uncertainty about their benefit entitlement. The fault does not lie with Atos alone; DWP has changed the contract a number of times and its own forecasts of referral levels have sometimes been inaccurate. DWP should also have done more to manage the contract effectively, to prevent the problems which have caused detriment to claimants occurring in the first place. (Paragraph 86)*
15. *The new WCA contract needs to balance the quality of assessment reports with specified levels of throughput of referrals which avoid backlogs and delays to claimants. Achieving this balance will depend heavily on DWP providing accurate forecasts of referral levels, as well as the efficiency of the provider. To ensure transparency, we recommend that DWP publishes the forecast levels of referrals which will be specified in the new contract. These will need to include different levels to take account of: the initial period when the backlog is being cleared; the period when the IB reassessment is being completed alongside new claims continuing; and then the period when steady state is achieved and only ESA new claims and reassessments of existing claims are being processed. (Paragraph 87)*
16. *We recommend that DWP takes all necessary steps to assure itself that the new provider has the capacity to deliver both quality and quantity of assessments. Performance indicators should be challenging and transparent and financial penalties*

should be applied if specified standards are not met. However, given the extreme negativity around the existing contract, the WCA is unlikely to appeal to the few private contractors with the necessary capacity to take it on. DWP's willingness to offer incentives in the new contract, as well as imposing penalties, is therefore welcome. (Paragraph 88)

17. *DWP also needs to demonstrate that it has sufficient expertise and capacity to manage a contract of this size and complexity, to ensure value for public money and that claimants receive an acceptable level of service. This does not appear to have been the case with the Atos contract. If this capacity does not currently exist, we recommend that it be developed as a matter of urgency, bringing in expertise from other parts of Government if necessary. We welcome the Government's plans, in the longer term, to bring in multiple providers. This makes it even more important that DWP should develop its contract management expertise. Once the new contractor has been selected, we recommend that DWP make public the cost of the contract to the public purse (and how far that differs from the previous contract), the way payments will be calculated, and the basic service standards, including the average number of assessments to be carried out per assessor per day. Greater transparency on such matters would avoid some of the controversy which has dogged this benefit. The Government may also wish to take this opportunity to consider whether, in the light of the negativity around the delivery of the face-to-face assessment by a private provider, it would be more appropriate for the assessment process to be taken back in house. (Paragraph 89)*

Mandatory reconsideration

18. *We have previously expressed concern about the high number of appeals against ESA decisions. Appeals are both expensive to the public purse and stressful for claimants and we welcome the introduction of mandatory reconsideration (MR) as a step towards reducing the number of unnecessary appeals. However insufficient information is currently available to allow us to evaluate whether it is likely to have this effect in the longer term. The reduction in the number of DWP decisions, due to temporary operational changes, is likely to have contributed to the significant reduction in appeals shown in the latest statistics, rather than representing a long-term change arising solely from MR. We welcome DWP's assurance that an analysis of the reasons behind the reduction in appeals will be undertaken. (Paragraph 97)*
19. *Mandatory reconsideration will be a success if it results in a reduction in unnecessary appeals to HMCTS. We are however concerned that its introduction may deter claimants who were likely to have been successful in their challenge from appealing, because the new dual process is more onerous. We recommend that the Department monitor claimant behaviour, to evaluate whether the policy is having this undesired effect, rather than fulfilling its intended purpose of ensuring a correct decision is reached more quickly and without needing to go to appeal. (Paragraph 98)*
20. *We recommend that the Department works with the Office for National Statistics to ensure that official statistics on the operation of mandatory reconsideration are published as a matter of urgency. These should include: volumes of reconsiderations received and processed since the policy was introduced; the outcomes of these*

reconsiderations; the overall impact on ESA outcomes; and the length of time it is taking for reconsiderations to be completed. (Paragraph 100)

21. *We acknowledge that DWP often needs to seek additional evidence as part of the reconsideration process, which can be time-consuming, and we agree that it is better for mandatory reconsideration to take a little longer if this results in the correct decision being made. However this should not be an open-ended process and we do not accept that either of these factors preclude DWP from introducing a reasonable time target for completion of reconsideration. The introduction of a time target would also help to drive better performance. We therefore recommend that DWP introduce and report against a reasonable time target for the completion of mandatory reconsiderations. (Paragraph 102)*
22. *We believe that it is inappropriate that those who have been determined by DWP to be fit for work and who have asked the Department to reconsider the decision are ineligible for assessment rate ESA. Although these people may be eligible to claim JSA, many are reluctant to do so because of the accompanying conditionality requirements. There has also been a problem with some Jobcentre advisers not being aware of the flexibility to modify the attached conditionality appropriately for these claimants. Assessment rate ESA and JSA are the same amount of money, so there is no financial saving for the Department from the policy, and it may in fact cost the Department money due to the administrative burden of moving claimants from assessment rate ESA to JSA during reconsideration, and then back to assessment rate ESA if they decide to appeal. We therefore recommend that claimants deemed fit for work following the WCA process who have requested that the Department reconsider that decision be paid ESA at the assessment rate until they receive the reconsidered decision. (Paragraph 109)*

Appeals process

23. *We welcome the introduction of more extensive feedback from appeals through the provision of summary reasons by tribunal judges. However it is critical that this feedback is used effectively by the Department to improve the initial decision-making process. We recommend that, in response to this report, the Government set out how it plans to handle the volume of information it is now receiving through summary reasons, and how it will analyse and use it to improve the initial decision-making process. We further recommend that feedback from summary reasons is also shared with the new provider of the face-to-face assessment, so that it can be used to evaluate how assessments could be improved. (Paragraph 113)*
24. *We welcome the efforts to streamline and speed up the appeals process by increasing the capacity of the Tribunals Service, and introducing direct lodgement and a target time for DWP to submit its case to the tribunal. We were, however, surprised to learn that documentation is exchanged between DWP and the Tribunals Service in hard copy through the post, given the Government's emphasis on the benefits of using the internet for public services. There is clearly further scope for increasing efficiency and improving the service for claimants making an appeal by introducing an online appeal application form and enabling electronic transfer of documents between DWP and the HMCTS. We appreciate that there will be an initial cost, but the return in terms of*

speed and efficiency would be worthwhile. We recommend that the Government set out the action it intends to take in this respect in response to this Report. (Paragraph 119)

Interaction between ESA and employment support

25. *There is a gap in the current system which means that a claimant's employment support needs are not being properly assessed as part of the ESA claims process. In particular, claimants should not be found "fit for work" where they would only be able to enter employment if significant adaptations and support were provided. We recommend that DWP urgently reassess where in the process an assessment of health-related employment barriers could most appropriately take place—either by reintroducing the Work-focused Health-related Assessment (WFHRA) as a second stage of the WCA, or at a later stage as an extended version of the Work-focused Interview once the claimant is referred to Jobcentre Plus (or to the Work Programme). In the meantime, we endorse the recommendation made by both independent reviewers, that information obtained through the WCA process should be shared with Work Programme providers and JCP employment advisers. (Paragraph 136)*

Redesign of the ESA and WCA process

26. We agree that an assessment of work capability of some sort is necessary for an out-of-work benefit paid on the basis of ill health and disability, and that eligibility should be based on functionality and not diagnosis. We also agree that this assessment should seek to distinguish between claimants who are unlikely to be able to return to work in the long-term, and those who, with the right support, could return to employment. Nor do we under-estimate the scale of the task involved in determining eligibility for an incapacity for work benefit, which is claimed by millions of people, with a vast range of conditions and disabilities, which may change over time and which affect individuals in different ways. (Paragraph 144)
27. However, the current ESA system is not working as well as it should, particularly in terms of achieving the intended employment objectives for claimants. The ESA outcome groups are too simplistic: the WRAG has become a "catch-all" group for those claimants who do not meet the narrow criteria for being placed in the Support Group, but who are not fit for work. The conditionality attached to the WRAG, and the focus on moving into work in a relatively short period of time, means that this group, as it currently operates, is not appropriate for many of these claimants. Nor does the current WCA provide an accurate assessment of a claimant's individual health-related employment barriers, or their distance from the labour market. (Paragraph 145)
28. *We recommend that the Government undertakes a fundamental redesign of the structure of ESA outcomes. This should focus on identifying changes to the assessment process, to ensure that the health barriers to employment that an individual faces are properly identified. For claimants in the WRAG, proper account needs to be taken of where they are on the spectrum of readiness for work. Work-related conditionality should be matched to the identified employment barriers. The support made available to help the individual move closer to work should be tailored more closely to their*

individual circumstances. It may be possible to use the different prognosis periods for when a claimant is expected to be fit for work as the basis for varying the conditionality and accompanying support. The redesign process will require a considerable amount of research, and will take time, but sufficient resources should be devoted to it to ensure that a new design is in place before the new multi-provider contract is tendered in 2018. The redesign will also need to take account of the implications for ESA of the introduction of Universal Credit. (Paragraph 146)

- 29.** *The descriptors used in the WCA, and the way they are applied in the current points-based assessment, are not producing accurate outcomes of functional capacity in the workplace in many cases. The Evidence Based Review was a useful process, but more needs to be done to evaluate the effectiveness of the descriptors and to make them more responsive, particularly for claimants with progressive and fluctuating conditions, and those with mental, cognitive and behavioural difficulties. We recommend that the redesign of the ESA process includes a fundamental reassessment of the effectiveness of the design and application of the descriptors used in the Work Capability Assessment. (Paragraph 147)*

Formal Minutes

Wednesday 16 July 2014

Members present:

Dame Anne Begg, in the Chair

Debbie Abrahams
Graham Evans
Sheila Gilmore
Glenda Jackson
Nigel Mills

Anne Marie Morris
Teresa Pearce
Mr Michael Thornton
Dame Angela Watkinson

Draft Report (*Employment and Support Allowance and Work Capability Assessments*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 147 read and agreed to.

Summary agreed to.

Resolved, That the Report be the First Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 3 September at 9.15 am.]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the Committee's inquiry page at www.parliament.uk/workpencom.

Oral evidence taken in Session 2013-14 was reported to the House as HC 1212.

Wednesday 9 April 2014

Question number

Rachael Holmes, Head of Policy Research, Families, Welfare and Work, Citizens Advice, **Tom Pollard**, Policy and Campaigns Manager, Social Inclusion and Rights, Mind, **Donna O'Brien**, Social Policy and Campaigns Advisor, Parkinson's UK, **Anna Bird**, Head of Public Policy and Research, Scope, and **Joanna Kennedy**, Chief Executive, Zacchaeus 2000 Trust

[Q1-88](#)

Wednesday 7 May 2014

HH Judge Robert Martin, President of the Social Entitlement Chamber, First-tier Tribunal; **Kevin Sadler**, Director of Civil, Families and Tribunals, HM Courts and Tribunals Service; and **Richard Mason**, Deputy Director for Civil Justice, Administrative Justice, Coroners, Burials, Cremations and Inquiries, Ministry of Justice

[Q89-182](#)

Wednesday 14 May 2014

Professor Malcolm Harrington CBE, author of the first three independent reviews of the Work Capability Assessment and **Dr Paul Litchfield OBE**, author of the fourth independent review of the Work Capability Assessment

[Q183-280](#)

Monday 9 June 2014

Lisa Coleman, Senior Vice President, Health Market, Atos, **Dr Angela Graham**, Clinical Director and **Helen Hall**, Head of Communications and Customer Relations, Atos Healthcare

[Q281-406](#)

Wednesday 11 June 2014

Rt Hon Mike Penning MP, Minister of State for Disabled People, **Jason Feeney CBE**, Benefits Director, **James Bolton**, Deputy Director, Health and Wellbeing Directorate, and **Iain Walsh**, Deputy Director, Working Age Benefits Division, Department for Work and Pensions

[Q407-544](#)

Published written evidence

The following written evidence was received and can be viewed on the Committee's inquiry web page at www.parliament.uk/workpencom. WCA numbers are generated by the evidence processing system and so may not be complete.

- 1 Action for ME ([WCA0096](#))
- 2 Advice Northern Ireland ([WCA0122](#))
- 3 Advice Plymouth, Plymouth Citizens Advice Bureau ([WCA0179](#))
- 4 Assessing the Assessors ([WCA0139](#))
- 5 Black Triangle Campaign ([WCA0108](#))
- 6 British Medical Association ([WCA0167](#))
- 7 Cardiff Mind ([WCA0056](#))
- 8 Carerwatch ([WCA0082](#))
- 9 Centre for Economic and Social Inclusion ([WCA0181](#))
- 10 Citizens Advice ([WCA0160](#))
- 11 Coalition of Disabled People South Devon ([WCA0118](#))
- 12 Coventry Citizens Advice Bureau ([WCA0130](#))
- 13 Coventry Voices for People with a Disability ([WCA0064](#))
- 14 Crisis ([WCA0158](#))
- 15 Crohn's and Colitis UK ([WCA0100](#))
- 16 Darren Thomas ([WCA0138](#))
- 17 Department for Work and Pensions ([WCA0196](#) & [WCA0207](#))
- 18 Disability Benefits Consortium ([WCA0173](#))
- 19 Disability Rights UK ([WCA0205](#))
- 20 Disability Solutions West Midlands ([WCA0145](#))
- 21 Disabled People Against Cuts ([WCA0152](#))
- 22 Diverse Cymru ([WCA0133](#))
- 23 Dr Bob Jones ([WCA0203](#))
- 24 Dr Stephen Weatherhead ([WCA0137](#))
- 25 Ekklesia ([WCA0184](#))
- 26 Elina Rigler ([WCA0086](#))
- 27 Employment Related Services Association ([WCA0195](#))
- 28 Enable Scotland ([WCA0147](#))
- 29 Epilepsy Society ([WCA0110](#))
- 30 Evidence Based Review Charity Group ([WCA0170](#) & [WCA0201](#))
- 31 Fiona C Campbell ([WCA0058](#))
- 32 Frank Bowron ([WCA0115](#))
- 33 Gipton Supported Independent Living ([WCA0117](#))
- 34 Inclusion London ([WCA0182](#))
- 35 Islington Law Centre ([WCA0166](#))
- 36 Jeanette Traynor ([WCA0032](#))
- 37 Jennifer Leach ([WCA0169](#))
- 38 John D Turner ([WCA0189](#))
- 39 John Lish ([WCA0176](#))

- 40 John Slater ([WCA0028](#))
- 41 Kaliya Franklin ([WCA0129](#))
- 42 Kilburn Unemployed Worker's Group ([WCA0198](#))
- 43 Law Centre (Northern Ireland) ([WCA0178](#))
- 44 Leonard Cheshire Disability ([WCA0132](#))
- 45 London Borough of Lambeth ([WCA0101](#))
- 46 Margot Marron ([WCA0093](#))
- 47 Merton Centre for Independent Living ([WCA0162](#))
- 48 Middlesbrough Welfare Rights Unit, Middlesbrough Council ([WCA0144](#))
- 49 Mind ([WCA0142](#))
- 50 Ministry of Justice and HM Courts and Tribunals Service ([WCA0202](#))
- 51 MND Association ([WCA0149](#))
- 52 National AIDS Trust ([WCA0097](#))
- 53 National Association of Welfare Rights Advisers ([WCA0116](#))
- 54 National Autistic Society ([WCA0150](#))
- 55 National Gulf Veterans and Families Association ([WCA0073](#))
- 56 National Rheumatoid Arthritis Society ([WCA0174](#))
- 57 Nick Dilworth ([WCA0190](#))
- 58 North Belfast Advice Partnership ([WCA0134](#))
- 59 Oxfordshire Welfare Rights ([WCA0068](#))
- 60 Papworth Trust ([WCA0168](#))
- 61 Parkinson's UK ([WCA0154](#) & [WCA0204](#))
- 62 Prospects Services ([WCA0172](#))
- 63 Public and Commercial Services Union ([WCA0102](#))
- 64 Royal College of Nursing ([WCA0143](#))
- 65 Runnymede and Spelthorne Citizens Advice Bureau ([WCA0125](#))
- 66 Sarah Hannan ([WCA0153](#))
- 67 Scope ([WCA0151](#))
- 68 Selby District Citizens Advice Bureau ([WCA0085](#))
- 69 Sense ([WCA0123](#))
- 70 Sheffield Citizens Advice and Law Centre ([WCA0161](#))
- 71 South Lanarkshire Council ([WCA0164](#))
- 72 Southwark Carers ([WCA0135](#))
- 73 Spartacus Network ([WCA0159](#))
- 74 St Mungo's ([WCA0180](#))
- 75 The Aire Centre ([WCA0171](#))
- 76 The Fed Centre for Independent Living ([WCA0146](#))
- 77 The Fit for Work Team ([WCA0187](#) & [WCA0188](#))
- 78 The Work Foundation ([WCA0175](#))
- 79 WCA Action Group ([WCA0199](#))
- 80 West View Advice and Resource Centre ([WCA0192](#))
- 81 Wowpetition ([WCA0165](#))
- 82 Zacchaeus 2000 Trust ([WCA0119](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the Committee's website at www.parliament.uk/workpencom

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2014–2015

First Report	Employment and Support Allowance and Work Capability Assessments	HC 302
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Session 2013–2014

First Report	Can the Work Programme work for all user groups?	HC 162 (HC 627)
Second Report	The role of Jobcentre Plus in the reformed welfare system	HC 479 (HC 1210)
Third Report	Monitoring the performance of the Department for Work and Pensions in 2012-13	HC 1153 (HC (14-15)394)
Fourth Report	Support for housing costs in the reformed welfare system	HC 720
Fifth Report	Universal Credit implementation: monitoring DWP's performance in 2012-13	HC 1209 (HC (14-15)426)
Sixth Report	Fraud and error in the benefits system	HC 1082

Session 2012–2013

First Report	Appointment of the Chair of the Social Security Advisory Committee	HC 297
Second Report	Youth Unemployment and the Youth Contract	HC 151 (HC 844)
Third Report	Universal Credit implementation: meeting the needs of vulnerable claimants	HC 576 (Cm 8537)
Fourth Report	Lifting the restrictions on NEST	HC 950
Fifth Report	The Single-tier State Pension: Part 1 of the draft Pensions Bill	HC 1000 (Cm 8620)
Sixth Report	Improving governance and best practice in workplace pensions	HC 768 (HC 485)

Session 2010–2012

First Report	Youth Unemployment and the Future Jobs Fund	HC 472 (HC 844)
Second Report	Changes to Housing Benefit announced in the June 2010 Budget	HC 469 (HC 845)
Third Report	Appointment of the Chair of the Social Security	HC 904

	Advisory Committee	
Fourth Report	Work Programme: providers and contracting arrangements	HC 718 (HC 1438)
Fifth Report	The Government's proposed child maintenance reforms	HC 1047 (HC 1727)
Sixth Report	The role of incapacity benefit reassessment in helping claimants into employment	HC 1015 (HC 1641)
Seventh Report	Government support towards the additional living cost of working-age disabled people	HC 1493 (HC (12-13)105)
Eighth Report	Automatic enrolment in workplace pensions and the National Employment Savings Trust	HC 1494 (HC (12-13)154)