



**Department
for Work &
Pensions**

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David Linden MP
Glasgow East
House of Commons

21 December 2017

Dear David,

I would like to re-iterate my thanks to you for introducing the Work Capability Assessment debate on 13th December. Also to the members who shared their constituent's experiences and the charities, organisations and individuals who provided briefings and information about their experience of work capability assessments. I look forward to continuing to work with all those that have an interest in this area.

During my speech I committed to write to Members to pick up on any outstanding points that I was not able to answer during my speech.

The outstanding questions fell into the broad themes of:

- Support for those with mental health conditions
- Mandatory Reconsiderations (MR) and Appeals
- The Work Capability Assessment (WCA) process
- Use of forms; and
- Assessment Reform

Taking those points in turn:

Support for those with mental health conditions

A number of you raised issues connected to those claimants who suffer from mental health conditions. As I stated in my speech returning to work can improve mental health, and that is why this Government is committed to ensuring that people with mental health conditions receive effective support to return to and remain in work when appropriate.

However, as you know the numbers of individuals claiming benefits that have a mental health condition has increased over recent years and it is important that the system is set up to support them. All healthcare professionals are given specific training in assessing individuals with mental health conditions and receive continuing professional education in order to remain up to speed with developments in the field of mental health. In addition the Centre for Health and Disability Assessments

(CHDA) have 29 Mental Health Function Champions (MFC's) to support assessors when reviewing evidence. All practitioners have at least 2 years post-registration clinical experience and the MFC's have additional specific experience and/or qualifications in mental health. Assessors also have access to senior clinical leads for advice and guidance on more complex cases.

The premise of the WCA is that eligibility for benefits should not be based on a person's condition, but rather on the way that condition limits their ability to function. As the assessment is a functional one the assessor is trained to understand the impacts of a range of conditions on the claimant's everyday life.

We do however recognise that attending a WCA can be a difficult experience, which is why we do not carry out a face-to-face assessment where there is enough existing evidence to determine benefit entitlement and we have worked closely with CHDA to expand the criteria where further evidence should be requested especially for those with mental health conditions. We encourage all claimants to submit as much evidence as they already have to hand when completing their questionnaire. They can also send in further evidence at any point up to the time of the decision.

We also have safeguards in place for vulnerable claimants. For example if someone is identified as vulnerable and they do not attend their face-to-face assessment, Department for Work and Pensions (DWP) will attempt to contact them by telephone and, if appropriate, arrange a 'safeguarding home visit' before a decision on entitlement is made.

We are committed to supporting individuals whose health condition or disability means that finding them fit for work would trigger substantial physical or mental health risk, but who do not meet the threshold against the WCA functional descriptors. We have specific regulations (Employment and Support Allowance (ESA) Regulations 29(2b) and 35(2)) if there would otherwise be a 'substantial risk' to the mental or physical health of themselves or others. These regulations are intended as a safety-net to protect vulnerable claimants not meeting the descriptors who might not be reasonably be expected to claim Jobseekers Allowance (JSA)/Universal Credit (UC) if found fit for work or expected to do work-related activity if placed in the Work Related Activity Group.

MR and Appeals

To update the figures I provided in my speech, as we now have more recent data, between April 2014-June 2017, over 2.6m ESA (post WCA) decisions have been made, of these just 8% have been appealed and only 5% have been overturned. We introduced the MR to ensure that we can get decisions right as early as possible, to minimise the number of disputes that proceed to appeal. MR enables the Department to provide a clear explanation of the benefit decision; the claimant to further present their case, including providing new evidence; and to change benefit decisions where appropriate at the earliest opportunity

MR is a critical element of our process and it is essential that claimants have confidence in it. Given the anxiety and confusion the 80 per cent figure has caused, we will no longer use this internal measure. We will instead assure quality going forwards by focussing more on the individual claimant journey, looking at what we

could have done better and identifying any training needs and process improvements that can be made throughout the journey.

Our published statistics for ESA show that in October 2017 MRs were cleared in 11 days, but we are working to continue to improve the MR process. Changes to outcomes following MR and appeal have no financial penalties for the assessment provider. We're very clear that just because a decision has been changed at either MR or appeal this doesn't mean the original decision was wrong. Very often further evidence is presented at later stages that wasn't available to the original decision maker (DM) or healthcare professional. We are gaining an increased understanding of why appeals lead to a change decision through use of feedback from our Presenting Officers.

WCA Process

A number of the issues raised related to the WCA process so I thought it would be useful to set out a few key points related to this.

Since CHDA were contracted to conduct ESA/UC assessments in 2015, they have made a number of improvements:

- They have continued to increase the number of healthcare professionals;
- Established a Customer Representative Group which comprises over 30 national disability organisations;
- Appointed a head of Customer Experience;
- Produced videos for their website showing claimants exactly what to expect when they have an assessment, and introducing disability awareness training for clinical and administrative staff (carried out by Disability Rights UK).
- Introduced a telephone support service to help claimants complete their ESA50 questionnaire, including advising about the types of evidence that are useful
- Recruited a team of travelling doctors to enable the completion of specialist assessments in remote locations; and
- Increased the number of MFCs they employ.

The ESA claimant journey time has seen a decrease since CHDA took over the assessment contract, the latest figures (published December 2017) show the median time between referral to the Provider and the assessment report being returned to DWP was 16 weeks in June 2017 compared to 32 weeks in September 2014.

There are processes in place to assure the quality of healthcare professional work and they receive regular feedback on their performance. In addition independent auditors conduct around 700 audits nationally per month. And there is a full complaints handling process in place to ensure that any issues raised by providers are dealt with at the most appropriate level. There is a tiered approach to ensure complaints are escalated as required.

Compensation is not payable, however, a consolatory payment can be considered by either DWP or CHDA depending on who and where the poor customer service was delivered.

If, following Tier 1 and 2 of the complaint process, the claimant is still dissatisfied with the way which the Assessment provider dealt with their complaint, they can then contact the Independent Case Examiner.

Another contractual measure of quality relates to the number of cases the Department returns to CHDA for rework because the assessment report is not considered fit for purpose. The current performance expectation is no more than 0.5% of cases are returned for rework. CHDA have met the contractual requirement each month since the start of the contract.

Fluctuating Conditions

We do recognise the challenges associated with fluctuating conditions and have worked to enhance the training that healthcare professionals receive and ensured that advice in this area is comprehensive. The assessment is not a snap-shot, if a person cannot carry out a function repeatedly and reliably they will be treated as being unable to carry out that function at all. The ESA50 questionnaire directly asks if a person's condition varies in how it impacts on their ability to complete activities over time, and if so to give details of how this affects them as an individual. Of course if a claimant's health significantly deteriorates they can provide further evidence, or indeed request a further assessment.

Recording of Assessments

Members mentioned the possibility of audio recording, healthcare professionals are not required to capture everything said during a consultation. Instead, they listen objectively, capturing information that clearly explains the functional effects of the reported conditions. WCA claimants are able to request that their assessment be recorded, providing they give CHDA advance notice. Requests for audio recording are rare and less than 1% of face-to-face assessments are recorded. It is however an area I'm interested in exploring further, to see if we can undertake any test and learn activity to see how such an approach could benefit the claimant, and the healthcare professional.

I was asked whether we are considering closer alignment between the assessments for ESA/UC and Personal Independence Payment (PIP). As the benefits are for two different purposes (ESA/UC are to supplement income, whilst PIP is to pay for some of the additional costs of a disability) it is appropriate that there are different requirements for accessing each benefit. However as part of our ambitions to improve and reform the system we are looking at opportunities for greater join-up.

Supporting Claimants into Work

A point was raised in relation to taking account of factors such as skills, qualifications, experience and Health and Safety issues. Within the Department we have the work coach role whose focus is on building a positive relationship with claimants, understanding their barriers in moving towards work and how to overcome them. Within this context, they can agree realistic steps towards work with claimants at the outset. They should not require anyone to attend an appointment or undertake an activity where it is not reasonable to do so.

We have recruited 300 additional Disability Employment Advisers, who are actively providing advice and guidance on what works for claimants with disabilities, including those with mental health issues. In addition we have begun recruiting Community Partners, a new role which will bring expert knowledge of disability and health conditions into Jobcentres, including mental health conditions. Our Community Partners can contribute expertise gained working in external organisations, such as charities, and often have "lived experience" of these issues.

Forms

The ESA50/UC50 is a key part of the WCA: it is an opportunity for the claimant to explain how their illness, health condition or disability affects them and their ability to work. It was developed with medical input and groups representing disabled people and is a crucial source of information which helps healthcare professionals to determine whether a face-to-face assessment is necessary, and forms part of the evidence on which DMs will make a fair determination of eligibility for ESA/UC.

We appreciate that the form may not be easy to complete for some people, which is why it makes clear that claimants can ask a friend, relative or representative to help. Assistance can also be sought via Jobcentre Plus who can also refer people on to the CHDA telephone support service, which will provide help completing the ESA50 and give advice on the types of evidence required.

As DWP receives hundreds of thousands of claims for ESA and UC every year from a wide range of people in diverse circumstances, to try and devise one form which best meets the needs of everyone remains a challenge. However, we regularly review and revise the ESA50/UC50 and have worked with a number of charities and stakeholder groups to make changes to the ESA50/UC50. The latest version has been in use since April 2017, and we are working closely with the UC team to look at how we improve further through the use of digital technologies.

We offer a wide range of accessibility solutions for claimants. For our deaf claimants we currently offer textphone and our written communications are available in Welsh language and alternative/accessible formats, such as braille, large print or audio CD.

Assessment Reform

I'm glad that there was a keen interest in our most recent publication, *Improving Lives*, here we have set out our vision, acknowledging the need to test and learn to build our understanding of what works and importantly engage further with stakeholders throughout out this journey.

As detailed in my speech I will be putting in place a series of meetings about PIP and ESA (and UC health journey) so Members and their caseworkers can meet me and the officials in my Department, where we will listen to their concerns, explain the benefits process, highlight the improvements we have made and continue to make.

The first two meetings will take place on 16th and 23rd January. Any members who wish to attend should contact my Private Office on MINISTER.DISABLEDPEOPLE@DWP.GS.GOV.UK or 02032675043.

This letter has been sent to all members who took part in the debate and a copy will be placed in the House Library.



Sarah Newton MP
Minister for Disabled People, Health & Work