



Briefing Paper

Call to action on Work Capability Assessment reform

Background

Employment and Support Allowance (ESA) was introduced in 2008 to replace the existing Incapacity Benefit (IB) for individuals who are unable to work because they are sick or disabled. Eligibility for ESA is determined through the Work Capability Assessment (WCA). ESA is a core component of Government policy and was intended to provide assistance and support to those who, with appropriate support, might be able to work. Until 2014, the face-to-face assessments were carried out by ATOS Healthcare, a private company with which Department for Work and Pensions (DWP) has a long-standing contract for medical assessments.

However, there is now a significant body of evidence that the WCA is failing to assess people's fitness for work accurately and appropriately, with people who are seriously physically and mentally ill being found fit for work and those with acute, transient episodes being assessed as lacking capacity and treated in the same way as those with a longer term prognosis. Appeals against the decisions are around 50 per cent and approximately half of those appeals are being upheld. The cost to the tax payer for this is £50 million alone, with around the same amount being spent on reassessment. The DWP is also now under significant pressure to publish data on the number of people who have died while claiming out-of-work disability benefits.

In 2014, as a result of the concerns raised in relation to the WCA and the performance of ATOS, the DWP negotiated an early exit from the contract with ATOS Healthcare by February 2015. A new provider, Maximus, has now taken on the interim contract which runs until 2018. However, the House of Commons (HoC) Work and Pensions Select Committee's 2014 Report concluded that:

“... simply re-branding the WCA by taking on a new provider will not solve the problems... This will be time consuming and complex but the re-designed ESA assessment processes needs to be in place by the time a completely new contract, involving multiple providers is tendered in 2018” (p.4).

The Society strongly endorses this conclusion and calls for the Government to expedite a full review of the assessment and its processes.

Under the Welfare Reform Act 2007, five annual independent reviews of WCA were commissioned –the first three of these are referred to as the Harrington Reviews; the latter two, as the Litchfield Reviews. Evidence and conclusions from these reviews are referenced through this briefing paper.

Not working?

- On introducing the ESA, the Government predicted that 49 per cent of individuals being assessed would be found fit for work, 5 per cent would be allocated to the support group and 49 per cent to the work-related activity group (WRAG).
- In 2009, 63 per cent of people assessed were found to be fit for work, 26 per cent were assigned to the WRAG and 10 per cent were placed in the support group.
- By 2013, only 34 per cent were being found as fit for work and 47 per cent were entering the support group.
- This had risen even further to almost 50 per cent by 2014. This is a significant increase on the original predictions and a dramatic increase over the 6 years since the introduction of the ESA.

(Source: Litchfield Review, 2014)

The Assessment

WCA assesses physical functioning and mental, cognitive and intellectual functioning on a range of everyday activities according to a number of descriptors. This is initially assessed following the completion of a Limited Capability for Work Questionnaire (<https://www.gov.uk/government/publications/capability-for-work-questionnaire>) that is completed by the individual, who then may be called for a face-to-face WCA with a Healthcare Professional (HCP). If they are judged to not be fit for work and eligible for ESA, they are allocated to either a WRAG to provide them with assistance and support to enable their return to work, or to the support group (where they may look for work but there is no obligation to do so). Individuals considered fit for work are advised that they may be able to claim Job Seekers Allowance and are directed to Jobcentre Plus for support to enter or return to employment.

The WCA was developed throughout 2006–2007 by a group of experts to ensure that those fit for work and those with limited capacity for work could be discriminated on the basis of a 15-point threshold. The effectiveness of the descriptors in achieving this discrimination was assessed by reviewing 300 cases studies and to ensure that the outcomes of the WCA was consistent with expert opinion, the activities and descriptors were revised after two separate case study reviews. The expert group determined a system of scoring of each of the descriptors to enable to assessment to discriminate between individuals based on their scores and the extent to which the threshold was met. However, this scoring system does not allow for sensitive and objective discrimination between individuals with different levels of functional impairment (whether they are physical, mental, cognitive or intellectual) and therefore ‘no valid assumptions can be made about the numerical relationship between other scores and the 15-point threshold’ (Litchfield Review, 2013, p.36).

The Society is extremely concerned at the conclusions of the 2013 Litchfield Review that the WCA was developed with no reference standard and no testing of reliability or validity and minimal involvement from established rehabilitation clinicians. It is simply a tool for sorting individuals on the

basis of a yes/no assessment of eligibility into the three different categories (support group, WRAG or fit for work) for ESA but its underpinning score points are ‘somewhat arbitrary’ (p.37) and give a very misleading impression of scientific validity.

Moreover, there has been no systematic review of the efficacy of the assessment. *An Evidence-Based Review* (EBR) was conducted by the DWP to compare the WCA to an alternative assessment (AA) to inform future decisions regarding the mental, intellectual and cognitive descriptors currently in use. However, no significant difference between the WCA and the various AAs was identified and the DWP concluded that ‘on the whole, the EBR results do not suggest that changes to the descriptors would improve the effectiveness of the WCA’ (Chapter 3, DWP Response to Fourth Independent Review of the WCA).

The (HoC) Work and Pensions Select Committee’s 2014 Report criticised these conclusions citing evidence from the Charities involved in the EBR that the AAs were not completely different assessments but were simply revisions to the WCA descriptors. The AAs was also designed ‘without any financial or statistical assistance and without the opportunity to consult widely, pilot and refine the AA before the DWP commenced testing’ (p.22). It concluded that the EBR was insufficient to adequately address the concerns regarding the descriptors and that the failure to allow adequate development and testing of the AA meant that meaningful comparisons cannot be made.

The HoC Report also highlighted that problems with the ESA process persist despite numerous revisions arising from the recommendations of the Harrington and Litchfield Reviews and many individuals undergoing assessment continue to report a stressful and anxiety-provoking experience. The 2014 Litchfield Review emphasised that any system for the assessment of incapacity needs to reflect the shift from a primarily medically based model to a biopsychosocial model that ‘considers not just capability but also other factors such as skills and readiness for the labour market’ (p.80). This is a view shared by the Society.

The Society believes that well-constructed and scientifically proven psychometric assessments are powerful tools which can be extremely valuable for both individuals and organisations. However, it strongly recommends that the use of psychometric assessments should be based on published technical data, describing the statistical levels of its reliability and validity, and be used only by appropriately qualified assessors.

The Society therefore calls for:

- the introduction of a reliable, valid and fully researched method of assessment to replace the Limited Capacity for Work Questionnaire (ESA 50) and the face-to-face Work Capability Assessment

However, it echoes the recognition in the 2014 Litchfield Review that the establishment of a system to assess the eligibility of a wide range of people with vastly distinct and complex ranges of conditions and disabilities is an enormously difficult task and should not be underestimated. If the current WCA is to be replaced, sufficient time and suitable scientific expertise would be needed to design a reliable and valid new assessment, and should follow serious consideration of the merits of ‘commissioning of the production of the entire assessment from an academic body’ (Litchfield Review, 2014, p.83).

Its administration and evaluation

As outlined above, *the Society strongly recommends that only appropriately qualified assessors should administer, score and interpret psychometric assessments.*

Qualified assessors should have an understanding of the technical qualities required of the assessments sufficient for understanding, but not for construction, and have the necessary knowledge and skills to interpret specific assessments. Fundamentally, qualified assessors have the knowledge they need to evaluate the suitability of assessments for specific purposes. This allows users to make informed decisions about different assessments which may be suitable for a specific purpose and to discriminate between 'good' and 'bad' assessments in terms of psychological and psychometric standards. Given the nature of the assessment required under the WCA to determine capacity for work, the Society believes that the requirement for the assessors to be appropriately qualified and experienced is a fundamental component of an effective overhaul of the current system.

The Society is also extremely concerned regarding the number of reports regarding the appropriateness of the training and healthcare backgrounds of the healthcare professionals and the undue focus within assessments on physical conditions even when a mental health problem is the primary cause of incapacity.

This is also highlighted in the HoC 2014 Report and the 2013 Litchfield Review which received evidence gathered during the Review showing that there was still a significant minority of staff who feel that they have had little WCA training. The 2013 Litchfield Review made clear recommendations on the development of specific training for healthcare professionals on the interview practises for those with mental health conditions, learning disabilities and autism.

In accordance with the HoC Report, the Society recommends the introduction of the use of specialist assessors who are appropriately trained to be able to assess not only physical conditions but more complex conditions, 'including those which are progressive, fluctuating or relate to mental and cognitive health' (p.31). The training should also ensure that the assessors are sensitive to the specific needs of those presenting with complex conditions and understand the support provisions that may need to be made for those individuals and to ensure sufficient comprehension and understanding of the assessment and what is being assessed.

For all of the reasons set out above, assessors need to be supported via appropriate mechanisms for monitoring levels of understanding amongst staff and to ensure levels of knowledge and understanding remain high. The Society is concerned that the current system relies too heavily on the provision of input from GPs, when it is often the individual's psychologist, consultant, allied healthcare professional or social worker that is best placed to provide specialised input in relation to their physical and mental, neurological and cognitive functioning.

The Society therefore calls for:

- The introduction of appropriate training in assessment, scoring and interpretation for the assessors
- The introduction of specialist assessors to assess people with mental, cognitive and intellectual functioning difficulties.
- The introduction of supervision for assessors from qualified clinicians with expertise in rehabilitation, assessment and interpretation.

Those being Assessed

The key concern for the Society is, that by its very nature, those undergoing WCA are highly likely to be hugely representative of the most vulnerable populations in the UK – the elderly, the disabled, those with mental health, and/or neurological and cognitive difficulties. The extent of comorbidity in these populations further exacerbates their vulnerability.

Numerous reviews (see those referenced earlier, including the Litchfield and House of Commons Reviews, and for example:

https://www.rnib.org.uk/sites/default/files/not_working_march_2010_final.pdf;

<http://www.centreforwelfareform.org/library/type/pdfs/work-capability-assessment.html>;

https://www.citizensadvice.org.uk/global/migrated_documents/corporate/wca-5th-review-citizens-advice-response.pdf) have highlighted the significant problems experienced by those undergoing assessment including:

- Difficulties in answering the questions on the ESA50 questionnaire;
- A perception that some healthcare professionals (HCPs) did not listen properly to what was being said;
- An undue focus on physical conditions when mental health was the prime cause of incapacity;
- Doubts about the HCPs' qualifications or experience of working with people with mental health conditions;
- Concerns about the applicability of the WCA to mental health.

(Source: Litchfield Review, 2014, p.57)

Mental health

The 2014 Litchfield Review identified that according to DWP data, the primary condition of almost 50 per cent of those being assessed is now mental health problems; and when comorbidities are included this rises to almost two-thirds.

Moreover, the data outlined highlights that out of the entire support group placements since 2008, 54 per cent were primarily due to mental health conditions and 39 per cent of these were due to 'a depressive episode' or 'other anxiety disorder'. For young people, the percentage has increased most significantly, with mental health conditions accounting for 47 per cent of all young people placed in the support group in 2013. Greater numbers of young people are placed into the support group as a result of risk of suicide or self harm than for any other age group. However, the current system of assessment is not sensitive or responsive enough to recognise that in some instances, individuals initially assessed as falling into this category, may have 'acute and generally self-limiting periods of illness from which they are expected to recover in the near future' (Litchfield Review, 2014, p.53). Placing them in the support group may result in greater negative long term consequences rather than providing appropriate short term support.

The Society strongly recommends that additional evidence for such vulnerable groups should not be obtained from the GP by default. Often it will be their psychologist, consultant, allied healthcare professional, or social worker that is best able to provide accurate input regarding their capacity for work.

Learning disabilities

The 2014 Litchfield Review also referred to increased concern regarding people with learning disabilities and the ESA. 'There are an estimated 1.4 million people with learning disabilities in the UK, many of them of working age and less than 15 per cent are in even limited employment' (p.13). However, the DWP data was not sufficient enough to estimate the number of individuals with learning disabilities that are in receipt of ESA; it was felt likely to be a small proportion that receives ESA directly for this reason. The Review concluded that there was a risk that individuals with learning difficulties are therefore 'hidden' in the system.

The Society is extremely concerned that there are considerable barriers that the learning disabled face in engaging with and navigating the WCA process, where standard forms of communication may not be appropriate. Many people with learning disabilities will give literal answers to questions and neither understand or express subtleties of interpretation. They may wish to please the interviewer and so give what they think is the desired answer rather than one that reflects reality. Those being assessed with learning disabilities report the process as being 'very adversarial'.

As previously stated, the Society is concerned that the current system relies too heavily on the provision of input from GPs, when it is often the individual's psychologist, consultant, allied healthcare professional or social worker that is best placed to provide specialist input in relation to their physical and mental, neurological and cognitive functioning.

Acquired brain injury

Headway, the brain injury association, have published the results of two surveys (2012 and 2015) about the impact of the WCA on people with brain injury on their website – see links below.

<https://www.headway.org.uk/news/wca-improvements-fail-to-impress.aspx>

<https://www.headway.org.uk/news/work-capability-assessment-not-taking-brain-injury-into-account.aspx>

These surveys highlight the failure of the current system to assess, appropriately and sensitively, the impact of brain injury on mental, neurological and cognitive functioning. The rates of negative experiences reported and the number of successful appeals indicates the need for the assessors to undergo specialist training and receive support to ensure that their understanding of brain injury and the challenges it can present is sufficiently developed and maintained.

The Society endorses the conclusions of the HoC Report that the current WCA is a 'one size fits all' approach and is completely insensitive to the complex range of conditions that people may present with. To ensure that a more appropriate and responsive system, that is sensitive to and recognises complex conditions, 'including those which are progressive, fluctuating or relate to mental and cognitive health' (HoC Report, p.53) is established, referral routes for specialist assessment and support must be introduced. The Society believes that it is critical that these referrals are based upon the input from the experts already involved in the health and social care support for the individuals.

Moreover, the means by which this input is obtained needs to be transparent and accessible to ensure that the best available evidence is provided in as timely a way as is possible.

Progressive conditions

There are considerable problems associated with the placing of individuals with progressive conditions in the WRAG. Data from the HoC Report indicates that between October 2008 and

September 2013, almost 12,000 newly assessed individuals were placed in the WRAG with a prognosis of 'two years or more' (meaning unlikely in the longer term). The HoC Report concluded that it is wholly inappropriate to place such individuals in the WRAG and that they should be allocated directly to the support group.

The process also needs to recognise the impact of 'early onset' conditions (such as Dementia) that can impair mental, neurological and cognitive functioning and the individual's fitness for work.

The Society recommends that the enhancement of recent improvements implemented by DWP to ensure that the period of reassessment is based on detailed and accurate specialist reports of the individual's condition and their prognosis.

Other vulnerable groups

This includes those leaving the armed forces, those leaving prison and those leaving long-stay hospitals. Often these groups can present with numerous comorbidities, including mental health problems and neurological and cognitive disabilities, as well as physical disabilities.

To ensure that the process is more responsive and appropriate to this complex range of conditions, the Society calls for:

- The introduction of appropriate referral routes for those with mental, cognitive and intellectual functioning difficulties, with specialist assessment and support.
- The introduction of appropriate periods of reassessment for people with long-term conditions based on specialist advice to accurately reflect the prognosis.

Call to action – summary:

- The introduction of a reliable, valid and fully researched method of assessment to replace the Limited Capacity for Work Questionnaire (ESA 50) and the face-to-face Work Capability Assessment.
- The introduction of appropriate training in assessment, scoring and interpretation for assessors.
- The introduction of specialist assessors to assess people with mental, cognitive and intellectual functioning difficulties.
- The introduction of supervision for assessors from qualified clinicians with expertise in rehabilitation, assessment and interpretation.
- The introduction of appropriate referral routes for those with mental, cognitive and intellectual functioning difficulties, with specialist assessment and support.
- The introduction of appropriate periods of reassessment for people with long-term conditions based on specialist advice to accurately reflect the prognosis.

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