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Nov 2014

Judge brands DWP jobseeker's agreement 'unlawful', after action by disabled claimant

By [john pring](#)

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Campbell "I welcome John Pring's weekly news update every Friday. His detailed, and above all accurate, line-up of current disability issues is a reliable source of information that I use to enhance – even at times to inspire – the work I do to champion disabled people and to combat discrimination in all of its forms. Long may it continue!"

Stephen Brookes, coordinator, Disability Hate Crime Network:

"We are living in very tough times, and it is important that disabled people and those DPOs who support them get fair and open representation and

A judge has told the Department for Work and Pensions (DWP) that part of the agreement signed by out-of-work benefit claimants does not comply with the law, following a legal challenge from a disabled job-seeker.



The comments by Judge Christopher Ward in the upper tribunal could potentially affect millions of disabled and non-disabled people who felt they had to sign DWP's jobseeker's agreements in order to continue to receive out-of-work benefits.

Judge Ward said that this failure to comply with the law meant the jobseeker's agreement breached Chris Hart's rights, because he was told he did not have the right to have the document examined before he signed it.

Hart believes the jobseeker's agreement – which sets out what someone has agreed to do to find work – is in fact a social behaviour contract, a conclusion he says DWP has not challenged.

This means that every jobseeker's agreement – and its subsequent enforcement by DWP – is "potentially an utter violation of the principles of the rule of law", because the basis of the contract is to enforce behaviour through mechanisms such as sanctions, without informing the claimant that that is what they are agreeing to sign.

Hart said: "The fact that I get confused easily, misunderstand and have cognitive processing problems associated with specific learning difficulties, and behaviour which is viewed by the state as problematic, but typically associated with Asperger's syndrome, means that I am recognised as a vulnerable adult.

"Because of these facts, I have been arrested, had support withdrawn, had a loss of employment and had repeated benefit sanctions, so entering into an

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accurate, informed media coverage. John's work through DNS is an absolute must in that aim."

Anna Borthwick-Martin, head of business development and marketing,

DisabledGo: "We have worked with John and DNS for several years now and have been thoroughly impressed with the service. The stories John provides are relevant and important to our audience and as a result are well received and popular"

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Phil Friend, director, Phil & Friends Ltd:

"My professional work means that I need to stay in touch with developments regarding disability issues. I've come to rely on the unique services provided by DNS. It is reliable, comprehensive and accurate. I can't think of another news service that provides me with the professional support I need to ensure that I'm up-to-date and kept well

agreement with the DWP that uses my social behaviour as a term of a contract that I've not been informed of, most definitely upsets me, and puts me at risk."

Hart believes the judge's conclusions could mean that every one of the millions of jobseeker's agreements that have been signed could also be ruled unlawful.

Hart's impairments mean that he finds it difficult to secure and retain jobs without support, so he has been forced to move frequently in and out of the social security system and welfare-to-work regimes following irregular periods of work.

His last job ended when the support that had allowed him to work was withdrawn, and his GP confirmed that he would need considerable support to secure and maintain employment.

Hart had attended an interview with Jobcentre Plus on 6 January 2012 to start a new claim for jobseeker's allowance (JSA), after previously claiming employment and support allowance (ESA).

As a condition of claiming JSA, he was asked to sign a jobseeker's agreement, but he requested support from a DWP disability employment adviser so he could examine the document.

He was concerned that the agreement would fail to provide him with the support he needed, and could therefore expose him to unfair sanctions.

He said: "I wanted the right to have my needs considered before I signed that contract."

But Jobcentre Plus refused and said that insisting on his rights in this way was unreasonable, and turned down his claim for JSA.

He was also refused hardship payments by DWP, and was forced to accept a crisis loan instead.

These decisions plunged him into financial crisis and put him at risk of eviction and food poverty.

He is now claiming ESA – he has been placed in the support group – but the period of 11 months when he was not being paid either JSA or ESA in 2012, and as a consequence had his housing benefit withdrawn, has left him heavily in debt. He is still trying to pay that debt off two years later.

Despite disability charities, Citizens Advice and care workers all advising him to sign the jobseeker's agreement, he embarked instead on a two-year legal battle to have his rights recognised.

He lost his first appeal in 2012, but Judge Ward concluded last month that the "My Rights" section of the jobseeker's agreement – which DWP had tried to force Hart to sign – did not comply with the law.

He said the agreement failed to inform JSA claimants that they had the right to have the document examined by a DWP decision-maker (DM), who could potentially decide that the details were unreasonable and should be changed.

Judge Ward said that Hart "should have been given the chance to have his reservations about the proposed [jobseeker's agreement] considered by the person envisaged by the legislation, namely the DM on behalf of the secretary of state".

The DM is supposed to decide upon disputes about proposed jobseeker's agreements, including whether it is reasonable to expect the claimant to comply with its conditions.

The judge has now asked DWP to explain how the system allows a decision-

The Mental Health Resistance Network considers Community Treatment Orders to be a profound violation of human rights and we regard the use of forced medication to be a violent assault... [\[Read More...\]](#)

QUOTE OF THE WEEK



"Two years on from the Paralympics and I am seriously in fear for my career. The severe cuts in my Access to Work provisions mean I simply cannot fulfil my job description as chief executive and artistic director of Graeae."

Jenny Sealey, chief executive and artistic director of Graeae Theatre Company, and co-director of the London 2012 Paralympics opening ceremony

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informed.”.

maker to consider the disability-related aspects of a jobseeker's agreement.

Hart said the judge's conclusion was “monumental”, and could – if confirmed in his final judgment – render the jobseeker's agreement “unlawful”, and affect “every person who is on that contract and every person who has been on that contract”.

Another disabled campaigner, Catherine Hale, said: “It seems to me like a very significant judgement that the DWP is failing to protect disabled people from unfair disadvantage in applying conditionality.”

Last month, DNS reported how Hale [had criticised the government's failure to apologise](#) for the “discrimination and punishment” she faced on the Work Programme as an ESA claimant.

Hale had more than £70-a-week of her disability benefit stripped from her for three months because she could not attend a back-to-work workshop that a government assessment had already concluded would be inaccessible to her.

Hale is also the author of [a well-received review](#) which found that the back-to-work support provided to disabled people by the government actually pushes them further away from the jobs market.

A DWP spokeswoman said the department “cannot comment on an ongoing case”, but added: “The jobseeker's agreement helps claimants to understand exactly what is expected of them, and is an important part of the contract people make with the taxpayer when they claim benefits.

“They are tailored to each individual, following discussions between them and their adviser, with the ultimate goal of helping them into work.”

She said Hart had appealed to the first-tier tribunal and lost, and his case was now being considered by the upper-tier tribunal and was “still ongoing, so the judge's comments aren't conclusive”.

14 November 2014

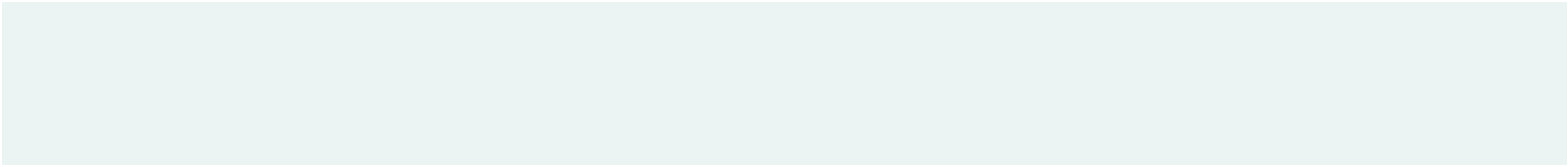
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Oct 2014

No DWP apology for Work Programme 'discrimination and punishment'

By [john pring](#)

Baroness (Jane)

Campbell "I

welcome John Pring's weekly news update every Friday. His detailed, and above all accurate, line-up of current disability issues is a reliable source of information that I use to enhance – even at times to inspire – the work I do to champion disabled people and to combat discrimination in all of its forms. Long may it continue!"

Stephen Brookes, coordinator, Disability Hate Crime Network:

"We are living in very tough times, and it is important that disabled people and those DPOs who support them get fair and open representation and

A disabled campaigner has criticised the government's failure to apologise for the "discrimination and punishment" she faced on the Work Programme.



Catherine Hale warned that Department for Work and Pensions (DWP) decision-makers appeared to be adopting a "sanction first, ask questions later" approach to benefit claimants.

And she said that hundreds of thousands of other disabled people could be exposed to this discriminatory approach.

Hale had more than £70 a week of her disability benefit stripped from her for three months because she could not attend a back-to-work workshop that a government assessment had already concluded would be inaccessible to her.

Work Programme provider Seetec refused to act even though Hale repeatedly explained that the compulsory workshops were not accessible.

Hale had been passed to Seetec for employment support after she was placed in the work-related activity group (WRAG) of employment and support allowance (ESA), following a work capability assessment (WCA) by Atos Healthcare in 2011.

The workshops Hale was asked to attend were nearly a mile from the nearest public transport, and lasted almost four hours, but her WCA had concluded that she was unable to walk more than 200 metres and could not sit or stand for more than 30 minutes.

But she was still told to attend the workshops five times, and each time wrote to Seetec and the Department for Work and Pensions (DWP) to explain she would need taxi fares reimbursed and a quiet area to lie down to rest.

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Each time, Seetec ignored her letter and reported her to DWP for "failure to participate", and each time she wrote to DWP to explain her "good reason" for not attending.

The fifth time Seetec asked Hale to attend the workshop, on 18 March this year, she was "sanctioned" and had her ESA reduced from £118.73 to £47.03 per week, because – according to DWP – she had not given a good reason for not attending.

Following an appeal – known as a "mandatory reconsideration request" – the six-day sanction was eventually lifted, and her benefits repaid.

This week, DWP said it had backdated Hale's benefits to when she began attending the Work Programme again, and she was now in the ESA support group – and so no longer forced to carry out work-related activity – following the submission of further medical evidence.

A DWP spokeswoman said: "The Work Programme supports those claimants who face the most barriers to finding work and it has already helped more than 330,000 claimants into lasting work.

"All work-related activity for people on ESA on the Work Programme is designed to be appropriate to the person's condition.

"Claimants who refuse this support as part of receiving their benefits could have their benefits reduced. However, this is only ever used as a last resort where there isn't a good reason given.

"Claimants can ask for such a decision to be looked at again and hardship payments are available to support vulnerable claimants."

A Seetec spokeswoman added: "We are aware of the issues raised and are working with the DWP to gain a clear understanding of [her] experience."

But Hale was scathing about the DWP response.

She said: "The DWP has not explained why it disputed my 'good reason' and imposed the sanction on my benefits.

"I repeatedly gave them a very good reason for not attending Seetec workshops: according to my WCA I was incapable of accessing them and no adjustments were ever made by Seetec to enable me to attend, despite me requesting help.

"Decision-makers at the DWP appear to have adopted a policy of sanctioning first and asking questions later, if and when challenged.

"People claiming ESA are, by definition, vulnerable and many don't have the personal resilience to challenge sanctions. Sanctions merely push us further down the spiral of poverty, ill health and social exclusion."

Hale is the author of [a review](#) – supported by Mind and the Centre for Welfare Reform, and endorsed by 18 other organisations – which found that the back-to-work support provided to disabled people by the government actually pushes them further away from the job market.

She said hers was a "clear-cut case of discrimination on the grounds of my disability, and my report, based on a survey of 500 ESA WRAG claimants, published by Mind, suggests that it is occurring on a large scale.

"The absence of an apology for the injury to my health and well-being caused by this discrimination is disappointing."

But she said her "greater concern" was for "hundreds of thousands of people trapped in the same predicament as I was".

The Mental Health Resistance Network considers Community Treatment Orders to be a profound violation of human rights and we regard the use of forced medication to be a violent assault... [\[Read More...\]](#)

QUOTE OF THE WEEK

"Two years on from the Paralympics and I am seriously in fear for my career. The severe cuts in my Access to Work provisions mean I simply cannot fulfil my job description as chief executive and artistic director of Graeae."

Jenny Sealey, chief executive and artistic director of Graeae Theatre Company, and co-director of the London 2012 Paralympics opening ceremony

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informed.”.

She said: “Many of them belong, like me, in the support group, but have been waiting a year or more for reassessment due to the DWP’s scandalous administrative chaos.

“It took direct pressure from my MP on Atos to get me reassessed where the DWP had failed.”

She added: “The aim of ESA was surely to support and empower disabled people, not to subject them to discrimination and punishment.”

2 October 2014

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Fulfilling Potential?

ESA and the fate of the Work-Related Activity Group

Catherine Hale

Supported by



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About the author

Catherine Hale is a Work Programme service user claiming ESA due to a long-term health condition. She has a first class degree from the London School of Economics and has pursued her interest in public policy and its impact on disabled people in a voluntary capacity for Voluntary Action Lewisham, the South East London ME Support Group, and as a member of the Spartacus Network of disability activists. Catherine's aim is to work towards the inclusion of sick and disabled people in society as well as in work.

Acknowledgements

I am deeply grateful to Tom Pollard and Simon Duffy, without whose support and guidance this report would not have been produced. I would also like to thank Jane Young, Norma Curran and Steven Shaw for their help and insight in designing the survey, and Sue Marsh and Caroline Richardson for their encouragement and commitment to the project.

Report produced with support from and in association with:

Mind has supported Catherine to produce this report because we believe that there needs to be a fundamental rethink of the way people on ESA are helped to move towards work. This report presents vital evidence about the current experiences of people on ESA who are engaging with the Work Programme or Jobcentre Plus. It also offers important insights into how these schemes could be redesigned to improve the support that people are given.

We know from our work with people with mental health problems that the current system doesn't provide the specialist support that people need, and tends to resort to putting pressure on people to engage with activities that are often neither appropriate nor conducive to a return to work. People should be supported, encouraged and empowered to move closer to work where this is an appropriate ambition, but too often it seems they are simply being coerced into generic activities, leaving them distressed, more unwell, and further from a return to work.

It has been a pleasure to support Catherine to produce this report. I know it has sometimes been difficult for Catherine to navigate the project alongside difficulties with her health. The quality of the report is testament to Catherine's commitment and hard work, but also gives an indication of what can be achieved if we start from the assumption that people on ESA want to be supported and encouraged to fulfil their potential and aspirations through co-production, collaboration, and supportive working conditions.

Tom Pollard, Policy and Campaigns Manager, Mind

Good policies need to be built upon more than good intentions. The current system for supporting disabled people to find work is a failure because it is based on false assumptions about what gets in the way of employment. In addition increasing efforts by Government to cut the incomes of disabled people in the name of 'austerity' has made a bad policy even worse.

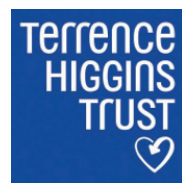
One of the few bright lights in an increasingly dismal landscape has been the work of disabled people, like Catherine Hale, to develop high quality research to hold Government to account. It is only when Government learns to really listen to and respect the wisdom of disabled people and those who are sick that we will begin to get back on the right track.

Dr Simon Duffy, Director, The Centre for Welfare Reform



Endorsements

The following organisations and groups support this research and believe it raises vital issues that need to be addressed in order to ensure that people with disabilities and illnesses get the support they need to move into work, where this is appropriate for the individual:



Executive summary

A key aim of Employment and Support Allowance (ESA) – to increase the number of disabled people in paid work – is in jeopardy. ESA delineates a group of people with health conditions or impairments, whom the Department for Work and Pensions (DWP) expects to move towards employment with the right support. This is called the Work-Related Activity Group (WRAG). Yet only 5 per cent of the WRAG has moved into work through the main support scheme, the Work Programme, since 2011.¹ The minimum performance target for this scheme was 16.5 per cent after two years.²

The purpose of this review is to shed light on the causes of this failure. It is the first to capture, in detail and on a significant scale, the experience of people placed in the WRAG, the sub-group within ESA that must participate in work preparation schemes as a condition of receiving benefits. Many people in the WRAG are referred to the privately run Work Programme; others must engage with Jobcentre Plus (JCP), part of the DWP. Both are mainstream back-to-work programmes, serving jobseekers from all benefit types. Our research evaluated both schemes to uncover the commonalities and any significant differences between them.

This report examines the journey of more than 500 people placed in the WRAG. From their initial feelings and expectations about work and the WRAG, we explore their encounter with employment advisers, the activities and interventions they were offered and those they were compelled to undertake, the procedures and impact of compulsion, through to their reflections at time of research in relation to work and wider psycho-social factors, following their engagement with the Work Programme or JCP.

Through the introduction of ESA, it was hoped that two strategies in particular would improve employment rates among disabled people. One was more intensive and personalised *support*, specifically through the marketisation of employment support services. The other was *activation* – the introduction of obligations, or conditionality, to engage in work preparation enforced by financial sanctions. In short, more rights in return for more responsibilities.³

Our survey results suggest that, contrary to promises, the experience of participation in the WRAG is neither personalised nor supportive, regardless of whether it is delivered by private contractors paid by results, or by the Government via JCP. Moreover, findings suggest that, far from “activating aspirations”⁴, the regime of conditionality and sanctions has left participants in the WRAG fearful, demoralised, and further away from achieving their work-related goals or participating in society than when they started.

Previous evaluations of the Work Programme have tended to blame its failure on the practice of “creaming and parking” by private providers (i.e. supporting only the most job-ready clients and abandoning those with the most complex barriers).⁵ However, the failure to move ESA claimants into work is more than a failure of the market to invest in effective support. The results of this survey point to systemic failings in the ESA process itself, with a structural disconnect between the assessment of barriers to work and the support required to overcome them. They also reveal mistaken assumptions at the heart of ESA policy about the nature of the barriers faced by people in the WRAG and the kinds of intervention required to prepare them for work.

When ESA was introduced, a wealth of evidence existed about the most effective strategies for increasing employment opportunities for disabled people.⁶ However, our research found that these evidence-based interventions are not being deployed in work preparation schemes for the WRAG. Instead, activation programmes for the WRAG appear to be underpinned by the “culture of dependency” theory, which presumes that the receipt of benefits itself creates the main barrier to work for people on ESA, and that corrective measures are needed to restore work incentives and instil personal responsibility. We found no evidence to support these assumptions, which seem to be so central to successive governments’ policies around disability, benefits and work.

1. DWP statistics tabulation tool: <http://tabulation-tool.dwp.gov.uk/WorkProg/tabtool.html>

2. ERSA, 2012. *Policy Briefing: the Work Programme*.

3. DWP, 2008. *Raising expectations and increasing support: reforming welfare for the future*.

4. Organisation for Economic Co-operation and Development (OECD), 2003. *Transforming disability into ability: policies to promote work and income security for disabled people*.

5. Newton et al, 2012. *Work Programme evaluation: Findings from the first phase of qualitative research on programme delivery*. DWP.

6. See Needels, K and Schmidt, R (eds) on behalf of DWP, 2006. *Economic and social costs and benefits to employers of retaining, recruiting or employing disabled people and/or people with health conditions or an injury: a review of the evidence*.

This review found that the main strategy for moving people in the WRAG closer to work is a regime of conditionality and sanctions, not matched by appropriate support and opportunities. Moreover, the mandatory activities within this regime are often inaccessible to disabled people, and it appears that reasonable adjustments are rarely being made to enable participation. Consequently, the application of conditionality and sanctions is frequently inappropriate and unjust. We found overwhelming evidence of the distress this causes.

It seems highly probable that the fear and distress caused by an excessive focus on conditionality, and the associated threat of sanctions, is linked to the large scale deterioration in health, wellbeing and confidence reported by respondents. Survey results suggested that the overall impact of participation in the WRAG is to move people further away from work, instead of closer to it.

Disabled people placed in the WRAG are compelled to prepare for work because they are deemed capable of “work-related activity”. However, a strong theme emerging from survey responses was the large gap between the capacity for work-related activity and the capacity to secure and sustain employment in a competitive labour market. This gap is not caused by a culture of dependency and won’t be narrowed by compulsion to engage with the labour market. The generic work preparation activities imposed on respondents, such as CV writing, appears of little benefit while their limited capability for work, resulting from their disability or illness, remains unaddressed.

Only strengthened disability employment policies can narrow the gap between potential and paid work. The Government has committed itself to continued investment in specialist disability employment support beyond 2015 when existing contracts end.⁷ This is welcome recognition of the major challenges faced by disabled people in accessing employment and the additional support required to help them achieve economic independence.

However, at present the specialist scheme for disabled people, Work Choice, does not reach those with the severest disabilities but mainly recruits from the ‘Fit for Work’ pool of Jobseekers Allowance (JSA) claimants.⁸ It is very disappointing, therefore, that the Government intends to continue referring people with limited capability for work to mainstream work preparation programmes through JCP or the Work Programme, rather than directly to existing specialist schemes.⁹ This review found existing mainstream programmes via JCP or the Work Programme to be not just ineffective, but positively harmful, due to the anxiety and stress of engaging with these schemes.

Strengthening the employment opportunities for people with impairments or health conditions must mean building upon the success of existing schemes commissioned locally, outside of the DWP. The critical factors in successful models – like Individual Placement and Support (IPS) and Supported Employment – are in-work vocational training and support for the individual, matched by engagement with and support for employers.¹⁰ Any labour market consists of both supply and demand. It is not enough to focus on the employment capacities of individual disabled people without addressing the demand for their labour by employers. Employers must be equipped with the understanding and the motivation to adapt their offers of work to people with disabilities.

Unlike other recent reports,¹¹ this review gives more weight to assessing the efficacy of the current system than to designing a disability employment strategy for the future. However, Section 6 of this report provides evidence of how disabled people in the WRAG perceive their own situation within the labour market, and what kinds of support, intervention or adjustments they believe would make it easier for them to work. Our commentary and recommendations for future policy are based upon these findings, as well as on our knowledge and experience of other approaches to employment support for disabled people, which seem to be more appropriate and successful than the mainstream support currently on offer.

Some 181,130 people in the WRAG had been placed on the Work Programme up to December 2013 at an initial cost of £600 each. This means that, before any job outcomes

7. DWP, December 2013. *The disability and health employment strategy: the discussion so far.*

8. DWP, November 2013. *Work Choice: official statistics.*

9. DWP, December 2013.

10. Trotter, R, 2013. *Work in Progress: rethinking employment support for disabled people.* Scope etc.

11. Taking control of employment support, Liz Sayce and Neil Crowther, Disability Rights UK, 2013; Disability and Poverty Task Force, April 2014. *Breaking the Link between Disability and Poverty: Report to the Labour Party.*

are secured (for which further payment is made), this Government has paid private providers almost £109 million to put disabled people through programmes that have not just a negligible, but in fact a negative impact on their employment prospects.

It is vital to the lives and aspirations of disabled people, and to the future of policies affecting them, to understand why strategies for the WRAG seem to have lowered, rather than raised, their employment prospects. It matters firstly because of disabled people's rights to equality of opportunity and inclusion, and secondly because a system that is harmful to health, wellbeing and the prospect of returning to work will increase rather than reduce the costs of benefits and health and social care services.

Summary of findings

1. Of around 550 respondents who were in the WRAG, about three in five were engaged in the Work Programme, outsourced to private contractors, and two in five were engaged with JCP.
2. The overwhelming majority of respondents said their health or impairment was their predominant barrier to work. This correlates with the finding of Limited Capability for Work in the Work Capability Assessment (WCA) prior to entering the WRAG, so is unlikely to simply indicate a misperception of the extent of their own disability. Respondents showed a strong commitment to work and there was no evidence that perverse disincentives to come off benefits, or a lack of willingness on their part, were preventing a return to work. Anxiety due to prolonged absence from the workplace was a strong factor for about a third of respondents but this was not accompanied by a lack of motivation to work.
3. The WRAG offered very little to respondents beyond generic employability programmes that focus on basic literacy, IT and jobseeking skills and sought to address poor motivation and discipline. Specialist disability employment support, either through Work Choice or a local provider, was offered to just 10 per cent of Work Programme participants and 15 per cent of JCP participants. Services offered by private contractors on outcomes-based contracts differed very little from the Government's JCP offer.
4. Respondents reported no meaningful personalisation in the programmes of work-related activity for the WRAG. Half of respondents said their disability-related support needs were not acknowledged or addressed at all. This appears to stem from a structural disconnect in the ESA process between assessment and support. The majority of respondents experienced little or no co-production in their back-to-work action plan (i.e. having a meaningful say in what this plan looked like), and felt that the activities required of them were not appropriate to their circumstances.
5. Almost all respondents were compelled to undertake some form of activity with the threat that their benefits would be stopped if they failed to participate. On average, respondents had at least three different kinds of difficulties in participating in mandatory activities due to their health condition or impairment. One half said these difficulties were not acknowledged and 70 per cent said no adjustments were made to activities to accommodate their disability.
6. Some 87 per cent of respondents who failed to participate in a mandatory activity were prevented by factors either directly or indirectly relating to their health or impairment. Only 6.5 per cent of respondents said they received a sanction, i.e. a cut in benefits. However, 80 per cent of respondents reported anxiety about being unable to access mandatory activities, and 70 per cent reported severe anxiety about the threat of losing income as a consequence.

7. The majority of respondents said they wanted to work if they could get the right support and a job suitable to their disability, and they believed employers could make use of their talents if jobs were made more inclusive. Yet 82 per cent of respondents said they were not aware of any efforts made by their Work Programme provider or JCP to try to adapt the jobs on offer to make it easier for them to work.

8. When asked what interventions would enable them to work, the majority of respondents identified a package of support agreed upfront, so they could reassure potential employers of their ability to do a job, as the most helpful measure. When asked how work could be adjusted to include them, the most common responses were flexible working, working from home, working less than 16 hours per week, increased confidence on the part of employers, and the opportunity to prove their abilities through work trials rather than interviews.

9. The overall impact of participation in the WRAG was demoralisation and increased distance from the labour market. Well over half of respondents said their health, financial circumstances, confidence about working, sense of purpose, and proximity to personal goals had all deteriorated as a result of being in the WRAG.

Summary of recommendations

1. ESA claimants should be placed onto a new and separate employment support scheme in recognition of the fact that the barriers they face are significantly different to those of other jobseekers. Such a scheme should be devised in the context of the subsequent recommendations.

2. The assessment process for ESA should be reformed, to make it a genuine gateway to specialist disability employment support for those either with a good medical prognosis for recovery from a health condition, or with impairments that can be accommodated with effective adjustments or assistance.

3. The assessment of support needs itself must be significantly improved. Information about the individual's barriers, circumstances and aspirations should be properly assessed and are communicated to those expected to provide them with support.

4. A reformed assessment and support process should also be integrated with Access to Work to ensure people can access all the support they need to get into and stay in work. For people whose impairment can be reduced or eliminated by equipment or adaptations, the awarding of support packages to those seeking employment, rather than those already in work, would be hugely popular and probably cost effective.

5. Employers should be encouraged to widen job opportunities for disabled people by offering flexible working times, working from home, creating jobs involving fewer than 16 hours per week, and offering the opportunity of a job trial instead of an interview. Such measures require creativity rather than high costs from employers.

6. Future disability employment support policies should seek to rebalance national in favour of local commissioning of services. Employment support for disabled people should be tied into local inclusive growth strategies involving partnerships of local councils, Jobcentre Plus, businesses, and education and training providers.

7. Conditionality should be fundamentally rebalanced to place the onus on the service provider to devise a strategy to integrate the disabled person into work. It should be based upon the assumption that the vast majority of people are motivated to work and that voluntary participation is the most effective form of engagement for all but a

few. A relationship of mutual trust between claimant and personal adviser is the most effective form of support, with compulsion only resorted to when it is clear that the individual is simply refusing to engage with support, rather than having difficulty doing so because of their health.¹²

8. The adverse impact of WRAG participation on health and wellbeing is likely to increase pressures on health services, especially mental health. Welfare and NHS spending are inextricably linked. Bringing down the caseload for ESA/Incapacity Benefit (IB) requires a focus on health service spending, not just on employment support or job creation. Employment support should be better integrated with health, social care and education services.

Introduction

Our research examined the experience of people receiving out-of-work benefits on grounds of health or disability that require them to engage in a back-to-work programme or “work-related activity”. A major policy focus over the last two decades has been the inclusion of more disabled people into the workforce and the reduction in the numbers of people receiving Incapacity Benefit (IB). The main vehicle for this change has been the introduction in 2008 of Employment and Support Allowance (ESA) to replace IB. By reconnecting claimants with the labour market through compulsory work-related activity, ESA reflected the wider trend in welfare reform for a more “active” welfare system, in which eligibility for support is more strictly tied to obligations to seek, or engage with, work.¹³

“Our reforms are built around the simple premise; we want to look at your potential to work not just your limitations. For too long people were left with no support sitting at home on benefits. It is clear that the majority of new claimants to sickness benefits are in fact able to do some work.”¹⁴

Five years on, ESA as a policy has not achieved its intention of moving significant numbers of disabled people receiving out-of-work disability benefits into paid employment. Job outcomes for ESA WRAG claimants on the main back-to-work scheme, the Work Programme, are falling significantly below expectations, at 6 per cent for new ESA claims, against the DWP’s minimum performance target of 16.5 per cent. Overall, when all WRAG claimants (i.e. including those who have moved off IB) are included, the job outcomes measure falls to 5 per cent. The ESA policy was particularly targeted at people who had been receiving IB for a number of years. Yet the job outcomes for this longer-term group, who were transferred onto ESA from the previous Incapacity Benefit regime, stand at a shocking 1.8 per cent.¹⁵

This research seeks to uncover the reasons for this failure.

Outline of research agenda

The reforms behind ESA invoked a twin strategy of *enhanced support and increased compulsion* to engage in work preparation.¹⁶ This research evaluates participants’ experience of both aspects of work-related activity. The nature and quality of support offered to ESA claimants is examined, particularly within the framework of personalisation. How effective is the process, so central to reform, of identifying people’s needs and capabilities and mobilising the support required to fulfil these capabilities? At the same time, the impact of conditionality on claimants assessed as not ‘Fit for Work’ is examined. Has the escalation of obligations on disabled people to prepare for work served its stated purpose of instilling personal responsibility, thus reconnecting them with culture of work?

But firstly, the research takes a step back to question some of the assumptions behind this twin strategy. Do the characteristics of ESA participants suggest that lack of personal responsibility is the main factor inhibiting their return to work? How do claimants themselves view their obstacles to employment and, indeed, what is their attitude to

12. Dekkers-Sanchez, 2011.

13. Houston, D and Lindsay, C, 2010. *Fit for work? Health, employability and challenges for the UK*. Policy Studies, 31: 2, 133-142.

14. Chris Grayling, 24 April 2012. <https://www.gov.uk/government/news/latest-esa-assessment-figures-show-majority-fit-to-work>

15. Statistics are for cumulative job outcomes for New ESA and ESA/ex-IB from July 2011 to December 2013 expressed as a percentage of attachments.

16. DWP, 2008a. *No one written off: reforming welfare to reward responsibility*. Norwich: The Stationery Office.

work? Then, in relation to claimants' own assessment of their positioning within the labour market, what measures and interventions do *they* think would facilitate their integration into the workplace?

Finally, this study looked beyond the raw data for employment outcomes to consider whether engagement in work-related activity has met the broader social inclusion agenda for ESA. Has it enabled claimants to progress further towards paid work, and more widely, to access opportunity, realise their potential and make a greater contribution to society?¹⁷

The Work-Related Activity Group

Not all claimants with Limited Capability for Work (LCW) are required to engage in work-related activity. When ESA was introduced, one new development from the previous system was the creation of the Work-Related Activity Group (WRAG). Previously, people who claimed out-of-work benefits on health grounds were assessed as either fit or unfit for work. Under ESA, a revised assessment system sorts claimants into three tiers, including a middle group, the WRAG, who are deemed not fit for work at present but considered capable of moving towards work in the future, with support. This group is compelled to engage in work-related activity as a condition of receiving benefits. This is known as Mandatory Work-Related Activity (MWRA). The third tier, for those not required to prepare for work due to the severity of their disability or health condition, is called the Support Group.

This research is concerned specifically with the experience of people in the WRAG.

The WRAG in the context of disability employment support

Efforts to “activate” people on IB in the UK did not begin with the coalition Government, but prior to the introduction of ESA with the New Deal for Disabled People (2001 to 2004) and Pathways to Work (2003 to 2011), both introduced by Labour. These schemes were aimed solely at people with health conditions and disabilities. In 2011, Pathways to Work was replaced by the single mainstream programme for all benefit claimant groups – the Work Programme.

In 2008, the Government incorporated the recommendations of welfare reform consultant, David Freud, into ESA reform and the introduction of the Work Programme.¹⁸ The intention with the Work Programme was to move from the standardised approach for different categories of claimants, to one personalised to the needs of each individual. The vehicle of greater personalisation was to give more freedom and flexibility to service provision by outsourcing to the private and voluntary sectors, with payments by result scaled according to clients' distance from the labour market. It was predicted that this commissioning model would facilitate more upfront investment and unleash more intensive support to those with the most complex and severe needs. The highest payment group from ESA participants, made up of the long-term sick transferred from IB, is worth a maximum of £13,550 to providers for a sustained job outcome, compared with £3,810 for Jobseekers Allowance (JSA) 18 to 25.

Thus the specialist support previously offered to people on incapacity benefits has been incorporated into a mainstream welfare-to-work scheme. Compared with those on JSA, ESA claimants have reduced work-related obligations (although these obligations have increased in recent years to the point where the only key difference between these two groups is the requirement on JSA claimants to actually apply for jobs).

The Work Programme was predicted to achieve a step change in the quality and intensity of support from that available with JCP.¹⁹ In practice, however, not all claimants assigned to the WRAG following a WCA are referred to the Work Programme. Claimants with an ESA award of longer than 12 months, or those receiving contribution-based ESA, can be required to engage in work-related activity through JCP instead. By surveying the experience of both groups, this research was also able to identify some differences between the Work Programme and JCP services.

17. DWP, 2008a.

18. Freud, D, 2007. *Reducing dependency, increasing opportunity: options for the future of welfare to work*. DWP.

19. DWP, 2008a.

Despite this mainstreaming of back-to-work programmes for ESA claimants, there still exists a specialist disability employment programme in the UK. The DWP's Work Choice programme operates in parallel to the Work Programme and is aimed specifically at disabled people "who most need specialist support".²⁰ It has voluntary participation, and a much higher success rate than the Work Programme at 41 per cent. However, there is no formal assessment of work-related disability to determine access to Work Choice, and in November 2013 only 16 per cent of referrals to Work Choice had been assessed as having Limited Capability to Work through the WCA or its predecessor, the Personal Capability Assessment,²¹ suggesting that the policy intention of restricting access to Work Choice to the most severely disabled is not borne out in practice.²² The experience of Work Choice clients was not within the scope of this survey, but the relationship between Work Programme, Work Choice and JCP is discussed as part of a wider evaluation of the aims and failures of ESA in getting disabled people into work.

Work Programme, Work Choice and JCP represent disability employment policies that address the *supply* of labour, i.e. the employability of disabled people, by targeting their individual characteristics. They must be seen in the context of policies to increase the *demand* for disabled people in the labour market, such as the Disability Discrimination Acts of 1995 and 2005 (replaced in 2010 by the Equality Act), and help employers meet any extra cost of employing a disabled person, such as Access to Work, introduced in 1994.

Work Programme and Work Choice are commissioned nationally. At the local level there is a varied landscape of employment support provision for disabled people, typically commissioned by the NHS or local authorities, or delivered by the voluntary sector. Although a lack of systematic evaluation of these schemes makes their comparison difficult, they are often very innovative and effective at bridging the supply and demand approaches by engaging with local employers in job creation.²³ They also tend not to rely on a model of conditionality and sanctions, as participation is voluntary.

The need for this research

Thus far, just one of the DWP's evaluations of Work Programme delivery has included a qualitative study of the experience of 90 participants,²⁴ but it did not focus specifically on ESA payment groups, which comprise just 9 per cent of the total caseload. The Work and Pensions Committee enquiry into whether the Work Programme can work for all payment groups received very few submissions from participants. It concluded that there appears to be insufficient responsibility for Work Programme participants' satisfaction with the support they receive.²⁵

No data are readily available from the DWP on employment outcomes for ESA claimants who are not attached to the Work Programme.

Existing evaluations of the Work Programme have identified the practice of providers "creaming" the most job-ready clients and focusing their attention and resources on this group, while "parking" the hardest to help and only providing the minimum level of support required by their contract.²⁶ This may explain why disabled people in the WRAG are not receiving the support they need to achieve even the modest expectations for employment outcomes of 16 per cent on the Work Programme for new entrants to ESA.²⁷ However, capturing the subjective experience of WRAG participants, and understanding how they position themselves in relation to the labour market, as this research aims to do, provides a much fuller explanation for their failure to move into work.

20. DWP, November 2013. *Work Choice: official statistics*.

21. *Ibid.*

22. Shaw Trust, 2013. *Making Work a Real Choice: Where next for specialist disability employment support?*

23. Trotter, R, 2013. *Work in Progress: rethinking employment support for disabled people*. Scope etc.

24. Newton et al, 2012. *Work Programme evaluation: Findings from the first phase of qualitative research on programme delivery*. DWP.

25. Work and Pensions Committee, 2013. *Can the Work Programme work for all payment groups? First report of session 2013-14*.

26. Rees, J et al, 2013. *Support for all in the UK Work Programme? Differential payments, same old problem...* Third Sector Research Centre; Work and Pensions Committee, 2013; Newton et al, 2012.

27. ERSA, 2013. *Work Programme Performance Report*.

Methodology

The survey on which this report is based ran online from October 2013 to January 2014. It was disseminated by Mind, the Centre for Welfare Reform, and other representative organisations approached via the Disability Benefits Consortium, as well as through social media networks of disabled people. The call for respondents asked for all ESA claimants' experience of back-to-work support, rather than calling for negative experiences. Although this still represents a self-selecting sample, we believe the size of this sample and its characteristics (as discussed in Section 1) suggest it is broadly representative and, at the very least, demonstrates the experience of a significant proportion of claimants.

The questionnaire was composed mainly of closed questions with a choice of answers. However, significant insights were also gained from the few open-ended questions that elicited a high response. All quotations in this report are drawn from open-ended responses to the survey.

The initial questions determined eligibility by filtering out respondents who were not in receipt of ESA, or who were not in the WRAG, or who had not had a meeting with either JCP or a Work Programme provider to discuss work preparation.

Respondents were not required to answer all questions; therefore the sample size varied with each question. The highest sample size for a question was 569 and the lowest was 336, with the average sample size for all questions being 476. The numbers of respondents reduced gradually from the beginning to the end of the survey, as is usual for a relatively long survey.

1. Who our research looked at

People who feel they are not currently able to work because of an illness or disability can apply ESA. After going through an assessment process they are put into one of three groups:

- a. Fit for work – meaning they don't get ESA and are required to look for work
- b. Work Related Activity Group (WRAG) – meaning they cannot work at this time but are required to undertake activities to prepare them for work
- c. Support Group – meaning they cannot work at this time and are not required to undertake activities to prepare them for work (*WRAG highlighted with label saying "Our research focused on this group"*)

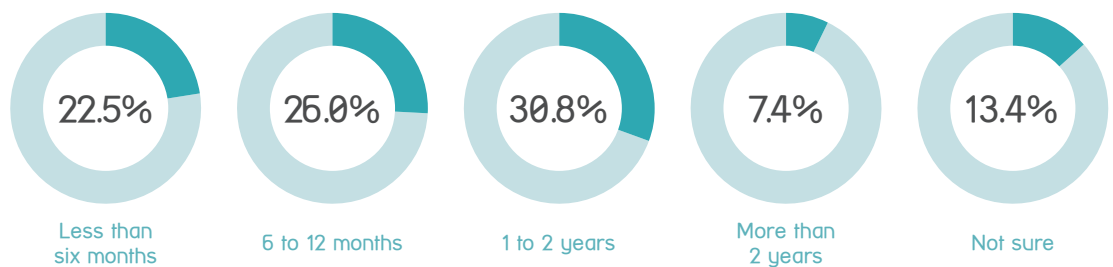
An initial interview with a JCP adviser is the first activity required people in the of the WRAG. Further referral to the Work Programme is then mandatory for some claimants or at the discretion of the JCP adviser for others (see above).

We heard from 569 people who were in this group – 348 were referred to the Work Programme and 221 were engaged with JCP.

Respondents were spread across the country:



They had been getting support for varying periods of time:



Those on the Work Programme were spread across a broad range of providers. Because of this broad spread, the numbers engaged with each provider were too low to enable statistically significant comparisons between them in terms of services offered and client experiences.

Respondents reported a range of health conditions, with an average of 2.6 conditions each. The most common conditions reported were:

- Mental health problems (61 per cent)
- Arthritis (28.4 per cent)
- Other musculoskeletal condition (17.4 per cent)
- Fibromyalgia (16.3 per cent)
- ME/Chronic Fatigue Syndrome (16.3 per cent)
- Physical impairment not requiring the use of the wheelchair (16.3 per cent)
- Respiratory diseases (10 per cent)
- Epilepsy (7 per cent)
- Carpal Tunnel Syndrome (6 per cent)
- Deaf/Hard of hearing (6 per cent)
- Crohn’s/Colitis/Irritable Bowel Syndrome (5 per cent)
- Learning Disability (5 per cent)
- Multiple Sclerosis (5 per cent)

The table below shows that the spread of condition types recorded in the survey was broadly representative of the spread of conditions in the WRAG caseload. Percentages are lower overall in the DWP table because only the primary condition is recorded whereas respondents could select more than one condition in the survey.

DWP official statistics for ESA WCA by health condition, Oct 2008 to Nov 2009
Work-Related Activity Group – Total caseload (excluding appeals) 96,900

ICD10 Condition Group (for which 5% or more represented)	% of WRAG caseload
Mental and behavioural disorders	37.7%
Diseases of the musculoskeletal system and connective tissue	17.3%
Symptoms, signs and abnormal clinical and laboratory findings, not elsewhere classified	11.5%
Injury, poisoning and certain other consequences of external causes	8.5%
Diseases of the nervous system	5.4%
Diseases of the circulatory system	5%
Other	14%

How respondents assessed their own barriers to work

The WCA assesses how the claimant's health condition affects functional capacity. For example, according to the DWP *"an individual will not qualify for ESA on the basis that they have arthritis, but they might qualify because they cannot hold a pen or use a keyboard and mouse."*²⁸ We were similarly interested in which aspects of people's health conditions or impairments affected their ability to work.

Respondents were asked which among a list of difficulties or health problems makes it difficult for them to work

They could select more than one answer, and rate whether the difficulty was "the main reason" or a secondary factor (phrased as "to some extent"). However, the options offered in the survey varied considerably from the criteria used in the WCA.²⁹

	Not relevant	To some extent	A main factor
The variability of my health condition	8%	29%	63%
Mental health problems	21%	23%	56%
Symptoms such as fatigue, pain, breathlessness, nausea or vertigo	16%	29%	55%
Cognitive dysfunction (problems with memory and/or concentration)	18%	50%	33%
Difficulty walking	27%	43%	30%
Other disability or health problem	38%	34%	28%
Difficulty communicating with strangers	32%	46%	21%
Poor manual dexterity	44%	38%	18%
Bladder or bowel incontinence, or vomiting	59%	26%	15%
Learning difficulty	78%	15%	7%
Visual or hearing impairment	77%	20%	3%
Speech impairment	83%	15%	2%

Respondents were asked to rate how significant their health-related barriers to work were in relation to other potential difficulties with work.

	Not relevant	To some extent	A main factor
My disability or health condition	1%	6%	90%
Parenting responsibilities	59%	7%	3%
Caring for a disabled or elderly relative	57%	9%	3%
Lack of job-related skills or qualifications	43%	22%	7%
Lack of information about suitable jobs	36%	26%	9%
Worry about how working might affect my financial situation	31%	31%	12%
Employers don't seem to understand or value my particular skills	36%	23%	13%
Anxiety about working because I've been out of work for so long	18%	33%	31%

28. DWP, 2010. *Employment and Support Allowance: Work Capability Assessment by Health Condition and Functional Impairment*. Official Statistics.

29. The WCA classifies functional impairment as follows: Lower Limb; Upper Limb; Sensory; Continence; Consciousness; Understanding and Focus; Adapting to Change; Social Interaction. However, the options offered were very different to the criteria used in the WCA. In this survey the variability of a health condition or impairment, as well as the effects of pain, fatigue, breathlessness etc. were given as criteria in and of themselves.

Attitudes to work and the requirement to prepare for work.

We sought to capture how people felt about working and about being placed in the WRAG where they would be compelled to undertake work related activity as a condition of receiving ESA.

“Would you like to work if the job was suitable and you had the right support?”



“Which of these statements describes your feelings about the Work Programme or JCP when you first started?”

I hoped the WP/JCP would help me find work



I hoped the WP/JCP would help me and potential employers find a solution to working with my disability



I felt anxious about being on the WP/JCP



I did not feel ready to take part in the WP/JCP



Legend: Strongly agree (dark teal), Agree (medium teal), Neither agree nor disagree (light teal), Disagree (purple), Strongly disagree (dark purple)

Please note: some totals add up to just over 100% due to rounding

These responses show a very mixed picture of hope and anxiety in relation to work and Mandatory Work-Related Activity (MWRA). There was a marked reluctance to engaging in MWRA. However, because commitment to work was high, the relative lack of optimism about MWRA is not likely to be due to poor work ethic. Although the majority of respondents showed a positive attitude towards work, a very large majority did not feel ready to engage in work preparation and felt anxious about being compelled to prepare for work.

Discussion

Although self-selecting, respondents to this survey were broadly representative of the WRAG caseload in terms of the distribution of condition types, their geographical spread and length of time they had been engaged with the Work Programme or JCP.

According to a ‘culture of dependency’ model,³⁰ long-term receipt of sickness/incapacity benefits can create disincentives to working that become more significant barriers to work than any original health condition. But survey results found no evidence of a lack of motivation or commitment to work among the WRAG. Two main attitudes to work emerge: the desire to work, mixed with anxiety about the compulsion to prepare for work.

Nine out of ten respondents said their health condition or disability was a main barrier to work. It could be suggested that this indicates a misplaced perception of the impact of a health condition or impairment, and points to the existence of a ‘myth’ that disabled people can’t work.³¹ However, it is more likely that this self-assessment simply concurs with the judgement at the WCA that people placed in the WRAG are not ‘Fit for Work’. The WCA was purposely designed to reform the gateway and significantly reduce the numbers of people claiming incapacity benefits.³² The DWP predicted the WCA would reduce the false positive outcomes but increase the false negative outcomes.³³ Indeed, approximately 43

30. Centre for Social Justice, 2006. *Breakdown Britain*. London: Centre for Social Justice.

31. Stanley, K and Regan, S, 2003. *The Missing Million: supporting disabled people into work*. Institute for Public Policy Research (IPPR), London; DWP, 2008.

32. DWP, 2006. *A New Deal for Welfare: empowering people to work*.

33. Henderson, M, 2007. *Transformation of the Personal Capability Assessment*. DWP Technical Working Groups Phase 2 Evaluation Report. London: DWP.

per cent of appeals against Fit to Work decisions are upheld. Respondents' assessment of the impact of the health condition or impairment on their ability to work seems, therefore, likely to be accurate.

The only other significant barrier to work identified in the survey was anxiety about returning to work after a prolonged absence. However, loss of confidence about working is not the same as loss of motivation, and these two have been conflated in previous research.³⁴ Critically, the support required to overcome a lack of motivation will not be the same as that required to overcome a lack of confidence. Worry about how the transition to work might affect finances was only significant as a secondary factor, and only for about three in ten respondents. Another secondary factor for three in ten was that employers didn't seem to understand or value their skills.

Another significant finding was the contrast between how respondents experience disability in relation to work, and how the WCA assesses Limited Capability for Work (LCW). The WCA assesses the impact of relatively static and unchanging impairments to limbs or senses on narrowly specific activities. But these were rated by respondents as far less significant in limiting their capability for work, than the global impact of their health condition in terms of its variability and the symptoms of pain, fatigue, nausea and cognitive difficulty, which affect multiple areas of function but are harder to measure objectively.

“Employers do not understand and can't make jobs available for someone who can work one day OK but not for two weeks, then maybe manage three days and be off for a month. It just doesn't work like that!”

These findings provide evidence against the hypothesis that a culture of dependency is the main barrier to work for people in the WRAG. They also suggest that interventions aimed at tackling a culture of dependency in this group will not be an appropriate or effective approach to help people into work.

2. What services were offered to prepare for work?

The purpose of this section was to assess the quality of the services and interventions offered by Work Programme providers and JCP. The survey examined:

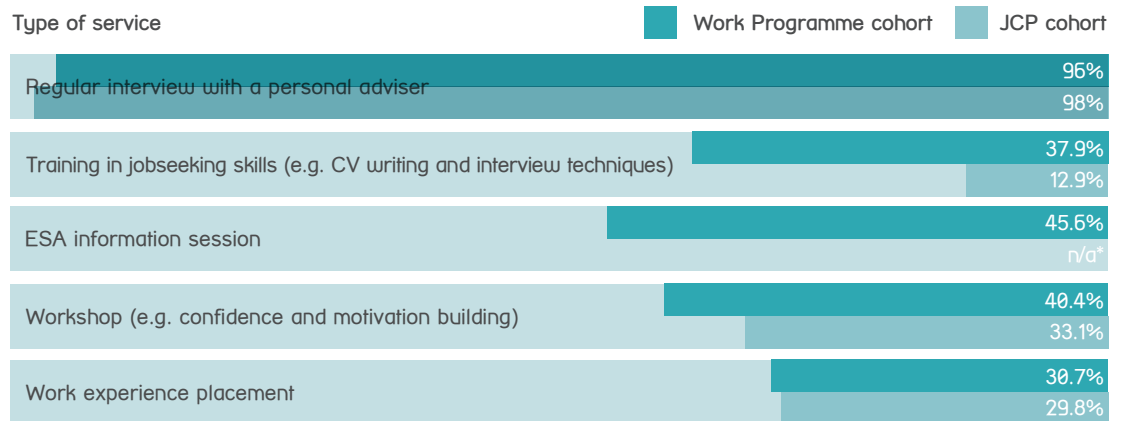
1. How effective these programmes were in identifying claimants' support needs, and to what extent the interventions offered addressed these needs.
2. The extent to which action plans for work preparation were co-produced with respondents and appropriate to their circumstances and barriers.
3. Which services were available in-house and which were commissioned from external providers, and to what extent to meet specific needs.
4. Whether the services offered followed evidence-based recommendations for increasing the employment opportunities of disabled people (Stafford 2006; OECD 2003).

In-house services

Because of the 'black box' design of the Work Programme and the lack of publicly available content prescription for JCP programmes, it was difficult to predict what services and interventions would be offered to respondents. The options listed in the survey were therefore not exhaustive and may have overlapped in content. For example, a “workshop” may have incorporated aspects of jobseeking skills such as CV writing or interview techniques. For this reason respondents could select “Other” and describe a different service in a free text box.

Respondents were asked which type of activity they took part in through the Work Programme or JCP. (Comparing the content of services between different Work Programme providers was not within the scope of this survey.)

34. Houston, D and Lindsay, C, 2010.



*At the time of publishing the survey, the author’s understanding was that these information sessions were unique to the Work Programme so we did not ask JCP respondents about them

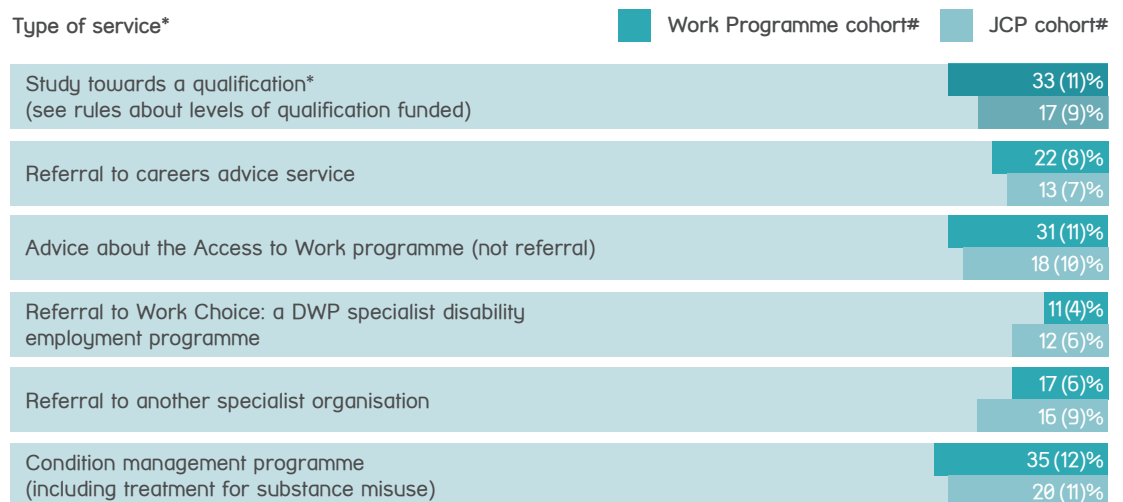
The most common intervention received by all respondents was regular interviews with a personal adviser. It was also the activity for which participation was most often mandatory. Respondents from both cohorts were offered similar types of generic support, with the exception of more specific jobseeking training for the Work Programme cohort than the JCP cohort.

A total of 47 respondents (16 per cent) selected the free text box marked “Other”. Of these, 34 per cent stated that they had received either no service at all or just one initial interview after several months of attachment to the Work Programme. The second most common intervention not listed in the survey was mandatory job search, which is contrary to the conditionality regulations for the ESA WRAG. There was no mention given in the free text responses of any service other than generic employability training.

Services from specialist providers

The contracting model for the Work Programme envisaged that specialist organisations, especially from the voluntary and community sector, would be sub-contracted by ‘prime’ providers to deliver the intensive support needed to help people with the greatest disadvantage to move closer to work. The WRAG, comprising 9 per cent of Work Programme referrals,³⁵ was expected to be among those requiring the most intensive and specialist support.

Which specialist services were offered to improve employment prospects?



* This list of services was largely drawn from the DWP’s ‘Guidance to Work Programme Providers’³⁶, which suggests the range of services that can be purchased by end-to-end providers.

#Note on sample size: Only 269 respondents gave any answer to this question, 181 from the Work programme and 88 from JCP. The percentages given in the table are based on the average sample size of 290 respondents from the Work Programme and 185 from JCP

35. ERSA, 2012.

36. Stanley, K and Regan, S, 2003. The Missing Million: supporting disabled people into work. Institute for Public Policy Research (IPPR), London; DWP, 2008.

These findings show that very little specialist support is offered, beyond the generic in-house services, to people in the ESA WRAG. The most common referral type was for a Condition Management Programme, yet only a total of 11 to 12 per cent of respondents received this service.

Only 6 per cent of Work Programme participants and 9 per cent of JCP participants received the investment of a specialist service from an external provider.

Note on Qualifications: Research shows that educational qualifications appear to be of critical importance to disabled people in terms of influencing future life chances.³⁷ Work Programme providers can refer participants to publicly funded schemes such as Learndirect and the Skills Funding Agency for study up to Level 3, i.e. for those with few existing educational qualifications.³⁸ The gap between the study opportunities offered to WRAG participants and the opportunities sought by respondents is explored further in Section 5.

Note on Access to Work: Personal advisers can give information about Access to Work but not refer a participant directly (see Section 5).

Note on Work Choice: Work Choice is a separate employment support programme for people with the severest disabilities who cannot be supported into work through mainstream services. It is commissioned nationally by the DWP.

Vocational training

According to numerous studies, exposure to a job that suits the person's interests and needs, with the training connected to it, has been found to be the key factor in creating sustained job opportunities for people who have difficulty competing in the labour market due to a disability or health condition.³⁹

Was job-specific training offered?

Yes. I took up the offer of suitable job training	1.4%
Yes, but it was for a job that I'm not interested in	0.5%
Yes, but the job wasn't suitable due to my disability	1.7%
No job-specific training was offered	96.4%

Some 30 per cent of all respondents mentioned Work Experience Placements brokered by a personal adviser, both as a mandatory and as a voluntary aspect of their WRA. However, it is not clear to what extent these placements followed the best practice principles of the place and train model. It is not known whether the job they were placed in corresponded to their interests, capabilities and needs and included a genuine element of vocational training that equipped them with job-specific skills, or whether the placements were more geared to instilling work-related values such as time-keeping and co-operation in a team.

Discussion

The introduction of ESA was hailed as part of a rebalancing of rights and responsibilities in the social security system. In return for greater obligations to prepare for work, disabled people were promised a "step change in support".⁴⁰ The marketisation of welfare to work services, via the Work Programme, was supposed to facilitate more intensive and more specialist support for people with the most complex needs.⁴¹ Work Programme providers are incentivised, through much higher outcome payments, to invest in specialist support for ESA clients. For the group furthest away from the labour market the maximum fee for a sustained job outcome is £13,550, compared with £3,810 for a JSA client aged

37. Riddell, S, 2010. *Disability, Skills and Employment*. EHRC.

38. Work Programme Provider Guidance, Chapter 13 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275611/wp-pg-chapter-13.pdf

39. Perkins et al, 2009. *Realising Ambitions: Better employment support for people with a mental health condition*. London: TSO; Devins et al, 2011. *The Role of Skills from Worklessness to Progression in Sustainable Employment*. UK Commission for Employment and Skills; Meagre, N, 2011. *Disability and Skills in a Changing Economy*. UKCES; Bamba, C, 2006.

40. DWP, 2008.

41. Freud, D, 2007.

18 to 25. It was envisaged that “the private and voluntary sector would be responsible for intensive case management and for providing individual, tailored help for individuals to re-engage with the labour market”.⁴²

Yet these data indicate that, despite these financial incentives to private providers, Work Programme participants did not receive more specialist support services than their counterparts with JCP, part of the DWP. No more than 9 per cent of respondents from either cohort were referred to either Work Choice, the Government’s specialist disability employment programme, or another local specialist service.

“There were only two members of staff who were trained to deal with ESA claimants and no one seemed able to deal with mental health problems. My first meeting involved a group induction. I was so anxious in this situation I had to be removed from the room.”

Research by the DWP and the Work and Pensions Committee also found that investment in specialist services was relatively rare, and less common than suggested by the supply chains described in many prime providers’ contracts with DWP.⁴³ This adds to the growing evidence that the differential pricing model for the Work Programme is not having its intended impact in targeting the most disadvantaged jobseekers,⁴⁴ and specialist organisations included in lead providers’ supply chains are not receiving the referrals of Work Programme participants they hoped for when entering into contracts with primes.⁴⁵

Instead, respondents by and large received a generic package of back-to-work support that focuses predominantly on jobseeking skills and behaviours, from both the Work Programme and JCP. This corroborates the Work and Pensions Committee’s finding that the Work Programme was delivering “the same kind of stuff that has always been delivered”, including “face-to-face adviser support, coaching, mentoring, help with job searches and CV building”.⁴⁶

“[The Work Programme provider] has just stuck me and other ESA “customers” in groups with people on JSA. We are made to attend courses on CVs and interview techniques, but nothing is done at all to help me find work or to provide any disability-specific support or advice. I end up more exhausted, confused and anxious because I have no real idea what is going on, and I don’t see how any of this is benefitting me or getting me back to work.”

“They just seem to be going through the motions. They get me to do things like a CV, despite having one, interview techniques, letter writing. I want a placement but nobody has found one for me despite me asking.”

Even respondents who forged a good relationship with their personal adviser felt the programme, as a whole, offered them nothing:

“My adviser is very pleasant and is more like a friend. But apart from the offer of the permitted work option, there is not much more I think they can do. A lot will be down to me. Nothing has been offered in terms of a job or special support.”

“They looked at my CV and laughed because I have a Masters and all they had was shelf stacking.”

Neither JCP nor the Work Programme appear to be incorporating existing evidence-based models to support disabled people into work, most notably the Individual Placement and Support (IPS) model, which offers vocational training through work placements where both individual and employer are supported. Less than 5 per cent of respondents felt they had been offered any job-specific training. This finding must be taken with caution because 30 per cent of respondents said they had taken part in a Work Experience Placements. It could be simply a confusion in terminology, or that respondents who had undertaken a placement did not feel that their placement included any element of genuine vocational training. More research is needed to clarify the extent to which placements brokered by personal advisers follow the proven “place and train” model used in IPS. However, the DWP’s own research found few clear examples of vocational skills training being provided through the Work Programme.⁴⁷

42. Freud, D, 2007.

43. Ibid; Work and Pensions Committee, 2013; Rees, J et al, 2013. *Support for all in the UK Work Programme? Differential payments, same old problem...* Third Sector Research Centre.

44. Work and Pensions Committee, 2013; Lane, P, 2013. *Work Programme Evaluation: Procurement, supply chains and implementation of the commissioning model.* DWP.

45. Kerr, S, 2013. *Fair Chance to Work 2: Experiences from the first phase of Work Programme delivery in London.* LCVS.

46. Work and Pensions Committee, 2013.

47. Newton et al, 2012.

Overall, survey results indicate a lack of emphasis on skills development for the WRAG, either through formal qualifications beyond Level 3, or through job-specific training. The UK Commission for Employment and Skills found that “there is a continuing under-emphasis on skills development for disabled people in employment programmes” and that “this reinforces rather than compensates for the ‘double disadvantage’ that disabled people experience through low participation rates in formal education”.⁴⁸

“The fact that I am qualified to degree standard and have over 30 years of knowledge was simply ignored and I was asked if I wanted to do a basic computer course!”

“I have been told there were no suitable courses for me to do as I am overqualified, which has left me to my own devices with either a 10-minute meeting or phone call once a month. I really want to work and am sorting my health out in order to be able to do so.”

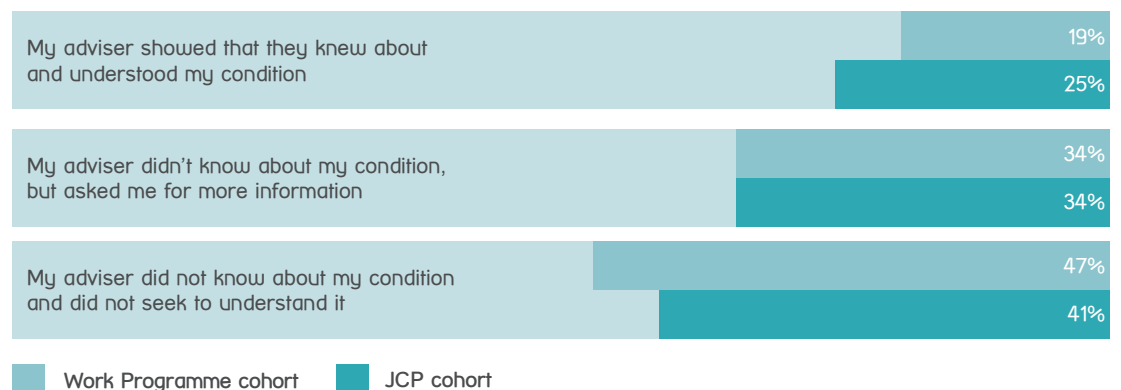
3. Were services personalised to individuals’ needs?

When ESA was introduced, the critical factor in moving disabled people into work was believed to be a support system that was personalised and tailored to individual needs and goals.⁴⁹ Previous evaluations of the Work Programme have pointed out that despite the personal adviser system, the lack of investment in specialist support means that it does not offer a genuinely personalised service.⁵⁰ In order to uncover the reasons for this lack of investment we considered the mechanism for assessing individual needs in the Work Programme and JCP, as well as seeking respondents’ views on the role they played in determining their return to work journey.

a) The assessment of needs

People are placed in the WRAG because their health condition or impairment limits their capability for work. We were interested in how respondents’ disability-related barriers to work were appraised as a part of their support package.

“How well do you think your adviser understood your health condition or disability?”



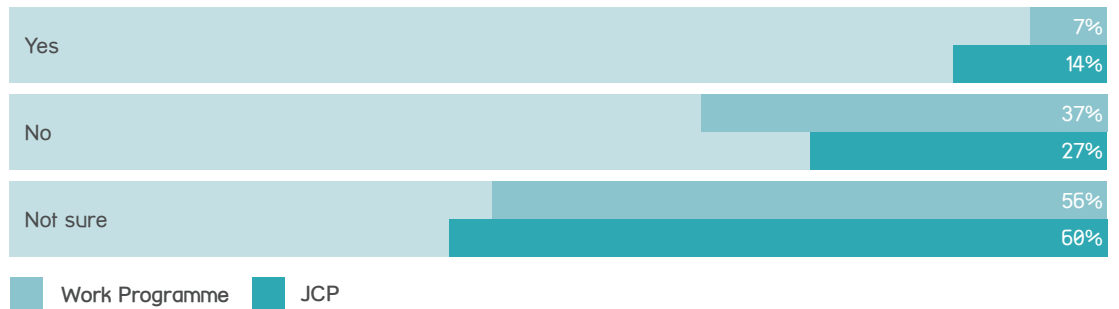
Almost half of respondents appear to have had no assessment at all of the impact of their health condition or impairment on their employment prospects when they embarked on their WRAG programme.

48. UKCES, 2011. *Disability and Skills in the Changing Economy*.

49. DWP, 2008.

50. Newton et al, 2012. 51. Freud, D, 2007.

“Did your main Work Programme/JCP adviser have a copy of the report from your WCA, called ESA85?”



Following a WCA, the DWP produces a report, called ESA85, outlining which areas of functional impairment impact on a claimant’s capability for work. This report is not routinely given to claimants; most are unlikely to know its name.

These findings are difficult to interpret because most respondents would not have this information. However, it has been confirmed in discussions with the Employment Related Services Association and with individual providers that Work Programme providers are not routinely given a copy of their clients’ WCA report at the time of handover.

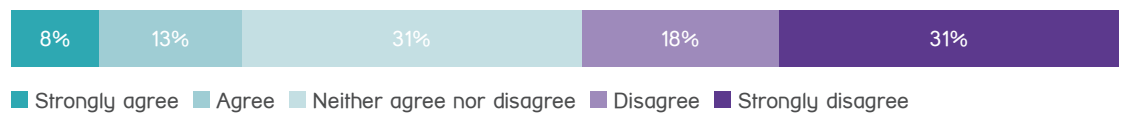
With no mechanism in place to transmit information from the DWP’s assessment of limited capability for work to the personal adviser for WRA, either with JCP or the Work Programme, it appears that the procedure for assessing a person’s disability-related barriers to work is not formalised and is extremely patchy in occurrence.

b) How much did respondents determine their own work-related activity plans?

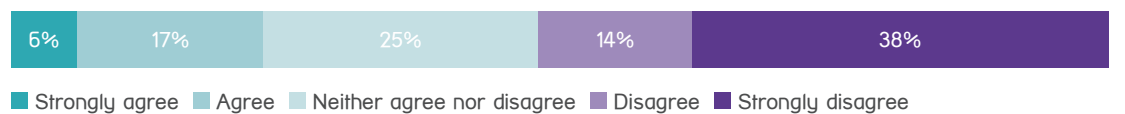
Regular meetings with a personal adviser form the core of both the JCP and Work Programme services for the WRAG. The ethos of the Work Programme emphasised the “freedom between the provider and the individual to do what works for them” and support tailored to clients’ aspirations as well as their needs.⁵¹

Both JCP and Work Programme programmes centre on an Action Plan of activities, which the client agrees to, and is obliged to engage in, with the aim of moving into work. How much cooperation occurs in the production of an Action Plan and how much did respondents feel that their Action Plan followed their own employment-related goals?

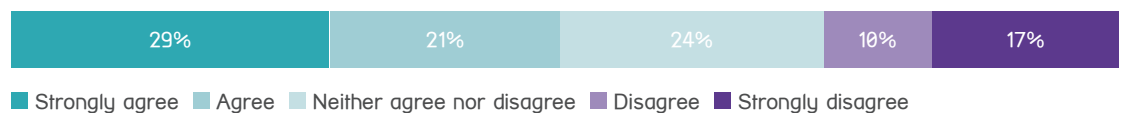
“I felt involved in making the action plan and agreed to the activities”



“I felt my action plan was appropriate for me”



“I felt unsure or confused about whether or not I had a choice in deciding my action plan”



51. Freud, D, 2007.

About half of all respondents felt that the activities in their Action Plan were not appropriate to them, and that they had not been involved in creating them and had not expressed agreement with them. Only one fifth of respondents felt that their Action Plan was appropriate to them and felt involved in agreeing the activities contained in it.

There was no significant difference in the experience of personalisation between the JCP cohort and the Work Programme cohort of respondents.

Where respondents had been able to determine their work-related activities, much greater satisfaction and sense of progress was reported:

“The six months of WRAG so far have been positive as the Job Centre adviser has allowed me to attend Mind courses of my choosing, which are helping me build confidence and social skills.”

However, statements expressing frustration at their lack of input into actions plans were far more common:

“I would like them to be more collaborative in making an Action Plan and more aware of back-to-work support available locally. I’d like to be offered a disability employment adviser and it would also be helpful if Jobcentre Plus ran advice sessions etc. in their own premises, which are frequently easier to access than other centres.”

“It is impossible to speak to anybody regarding my concerns. They just send more activities in the post.”

The lack of dialogue due to the computerised nature of action planning systems has been noted in other critiques of the Work Programme.⁵²

Discussion

“The WCA tells the JCP staff nothing about my capability. So, we are all in the dark wasting time. There is nothing on offer – either jobs or retraining or professional assessment of my skills – and they are not motivated to generate possibilities other than voluntary work. What do people like me do?”

The “step change in support”⁵³ promised with the introduction of ESA in returning greater obligations rested on the notion of personalised support, tailored to individual needs and goals. The lack of specialist services for people with health conditions and impairments noted in Section 2 is striking. However, it cannot only be explained by the failure of the Work Programme’s pricing mechanism to prevent the ‘creaming and parking’ of disabled people with complex barriers to work.

Personalisation must begin with an assessment of individual needs. The intention for ESA was to “transform the process from a negatively focused one that only assesses limitation of function, to a positive and forward-looking one that looks at the customer’s future aspirations for work and the health-related interventions that might support those aspirations”.⁵⁴

However, in reality, the assessment that determines eligibility for ESA – the WCA – is disconnected from the support service that the WRAG is supposed to receive. Nine out of ten respondents said that their health condition or disability was a main barrier to work. Yet there is no procedure in place by which a personal employment adviser can appraise the evidence of work-related impairment demonstrated in their WCA.

“No real mention was made of my illness and the people at the Job Centre didn’t enquire or ask any questions, and went about their business as if I was a normal jobseeker.”

“My adviser knows nothing about Asperger syndrome. When I tried to explain she said she didn’t want to know as it would make her judgemental about me. I don’t understand how they can help if this is the case. The main problems people with Asperger syndrome

52. Newton et al, 2012.

53. DWP, 2008.

54. Henderson, M, 2007. *Transformation of the Personal Capability Assessment: DWP Technical Working Groups Phase 2 Evaluation Report*. London: DWP.

have are around social contact and coping with change. Isn't [understanding] this an essential part of the support?"

Some personal advisers attempted to elicit information from respondents about their health condition or impairment, but half of respondents did not have their disability-related barriers to work addressed or acknowledged at all. Thus, the failure to provide a personalised service relates to a structural flaw in the ESA process.

Sadly, for most respondents, having a personal adviser did not result in a personalised service. The majority of respondents felt they had little or no input into making an action plan to improve their employment prospects, and that the activities in it were not appropriate to their needs and circumstances.

"I still don't even have a suitable CV that explains the absences over the years due to either my mental or my physical health. Why not help me get my CV into shape and prepare me for the realism that I need to explain gaps in work or education because of health problems?"

Some felt they had to put aside their own plans and aspirations in order to meet the narrower requirements of their advisers:

"It is made apparent [that you should not] not try and continue enhancing your prospects as you were doing before being placed on the scheme, as it is not achievable in the time period they have to get you employed. So you are frequently urged to drop all that and focus on the work they tell you to."

4. What conditions did respondents have to meet and were they fair and proportionate?

With the introduction of ESA, claimants placed in the WRAG have greater obligations to take part in work-related activity than under IB, in return for the promise of enhanced support.⁵⁵ Failure to participate in MWRA can result in a 'sanction', i.e. a cut in benefit payments. The DWP's guidance to Work Programme providers on 'mandation', i.e. the application of conditionality, states that the mandated activity must be reasonable in the participant's circumstances.⁵⁶

The conditions that can be imposed upon people in the WRAG in return for benefits, and the penalties, or sanctions, for enforcing them have escalated since ESA was introduced in 2008.

55. DWP, 2008.

56. DWP Work Programme Provider Guidance: <https://www.gov.uk/government/publications/work-programme-dwp-provider-guidance>

Escalation in conditionality and sanctions for ESA Work-Related Activity Group

October 2010: all new ESA claimants who are placed in the WRAG at their initial WCA are required to attend an initial JCP Work-Focused Interview (WFI) and then, under the Pathways to Work programme, a further five WFIs at four-week intervals either with JCP or with a Provider.⁵⁷

June 2011: ESA WRAG claimants were required to undertake additional Work-Related Activity (WRA). This meant that claimants could be sanctioned for failing to satisfy requirements. This coincided with the introduction of the Work Programme to replace Pathways to Work. Reduction in ESA resulting from a sanction was typically £14 per week, rising to £28 per week after four weeks of failing to comply, leaving £71 in payment.

December 2012: MWRA can now additionally include work experience and work placements. The reduction in ESA resulting from a sanction for failure to attend a WFI or carry out mandatory WRA increased to 100 per cent of the personal allowance, leaving only the Work-Related Activity component. For a single ESA claimant this would typically entail a reduction of £71 per week, leaving £28 per week in payment in 2012.⁵⁸

How much work-related activity is mandatory?

	JCP	Work Programme	All respondents
Personal adviser meetings			
Mandatory	73%	79%	76%
Don't know	19%	16%	17%
Workshop			
Mandatory	17%	35%	29%
Don't know	19%	17%	18%
Work Experience Placement			
Mandatory	11%	16%	14%
Don't know	21%	26%	24%
Training course			
Mandatory	17%	32%	21%
Don't know	11%	19%	16%

Respondents could select "Other" mandatory activities. Three respondents said they had been mandated to search for work:

"I was told I'd be sanctioned if didn't apply for jobs."

The most common form of MWRA was the regular meeting with a personal adviser. Further to these meetings, Work Programme participants had more additional MWRA than those with JCP. A higher proportion of Work Programme participants were mandated to a workshop, a Work Experience Placement or a Training course than their counterparts at JCP.

There was a significant degree of confusion about which activities were mandatory and which were optional among both cohorts, indicating a potential lack of clarity in the communication of action plans.

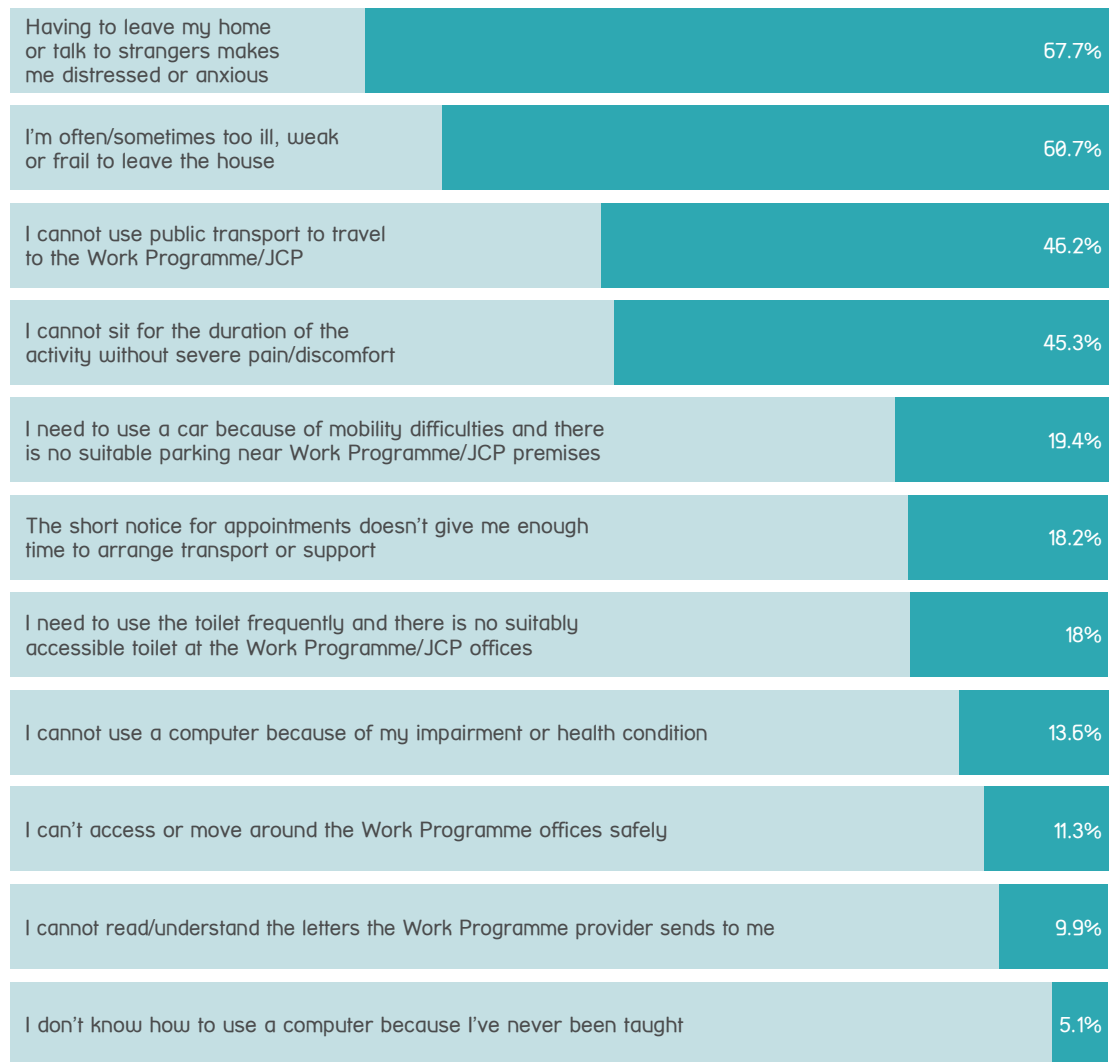
Was conditionality reasonable in respondents' circumstances?

We were interested in investigating to what extent the use of mandation took account of the impact of respondents' health conditions or impairments in accessing MWRA.

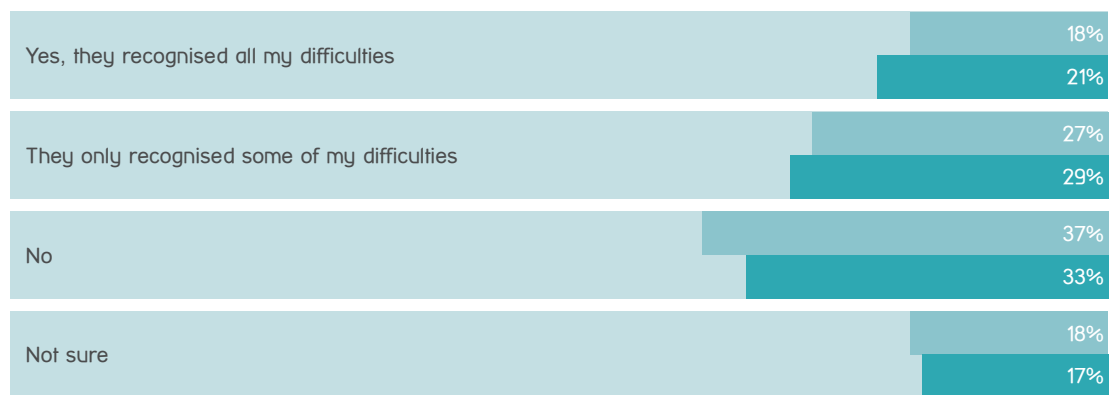
57. DWP, May 2012. *ESA Sanctions: Official Statistics*.

58. <http://www.dwp.gov.uk/docs/m-41-12.pdf>

Respondents each recorded an average of 3.3 of the following barriers to MWRA:

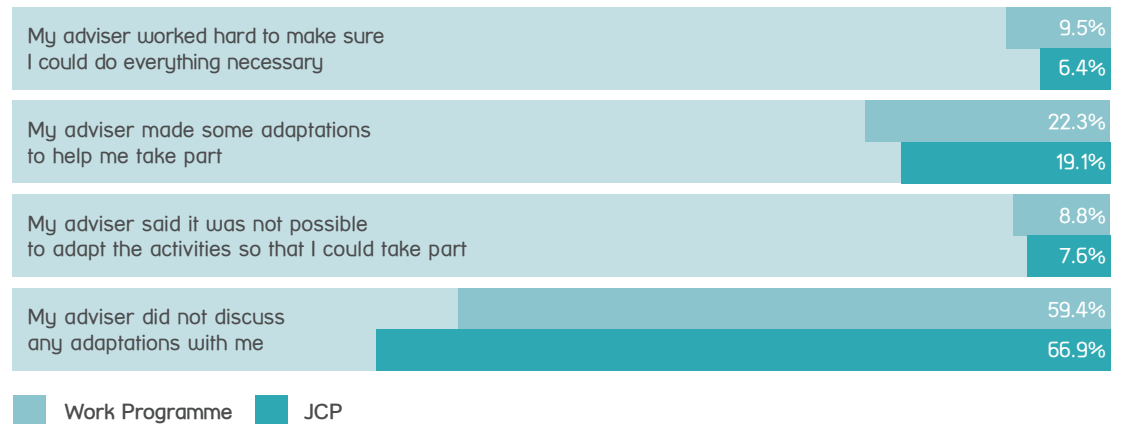


"If you ticked any of the previous barriers did your adviser recognise the difficulties you faced?"



Work Programme JCP

“Did your adviser adapt activities to make things easier for you?”



Discussion

The survey found evidence of greater use of conditionality for activities beyond personal adviser meetings by Work Programme advisers than JCP advisers. However, Work Programme advisers were slightly more likely to make adjustments to accommodate a participant’s health-related difficulties than advisers at JCP.

Section 3 discusses the failure by the Work Programme and JCP to assess and identify disability-related barriers to work in the WRAG due, in part, to the systemic disconnect in the ESA process. It appears that this disconnect has highly detrimental consequences for the fairness of conditionality.

Respondents selected an average more than three different disability-related difficulties each. The most significant difficulties reported were distress caused by leaving the house or interacting with strangers and being too ill, weak or frail to leave the house. More than half of respondents felt that their adviser had not identified their disability-related barriers to MWRA and 70 per cent said no adjustments were made to enable them to access or carry out MWRA.

“No consideration was given to my health issues but I was expected to attend all day for two weeks. If I was well enough to do that, I would be at work!”

Conditionality seems to be applied indiscriminately:

“There is no consideration for individual concerns and if you happen to raise these concerns you are told that you have to comply and there’s nothing that can be done about them.”

We received a large volume of unprompted qualitative evidence of the degree of difficulty respondents faced in the WRAG and the distress this causes them:

“I have a variable condition, which I have been told is in my head, and not to take medication that would make me drowsy as I would be sanctioned as it [would be] my choice to make myself unavailable.”

“I feel offended and uncomfortable that I’m not offered use of a toilet at the JCP when I need to use one. They shouldn’t invite people with problems into their offices if they can’t accommodate their needs.”

“I have difficulty sitting or standing, due to spinal injury, for more than 30 minutes – an hour max – and I have to go on mandatory workshops for two hours at a time. It’s extremely painful for me.”

“I was sent to a provider that was 30 miles plus from home – an hour round journey – with no parking outside for disabled people and the pavement was broken. I went over on my ankles on two occasions.”

“I could not take part in any of the computer-based activities, as I cannot use my right hand properly. I walk with two crutches, and all the chairs were on wheels... highly dangerous for me. Sitting down was a health and safety nightmare!”

These findings together provide a strong indication that, at a systemic level, the conditionality imposed on disabled people in the WRAG is not appropriate, reasonable or fair. Some personal advisers did take steps to accommodate clients:

“My adviser has been very supportive as my health conditions have worsened to the point I can’t leave my home, so he carries out telephone appointments and speaks to my mother if I’m not well enough to talk to him.”

However, the overall picture is of a widespread failure among both public and private providers to make reasonable adjustments to enable disabled people to meaningfully and productively participate in employment support.

5. Sanctions operations and their impact on the WRAG

If a WRAG claimant fails to participate (FTP) in MWRA this triggers a process known as Raising a Compliance Doubt. Work Programme and JCP advisers are expected to report the FTP to the Labour Market Decision Maker within the DWP, who makes a decision on whether to apply a sanction, i.e. a cut in benefits.

Were participants referred for a sanctioning decision for failing to attend an activity?



Main reason for not attending an activity

Stated reason for FTP	No of respondents (total 79*)
My disability or health condition prevented me from attending	54
The appointment clashed with a medical appointment	15
I forgot about the appointment	6
I didn't want to attend	4

*NB the total number of respondents to this question is greater than the total number who said they had been reported, because many did not know if their FTP resulted in a report.

Did they have their benefits cut or stopped for a FTP?



Sanctions statistics for the ESA WRAG

A total of 172,750 Employment and Support Allowance (ESA) claimants were referred for potential sanctioning between October 2008 and June 2013. Of those referrals, 76,300 received an adverse decision, meaning their sickness benefits were cut or stopped completely.⁵⁹

Sanctions imposed on the ESA WRAG rose to 22,840 in the 12 months to 30 September 2013, their highest rate for that period since their introduction in October 2008. This represents a sanctions rate of almost 0.5 per cent.⁶⁰

Among the 19,325 ESA claimants sanctioned in the 10-month period 3 December 2012 to 30 September 2013, 75 per cent have been penalised for not participating in work-related activity, and the remainder for missing or being late for an interview.

Six out of ten ESA claimants hit with a sanction are vulnerable people with a mental health condition or learning difficulty, according to DWP figures obtained under the Freedom of Information Act.⁶¹

Tribunals are now upholding almost nine out of ten of appeals against DWP for sanctions (for JSA as well as ESA). Under the previous Labour Government this figure was two out of ten.⁶²

The impact of conditionality

We sought to gauge how the threat of sanctions affected people's morale and wellbeing.

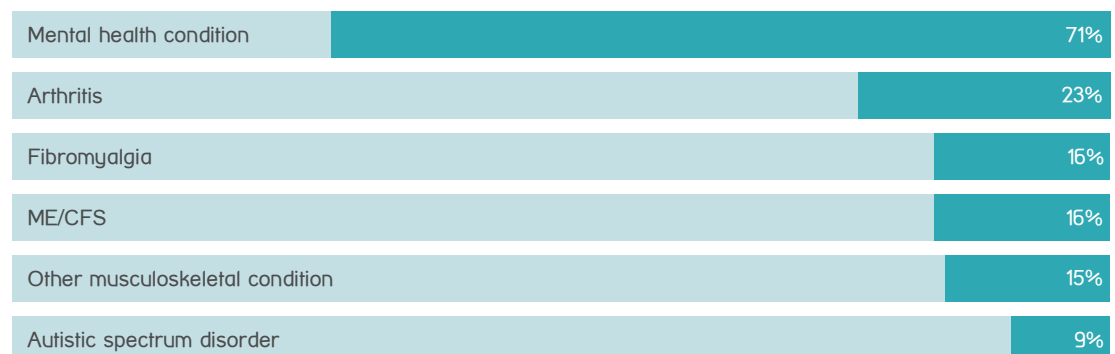
"I feel anxious about being able to do the activities required of me"



"I feel anxious about losing my benefits if I can't do the activities"



Condition types of those who agreed or strongly agreed with the last statement:



59. <https://www.gov.uk/government/collections/jobseekers-allowance-sanctions>

60. Webster, D *The DWP's JSA/ESA Sanctions Statistics Release*, 19 February 2014. <http://paulspicker.files.wordpress.com/2014/02/sanctions-stats-briefing-d-webster-19-feb-2014-1.pdf>

61. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/295384/foi-79-2014.pdf

62. Webster, D, 2014.

Discussion

There was some variation between the Work Programme and JCP in the proportion of respondents referred for possible sanction and those who were actually sanctioned as a result. Only half of people from the Work Programme reported for failure to participate (FTP) actually received a sanction whereas with JCP this figure was about four in five. Altogether, 7 per cent of Work Programme participants and 5 per cent of JCP participants said their benefits had been cut or stopped.

Section 4 showed that for the majority of respondents, conditionality was not appropriate, reasonable or fair because in seven out of ten cases no adjustment to MWRA was made to accommodate their health condition or disability.

The stated purpose of conditionality and sanctions is to increase participation in work-related activity and to “encourage skills and disciplines associated with a normal working environment”.⁶³ Yet only 10 of the 79 respondents who gave a reason for a FTP could be considered lacking in work discipline or commitment (i.e. forgetting about or not wanting to attend an activity). For 87 per cent of cases of FTP the reason was related to their health condition or disability, either because of health-related barriers to accessing the activity (68 per cent) or because of a medical appointment (19 per cent).

“They tried to have me sanctioned for missing appointments when I had hospital appointments, of which I advised them. They denied receiving phone calls and never acknowledged emails.”

Some 6.5 per cent of 478 respondents actually received a sanction, i.e. a cut in benefits, against a national average of 0.5 per cent.⁶⁴ However, four out of five respondents reported anxiety about the conditionality and sanctions process because their health or impairment made it difficult for them to participate in MWRA, and 86 per cent said they felt anxious about losing benefits as a result:

“I explained to my Jobcentre adviser that I suffer severe anxiety and IBS and cannot always leave my home; I gave doctors letters but she said if I didn’t attend [Work Programme provider] she would sanction my money. I had no choice but to go as I cannot pay for food and heat already. I attended the twin training centre and had an anxiety attack. I had to leave and find my way home feeling very ill and frightened; a horrific experience.”

This anxiety was overwhelmingly expressed by those with a prior mental health condition, but was also expressed by a significant number of respondents with physical health conditions or impairments.

We received strong testimony from respondents suggesting that anxiety about sanctions was often exacerbated by their experience of the bureaucratic failings or inflexibility of Work Programme or JCP providers:

“My Work Programme adviser has told me off for being late and stopped my money. This was because my dad needs to take me and could not get a shift change, and they wouldn’t change the appointment.”

“Attending the Work Programme has aggravated my mental health to the extent that it is gradually getting worse, not better! This is due to the constant worry of whether or not my Work Programme adviser will make her phone appointments with me as whenever she doesn’t phone, I’m terrified that I might be sanctioned because of her.”

63. DWP Work Programme Provider Guidance: <https://www.gov.uk/government/publications/work-programme-dwp-provider-guidance>

64. Webster, D, 2014.

6. Respondents' suggestions for future disability employment policies

Our survey looked at how respondents thought the Government's aim of moving more disabled people into work might be better achieved. We asked what measures could improve their capacity for work and what measures from employers would widen the availability of suitable jobs.

a) How did people perceive their potential for work-related activity?

According to the DWP, people placed in the WRAG are fully capable of work-related activity. We were interested in how respondents understood this, and how it relates to their employability.

"Would you like to work if the job was suitable and you had the right support?"



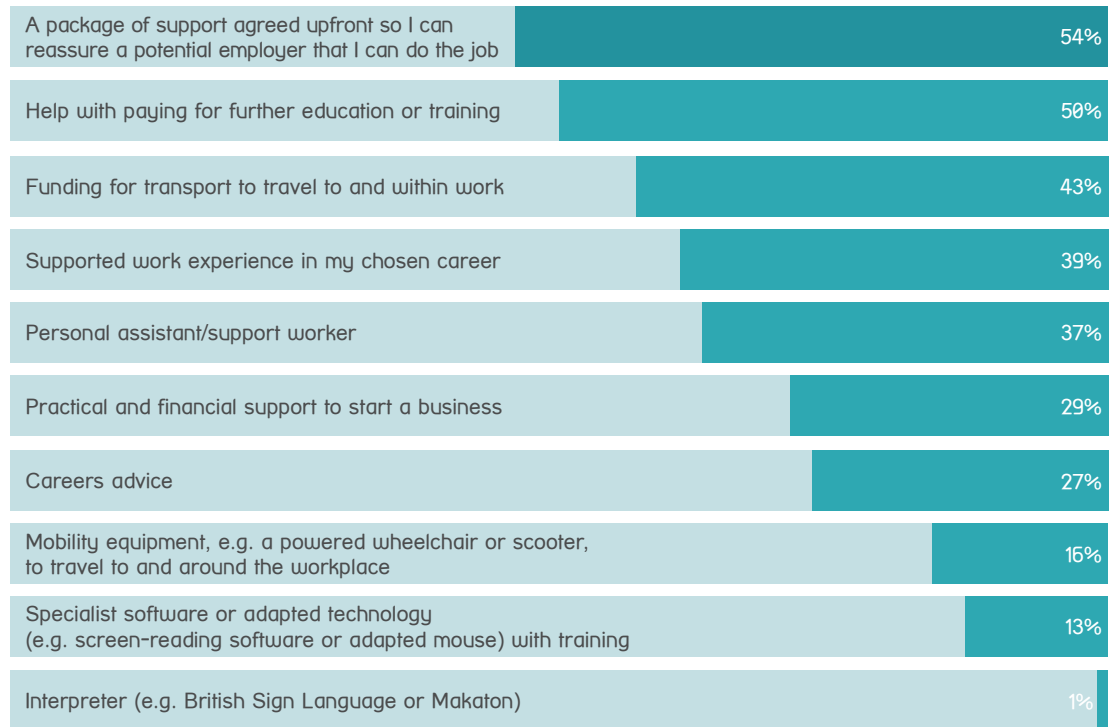
"Do you think it would be possible for an employer to make use of your talents, if they made changes to the kinds of jobs on offer?"



Only about one person in ten did not want to work and only 15 per cent thought that their health condition or impairment posed an absolute barrier to paid employment. The desire to work was expressed by six out of ten, while half of respondents believed they had the capacity for productive activity that is of economic value. Nonetheless, there was considerable uncertainty about employment and especially their employability.

b) How to improve disabled people’s capacity to work

“Which of these forms of support would help you work?”



* Respondents could select more than one option

A package of support, agreed upfront, so they reassure a potential employer that they could do the job, was the most helpful measure overall identified by respondents, closely followed by help with paying for further education and training.

c) How to widen employment opportunities for disabled people

“Are you aware of any effort made by the Work Programme/JCP to get employers to adapt the jobs on offer to make it easier for you to work?”



“Which of the following would help you to compete with non-disabled jobseekers?”

Adjustments to working requirements	Percentage*
Flexible working times, e.g. hours set per year instead of per week to allow for variability in health	64%
Working from home	62%
Employers who are genuinely positive and confident about employing disabled people	58%
Working less than 16 hours per week	44%
A better understanding by employers of what I can do	44%
The option of a work trial instead of an interview, to give me an opportunity to demonstrate what I can do	39%
Employers who request only those skills and attributes that are essential to do the job (for example, not stipulating an applicant must be a car driver if the job can be done using public transport)	25%
My best chance of working would be in sheltered employment for disabled people who are at a significant disadvantage in accessing mainstream employment	13%
Changes to workplace environment, e.g. to create wheelchair access	12%
None of the above	10%

* Respondents could tick as many as applied.

Discussion

Around four in five respondents thought employers could, or may be able to, make use of their talents. Yet only 5 per cent of the WRAG has found sustained employment through the Work Programme since it was introduced in 2011. This suggests there is a very large gap between the capacity for valuable, productive activity and the capacity to compete in a mainstream labour market – and that most people in the WRAG find themselves stuck in this gap.

Earlier findings of the survey indicated that a lack of incentive or motivation to work is not the obstacle. Compulsion has not proved successful in bridging the gap. There was, however, strong support for a number of suggestions offered in the survey for better support for, and integration of, disabled people into employment. Solutions can be roughly divided into ‘supply’ side measures, which would improve competitiveness in the jobs market; and ‘demand’ side measures, which require employers to adapt their offers of employment to respondents’ needs.

Better support to improve capacity

“A package of support awarded upfront so that I can reassure a potential employers that I can do the job” received the greatest backing. Potentially, this package could incorporate a number of other popular support measures including funding for travel to and within work, a support worker, interpreter and mobility equipment. The Government’s Access to Work scheme is the closest approximation to this package.

Access to Work

The scheme helps those with health conditions or impairments to remain in work by helping with the cost of equipment or adjustments made over and above those required by the Equality Act. Access to Work is the most successful among disability employment policies in recent years, receiving high support from stakeholders⁶⁵ and bringing a net return to the Treasury of £1.48 in higher tax revenue and lower benefit spending for every £1 spent.⁶⁶

Access to Work

Access to Work provides practical advice and support to disabled people and their employers to help overcome work-related obstacles resulting from disability. It can also provide a grant towards additional support relating to their disability that the person would need to do their job.

It can help in a number of ways. For example by paying for:

- special aids or equipment to enable a disabled person to do their job
- adaptations to equipment to make it accessible
- the additional costs of travel to work for people who are unable to use public transport because of their disability or health condition
- a support worker in the workplace, such as:
 - a reader for a visually impaired person.
 - an interpreter for someone with hearing difficulties.

Only 12 per cent of respondents were even offered advice about Access to Work. Personal advisers cannot make a direct referral to Access to Work on behalf of a client; they can only direct clients to apply for the service themselves.⁶⁷ This is because an application to the Access to Work scheme can only be made once a job has been secured. The main benefit of Access to Work, according to evaluations of the scheme, has been “to support continued employment of disabled people already in work, with the impact of the programme on the inflow into work of disabled people likely to be small”.⁶⁸

Securing employment is a competitive process. Unless the playing field is levelled before the job application process by an award for support like Access to Work, people with certain health conditions and impairments are less able to convince employers of their ability to perform a job.

Qualifications

Half of respondents said that help with paying for further education or training would improve their employment prospects. Only about 12 per cent of respondents were offered study towards a qualification. However, funding regulations limit the level of qualifications that WRAG participants can study towards to Level 3 or below, i.e. to basic skills.

Disabled people are twice as likely as non-disabled people to have no qualifications, and only two thirds as likely to have qualifications at Level 4 and above.⁶⁹ However, qualifications play a pivotal role in determining the employment prospects of disabled people. The employment rate for disabled people with any qualifications is substantially higher (54 per cent) than those with no qualifications (17 per cent).⁷⁰

65. Sayce, L., 2011. *Getting in, getting on and staying in – disability employment support fit for the future*: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/49779/sayce-report.pdf

66. Disability and Poverty Task Force, April 2014. *Breaking the Link between Disability and Poverty: Report to the Labour Party*.

67. DWP Work Programme Provider Guidance: <https://www.gov.uk/government/publications/work-programme-dwp-provider-guidance>

68. Meagre, N, 2011.

69. Ibid.

70. DRUK, 2013. *Taking Control of Employment Support*.

We received strong testimony from respondents who could no longer perform the job they used to since acquiring an impairment and who expressed frustration that funding was not available for education or training that would enable them to pursue a new career.

“I asked if the Work Programme would pay for me to retrain for jobs, as my [health] conditions would not allow me to do what I had done previously and it had been 12 years since I worked. I was told they do not pay for such – so how they were expecting me to get work was baffling.”

Careers advice, help with self-employment

Some of the support measures selected by respondents include services already in the framework of Work Programme providers or JCP services. Careers advice and support in starting a business were considered helpful by 27 per cent and 29 per cent of respondents respectively. Yet only 8 per cent of respondents were offered a careers advice service by either JCP or Work Programme. The survey did not ask whether support with self-employment was offered but anecdotal evidence from the survey suggests more could be provided:

“I now work 16 hours a week and claim tax credits. The help I received was non-existent. You have to find your way round all the different departments unaided. I could do with a one-stop adviser who would help me through all the different agencies. I seem to spend more and more time on paperwork than I do on actually working at my business. When I asked for help with computer skills and with building a website I was told no help was available.”

Supported work experience

Two in five respondents would welcome supported work experience. Research shows that in-work vocational training is the most effective support strategy for disabled people.⁷¹ We know that approximately 30 per cent were offered a work experience placement, but nothing about whether the work was adapted to suit respondents’ needs or whether it matched their career aspirations. Supported work experience is the critical element of successful programmes like Individual Placement and Support (IPS) and Supported Employment commissioned outside of the DWP. When asked if they were offered any job-specific training, 96 per cent of respondents said no.

How employers can widen their offers of work?

This review suggests that the gap between capacity for productive activity and the capacity to compete in the labour market is very large for disabled people in the WRAG. Bridging that gap must entail not only equipping disabled people with the support to make them more competitive, but also getting employers to offer more inclusive job opportunities. Engaging employers in the creation of adapted jobs must be at the heart of any disability employment strategy.⁷²

Yet only 3 per cent of respondents believed that their Work Programme provider or JCP adviser was making any effort to engage with employers to get them to adapt the jobs on offer to make it easier for them to work. As discussed, both public and private programmes for the WRAG appear to focus exclusively on basic skills, jobseeking techniques and the enforcement of work disciplines. There is nothing in guidance given by the DWP to Work Programme providers that specifies a duty to work with employers to create jobs suitable for disabled people.

We received strong evidence of the frustration this caused to WRAG participants:

“I was given a list of job vacancies but this was a general Jobcentre list and did not state which employers would accommodate my illness/disability. The employers were not aware that disabled people were being sent to them and were not sympathetic or understanding of my disability.”

71. Bamba, C, 2006.

72. Trotter, R, 2013; Devins et al, 2011.

“Putting someone with Asperger syndrome into a telesales cold-calling job does not work!”

Flexible working

A very high number of respondents said they would welcome the opportunity for flexible working times (64 per cent), e.g. annualised hours, and working from home (62 per cent). Almost half (44 per cent) said they could work less than 16 hours per week. This correlates strongly with earlier findings that the main barrier to work for half of all respondents was the variability of their health condition. Some 68 per cent reported mental distress leaving their home or talking to strangers and 61 per cent said the symptoms of their health condition made them too weak or frail to leave the house.

Yet the current employment support programmes for the WRAG do not begin to address these barriers:

“I was never helped with finding work and I asked about the possibilities of working from home. No one suggested anything to help.”

Tackling discriminatory recruitment practices

There was also strong support for educating employers to better understand the value of employing disabled people. One example is encouraging employers to not request skills or attributes that would unnecessarily bar disabled people from applying for jobs if those attributes were not essential to the role. The option of a work trial instead of an interview was felt by 39 per cent of respondents to be a good way of enabling them to demonstrate their abilities. This option would probably also help employers to develop confidence towards employing disabled people.

7. Overall impacts: the ESA WRAG and social inclusion

We sought to look beyond the available data on Job Outcomes for the WRAG and to capture the broader psycho-social outcomes of ESA policy. Respondents were asked to rate the impact of participating in the Work Programme or JCP on their health and wellbeing, confidence about work, sense of citizenship and social inclusion, and fulfilment of personal aspirations.

Employment outcomes

Respondents were asked whether they were, or had been, in work, whether full-time or part-time.

Full-time work	2%
Part-time work	3%
Had started work since being in WRAG but not working at present	3%
No	92%

There was no significant difference between the Work Programme and JCP cohort for employment outcomes.

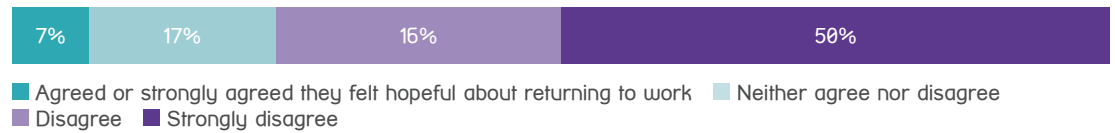
These measures are not exactly equivalent to DWP figures for Job Outcomes, which measure a period of employment of 26 weeks or more for ESA claimants. Nonetheless, the sample from this survey is roughly representative of employment rates for ESA WRAG participants on the Work Programme.⁷³ The cumulative Job Outcomes from the Work Programme from July 2011 to December 2013 for the two ESA WRAG payment groups (new claims and claims transferred from Incapacity Benefit) stands at 5 per cent.

73. No statistics on employment outcomes are available from the DWP for ESA claimants not in the Work Programme.

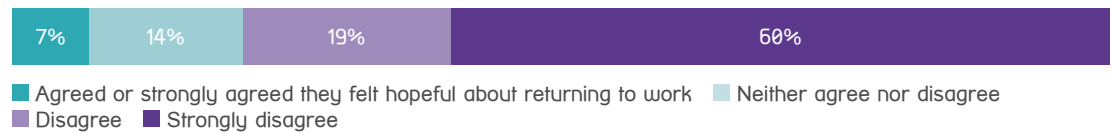
Empowerment and confidence in relation to employment

Respondents were asked to rate to what extent they agreed that participating in the Work Programme or JCP had empowered them and increased confidence in their job prospects.

“I feel hopeful about my chances of returning to work”



“I feel empowered because I’ve taken part in/received support from Work Programme/JCP”



There was almost no variation at all between the Work Programme cohort and the JCP cohort in their reaction to these statements.

Social inclusion and health/wellbeing

Respondents were asked about the impact of their engagement with JCP or the Work Programme on their health condition or disability; their ability to contribute to society or to their community; their financial situation; their skills; their feeling of having a purpose in life; their confidence about getting a job; and their sense of moving closer to their goals.

Outcomes for social inclusion and wellbeing

	improved	stayed the same	got worse	total sample
Health/impairment	4%	35%	61%	444
Social contribution	4%	53%	43%	434
Financial situation	2%	46%	51%	434
Skills	6%	73%	22%	425
Purpose in life	6%	37%	57%	429
Confidence about working	3%	29%	67%	430
Moving closer to goals	5%	32%	63%	425

A vast majority of respondents indicated deterioration in all these aspects of wellbeing and social inclusion as a result of engagement in JCP or the Work Programme, with the exception of skills and ability to contribute to society or community, which remain the same for the majority. The three worst affected measures were confidence about getting a job, sense of moving closer to goals, and health condition or disability. Only 6 per cent or less of respondents noted any improvements in any of the areas measured.

“I desperately want to be normal and work but at the moment I just can’t, and [the provider] and Jobcentre are causing so much stress that it is affecting my progress through therapy.”

Once again, there was almost no variation between the JCP cohort and the Work Programme cohort in the impact of engagement on wellbeing and social inclusion.

Discussion

“The worst thing, I find, is realising that I am forced into looking for a life that I want but have no chance of having. I seriously feel I may kill myself because being sick, having next to no money, no life, no future, no cure, constant pain and constant disapproval and rejection defeats me.”

The 2006 Green Paper proposing ESA reform said: “It is the social injustice inflicted by the poverty trap of benefit dependency that makes keeping the status quo indefensible.”⁷⁴ Moving IB claimants into paid work was to be the measure of success but social justice was the broader policy intention. “Work is the best route out of poverty. It strengthens independence and dignity. It builds family aspirations, fosters greater social inclusion and can improve an individual’s health and well-being.” Thus the purpose of the WRAG within ESA was to “provide additional help and support so that people can fulfil their potential”.⁷⁵

The compulsion to engage in back-to-work support was introduced to ESA because it was believed to be the means of achieving social inclusion and the alleviation of poverty. The degree of anxiety it has created in participants might be justified if the results of compulsion were nonetheless of net benefit to the claimant. However, more than 50 per cent of respondents said that being on the Work Programme or JCP regime had made their health worse, their financial situation worse, their feeling of having a purpose in life worse, their sense of working towards their goals worse and, most of all, their confidence about getting a job worse, than they were at the outset. Furthermore, only a tiny fraction of people engaging with these schemes have actually found work. By various measures for social inclusion and wellbeing, ESA has not only categorically failed in its intentions but produced deterioration in confidence and wellbeing for the vast majority of respondents to this survey.

Earlier findings from this survey suggest that the poor results for WRAG participants relate not just to the practice of “creaming and parking” by providers, but also to the failure to identify and address their disability-related support needs. It is possible that the poorer than expected outcomes are connected to the decline in health and wellbeing, job confidence, sense of purpose and proximity to personal goals that respondents have reported as a result of participating in the WRAG. It appears likely, moreover, that the almost universally experienced anxiety caused by the system of conditionality and sanctions for the WRAG (see Sections 4 and 5) regime is a contributing factor to this deterioration.

We received a large volume of unprompted evidence of deteriorating health, wellbeing and confidence:

“I am currently in the Work Programme and I am feeling under so much pressure to return to work before I am ready. I feel under constant threat of having my benefits stopped and feel like they have no understanding of the fact that I am trying to get better but it is taking time. I suffer from generalised anxiety disorder and every time they stress me out, I feel like they are setting me back further in my chances of getting better.”

“My Work Programme adviser is experienced and sympathetic but being involved in the programme has made me more depressed and anxious than I was.”

With just 7 per cent of respondents reporting that participation in the Work Programme or JCP had empowered them or made them feel more confident about their employment prospects, it is questionable whether “support” is the correct term to describe the activation programmes experienced by participants in the WRAG. This statement from a respondent shows just how detrimental an impact the WRAG requirements can have on participants:

“I have now moved [from the WRAG] to the Support Group [the ESA group with no conditionality]. I have grown in confidence and feel I have a place in the world now, but this has all been down to my own efforts and support from family and friends.”

74. DWP, 2006.

75. DWP, 2006.

Conclusions

ESA: an issue of health or welfare dependency?

“Attending [the Work Programme] has just put a huge additional strain on me at a time that I wanted to focus on improving my health. My motivation to work is extremely strong – it is only my poor health that holds me back.”

The introduction of ESA was part of broader welfare-to-work reforms subscribed to by both Labour and the Coalition Governments. Behind the welfare-to-work agenda is the belief that cultural change in attitudes and behaviour is necessary to reduce social security spending. The Work Programme was conceived of as a “whole system... predicated on a cultural context which changes in line with people’s perceptions and expectations... One of the objectives of this reform must therefore be to generate clear signals around independence, respect and mutual obligations”.⁷⁶

IB, the predecessor to ESA, was the main target of these ideas. IB was believed to be especially problematic because its very structure created a culture of benefits dependency among claimants. A number of assertions about IB had cross-party consensus and underpinned ESA policy:

1. IB was a convenient mask for unemployment, both for governments because it lowered the official unemployment register, and for claimants because it was more generous and required less effort than unemployment benefit (Jobseeker’s Allowance, or JSA).⁷⁷
2. More than one third of IB claimants were not genuinely prevented from working by their health condition or impairment.⁷⁸
3. Therefore it was suspected that IB could be accessed too readily,⁷⁹ despite its assessment system being among the strictest of all the Organisation for Economic Co-operation and Development (OECD) nations.⁸⁰ As such, a new, tougher assessment system was needed, with an estimation that ESA would move one million people from IB onto JSA.⁸¹

IB, perhaps more than other benefits, was believed to create a perverse disincentive to return to work. Commentators argued that IB put no requirement on claimants to look for work, encouraged them to think of themselves as incapable of any work and eroded their moral sense of responsibility to work. It was also claimed that long periods of worklessness reduce the likelihood of returning to work because of deskilling, loss of motivation, and weakening networks of information about job opportunities.

Policy makers broadly suspected that the resulting culture of dependency posed a more formidable barrier to work than any original health condition or impairment for this group. This study found almost no evidence, however, that consequences of worklessness or receiving benefits created major barriers to work for ESA claimants in terms of their motivation or willingness to work. The only consequence of worklessness that was cited as a main barrier (for 30 per cent of respondents) was anxiety about returning to work due to a prolonged period away from the workplace. But this loss of confidence should not be conflated with a lack of motivation. Only about one in ten respondents said they did not want to work.

This supports earlier research on the employment trajectories of IB claimants that found no difference in their “work commitment” measure among claimants who returned to work compared with those who remained on benefits.⁸²

Nine in ten respondents shared the view that their health condition or disability was their main barrier to work. This backs up several previous pieces of research that conclude that health was found to be a major obstacle to the re-employment of claimants,⁸³ and that an improvement in health was the single greatest predictor of a return to work.⁸⁴ As further evidence, population-level studies have found a strong relationship between IB receipt and mortality.⁸⁵

76. Freud, D, 2007.

77. Centre for Social Justice, 2009. *Dynamic benefits: towards welfare that works*. London.

78. DWP, 2006.

79. Houston, D and Lindsay, C, 2010. *Fit for work? Health, employability and challenges for the UK*.

80. Organisation for Economic Co-operation and Development (OECD), 2003. *Transforming disability into ability: policies to promote work and income security for disabled people*.

81. Freud, D, 2007; Stanley, K and Regan, S, 2003. *The Missing Million: supporting disabled people into work*. Institute for Public Policy Research (IPPR), London.

82. Kemp, P, and Davidson, J, 2010. *Employability trajectories among new claimants of Incapacity Benefit*. *Policy studies*, 31 (2), 203-221.

83. Anyadike-Danes, M, 2010. *What is the problem, exactly? The distribution of Incapacity Benefit claimants’ conditions across British regions*. *Policy studies*, 31 (2), 187-202.; Beatty, C and Foithergill, S, 2010.

84. Houston, D and Lindsay, C, 2010.

85. Norman, P and Bamba, C, 2007. *Incapacity or unemployment? The utility of an administrative data source as an updatable indicator of population health*. *Population, Space and Place* 13 (5): 333-352.

Yet, much of the qualitative evidence given in this survey suggested that, despite having “proven” the significance of their health condition or impairment through the Work Capability Assessment, respondents felt that their placement in the WRAG was cast as a moral failing:

“I found my adviser to be very dismissive of the effect of my health problems on my ability to carry out day to day activities, and also very judgmental that I had “allowed” my health to keep me out of work for some time. [According to the adviser] it is my worklessness keeping me from employment rather than my health. I am finding the whole process degrading and it is starting to erode my confidence and make me feel very anxious, exacerbating my condition.”

This research found little evidence of a culture of dependency within the WRAG and no evidence of a lack of motivation or commitment to work. However, we did find evidence that beliefs about the welfare dependency of ESA claimants may be leading to a culture of contempt within organisations delivering activation programmes to the WRAG. Comments like these were common:

“I have been told by staff at the Jobcentre that people like me are ‘scrounging scum’, and told ‘you don’t look sick, you’re lying’”.

“[I have a] very rude adviser at the Jobcentre; they always make me feel worse and definitely not like a human being. They do not accept that I am ill and give silly advice, they cancel appointments or even forget to call me even though I am in the waiting area... awful!”

“I just felt abused, shouted at, nagged and forced to attend appointments for no reason.”

One size fits all for disability employment support?

The results of this survey showed that

1. Very little support is offered to the WRAG to overcome their disability-related barriers to work or facilitate their entry into employment. No more than 9 per cent of respondents were offered referral to either Work Choice, the DWP specialist disability employment programme, or another specialist service. No more than 12 per cent were offered a condition management programme.
2. Most of the activities and interventions they were offered – or compelled to undertake – would have been generic to all Work Programme or JCP service users, such as CV writing, jobseeking skills and basic literacy and IT skills.
3. Despite the rhetoric of personalisation, the reality of the ESA process is a discontinuity between assessment and support, and very little agency in deciding the programme of work-related activity.

With the introduction of the Work Programme, the employment support previously offered to IB and ESA claimants through specialist schemes like the New Deal for Disabled People and Pathways to Work, became incorporated into a single mainstream programme. The advice taken by the Government on welfare-to-work policies was that a universal programme was preferable to multiple programmes based on benefit type because the benefit groupings are a poor predictor of the specific and often multiple support needs of individuals.⁸⁶

However, rather than fostering a more tailored service, the one-size-fits-all model adopted by the Work Programme and JCP appears to subsume disabled people in the WRAG into the welfare dependency framework that underpins welfare-to-work reforms.

The welfare-to-work industry was told in 2009 that the needs of the new entrants on ESA would be similar to those on JSA.⁸⁷ Anecdotal evidence from respondents confirms that, despite the fact that people in the WRAG have been deemed not ‘Fit for Work’ by the WCA, this view is common among providers:

86. Freud, D, 2007.

87. Freud, D, 2009. *Wither welfare-to-work?* Speech to the Institute of Employment Studies conference.

“I was told by the adviser that anyone who is put into the WRAG group is classed as fit for work – the same as someone on JSA. The adviser told me that it didn’t matter what my doctor said, that the DWP had decided I was fit for work so that was that, and if I refused to take part in anything she ordered my benefit would be stopped.”

The guidance given to Work Programme providers by the DWP does not specify an obligation to identify or address health or impairment-related barriers to work among the WRAG. Instead it offers general guidance for all clients that activities and interventions should be aimed at developing work-related skills and discipline including punctuality and team-working.⁸⁸

Respondents frequently felt that the strong emphasis on tackling a culture of dependency negated the impact of their health or impairment as a genuine obstacle to employment:

“My ‘support’ involved being asked ‘what are you going to do to get back to work?’ I explained what I was doing to improve my health, and was told that wasn’t good enough. No suggestions were made about what else I could do. I am a fully trained professional with 20 years’ experience. But I was just treated as lazy.”

Running in parallel to the mainstream programmes for the WRAG run by the Work Programme and JCP is a specialist disability employment support scheme run nationally by the DWP called Work Choice. The only way to access Work Choice is via a Disability Employment Adviser (DEA) within JCP. In JCP there is one DEA to every 500 ESA claimants.⁸⁹ The majority of disabled people in the WRAG would therefore not see a DEA and would not have accessed the gateway to specialist support. Advisers at JCP felt that referring WRAG claimants to Work Choice was contrary to the ESA regulations because participation in Work Choice is voluntary, whereas work-related activity for the WRAG is mandatory. This may explain why only 16 per cent of referrals to Work Choice came from disabled people receiving either IB, ESA or Severe Disablement Allowance because of an illness or disability.⁹⁰

The results of this survey indicate that disabled people in the WRAG cannot be served by a mainstream employment support programme. It appears that the dominance of the culture of dependency framework has made it less likely – not more so – that service provision for the WRAG will identify needs and provide effective solutions to increase employment opportunities for this group.

Interventions that target supposed attitudinal and behavioural defects in the supply of labour, without addressing underlying health problems or the demand for the skills of disabled people from employers, will not succeed. It is very disappointing, therefore, that the Government intends to continue referring people placed in the WRAG because of a limited capability for work to mainstream work preparation programmes rather than directly to existing specialist schemes.⁹¹

ESA is a missed opportunity to integrate the assessment of work-related disability with a gateway to specialist support.

Conditionality

The introduction of conditionality and sanctions within ESA was not based upon evidence that coercion is the best tool for facilitating return to work for people with disabilities or health conditions.⁹² Robust evidence exists that shows that the success of all interventions for people with disabilities and health conditions is often dependent, at the individual level, on an improvement in underlying health conditions and/or employer willingness to recruit disabled jobseekers.⁹³ Rather, the introduction of conditionality came from the hypothesis that the increased numbers of IB claimants reflected a culture of dependency, and that introducing compulsion to engage with work was required as a corrective measure.⁹⁴

However, the escalation of conditionality and sanctions since the introduction of ESA in 2008 has not been effective in removing barriers to work for the WRAG. Research carried

88. DWP Work Programme Provider Guidance: <https://www.gov.uk/government/publications/work-programme-dwp-provider-guidance>

89. Work and Pensions Committee, 2014. *The role of Jobcentre Plus in the reformed welfare state*. Second report of session 2013–14.

90. DWP, November 2013. *Work Choice: official statistics*.

91. DWP, December 2013.

92. Bambra, C and Smith, K, 2010. *No longer deserving? Sickness benefit reform and the politics of (ill) health*: Critical Public Health, 20:1, 71–83.

93. Devins et al, 2011.

94. DWP, 2006; DWP, 2008.

out in 2008 to 2009 showed 25 per cent of IB recipients entering work within 13 months of their claims. Currently, the cumulative outcomes for WRAG Job Outcomes on the Work Programme since 2011 stand at just 5 per cent. For people on IB/ESA since before 2008 the Job Outcome rate on the Work Programme is just 1.8 per cent.

This suggests either that a culture of dependency is so deeply entrenched in long-term IB/ESA claimants that even tougher conditions and sanctions are required to tackle it, or that the culture of dependency hypothesis is the wrong way to characterise and address the barriers to work of disabled people in the WRAG.

The findings in this review indicate that:

1. Receiving ESA did not cause defects in people's attitudes towards work. Therefore there is no evidence to suggest that the use of compulsion to overcome poor motivation to work would be helpful.
2. The one-size-fits-all nature of the Work Programme and JCP services increases the risk that conditionality is applied indiscriminately to the WRAG, with evidence that some advisers did not clearly differentiate between ESA and JSA claimants.
3. At a systemic level, the conditionality imposed on disabled people in the WRAG is very often not appropriate, reasonable or fair. More than half of respondents to this survey experienced difficulties in carrying out compulsory activities because of their health condition that were neither acknowledged nor adjusted for by Work Programme providers or JCP.

The Work and Pensions Committee has expressed deep concern with evidence of the inappropriate use, or threat, of benefit sanctions against Work Programme participants.⁹⁵ The DWP's own Work Programme evaluation suggests that the processes for applying conditionality and sanctions do not yet work effectively.⁹⁶

On the other hand, the same evaluation found that the quality of the initial contact with the Work Programme provider was a critical influence on attitudes and motivation of participants. Participants were more likely to engage if the adviser had a good personal manner and was reliable and proactive than if they felt they were being asked to engage in inappropriate or irrelevant activities, or to enter unsuitable employment.⁹⁷

International evidence on the factors influencing successful return-to-work for employees on sick leave points to the same conclusions. The quality of communication between the rehabilitation specialist and the employee is a key factor in "vocational reintegration", as it is called, in the Netherlands. The study found the best way to elicit trust and collaboration was through a non-hierarchical relationship based on respect for the client, and a direct and honest communication style.⁹⁸

We received a considerable body of qualitative evidence supporting this, and suggesting that increasing the threat of sanctions on participants in the WRAG is unlikely to promote a relationship of confidence and elicit cooperation:

"On the first day the person in charge threatened people with their benefits being stopped. We all knew this anyway but that is just counterproductive for people who are ill. I have social anxiety and depression and although I want to make changes in my life this was a step backwards."

"When some [staff] talk to you on the phone it is in such a derogatory way that you end up walking away wanting to end your life. Confidence and assertiveness takes a real hit."

95. Work and Pensions Committee, 2013.

96. Newton et al, 2012.

97. Newton et al, 2012.

98. Dekkers-Sanchez, PM et al, 2011. *What promotes sustained return to work of employees on long-term sick leave? Perspectives of vocational rehabilitation professionals: Scand J Work Environ Health; 37 (6): 481-493.*

Moving further away from work

“This experience has been one of the most, if not the most demoralising, dehumanising experiences of my entire life.”

This review found that:

1. Eight out of ten respondents reported anxiety about being unable to access mandatory activities and 86 per cent felt anxious about the threat of losing their income as a consequence.
2. This anxiety is likely to explain why the overarching impact of participation in the WRAG for survey respondents was demoralisation. Nearly seven out of ten said their confidence about working had worsened, while 63 per cent said they felt further away from achieving their goals. Six out of 10 felt their health condition or impairment had worsened as a result of being in the WRAG, and 57 per cent said they had less sense of purpose in their lives.
3. There is very strong evidence that the conditionality and sanctions regime for the ESA WRAG is having the opposite to its intended effect and is, in fact, moving disabled people further away from work.
4. The threat of sanctions negatively impacted the mental wellbeing of four out of five respondents to this survey, most of whom have pre-existing health conditions. This must be of fundamental concern in any future employment policy decisions for this group. More research must be done on health outcomes relating to participation in the WRAG, especially because it is health outcomes, more than any other factor, that impacts long-term employment prospects.⁹⁹

ESA and the future of disability employment support

When ESA was introduced, several commentators on the IB “problem” concluded that the volume of claimants could only be explained by the interaction between their health or impairment and the labour market, with little evidence of a culture of dependency.¹⁰⁰

This survey showed that, although nine out of ten respondents cited their health or impairment as a predominant barrier to work, only 15 per cent thought they could not be of value to employers. Yet only 5 per cent of the WRAG caseload has moved into employment since the introduction of the Work Programme in 2011.

As many stakeholders from within government and the disability rights campaign movements maintain, ill health or disability is rarely an absolute obstacle to work, if work is defined as productive activity. Rather, it is the competitive nature of the labour market that makes many people with health conditions or impairments effectively unemployable.

People in the WRAG face a confusing predicament: they have been told that they have limited capability for work, but not limited capability for work-related activity. There is almost no explanation by the DWP of where this positions them in the labour market. The fixed duration of the ESA award and the obligation to prepare for work implies a trajectory of recovery. Yet the WRAG is not a homogenous group. Alongside people with health conditions expected to be short term, people with chronic conditions with no medical likelihood of improvement or recovery are placed in the WRAG, as are people with progressive conditions that will move them further away from the labour market with time, not closer to it.

This diverse population with considerable uncertainty about their future capabilities or employment prospects probably underpins the findings that a good many respondents were not sure if they wanted to work, or whether they could be of value to employers. It is therefore impossible to apply a single set of conclusions or prescriptions to people in the WRAG.

99. Bamba, C and Smith, K, 2010.

100. Beatty, C and Fothergill, S, 2010. *Incapacity benefits in the UK: an issue of health or jobs?* Centre for Regional Economic and Social Research. Sheffield Hallam University, UK.

Nonetheless, the most striking conclusions of this review of both Work Programme and JCP are:

1. the lack of vocational training opportunities for disabled people
2. the failure to engage with employers in job creation or adaptation.

All major studies of the failures of labour market policy to increase employment among disabled people agree that the UK has focused almost exclusively on supply-side interventions, especially ones that address the putative moral failings of individuals, while neglecting to address demand from employers.¹⁰¹ Particularly since the abolition of the post-war employment quota (1995), not enough has been done to increase demand among employers for disabled employees. Apart from the Disability Discrimination Acts of 1995 and 2005, and the Equality Act 2010, the incentive and disincentive effects for employers have not been central to policy.¹⁰²

¹⁰¹ Bamba, C, 2006; Lindsey, C and Houston, D, 2011. Fit for purpose? Welfare reform and challenges for health and labour market policy in the UK: Environment and Planning A, 2011, volume 43, 703-721.

¹⁰² Riddell, S, 2010.

Recommendations

1. Claimants in the WRAG have significant disability-related barriers to work and need to be supported through a scheme that can address these barriers. This research suggests this is not occurring in either the Work Programme or Jobcentre Plus services. ESA claimants should be placed onto a new and separate scheme in recognition of the fact that the barriers they face are significantly different to those of other jobseekers. Such a scheme should be devised in the context of the subsequent recommendations.

.....
2. At present the awarding of ESA all but bars access to the national programme of specialist disability employment support (Work Choice). The assessment process for ESA should be reformed, to make it a genuine gateway to specialist disability employment support for those either with a good medical prognosis for recovery from a health condition, or with impairments that can be accommodated with effective adjustments or assistance.

.....
3. The assessment itself of support needs (whether part of the WCA or through an additional assessment) must be significantly improved. Information about the individual's barriers, circumstances and aspirations should be properly assessed and communicated to those expected to provide them with support.

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4. ESA is a missed opportunity to integrate the assessment of needs in the WCA with existing support schemes like Access to Work. A reformed assessment and support process should also be integrated with Access to Work to ensure people can access all the support they need to get into and stay in work. Following the recommendations of the Sayce Review, Access to Work should be expanded, promoted and awarded to disabled jobseekers on a portable basis.¹⁰³ For people whose impairment can be reduced or eliminated by equipment or adaptations, the awarding of support packages to those seeking employment, rather than already in work, would be hugely popular and probably cost effective. However, it should also be ensured that high quality, specialist support is available to people who need it because of their disability or illness, regardless of whether they are on ESA – to get into and stay in work.

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5. Employers should be encouraged to widen job opportunities for disabled people by offering flexible working times, working from home, creating jobs involving fewer than 16 hours per week, and offering the opportunity of a job trial instead of an interview. These measures all require employers not just to adapt working and recruitment practices, but also to actively create job opportunities for the large proportion of disabled people currently excluded from the labour market. Many employers fear that disabled people's employment support needs are generally costly and burdensome, requiring extensive workplace adjustments, but evidence from disabled people suggests that most needs are low cost, such as working hours flexibility.¹⁰⁴ A large majority of respondents to this survey said that flexible working times and working from home, shorter working hours and job trials instead of interview would enable them to work.

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6. Engagement with employers in job adaptation and creation is the key to placing disabled people in suitable and sustainable jobs. Locally commissioned services within local authorities or the NHS (such as the Individual Placement and Support model) are often more successful than national schemes for this reason. Such services are also better placed to ensure that employment support is integrated with, and complementary to, other health and social care support the person is receiving. Future disability employment support policies should seek to rebalance national in favour of local commissioning of services. Employment support for disabled people should be tied into

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local inclusive growth strategies involving partnerships of local councils, Jobcentre Plus, businesses, and education and training providers. The Work Programme sub-contracts far fewer local specialist providers than was intended in its commissioning design. This review reflects previous research suggesting that the lack of involvement of local organisations in the Work Programme will entail a contraction in the specialist support sector as funding is diverted away from it.¹⁰⁵

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7. Conditionality often has had the opposite to its intended effect and moved claimants further away from the labour market. Conditionality should be fundamentally rebalanced to place the onus on the service provider to devise a strategy to integrate the disabled person into work. It should be based upon the assumption that the vast majority of people are motivated to work and that voluntary participation is the most effective form of engagement for all but a few. Threatening sanctions is counterproductive to vulnerable people and should be avoided. A relationship of mutual trust between claimant and personal adviser is the most effective form of support, with compulsion only resorted to when it is clear that the individual is simply refusing to engage with support, rather than having difficulty doing so because of their health.
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8. Adverse impact on health and wellbeing of WRAG participants is likely to increase pressures on health services, especially mental health. Welfare and NHS spending are inextricably linked. Bringing down the caseload for ESA/IB requires a focus on health service spending, not just on employment support or job creation. Employment support should be better integrated with health, social care and education services.

