

Date:

Dear

## **Re: The upcoming changes to the Work Capability Assessment**

From 2013 the DWP will implement changes to the WCA system to (and I quote them) "simplify things".

From 2013 the state will ask subcontractors for the WCA [work capability assessment] to include further 'imaginary' aids. There will be imaginary guide dogs, imaginary false limbs and even imaginary medication!

You probably watched the BBC programme Panorama and indeed the Channel 4 programme Despatches last year in which a doctor went undercover at Atos and discovered they were already using 'imaginary wheelchairs'. Both programmes can be watched together by typing this url into your browser <http://alturl.com/spzoc> (keep in mind this is a year or two old but it is relevant)

The undercover Doctor's training showed his instructors talking about 'imaginary wheelchairs' for people who have never used a wheelchair.

You may think that's not too bad, but it gets worse. Even if returning to work puts a claimant at risk, the changes will mean they can still lose their benefit as long as the assessor believes that trying a new therapy **might** reduce that risk. There's no need for evidence that the treatment will help. Either way the claimant will lose support, making it much harder to manage if the treatment doesn't work as hoped let alone ends up making a claimant worse.

Indeed in some cases the at risk claimant will also be putting **members of the public at risk too**

### Case example #1: **Frederick**

**Frederick** suffers from depression and other mental disorders. He has a history of trying to take his own life. He has a tendency to cross the road at zebra crossings when he believes a vehicle has a fair chance of seeing him and stopping. Further analysis showed that **Frederick** does not care if the oncoming vehicle stops in time. Additionally he does not care if the driver and passengers are injured or killed if the driver makes the initial mistake of not seeing him in time.

The assessor believes stronger antidepressants and a course of visits to a psychiatrist will help and judges **Frederick** fit for work. Yes, that's right – the assessor is putting not only the claimant in harm's way but also the unsuspecting public too! What if **Frederick** decides to step out and it happens to be your loved ones in that oncoming vehicle?

## Case example #2: Bert

**Bert**, who suffers from severe schizophrenia, but is found fit to work and made to take behavioural therapy in the hope of improving his condition. He will lose his disability benefit, without the assessor having to look at several vital questions:

- How hard it would be for **Bert** to contact a psychiatrist?
- How long would an NHS appointment take to organize?
- Are there private options in his area – and could he afford them if so?
- What if the therapy doesn't work, or takes a long time to adjust to?

Indeed Chris Fry, Solicitor and Managing Partner at Unity Law says: *"How individuals are assessed to receive ESA could give rise to large numbers of legal claims being made against them. These changes immediately put the Government at risk of breaching article 9 of the European Convention for the protection of Human Rights, which preserves an individual's right to 'thought, conscience and religion' .*

*The new rules provide for an individual to be refused ESA if they do not take any medication or accept an aid which Doctors believe could aid their condition. Essentially, they can impose a financial penalty on individuals who refuse treatment on religious grounds. Given the very recent decision involving the Christian, Nadia Eweida and the court upholding her right to wear a cross – the Government is on very rocky ground with these changes."*

People like **Bert** who are desperate to work will find it nearly impossible to get an accurate assessment, affecting the quality of their support and actively preventing their efforts to get back into work.

From 2013 the state won't recognize co-existing physical and mental health conditions. The claimant has only a mental health condition or a physical health condition as far as the state is concerned - but not both. Do you agree with this decision? Do you think it's ethical, practical, safe and humane? If you don't agree then please let us know what you're going to do to combine the two as they were before.

This decision completely fails to understand the way in which many disabilities and illnesses can lead to both physical and mental effects. There is also a case for common treatments - such as those used for schizophrenia, Parkinson's disease and multiple sclerosis.

## Case example #3: Emily

**Emily** suffers from severe, chronic pain because of nerve damage to her leg. **Emily** is among the 49% of chronic pain sufferers (source <http://www.nationalpainaudit.org/media/files/NationalPainAudit-2012.pdf>) who also suffers depression as a result of continuous pain. An assessor may see **Emily** as able to do some work as long as she takes strong painkillers for the rest of her life, meaning she could pass the 'fitness' test.

Yet the painkillers may not deal with the depression caused by her condition. Painkillers have also often been shown to affect people's wakefulness and decision-making. So taking the medication may affect **Emily's** ability to do a job in a completely new way – yet because these new problems are cognitive, they would not need to be looked at by the assessor when making their decision!

Pretending the effects of illnesses and disabilities can be separated in this way goes against all medical practice. Going even further and using this method to ignore sick and disabled people's needs is deliberate cruelty.

As if the above is not bad enough plans have been tabled to open up Workfare to people currently receiving Employment and Support allowance in the support group for the most vulnerable people in society. Would you really be comfortable with the knowledge that someone physically or mentally unstable is working with one of your loved ones or perhaps serving them at Poundland? We're talking about human beings with very serious problems and the Government is planning on letting them work in public places while new medical treatment is being tried. It's not the fault of the person with the health condition if they were to do something inappropriate in such a place. It puts them in a potentially humiliating situation and again it puts the public at risk too.

I'm not writing asking for a re-assurance that it's not as bad as it sounds. I'm fully aware this is what will happen if we don't do something about it. I'm writing to you as my local MP in the hope that you will sort the matter out

before it's too late. We know that the above changes have not received the endorsement of a single disability rights group – yet they have been implemented. How was this allowed to happen?

We started this letter with a quote from the DWP that the changes would “simplify things”. What it will do, as you know will reduce the WCA score of a claimant with both mental and physical problems by dismissing either the mental or physical aspect or their disability or illness and stop their Employment & Support Allowance.

In the past if the claimant did not agree with the decision they could lodge an appeal and they would receive ESA at the assessment rate.

From 2013 an appeal is no longer an immediate option as the DWP have taken away that right. It is replaced with the Mandatory Reconsideration Before Appeal. Instead of providing all necessary evidence to the court, the claimant must provide it to the DWP.

On the face of that there's no real problem. However when you look deeper into the law aspect, there is absolutely no time limit in which the DWP can sit on the case. There is only a cosmetic statement of “*The DWP will try to process the claims without unreasonable delay*”. Again on the face of it there's no problem – but don't forget this may not be a person who can think like you do. AGAIN look deeper and discover the **DWP will no longer issue any ESA benefit to the claimant during the appeal period.**

This opens a whole new can of worms affecting the claimant and the unsuspecting public too! With ESA withdrawn any medication currently being taken by the claimant will suddenly cease because they are no longer entitled to the free prescriptions (excludes Scotland). Any medication which the claimant is taking is likely to be a powerful one such as an anti-psychotic, anti-depressant or a strong painkiller. When the claimant stops taking these powerful drugs the effects will be invariably bad. They may experience hallucinations and be in excruciating pain. Some will inevitably become a danger to themselves and others. All of this will easily be confirmed by asking your local pharmacist who knows only too well what will happen when drugs are suddenly withdrawn. Remember these new rules were not approved by the GMC and there was absolutely no risk assessment made before they were put in place.

If you take a claimant in this situation there's absolutely no way of predicting what they may do. If they're angry enough they may want to end their life wreaking as much havoc as possible in the process. They may jump off a motorway bridge killing themselves and maybe take a few other equally innocent lives with them. There has been a great deal of news coverage about suicide bombers all over the world. There may well be claimants getting hold of explosive substances with the view of taking themselves out in a shopping centre at peak time. The public will start asking the Government some very serious questions and they will want justice. Yet it could be prevented by simply allowing the prescription medication to continue free of charge.

Perhaps you or your loved ones live nearby someone currently on ESA and on powerful medications. You may well even receive a visit from the police informing you that a loved one has been harmed or even killed due to a claimant dumped by the system withdrawing from medication which should never have been stopped in the first place! The Secretary of State for Work and Pensions will not be able to escape liability from that – and no doubt you wouldn't want him to – especially if the consequences affected your loved ones!

The only way the claimant has of obtaining money is to claim JobSeeker's Allowance (which stipulates ‘*the jobseeker must be available for work and actively seeking employment*’). Thus the claimant is potentially forced to lie in order to get some income – until the system discovers they haven't been doing enough to find work and the DWP stops their JSA and tries to claw back the JSA paid out since the claim started!

What exactly would you do in the situation above? Perhaps you're thinking of taking out a bank loan? Or perhaps you know that banks do not lend money to someone without an income. Perhaps you'd therefore go to a loan shark?

Again, keep in mind that someone with a mental health problem won't think like you do. They may not understand what is happening – or if they do understand they may resort to desperate measures such as stealing, prostitution or they may simply say “*what's the point?*” and take their own life (again - perhaps along with someone you know).

Please again refer to your web browser to see the DWP's stance on this matter. You'll hear the DWP's reply to the two poor souls who died after being found fit for work by Atos.

I quote Iain Duncan Smith's response *"We're changing their lives. I'm proud of doing that. Getting them off benefit is what we're going to do"*. Well, I have to admit I was sickened by that response. Of course the dead cannot claim benefit so in that sense it's working isn't it? source video: <http://alturl.com/hoz48>

Toward the end of 2012, the Countess of Mar tabled a written question that asked the Government *"What person or organisation is legally liable for the wellbeing of benefit claimants who are found to be fit for work under the work capability assessment as who are then made to work?"*

In his written reply on 19<sup>th</sup> December 2012, the Minister for Welfare Reform at the DWP (Lord Freud) replied *"The purpose of the work capability assessment (WCA) is to assist DWP decision-makers in assessing eligibility for benefit, or levels of benefit. The WCA is not a medical diagnosis and the decision affects benefit only; it does not oblige anyone to work."*

*Whilst the Secretary of State for Work and Pensions is legally responsible for all benefit decisions made by officials of the department on his behalf, there is no legal responsibility held by the Secretary of State for the well-being of benefit claimants.*

*Therefore, neither DWP nor WCA healthcare professionals are liable for any adverse consequence suffered by a claimant following a decision that the claimant is fit for work or work related activity."*

I beg to differ with Lord Freud – but whilst the WCA is not a medical diagnosis, the decision affecting benefit has a huge impact on the health of the claimant. This is especially so considering, as mentioned earlier, the withdrawal of ESA (perhaps due to the state 'forgetting' mental and physical problems co-exist) will take away the claimant's medication. There will be a rise in deaths of claimants found fit for work. However the changes will bring along a whole new set of families wanting justice. It may one day be your family affected by a claimant found fit for work who purely by chance takes some lives from your family along with his/her own.

Please reply with your answers to my questions along with everything you are doing to sort out this mess. Make no mistake it is a mess. It's a mess thought up by someone who doesn't understand the complexities and needs of a disabled person and it has been brought into law without the approval of the GMC or any disability rights groups.

I would like to end by putting the DWP statement back to you *"The process will simplify things"*. I'll leave you to draw your own conclusions about that.

Yours sincerely,