

# Employment and Support Allowance legislative changes

Equality Impact Assessment

April 2012

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# Glossary of Terms

Assessment Phase	The Assessment Phase is the first 13 weeks (91 days) of an Employment and Support Allowance claim. During this Phase, a decision is made on a claimant's capability for work through the Work Capability Assessment and Employment and Support Allowance is paid at a basic rate.
Early Notification	Over a four week period starting 19 September 2011, a letter was issued to all claimants likely to be affected by the proposed time-limiting of contribution-based Employment and Support Allowance.
Contribution-based Employment and Support Allowance	Contribution-based Employment and Support Allowance is paid when the claimant meets the required National Insurance contribution conditions.
Income-related Employment and Support Allowance	Income-related Employment and Support Allowance is a means tested benefit usually paid to claimants who qualify for Employment and Support Allowance on incapacity grounds but do not meet the contribution conditions.
Employment and Support Allowance (Youth)	Special provision allowing entitlement to contribution-based Employment and Support Allowance on the grounds of youth.
Support Group	Claimants are placed in the support group when it is considered unreasonable to expect them to undertake work related activity.
Underlying entitlement to income-related Employment and Support Allowance	Although receiving contribution-based Employment and Support Allowance it is also possible for a claimant to meet the criteria for income-related Employment and Support Allowance. Where this happens, the contribution-based Employment and Support Allowance is paid although the income related award is recorded on the system.
Vulnerable claimant	Vulnerable claimants are those who may have difficulty in coping with the demands of our processes at the time when they need to access a service.
Work Related Activity Group	Claimants are placed in the Work Related Activity Group when they are assessed as having limited capability for work but could, with the help of Work Programme Providers and Department for Work and Pensions advisers, move closer to the Labour Market.

# Equality impact assessment for Employment and Support Allowance legislative changes 2012 (time limiting for contribution-based Employment and Support Allowance claimants and changes to Employment and Support Allowance (Youth) and Abolition of the 104 week linking rule)

## Purpose of Equality Impact Assessment

The Department for Work and Pensions has carried out an Equality Impact Assessment on the implementation of measures contained in the Welfare Reform Act 2012 relating to the time limiting of contribution-based Employment and Support Allowance, the ending of the special contribution conditions for Employment and Support Allowance (Youth) for new claims and the abolition of the 104 week linking rule.

This process will help to ensure that the Department for Work and Pensions has paid due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not share a protected characteristic.

This equality impact assessment covers the implementation of this change. The equality impact of the policy changes have been published elsewhere.<sup>1</sup>

The equality impact assessment will show how the Department for Work and Pensions has demonstrated it has paid due regard to the three parts of the general equality duty when developing new services or processes.

The protected characteristics are; race, disability, gender, gender reassignment, age, sexual orientation, pregnancy and maternity, religion or belief and marriage and civil partnerships (in terms of eliminating unlawful discrimination only).

## Background to the Change

By 2014/15<sup>2</sup> expenditure on Employment and Support Allowance is forecast to be £11bn per year. The Government wants to reduce Social Security spending and ensure that money is targeted on those most in need. This will help reduce the UK's fiscal deficit.

There are two types of Employment and Support Allowance; contribution-based and income-related. Contribution-based Employment and Support Allowance is based on the National Insurance contributions which claimants have paid or in the case of ESA (Youth) are deemed to have paid. Income-related Employment and Support Allowance is a means tested benefit. People can qualify up to state pension age.

The Welfare Reform Act 2012 limits the amount of time people in the Work Related Activity Group can receive contribution-based Employment and Support Allowance to a period not exceeding 365 days without re-qualifying. Time spent in the Assessment Phase will count towards the 365 day time limit unless it is immediately followed by entitlement to the support component.

People in the Support Group and those receiving income-related Employment and Support Allowance are unaffected by this change.

The Act also removes the special contribution conditions that allowed people aged between 16 and 20 (or under 25 if in education or training at least three months immediately before turning 20) to receive contribution-based Employment and Support Allowance without paying National Insurance contributions.

After the introduction of time-limiting all new claims for contribution-based Employment and Support Allowance will therefore be subject to the same National Insurance contribution conditions. If an existing claimant is receiving contribution-based Employment and Support Allowance on the grounds of youth and is not in the support group, a 365 day time limit will also apply. If a claimant of Employment and Support Allowance (Youth) has qualified for the support group on the basis of the

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<sup>1</sup> <http://www.dwp.gov.uk/docs/esa-time-limit-wr2011-ia-revised-apr2011.pdf>

<http://www.dwp.gov.uk/docs/esa-youth-provisions-wr2011-ia.pdf>

<sup>2</sup> Source: DWP Benefit Expenditure Tables

current special contribution conditions they will continue to receive contribution-based Employment and Support Allowance until their circumstances change.

By 2015/16 it is estimated that around 700,000 people will have been affected by time-limiting, and an estimated 15,000 claimants will have been affected by the abolition of the Employment and Support Allowance (Youth) provisions.

Introducing a limit on the length of time people in the Work Related Activity Group can claim contribution-based Employment and Support Allowance is more consistent with the rules for contribution-based Jobseeker's Allowance. The time limit for contribution-based Jobseeker's Allowance is six months. The limit for contribution-based Employment and Support Allowance will be 365 days. This recognises the different nature of Employment and Support Allowance recipients and the purpose of the benefit.

When contribution-based Employment and Support Allowance ends and an income-related award is recorded on the system, income-related Employment and Support Allowance will be put into payment automatically.

If, after a claimant's benefit has exhausted, their condition deteriorates to such an extent that they are assessed as eligible for the Support Group, a claimant may re-qualify for a further award of contribution-based Employment and Support Allowance if they have (or can be treated as having) limited capability for work since the date of exhaustion.

Where a claimant leaves Employment and Support Allowance and started work or training within one month, their benefit would be re-instated at the same rate as previously paid if they returned to Employment and Support Allowance within 104 weeks. Unfortunately, the 104 week linking rule will prevent some claimants who have left benefit and paid National Insurance contributions, for example by working, from re-qualifying for a further 365 days of contribution based Employment and Support allowance. The 104 week linking rule is therefore being abolished.

The abolition of the 104 week linking rule on 30 April 2012 means former Employment and Support Allowance claimants who make a repeat claim on or before 30 April 2012 (in respect of a period on or before 30 April 2012) which links back to a previous claim under the 104 week linking rule will still be able to benefit from the rule; whereas all claims for Employment and Support allowance made after 30 April 2012 (or advance claims made on or before 30 April 2012 but in respect of a period after 30 April 2012) will not.<sup>3</sup>

The 12 week linking rule which protects claimants' benefit for breaks of up to 12 weeks has not been affected by this change.

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<sup>3</sup> These changes come into effect on 1 May 2012; however, people affected immediately by these will see their entitlement end on 30 April 2012. For the purposes of clarity and consistency with other communications on this, these measures are referred to as taking effect on 30 April 2012.

## Implementing the Change

The Department for Work and Pensions recognises the significance of time limiting for people, and the need to ensure that people who are to be entitled to income-related Employment and Support Allowance when their contributory entitlement comes to an end are able to move onto income-related Employment and Support Allowance. The Department for Work and Pensions have therefore put in place a range of processes to contact existing claimants who will be affected and to manage them through the ending of their entitlement to contribution-based Employment and Support Allowance. An illustration of the processes is included at annex B

The abolition of Employment and Support Allowance (Youth) will not require significant implementation activity or new processes as the Department are only harmonising the qualifying criteria for all new claims. People currently receiving contribution-based Employment and Support Allowance which has been awarded under the youth provisions will be subject to the 365 day time limit if they are not in the support group.

The abolition of 104 week linking will be implemented without any proactive claimant contact or the introduction of new processes and we do not believe there will be an equality impact resulting from the processes to implement this change. After 30 April 2012 all reference to 104 week linking will be removed from communications.

## Early notification

In order to ensure claimants had notice of the proposed change, an early notification of the change was sent to approximately 115,000 existing contribution-based Employment and Support Allowance claimants during a four week period commencing on 19 September 2011;

The notification informed claimants that the Government had included provisions in the Welfare Reform Bill that would enable contribution-based Employment and Support Allowance to be time limited to 365 days where a person was in the Work Related Activity Group.

The letter included a phone number for a dedicated enquiry line, a text-phone number and a correspondence address for those claimants who had any questions.

A clerical version of the letter was sent to new claims for contribution-based Employment and Support Allowance before Royal Assent. The letter is also available in Welsh and claimants who are living overseas and in receipt of contribution-based Employment Support Allowance were also notified.

## Standard Process

The standard process is designed to support the claimant journey leading up to exhaustion of a claimant's contribution-based Employment and Support Allowance. This process takes eight weeks for claimants whose entitlement to contribution-

based Employment and Support Allowance ends on or after 04 June 2012. The earliest date the computer system can issue letters to claimants notifying them of a change to their benefit is 09 April 2012. The letter will tell the claimant:

- they have a contribution-based Employment and Support Allowance only award and when it ends they will only receive National Insurance credits, providing they continue to have limited capability for work; or
- that based on the information held on their current award of benefit, when their contribution-based Employment and Support Allowance ends they will get income-related Employment and Support Allowance based on how much the Government says they need to live on. The amount of income-related Employment and Support Allowance they will receive will be confirmed when they receive a letter telling them that their contribution-based Employment and Support Allowance has ended; or
- based on the information held on their current award of benefit, the Department for Work and Pensions have already assessed them for income-related Employment and Support Allowance and they are not entitled because their income or capital is more than the minimum amount the Government says they need to live on.

## Claimants whose entitlement to contribution-based Employment and Support Allowance will end between introduction of change and 3 June 2012 inclusive

Those claimants whose entitlement ends between when the change is introduced and 3 June 2012 will be given less than eight weeks notice. In order to address this, the Department for Work and Pensions will contact those claimants where contribution-based Employment and Support Allowance will end before 4 June 2012 and where currently no underlying entitlement to income-related Employment and Support Allowance exists.

A scan of the computer system will identify around 70,000 claimants in the Work Related Activity Group or Assessment Phase in the above category. Where the Department for Work and Pensions hold a telephone number the Department will call these claimants (making two attempts). During the call, the Department will explain the change in law and if the claimant wishes to apply for income-related Employment and Support Allowance the Department will send them a form to complete. If the Department is unable to contact the claimant or they have no registered number, the Department will send a notification containing the same information.

Following the legislation coming into force, anyone entitled to contribution-based Employment and Support Allowance and placed in the Work Related Activity Group or who is within the Assessment Phase will be notified that their entitlement will be time-limited to 365 days. Similar advice, in writing, will also be given to people who

are appealing a decision disallowing their entitlement to Employment and Support Allowance on the grounds that they do not have limited capability for work.

Claimants will also receive a warning when their Employment and Support Allowance is due to end. From 04 June 2012, all claimants will be contacted eight weeks before their entitlement to contribution-based Employment and Support Allowance ends. The Department for Work and Pensions will also inform them whether they have previously been considered for income-related Employment and Support Allowance, and what they need to do to be considered for income-related Employment and Support Allowance.

This is in line with current processes for Jobseeker's Allowance and gives claimants warning of the ending of their entitlement to contribution-based Employment and Support Allowance.

The letter sent eight weeks before a claimant's benefit ends will:

- tell the claimant that they have a contribution-based Employment and Support Allowance only award and when it ends they will only receive National Insurance credits, providing they continue to have limited capability for work; or
- tell the claimant that based on the information held on their current award of benefit, when their contribution-based Employment and Support Allowance ends they will get income-related Employment and Support allowance based on how much the Government says they need to live on. The amount of income-related Employment and Support Allowance they will receive will be confirmed when they receive a letter telling them that their contribution-based Employment and Support Allowance has ended; or
- tell the claimant based on the information held on their current award of benefit, that we have already assessed them for income-related Employment and Support Allowance and they are not entitled because their income or capital is more than the minimum amount the Government says they need to live on.

If there has been no contact from claimants in the 28 days following the issue of the eight week letter, we will issue a reminder letter. For vulnerable claimants, if there is still no contact in the seven days following the issue of this reminder, the Department for Work and Pensions will attempt to contact them by phone. Following this call a safeguard visit for vulnerable claimants will be considered

Where a case has been referred for a safeguard visit, checks will be made seven days before a claimant's benefit ends to ensure this visit has been arranged.

Claimants with an underlying entitlement to income-related Employment and Support Allowance will be moved automatically to income-related Employment and Support Allowance when their contribution-based benefit ends.

# Consultation and involvement

The Department for Work and Pensions has undertaken a range of activities to inform stakeholders of the proposed changes and seek their views.

The Department for Work and Pensions undertook engagement to support the delivery of the September 2011 mailshot. A meeting was held on the 11 August 2011 with key national stakeholders to inform them of plans to write to existing claimants before Royal Assent about the change concerning time limiting contribution-based Employment and Support Allowance. A list of attendees is included at annex A.

The Department for Work and Pensions discussed their plans to contact claimants with these stakeholders. The key issues raised at the meeting were; the number of enquiries the early notification may generate, and a lack of claimant knowledge of the benefits they receive.

These issues were factored into the Department plans. The early notification made it clear to claimants that they did not have to do anything to continue to receive their current benefits. Further information was provided on the notification and, should claimants have any queries, they were directed to contact the Department for Work and Pensions. Face to face advice was available for those who required more support and further information can be found on Directgov.

Alongside national engagement, the Department for Work and Pensions also undertook local level engagement around the mailshot with stakeholders.

District Managers wrote to Members of Parliament, Members of the Scottish Parliament and Welsh Assembly Members to inform them of the plans to write to claimants about the time limiting.

A briefing pack was provided for local Partnership Managers to use and a planning activity was issued asking for them to proactively engage with their local stakeholder networks.

Local Trade Union representatives were informed of the changes and have been provided with updates on implementation.

Following the successful delivery of the September 2011 mailshot the Department for Work and Pensions held a subsequent meeting with national stakeholders on 12 December 2011 where the Department discussed their preliminary plans for delivering the change. The Department also shared their draft of notification for comment.

The key issues raised were:

- ensuring the Department for Work and Pensions held up to date information on claimants income related entitlement;
- whether overpayments to claimants automatically moved to income related Employment and Support Allowance will be recoverable;
- clarity of language in our notification;

- the need to write to claimants contacted in February/March 2012, as well as phoning them, so claimants who may not understand the call can use the letter when seeking additional support;
- technical information around the process was requested to support claimants through the process with answers.

In response to these issues the Department for Work and Pensions:

- confirmed that our existing claimant contact makes clear that claimants must report changes of circumstances that could affect their benefit entitlement and that overpayments will be recoverable;
- reviewed the notification to make explicit reference to the claimant's responsibility for reporting changes of circumstances;
- altered the process for claimant contact in February/March 2012 so that a letter will be sent as well as the phone call if the staff member making the call believes that this would benefit the claimant;
- produced an information pack for stakeholders for publication on the Department for Work and Pensions Advisers and Intermediaries web pages detailing the process and providing questions and answers.

Following Royal Assent, the Department for Work and Pensions have implemented additional engagement with external stakeholders. The Department have written again to Members of Parliament, Members of the Scottish Parliament and Welsh Assembly Members to confirm the detail of the change. The Department have also asked our partnership teams to engage with local stakeholders to inform them of the details of the change and our plans to implement this. This will cover time limiting, changes to Employment and Support Allowance (Youth) and the abolition of the 104 week linking rule.

The Department for Work and Pensions worked closely with internal stakeholders to ensure the operational impact of abolishing the 104 week linking rule is fully understood. The change removes a rule which has been difficult to understand and apply, and will introduce a legislative and procedural simplification. As this change forms part of the wider Welfare Reforms contained in what is now the Welfare Reform Act 2012, it is not subject to separate consultation.

## Impact of the Change

The introduction of time limiting is expected to affect around 700,000 contribution-based Employment and Support Allowance claimants by 2015/16. Not all of those claimants affected will see a loss of income. However, on average, the net income of claimants affected by the change is estimated to reduce by around £36 per week. There are three main groups of people affected.

Around 30 percent are expected to be entitled to both income-related and contribution-based Employment and Support Allowance. When their entitlement to

contribution-based Employment and Support Allowance ends, they will continue to be entitled to income-related Employment and Support Allowance.

A further 30 percent are expected to become entitled to income-related Employment and Support Allowance when their entitlement to contribution-based Employment and Support Allowance ends. This will either be at the same rate, or a lower rate depending on their other income and savings.

The remaining 40 percent are expected to stop being paid any Employment and Support Allowance because they have other income and savings, including that from a partner. These claimants will lose their Employment and Support Allowance. They will be able to claim National Insurance credits awarded on the grounds of limited capability for work. This will allow claimants to maintain their National Insurance contribution record and access the support offered from the Work Programme. Approximately half are expected to see increases in other benefits. For example 19 percent of those affected by time limiting will gain on average £6.90 per week in Council Tax Benefit and eight percent will gain an average £28.80 per week in tax credits.

Abolishing the 104 week linking rule may act as a disincentive for some claimants to leave benefit for work as claimants who return to Employment and Support Allowance after a gap of more than 12 weeks may suffer a financial loss. Some claimants will no longer qualify for Employment and Support Allowance when they re-claim because they will be unable to meet the contribution conditions.

## Disability Impact

Recorded Primary Medical Condition	Employment and Support Allowance Work Related Activity Group Contribution-based	Employment and Support Allowance Work Related Activity Group both contribution-based and income-related	All Employment and Support Allowance
Mental and Behavioural Disorders	30%	31%	39%
Disease of the Musculoskeletal system and Connective Tissue	22%	21%	15%

<sup>4</sup> Source: Work and Pensions Longitudinal Study, May 2010

Symptoms, Signs and Abnormal and Laboratory findings, not classified	12%	12%	13%
Injury, Poisoning and certain other consequences of external causes	9%	8%	10%
Diseases of the Circulatory System	6%	7%	4%
Other	20%	21%	19%
TOTAL	100%	100%	100%

The above table shows that compared to the Employment and Support Allowance caseload as a whole the change to time-limit contribution-based Employment and Support Allowance for those in the Work Related Activity Group may affect a larger proportion of people in the Musculoskeletal Disease category and slightly smaller proportion of the people in the mental and behavioural disorders category. Otherwise the conditions for those affected are broadly consistent with Employment and Support Allowance as a whole. This shows that although there are small differences, overall the policy is not expected to be more likely to have an impact on people with certain conditions.

## Process

The planned process for implementing this change has the potential to have an adverse impact on disabled people.

There is a risk that the use of phone calls and written notifications to contact claimants about the changes may mean that people with communication difficulties may not be able to fully engage with the change.

To ensure that our services are fully accessible to our disabled claimants the Department for Work and Pensions has in place a range of processes to ensure that our services are accessible and reasonable adjustments are made.

Where a claimant has told the Department for Work and Pensions they have a specific communication need, this can be held on the system and we will aim to contact claimants via their preferred contact method.

Letters can be requested in Braille, large print and audio format. Forms are also available in large print. Staff can read information to the claimant and offer help filling in forms. Claimants unable to use the telephone can contact the Department for Work and Pensions via a text phone/TexBox and the RNID type talk service.

Claimants can request a face to face interview should they need extra assistance. They can also ask to see a Disability Employment Adviser or Personal Advisor. Home visits can be arranged for those who are unable to attend the Jobcentre. These visits are undertaken by the Department for Work and Pensions Visiting Service.

All Jobcentres have an induction loop which claimants can use. A private room or a quieter part of the office can be used in order to ensure that background noise is minimised. We can also provide an interpreter for interviews, such as British Sign Language, Lip speakers, Deaf-blind interpreters. Claimants are also allowed to bring their own interpreter.

Claimants can nominate a representative to act on their behalf. They can also bring a representative with them when they attend appointments, these may include: advice or welfare rights organisations; professionals such as social workers, community nurses or doctors; family members or friends; carers; MPs; appointees and people with Power of Attorney. Whilst the Department for Work and Pensions supports a claimant's right to representation it cannot arrange it.

Jobcentres are equipped with ramps and lifts for accessibility. Where Jobcentres are not accessible to a claimant alternative arrangements will be made.

The standard process for ending entitlement to contribution based Employment and Support Allowance gives claimants eight weeks notice of the ending of their benefit. It also includes phone calls and safeguard visits where appropriate.

As the system generated notification cannot be issued to claimants until 9 April 2012, the process for claimants where entitlement to contribution-based Employment and Support Allowance will end between the start of time-limiting and 3 June 2012 inclusive is different.

If the earliest claimants were to be informed of the change was 9 April 2012 there would be a risk that claimants who are vulnerable, have learning difficulties and/or a mental health condition may find it difficult to complete the activities required within the timescales.

To ensure that claimants had sufficient warning of the change, in February 2012 the Department for Work and Pensions put in additional contact to identify in advance claimants with entitlement to income-related Employment and Support Allowance who did not have that entitlement registered; this contact was in advancement of the commencement of the legislation and would provide considerable time for claimants to provide the required information. This is also in addition to the early contact with claimants in September 2011 to forewarn them of this likely change.

This claimant journey also includes additional phone calls and safeguard visits where appropriate. This additional contact will allow us to identify claimants who may not be able to understand or act on the notifications we have sent. The form to apply for income-related Employment and Support Allowance (ESA3) will be completed during a safeguard visit if necessary. This is an additional service being provided specifically for the Employment and Support Allowance legislative changes to assist claimants.

All correspondence with claimants whose entitlement to contribution-based Employment and Support Allowance will cease between the start of time-limiting and 03 June 2012 inclusive will be sent a notification by first class post on 9 April 2012. Information has been published on the Direct.gov.uk website to accompany claimant contact with information explaining what the changes are, and telling them how the change will affect them and what they should do. A link has been included which signposts claimants to other useful sources such as Benefits Adviser Service where they can get more information concerning entitlement to other benefits and on line benefit advice.

The Department for Work and Pensions Advisers and Intermediaries site has also been updated with information concerning when we started to contact claimants. These updates explain the changes, and what will happen when claimants' contribution-based Employment and Support Allowance ends. This will allow external stakeholders to provide advice to claimants who contact them.

The Department for Work and Pensions provided an information pack for stakeholders and lines to take for staff dealing with claimants to ensure that correct information is given out to claimants, including vulnerable claimants, who require extra support.

## **Impact on Staff**

The Employment and Support Allowance legislative changes, including the time limiting of contribution-based Employment and Support Allowance will be delivered by existing staff, who will be selected by existing Department for Work and Pensions selection procedures within existing premises.

It is not expected that there would be any adverse impact on disabled staff as a result of the change. The Department for Work and Pensions has a commitment to provide staff with reasonable adjustments to carry out their job and the introduction of this new process has no impact on this. Whenever staff are redeployed to another office an individual assessment is carried out with the member of staff in consultation with human resources experts.

The IT systems staff will use have been developed and tested to ensure that they comply with Department for Work and Pensions Accessibility Standards. Staff who use assistive technology are consulted to ensure there are no negative impacts.

## Gender Impact

**Table 3: Employment and Support Allowance Work Related Activity Group contribution-based and whole case load by gender<sup>5</sup>**

Gender	Employment and Support Allowance Work Related Activity Group contribution-based		Employment and Support Allowance Work Related Activity Group both contribution-based and income related		All Employment and Support Allowance	
	Caseload	Percentage	Caseload	Percentage	Caseload	Percentage
Female	20,200	42%	2,900	32%	225,400	43%
Male	28,300	58%	6,100	68%	301,600	57%
Total	48,600	100%	9,000	100%	527,000	100%

**Table 4: Estimated destinations for Employment and Support Allowance Work Related Activity Group contribution-based cases subject to time limiting by gender<sup>6</sup>**

Contribution-based Employment and Support Allowance cases subject to time limiting	Gender	
	Male	Female
Eligible for income-related Employment and Support Allowance	66%	54%
Not eligible for income-related Employment and Support Allowance	34%	46%
Total	100%	100%

Currently 58 percent of contribution-based Employment and Support Allowance recipients in the Work Related Activity Group are men. This is very similar to the gender split in Employment and Support Allowance as a whole (57 percent) but lower than those receiving both income-related and contribution-based Employment and Support Allowance (68 percent).

<sup>5</sup> Source: Work and Pensions Longitudinal Study, May 2010

<sup>6</sup> Source: DWP modelling based on the Family Resources Survey, 2008/09

The policy does, therefore, have a gender impact. In terms of percentages, it will impact on more men than women, because more men than women are in the Work Related Activity Group. Full details of the policy impacts by gender can be found in the Equality Impact Assessments undertaken for the Welfare Reform Bill.<sup>7</sup>

## Process

Both male and female claimants will go through the same process when their entitlement to contribution-based Employment and Support Allowance ends and there is no reason to believe that this process will impact differently on people because of their gender.

## Impact on Staff – Gender

The Employment and Support Allowance legislative changes, including the time limiting of contribution-based Employment and Support Allowance will be delivered by existing staff, who will be selected by existing Department for Work and Pensions selection procedures within existing premises. It is not expected that there will be any gender equality impact on staff.

## Age Impact

Age	Contribution-based only Work Related Activity Group only	Both contribution-based and income-related Work Related Activity Group only	All Employment and Support Allowance
16-17	0%	0%	1%
18-24	5%	5%	14%
25-34	11%	13%	17%
35-44	20%	27%	24%
45-49	14%	15%	13%
50-54	16%	14%	13%
Over 55	33%	25%	18%
TOTAL	100%	100%	100%

<sup>7</sup> <http://www.dwp.gov.uk/docs/esa-youth-provisions-wr2011-ia.pdf>

<http://www.dwp.gov.uk/docs/esa-time-limit-wr2011-ia-revised-apr2011.pdf>

<sup>8</sup> Source: Work and Pensions Longitudinal Study, May 2010

**Table 6: Estimated destination for Employment and Support Allowance Work Related Activity Group contribution-based cases subject to time limiting by age group<sup>9</sup>**

Contribution-based Employment and Support Allowance cases subject to time limiting	Age of claimant		
	Under 30	30 to 49	50 or over
Eligible for income-related Employment and Support Allowance	81%	70%	52%
Not eligible for income-related Employment and Support Allowance	19%	30%	48%
TOTAL	100%	100%	100%

Table five shows that currently, 49 percent of contribution-based only Employment and Support Allowance claimants in the Work Related Activity Group are aged 50 to 64, compared to 31 percent of all Employment and Support Allowance claimants. Table six shows that of all those who are time limited, 81 percent of those aged under 30 are expected to be entitled to income-related Employment and Support Allowance compared to 52 percent for those aged 50 or over. As a result the average loss in household net income for those aged 50 or over is slightly higher than for other age groups.

The changes in the Welfare Reform Act 2012 abolish the special contribution conditions which allowed young people to access contribution-based Employment and Support Allowance without fulfilling the same conditions as other claimants.

This policy, therefore, has an age impact. This has been covered in detail in the Equality Impact Assessment undertaken for the Welfare Reform Bill.<sup>10</sup>

## Process

All claimants will go through the same process when their entitlement to contribution-based Employment and Support Allowance ends regardless of their age and there is no reason to believe that this process will impact differently on people because of their age.

<sup>9</sup> Source: DWP modelling based on the Family Resources Survey, 2008/09. Note: Figures should be treated with caution due to small sample sizes for some groups.

<sup>10</sup> <http://www.dwp.gov.uk/docs/esa-youth-provisions-wr2011-ia.pdf>  
<http://www.dwp.gov.uk/docs/esa-time-limit-wr2011-ia-revised-apr2011.pdf>

## Impact on Staff – Age

The Employment and Support Allowance legislative changes, including the time limiting of contribution-based Employment and Support Allowance will be delivered by existing staff, who will be selected by existing Department for Work and Pensions selection procedures within existing premises. It is not expected that there will be any age equality impact as a result of the change.

## Race Impact

**Table 8: Employment and Support Allowance Work Related Activity Group contribution-based and whole caseload by ethnicity<sup>11</sup>**

Ethnicity	WRAG contribution based	All Employment and Support Allowance
White	71%	68%
Mixed	0%	1%
Asian or Asian British	2%	4%
Black or Black British	1%	3%
Chinese or other ethnic group	1%	1%
Prefer not to say	7%	7%
Unknown	18%	16%
TOTAL	100%	100%

**Table 9: Incapacity Benefits/Working Age populated by ethnicity<sup>12</sup>**

Ethnicity	Incapacity Benefits	Working Age Population
White	93%	89%
Ethnic minority	7%	11%

<sup>11</sup> Source: Work and Pensions Longitudinal Study, May 2010

<sup>12</sup> Source: Based on the Family Resources Survey, 2006/07, 2007/08, 2008/09.

**Table 10: Estimated destinations for Employment and Support Allowance Work Related Activity Group contribution-based cases subject to time limiting by ethnicity<sup>13</sup>**

Contribution-based cases subject to time limiting	Ethnicity	
	White	Ethnic minority
Average loss in net income	£36pw	£32pw
Eligible for income-related Employment and Support Allowance	60%	78%
Not eligible for income-related Employment and Support Allowance	40%	22%
TOTAL	100%	100%

Table 8 shows that 71 percent of contribution-based Employment and Support Allowance recipients in the Work Related Activity Group have their ethnicity recorded as white. The proportions are slightly higher than for all Employment and Support Allowance claimants. The policy therefore may have a race impact. Full details of the impact of the policy are covered in the equality impact assessments for the Welfare Reform Bill.<sup>14</sup>

## Impact on claimants – Race

All claimants will go through the same process when their entitlement to contribution-based Employment and Support Allowance ends regardless of their race. However, there is a risk that some people for whom English is not their first language (or Welsh for claimants living in Wales), may not be able to understand our communications making it difficult or impossible for them to engage through these channels. The Department for Work and Pensions offers a range of services to prevent claimants from being disadvantaged if English (or Welsh for claimants living in Wales) is not their first language and to ensure that all claimants have access to these services.

The Department for Work and Pensions can provide written correspondence in a range of different languages and formats. In compliance with the Welsh Language Act, Welsh speakers living within the appropriate post code areas can choose to

<sup>13</sup> Source: DWP modelling based on the Family Resources Survey, 2008/09. Note: Figures should be treated with caution due to small sample sizes for some groups.

<sup>14</sup> <http://www.dwp.gov.uk/docs/esa-youth-provisions-wr2011-ia.pdf>  
<http://www.dwp.gov.uk/docs/esa-time-limit-wr2011-ia-revised-apr2011.pdf>

have their business with us conducted in Welsh and can have their time limiting notifications etc produced in Welsh as we have processes in place for this to happen.

An interpreting service is available should claimants require this. The Department for Work and Pensions can arrange for an interpreter to be present during interviews. Alternatively claimants can be accompanied by their own interpreter. The Big Word is an interpreting service offered over the telephone by the Department for Work and Pensions. The claimant can request an interpreter in the desired language.

The customer service agent will telephone the Big Word and get an interpreter of the required language, with the Big Word agent translating between the claimant and customer service agent.

## **Impact on Staff – Race**

The Employment and Support Allowance legislative changes, including the time limiting of contribution-based Employment and Support Allowance will be delivered by existing staff, who will be selected by existing Department for Work and Pensions selection procedures within existing premises. It is not expected that there will be any race equality impact as a result of the change.

# Transgender Claimants

## **Impact on Claimants**

The Department for Work and Pensions does not hold information on transgender claimants. It is envisaged that no adverse impact will occur on these grounds.

All claimants will go through the same process when their contribution-based Employment and Support Allowance expires regardless of whether they are transgender. Transgender claimants will also undergo the same claimant process as others. Transgender claimants will, like all other claimants, be able to request additional support or submit additional needs requests which the Department for Work and Pensions will endeavour to meet. We therefore do not expect these changes to have an impact on equality or discrimination on the grounds of transgender.

All transgender claimants will be marked as a Special Customer Record to protect their privacy and ensure the confidentiality of their information; unless they request not to be (it is not possible to calculate the number of transgender Employment and Support Allowance claimants using this information because Special Customer Records are also used for other reasons). A message will be displayed if an attempt is made to access a claimant record containing this marking. The Department for Work and Pensions member of staff will need to request Special Customer Record access. They will need to demonstrate a valid business need to their line manager for accessing the information. A form is completed and authorisation for temporary access is granted.

Diversity and equality learning for the Department for Work and Pensions includes transgender. This learning helps ensure our staff can support, and do not discriminate against, transgender claimants.

### **Impact on staff**

The Department for Work and Pensions does not hold data on whether their staff are transgender. The Employment and Support Allowance legislative changes, including the time limiting of contribution-based Employment and Support Allowance will be delivered by existing staff, who will be selected by existing Department for Work and Pensions selection procedures within existing premises. It is not expected that there will be any transgender impact as a result of the change.

## **Sexual Orientation**

### **Impact on claimants**

The Department for Work and Pensions does not hold information on sexual orientation of claimants. All claimants will go through the same process when their entitlement to contribution-based Employment and Support Allowance ends regardless of their sexual orientation. We therefore do not expect these changes to have a marked impact on equality or discrimination on the grounds of sexual orientation.

Diversity and equality learning for the Department for Work and Pensions includes sexual orientation. This learning helps ensure our staff can support, and do not discriminate against claimants on the grounds of their sexual orientation.

### **Impact on staff**

The Employment and Support Allowance legislative changes, including the time limiting of contribution-based Employment and Support Allowance will be delivered by existing staff, who will be selected by existing Department for Work and Pensions selection procedures within existing premises. It is not expected that there will be any sexual orientation impact as a result of the change.

## **Religion or Belief**

### **Impact on claimants**

The Department for Work and Pensions does not hold information on the religion or belief of claimants. A claimant's religion or belief has no bearing on whether their contribution-based Employment and Support Allowance is affected. All claimants will go through the same process when their entitlement to contribution-based Employment and Support Allowance ends regardless of their religion or belief.

The Department for Work and Pensions will aim to accommodate any reasonable request for adjustments on the basis of religion and belief. It is envisaged that no adverse impact will occur on the grounds of religion or belief.

Diversity and equality learning for Department for Work and Pensions includes religion and belief. This learning helps ensure our staff can support, and do not discriminate against, claimants on the grounds of religion or belief.

The Department for Work and Pensions does not presently collect data on claimants on the basis of their religion or belief.

### **Impact on staff**

The Employment and Support Allowance legislative changes, including the time limiting of contribution-based Employment and Support Allowance will be delivered by existing staff, who will be selected by existing Department for Work and Pensions selection procedures within existing premises. It is not expected that there will be any impact on religion or belief as a result of the change.

## **Marriage/Civil Partnership**

The Department for Work and Pensions only holds information on marriage/civil partnerships where the information is required to process claims to benefit. It cannot therefore be used to accurately assess equality impacts. All claimants will go through the same process when their entitlement to contribution-based Employment and Support Allowance ends regardless of whether they are married/in a civil partnership or not. It is not expected to be any adverse impact on the grounds of marriage/civil partnership

### **Impact on staff**

The Employment and Support Allowance legislative changes, including the time limiting of contribution-based Employment and Support Allowance will be delivered by existing staff, who will be selected by existing Department for Work and Pensions selection procedures within existing premises. It is not expected that there will be any equality impact on the basis of marriage/civil partnerships as a result of the change.

## **Pregnancy and Maternity**

### **Impact on claimants**

The Department for Work and Pensions only holds information on pregnancy and maternity where it is the primary reason for limited capability for work and entitlement to Employment and Support Allowance. It cannot therefore be used to accurately assess equality impacts. All claimants will go through the same process when their entitlement to contribution-based Employment and Support Allowance ends regardless of pregnancy or maternity. We don't expect there to be an adverse impact on the grounds of pregnancy or maternity.

## Impact on staff

The Employment and Support Allowance legislative changes, including the time limiting of contribution-based Employment and Support Allowance will be delivered by existing staff, who will be selected by existing Department for Work and Pensions selection procedures within existing premises. It is not expected that there will be any equality impact on pregnancy or maternity as a result of the change.

## Monitoring and evaluation

The Department for Work and Pensions is committed to monitoring and reviewing its processes.

Work Directorate operates a robust customer complaints procedure at a district level which can be used to raise issues of concern or discrimination.

The material in this Equality Impact Assessment covers the equality groups currently covered by the equality legislation, i.e. age, disability, gender, transgender, race, religion, sexual orientation, pregnancy/maternity and marriage/civil partnerships. The Department for Work and Pensions is committed to monitoring the impacts of its policies and can use evidence from a number of sources on the experiences and outcomes of the protected groups.

- a) The Department for Work and Pensions will use administrative datasets, including the Department for Work and Pension's Work and Pensions Longitudinal Study (WPLS), to monitor trends in the benefit caseloads for the protected groups and in the level and distribution of benefit entitlements. The administrative data will provide robust material for age and gender although not, as a rule, for the other protected groups. Where it is practical we will endeavour to incorporate information for the other protected groups.
- b) The Department for Work and Pensions will use survey data, such as the Family Resources Survey and Labour Force Survey, to assess trends in the incomes of the protected groups and in their employment outcomes. Both the Family Resources Survey and Labour Force Survey will collect information on age, disability, gender, race, sexual orientation, religion, and marriage/civil partnerships.
- c) The Department for Work and Pensions will use feedback from stakeholder groups to assess whether there are unintended consequences for the protected groups, and whether the policy is likely to result in adverse consequences for particular groups.
- d) The Department for Work and Pensions will utilise feedback from Departmental employee networks and internal management information. For example we will monitor the level of complaints in order to assess the broader impact of the policy.
- e) The Department for Work and Pensions will draw on broader Department for Work and Pensions research where appropriate, as well as any research commissioned specifically as part of the evaluation of the measure.

f) The Department for Work and Pensions will monitor the equality impacts of the changes to linking rules through the data we routinely collect from Atos Healthcare to enable us to understand potential impacts on groups covered by equality legislation.

As part of the Department actions in the context of the data requirements under the Equality Act, the Department for Work and Pensions are looking across activities to identify and address further gaps in data provision wherever reasonable.

## Contact details

If you have any questions about the information contained in this document, please contact [Louise.Alexander-Roberts@Jobcentreplus.gsi.gov.uk](mailto:Louise.Alexander-Roberts@Jobcentreplus.gsi.gov.uk)

## Annex A: Organisations who attended the stakeholder event held on 11 August 2011

Royal Association for Deaf People

Disability Alliance

Samaritans

National Association of Welfare Rights Advisers (NAWRA)

Rights net

Citizens Advice

### **Organisations who attended the stakeholder event held on 12 December 2011**

Association Directors Adult Social Services / Herts CC

Citizens Advice

National Autistic Society

RNIB

Local Government Association / Surrey CC

National Deaf Children Society

ASPIRE – Spinal Injury Charity

Mind

Gingerbread

Turn2Us

Terrence Higgins Trust

Disability Alliance

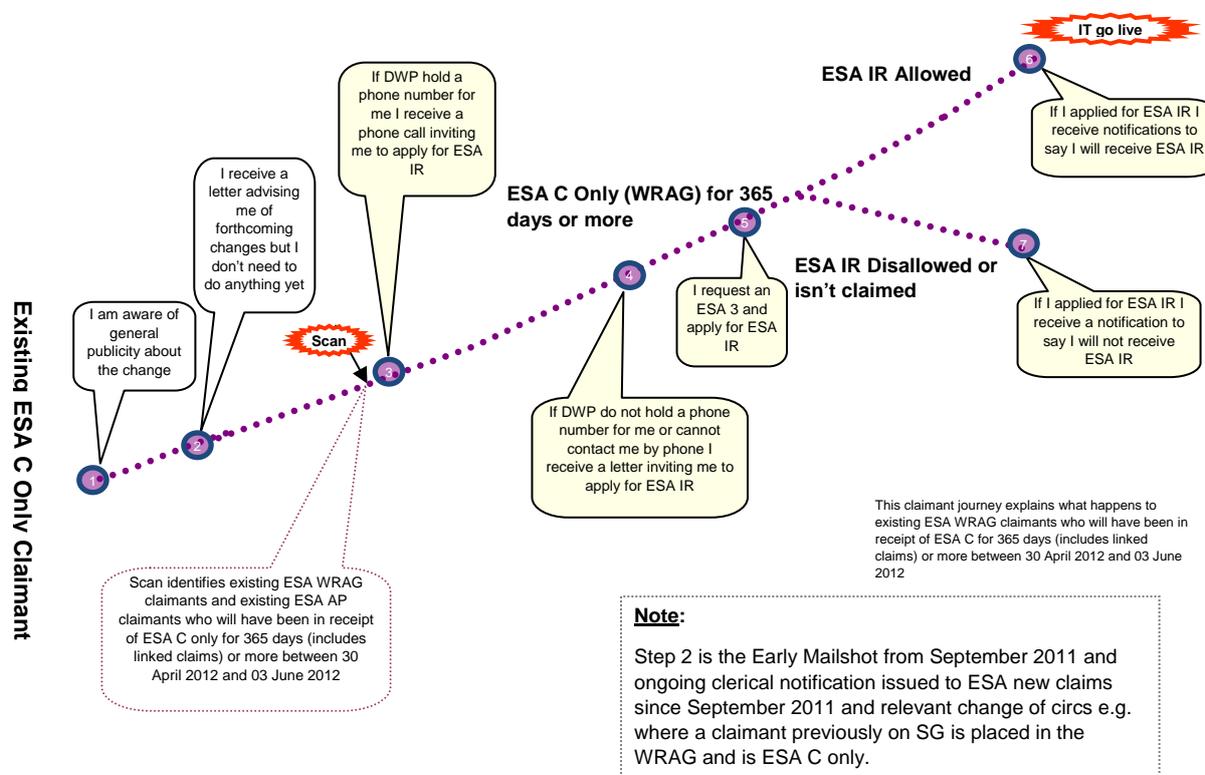
MS Society

Crisis

# Annex B – The Process

## Claimant journey (All claimants whose contribution-based Employment and Support Allowance entitlement is ending before 04 June 2012. No existing income-related Employment and Support Allowance entitlement)

We will contact all claimants whose entitlement will end before 04 June 2012 without an underlying entitlement to income-related Employment and Support Allowance registered to ask if they wish to be considered for income-related Employment and Support Allowance. This activity will take place between February 2012 and the end of March 2012.



### Step 1 – Sees generic publicity

Claimants may become aware of the legislative changes through the media or customer representative groups.

### Step 2 – Receives a letter from Jobcentre Plus

Claimants received a letter in September 2011 advising them of the changes. New claims to Employment and Support Allowance after September 2011 also received this letter.

### **Step 3 – Receives a telephone call from Jobcentre Plus**

Claimant receives a call (2 attempts) to advise them that their contribution-based Employment and Support Allowance may end and to invite them to apply for income-related Employment and Support Allowance, where appropriate.

### **Steps 4 – Receive notification from Jobcentre Plus**

If Jobcentre Plus does not hold a telephone number for the claimant or the claimant cannot be contacted by telephone, then the claimant receives a notification to say their contribution-based Employment and Support Allowance may end and to invite them to apply for income-related Employment and Support Allowance, where appropriate. A letter can also be issued where it is felt that it would be more beneficial for the claimant.

### **Step 5 – Request and return ESA 3**

Claimant requests, completes and returns an ESA3. This could happen at any point in the claimant journey.

### **Step 6 – Receive income-related Employment and Support Allowance award notification**

Claimant receives a notification advising them that they will receive income-related Employment and Support Allowance.

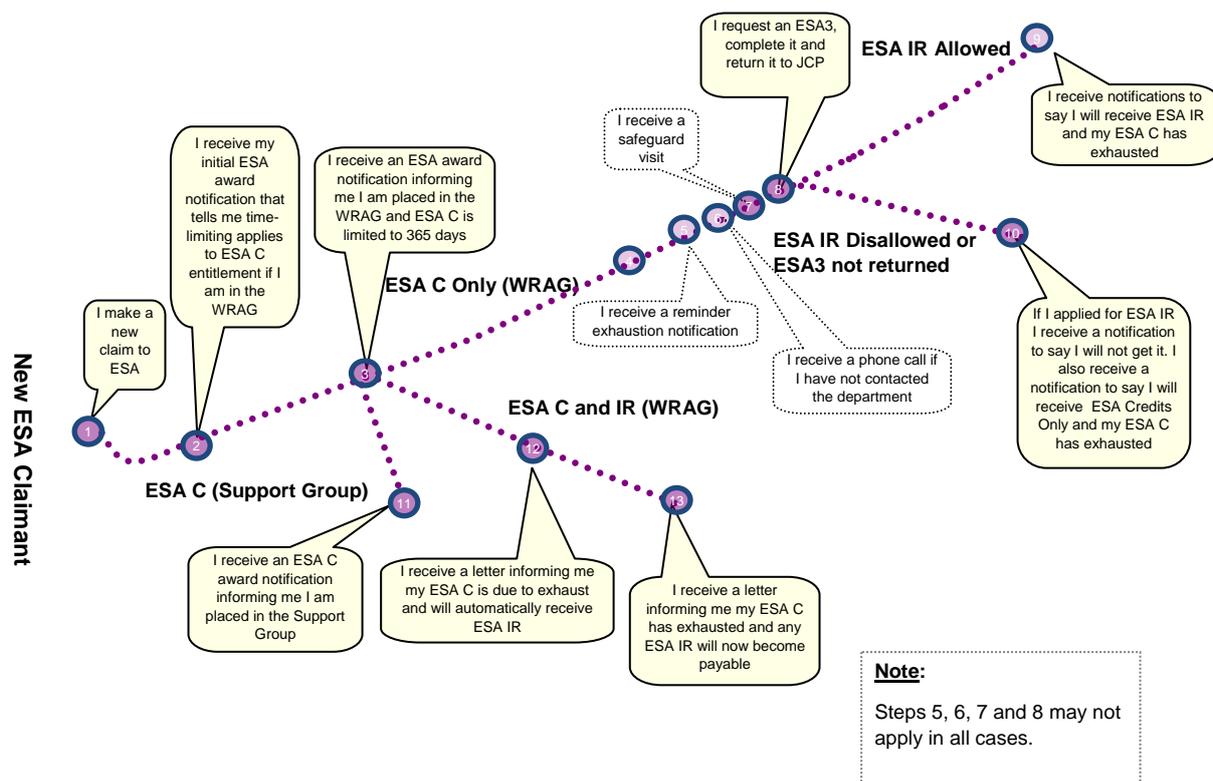
### **Step 7 – Receive income-related Employment and Support Allowance award notification**

Claimant receives a notification advising them that they have no entitlement to receive income-related Employment and Support Allowance.

## The time limited contribution-based Employment and Support Allowance process

The following illustration shows the journey that will be followed by all claimants whose entitlement to contribution-based Employment and Support Allowance ends on 04 June 2012 or after. A standard process will make sure that these claimants will be issued with a notification eight weeks before their contribution-based Employment and Support Allowance ends.

### Claimant journey (from 04 June 2012 onwards)



### Step 1 – New claim to Employment and Support Allowance

Claimant makes a new claim to Employment and Support Allowance. Claimant will be advised that any potential contribution-based Employment and Support Allowance award will be limited to 365 days unless they are in the Support Group.

## **Step 2 – Receive initial award notification**

Claimant receives a letter advising them that their claim has been received, and any subsequent contribution-based Employment and Support Allowance award will be time limited unless they are in the Support Group.

## **Step 3 – Receive Work Related Activity Group award notification**

Claimant receives notification they are entitled to contribution-based Employment and Support Allowance in the Work Related Activity Group and that it will be limited to 365 days.

## **Step 4 – Receive letter (sent 56 days before claim ends)**

Claimant receives a letter inviting them to contact Jobcentre Plus, as their contribution-based Employment and Support Allowance is due to end. This letter is issued 56 days before their claim ends.

## **Step 5 – Receives reminder letter (letter at day 28)**

Claimant receives a reminder letter 28 days before their claim ends, asking them to contact Jobcentre Plus. This reminder will only be issued where the claimant has not already contacted Jobcentre Plus.

## **Step 6 – Receive telephone call (call at day 21)**

Claimant receives a call 21 days before their claim ends to discuss their options and consider a claim for income-related Employment and Support Allowance. This call (three attempts) will only be made where the claimant has not already contacted Jobcentre Plus and is vulnerable.

## **Step 7 – Receive visit (safeguard visit)**

Claimant receives a visit to discuss their options and consider a claim for income-related Employment and Support Allowance. Safeguard visits are for claimants with mental health issues or vulnerable claimants with additional support needs.

## **Step 8 – Request and return ESA3**

Claimant requests, completes and returns an ESA 3. This could happen at any point in the claimant journey.

### **Step 9 – Receive income-related Employment and Support Allowance award and notification that contribution-based Employment and Support Allowance is ending**

Claimant receives a notification advising them that their contribution-based Employment and Support Allowance will end and they will continue to receive income-related Employment and Support Allowance. Claimant also receives a notification that they will receive income-related Employment and Support Allowance, from when they will receive it, and that they will continue to receive National Insurance credits.

### **Step 10 – Receives contribution-based Employment and Support Allowance credits only and notification that ESA (C) is ending**

Claimant receives a notification advising them that their contribution-based Employment and Support Allowance will end and they will continue to receive National Insurance credits. Claimant also receives a notification that they are not entitled to income-related Employment and Support Allowance and that they will continue to receive National Insurance credits.

### **Step 11 – Receive Support Group award notification**

Claimant receives a notification advising them that they are entitled to contribution-based Employment and Support Allowance and they are in the Support Group, payment of contribution-based Employment and Support Allowance for people in the Support Group is not restricted to 365 days unless the claimant subsequently comes out of the Support Group.

### **Step 12 – Receive income-related Employment and Support Allowance notification**

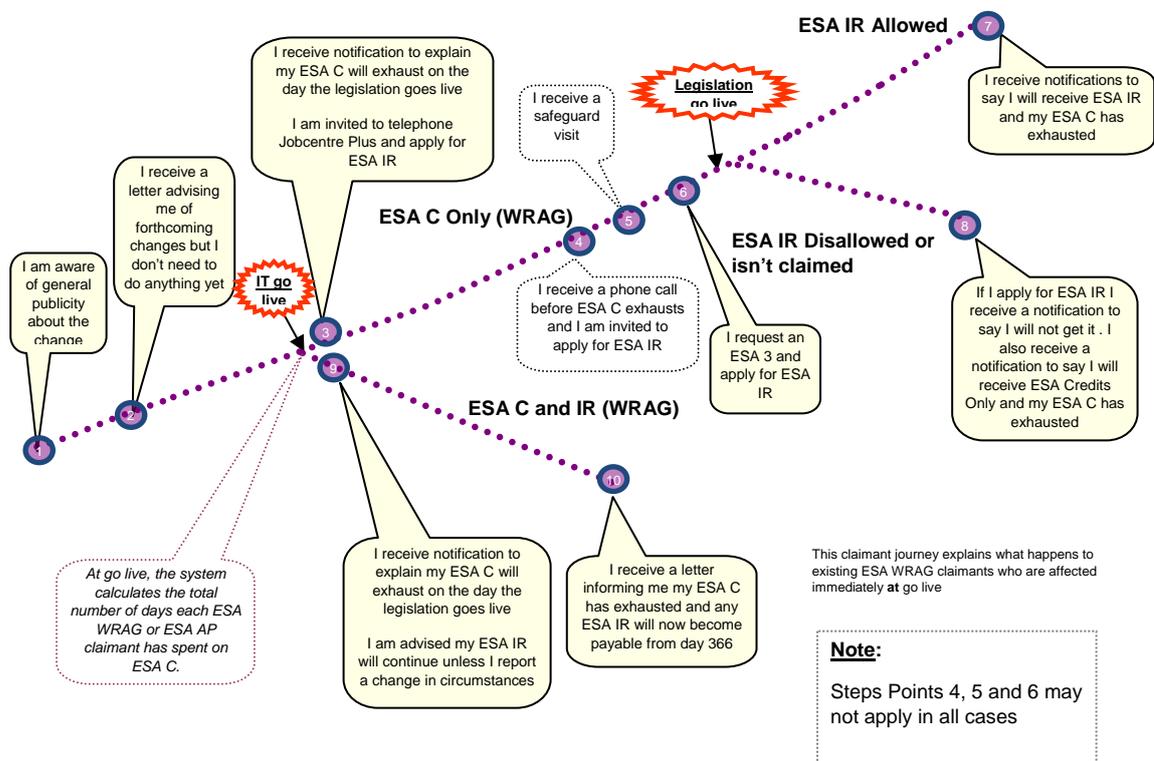
Claimant receives a letter as their contribution-based Employment and Support Allowance claim is due to end. This letter issued 56 days before their claim ends. This letter informs the claimant that whilst contribution based Employment and Support Allowance will end, they are already entitled to income-related Employment and Support Allowance which will be paid automatically when their contribution-based Employment and Support Allowance claim ends or continue in payment if it is already being paid.

### **Step 13 – Receive notification that contribution-based Employment and Support Allowance is ending**

Claimant receives a notification advising them that they will automatically receive income-related Employment and Support Allowance and advising them that their contribution-based Employment and Support Allowance claim has ended.

## Claimant journey (All claimants whose contribution-based Employment and Support Allowance entitlement is ending before 04 June 2012)

All claimants whose contribution-based Employment and Support Allowance ends before 04 June 2012 will be sent a notification on 09 April 2012 informing them of the date their benefit will end and whether they have an entitlement of income-related Employment and Support Allowance registered. Depending on the date their entitlement is due to end they may also receive a reminder notification if they do not contact the department.



### Step 1 – Sees generic publicity

Claimant may become aware of the legislative changes through the media or customer representative groups.

### Step 2 – Receives a letter

Claimant received a letter in September 2011 to advise them of the changes.

### Step 3 – Receive notification

Claimant receives notification advising them that their contribution-based Employment and Support Allowance will end and to invite them to contact Jobcentre

Plus and to apply for income-related Employment and Support Allowance, where appropriate. The notification is issued on 09 April 2012.

#### **Step 4 – Receive telephone call (call at day 14)**

Claimant receives a call 14 days before their claim ends (three attempts) to discuss their options and consider a claim for income-related Employment and Support Allowance, where appropriate. This step will only apply to claimants not contacted during the previous illustration and claimants with additional support needs who have not made contact with Jobcentre plus.

#### **Step 5 – Receive visit (safeguard visit at 7 days)**

Claimant receives a visit 7 days before their contribution-based Employment and Support Allowance ends to discuss their options and consider a claim for income-related Employment and Support Allowance. Safeguard visits are for claimants with additional support needs who have not contacted Jobcentre Plus.

#### **Step 6 – Request and return ESA3**

Claimant requests, completes and returns an ESA3. This could happen at any point in the claimant journey.

#### **Step 7 – Receive income-related Employment and Support Allowance award and notification that contribution-based Employment and Support Allowance is ending**

Claimant receives a notification advising them that they will receive income-related Employment and Support Allowance and to advise contribution-based Employment and Support Allowance has ended. The income-related Employment and Support Allowance award notification could be issued at any point in the claimant journey, however, the notification that contribution-based Employment and Support Allowance is ending will be issued on the day benefit entitlement ends.

#### **Step 8 – Receive credits only and notification that contribution-based Employment and Support Allowance is ending**

Claimant receives a notification advising them that they will receive credits only and to advise contribution-based Employment and Support Allowance has ended. The notification will explain that contribution-based Employment and Support Allowance only claimants have no entitlement to income-related Employment and Support Allowance, where appropriate. Both notifications will be issued on the day benefit entitlement ends.

## **Step 9 – Receive income-related Employment and Support Allowance notification**

All claimants will receive a letter to advise that their contribution-based Employment and Support Allowance claim is due to be stopped. This letter is issued on 09 April 2012 and will inform contribution-based Employment and Support Allowance claimants of one of the following:

- They currently receive contribution-based Employment and Support Allowance only and when it is stopped they will receive credits
- They currently receive contribution-based Employment and Support Allowance and income-related Employment and Support Allowance and when contribution-based Employment and Support Allowance is stopped their income-related Employment and Support Allowance will continue
- They currently receive contribution-based Employment and Support Allowance and have already been assessed for income-related Employment and Support Allowance so when their contribution-based Employment and Support Allowance award is stopped they will receive credits.

The letter will advise claimants to consider claiming income-related Employment and Support Allowance if they have not already been assessed or have been assessed and found to have a nil rate and their circumstances have changed.

The letter will advise claimants to consider claiming income-related Employment and Support Allowance if they have not already been assessed or have been assessed and found to have a nil rate and their circumstances have changed.

## **Step 10 – Receive notification that contribution-based Employment and Support Allowance is ending**

Claimant receives a notification advising them that they will automatically receive income-related Employment and Support Allowance and advising them that their contribution-based Employment and Support Allowance claim has ended.