



Department
for Work &
Pensions

Government's response to the Independent Review of the Work Capability Assessment – year five

Presented to Parliament
by the Secretary of State for Work and Pensions
by Command of Her Majesty
February 2015

Cm 9014



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Any enquiries regarding this publication should be sent to us at

ESA Policy Team
Department for Work and Pensions
2nd Floor
Caxton House
Tothill Street
London
SW1H 9NA

Email: wca.evidence@dwp.gsi.gov.uk

Print ISBN 9781474115551

Web ISBN 9781474115568

ID 17021511

02/15

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by the Williams Lea Group on behalf of the Controller of Her Majesty's Stationery Office

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Ministerial Foreword

I want to thank Dr Paul Litchfield for his significant contribution to improving the Work Capability Assessment (WCA) which has culminated in the fifth and final independent review being published last November.

Dr Litchfield highlighted and explored how the many changes recommended and implemented since the first independent review in 2008 had improved the operation of the WCA and the way in which it is perceived.

The final review recommended some further improvements to the assessment but also recognised the need for a period of stability for the WCA and said:

“...my counsel would be to let the current WCA have a period of stability – it is by no means perfect but there is no better replacement that can be pulled off the shelf.”

The WCA is integral to the Government’s commitment to ensuring that as many people as are able to do so engage in employment and that those who cannot work receive the appropriate support.

I agree with Dr Litchfield’s analysis of the key areas for further exploration: the increasing number of people in the Support Group (especially younger people); the need to ensure that communications are as good as they can be (especially for more vulnerable claimants); and better support for claimants with learning disabilities.

The task will be to deliver on the ambition for the UK to be a world leader in supporting disabled people and people with health conditions to realise their full potential. This work has started with Disability Confident, the introduction of the Fit For Work service and improving access to mental health services. I am particularly pleased that the Department for Work and Pensions has started to work much more closely with the Department of Health, especially on providing better support for people with mental health conditions.

Mark Harper
Minister of State for Disabled People

Introduction

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The Government welcomes the fifth and final independent review of the Work Capability Assessment (WCA); the second to be conducted by Dr Paul Litchfield. Dr Litchfield is Chief Medical Officer and Director of Health, Safety and Wellbeing for BT Group, a fellow of the Royal College of Physicians and the Faculty of Occupational Medicine and as such brought a breadth of experience and expertise to this review.

Dr Litchfield has built on the work of the four previous¹ independent reviews and in this final review reflects on some of the key changes, examines the impact on outcomes from the WCA and considers what lessons may have been learned for the design of any future assessment. The review focused on:

- The development of the Work Capability Assessment since 2008
- The Support Group
- Perceptions
- Decision Making and processes
- Groups meriting special attention
- The future direction of the Work Capability Assessment.

Dr Litchfield's views on the future direction of the WCA are not commented on in this response.

Dr Litchfield made 33 recommendations in this fifth review, 28 of which relate to the Department for Work and Pensions and are within the scope of this response. The other five relate to the Department for Social Development in Northern Ireland and will be addressed as part of that administration's own response to Dr Litchfield's review.

¹ Professor Malcolm Harrington carried out the first three independent reviews.

6 Introduction

In the course of his review Dr Litchfield asked about future scrutiny of the WCA after the final statutory independent review. Chapter 7 sets out the current position on recommendations from previous reviews. It is anticipated that the Work and Pensions Select Committee will monitor implementation of the fifth independent review as part of its role in examining the expenditure, administration and policy of the Department for Work and Pensions and its associated public bodies.

The development of the Work Capability Assessment since 2008

2

Recommendation 1

Material changes to the WCA should be fully considered in advance by both policy officials and operational staff to ensure that policy intent and practical considerations are harmonised.

The Government recognises the importance of this recommendation to Dr Litchfield as it picks up on a point made in his previous review. Both in implementing recommendations from independent reviews and when considering any significant changes (such as those from legal judgements), it is long established Departmental practice for policy and operations to work closely together.

The Department has a robust change process in place to ensure that any changes undertaken are feasible and will not have unintended consequences. This is why it can take some time to move from recommendation to implementation, and is also why flexibility in the implementation of recommendations is important.

The Government accepts this recommendation.

Recommendation 2

Use of 360° feedback and its impact on driving up the quality of decision making at all stages of the WCA process should be monitored over time and trends reported to the appropriate level to ensure that training needs are met and unintended behaviours are addressed. This work should be seen in parallel to feedback received from Tribunal services.

Dr Litchfield acknowledges the introduction of the feedback tool known as Quality Every Single Time (QUEST) that is used across dispute resolution teams to provide feedback on the quality of initial decisions, where the initial decision is changed as the result of a mandatory reconsideration. These teams have robust guidance on when and why an initial decision should be overturned, and the Department has worked hard to embed a consistent approach across decision making functions.

8 The development of the Work Capability Assessment since 2008

When a decision is overturned the reason must be provided to the original decision maker. This also goes to the manager responsible for identifying trends and addressing learning requirements across teams. The information is regularly monitored to understand how it is being used as part of the Department's approach to quality.

In respect of the feedback received from Her Majesty's Courts and Tribunals Service, the First tier Tribunal routinely provides the Department with a summary of reasons for their decisions on appeals against Employment and Support Allowance (ESA) decisions². This is incorporated in the decision notice issued to the Department and the appellant. This is sent to the dispute resolution team who, in turn, share feedback on an individual basis with the relevant decision makers responsible for the mandatory reconsideration/appeal response. The Tribunal feedback supports continuous learning for individual decision makers (so they can understand the reasons for their decisions being upheld or overturned), and where general learning is identified this leads to improvements to training and guidance. As part of the new contract arrangements, the Department is also exploring ways of sharing this feedback with its assessment provider on a regular basis.

The Government accepts this recommendation.

Recommendation 3

The Explanation Call is removed from the mandatory reconsideration process, and that information on the points of contention are collated and included in the referral to dispute resolution teams where possible.

As a matter of routine, the Department has provided claimants with an explanation (the 'explanation call') when a mandatory reconsideration has been requested to clarify the reasons for the decision, and to try to resolve any misunderstanding. In those cases where a disagreement with the decision is based on a misunderstanding, explaining the decision and clarifying the underlying reasons on which it is based may address and resolve the dispute.

The Department recognises however – as Dr Litchfield has found – that it should not be necessary to make this call when claimants and their representatives are clear about the decision and the reasons for it. In future the Department will only make this call in cases where the claimant specifically asks for an explanation or if it becomes clear that doing so would help to address any misunderstanding. The Department also intends to strengthen the way in which it gathers and documents the claimant's grounds for dispute, to ensure that all relevant information is included in the referral to the dispute resolution team responsible for the mandatory reconsideration. The 'reconsideration call' will remain discretionary for the decision maker responsible for the mandatory reconsideration. For example, if there has not been a previous conversation with the claimant and/or the grounds for dispute are not clear, it would clearly be sensible to contact the claimant. We need to allow sufficient time to test the impact of this change and will look to start introducing the new process within a year, subject of course to other emerging priorities.

The Government accepts this recommendation.

² Following an initial controlled start provision of summary reasons was introduced across the Social Security and Child Support Tribunal for all appeals against ESA and Personal Independence Payment decisions. The Chamber President has agreed that this should be rolled out to other appeal types. The aim is for this to be introduced by April 2015.

Recommendation 4

Options for displaying a geographical telephone number when making a Reconsideration Call should be explored. Additionally, SMS messaging or an appropriate alternative method should be used to provide advance notice in all instances. As with face-to-face assessments, requests to have a supporting representative on the call should be accommodated where possible.

The Department will always accommodate a supporting representative on a call wherever possible and supports the use of SMS messaging where this is found to be effective. There is already a precedent for this as some sites currently use SMS when contacting claimants. There are, however, no plans to make this a requirement.

The ability to display number identification on an outbound call – the function to display an agreed geographic or non-geographic number to the person being called – is something the Department is seeking from its new telephony contract. The Department will explore options for how this could be used.

The Government will consider the recommendation of a geographical telephone number further, will use SMS messaging where thought appropriate and accepts the recommendation on accommodating a representative.

Recommendation 5

The Department review its geographical allocation of mandatory reconsideration casework taking account of both perception issues and practical considerations for avoiding unnecessary delays.

The Department has robust systems in place to monitor service delivery, including case tracking systems which ensure there is good information available to operational managers about the time it takes to administer cases – including mandatory reconsiderations – across its network.

The Claimant Service and Experience Survey 2013³ indicated that while some improvement to the service was needed, 80 per cent of ESA claimants were satisfied with the service overall (and nearly 28 per cent were very satisfied). 80 per cent of claimants agreed that staff provided them with the correct information and 85 per cent agreed that staff treated them fairly and with respect.

All departmental staff are trained to understand claimants' needs, particularly when a claimant may be distressed, and to respond accordingly. As there is no indication of a significant problem from officials being located in different areas from the claimants whose cases they are handling, the Department is unable to accept this recommendation. The Department has locations throughout the country and needs to maintain operational flexibility to ensure the best use of valuable staff resources.

The Government is unable to accept this recommendation.

Recommendation 6

The Department give specific consideration to how it improves the overall perceptions of the mandatory reconsideration process. This should include publishing target turnaround times and being clear on the reasons behind ceasing payment of the assessment rate of ESA.

In December 2014 the Department published data on mandatory reconsideration clearance times. This showed that the median average clearance time for ESA mandatory reconsiderations is within 13 days. While this data provides a general timeframe the Department recognises that claimants and their representatives should have a reasonable expectation about how long their particular case may take.

³ Published in October 2014.

10 The development of the Work Capability Assessment since 2008

The Department therefore plans to introduce a clearance time target for all benefits starting with ESA from April 2016. We will set a target and report internally on this measure during the coming year, to test it fully before commencing formal reporting from April 2016.

The Department is currently looking at what form that target might take. We want to ensure that any target strikes the right balance between speed and making good quality decisions. We will also look at further improving our communications and approach, working with stakeholder and claimant representative groups to understand and improve the perception of mandatory reconsideration.

The Government accepts this recommendation.

Recommendation 7

Further work to develop and implement a semi-structured interview should continue. This should be developed in conjunction with a small number of representative groups. Particular attention should be paid to interview practices for those with mental health conditions, learning disabilities and autism, and this should be reflected in the guidance and training developed.

In the fifth review, Dr Litchfield commented on the Evidence Based Review led by the Department with input from a number of groups representing the interests of disabled people. Dr Litchfield observed that the review did not meet the standards of a piece of scientific research because of the need to limit the burden on participating claimants, describing this as a “real world” study. Nonetheless, Dr Litchfield commented that despite these constraints the review was a useful piece of work, and he supported the Department’s conclusion that there was no case for replacing the WCA with one of the alternatives used in the review.

Dr Litchfield also noted that there were some potential areas for improvement which could be reflected in any improved assessment, in particular adopting the semi-structured interview style to support a more discursive face-to-face assessment. The Department committed in the response to the fourth review to work with the assessment provider to make further improvements to best practice in the conduct and write-up of face-to-face assessments, including consideration of the semi-structured interview approach.

It should be noted that all assessors receive training in the need to establish rapport with claimants and to have an open conversation about the barriers the claimant experiences. The Department has started to explore this recommendation but the transition to the new assessment provider has caused some delay in this work as the focus has been on delivery of assessments and ensuring a safe transition. The Centre for Health and Disability Assessments (a MAXIMUS company) has made clear that it is very keen to improve the claimant experience and the Department will continue to progress the feasibility and practicality of a semi-structured interview approach.

The Government accepts this recommendation.

The Support Group

3

Dr Litchfield recommended that the Department investigate the increase in numbers in the Support Group as a matter of urgency. He pointed out that the general expectation is that this group is for those claimants who are more severely incapacitated than those in the work-related activity group (WRAG). Dr Litchfield also pointed out that it was not within his scope to make a judgement on whether the numbers of people assigned to the Support Group was right, as this was a matter for the Department.

When ESA was introduced the expectation was that the majority of claimants found eligible for ESA would be placed in the WRAG. Claimants receiving ESA in the Support Group are not required to undertake any activity, including any activity which might move them closer to the world of work. The potential detrimental effects of not participating in such activities makes it essential to ensure that people are not assigned to the Support Group where this is not appropriate.

The Department has carried out further analysis of the issues highlighted in Dr Litchfield's recommendations and the initial findings are set out below.

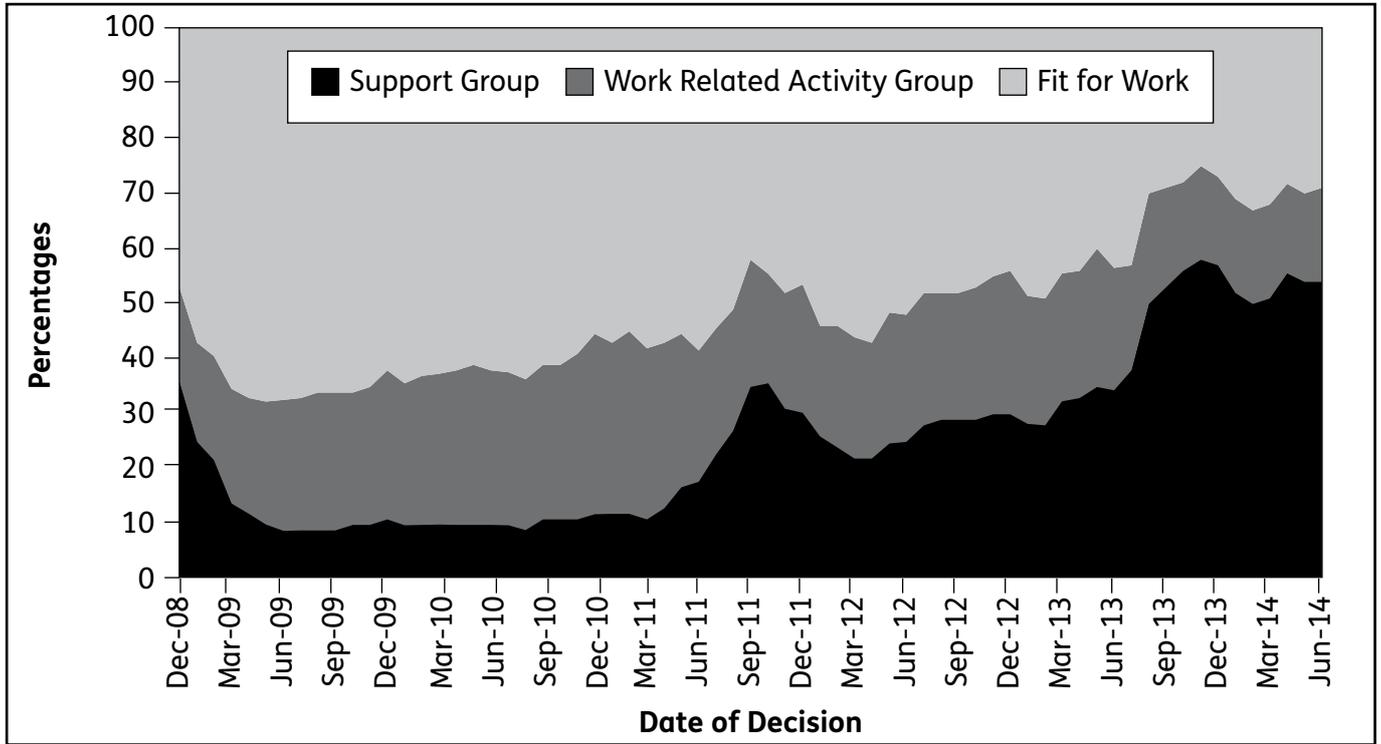
Recommendation 8

The Department investigates the substantial increase in the proportion of Support Group outcomes as a matter of urgency to determine whether the WCA is being applied correctly.

It is clear from recent statistics on WCA outcomes⁴ and the analysis in Dr Litchfield's report that the proportion of WCAs resulting in the claimant being placed in the Support Group has been increasing. Figure 1 shows that there were larger increases in the proportion of claimants being placed in the Support Group for decisions made in 2011 and then again for those made during 2013.

⁴ Employment and Support Allowance: outcomes of Work Capability Assessments, Great Britain, quarterly official statistics bulletin, 11 December 2014.

Figure 1: Outcomes of Initial WCAs by Date of Assessment⁵

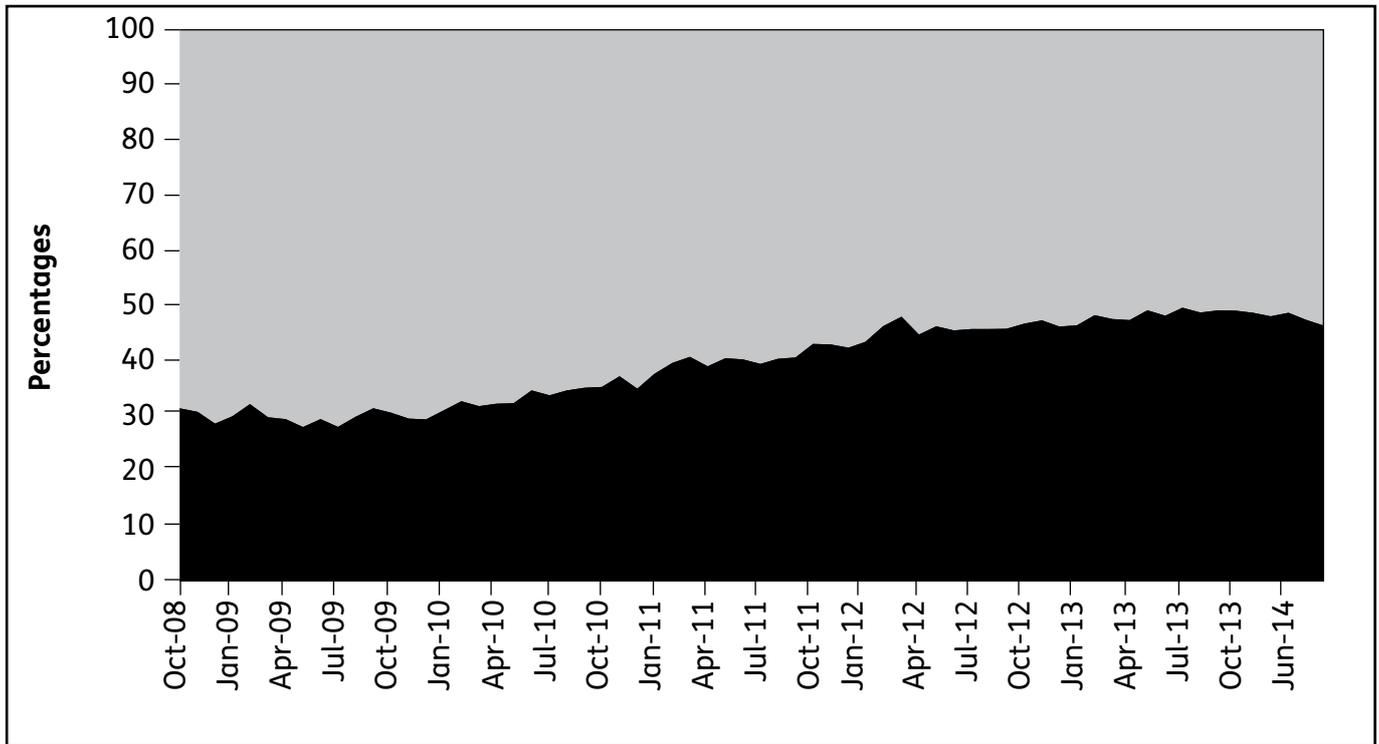


The increase in 2011 can be linked directly to changes in WCA regulations⁶ which came into force in March 2011, and derive from a Departmental review in late 2009. This review drew on expertise from claimant representative groups to assess whether the WCA was meeting the policy intent of accurately identifying an individual’s capability for work. The regulations introduced in March 2011 broadened the Support Group to include more people with certain communication problems and severe disability caused by mental health conditions.

The changes led to significant increases in the proportion of those placed in the Support Group who had a mental health condition (Figure 2).

⁵ Employment and Support Allowance: outcomes of Work Capability Assessments, Great Britain, quarterly official statistics bulletin, 11 December 2014.
⁶ Employment and Support Allowance (Limited Capability for Work and Limited Capability for Work-Related Activity) (Amendment) Regulations 2011 (S.I. 228).

Figure 2: Proportion of Support Group Outcomes with Mental Health Condition⁷



Delays in carrying out assessments are a key driver in the increase in Support Group outcomes since 2013. This has led to more claims being closed before an assessment (43% in September 2013 and 32% in September 2012), and these are claims where the claimant would have been more likely to be found fit for work. In addition, the delay affected face-to-face assessments more. Decisions made following a paper-based assessment increased as a proportion and Support Group is the only outcome that can be assigned at this point.

Following transition to the Centre for Health and Disability Assessments and restoration of the usual proportion of face-to-face assessments it is expected that the level of Support Group outcomes will decline.

Recommendation 9

The use of Regulation 35(2)(b) should be subject to close scrutiny with a particular focus on decisions made on a papers only basis.

The purpose of regulation 35(2)(b) is to provide a safety net for a claimant by recognising that if he or she were found to have limited capability for work but not work-related activity (and thus would be allocated to the WRAG) this could cause harm to the mental or physical health of that claimant or others. This regulation is applied to a small, but growing, proportion of all claims⁸, from 2% in April 2010 to 7% in October 2013, and its use is also growing as a proportion of completed decisions. Further work is required to understand the causes of this increase.

⁷ Table 1. Department for Work and Pensions, 2015, Work Capability Assessment Support Group Outcomes and Disability Benefit History of ESA claimants by Age.

⁸ Employment and Support Allowance: outcomes of Work Capability Assessments, Great Britain, quarterly official statistics bulletin, 11 December 2014. Figure is the volume assigned to the Support Group for reason of physical or mental health risk (Table 5) as a proportion of caseload.

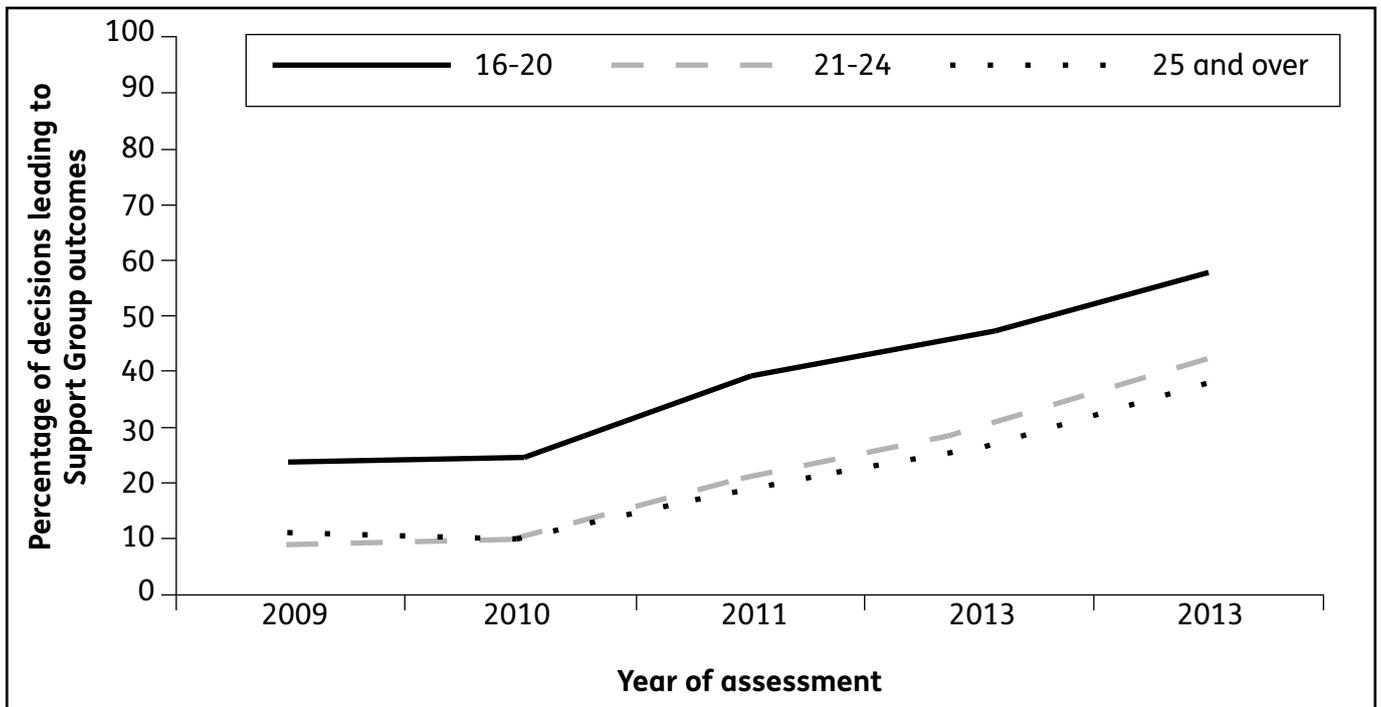
It should be noted that the proportion of Regulation 35(2)(b) recommendations taken following a paper-based assessment (rather than a face-to-face assessment) has remained stable in recent years. The proportion of all advice recommending the application of regulation 35(2)(b), made following a paper-based assessment, was 65% in 2010 and 66% in 2013⁹. The Department will continue to work closely with the assessment provider and decision makers to ensure that this regulation is used appropriately.

Recommendation 10

The drivers for the high rate of young people (16-24) being assigned to the Support Group should be examined not only to ensure that benefit decisions are correct but also to help provide appropriate support.

The Department shares Dr Litchfield’s concern about the impact on young people of being placed in the Support Group, and particularly the number of young people with a primary mental health condition. If the outcomes for 16-24 year olds are analysed in more detail, it is clear that it is primarily WCA outcomes for 16-20 year olds that are driving higher outcomes for the group of ‘young people’ as a whole. Support Group outcomes for 16-20 year olds are significantly higher than those for 21-24 year olds. The Support Group outcomes for 21-24 year olds are still somewhat higher than those for over 25s, but this difference is much lower than the difference between 16-20 year olds and the over 25 groups. (Figure 3).

Figure 3: Proportion of Claimants Placed in Support Group By Age of Claimant and Date of Claim¹⁰

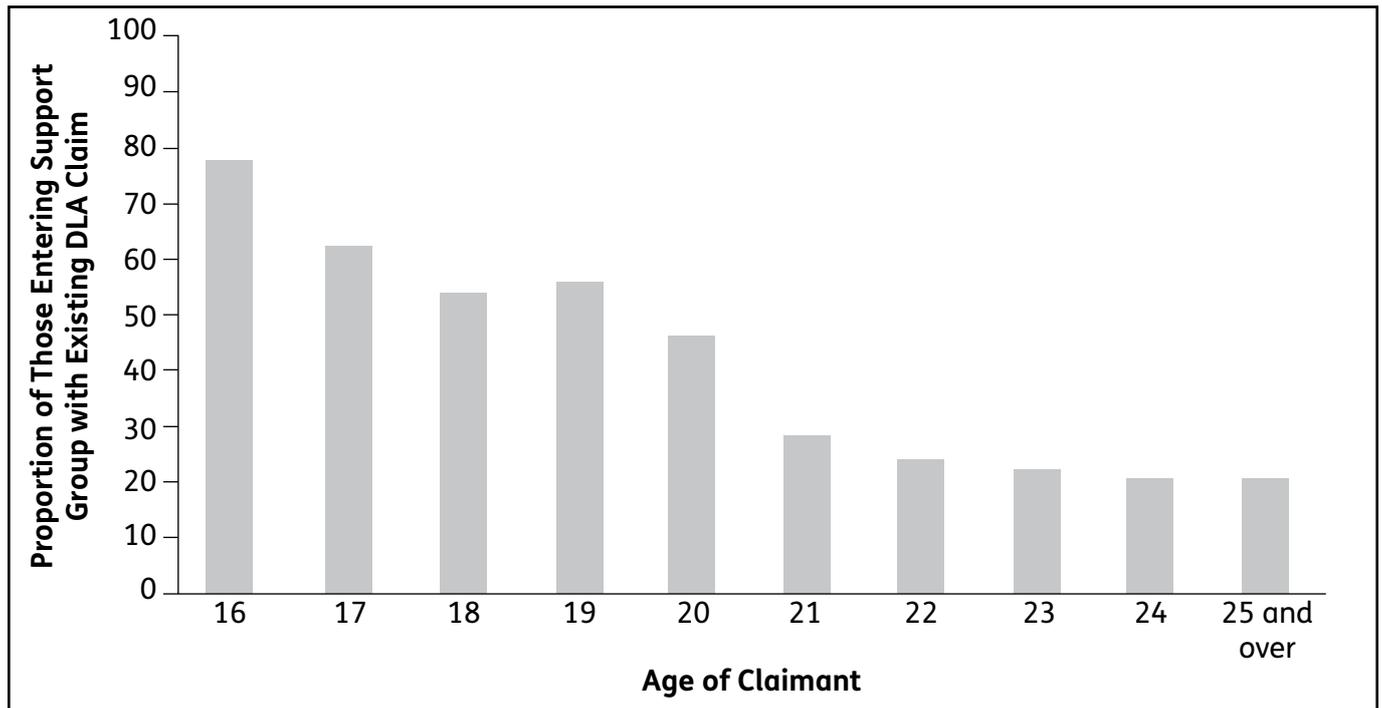


It appears that the higher rates of Support Group outcomes for 16-20 year olds are due to the transition of young people with long-term health conditions from education to working age support. Figure 4 shows that the younger the age of the ESA claimant, the more likely they are to have had a claim for Disability Living Allowance prior to making the claim to ESA.

⁹ Table 5, Department for Work and Pensions, 2014, Statistics to support the Fifth Independent Review of the WCA.
¹⁰ Table 2. Department for Work and Pensions, 2015, Work Capability Assessment Support Group Outcomes and Disability Benefit History of Employment and Support Allowance claimants by Age.

This analysis explains factors underlying the difference in the rate of Support Group outcomes between young people and older groups. Nonetheless, it remains the case that periods of inactivity can have more detrimental impacts on young people as they have a larger proportion of their working life ahead of them. The Department endorses Dr Litchfield’s concern about the potential impact on young people of not being expected to carry out activities designed to move them closer to work.

Figure 4: Proportion of ESA Claimants with DLA Claim Prior to ESA Claim by Age at Claim Start¹¹



The Government accepts recommendations 8, 9 and 10.

¹¹ Table 3. Department for Work and Pensions, 2015, Work Capability Assessment Support Group Outcomes and Disability Benefit History of Employment and Support Allowance claimants by Age.

Perceptions

4

Recommendation 11

The Department bundles future necessary changes into packages delivered no more than bi-annually to provide greater stability and avoid the perception of constant change to the WCA.

Dr Litchfield observed that frequent changes to the WCA may have influenced some of the negative perceptions. The Government welcomes his recommendation to bundle future necessary changes into bi-annual packages wherever possible.

The Department will aim to make necessary changes no more than twice a year. There will of course have to be some exceptions, for example, when a change is unavoidable or beneficial. An example of the latter would be the introduction of simple improvement such as bringing in revised letters and forms to improve the claimant experience.

The Government accepts this recommendation.

Recommendation 12

The Department reviews the mechanisms in place for monitoring levels of understanding amongst staff involved in the ESA process and consider appropriate means of following up this training to ensure levels of knowledge and understanding remain high.

It is reassuring that when Dr Litchfield surveyed over 1,400 departmental staff he found that, in general, staff understanding of the purpose of the benefit and its processes, including mandatory reconsideration, was good. The review referred however to a significant minority of staff involved in ESA who reported having had little training. This is of course a concern.

Full bespoke training is provided for new staff, including a period of mentoring and consolidation. This is provided in-house on most occasions, with the support of learning and development professionals. When smaller numbers of staff join a team specific training is delivered by experienced members of staff, again with consolidation and mentoring.

Following training, team leaders have a monthly one-to-one meeting with each member of staff at which actions are agreed and any training, development or quality issues are identified and reviewed. To underpin training and maintain quality, each decision maker has a minimum of six quality checks on their work each month, and one-to-one support is offered when any issues are identified. Staff are kept regularly updated to ensure compliance and understanding. In addition ad hoc training and guidance is provided as appropriate for changes of policy or operational practice.

The Government accepts this recommendation.

Recommendation 13

The Department works with the Provider to improve communications sent in advance of an individual attending a WCA and ensure that it explains the nature of the WCA, including a description of what they can expect when they attend.

Recommendation 14

The Department review its portfolio of alternate formats with specific reference to the use of Easy Read and then prioritise provision by need to create as many forms as is reasonably practicable.

Improving the communications about the WCA (by the Department and its assessment provider) has been a theme throughout the five independent reviews. Many improvements have been made and work will continue to ensure that all the letters and forms are clear, and can be readily understood by claimants.

There has been some progress since the publication of Dr Litchfield's review. The ESA50 questionnaire has been revised, drawing on input from mental health organisations and groups that focus on other hidden impairments such as learning disability and autism. Following Dr Litchfield's recommendations in the fourth review the Department is working through a plan to review and revise the key letters and forms issued. Revised versions are due to be issued over the course of this year.

The period before a WCA is particularly important as there can be anxiety about what to expect and the Department will work with its new provider to ensure that the communications issued take this into account, and focus on the need to allay concerns.

The Department is in the process of reviewing its communications more broadly to reflect the role of alternative formats. The Department is looking positively at how it can better use material in the Easy Read format. Sometimes better service may be provided by organising a telephone discussion, a face-to-face meeting or seeking support from a representative. If Easy Read is the best solution the Department has processes in place to provide this.

The aim of the communications review is to improve the material for everyone who engages with the process including people with learning disabilities. It is recognised that it would be helpful to have simple information about what to expect during a WCA and the review will look at the best channels to provide this.

18 Perceptions

The new provider has plans for a range of initiatives that will seek to improve the overall claimant experience, including an increased number of assessors with detailed knowledge of specific health conditions such as learning disabilities. These assessors will be on hand to provide advice and support to other healthcare professionals on learning disabilities as well as other health conditions. Assessors will also undertake 'disability confident' training to ensure that they can support claimants through the WCA process.

The Government accepts these recommendations.

Recommendation 15

The Department work with the new Provider to review the existing material available to improve both the quality and content of online resources available to those individuals about to go through a WCA. They should consider working with representative organisations to ensure that the information is both clear and accessible.

The Department accepts Dr Litchfield's point about improving the quality and content of online resources.

Improving communications will be a priority for the Department's work with the new assessment provider. The Centre for Health and Disability Assessments has established a claimant representative group and will involve this group and other similar organisations, in making improvements to material about the WCA. In addition, in the first year, the assessment provider plans to introduce a new website to provide improved and tailored content to support claimants in engaging with the process.

The Government accepts this recommendation.

Decision Making and processes

5

Recommendation 16

The Department examines its work flow system, which appears to introduce an inevitable bias towards granting higher benefit levels, to ensure that the policy intent is being met.

Dr Litchfield raised the subject of decision maker empowerment in the year four review and this recommendation highlights similar concerns. Making the right decision is at the heart of the ESA process, and it is part of the Department's continuous improvement work to monitor regularly whether quality decisions are being made. The guidance and training for decision makers have been reviewed to ensure that the message about assessing the evidence, and making the right decision based on all the information provided, is being communicated clearly. In addition, every opportunity is taken to reinforce the importance of quality decision-making in individual meetings with staff members, team meetings, and larger training sessions.

The Department recognises the importance of this question and will examine this further by exploring different approaches to work allocation to assess the impact on the claimant experience, the time to handle a case, and any impact on quality decision-making.

The Government accepts this recommendation.

Recommendation 17

The Department should explore ways and options of improved information between DWP assessments, including Personal Independence Payment, Disability Living Allowance, Industrial Injuries Disablement Benefit, Fit for Work and the Work Capability Assessment.

The Department can see the value in sharing information which could be useful for another assessment. As Dr Litchfield points out, this is done now for terminally ill cases. While recognising that each assessment serves a different purpose, it would reduce the burden on claimants if the Department could share information already held which may be relevant to a claim for a different benefit.

The Department has carried out a small initial trial where ESA reports were used as supporting evidence in Personal Independence Payment claims – focusing primarily on reports where the individual was found eligible for ESA. Feedback from the assessors suggests the reports have been useful and added to the evidence base of the case. In a proportion of cases the reports contributed to the assessor being able to assess the case without the need for a face-to-face assessment. The Department is considering further testing work to understand the benefits and risks of using ESA reports in more detail.

The Government accepts this recommendation.

Recommendation 18

The Department should work with the Department of Health and other appropriate government departments to explore how DWP can make use of the WCA and the evidence gathered to ensure individuals are sign posted to appropriate support.

The Government recognises that a more joined-up approach across Government is needed so that individuals get the support they need, when they need it. The Department has started to explore with the Department of Health how the welfare, health and social care systems support disabled people and people with health conditions, for instance through voluntary pilots to explore linking employment support with talking therapy services. As part of this work the Department will explore with Department of Health officials what information held for ESA purposes could be usefully shared, while observing any data protection rules.

The Government accepts this recommendation.

Recommendation 19

Use of the term ‘prognosis period’ should be discouraged and documentation should be amended accordingly.

The Government accepts that the term ‘prognosis period’ should be discouraged as it predicts the probable course and outcome of a condition or disease. This is not appropriate for ESA where it has been used to refer to the period when there may be a change in the person’s capability for work so that it would be sensible to carry out a further assessment. The forms which currently use this term, and the guidance for assessors and decision makers, will be amended once the new provider is in place and IT changes can be implemented.

The Government accepts this recommendation.

Recommendation 20

The Department should review its policy and processes around applying short re-referral periods in the Support Group, particularly for young people with mental health problems, and for longer referral periods in the WRAG.

Dr Litchfield points out that placing young people in the Support Group for short periods, although the mental health condition is one from which the claimant would be expected to recover relatively soon, may do more harm than good. The Government accepts this recommendation and will review its policy and processes on applying short re-referral periods in the Support Group.

Dr Litchfield also comments that 8% of people allocated to the WRAG between 2008 and December 2013 were given a re-referral period of 18 months or more and comments that expecting this group to engage in work-related activity may not be appropriate.

The term “work-related activity” can, to some, imply a form of job seeking, whereas in fact the activities accessible by claimants in this group include courses to help build self esteem, advice about budgeting, and training opportunities. In broad terms, where someone is assigned to the WRAG and expected to be there for 12 months or less, Jobcentre Plus will provide support in identifying suitable activity which, where appropriate, may be closer to job seeking. Generally, when an individual is expected to be in the WRAG for over 12 months, Work Programme providers will support an individual in identifying suitable activity. In addition, individual work coaches have flexibility to agree a personalised programme with a claimant who faces more significant barriers.

The WRAG includes a wide range of people, both those who are relatively close to moving into work and others for whom that is a more distant prospect. Given the beneficial impacts of even a small number of hours of either work, or structured work-related activity, it is important that claimants are assigned to the WRAG where they would benefit from participating in some form of activity. The Government recognises however that referral periods for claimants placed in the WRAG should be kept under review.

The Government accepts this recommendation.

Groups meriting special attention

6

Recommendation 21

The Department should work with the Department for Education and the devolved administrations to develop improved mechanisms for providing information about the world of work, including the WCA, to those with learning disabilities at the point of leaving education.

Northern Ireland has developed formal arrangements with special schools whereby students with learning disabilities, their parents and their teachers are briefed by the Department on the world of work and the support available to them. The Department will explore this further with the Department for Education and the devolved administrations to enable us to understand the best form of support for young people with learning disabilities.

The Government accepts this recommendation.

Recommendation 22

The Department reviews its provision of alternate formats of communication with a view to adopting Easy Read wherever practicable.

As set out in the response to recommendation 14 we are seeking to determine the best channels of communication for people with learning disabilities by working on this with key third parties, including a number of charitable organisations, and across Government. The group will identify how to improve accessibility of the Department's communications for people with learning disabilities using alternatives including 'Easy Read' and channels such as video content. Under current plans testing of channels and products would start in the autumn.

The Government accepts these recommendations.

Recommendation 23

The Department reviews the training given to its own staff and those of the Provider in relation to learning disabilities to ensure that the risk of overstatement of capability is fully understood.

Dr Litchfield made a number of valuable recommendations in the fifth review about claimants with learning disabilities. The Department has improved its training and communications in relation to claimants with mental health conditions but acknowledges that specific detailed advice on learning disabilities is not provided. This will be reviewed to consider what more can be done, drawing on the intelligence gained from the communications group mentioned above. The Department will also work with its assessment provider to ensure that the needs of claimants with learning disabilities are reflected in their training and communications.

The Government accepts this recommendation.

Recommendation 24

The Department ensures that it seeks the most appropriate evidence for people with learning disabilities, including Hospital Passports and care or support plans. The Department should consider options in each case rather than defaulting to a GP report.

Recommendation 25

The Department should continue its good work with the MOD to ensure that suitable and sufficient evidence can be accessed as simply and speedily for ex-Service personnel who make an application for ESA.

Recommendation 26

The Department should work with the DH to ensure that suitable and sufficient evidence can be accessed as simply and speedily as possible for long stay hospital patients who make an application for ESA or require reassessment.

Dr Litchfield has drawn attention to a number of claimant groups who may find it difficult to obtain evidence because of their previous experiences or circumstances. The Government agrees with the aim of obtaining as much relevant evidence early in the process. In practical terms however, it should be recognised that unless a claimant indicates in the ESA50 questionnaire that the circumstances outlined by Dr Litchfield apply, the assessor may not be aware of this until a face-to-face assessment. The Department will explore the practical issues of seeking this additional evidence (for instance by including an additional question in the ESA50). and will also ensure that the guidance for assessors and decision makers draws attention to these specific claimant groups so that the need for additional information can be considered at all stages.

The Government accepts these recommendations.

Recommendation 27

The Department should review its practice of routinely repeating the WCA for people liberated from prison who were in receipt of ESA with a reassessment period that is still extant on release.

Recommendation 28

The Department should work with the MOJ to ensure that suitable and sufficient evidence can be accessed as simply and speedily as possible for people leaving prison who make an application for ESA or require reassessment.

Whenever an individual leaves ESA and re-claims within 12 weeks of a previous claim, benefit can be re-instated in full straight away without the need for a new WCA. This also applies to an individual who leaves prison. When claims are made more than 12 weeks after the previous ESA claim all claimants are required to go through the normal WCA process. Supporting someone back into work is the Department's priority when any individual returns to benefits. The Department will consider Dr Litchfield's recommendations with MoJ and the National Offender Management Service at both local and national levels as the new Community Rehabilitation Companies begin their work to identify areas where we can work together to support prison leavers and those on community service.

The Government accepts these recommendations.

Update on recommendations in years one to four

7

1. This chapter provides an update on progress made on the implementation of the recommendations from the first four independent reviews of the WCA.

Professor Malcolm Harrington – Years one to three

2. In the fifth independent review, Dr Litchfield reported that the Government had implemented all but nine of the recommendations from the first three independent reviews. Of these remaining recommendations, six had been partially implemented, and three remained in progress.
3. The table at **Annex a** outlines the Department's position on the implementation of the remaining recommendations from the first three independent reviews conducted by Professor Malcolm Harrington. Following completion of five independent reviews, the majority of work has been completed on these recommendations and any remaining elements have become part of the Department's usual continuous improvement work. There is no expectation of further separate reporting on these recommendations but further detail is set out below on two specific recommendations.

Year 2, Recommendation 8

DWP consider ways of sharing outcomes of the WCA with Work Programme providers to ensure a smoother claimant journey.

4. In the second independent review Professor Harrington recommended the Department consider ways of sharing outcomes of the WCA with Work Programme Providers to ensure a smoother claimant journey. This was accepted in principle by the Department.

26 Update on recommendations in years one to four

5. In November 2013, as part of the fourth independent review, Dr Litchfield noted that pilots had taken place and that the Department had identified some process concerns. He included a recommendation in the fourth independent review that 'Sharing information from the WCA on capability for work with Work Programme Providers should be addressed as a priority'. The Government Response published in March 2014 accepted the recommendation subject to the outcome of further work on feasibility.
6. The Department is progressing this and expects information to start being shared with Work Programme providers from this summer.

Year 2, Recommendation 7

As and when changes to the descriptors are made, DWP and other relevant experts should monitor the impact of these changes to ensure both that they are working and that they are not causing any unintended consequences.

7. The only change to descriptors over recent years was in January 2013 when the definition of chemotherapy was broadened so that a claimant receiving any type of chemotherapy could potentially be included in the Support Group. The Department has undertaken some evaluation of these changes and overall the changes appear to be working effectively with no unintended consequences identified.
8. Following the changes, there was an immediate increase in the proportion of claimants with a form of cancer as their primary condition being placed in the Support Group. This increase started in the first quarter following the introduction of the policy change in January 2013 and is matched by a fall in the proportions being assigned to both the WRAG and being found fit for work¹². There was no equivalent increase in Support Group outcomes for claimants whose primary condition was not cancer¹³. As this policy change is working as intended, no further evaluation is planned.

Dr Paul Litchfield – Year four

9. In the fifth independent review, Dr Litchfield reported that the Government had not yet implemented eight of the recommendations accepted, either in full or partially, from his fourth independent review, that four had been partially implemented and 13 were in progress.
10. The table at **Annex b** outlines the Department's position on the implementation of the recommendations from the fourth independent review, with further detail on two specific recommendations set out below.

Recommendation 1

Sharing information from the WCA on capability for work with Work Programme Providers should be addressed as a priority.

[Note: this links to Year 2 Recommendation 8.]

¹² Pre-appeal Support Group decisions for claimants with cancer as a proportion of total WCA outcomes rose from 83% in the quarter from Nov-12 to Jan-13 to 91% in Feb-13 to April-13 following the policy change. Over the same two quarters, WRAG decisions fell from 11% to 5% and Fit for Work decisions fell from 6% to 4%. Source: Table 4. Department for Work and Pensions, 2015, Work Capability Assessment Support Group Outcomes and Disability Benefit History of ESA claimants by Age.

¹³ Table 4. Department for Work and Pensions, 2015, Work Capability Assessment Support Group Outcomes and Disability Benefit History of ESA claimants by Age.

11. The Government Response published in March 2014 accepted the recommendation subject to the outcome of further work on feasibility. The Department has developed a process to capture and share information from the WCA with Work Programme Providers and this will start from summer 2015.

Recommendation 32

Consideration is given to a new reassessment period extending to five years in the Support Group for people who have very severe incapacity resulting from brain disorders that are degenerative or which will not realistically improve.

12. The Department understands the concerns behind Dr Litchfield's recommendation. However, regular repeat assessments were suspended in January 2014 to allow the assessment provider to focus on new claims. Reviews are only taking place when requested for a deteriorating condition. As no claimants in the Support Group are currently being reassessed, making any change to the treatment of this group of claimants will be considered as part of the policy work ahead of restarting reassessments.

Table a

Recommendations from years 1–3

Year	Number	Recommendation	Government's response
1	1	DWP Operations (formerly Jobcentre Plus) manages and supports the claimant during the course of their benefit claim and identifies their chosen healthcare adviser.	The Department has continuous improvement responsibilities under which this recommendation falls. Completed.
2	7	As and when changes to the descriptors are made, DWP and other relevant experts should monitor the impact of these changes to ensure both that they are working and that they are not causing any unintended consequences.	The evaluation of the impact of changes to the way in which cancer patients are assessed has been completed.
2	9	DWP undertake regular audit of Decision Maker performance.	The Department regularly reviews the performance of all staff. Completed.
3	1	Decision Makers should actively consider the need to seek further documentary evidence in every claimant's case. The final decision must be justified where this is not sought.	The Department and its assessment provider will continue to work together on how evidence is gathered. Completed.

3	3	DWP should continue to work with the First-tier Tribunal Service, encouraging them to, where appropriate, ensure robust and helpful feedback about reasons for decisions overturned by the First-tier Tribunal.	The Department continues to work with the Tribunals Service to improve the use of feedback. Completed.
2	1	Implementation of the Review's recommendations should be monitored over time and on a regular basis, including focus on 7 specified indicators.	Statistics on mandatory reconsideration have been published. Completed.
2	15	To improve the transparency of the face-to-face assessment, data on Atos performance and quality should be regularly published.	This will be considered as part of the Department's approach to contract management. Completed.
2	17	Where appropriate, there should be sharing of knowledge and training between the various groups involved in the WCA.	The Department works with stakeholder groups on potential improvements and will continue to do so. Completed.
2	8	DWP consider ways of sharing outcomes of the WCA with Work Programme providers to ensure a smoother claimant journey.	The Department is progressing this in response to Year 4 recommendation 1.

Table b

Recommendations from year 4

No.	Recommendation	Government's response
1	Sharing information from the WCA on capability for work with Work Programme Providers should be addressed as a priority.	Staged delivery to start in summer 2015.
4	Give due consideration to whether piloting is required for interventions and, if so, to design pilots with particular attention to the means of evaluation. There should be suitable and sufficient analytical input to any pilots at the design, implementation and evaluation stages.	It is usual practice for the Department to involve analytical expertise in the design and evaluation of any pilots undertaken. Completed.
6	The Department reviews its use of WCA scores, places less emphasis on the final number attained and uses the calculation simply to determine whether the threshold for benefit has been reached.	The ESA260 (notification of entitlement) has been reviewed. ESA forms are part of a wider review of departmental communications due to be completed by summer 2015. Completed as this has been integrated into the Department's work plans.
7	Any further changes to the descriptors as result of the EBR or otherwise should be considered in the light of their overall impact on the effectiveness of the WCA in achieving its purpose of discriminating between the different categories of people assessed.	There are no plans to make further changes to the descriptors.

No.	Recommendation	Government's response
8	<p>The Department should specify an assessment format that facilitates better rapport, such as the HCP and person being assessed sitting side by side.</p>	<p>The Department believes that assessment rooms should be arranged to enable the healthcare professional (HCP) to establish a rapport with the claimant, to encourage an open conversation.</p> <p>The new contract is explicit about how the claimant must be treated during the assessment and has a strong emphasis throughout on the importance of the claimant experience, and acting on claimant feedback.</p> <p>Completed.</p>
9	<p>The assessor should avoid reporting inferences from indirect questioning as factual statements of capability.</p>	<p>The training and guidance has been reviewed to clarify this point.</p> <p>Completed.</p>
10	<p>The guidance on companions should be made clearer and applied consistently.</p>	<p>The guidance is clear that HCPs must allow companions to be present and give information at assessments.</p> <p>Claimants are informed that they can bring a companion to the assessment. They are able to make a complaint if the HCP does not comply with their wishes in this regard and any necessary feedback will be provided to the HCP.</p> <p>Completed.</p>
11	<p>The person being assessed should be able to see what is being written during the assessment.</p>	<p>There is guidance for HCPs to ensure they inform claimants about what is recorded during the assessment.</p>
12	<p>DWP should update documentation and training to ensure that:</p> <p>There is clear differentiation between the purpose statements for HCPs and DMs.</p> <p>A simple narrative explaining the differences is used consistently internally and externally.</p> <p>The distress that people can experience when things go wrong is recognised and acknowledged appropriately by staff.</p>	<p>Departmental communications and internal guidance have been reviewed to ensure consistency of message.</p> <p>Completed.</p>

No.	Recommendation	Government's response
13	<p>The ESA50 and all letters and forms are comprehensively reviewed with the input of the Behavioural Insights Unit at the Cabinet Office, to ensure that:</p> <ul style="list-style-type: none"> • all letters and forms meet Plain English standards. • information is presented at the right point in the process. • the person making a claim is clear about their rights and responsibilities at each stage of the process. • decision letters set out clearly what the outcome means for the person concerned ideally in the opening section: the period that will elapse before they receive the benefit; what they will need to do to continue to receive the benefit; and what they will not need to do. 	<p>The ESA50 and ESA51 (questionnaire and covering letter) have been revised.</p> <p>The revised ESA65 (disallowance notification) is planned for issue this spring.</p> <p>Other key ESA forms are under review and planned for issue this summer.</p> <p>Completed as this work has been integrated into the Department's ESA communications review.</p>
16	<p>Give greater clarity about the role and parameters of Decision Makers with a particular focus on the meaning of "empowerment".</p>	<p>The Department keeps this issue under constant review.</p> <p>The relationship between decision makers and assessors is at the heart of ESA – we monitor and investigate any anomalies and reflect any changes needed in training and guidance.</p> <p>Completed as this work has been integrated into the Department's work plans.</p>
17	<p>Review the QAF so that existing strengths in process adherence are supplemented by measures to examine other elements of Decision Maker quality. In particular, the outcome of decisions and the logic underpinning them should be monitored more closely.</p>	<p>The Department has reviewed and improved the QAF and believes it is fit for purpose.</p> <p>Completed.</p>
18	<p>Build a better relationship between HCPs and Decision Makers to engender more team spirit and to help Decision Makers view HCPs as their trusted advisers.</p>	<p>The relationship between decision makers and HCPs is integral to the WCA process. We will be working closely with the new provider to help improve this relationship further.</p> <p>Completed.</p>

No.	Recommendation	Government's response
19	Improve the Decision Making training to recognise the strengths and weaknesses of further medical evidence and other information on capability to supplement the HAP report.	Training for decision makers is regularly updated to reflect policy and legal changes. Completed.
20	Re-engineer the case mix for the two levels of Decision Maker so that more senior staff consider "borderline" cases (e.g. 6 – 21 points) and more junior staff process all others.	See Year 5 recommendation 16.
21	Ensure the provider batches cases into point bands when they send to the Department to save the department admin / processing time.	This would be considered as part of any future changes to the WCA process. However, no further work is planned at this point.
23	Review the guidance on the preparation of Reasoning and audit completed documents on a regular basis to further improve quality.	The Tribunal routinely provides the Department and the appellant with summary of reasons for their decision on appeals against ESA. The Tribunal feedback supports continuous learning at individual decision maker level, and where general learning is identified enables improvements to training and guidance. Completed.
24	Monitor overturns rates on an individual basis. Investigate exceptionally high and low rates as part of performance management.	The Department's decision-making IT has been updated to provide numbers of overturn rates, if required, on an individual, team and site basis. A decision on whether monitoring of overturns rates should form part of routine management information is for individual business areas to implement. Completed.
25	Immediately, the Reviewer recommends that: DWP continues to work with BMA to develop and co-design a revised electronic ESA113 with the aim of simplifying the process for GPs and improving the quality of evidence available.	The Department continues to work with the British Medical Association and the Royal College of General Practitioners to improve the WCA113 form. Prototypes have been created and it is hoped that an updated clerical version will be available in March 2015. Work continues on an electronic version.

No.	Recommendation	Government's response
26	<p>In the medium term, the Reviewer recommends that: The Department carries out a full impact assessment on an alternative process whereby DWP Decision Makers triage cases;</p> <ul style="list-style-type: none"> • DWP, rather than the HAP, issues the ESA50 and reviews the response with any supporting evidence supplied; • the Decision Maker determines (with the help of decision support materials) whether further evidence is required and, if so whether to obtain that by face to face assessment or other means; • where suitable and sufficient evidence is available on paper and a face-to-face assessment would provide no additional value, the Department should make a decision without referral to its HAP; where a person is found Fit for Work on paper without a face-to-face assessment and subsequently disagrees with the decision, a second Decision Maker then reconsiders the need for a face to face assessment as part of the new mandatory reconsideration process. 	<p>The Department continues to consider how best to balance the responsibilities of decision makers and assessors.</p> <p>The Department has contracted with Pertemps People to recruit HCPs who will deliver additional assessments from September 2014, helping to reduce waiting times for WCAs. The additional HCPs will also give the Department more flexibility to provide or test a range of functions – from increasing HCP training capacity, to potentially testing different process approaches.</p>
27	<p>In the longer term the Reviewer recommends that: The Department should carry out a full impact assessment on the feasibility of a DWP Decision Maker being collocated with the HCP undertaking a face-to-face assessment and either seeing the person making a claim jointly or separately.</p>	<p>The new provider will be using the same estate as Atos and there are currently limited options for full physical co-location. The Department will continue to look for opportunities to trial alternative approaches.</p>
28	<p>Strengthen requirements for HCPs to have suitable and sufficient previous experience of dealing with people with mental health problems so that they can contextualise findings at assessment.</p>	<p>The mental health training for new entrant assessors will be reviewed to ensure that this aspect is given sufficient weight, and the Department will continue to work with the Royal College of Psychiatrists to quality assure all assessor training and guidance materials.</p> <p>Completed.</p>

No.	Recommendation	Government's response
29	<p>Current HCP training in mental health should be reviewed to ensure that it is adequate and the evaluation results for these and other key modules should be considered by the Department before approving any individual HCP.</p> <p>Approvals should be reviewed on a periodic basis and reaccreditation should be dependent upon effective refresher training in key subject matter areas.</p>	<p>HCPs who do not complete their Continuing Professional Development risk revocation of their approval.</p> <p>Completed.</p>
30	<p>Mental health training for Decision Makers should include dealing with distressed people on the telephone, interpreting warning signs of self-harm and signposting to appropriate sources of help.</p>	<p>The Department has identified some gaps in current training which are being addressed.</p>
31	<p>The ESA50 is redesigned to make it clear that evidence, particularly in mental health cases, from CPNs, Support Works, Carers etc is valuable, and giving guidance on the functional aspects that will help Decision Makers.</p>	<p>An improved version of the ESA50 is being issued and will continue to be regularly reviewed.</p> <p>Completed.</p>
32	<p>Consideration is given to a new reassessment period extending to five years in the Support Group for people who have very severe incapacity resulting from brain disorders that are degenerative or which will not realistically improve.</p>	<p>The Department will not be making any changes at this time but will consider this recommendation as part of policy work ahead of restarting reassessments.</p>

Annex A

Government's response to the year five recommendations

The development of the Work Capability Assessment since 2008

1	Material changes to the WCA should be fully considered in advance by both policy officials and operational staff to ensure that policy intent and practical considerations are harmonised.	Accept
2	Use of 360° feedback and its impact on driving up the quality of decision making at all stages of the WCA process should be monitored over time and trends reported to the appropriate level to ensure that training needs are met and unintended behaviours are addressed. This work should be seen in parallel to feedback received from Tribunal services.	Accept
3	The Explanation Call is removed from the mandatory reconsideration process, and that information on the points of contention are collated and included in the referral to dispute resolution teams where possible.	Accept
4	Options for displaying a geographical telephone number when making a Reconsideration Call should be explored. Additionally, SMS messaging or an appropriate alternative method should be used to provide advance notice in all instances. As with face-to-face assessments, requests to have a supporting representative on the call should be accommodated where possible.	In consideration – the geographical telephone number, SMS messaging will be used where thought appropriate and, accept the recommendation to accommodate a representative where possible.

5	The Department review its geographical allocation of Mandatory reconsideration casework taking account of both perception issues and practical considerations for avoiding unnecessary delays.	Not accepted
6	The Department give specific consideration to how it improves the overall perceptions of the mandatory reconsideration process. This should include publishing target turnaround times and being clear on the reasons behind ceasing payment of the assessment rate of ESA.	Accept
7	Further work to develop and implement a semi-structured interview should continue. This should be developed in conjunction with a small number of representative groups. Particular attention should be paid to interview practices for those with mental health conditions, learning disabilities and autism, and this should be reflected in the guidance and training developed.	Accept
The Support Group		
8	The Department investigates the substantial increase in the proportion of Support Group outcomes as a matter of urgency to determine whether the WCA is being applied correctly.	Accept
9	The use of Regulation 35(2)(b) should be subject to close scrutiny with a particular focus on decisions made on a papers only basis.	Accept
10	The drivers for the high rate of young people (16-24) being assigned to the Support Group should be examined not only to ensure that benefit decisions are correct but also to help provide appropriate support.	Accept
Perceptions		
11	The Department bundles future necessary changes into packages delivered no more than bi-annually to provide greater stability and avoid the perception of constant change to the WCA.	Accept
12	The Department reviews the mechanisms in place for monitoring levels of understanding amongst staff involved in the ESA process and consider appropriate means of following up this training to ensure levels of knowledge and understanding remain high.	Accept
13	The Department work with the Provider to improve communications sent in advance of an individual attending a WCA and ensure that it explains the nature of the WCA, including a description of what they can expect when they attend.	Accept

38 Annex A: Government's response to the year five recommendations

14	The Department review its portfolio of alternate formats with specific reference to the use of Easy Read and then prioritise provision by need to create as many forms as is reasonably practicable.	Accept
15	The Department work with the new Provider to review the existing material available to improve both the quality and content of online resources available to those individuals about to go through a WCA. They should consider working with representative organisations to ensure that the information is both clear and accessible.	Accept
Decision Making and process		
16	The Department examines its work flow system, which appears to introduce an inevitable bias towards granting higher benefit levels, to ensure that the policy intent is being met.	Accept
17	The Department should explore ways and options of improved information between DWP assessments, including Personal Independence Payment, Disability Living Allowance, Industrial Injuries Disablement Benefit, Fit for Work and the Work Capability Assessment.	Accept
18	The Department should work with the Department of Health and other appropriate government departments to explore how DWP can make use of the WCA and the evidence gathered to ensure individuals are sign posted to appropriate support.	Accept
19	Use of the term 'prognosis period' should be discouraged and documentation should be amended accordingly.	Accept
20	The Department should review its policy and processes around applying short re-referral periods in the Support Group, particularly for young people with mental health problems, and for longer referral periods in the WRAG.	Accept
Groups meriting special attention		
21	The Department should work with the Department for Education and the devolved administrations to develop improved mechanisms for providing information about the world of work, including the WCA, to those with learning disabilities at the point of leaving education.	Accept
22	The Department reviews its provision of alternate formats of communication with a view to adopting Easy Read wherever practicable.	Accept
23	The Department reviews the training given to its own staff and those of the Provider in relation to learning disabilities to ensure that the risk of overstatement of capability is fully understood.	Accept

24	The Department ensures that it seeks the most appropriate evidence for people with learning disabilities, including Hospital Passports and care or support plans. The Department should consider options in each case rather than defaulting to a GP report.	Accept
25	The Department should continue its good work with the MOD to ensure that suitable and sufficient evidence can be accessed as simply and speedily for ex-Service personnel who make an application for ESA.	Accept
26	The Department should work with the DH to ensure that suitable and sufficient evidence can be accessed as simply and speedily as possible for long stay hospital patients who make an application for ESA or require reassessment.	Accept
27	The Department should review its practice of routinely repeating the WCA for people liberated from prison who were in receipt of ESA with a reassessment period that is still extant on release.	Accept
28	The Department should work with the MOJ to ensure that suitable and sufficient evidence can be accessed as simply and speedily as possible for people leaving prison who make an application for ESA or require reassessment.	Accept

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**[www.gov.uk/government/publications/
government-response-to-the-work-capability-
assessment-independent-review-year-5](http://www.gov.uk/government/publications/government-response-to-the-work-capability-assessment-independent-review-year-5)**

For more information about this publication,
contact:

**ESA Policy Team
Department for Work and Pensions
2nd Floor
Caxton House
Tothill Street
London
SW1H 9NA**

Email: wca.evidence@dwp.gsi.gov.uk

Copies of this publication can be made
available in alternative formats if required.

Department for Work and Pensions
February 2015
www.gov.uk

ISBN 978-1-4741-1555-1



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