

Fit for work

- so why am I not working?



A study by Derbyshire Unemployed
Workers' centres

April 2013

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Summary of findings

Out of fifty people interviewed, previously on Incapacity Benefit or Employment and Support Allowance (ESA), who had been found fit for work only **one person** was in full time work at the time of the interviews.



Only **nine people** were in part time work at the time of interviews.

80% of the people were not in work when interviewed despite being found fit for work months earlier.

All 50 people had experienced difficulties in finding work because of their health condition.

68% of the people thought they would never return to work.

Introduction

Anyone around in the 1960's and 70's will remember that when unemployment rose, the responsibility was laid squarely at the door of Government. Unemployment was seen as a result of a weak demand for labour and particularly when it was structural, it was the mismanagement of the economy that was the cause.

For the past 30 years or more Government aided by a compliant and supportive media has managed to shift the responsibility for unemployment on to the unemployed themselves. Unbelievably, politicians and presenters talk about the lazy and the feckless, intimating they are the cause of their own unemployment, sometimes by inference but also boldly declaring that there are

lots of jobs out there if only they would get off their backsides.

Whilst undoubtedly, and research has confirmed, long term unemployment has consequences for the mental health of those denied work, few would seriously suggest that the massive economic inactivity that has plagued many UK regions is the result of people's ambivalence to going to work and drawing a wage. High benefits are also suggested as a reason for people preferring to withdraw from the labour market. It is well documented that rises in benefits have reduced dramatically in comparison with rises in wages over a number of years. The growth in housing costs have been an important factor in whether work pays, but importantly when asked most benefit claimants would prefer to work.

The Derbyshire Unemployed Workers' Centres (DUWCs) have, for many years, been concerned at the marginalisation in the job market of those suffering from health problems and those who are disabled. We conducted research in the last decade in the Staveley area of Chesterfield (Barriers To Employment – the unemployed person's perspective 2003 - and - the perspective of those with health problems 2004 that highlighted ill-health as a barrier to work. The two main reasons why people on benefits (including Jobseekers Allowance) were unable to gain employment was the lack of suitable employment (citing lack of employer flexibility) and discrimination against those with health conditions. It is against this backdrop that the introduction and subsequent implementation of the ESA has to be seen.

What is Employment and Support Allowance?

You can get ESA if your ability to work is limited by ill health or disability. ESA replaced both incapacity benefit (IB) and income support (IS) paid on the grounds of incapacity for new claims from 27 October 2008.

What are the rules for ESA?

If you are claiming ESA you must:

- be at least 16 years old
- be under pensionable age (ESA stops when you reach retirement age)
- undergo a 13 week assessment phase
- satisfy at least one of the following:
 - (a) pass a contributory test or (b) be under age 20 (or 25 in certain cases) - This does not apply to new claims
 - (b) pass a low income test

The work capability assessment

The ESA work capability assessment (WCA) is carried out by a health care professional working on behalf of the Department for Work and Pensions (DWP). It is intended to:

- find out whether you have a 'limited capability for work'.
- find out whether you have a 'limited capability for work-related activity'.

The limited capability for work test

The limited capability for work test decides whether or not you remain on ESA. If you do not pass the test, because you are not considered to have a limited capability for work, you would need to consider appealing this decision or claiming jobseeker's allowance instead.

If you appeal you can continue to receive the basic allowance of ESA until a decision is made on your appeal by a tribunal.

For this test you are assessed on your ability to carry out 17 listed physical or 'mental, cognitive and intellectual' activities.

Any limitation on your capability for work must stem from a specific bodily disease or disablement or as a direct result of treatment for that disease or disablement by a registered practitioner.

Points are awarded on the basis of your limitations with respect to each activity. These points are totalled up and if the total reaches the threshold of 15, you are deemed to have limited capability for work and thus stay on ESA.

Within each type of activity there is a list of descriptors with associated scores ranging from 0 to 15. The descriptors describe related tasks of varying degrees of difficulty. You score when you are not able to perform the activity described. Though more than one descriptor may apply to you, you can only pick up one score from each type of activity; in each case whichever scores the highest.

If you score 15 in any one activity, you automatically pass the test. If your score is less than 15, it can be added to the scores



Protest outside Derby Beckett Street Job Centre

you pick up from any of the other types of activity (in both the physical and the mental parts of the test). If your total score reaches 15, you pass the test.

Limited capability for work-related activity

The second test within the WCA considers whether you have a 'limited capability for work-related activity'. Though the wording may seem similar to that of the first test, the second test has a very different function. It is used to determine whether you are placed in the support group of claimants or the work-related activity group.

Which of these groups you are placed in will determine both the level of ESA that you will receive and the responsibilities you will need to meet in order to retain the benefit. The test has a list of activities and descriptors, relating to both physical and mental, cognitive or intellectual functions. If you satisfy at least one of them you will be placed in the support group of claimants.

Our experience

The DUWCs have, since the benefit's introduction been inundated with enquires concerning ESA and the WCA. Our Advisers have represented at over 1000 ESA appeals and have supported many more through the process of claiming. Our success rate in overturning DWP decisions has been between 70% and 80% over the past few years. We have had well documented horror stories - a man dying before his appeal, having been told for a second time that he was fit for work despite no change in his condition. A man who was found fit for work died having successfully appealed this decision but was then put under pressure by being called in for another work

capability assessment. These are, of course, the extreme cases of a system that has been implemented and persisted with despite widespread concern from politicians, medical practitioners, health dieticians, advice and community organisations.

The debate in the media has been monopolised by the consideration of whether the WCA performed by the company ATOS, is adequate and a fair test of whether someone is fit for work. For many at the DUWC this, whilst important for those who feel that they and their medical practitioners have not been listened to, has been irrelevant for the vast majority of people who have accessed our help. The reason the policy was implemented by the last government was expressly in order to move people into work who were previously claiming incapacity benefit. Coupled with finding people fit for work, help was provided in many forms, via pathways to work, with the objective of entering the labour market. Unfortunately, the help was heavily weighted on preparing the supply of labour against little investment regarding the demand for labour.

The test of the policy should, therefore, be not only that it is fair and fit for purpose, but that people refused their claim should be in work with in a reasonable time frame.

If this does not happen then the policy must be seen as ineffective and measured purely as a cost-cutting exercise, further impoverishing those already on a low income.



At the DUWC, from anecdotal reports of our advisors, many of those found fit for work despite having challenged the DWP decision seemed unlikely to be able to enter the depressed local labour market. We decided to conduct some research. Trawling through our records we interviewed by telephone 50 people that we had represented over an ten month period during 2011/2012 who had failed to win their appeal against refusal of ESA.

The results of that survey are outlined below.

Methodology

50 people were interviewed by telephone that had sought help from DUWCs in appealing their failed application for ESA and had been turned down at Appeal, five to fifteen months after the decision. There was no selection criteria other than they had lost their Appeal. It was felt that these were the people at the margins who were declaring themselves as unfit for work but were being told that this was not the case and to get out there and search for jobs.

Interviews were conducted by people asked to volunteer for the project.

The interview was designed to be easily conducted on the telephone with recorded comments taken at the end of the process.

The Derbyshire Unemployed Workers' Centres would like to see a larger piece of research conducted following on from our initiative to measure the impact of the WCA and ESA qualifying criteria and inform policy making for the future.

Out of 50 people presenting themselves as unfit for work only 2 people found full-time work and only one person retained

that employment. Eleven found some part-time work with two of these unable to continue in that employ. At the time of the interviews 80% of those surveyed were without a job and crucially none of those thought they would be in employment in a years time. 34 thought they would never return to work because of their ill health.

These are alarming results. Each person who has failed to find work has faced a substantial drop in income. The policy that has brought this about was enforced in order to get people back to work. It is failing to do so for those whose health limitations leave them at a severe disadvantage in the labour market.

The 80% without work are now either; reclaiming ESA, claiming JSA or relying on the income of their partner. All are worse off, some by as much as £105 per week.

All 50 people had experienced difficulties in finding work because of their health condition. This confirms our earlier research which also showed health as a barrier to work. Some argued at the time that this was due to a lack of motivation and a pessimistic perception of the job market. Our recent findings, in an environment where people are forced into the job market, tend to undermine that view. This is particularly true where people have had mental health problems. It is obvious that where there is a pool of unemployed labour, those with health limiting conditions are going to be at the back of the queue when employers are looking to recruit. This is especially so in an economy where workers are, more and more, expected to be versatile and flexible at work.

Anecdotally, ESA claimants have told us that the need for regular hospital and doctor's appointments are a difficulty in obtaining and retaining work. All the efforts of the Government are focussed on the unemployed person, their job

readiness, their motivation, flexibility and willingness to take any job. Next to nothing is done to address the issues raised by the people needing to find work – the suitability and availability of work and the discrimination of employers towards those with health limiting conditions.

Recommendations

Raise the level of JSA to that of ESA - so that a test for fitness for work will not be confused with a measure to reduce the benefits bill at all costs. If there was no financial penalty then there would not be the pressure on those carrying out the WCA to find people with little or no chance of finding employment as fit for work. JSA is appallingly low and its real value is falling. Poverty has a high correlation with ill –health. Impoverishing people, far from having the effect of motivating those with health problems, is more likely to exacerbate their problems, driving them further from the labour market. If the Government believes that many ESA claimants are capable of



Protest outside Chesterfield Job Centre

work then it make sense to raise the level of JSA. This would incentivise people to move off ESA and claim the appropriate benefit for a job seeker and all that would entail.

Penalties for getting it wrong – The private firm conducting the WCA and the decision making process at the DWP has been recognised by all bar the Government as a disaster. The Government has given the firm a further contract with relation to the new Personal Independence Payment leading to the impression that they are getting the intended job done. Yet all recognise the massive amount of successful Appeals that have taken place and the catalogue of collateral damage that has been caused. There is little incentive for them to get it right even by their own standards. Claimants face benefit loss and sanctions while multinational firms are rewarded with more business when they continually get it wrong. If we are to continue testing fitness for work then people need to have confidence that they are to be treated with dignity and that the businesses testing are accountable for the fall out of the reports that the DWP act upon.

Increase the demand for labour – mass unemployment does not exist because people are lazy or lacking in motivation. Areas of the country where there are few people on ESA correlate highly with those that have a more buoyant labour market. Where labour is scarce people with health conditions are more likely to be employed. A robust regional economic policy to combat the low level and quality of employment opportunities in areas such as North East Derbyshire is needed. There needs to be incentives for job creation and properly co-ordinated training programmes linked to real employment opportunities. Government must come out of denial that it can make little difference to the availability of

work. Imagine if a small proportion of the monies poured into the banking crisis had been used for education, research and job creation.

Help and support for those with health limiting conditions – the majority of the people we talk to would welcome help returning them to the labour market. However, it is clear that the threat and imposition of benefit sanctions is neither productive nor necessary. In fact, with a high proportion of stress/anxiety/depression amongst the target group, it is most probably counter productive. Any increase in support for people, in terms of tailored support and training for individuals must be matched by a simultaneous boost to the

demand for labour in order not to repeat the mistakes of the past with revolving door schemes which only benefit the providers.



John Watkins (former lorry driver) Photo taken on same day as WCA given 0 points and declared fit for work.

A selection of comments from those interviewed

- What's the point in re-applying?
- I want to work but they make you feel like you're lying and I hate going to see the support person.
- When they said no, it gave me the push to get a job because I had to, or it was no money. Glad I work now but it was hard having to explain why I had been off work for 2yrs.
- Who would want to employ me? I'd be off work every few days, my back is killing me all the time.
- How can I work? I know I can't work, not even part time, why should I bother? Its not as if I've never worked, I worked for 14 yrs.
- Having to get any benefits makes you feel like a scrounger, I'm not a scrounger, I paid tax for 32 years. Who would want to be on benefits!
- I'm crap at reading, as soon as anyone knows I can't read I get nowhere and I don't like telling people that.
- Glad I've got my husband to support me, I know others aren't that lucky.
- You go in to the dole office and everyone looks poor, sad and totally fed up, I'd rather not claim anything than have to go in that place.
- The people at the assessment centre don't even look you in the eye - at least pretend!
- I'm glad of the support, I get to use the computers for free and can email, I hadn't used email before that.
- Work! There's no jobs let alone for me with my condition.

QUESTIONS

Q1 Since your Appeal with DUWC have you re-applied for ESA?

Q2 Was the re-application successful?

Q3 Since your Appeal failed did you find work?

Q4 Are you now employed?

Q5 Do you now claim ESA

Q6 Do you now claim JSA

Q7 Do you now claim another benefit

Q8 NO benefits, I rely on my partners income

Q9 What hours do you work?

Q11 Are you actively seeking work now?

Q12 Is this because of your health?

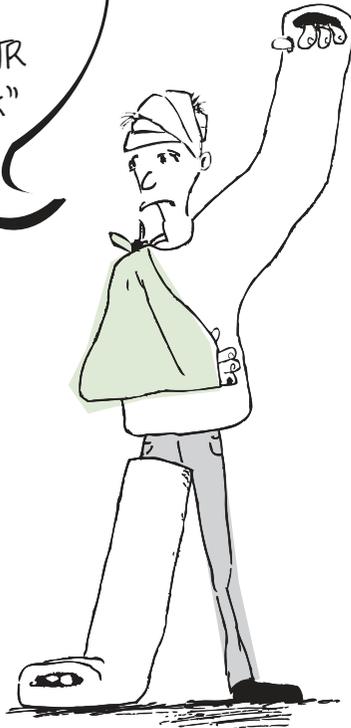
Q13 Have you experienced any difficulties in getting a job because of your health

Q14 Do you hope to return to work

	TOTALS	%
YES	3	6%
NO - Go to Q3	47	97%
YES - go to Q5	1	2%
NO	2	4%
YES	13	26%
NO - go to Q5	36	72%
YES - go to Q9	10	20%
NO	39	78%
YES - go to Q11	1	2%
NO	39	78%
YES- go to Q11	3	6%
NO	36	72%
YES- go to Q11		
NO	10	20%
YES- go to Q11	10	20%
NO		
F/T (more than 30hrs PW) - go to Q13	2	4%
P/T (less than 30hrs PW)- go to Q13	8	16%
TEMP (any hrs PW)- go to Q13		
Not working at the moment		
YES - go to Q13	3	6%
NO	37	74%
YES	40	80%
NO		
YES	50	100%
NO	0	0%
1yr	0	0%
2yrs	3	6%
3yrs+	3	6%
No - due to health	34	68%

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