

# Employment and Support Allowance (ESA) Legislative Changes 2012 for claimants in Great Britain

An introduction

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**jobcentreplus**

Department for  
Work and Pensions

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## Introduction

The government has limited the period for which Employment and Support Allowance (ESA) can be paid in some circumstances. On 1 May 2012 the Welfare Reform Act introduced two changes to contribution-based ESA (ESA C):

- the period for which people in the Work Related Activity Group (WRAG) can receive ESA (C) is limited to 365 days
- and to prevent any new claims for ESA on the grounds of youth (ESA (Y))

The ESA 104 week linking rule has also been abolished by separate regulations.

The legislation to support these changes applies retrospectively so that claimants in the work related activity group who have already received 365 days of ESA (C) will see their entitlement end on 30 April 2012.

## Time-limiting ESA (C)

1. The Welfare Reform Act limits the amount of time people who are not in the Support Group can claim ESA (C) to a period not exceeding 365 days without re-qualifying.
2. 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 not in the Support Group who have already received ESA (C) for 365 days or more will have their entitlement stopped as soon as the change is introduced.
3. We will continue to provide claimants whose ESA (C) will be stopped with National Insurance credits if they are eligible. People who do not qualify for income related ESA (ESA (IR)) will still be able to claim National Insurance credits awarded on the grounds of limited capability for work following exhaustion of ESA (C) entitlement.
4. Those in the Support Group and those solely claiming ESA (IR) are unaffected. Any time spent in the Support Group (or the assessment phase immediately followed by the Support Group) does not count towards the 365 day time-limit.
5. Those not in the Support Group whose entitlement to ESA (C) ends after 365 days may be able to get ESA (IR) subject to the normal eligibility criteria which takes into account capital and income and is not usually payable if the claimant has a partner working 24 hours or more a week; or the claimant or their partner have joint savings and investments over £16,000. Where a claimant already has underlying entitlement to ESA (IR) registered with us they will be moved onto this automatically when their ESA (C) ends.

6. Claimants living abroad and receiving ESA (C) will also be affected by this change. However, unlike people living in the United Kingdom, they will not be able to claim ESA (IR) if their ESA (C) ends.

## ESA 'Youth'

7. 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 ESA (C) without paying National Insurance contributions are no longer available for new claimants. This means that all new claims to ESA (C) will need to meet the standard contribution conditions.
8. People currently claiming ESA (C) who have qualified under the 'Youth' provisions will have their ESA (C) time limited to 365 days if they are not in the Support Group. People in the Support Group who qualified under the 'Youth' provisions will continue to receive this benefit providing they continue to meet the qualifying criteria. Young people will still be able to claim ESA (IR) if they are entitled to do so.

## Abolishment of 104 week linking

9. Previously, where a claimant left ESA and started work or training within one month then returned to Employment and Support Allowance within 104 weeks, their benefit was re-instated at the same rate as previously paid. As a result of time limiting, the 104 week linking rule would prevent some claimants who had left benefit and paid National Insurance contributions, for example by working, from re-qualifying for a further 365 days of ESA (C) and it has therefore been abolished.

More information about ESA (C) time-limiting is available at [www.dwp.gov.uk](http://www.dwp.gov.uk) and [www.direct.gov.uk](http://www.direct.gov.uk).

## Why these changes have been introduced

10. We want to modernise the current welfare system and in advance of the introduction of Universal Credit focus support where it is needed most and redefine the contract between the state and individuals.
11. These changes also reflect the fact that ESA (C) for people in the WRAG was never intended to be for the long term but to provide interim support for those who presently have limited capability for work and are expected to be able to move into work in the future. The Government expects people receiving ESA (C) to take up the help and support available to them so they can move off benefits and into work.

12. Introducing a 365 day limit on the length of time people in the WRAG can be entitled to ESA (C) is also more consistent with the rules for contribution-based Jobseeker's Allowance, which has a time-limit of six months, whilst recognising the different nature of ESA recipients and the purpose of the benefit.
13. Under the Employment and Support Allowance 'Youth' provisions, young people could qualify for ESA (C) even though they had never paid any National Insurance contributions. The Government believes this was unfair to other groups and is no longer acceptable as the Government seeks to modernise the welfare system. No such concession exists in Employment and Support Allowance for any other age group. Neither does any other contribution-based benefit have similar arrangements.

## What we are doing to support claimants immediately affected by these changes

14. We will contact all ESA (C) claimants before their entitlement ends to inform them of when their ESA (C) will stop and what their options are. From 29 February 2012 we began contacting claimants in receipt of contribution-based Employment and Support Allowance, who have not been assessed for income-related Employment and Support Allowance and whose benefit will end between 30 April 2012 and 3 June 2012, to inform them of the change to their entitlement on 30 April 2012 and ask if they wish to be considered for income-related Employment and Support Allowance. These claimants were sent a further letter from us after 9 April 2012.
15. For those claimants whose contribution based Employment and Support Allowance stops on or after 4 June 2012, we will ensure they are issued with a letter eight weeks beforehand. The letter will include details of how to be considered for income related ESA.
16. Claimants, where we are already aware of an underlying entitlement to income-related Employment and Support Allowance, will be automatically moved onto this when their contribution-based Employment and Support Allowance ends.
17. Claimants can ask to be considered for ESA (IR) at any time. To do this, claimants will not have to make a new claim but they will need to contact Jobcentre Plus and complete a form, called an ESA3.

## Other benefits

18. Claimants may be entitled to ESA (IR). To be assessed for this, claimants will not have to make a new claim, but we may have to ask them for more

information and to complete an ESA3. We will write to claimants before their ESA (C) ends to tell them what to do to be considered for ESA (IR).

19. Claimants may also be able to claim other benefits, such as:

- Housing Benefit/Council Tax Benefit.
- Pension Credit.
- Working Tax Credit etc

However, any benefit entitlement will depend on individual circumstances.

## The process

20. People not in the Support Group who have already been entitled to ESA (C) for 365 days or more will have their entitlement stopped when the change is introduced.

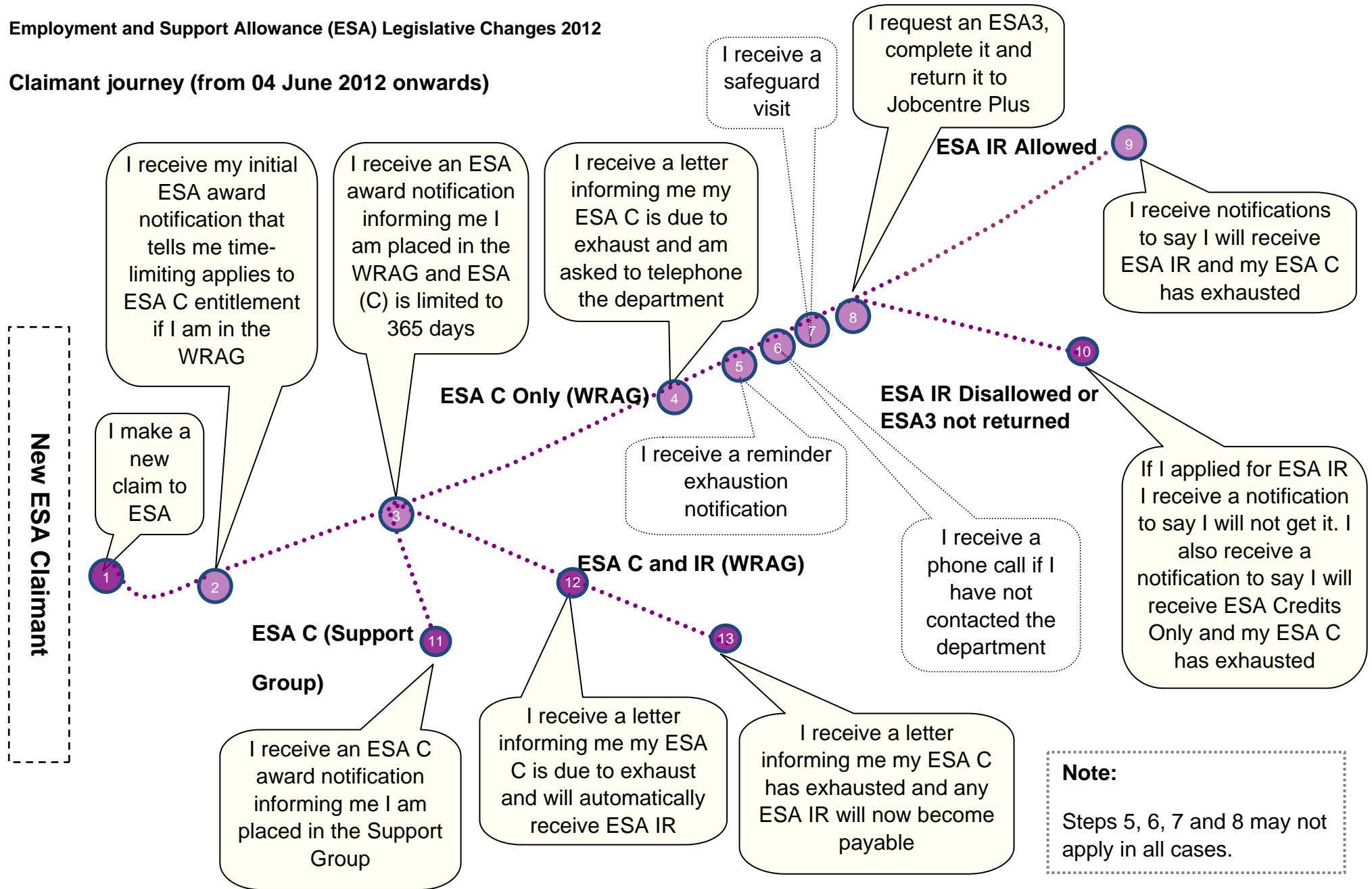
21. Claimants with underlying entitlement to ESA (IR) already registered with us will be automatically moved onto this when their ESA (C) ends. Claimants already assessed for ESA (IR) where it is rated as nil will automatically receive credits. We have developed two claimant journeys for people living in Great Britain:

- For those claimants whose ESA(C) ends after 3 June 2012 a standard process will ensure that they are issued with a notification eight weeks before their entitlement to ESA (C) will end. This will include details of how to ask to be considered for ESA (IR).
- The earliest our system can notify claimants about these changes is 09 April 2012. Therefore in order to provide as much notice of the change as possible to claimants whose ESA (C) ends between 30 April and 3 June and who have not been assessed for ESA (IR) we have, from 29 February, contacted them, by phone in the first instance, to see if they wish to be considered for this.

## The time limited ESA (C) process

22. The following illustration shows the process for claimants whose entitlement to ESA (C) ends on 4 June 2012 or after. A standard process will make sure that they are notified eight weeks in advance. This letter issued will include details of how to be considered for ESA (IR).

Claimant journey (from 04 June 2012 onwards)



**Step 1 - New claim to ESA**

Claimant makes a new claim to ESA. Claimant will be advised that any potential ESA (C) 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 ESA (C) award will be time limited unless they are in the Support Group.

**Step 3 - Receive WRAG award notification**

Claimant receives notification they are entitled to ESA (C) WRAG 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 ESA (C) is due to end. This letter is issued 56 days before their claim ends.

**Step 5 - Receive 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 ESA (IR). 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 ESA (IR). Safeguard visits are for claimants with mental health issues or vulnerable claimants with additional support needs.

**Step 8 - Request and return ESA 3**

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

**Step 9 - Receive ESA (IR) award and notification that ESA (C) is ending**

Claimant receives a notification advising them that their ESA (C) will end and they will continue to receive ESA (IR). Claimant also receives a notification that they will receive ESA (IR), from when they will receive it, and that they will continue to receive ESA credits

**Step 10 - Receive ESA (C) credits only and notification that ESA (C) is ending**

Claimant receives a notification advising them that their ESA (C) will end and they will continue to receive National Insurance credits. Claimant also receives a notification that they are not entitled to ESA (IR) and that they will continue to receive National Insurance credits

**Step 11 - Receive Support Group (SG) award notification**



Claimant receives a notification advising them that they are entitled to ESA (C) and they are in the Support Group. Payment of ESA (C) for people in the Support Group is not restricted to 365 days unless the claimant subsequently moves out of the Support Group.

**Step 12 - Receive ESA (IR) notification**

Claimant receives a letter as their ESA (C) claim is due to end. This letter is issued 56 days before their claim ends. This letter informs the claimant that whilst ESA (C) will end, they are already entitled to ESA (IR) which will be paid automatically when their ESA (C) claim ends or continue in payment if it is already being paid.

**Step 13 - Receive notification that ESA (C) is ending**

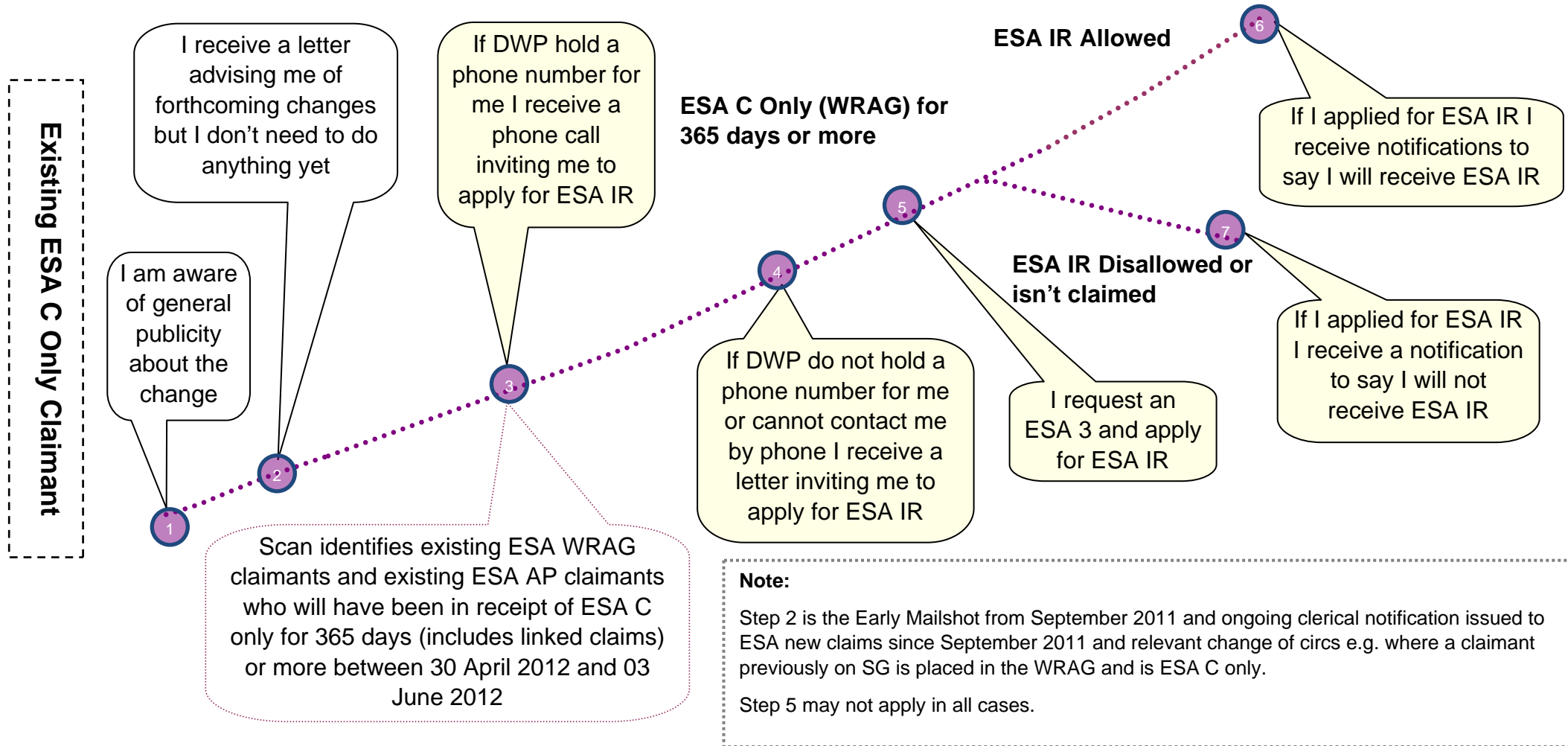
Claimant receives a notification advising them that they will automatically receive ESA (IR) and advising them that their ESA (C) claim has ended.

**The process for claimants who will be contacted early**

23. The following illustrations show the compressed claimant journey for those who will receive early contact because they will lose entitlement to ESA (C) between 30 April and 3 June. A compressed process has been designed for people who will be immediately affected. We began contacting these claimants, by telephone in the first instance, from 29 February 2012.

**Claimant journey (All claimants whose ESA (C) entitlement is ending before 04 June 2012. No existing ESA (IR) entitlement)**

This claimant journey explains what happens to existing ESA WRAG claimants who will have been in receipt of ESA C for 365 days (includes linked claims) or more between 30 April 2012 and 03 June 2012.



**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 from Jobcentre Plus**

Claimant received a letter in September 2011 to advise them of the changes. New claims to ESA after September 2011 also receive this letter.

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

Claimant receives a call (2 attempts) to advise them that their ESA (C) may end and to invite them to apply for ESA (IR), where appropriate.

**Step 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 ESA (C) may end and to invite them to apply for ESA (IR), 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 ESA 3. This could happen at any point in the claimant journey.

**Step 6 – Receive ESA (IR) award notification**

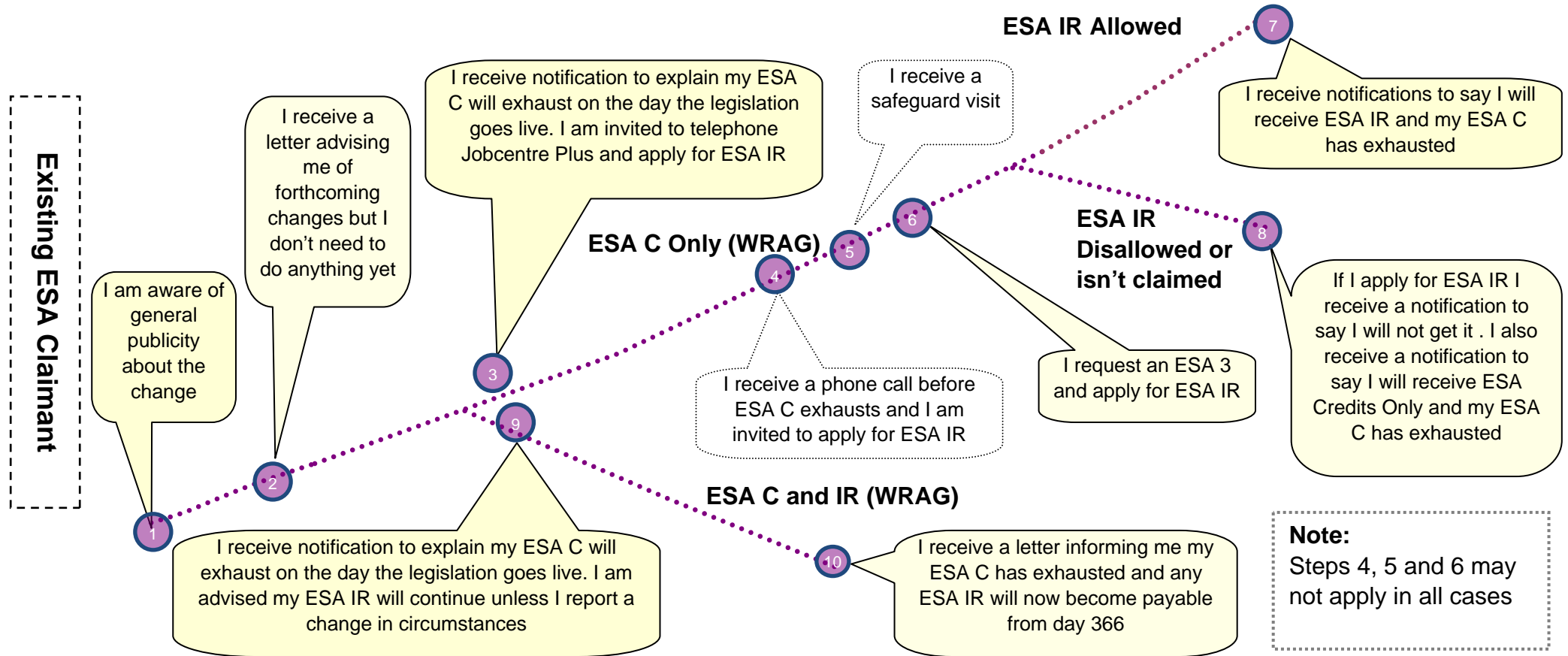
Claimant receives a notification advising them that they will receive ESA (IR).

**Step 7 – Receive ESA (IR) award notification**

Claimant receives a notification advising them that they have no entitlement to receive ESA (IR).

**Claimant journey (All claimants whose ESA (C) entitlement is ending before 04 June 2012<sup>1</sup>)**

All claimants whose ESA (C) will end 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 to ESA (IR) 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.



<sup>1</sup> This journey represents the journey for claimants whose entitlement will end on when these changes are introduced. Claimants whose entitlement will end between 30 April 2012 and 04 June 2012 will undergo a similar, but lengthened, journey. 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 ESA (C) will end and to invite them to contact Jobcentre Plus and to apply for ESA (IR), 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 ESA (IR), 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 ESA (C) ends to discuss their options and consider a claim for ESA (IR). 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 ESA (IR) award and notification that ESA (C) is ending**

Claimant receives a notification advising them that they will receive ESA (IR) and to advise ESA (C) has ended. The ESA (IR) award notification could be issued at any point in the claimant journey, however, the notification that ESA (C) is ending will be issued on the day benefit entitlement ends.

**Step 8 – Receive credits only and notification that ESA (C) is ending**

Claimant receives a notification advising them that they will receive credits only and to advise ESA (C) has ended. The notification will explain that ESA (C) only claimants have no entitlement to ESA (IR), where appropriate. Both notifications will be issued on the day benefit entitlement ends.

**Step 9 - Receive ESA (IR) notification**

All claimants will receive a letter to advise that their ESA (C) claim is due to be stopped. This letter is issued on 09 April 2012 and will inform ESA (C) claimants of one of the following:

- They currently receive ESA (C) only and when it is stopped they will receive credits

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- They currently receive ESA (C) and ESA (IR) and when ESA (C) is stopped their ESA (IR) will continue
- They currently receive ESA (C) and have already been assessed for ESA (IR) so when their ESA (C) award is stopped they will receive credits

The letter will advise claimants to consider claiming ESA (IR) 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 ESA (C) is ending**

Claimant receives a notification advising them that they will automatically receive ESA (IR) and advising them that their ESA (C) claim has ended.

## Summary of key facts

24. The legislation took effect on 1 May 2012.
25. We expect around 120,000 people will immediately lose entitlement to ESA (C). We estimate around 60% of these will have some entitlement to ESA (IR).
26. All ESA (C) claimants will be affected by time limiting unless they are placed in the Support Group.
27. All ESA (C) claimants will have received information about time limiting between 19 September 2011 and 03 June 2012.
28. Time-limiting does not affect claimants in the Support Group. Any time spent in the Support Group does not count towards the 365 day time-limit (or the assessment phase immediately followed by the Support group).
29. Claimants whose entitlement to ESA (C) ends after 365 days will be able to get ESA (IR) subject to the normal eligibility criteria
30. The special contribution conditions that allow people aged between 16 and 20 (or under 25 if in education or training at least three months immediately before turning 20) to receive ESA (C) without paying National Insurance contributions has also been abolished.
31. The 104 week linking rule has been abolished as it would have restricted entitlement to ESA (C) for some people who had worked following a previous ESA (C) award.
32. Claimants living abroad and receiving ESA (C) will also be affected by this change. However, unlike people living in the United Kingdom, they will not be able to claim ESA (IR) if their ESA (C) ends.

## Questions and answers

[Questions and answers on the ESA legislative changes](#)