

# Time limiting contributory Employment and Support Allowance to one year for those in the work-related activity group

Equality impact assessment

October 2011

# Equality impact assessment for time limiting contributory Employment and Support Allowance to one year for those in the work-related activity group

## Brief outline of the policy

### **Current Policy**

1. ESA is presently structured into contributory and income-related benefits. If a person does not satisfy the National Insurance Contribution conditions for ESA, they can claim income-related ESA provided they satisfy the eligibility criteria.
2. ESA is paid at different rates depending on an individual's circumstances and where they are in the claim process. During the initial 13 week assessment phase, before the Work Capability Assessment (WCA) is undertaken, ESA is paid at a standard rate which is called the 'basic allowance' or 'assessment phase' – currently £65.45 per week. If a person is then assessed by the WCA as having limited capability for work, they receive an additional amount on top of the basic allowance which depends on whether that person is in the Work Related Activity Group (WRAG) - an additional £25.95 per week, or the Support Group for the most severely ill and disabled - an additional £31.40 per week.
3. The rates payable are the same for both contributory and income-related claims but in addition, income-related claimants can receive additional support such as the Enhanced Disability Premium, Carers Premium and mortgage interest on top if they meet the eligibility criteria. Claims in the WRAG and Support Group are regularly reviewed for eligibility between 3 months and 3 years after initial assessment, based on the prognosis given at the previous WCA.
4. Currently ESA, claimed on either basis, can be paid until State Pension age, providing claimants continue to have limited capability for work assessed through the WCA and in the case of income-related ESA if they continue to meet the financial eligibility criteria.

## Rationale for intervention

5. ESA was never intended to be a benefit for the long term, except for the most severely ill or disabled for whom work is not a viable option. Those people are being protected as they are placed in the Support Group and not affected by this measure.
6. People can presently qualify for unlimited contributory ESA on the basis of a small amount of National Insurance paid. This change supports a move towards simplification of contributory benefits and a fairer benefit system.
7. There is good evidence to show that work is generally good for physical and mental health and wellbeing, including for disabled people and people with health conditions, and may help to promote recovery. Being out of work often leads to poorer health as well as other negative outcomes.<sup>1</sup>

## Policy objective

8. ESA is intended to help people in the work related activity group who are temporarily unable to work because of an illness or disability. The introduction of a time limit therefore:
  - Reinforces the fact that ESA is a temporary benefit for the majority;
  - Ensures support is targeted at the poorest and most severely disabled people;
  - Simplifies the benefit system by aligning contributory ESA rules more closely with contributory Jobseeker's Allowance in the run up to Universal Credit's introduction;
  - Ensures a fairer balance between the claimant and the taxpayer.

## Policy Outline

9. The policy is to time limit contributory ESA to 1 year for those in the WRAG. This would apply to:
  - (i) all new ESA claims from the point of change after one year in the WRAG, including the 13 week assessment phase, and
  - (ii) existing claims - people in the WRAG already receiving contributory ESA as at April 2012 will have the period of time already spent on that benefit before April 2012 taken into account in calculating the 1 year period. Those who have already received a year or more contributory ESA as at April 2012 will see their entitlement cease immediately.
10. Customers will be able to receive income-related ESA if they fulfil the conditions of entitlement - otherwise they will move off ESA. Customers in the Support Group will be unaffected. Income-related ESA will not be time-limited.

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<sup>1</sup> Waddell G and Burton A (2006) 'Is work good for your health and wellbeing?' (London: The Stationery Office)

## Impact

11. The policy is expected to affect around 700,000 people in total by 2015/16. These people will lose their entitlement to contributory ESA. However, not all of those affected will see a loss of income, and on average the net income of all those affected is estimated to reduce by around £36 per week. There are three main groups of people affected:

- Around 30 per cent are expected to be claiming both income-related and contributory ESA, so when the time limit applies they will continue to receive income-related ESA. For the majority there will be no change in the total amount of ESA received.
- A further 30 per cent are expected to become entitled to income-related ESA when their contributory ESA is removed. This will either be at the same rate, or a lower rate depending on their other income.

The remaining 40 per cent are not expected to qualify for income-related ESA because they have other income, including that from a partner. These people will lose their ESA, but will be able to retain National Insurance credits by becoming an ESA credits-only claimant. Approximately half are expected to see increases in other benefits such as tax credits and Housing Benefit. For example 19 per cent of those affected by time limiting will gain on average £6.90 per week on Council Tax Benefit and 8 per cent will gain an average £28.80 per week.

## Assessing the impacts on protected groups

12. Those affected by the policy will be people claiming contributory ESA in the Work Related Activity Group who are likely to go on to claim for more than 1 year. The impacts of the policy have generally been assessed by comparing the characteristics of those on contributory ESA in the Work Related Activity Group with all ESA claimants. As ESA was introduced in October 2008, there are currently relatively small numbers of cases in the WRAG with duration of over 1 year so they may not be representative of all cases that will be subject to the time limit in the future.

## Consultation and involvement

13. In line with other measures announced as part of the Spending Review, we did not consult with any external stakeholders prior to the Chancellor's announcement in the House of Commons on 20 October 2010. However, we have now started to engage with both internal and external stakeholders about detailed arrangements for implementation and communication of the intended changes, and propose to develop this further.

14. We are presently engaging with representative organisations through a series of events, including meeting with the Disability Alliance consortium at their conference in November 2010, and propose to engage with others early in 2011.

# Impact of time limiting contributory Employment and Support Allowance (ESA) to one year for those in the work-related activity group (WRAG)

## Gender

### Background and Statistics

**Table 1: ESA WRAG contributory and whole caseload by gender**

| Gender | ESA WRAG Contributory |            | ESA WRAG both contributory and Income Related |            | All ESA  |            |
|--------|-----------------------|------------|---|------------|----------|------------|
|        | Caseload              | Percentage | Caseload                                      | Percentage | Caseload | Percentage |
| Female | 20,200                | 42%        | 2,900   | 32%        | 225,400  | 43%        |
| Male   | 28,300                | 58%        | 6,100   | 68%        | 301,600  | 57%        |
| Total  | 48,600                | 100%       | 9,000   | 100%       | 527,000  | 100%       |

Source: Work and Pensions Longitudinal Study, May 2010.

- 15. Currently 58 per cent of contributory ESA recipients in the WRAG are men, so the policy is more likely to affect men more than women. This is very similar to the gender split in ESA as a whole (57 per cent) but lower than for those receiving both income-related and contributory ESA (68 per cent). The difference is likely to begin to close as the female State Pension age is gradually increased over time and the age upper age limit for claiming ESA is equalised.
- 16. Table 1 shows a higher proportion of men than women receive both income-related and contributory ESA, which suggests that when the time limit is applied, more men would qualify for income-related ESA than women. This is confirmed by Table 2 below which shows that of all those who are time limited, 66 per cent of men are expected to be eligible to income-related ESA compared to 54 per cent for women. As a result the average loss in household net income for women is around £10 per week higher than for men.

**Table 2: Estimated destinations for ESA WRAG contributory cases subject to time limiting by gender**

| Contributory ESA cases subject to time limiting | Gender |        |
|---|--------|--------|
|   | Male   | Female |
| Average loss in net income                      | £32pw  | £43pw  |
| Eligible for income-related ESA                 | 66%    | 54%    |
| Not eligible for income-related ESA             | 34%    | 46%    |
| Total   | 100%   | 100%   |

Source: DWP modelling based on the Family Resources Survey, 2008/09.

### **Risk of negative impact and mitigation**

17. The policy is expected to affect more men than women; however this difference will start to erode as the female State Pension Age, and therefore the upper limit for claiming ESA, is increased. Table 2 shows it is possible that men will be more likely to qualify for income-related ESA than women.

18. In mitigation, income-related ESA will act as a safety net to support those who have no means of supporting themselves. It is expected that overall 60 per cent of people losing their contributory ESA will be wholly or partially compensated by income-related ESA. Whilst it is likely that a higher proportion of women will not be eligible for income-related ESA and will see a loss in income, they will generally either have a working partner or capital over £16,000 so will not be left without income.

### **Gender Reassignment**

19. The Department does not hold information on its administrative systems on transgender persons. The Government does not envisage an adverse impact on these grounds.

### **Disability**

#### **Background and Statistics**

20. The definition of disability for the purposes of equality impact assessment is now that contained in the Equality Act 2010<sup>2</sup>, and was previously defined by the Disability Discrimination Act. Most people in receipt of contributory ESA for more

<sup>2</sup> The Equality Act generally defines a disabled person as someone who has a mental or physical impairment that has a substantial and long-term adverse effect on the person's ability to carry out normal day-to-day activities. This differs slightly from the definition in the DDA, which also required the disabled person to show that an adversely affected normal day-to-day activity involved one of a list of capacities such as mobility, speech, or hearing.

than a year are likely to be covered by the Equality 2010 disability definition and so these reforms have considerable significance for disabled people<sup>3</sup>.

**Table 3: ESA WRAG contributory and whole caseload by Primary Medical Condition**

| Recorded Primary Medical Condition  | ESA WRAG Contributory | ESA WRAG both contributory and Income Related | All ESA       |
|---|-----------------------|---|---------------|
| Mental and Behavioural Disorders (F00 - F99)  | 30%                   | 31%   | 39%           |
| Diseases of the Musculoskeletal system and Connective Tissue (M00 – M99)                            | 22%                   | 21%   | 15%           |
| Symptoms, Signs and Abnormal Clinical and Laboratory findings, not elsewhere classified (R00 - R99) | 12%                   | 12%   | 13%           |
| Injury, Poisoning and certain other consequences of external causes (S00 – U22)                     | 9%                    | 8%  | 10%           |
| Diseases of the Circulatory System (I00 - I99)  | 6%                    | 7%  | 4%            |
| Other   | 20%                   | 21%   | 19%           |
| <b>Total</b>  | <b>100%</b>           | <b>100%</b>                                   | <b>100.0%</b> |

Source Work and Pensions Longitudinal Study, May 2010

21. From the table above it can be seen that compared to the ESA caseload as a whole the proposal to time-limit contributory ESA for those in the WRAG may affect more in the Musculoskeletal category and slightly less in the Mental and Behavioural Disorders category. Otherwise the conditions for those affected are broadly consistent with ESA as a whole. This shows that although there are small differences, the policy is not expected to be more likely to have an impact on people with certain conditions.

#### **Risk of negative impact and mitigation**

22. The policy is more likely to affect disabled people because ESA is directly targeted at people with health conditions that limit their ability to work. Specifically it will affect people claiming contributory ESA for more than a year who are

<sup>3</sup> Around 90% of ESA and incapacity benefits recipients are 'disabled' using self reported information in the Family Resources Survey 08/09 on whether the customer is disabled under the terms of the DDA which was in force at the time of the survey.

unable to work due to their health condition or disability, but will be able to return to work in the future.

23. Time-limiting is only being introduced for people in the WRAG who are claiming contributory ESA. People are placed in the WRAG because it is anticipated they will be able to return to work in the future with help and support. People with the greatest barriers to work are placed in the Support Group and are unaffected by time limiting. Anyone assessed to be in the WRAG who thinks they should be placed in the Support Group have the right to appeal the decision.
24. In mitigation, those individuals with low or no other income may apply for income-related ESA. This acts as a safety net to support those who have no means of supporting themselves and overall it is expected that 60 per cent of people losing their contributory ESA will be wholly or partially compensated by income-related ESA.
25. Those who do not qualify for income-related ESA will still be able to access the support offered by the Work Programme to help them continue to move towards work.
26. This proposal moves towards alignment with contributory JSA, but with a longer time before limit to recognise some disability-related barriers to work.

## Race

### Background and Statistics

27. Table 4 shows that 71 per cent of contributory ESA recipients in the WRAG are White. The proportions are slightly higher than for all ESA claimants.

**Table 4: ESA WRAG contributory and whole caseload by ethnicity**

| Ethnicity                     | WRAG<br>Contributory - All | All ESA |
|-------------------------------|----------------------------|---------|
| White                         | 71%                        | 68%     |
| Mixed                         | 0%                         | 1%      |
| Asian or Asian British        | 2%                         | 4%      |
| Black or Black British        | 1%                         | 3%      |
| Chinese or other ethnic group | 1%                         | 1%      |
| Prefer not to say             | 7%                         | 7%      |
| Unknown                       | 18%                        | 16%     |
| Total                         | 100%                       | 100%    |

Source: Work and Pensions Longitudinal Study, May 2010.

28. Due to the large number of unknowns, it is useful to look at the responses of all recipients of incapacity benefits in the Family Resources Survey. Table 5 shows



that 7 per cent of incapacity benefit recipients are from ethnic minorities compared to 11 per cent for the working age population as a whole. These tables suggest the policy maybe more likely to affect white recipients more than people in other ethnic groups.

**Table 5: Incapacity benefits / Working Age population by ethnicity**

| Ethnicity       | Incapacity benefits | Working Age Population |
|-----------------|---------------------|------------------------|
| White           | 93%                 | 89%                    |
| Ethnic minority | 7%                  | 11%                    |

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

29. In addition, indicative analysis presented in Table 6 shows that a higher proportion of claimants from an ethnic minority are likely to be eligible for income-related ESA than white claimants, although overall average losses in net income are similar.

**Table 6: Estimated destinations for ESA WRAG contributory cases subject to time limiting by ethnicity**

| Contributory ESA cases subject to time limiting | Ethnicity |                 |
|---|-----------|-----------------|
|   | White     | Ethnic minority |
| Average loss in net income                      | £36pw     | £32pw           |
| Eligible for income-related ESA                 | 60%       | 78%             |
| Not eligible for income-related ESA             | 40%       | 22%             |
| Total   | 100%      | 100%            |

Source: DWP modelling based on the Family Resources Survey, 2008/09.

Note: Figures should be treated with caution due to small sample sizes for some groups.

### **Risk of negative impact and mitigation**

30. The changes to eligibility for contributory ESA will apply equally across races, although there is a risk that white recipients may be more likely to be affected. In mitigation, those individuals with low or no other income may apply for income-related ESA. It is expected that overall 60 per cent of people losing their contributory ESA will be wholly or partially compensated by income-related ESA. This offers some protection against the risk that ESA claimants from any specific ethnic group may be more likely to be affected.

31. Whilst it is likely that a higher proportion of white recipients will not be eligible for income-related ESA and will see a loss in income, they will generally either have a working partner or capital over £16,000 so will not be left without income.

## Age

### Background and Statistics

32. Table 7 shows that currently, nearly 49 per cent of contributory only ESA customers in the WRAG are of aged 50 to 64, compared to 31 per cent of all ESA customers, so the policy may impact on more people in this age group than younger age groups.

**Table 7: ESA WRAG contributory and whole caseload by age**

| Age     | Contributory only WRAG only | Both contributory and Income related WRAG only | All ESA |
|---------|-----------------------------|--|---------|
| 16-17   | 0%                          | 0%   | 1%      |
| 18-24   | 5%                          | 5%   | 14%     |
| 25-34   | 11%                         | 13%  | 17%     |
| 35-44   | 20%                         | 27%  | 24%     |
| 45-49   | 14%                         | 15%  | 13%     |
| 50-54   | 16%                         | 14%  | 13%     |
| Over 55 | 33%                         | 25%  | 18%     |
| Total   | 100%                        | 100%   | 100%    |

Source Work and Pensions Longitudinal Study, May 2010

33. Table 8 below shows that of all those who are time limited, 81 per cent of those aged under 30 are expected to be eligible to income-related ESA compared to 52 per cent for those aged 50 or over. As a result the average loss in household net income for those aged 50 or over is slightly higher than for other age groups.

**Table 8: Estimated destinations for ESA WRAG contributory cases subject to time limiting by age group**

| Contributory ESA cases subject to time limiting | Age of claimant |          |            |
|---|-----------------|----------|------------|
|   | Under 30        | 30 to 49 | 50 or over |
| Average loss in net income                      | £32pw           | £32pw    | £39pw      |
| Eligible for income-related ESA                 | 81%             | 70%      | 52%        |
| Not eligible for income-related ESA             | 19%             | 30%      | 48%        |
| Total   | 100%            | 100%     | 100%       |

Source: DWP modelling based on the Family Resources Survey, 2008/09.

Note: Figures should be treated with caution due to small sample sizes for some groups.

### **Risk of negative impact and mitigation**

34. There is a risk that older people maybe more likely to be affected, especially those who may find it difficult to get back into work due to their age. In mitigation, those individuals with low or no other income may apply for income-related ESA. It is expected that overall around 60 per cent of people losing their contributory ESA will be wholly or partially compensated by income-related ESA. Whilst it is likely that a higher proportion of older recipients will not be eligible for income-related ESA and will see a loss in income, they will generally either have a working partner or capital over £16,000 so will not be left without income.

### **Sexual orientation**

35. The Department does not hold information on its administrative systems on the sexual orientation of claimants. The Government does not envisage an adverse impact on these grounds.

### **Religion or belief**

36. The Department does not hold information on its administrative systems on the religion or beliefs of claimants. The Government does not envisage an adverse impact on these grounds.

### **Marriage and Civil Partnership**

37. The Department does not hold information on its administrative systems on the civil partnership status of claimants. The Government does not envisage an adverse impact on these grounds.

### **Pregnancy and maternity**

38. The Department only holds information on pregnancy and maternity on its administrative systems where it is the primary reason for incapacity. For

Employment and Support Allowance we can currently identify just over 100 claimants of contributory ESA in the Work Related Activity Group where their primary condition is recorded in the 'Pregnancy, Childbirth and the Puerperium' category. As this is a very small proportion of the ESA caseload and of those subject to time limiting, it cannot therefore be used to accurately assess the equality impacts. The Government does not envisage an adverse impact on these grounds.

## Monitoring and evaluation

39. The material in this Equality Impact Assessment covers the equality groups currently covered by the equality legislation, i.e. age, disability, gender (transgender), ethnicity, religion, sexual orientation, pregnancy/maternity and civil partnerships. DWP is committed to monitoring the impacts of its policies and we will use evidence from a number of sources on the experiences and outcomes of the protected groups.
- a) We will use administrative datasets, including the Department for Work and Pension's Work and Pensions Longitudinal Study (WPLS), to monitor trends in the benefit caseloads for the protected groups and in the level and distribution of benefit entitlements. The administrative data will provide robust material for age and gender although not, as a rule, for the other protected groups. Where it is practical we will endeavour to incorporate information for the other protected groups.
  - b) We will use survey data, such as the Family Resources Survey (FRS) and Labour Force Survey (LFS), to assess trends in the incomes of the protected groups and in their employment outcomes. Both the FRS and LFS will collect information on age, disability, gender, ethnicity, sexual orientation, religion and civil partnerships.
  - c) We will use feedback from stakeholder groups to assess whether there are unintended consequences for the protected groups, and whether the policy is likely to result in adverse consequences for particular groups.
  - d) We will utilise feedback from Departmental employee networks and internal management information. For example we will monitor the level of complaints in order to assess the broader impact of the policy.
  - e) We will draw on broader DWP research where appropriate, as well as any research commissioned specifically as part of the evaluation of the measure.
40. As part of our actions in the context of the data requirements under the Equality Act, we are looking across DWP activities to identify and address further gaps in data provision wherever reasonable.

## Next steps

41. The measure will be introduced in the Welfare Reform Bill. The Equality Impact Assessment will be regularly reviewed and account will be taken of the responses to consultation on the legislation and operational considerations.

## Contact details

42. Daniel Groves at the Department for Work and Pensions (<mailto:daniel.groves@dpw.gsi.gov.uk>) can answer any queries regarding this instrument.