

Equality Impact Assessment: Changes to National Insurance Contribution Conditions

For Employment and Support Allowance and Jobseeker's Allowance

Equality impact assessment for changes to National Insurance contribution conditions for Jobseeker's Allowance and Employment and Support Allowance

1 Introduction

The Department for Work and Pensions has carried out an equality impact assessment, on the proposal to change National Insurance contribution conditions for Jobseeker's Allowance (JSA) and Employment and Support Allowance (ESA), assessing the proposal in line with the current public sector equality duties.

This process will help to ensure that:

- the Department's strategies, policies and services are free from discrimination;
- the Department complies with current equality legislation;
- due regard is given to equality in decision making and subsequent processes; and
- opportunities for promoting equality are identified.

This equality impact assessment considers the potential impact of the proposed policies in terms of disability, gender, race and age.

2 Background

Under current legislation people can qualify for a lifetime's contributory ESA, or 6 months of contribution-based JSA, with as little as 12 weeks' work at the National Minimum Wage or less than 4 weeks' work for higher-rate taxpayers. In addition, ESA claimants can meet the first contribution on the basis of National Insurance paid within three relevant tax years, whereas JSA claimants have only two years.

3 Purpose and aims of the changes to the National Insurance contribution conditions

The 2008 Welfare Reform White Paper¹ *'Raising expectations and increasing support: reforming welfare for the future'* outlined changes to the National Insurance contributions conditions for both ESA and JSA. It proposed that people would have to work for a reasonable amount of time before claiming contributory benefit by ensuring claimants must have worked for at least 26 weeks in one of the two relevant income tax years before qualifying for contributory ESA or contribution-based JSA.

¹ 'Raising expectations and increasing support' (Cm 7506) - <http://www.officialdocuments.gov.uk/document/cm75/7506/7506.pdf>

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Although it should be noted that claimants will not have to work 26 consecutive weeks to qualify for benefit.

The *Welfare Reform Act 2009*² brought forward legislation to introduce the change, which will apply to all new claimants from 1 November 2010. The change will allow the Government to simplify the benefit system and strengthen the link between claiming contributory benefits and periods of recent employment. It does this by broadly aligning the contribution conditions of both ESA and JSA. For ESA specifically this means:

- reducing the number of qualifying tax years³ from one of the last three years, to one of the last two years;
- retaining the exemptions and protections for additional groups such as carers and previous ESA claimants; and
- retaining eligibility for self-employed people who pay Class 2 National Insurance contributions.

4 Consultation and Involvement

On 21 July 2008, the Green Paper⁴ *'No-one written off: reforming welfare to reward responsibility'* was published and opened for a full public consultation until 22 October 2008.

The Government received feedback from a wide range of stakeholders. Several events were held between officials and organisations representing key stakeholders. This also included a discussion forum with representatives of learning disability and learning difficulty organisations. Officials from the Department also met with representatives from the entertainers' union Equity to discuss their concerns with the changes.

The Government's response to the consultation was published in the 2008 Welfare Reform White Paper⁵ *'Raising expectations and increasing support: reforming welfare for the future'*. It was noted that whilst many of those who responded to the consultation were in favour of benefit simplification, some were concerned about the impact of change, or recommended flexibility within a simpler system.

5 Definition of statistical groups

Under the DWP's definition of statistical groups the term 'incapacity benefits' covers: ESA; Incapacity Benefit (IB); Severe Disablement Allowance; and people claiming Income Support on the grounds of incapacity. Using the same definition criteria, the term 'Incapacity Benefit' covers people solely claiming Incapacity Benefit.

² www.dwp.gov.uk/welfarereform

³ Actually relevant income tax years (6 April to 5 April)

⁴ 'No one written off: reforming welfare to reward responsibility' (Cm 7363)

⁵ 'Raising expectations and increasing support' (Cm 7506) - <http://www.officialdocuments.gov.uk/document/cm75/7506/7506.pdf>

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6 Statistical evidence

Given the relatively recent introduction of ESA as a replacement for IB, in October 2008, most of the statistical evidence in the equality impact assessment uses data from the IB caseload as a proxy for ESA. This ensures a more complete evidence base as the IB data currently provides a more comprehensive assessment of the possible impact of the changes.

Equality impact of the changes to the National Insurance contribution conditions

7 Disability

The reforms to incapacity benefits are designed to help disabled people and people with certain health conditions into work. The changes provide improved financial support for people where work-related activity would be unreasonable. As such, these measures have been designed to have a positive impact on disabled people and people with health conditions and aims to promote equality of opportunity.

Most incapacity benefits claimants are covered by the Equality 2010 disability definition and so these reforms have considerable significance for disabled people. Table one shows the distribution of IB and Severe Disablement Allowance claimants by medical condition, with mental and behavioural conditions being the most common.

People with mental and behavioural disorders recorded as their primary condition account for around 43 per cent of existing customers. While people with diseases of the musculoskeletal system recorded as their primary condition formed the second largest group, with 17 per cent of cases.

Table One: Incapacity benefits claimants by medical condition

Medical Condition	Percentage of caseload
Mental & Behavioural	43%
Diseases of the nervous system	7%
Circulatory & Respiratory	7%
Musculoskeletal	17%
Injury & Poisoning	5%
Other	21%
Total	100%

Source: DWP Information Directorate: Work and Pensions Longitudinal Study, November 2009

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Table Two: Incapacity Benefit claimants by medical condition and benefit type

Medical Condition	Income-related IB	Contributory IB	Credits Only	Both Contributory and Income related IB
Mental & Behavioural	55%	36%	39%	42%
Diseases of the nervous system	4%	8%	7%	8%
Circulatory & Respiratory	5%	7%	7%	7%
Musculoskeletal	14%	21%	19%	13%
Injury & Poisoning	4%	6%	5%	3%
Other	18%	22%	22%	26%
Total	100%	100%	100%	100%

Source: DWP Information Directorate: Work and Pensions Longitudinal Study, November 2009

We can see from table two that a high proportion of customers with musculoskeletal conditions are contributory customers. A proportion of these customers will have done manual labour and developed their condition over time.

The most common condition for contributory only group is mental and behavioural but it is less pronounced than the income-related group.

Risk, Mitigation and Opportunity to Promote Equality

There is a risk that those with more severe health conditions will find it more difficult to work for a minimum of 26 weeks in one of the two tax years prior to the claim. In mitigation of this risk, those with low or no other income can apply for income-related ESA.

In addition, the government will also retain some existing protections that allow disadvantaged groups such as low-paid disabled workers to qualify for ESA. Other qualifying conditions for contributory ESA, for example, those that apply to the self-employed, will remain unchanged.

The proportion of jobseekers claiming contributory JSA is similar for people with and without a disability as the proportions has converged in recent years to 13 per cent for disabled claimants compared to 15 per cent for claimants without a disability. The Government would not expect the changes in contribution conditions for JSA to have a disproportionate impact on those with or without disabilities. Again, those with low or no other income can apply for income related JSA.

8 Gender

Currently there are 1.5 million men claiming incapacity benefits (including former Invalidity Benefit, Severe Disablement Allowance (SDA) and or Income Support on the grounds of incapacity), and 1.1 million women⁶. Men make up around 58 per cent of the caseload, partly reflecting the lower State Pension Age for women. New

⁶ Work and Pensions Longitudinal Study, November 2009

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claimants to ESA show a similar make up with 59 per cent male and 41 per cent female⁷.

We can see from the table below that the split by gender on contributory only, credits only and income-related benefits is similar (58 per cent are male and 42 per cent are female). The exceptions are claimants on both contributory and income-related benefits, where 35 per cent are female and 65 per cent are male.

Table Three: Incapacity Benefit claimants by type of benefit and gender

Type of benefit	Female	Male
Contributory only	42%	58%
Credits only	57%	43%
Income related only	45%	55%
Income related & Contributory	35%	65%
Total	42%	58%

Source WPLS November 2009

Given this policy only effects contributory claimants we can infer that it is more likely to affect men than women.

In the table below we can see the proportion of claimants on ESA by type of benefit and gender. The share of the caseload by type of benefit and gender is relatively similar to IB which ESA replaced for new claims from October 2008.

Table Four: Employment and Support Allowance by type of benefit and gender

Type of benefit	Female	Male
Contributory Based Only	39%	61%
Income Based Only	44%	56%
Both Contributory and Income	30%	70%
No Payment - Credits Only	49%	51%
Total	42%	58%

Source WPLS November 2009

Of new claims made to incapacity benefits by women, before ESA was introduced in October 2008, 54 per cent claim contributory Incapacity Benefit, whereas for new claims made by men the proportion is 47 per cent⁸.

⁷ ESA statistics taken from the Work and Pensions Longitudinal Study, *November 2009*

⁸ Taken from WPLS, 100% sample with durations on 6 months in November 2009

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Table Five: New Incapacity Benefit claims by Gender

Type	New IB Claims	
	Male	Female
Credits Only	13%	11%
Contributory IB	47%	54%
Income related	34%	25%
Both	7%	9%

Source WPLS November 2009

Risk, Mitigation and Opportunity to Promote Equality

During 2006-2007 the Government estimates that of all new claims for IB 65 per cent of men⁹ did not satisfy the contribution conditions. The changes to contribution conditions will affect more men than women, but this is partly due to the different state pension ages for men and women. In mitigation individuals with low or no other income who do not qualify for contributory benefit may apply for income-related ESA.

Over two-thirds of those receiving Carers' Allowance are women, but as the government has retained existing provisions to protect carers' entitlement to contributory ESA, there is no risk of a differential gender impact as a result of the changes. The Government expects that with equalisation of the state pension age, the proportion of men affected by the changes in comparison to women will fall. The Government will continue to monitor the effect of the changes by gender.

The proportion of jobseekers that only claim contributory-based JSA has fallen for both men and women in recent years, but the proportion has been consistently lower for men. There is currently a 2 percentage point gap, with 18 per cent of women claiming only contributory-based JSA compared to 16 per cent of men¹⁰.

There is a risk that men may be disproportionately affected by the changes to JSA contribution conditions, but in mitigation those with low incomes would be eligible to apply for income-based JSA.

9 Race

Although ethnic minorities generally have higher rates of worklessness than the majority of the population¹¹, survey evidence suggests that people from ethnic minorities, other than those of mixed ethnicity, are less likely than white people to claim incapacity benefits.

There is a low risk that ethnic minorities could be disproportionately affected as survey evidence indicates that there is a lower proportion of ethnic minorities on incapacity benefits (6 per cent) than in the working age population as a whole (12 per cent).

⁹ Family Resources Survey, 2006/2007

¹⁰ WPLS, 5% sample, November 2009

¹¹ NAO Report Feb 2008, *Increasing Employment Rates for Ethnic Minorities*

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Table Six: Proportion of incapacity benefits customers by ethnicity

Ethnicity	Incapacity benefits	Working Age Population
White	94%	88%
Ethnic minority	6%	12%

Source: Based on the Family Resources Survey 2007/08

Table Seven: New Incapacity Benefit claimants by ethnic group (March 2007 to February 2008)

Ethnicity	Percentage
White	68%
Mixed	1%
Asian or Asian British	4%
Black or Black British	3%
Chinese or other ethnic group	2%
Unknown/prefer not to answer	24%

Risk, Mitigation and Opportunity to promote equality

We can see from table seven above that a low proportion (10%) of new incapacity benefits are from ethnic minorities.

The changes to the contribution conditions will apply equally across ethnic groups. However, there is a small risk of a disproportionate impact due to ethnic minorities being more likely to be part of industries that provide unsteady or seasonal work¹².

The Government will retain some existing protections that allow disadvantaged groups such as carers to qualify for ESA. Other qualifying conditions for contributory ESA, for example, those that apply to the self-employed, will remain unchanged.

In mitigation, those individuals with low or no other income may apply for income-related ESA or JSA. This offers some protection against the risk that ESA or JSA claimants from any specific ethnic group may be disproportionately affected.

10 Age

Background and Statistics

Nearly half of customers claiming incapacity benefits are over the age of 50. This is because older people are more likely to have a disability or health condition. However, this does not mean that they do not want, or are unable to, work. The Government is committed to promoting employment prospects for older people, indeed for people of all ages, with and without health conditions.

¹² <http://www.berr.gov.uk/files/file48720.pdf>

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Table Eight: Age of incapacity benefits customers

Age	Percentage of Caseload
16-17	0%
18-24	5%
25-34	12%
35-44	22%
45-49	15%
50-54	16%
55-59	19%
60-64	12%
Total	100%

Source: DWP Information Directorate: Work and Pensions Longitudinal Study November 2009

Table Nine: Incapacity Benefit claimants by age and benefit type

Age	Contributory only	Credits only	Income related only	Both
16-17	0%	0%	0%	0%
18-24	5%	4%	6%	1%
25-34	9%	13%	16%	11%
35-44	17%	23%	27%	22%
45-49	14%	15%	16%	14%
50-54	17%	17%	15%	16%
55-59	23%	21%	15%	18%
60-64	16%	8%	6%	17%
Total	100%	100%	100%	100%

Source: DWP Information Directorate: Work and Pensions Longitudinal Study, November 2008

As we would expect contributory customers make up a higher proportion of older people on IB. 39 per cent of contributory customers are aged 55-64.

When considering recent new claims to ESA, the proportion from younger age groups is higher than for the caseload. Table ten shows that for new ESA claims in the year to November 2009, 36 per cent were under the age of 35, whilst 30 per cent were 50 and over.

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Table Ten: Age of new ESA customers in the year up to November 2009

Age	Percentage of Caseload
16-17	1%
18-24	17%
25-34	18%
35-44	23%
45-49	12%
50-54	12%
55-59	12%
60-64	5%
Total	100%

Source: DWP Information Directorate: Work and Pensions Longitudinal Study November 2009

Risk, Mitigation and Opportunity to Promote Equality

There is a risk that strengthening the link between recent work and contributory benefit will disproportionately affect middle aged people with disabilities. The government estimates that the changes in contribution conditions will impact the most on middle aged people (aged 35-44); only 15 per cent of those potentially affected are under the age of 35¹³.

The changes to the contribution conditions will apply equally across ages. However, there is a small risk of a disproportionate impact on younger people due to younger being more likely to be part of industries that provide unsteady or seasonal work such as agency work¹⁴.

In mitigation to this risk, individuals with low or no other income may apply for income-related ESA. The government will also retain some existing protections that allow disadvantaged groups such as carers and low-paid disabled workers, who cannot satisfy the normal paid contributory conditions, to qualify for contributory ESA using alternative conditions. Other qualifying conditions for contributory ESA, for example, those that apply to the self-employed, will remain unchanged. The government will continue to monitor the effects of the change in policy by age.

Table Eleven: Contributory JSA customers by age

	Contributory-based benefit only	Income-based and Contributory-based benefit	Income-based benefit only
Under 18	0%	0%	0%
18-24	14%	9%	35%
25-34	27%	28%	23%
35-44	25%	32%	20%
45-54	23%	21%	16%
55-59	8%	6%	5%
60-64	2%	4%	0%

Source: Work and Pensions Longitudinal Study November 2009

¹³ Family Resources Survey, 2006/2007

¹⁴ <http://www.berr.gov.uk/files/file48720.pdf>

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We can see from the table above that JSA contributory customers are neither particularly young nor old as only 14 per cent are under 24 and 10 per cent are over the age of 55. The government does not think there will be a disproportionate effect on JSA contributory customers by age.

11 Monitoring and evaluation

This policy will be subject to ongoing review. The introduction of ESA will be fully evaluated by 2014. The changes to the First Contribution Conditions for ESA will be fully reviewed as part of that process. ESA statistics, which include the numbers on ESA by age, gender, main medical condition and ethnicity will continue to be published on a quarterly basis.

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