



# Government's response to the year four independent review of the Work Capability Assessment

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

March 2014



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## Ministerial Foreword

As Minister of State for Disabled People my key aim is to prevent people being written off to a life on benefits because of a health condition or disability. The links between health and work are well known and personal to me as someone who was forced to retire early from the fire service due to an accident and effectively written off from the world of work in the process. The Work Capability Assessment (WCA) is a key part of the Government's goal to ensure that all people who can work, regardless of their health condition or disability, are given the opportunity to do so.

It's clear to me that the system we inherited from the previous Government was not fit for purpose. The process was riddled with problems and levels of claimant dissatisfaction were high. We have moved a long way from that position, improving all aspects of the WCA. Changes this Government made have ensured that Employment and Support Allowance (ESA) is appropriately targeted with more claimants now receiving the Support Group component than ever before; we have carried out a world-first study into how the current assessment performs compared to an alternative assessment proposed by a group of charities; and we continue to engage with a wide range of stakeholders from across the political spectrum to gain views on how we can make things better.

However, to say that we have improved things does not suggest for one minute that I do not believe there is more we can do. I want an open, honest and frank dialogue about the WCA: the good and the bad. I am a pragmatist at heart and want to work with people to ensure that the assessment is as fair and accurate as it possibly can be. With all of this in mind, Dr Litchfield's independent review moves the debate about the WCA another step forward. He has confirmed – as we have always said – that we have made good progress in implementing the recommendations from the previous independent reviewer, Professor Harrington. He has also made a number of recommendations, particularly around the transparency and perceptions of the assessment, which will help ensure claimants are treated with the dignity and respect they deserve. In turn, we hope that this will mean they understand why decisions have been reached, even if those decisions are not popular or mean claimants will have to look for work.

The Department is responsible for spending large amounts of money appropriately and, with that in mind, I welcome any suggestions for how we can improve efficiencies and reduce hand-offs in the WCA process. Dr Litchfield has made several important recommendations here, but they are recommendations which involve a significant re-working of existing processes. As such, we have undertaken to conduct further work into the feasibility of Decision Maker triage, collocation of Decision Makers and our health assessment providers and reengineering the case mix between Decision Makers. These recommendations have the potential to radically transform the WCA process, speeding up the claimant journey and improving the quality of decision making. But it is important that we fully understand what the impact of making these

changes would be – and the links between them – and therefore need to do more work before committing further.

Importantly, Dr Litchfield – as Professor Harrington before him – has not suggested that the WCA needs to be scrapped. In line with the Government's view, he has instead reflected that we need to make further changes but that these reflect our strategy of continuous improvement rather than radical overhaul. I still hear a lot of dissatisfaction about the WCA, including from my own constituents, but Dr Litchfield's independent and impartial view about the WCA's ongoing viability is welcomed: what's important is to work within the current operational and financial boundaries to have an assessment which is objective, consistent and fair. Continued sniping does no-one any good – it is much more productive to work together to improve things.

Given the work he did in 2013 I am delighted that Dr Litchfield has agreed to lead the fifth and final independent review of the WCA. I would ask all those with an interest in the WCA – an interest in making the assessment the best it can be – to work with Dr Litchfield and the Department to ensure that by the time he makes recommendations at the end of this year we can genuinely say that things have improved once again.

A handwritten signature in black ink, appearing to read 'MP', is positioned above the typed name of the Minister.

**The Rt. Hon. Mike Penning MP**  
**Minister of State for Disabled People**

# Chapter One – Introduction

1. The Government welcomes the fourth independent review of the Work Capability Assessment (WCA): the first 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 was well placed to carry out the review.
2. Dr Litchfield succeeded Professor Malcolm Harrington and built on the work of his previous three independent reviews.
3. Dr Litchfield gathered a range of evidence to provide invaluable insight into how the WCA is working, the impact of the improvements we have already made following the recommendations of previous independent reviews and what more we can do to go even further with improving the assessment. His review focused on:
  - The implementation of recommendations from the first three independent reviews;
  - The effectiveness of the WCA;
  - Changing perceptions of the assessment;
  - Strengthening decision making;
  - Simplifying the assessment process; and
  - Improving the assessment of mental function.
4. Dr Litchfield made a total of 37 recommendations in his review, 32 of which relate to the Department for Work and Pensions (DWP) and fall within the scope of this Government response. The other five relate to the Department for Social Development in Northern Ireland and will be addressed as part of their own response to Dr Litchfield’s review.
5. The Government has noted the observations made by Dr Litchfield that the “length and complexity of the process contributes to dissatisfaction and negative perceptions surrounding the assessment”. We welcome his recommendations on how we might further improve the WCA to help address these concerns.
6. We have accepted or accepted with certain caveats all but one of the 32 recommendations that fall within the scope of DWP. This document sets out in more detail our response to Dr Litchfield’s recommendations.

7. In light of his experience carrying out the fourth independent review and the considerable experience which he brings to the role, the Government is also pleased that Dr Litchfield has agreed to continue in his role as independent reviewer for the fifth and final review. We look forward to receiving his next set of recommendations before the end of 2014.



## **Chapter Two – Implementing the recommendations of the first three independent reviews**

1. Professor Malcolm Harrington carried out the first three independent reviews of the Work Capability Assessment (WCA). The Government believes that Professor Harrington made a significant contribution to refining and improving the WCA and we are pleased to see that Dr Litchfield shares this view.
2. Over the course of his three reviews, Professor Harrington made a total of 49 recommendations, 35 of which were accepted in full by the Department and 10 of which were accepted in principle or provisionally. Of the remaining four recommendations, three were not within DWP's remit (these were from the year one review and concerned the First-tier Tribunal Service); and one concerned examination of the quality of training outcomes in future independent reviews.
3. During the course of his review Dr Litchfield looked in detail at how the Department had implemented Professor Harrington's recommendations. He concluded that:
  - Of those accepted in full, 29 had been fully implemented, three had been partially implemented and three more are still in progress; and
  - Of those accepted in principle five had been fully implemented, two partially implemented, and three are still in progress.
4. The Government concurs with Dr Litchfield's assessment of the implementation of Professor Harrington's recommendations and we are working to implement the remaining six recommendations that are still in progress. For example, in line with Professor Harrington's recommendation, if and when any changes to the WCA descriptors are made DWP and other relevant experts will monitor the impact of these changes.

### **Changes to the way in which cancer patients are assessed**

5. This Government has a strong track record in improving the WCA for claimants with cancer. We have twice changed the provisions which determine eligibility for Employment and Support Allowance for cancer patients, most recently in January 2013 following extensive work with Macmillan Cancer Support.
6. These changes expanded the categories of cancer treatments under which a claimant may be treated as having limited capability to undertake work-related

activity to now include individuals who are: awaiting, receiving or recovering from treatment by way of chemotherapy irrespective of route; or awaiting, receiving or recovering from radiotherapy.

7. We are confident that these changes will have a positive impact, ensuring that vulnerable people with cancer get the help and support they may need. In his review Dr Litchfield proposed that the Department should build on the improvements it has already made to the ESA50 for people with cancer by amending page 20 of the form to make it clear that Clinical Nurse Specialists and consultants may complete the section. The Department accepts this recommendation in full and is pleased to announce that this change is in the process of being implemented and will be part of the revised ESA50 due for release in spring 2014. Further work to improve the ESA50 is also discussed in Chapter Seven.
8. As Dr Litchfield noted in his review, we are collaborating with Macmillan Cancer Support to review the impact of these changes.

#### **Dr Litchfield's view on key Harrington recommendations**

9. As part of his review Dr Litchfield also looked at the implementation of a number of Professor Harrington's recommendations that he considered to be of particular significance or that received a lot of attention through his Call for Evidence. The recommendations he looked at in more detail fell into six broad categories;
  - Contact and support;
  - The descriptors;
  - The face-to-face assessment;
  - Decision making;
  - Reconsideration and appeals; and
  - Smoothing the transition into work.
10. The Government feels that Dr Litchfield has been fair in his assessment of our implementation of the year one to three recommendations. The detailed analysis he undertook allowed him to conclude that some notable improvement had been made. These included:
  - Involving experts in any changes to descriptors (the Evidence Based Review of the WCA descriptors is discussed in more detail in Chapter Three); and
  - Working with Her Majesty's Courts and Tribunals Service to obtain better feedback following upheld appeals (which is discussed in more detail in Chapter Five).

## **Areas where more work is needed**

11. However, Dr Litchfield also concluded that progress had been less positive with the implementation of some of Professor Harrington's recommendations. We welcome the constructive challenge from Dr Litchfield about where more needs to be done to build on improvements already made to the assessment.
12. The Government concurs with Dr Litchfield's assessment that a previous recommendation concerning sharing of information about WCA outcomes with Work Programme providers has not been completed and should be addressed as a priority. Like Dr Litchfield, Government can see the benefits of sharing relevant information between DWP and Work Programme providers to help smooth the transition into work. We have accepted this recommendation subject to the outcome of further feasibility work, and are currently investigating what information would be most useful to providers and how such information could be shared as part of that.
13. Recommendations four and five of Dr Litchfield's review build on his findings about work done by DWP to date to make helpful suggestions about the detailed implementation of his recommendations, including the use of pilots.
14. Based on our experience to date, and helpful observations from Dr Litchfield about how this has been done, we have accepted his recommendation that due consideration should be given as to whether piloting is required and, if so, to design pilots with particular attention to the means of evaluation. Evidence based policy making remains a key focus for Government, and as such testing robustly the ideas proposed in independent reviews helps establish the best way of implementation.
15. We will also ensure that proposed adjustments to accepted recommendations are fully considered in advance by both Policy and Operational staff. This is the way the DWP always works, and this remains a sensible and necessary approach that must be taken to ensure that any changes we implement make the WCA fairer and more effective.
16. The following table summarises the Government's response to the five recommendations that Dr Litchfield made following his assessment of DWP's implementation of the recommendations made by Professor Harrington across his three independent reviews of the WCA.

| Implementation of the year one to three recommendations |  |  |
|---|--|--|
| List of Recommendations                                 |  | Government's response  |
| 1   | Sharing information from the WCA on capability for work with Work Programme Providers should be addressed as a priority  | <p><b>Accepted subject to the outcome of further work on feasibility.</b></p> <p>DWP is currently investigating how information from the WCA might be shared with Work Programme providers.</p> <p>The findings from the detailed feasibility work undertaken will help to inform future decisions on how or if to proceed with recommendation.</p>  |
| 2   | The Evidence Based Review and the actions taken by the Department as a result of its findings should be evaluated as part of the Year 5 Independent Review   | <p><b>Accepted.</b></p> <p>The findings of the Evidence Based Review were published on 12 December 2013 and can be accessed through the following link - <a href="https://www.gov.uk/government/publications/work-capability-assessment-evidence-based-review">https://www.gov.uk/government/publications/work-capability-assessment-evidence-based-review</a></p> <p>The findings indicate that overall, the WCA is a valid assessment relative to expert opinion about people's fitness for work.</p> <p>The findings and implication of the Evidence Based Review are discussed in Chapter Three.</p> |
| 3   | The Department should build on the improvements for the people with cancer by amending page 20 of the ESA50 to make it clear that Clinical Nurse Specialists and consultant may also complete that section of the form   | <p><b>Accepted and will be implemented in spring 2014.</b></p> <p>DWP will make the recommended change as part of the updated ESA50 which will go live in spring 2014.</p>   |
| 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 | <p><b>Accepted.</b></p> <p>DWP will assess whether there should be a pilot of any measures intended to change the WCA. With contributions from appropriate analytical experts, the most appropriate design, implementation and evaluation of any pilots will be considered to ensure robust findings.</p>  |
| 5   | Ensure that proposed adjustments to accepted recommendations are fully considered in advance by both policy officials and operational staff so that the intent and practical considerations are harmonised   | <p><b>Accepted.</b></p> <p>DWP will build on its existing practice of joint working between Operational and Policy staff to further strengthen our capacity to identify the implications of any recommendations and design appropriate changes or measures in response to them.</p>  |

## Chapter Three – Improving the effectiveness of the WCA

1. The descriptors used in the Work Capability Assessment (WCA) are an important element of a much broader assessment process that is designed to decide whether an individual is entitled to Employment and Support Allowance (ESA).
2. The descriptors have been the subject of ongoing scrutiny as part of the independent review process. In our response to stakeholder representations on the issue, we have made considerable progress with building evidence on how the descriptors work and how face-to-face assessments might be further improved: the Evidence Based Review (EBR) was a key component of this.
3. We fully support Dr Litchfield's recommendation that the EBR findings and any actions taken as a response to the findings should be evaluated as part of the fifth independent review of the WCA. This Chapter outlines what we will do as a result of the EBR, but we will continue to engage with Dr Litchfield about our plans as he carries out the next independent review.

### **A systematic study of the descriptors**

4. As part of the second independent review of the WCA, Professor Harrington invited several disability representative organisations to make proposals to refine the descriptors used to assess mental function and fluctuating conditions<sup>1</sup>. He recommended that a 'gold standard' review be conducted to examine how the proposed descriptors would work compared with the current WCA.
5. We accepted this recommendation and established a systematic study – the EBR – to examine in detail how the current WCA descriptors perform compared with the alternative assessment proposals. In particular the EBR looked at whether the assessments produce valid or accurate results.
6. The study was overseen by an independent Steering Group, which was chaired by Professor Harrington. We worked closely with the representative organisations to

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<sup>1</sup> The organisations involved were Mencap, Mind, The National Autistic Society, Arthritis Care, Crohn's and Colitis UK, Forward ME, The MS Society, The National AIDS Trust, Parkinson's UK.

refine the alternative assessment descriptors and design the study. The study was carried out throughout 2013 and the findings were published in December 2013.<sup>2</sup>

7. The EBR process involved ESA claimants being assessed against both the WCA and alternative assessment descriptors. In addition, panels of expert healthcare and employment support professionals reviewed claimant files and formed their own opinion about whether the claimant was fit for work, without referring to either set of assessment criteria. This enabled an examination of the validity of each assessment.

### **EBR findings**

8. The EBR was a significant study which provided many insights about how the WCA descriptors work. The findings suggest that overall the WCA works as intended and is a valid assessment relative to experts' opinion about individuals' fitness for work that can support decisions about who should be paid ESA. There was a high degree of correspondence between an individual meeting the WCA point's threshold for being considered as limited capability for work (15 points) and expert panel opinion on this issue. In addition, the EBR provided evidence on how the WCA scoring approach works which, as Dr Litchfield notes, is as a threshold assessment not a graded indicator of the degree of impairment or health problem. This is demonstrated by the distribution of assessment scores, particularly the proportions scoring zero points despite all having some type of health condition or disability.
9. The alternative assessment approach aimed to provide more detailed outputs on fluctuation in impairments or health conditions. Like the WCA, the alternative assessment was structured under number of activity headings which relate to different aspects of everyday functioning. Under each activity heading there were descriptors which indicate the level of functioning in that area.
10. The alternative assessment approach was different from the WCA, in that it allowed more than one descriptor to be selected for each activity and required an indication of the frequency of problems with an activity. The EBR findings suggest that this focus on gathering detail about fluctuation was largely achieved and that the alternative assessment was able to pick up difficulties with particular activities, even if they were relatively infrequent or moderate and would not be considered to affect work capability in themselves.

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<sup>2</sup> Department for Work and Pensions, 2013, Evidence Based Review of the Work Capability Assessment: a study of assessment for Employment and Support Allowance. Available at: <https://www.gov.uk/government/publications/work-capability-assessment-evidence-based-review>

11. There were, however, some challenges with assessing certain activities mostly due to issues with conflicting evidence or difficulties with assessing fluctuation. Healthcare professionals were more likely to report difficulty with applying some activities and were more likely to indicate difficulty with choosing a descriptor for certain activities, such as Mobilising. This suggests variation in the way in which activities were assessed which, as the study report notes, could present issues of equity across different claimant groups.
12. The study also shed light on experiences of assessment discussions. A semi-structured interview topic guide was developed by expert researchers for the purpose of the study to be used during face-to-face assessments for the alternative assessment. A semi-structured interview is a discussion with a purpose that is guided by a series of prompts. Both claimants and healthcare professionals involved in the study generally liked the semi-structured interview approach. This may have been partly because the assessment discussions were part of a study but nonetheless indicates potential value in this approach.

### **What we will do now**

13. Dr Litchfield's view was that any further changes to the process as a result of the EBR should be considered in the light of their overall impact on the effectiveness of the WCA in identifying those who should be paid ESA. We agree with him and therefore have accepted this recommendation.
14. Our assessment is that there is no evidence that changes to the WCA descriptors would significantly improve the overall assessment. However, the findings we have summarised indicate where it might be possible to make practical improvements to the assessment process.
15. Interview prompts could help to improve experiences of the face-to-face assessment by promoting purposeful, open discussions. We will build on the experience of using a semi-structured interview topic guide during the EBR and examine the possibility of healthcare professionals carrying out face-to-face assessments using prompts from a topic guide in WCA discussions with claimants generally.
16. The EBR findings on how the alternative assessment worked suggested a considerable degree of variability in participants' ability to carry out certain activities. Despite the focus on making very detailed records of fluctuation there were still difficulties with assessing fluctuation in the rather more complex alternative assessment approach. In light of these findings, we will explore the scope to further improve our healthcare professional training and guidance on considering fluctuation during assessment discussions without placing undue burden on claimants.

17. We note Dr Litchfield’s views about the unwarranted attention given to WCA scores given the design of the assessment. The EBR findings indicate that the WCA works as a threshold assessment not a graded indicator of the degree of impairment or health problem. The Department will review how it explains assessment scores when communicating decisions to claimants, subject to further work to establish how best to implement Dr Litchfield’s recommendation about a comprehensive review of all letters and forms used in the ESA process (see Chapter Four). Any changes to approach will need to maintain the transparency of the process used to arrive at decisions.

18. The following table summarises the Government’s response to the two recommendations that Dr Litchfield made about improving the effectiveness of the WCA.

| Effectiveness of the WCA |   |
|--------------------------|---|
| List of Recommendations  | Government’s response   |
| 6                        | <p>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.</p> <p><b>Accepted subject to the outcome of feasibility work that will also address recommendation 13.</b></p> <p>DWP will review how it explains scores when communicating decisions to claimants. This will involve examination of the intended behavioural effects of any potential changes as well as our obligation to make transparent decisions.</p>  |
| 7                        | <p>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.</p> <p><b>Accepted.</b></p> <p>DWP will explore practical improvements to the assessment process in light of the EBR findings, in particular the feasibility of healthcare professionals using prompts from a semi-structured topic guide for WCA discussions.</p> <p>DWP will also explore the scope to further review healthcare professional training and guidance on considering and recording fluctuation during assessment discussions without placing undue burden on claimants.</p> <p>On the whole, the EBR results do not suggest that changes to the descriptors would improve the effectiveness of the WCA.</p> |



## **Chapter Four – Changing perceptions of the assessment**

1. The Government recognises Dr Litchfield’s observations about the importance of public perceptions of the Work Capability Assessment (WCA) for how well the process works overall. It is important that as well as delivering the right outcomes the assessment is perceived to be fair and claimants can understand how decisions have been reached about their claim, particularly claimants who have impaired or limited communication or cognitive ability.
2. A range of measures that we have introduced demonstrate our commitment to ensuring a fair process for claimants. For example, we have made changes to the ESA50 form to allow claimants to explain in their own words how their condition affects them. We have introduced a Decision Assurance Call to claimants who are likely to be found fit for work to allow them to provide further information in support of their claim before the final decision is taken. We also introduced the Decision Maker’s Reasoning to help explain to claimants why they have not been found eligible for Employment and Support Allowance (ESA). With this context in mind, the Government supports Dr Litchfield’s finding that decision making must be fully reasoned and clearly explained.

### **The face-to-face assessment**

3. Claiming a benefit because of a health condition or disability can be difficult for many people. While we continue work to ensure that the process is compassionate and treats people with respect, Dr Litchfield’s view was that some practices in the current approach to face-to-face assessment could negatively affect rapport between claimants and healthcare professionals, and consequently perceptions of the process.
4. One particular issue highlighted by Dr Litchfield is healthcare professionals’ apparent use of responses to indirect questions to provide evidence of capability. It is paramount that assessment reports are an accurate reflection of the issues explored during discussions. Chapter Three outlined the Government’s response to the Evidence Based Review and how, in light of its findings, we will explore the feasibility of healthcare professionals using prompts from a semi-structured topic guide for WCA discussions. We have therefore accepted Dr Litchfield’s recommendation about avoiding inferences from indirect questioning as part of this work.

5. We share Dr Litchfield's view that the seating arrangement in assessment rooms can influence rapport between the healthcare professional and the individual being assessed. We have accepted this recommendation in principle and will review how seating arrangements can best be utilised to put claimants at ease during face-to-face assessments.
6. Similarly, the Government recognises the vital role that companions can play in providing support to the individual being assessed or helping them to communicate how their health condition or disability affects them. The information sent to individuals before their assessment informs them that they may bring a companion with them, and in cases involving individuals with learning disabilities the presence of companions may be essential to establish fully the individual's functional capabilities. While we have a clear policy position on companions at assessments, and provide express guidance for healthcare professionals on companions for people with learning disabilities, we accept Dr Litchfield's finding that improvements could be made to in this area. We will review our communications and guidance around companions at assessments to ensure clarity of the policy and consistency of practice. We will make this information available in accessible formats where necessary.

### **Roles and responsibilities in the WCA process**

7. The Government believes that the increased focus on the WCA over the course of the independent review process means that there is now a clearer delineation between the expert advisory role of healthcare professionals and the role that DWP Decision Makers play. We also recognise that more can be done to help people understand the respective roles of healthcare professionals and Decision Makers. As such, we welcome Dr Litchfield's recommendation on this issue.
8. Atos Healthcare already has a customer charter which clearly explains the role of healthcare professionals and is available in all assessment centres. We will also review training for healthcare professionals and Decision Makers to ensure both groups are able to communicate the distinction between the roles with consistent and clear messages. Further, we will ensure that these messages are in turn communicated to stakeholders with an interest in the WCA where appropriate.
9. Several of Dr Litchfield's observations concern improvements that might be made to help people to understand fully their position at each stage of the WCA process, including their rights and responsibilities. Considerable time and effort has been spent improving the clarity of communications with claimants and the Government believe that progress has been made in this area, for example with considerable improvement to the ESA50 form. The Government accepts that more may be done

and welcomes and has accepted Dr Litchfield's recommendation for a comprehensive review of all letters and forms used in the WCA process.

10. The following table summarises the Government's response to the eight recommendations that Dr Litchfield made about improving perceptions of the assessment.

| <b>Perceptions of the assessment</b> |  |   |
|--------------------------------------|--|---|
| <b>List of Recommendations</b>       | <b>Government's response</b>   |   |
| 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><b>Accepted in principle.</b></p> <p>DWP agrees that building a better rapport between the healthcare professional and person being assessed will help to improve the perception of the WCA.</p> <p>We will work with our health assessment provider to ensure that seating arrangements used during assessments aim to put the individual at ease.</p>  |
| 9                                    | <p>The assessor should avoid reporting inferences from indirect questioning as factual statements of capability.</p>                                       | <p><b>Accepted as part of work to examine the possibility of a semi-structured interview approach to assessment discussions to address recommendation 7.</b></p> <p>DWP will work with its health assessment provider to examine how further improvements might be made to ensure best practice in healthcare professionals conduct and write-up of discussions. A consideration of the feasibility of using semi-structured interview prompts will be a key part of this work.</p> |
| 10                                   | <p>The guidance on companions should be made clearer and applied consistently.</p>   | <p><b>Accepted.</b></p> <p>DWP will work with its health assessment provider to review communications and guidance around companions at assessments to ensure clarity of the policy and consistency of practice.</p>  |
| 11                                   | <p>The person being assessed should be able to see what is being written during the assessment.</p>  | <p><b>Accepted in principle.</b></p> <p>DWP believes it is paramount that assessment reports are an accurate reflection of the issues explored during discussions.</p> <p>We will work with our health assessment provider to ensure that seating arrangements used during assessments are appropriate and engender trust in the process.</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</p>      | <p><b>Accepted.</b></p> <p>Atos Healthcare already has a customer charter which clearly explains the role of healthcare professionals and is available in all assessment</p>  |

|    |  |   |
|----|--|---|
|    | <p>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>centres.</p> <p>DWP will work with its health assessment provider to ensure that both healthcare professionals and Decision Makers are able to communicate the distinction between the two roles with consistent and clear messages, and ensure that these messages are in turn communicated to stakeholders with an interest in the WCA where appropriate.</p> <p>We will also review training and guidance to ensure that distress is appropriately recognised when the WCA process does not work as intended.</p> |
| 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"> <li>• all letters and forms meet Plain English standards.</li> <li>• information is presented at the right point in the process.</li> <li>• the person making a claim is clear about their rights and responsibilities at each stage of the process.</li> <li>• 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</li> </ul> | <p><b>Accepted.</b></p> <p>We currently review the ESA50 twice a year and our letters are written in an easy to understand way.</p> <p>However we will review our existing forms and letters to try and understand what changes we can make to make them accessible and to ensure that the person making the claim understands the information. We will undertake this review using Behavioural Insight techniques.</p>   |
| 14 | <p>Apply any Tribunal recommendations on review periods as the default and should only be altered where there is strong justification.</p>   | <p><b>Accepted in principle subject to the review of the policy.</b></p> <p>DWP will review the current policy and amend guidance and training where appropriate to ensure clarity and consistency of review periods in line with the Her Majesty's Courts and Tribunals Service recommendations.</p>   |
| 15 | <p>Consider minimum period (e.g. 6 months) between successful appeal and recall notice.</p>  | <p><b>Accepted.</b></p> <p>DWP will consider the most appropriate minimum period between successful appeal and the recall notice.</p> <p>Once policy considerations have concluded we will amend, if appropriate, DM guidance to ensure clarity of policy and consistency of practice.</p>  |

## Chapter Five – Strengthening Decision Making

1. Since the first independent review of the Work Capability Assessment (WCA) by Professor Harrington, the role of the DWP Decision Maker has been a recurring theme of each of the independent reviews. Dr Litchfield’s review reemphasised the significant role Decision Makers play in the WCA process and made further recommendations about their role.
2. Whilst DWP has already implemented a significant number of changes to the role and scope of the Decision Maker, particularly in relation to concerns that they were “rubber stamping” Atos recommendations following the first Harrington review, we recognise that further changes and clarification could be made to strengthen further their important role in the WCA process. With this crucial role in mind, the Government welcomes Dr Litchfield’s focus on this area.
3. Dr Litchfield identified a number of areas for improvement in relation to the Decision Maker’s role, with the overall message being that the current role design is sub-optimal. The broad themes identified were:
  - “Empowerment” of Decision Makers, particularly whether some have misunderstood what is meant by the term;
  - Whether the grade mix is right, or whether it needs to be reengineered to ensure more senior Decision Makers are making decisions in “complex” cases;
  - Building better working relationships between Decision Makers and healthcare professionals to ensure that cases can be progressed quickly, through verbal clarification where possible; and
  - Continuous improvement and the need to build in feedback loops on an individual basis between the DWP and Her Majesty’s Courts and Tribunals Service.

### **Decision Maker empowerment**

4. Dr Litchfield raises the point that although Decision Makers appear to feel more empowered as a result of previous reviews, with a higher percentage of health assessment provider recommendations being “overruled”, he draws the conclusion that some may not be clear about their parameters.
5. DWP already has training products in place for Decision Makers, all of which are regularly reviewed; the Quality Assessment Framework (QAF) was recently reviewed and is subject to periodic review; and there is specific training in place for Decision Makers on giving the appropriate weight to additional evidence provided by claimants.

6. However, the Government accepts that further work can be done to clarify parameters and review existing processes. As such we will consider whether Decision Makers are utilising adequately the re-work options available to them. In addition, we will also review our communications to Decision Makers and revisit our learning and development to ensure that parameters are clearly understood by Decision Makers.

### **Reengineering the grade mix**

7. Dr Litchfield also considered whether the right Decision Makers are completing the most appropriate parts of the decision making process for their skills, experience and grade. Currently two grades of Decision Makers can determine eligibility for ESA, with Dr Litchfield questioning whether claims placed in the Work Related Activity Group or the Support Group should be treated as “non-complex” in decision making terms given that a less rigorous degree of scrutiny is given to the evidence provided.
8. In addition, Dr Litchfield also questions the way in which those who are found fit for work are treated as “complex”, with the Decision Maker scrutinising all of the evidence available to them. Dr Litchfield goes on to recommend that the Government should reengineer 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 decisions where the recommendation from the health assessment provider suggests that the claim is straightforward.
9. The Government accepts this recommendation subject to further feasibility work to determine our response to Dr Litchfield’s recommendations about triage and collocation of healthcare professionals and Decision Makers (see Chapter Six). DWP recognises that there may be value in reviewing how work is allocated between different grades and the types of cases they are required to make decisions on. However, further work is needed to inform fully if and how to proceed with this recommendation given the interdependencies with other recommendations.

### **Relationships between Decision Makers and healthcare professionals**

10. Dr Litchfield also recommended that a better relationship between healthcare professionals and Decision Makers should be built in order to help Decision Makers see the healthcare professional as someone they can trust and rely on. This recommendation is closely linked with his suggestion that Decision Makers should be collocated with the healthcare professional undertaking the face-to-face assessment and should see the person making the claim jointly or separately.

11. The Government has accepted this recommendation: better communications between healthcare professionals and Decision Makers will enable clarification of any issues quickly and help to provide claimants with a smoother more joined up experience of the WCA process. Decision Makers are already able to and are encouraged to contact healthcare professionals through existing help lines and DWP will work with its health assessment providers to further engender team work as recommended by Dr Litchfield.

### **Continuous Improvement**

12. Dr Litchfield also considered whether missed opportunities for learning compromised continuous improvement throughout the system, with reasons for successful appeals not being communicated to the Decision Maker who made the decision. In addition, he suggests the lack of a feedback loop is a failing that affects not only those cases where claimants appeal but also cases where a Decision Maker overturns the recommendation of a healthcare professional.
13. The Government accepts Dr Litchfield's recommendation to monitor overturn rates on an individual Decision Maker basis subject to further work. DWP, Her Majesty's Courts and Tribunals Service and the Tribunal's judiciary have worked closely together on an initiative which started in June 2012 at four Tribunal venues, with the judges providing a written summary on the decision notice of their reason(s) for either changing or upholding an appeal against an ESA decision. Working with the Tribunal's judiciary, Her Majesty's Courts and Tribunals Service plans to roll-out the provision of summary of reasons for decisions made about ESA appeals across the larger Tribunal centres from April 2014.
14. The summary reasons initiative has proved a rich source of information, identifying areas to reflect on for potential further improvement as part of the future, wider implementation. We will continue to use the information we receive to help further improve our understanding of why decisions are upheld or overturned and address this accordingly. We also hope that summary reasons will prove helpful for claimants in understanding why an appeal has been allowed or dismissed.
15. DWP are also introducing a toolkit, Quality Every Single Time (Quest), to facilitate the giving of feedback across the organisation, which includes providing feedback from the Tribunal findings to the Decision Maker who completed the mandatory reconsideration/appeals paperwork. In addition, this information will also be shared with the individual's line manager to help assess if there are any lessons to be learnt.

16. In addition, DWP has also introduced a Quality Assurance Framework for both the mandatory reconsideration and the appeal submission, findings from which will be used to help improve work at both individual and departmental level.

17. The following table summarises the Government's response to Dr Litchfield's nine recommendations about further improving decision making.

| <b>Decision Making</b> |   |  |
|------------------------|---|--|
|                        | <b>List of Recommendations</b>  | <b>Government's response</b>   |
| 16                     | Give greater clarity about the role and parameters of Decision Makers with a particular focus on the meaning of "empowerment"   | <p><b>Accepted.</b></p> <p>DWP is committed to ensuring Decision Makers are clear about the parameters of their role and are able to effectively use the current rework processes in place.</p> <p>All training and products in place for Decision Makers are regularly reviewed, including communications, and there is specific training in place for Decision Makers on giving the appropriate weight to additional evidence provided by claimants.</p> <p>DWP will continue to review the Quality Assurance Framework alongside its Learning and Development products for Decision Makers.</p> |
| 17                     | 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><b>Accepted subject to scoping work on monitoring of specific quality outcomes.</b></p> <p>The content of the Quality Assurance Framework is currently reviewed on a regular basis as part of the Department's continuous improvement processes.</p> <p>DWP recognises that this is a sensible suggestion and will undertake work on how best to monitor different aspects of quality.</p>  |
| 18                     | 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><b>Accepted.</b></p> <p>Decision Makers are currently able to and encouraged to contact healthcare professionals through existing help lines. DWP recognises that further consideration of this area could improve the experience of the claimant and will work with its health assessment provider to strengthen existing work between Decision Makers and healthcare professionals.</p>   |
| 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.  | <p><b>Accepted.</b></p> <p>DWP has done a considerable amount of work to improve training for Decision Makers, with a specific module on critical evaluation of evidence available. The content of existing training material is regularly reviewed to improve any weaknesses</p>  |



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|    |  | <p>identified through the Quality Assurance Framework process.</p> <p>DWP keeps processes for collecting further medical evidence during the WCA process under constant review. Any changes introduced will be accompanied by relevant training for Decision Makers.</p>  |
| 20 | <p>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</p>              | <p><b>Accepted subject to further feasibility work and future decisions on recommendations 26 and 27.</b></p> <p>DWP recognises that there may be value in reviewing how work is allocated between different grades and the types of cases they are required to make decisions against.</p> <p>DWP will consider the feasibility of re-engineering the grade mix of Decision Makers and the types of cases.</p> <p>Any decision on whether to accept this recommendation in its entirety will only be made once this feasibility work, and work to consider recommendations 26 and 27, is completed.</p>  |
| 21 | <p>Ensure the provider batches cases into point bands when they send to the Department to save the department admin / processing time</p>  | <p><b>Accepted subject to further feasibility work and future decisions on recommendations 26 and 27.</b></p> <p>DWP will assess the feasibility of implementing this recommendation and examine whether batching cases would achieve efficiencies.</p> <p>A decision on whether to accept this recommendation in its entirety will only be made once this is completed.</p>  |
| 22 | <p>Review the place of the Decision Assurance Calls and apply them only in “borderline” cases handled by Band C Decision Makers who should be up-skilled to make the intervention more effective</p> | <p><b>Not accepted.</b></p> <p>This recommendation does not align with DWP’s strategic direction for the Decision Assurance Call which is to maximise the number of successful claimant contacts. This will provide the claimant with additional opportunity to provide further evidence, discuss the proposed decision and manage a smoother transition to alternative benefits (where applicable).</p> <p>DWP will trial a new process to the way in which Decisions Assurance Calls are made to ESA claimants. Early indications are that results have been promising: we therefore intend to formalise this initial start and consider alternative solutions, including introducing text messages prior to making the call in order to encourage claimants to answer their phone.</p> |
| 23 | <p>Review the guidance on the preparation of Reasoning and audit completed</p>   | <p><b>Accepted.</b></p>   |

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|    | documents on a regular basis to further improve quality   | As part of quarterly QAF reviews, reasoning is examined to ensure that it is robust. Where necessary, the findings are used to change guidance for Decision Makers.  |
| 24 | Monitor overturn rates on an individual basis. Investigate exceptionally high and low rates as part of performance management | <p><b>Accepted subject to further feasibility work</b></p> <p>DWP will consider the feasibility of implementing this recommendation.</p> <p>HM Courts and Tribunals Service (HMCTS), working closely with the Tribunal's judiciary and the DWP, introduced on a 'controlled start' basis the provision of Summary Reasons in appeals against ESA decisions. The Summary Reasons take the form of written text which is incorporated into the Decision Notice issued by the Tribunal, which is provided to both the appellant and DWP. A wider roll-out of the provision of summary reasons for decisions made by the Tribunal is planned for the first half of 2014.</p> <p>Any decision on whether to accept this recommendation in its entirety will only be made once this feasibility work is completed.</p> |

## **Chapter Six – Simplifying the assessment process**

1. Dr Litchfield asserts that the Work Capability Assessment (WCA) process is too lengthy and overly complex, and notes the negative impact that this can have on claimants. He therefore made a number of recommendations to speed up the process, reduce the number of hand-offs and thus make efficiency savings.
2. The increase in the time between making a claim for Employment and Support Allowance (ESA) and getting a final decision on eligibility has grown in duration in recent years, as Dr Litchfield notes. This may be down to a number of factors, including the increase in numbers of ESA claimants and the reassessment of individuals previously claiming old-style incapacity benefits.
3. The Government accepts that the WCA process is currently taking too long, adding to a perception of unfairness within the assessment. We agree that expediting the WCA process will reduce the uncertainty faced by claimants, improve outcomes for those found not to be eligible for ESA and will reduce the consequent burden on taxpayers for those that remain in the assessment phase for an unnecessarily long time.
4. Dr Litchfield made recommendations in three areas intended to simplify and speed up the WCA process: better initial evidence; Decision Maker triage; and collocation of DWP Decision Makers and healthcare professionals.

### **Better initial evidence**

5. In deciding when and how to collect evidence in support of an ESA claim it is important for DWP to balance a number of competing priorities, including the value further evidence will add to the claim process and the many and varied competing demands on GPs' time.
6. The Government agrees with Dr Litchfield that requesting evidence, where appropriate, in the WCA process could reduce the burden placed on GPs, particularly if this can help avoid a situation where GPs are only be asked for further evidence in support of an appeal. The combination of information requested by the health assessment provider (on behalf of DWP) and information submitted by claimants in support of their own claim already means that Decision Makers have further evidence available in many claims. However, Dr Litchfield saw an opportunity

to build on current processes by both improving the form used to request supporting evidence from GPs (the ESA113) and making this form electronic.

7. This is an area DWP has been examining for some time and as a result have already begun work with the BMA and other stakeholders to improve the initial evidence gather in support of a claimant's application for ESA. The Department therefore accepts Dr Litchfield's recommendation and commits to continuing work on improving the ESA113 to improve the initial gathering of evidence.

### **Decision Maker Triage**

8. Dr Litchfield recommended a radical redesign of the WCA process to reduce the number of hand-offs and reduce the time taken for a claim to be processed. This included:
  - DWP sending claimants the ESA50 form instead of the health assessment provider;
  - Decision Makers deciding if additional supporting evidence would be useful and whether it should be requested; and
  - If suitable, a Decision Maker deciding on a claim (both eligible and ineligible for ESA) without a face-to-face assessment if they had enough evidence.
9. The Government has accepted Dr Litchfield's recommendation to carry out a full impact assessment on the alternative process outlined in the review. This is a sensible suggestion given his observation that face-to-face assessments are the major contributing factor to delays in the WCA process and minimising unnecessary appointments would have a significant impact on the process. However the Department will need to be sure to explore the range of impacts and possible unintended consequences that may result from adjusting the process in this way.

### **Collocation of DWP Decision Makers and healthcare professionals**

10. Dr Litchfield identified that Decision Makers and healthcare professionals have little direct contact and Decision Makers further suffer from being perceived as "faceless", making decisions without the benefit of seeing claimants themselves.
11. He therefore recommended collocating these two elements of the assessment process to speed up decision making and granting Decision Makers the benefit of seeing the individual making the ESA claim. As well as this, he asserts that communication between the two key groups of individuals carrying out the end-to-end assessment process would be improved.

12. There are several issues which will need to be further investigated by DWP in this regard. Whether such collocation would be feasible and what impacts this would have on outcomes for claimants will need to be carefully considered. For instance, Decision Makers are not trained in disability benefit analysis as healthcare professionals are, nor do they have the extensive medical knowledge of those undertaking the face-to-face assessments. There may also be ethical considerations of a non-healthcare professional sitting in on the assessment, which healthcare professional's professional bodies would need to be consulted about. The appropriateness of this recommendation will therefore need to be carefully examined.
13. The Government has therefore accepted the recommendation that DWP should carry out a full impact assessment on the feasibility of a DWP Decision Maker being collocated with the healthcare professional undertaking any face-to-face assessment and either seeing the person making a claim jointly or separately.
14. The following table summarises the Government's response to the three recommendations that Dr Litchfield made about simplifying the end-to-end WCA process.

| <b>Simplifying the process</b>  |   |
|---|---|
| <b>List of Recommendations</b>  | <b>Government's response</b>  |
| <p>25</p> <p><b>Immediately, the Reviewer recommends that:</b></p> <p>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.</p>  | <p><b>Accepted.</b></p> <p>The Government accepts the Reviewer's recommendation in full and will continue to work with the BMA to further investigate ways of improving the way in which supporting evidence is collected during the WCA process.</p> |
| <p>26</p> <p><b>In the medium term, the Reviewer recommends that:</b></p> <p>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"> <li>• DWP, rather than the HAP, issues the ESA50 and reviews the response with any supporting evidence supplied;</li> <li>• 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</li> </ul> | <p><b>Accepted.</b></p> <p>DWP will carry out the recommended impact assessment to inform decisions about if and how triage of cases by Decision Makers might be implemented.</p>   |

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|    | <p>assessment or other means;</p> <ul style="list-style-type: none"> <li>• 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.</li> </ul> |   |
| 27 | <p><b>In the longer term the Reviewer recommends that:</b></p> <p>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><b>Accepted.</b></p> <p>DWP will carry out the recommended impact assessment before making a decision about whether and how collocation of Decision Makers and healthcare professionals might be achieved.</p> |

## Chapter Seven – Improving the assessment of mental function

1. Successive independent reviews have noted the challenges in accurately assessing claimants with mental function conditions. These challenges have also been noted by representative groups and people involved in all aspects of the WCA end-to-end process, including claimants themselves. The Department recognises that navigating the WCA process can be challenging for people with mental health problems, and is determined to further improve the system.
2. The Department has already implemented a number of changes to the WCA process to improve the way that claimants with mental function conditions are assessed. In addition to this, the Evidence Based Review of the WCA descriptors provided a unique opportunity to test the descriptors used to assess claimants with mental, intellectual and cognitive conditions. The results of the Evidence Based Review, and what the Government will do in response to the findings, are discussed in more detail in Chapter Three.
3. The Government welcomes Dr Litchfield's focus on mental function in his review. As he notes, a significant proportion of claimants have a mental function condition – either as their primary condition in the claim, or in addition to this – whilst the hidden nature of mental function conditions can add to the challenges of assessing capability for work.
4. Dr Litchfield also notes the very wide spectrum of mental function conditions. This applies both to diagnoses and their impact on functional capability. The Government welcomes this observation: the evidence is clear that a range of people with mental function conditions do work; that diagnosis alone is not a barrier to employment; and that self-efficacy and support can be very important in helping people find employment.

### Further evidence

5. Dr Litchfield explored the use of further evidence in his review. The Government welcomes his view that further evidence should not be sought by DWP in support of every mental function claim: this would be disproportionate and place an undue burden on GPs and the health system. We welcome his recommendation about redesigning the ESA50 to make the value of further evidence clearer and to emphasise that this can be supplied by a range of people who know the claimant: we have accepted this recommendation and a new ESA50 will be introduced in October as part of the six monthly review cycle. As with all reviews of the ESA50,

where appropriate we will work with representative groups to finalise the wording of the form.

6. It is worth noting that DWP keep their processes for seeking further evidence under constant review. Ongoing work with the BMA to redesign the ESA113 and to make it electronic has been discussed in Chapter Six. A recommendation about collection of further evidence in Professor Harrington's third independent review of the WCA has, unfortunately, been delayed due to ongoing legal action against the Government. DWP remain committed to keeping their processes for collecting further evidence under constant review – and will improve these processes where possible. It remains important to retain a balance between the added value of further evidence in any claim for ESA and the demands on the time of GPs and other healthcare professionals: this must be the Department's priority in any new process.

### **Experience of healthcare professionals**

7. Dr Litchfield has also commented on the experience of healthcare professionals carrying out face-to-face assessments as part of the WCA process, and the training and development available to these healthcare professionals and DWP Decision Makers.
8. Atos training and guidance materials are regularly reviewed by external experts – the Royal College of Psychiatrists have been involved in a process of quality assurance of these products, with the vast majority of their comments and recommendations for change being accepted. There is already a dedicated training package for DWP Decision Makers, including the handling of difficult or distressing conversations.
9. Dr Litchfield recommended that Government strengthen the requirements for healthcare professionals conducting WCAs to have suitable and sufficient experience of dealing with people with mental function conditions. All healthcare professionals undertake mental health training as part of their induction, have specific requirements for Continuing Professional Development around mental health and have access to Mental Function Champions. The concept of 'suitable and sufficient experience' is open to interpretation and debate. The Government believes the above measures mean we have good processes in place, but will undertake further work to understand whether it should accept or reject the principles underpinning this recommendation. As such, any decision on this is deferred until this work is completed.



| Mental health |   |  |
|---------------|---|--|
|               | List of Recommendations   | Government's response  |
| 28            | 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><b>Decision deferred until completion of further work to understand whether DWP would accept or reject the principles underpinning this recommendation.</b></p> <p>All healthcare professionals receive training and Continuing Professional Development in mental health.</p> <p>Further work is needed to understand exactly what Dr Litchfield means by 'suitable and sufficient' and how we would respond to his interpretation of this.</p>  |
| 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><b>Accepted subject to the outcome of further scoping work on the overall effects of changing current approvals and training approach.</b></p> <p>All training for healthcare professionals is reviewed on a regular basis, including modules related to mental health. External clinical experts have, and will continue to be, involved in this review process to ensure that materials are clinically sound and based on the latest available evidence.</p> <p>DWP's focus is on ensuring appropriate standards are maintained through regular auditing of performance across the contract, including on performance around mental health cases.</p> |
| 30            | 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><b>Accepted.</b></p> <p>DWP has a range of learning products and guidance for DMs with clear focus on vulnerable customers, as well as Decision Maker training to facilitate conversations and deal with difficult or distressing conversations.</p> <p>Nonetheless the Department recognises that a review of this package of training might suggest ways to further build Decision Maker capability to deal with distressed people or those who may be at risk of self-harm.</p>  |
| 31            | 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><b>Accepted.</b></p> <p>DWP currently review the ESA50 twice a year – we will incorporate these changes as part of the review which will be completed in October 2014. As with all changes to the ESA50, where appropriate we will work with representative groups to agree this new wording.</p> <p>DWP is also reviewing the contents of the letter sent with the ESA50 – the ESA51 – to ensure this information is contained in the letter.</p>  |
| 32            | Consideration is given to a new reassessment period extending to five   | <b>Accept subject to the outcome of further</b>  |

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|  | 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. | <b>scoping work.</b><br>DWP will ask Dr Litchfield to examine the Support Group criteria as part of the fifth independent review and consider what specific criteria might be applied to address this recommendation. |
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## Annex A – Government’s response to the year four recommendations

| List of Recommendations  |  | Government’s response  |
|--|--|--|
| <b>Implementation of the year one to three recommendations</b> |  |  |
| 1  | Sharing information from the WCA on capability for work with Work Programme Providers should be addressed as a priority  | <p><b>Accepted subject to the outcome of further work on feasibility.</b></p> <p>DWP is currently investigating how information from the WCA might be shared with Work Programme providers.</p> <p>The findings from the detailed feasibility work undertaken will help to inform future decisions on how or if to proceed with recommendation.</p>  |
| 2  | The Evidence Based Review and the actions taken by the Department as a result of its findings should be evaluated as part of the Year 5 Independent Review   | <p><b>Accepted.</b></p> <p>The findings of the Evidence Based Review were published on 12 December 2013 and can be accessed through the following link - <a href="https://www.gov.uk/government/publications/work-capability-assessment-evidence-based-review">https://www.gov.uk/government/publications/work-capability-assessment-evidence-based-review</a></p> <p>The findings indicate that overall, the WCA is a valid assessment relative to expert opinion about people’s fitness for work.</p> <p>The findings and implication of the Evidence Based Review are discussed in Chapter Three.</p> |
| 3  | The Department should build on the improvements for the people with cancer by amending page 20 of the ESA50 to make it clear that Clinical Nurse Specialists and consultant may also complete that section of the form   | <p><b>Accepted and will be implemented in spring 2014.</b></p> <p>DWP will make the recommended change as part of the updated ESA50 which will go live in spring 2014.</p>   |
| 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 | <p><b>Accepted.</b></p> <p>DWP will assess whether there should be a pilot of any measures intended to change the WCA. With contributions from appropriate analytical experts, the most appropriate design, implementation and evaluation of any pilots will be considered to ensure robust findings.</p>  |
| 5  | Ensure that proposed adjustments to accepted recommendations are fully considered in advance by both policy officials and operational staff so that the intent and practical considerations are harmonised   | <p><b>Accepted.</b></p> <p>DWP will build on its existing practice of joint working between Operational and Policy staff to further strengthen our capacity to identify the implications of any recommendations and design appropriate changes or measures in response to them.</p>  |

| <b>Effectiveness of the WCA</b>      |  |   |
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| 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.   | <p><b>Accepted subject to the outcome of feasibility work that will also address recommendation 13.</b></p> <p>DWP will review how it explains scores when communicating decisions to claimants. This will involve examination of the intended behavioural effects of any potential changes as well as our obligation to make transparent decisions.</p>  |
| 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. | <p><b>Accepted.</b></p> <p>DWP will explore practical improvements to the assessment process in light of the EBR findings, in particular the feasibility of healthcare professionals using prompts from a semi-structured topic guide for WCA discussions.</p> <p>DWP will also explore the scope to further review healthcare professional training and guidance on considering and recording fluctuation during assessment discussions without placing undue burden on claimants.</p> <p>On the whole, the EBR results do not suggest that changes to the descriptors would improve the effectiveness of the WCA.</p> |
| <b>Perceptions of the assessment</b> |  |   |
| 8                                    | The Department should specify an assessment format that facilitates better rapport, such as the HCP and person being assessed sitting side by side.  | <p><b>Accepted in principle.</b></p> <p>DWP agrees that building a better rapport between the healthcare professional and person being assessed will help to improve the perception of the WCA.</p> <p>We will work with our health assessment provider to ensure that seating arrangements used during assessments aim to put the individual at ease.</p>  |
| 9                                    | The assessor should avoid reporting inferences from indirect questioning as factual statements of capability.  | <p><b>Accepted as part of work to examine the possibility of a semi-structured interview approach to assessment discussions to address recommendation 7.</b></p> <p>DWP will work with its health assessment provider to examine how further improvements might be made to ensure best practice in healthcare professionals conduct and write-up of discussions. A consideration of the feasibility of using semi-structured interview prompts will be a key part of this work.</p>   |
| 10                                   | The guidance on companions should be made clearer and applied consistently.  | <p><b>Accepted.</b></p> <p>DWP will work with its health assessment provider to review communications and guidance around companions at assessments to ensure clarity of the policy and consistency of practice.</p>  |

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| 11 | <p>The person being assessed should be able to see what is being written during the assessment.</p>   | <p><b>Accepted in principle.</b></p> <p>DWP believes it is paramount that assessment reports are an accurate reflection of the issues explored during discussions.</p> <p>We will work with our health assessment provider to ensure that seating arrangements used during assessments are appropriate and engender trust in the process.</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><b>Accepted.</b></p> <p>Atos Healthcare already has a customer charter which clearly explains the role of healthcare professionals and is available in all assessment centres.</p> <p>DWP will work with its health assessment provider to ensure that both healthcare professionals and Decision Makers are able to communicate the distinction between the two roles with consistent and clear messages, and ensure that these messages are in turn communicated to stakeholders with an interest in the WCA where appropriate.</p> <p>We will also review training and guidance to ensure that distress is appropriately recognised when the WCA process does not work as intended.</p> |
| 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"> <li>• all letters and forms meet Plain English standards.</li> <li>• information is presented at the right point in the process.</li> <li>• the person making a claim is clear about their rights and responsibilities at each stage of the process.</li> <li>• decision letters set out clearly what the outcome means for the person concerned ideally in the opening section: the period that will elapse before the receive the benefit; what they will need to do to continue to receive the benefit; and what they will not need to do</li> </ul> | <p><b>Accepted.</b></p> <p>We currently review the ESA50 twice a year and our letters are written in an easy to understand way.</p> <p>However we will review our existing forms and letters to try and understand what changes we can make. We will undertake this review using Behavioural Insight techniques.</p>  |
| 14 | <p>Apply any Tribunal recommendations on review periods as the default and should only be altered where there is strong justification.</p>  | <p><b>Accepted in principle subject to the review of the policy.</b></p> <p>DWP will review the current policy and amend guidance and training where appropriate to ensure clarity and consistency of review periods in line with the Her Majesty's Courts and Tribunals Service recommendations.</p>   |

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| 15                     | Consider minimum period (e.g. 6 months) between successful appeal and recall notice.  | <p><b>Accepted.</b></p> <p>DWP will consider the most appropriate minimum period between successful appeal and the recall notice.</p> <p>Once policy considerations have concluded we will amend, if appropriate, DM guidance to ensure clarity of policy and consistency of practice.</p>   |
| <b>Decision Making</b> |   |  |
| 16                     | Give greater clarity about the role and parameters of Decision Makers with a particular focus on the meaning of “empowerment”   | <p><b>Accepted.</b></p> <p>DWP is committed to ensuring Decision Makers are clear about the parameters of their role and are able to effectively use the current rework processes in place.</p> <p>All training and products in place for Decision Makers are regularly reviewed, including communications, and there is specific training in place for Decision Makers on giving the appropriate weight to additional evidence provided by claimants.</p> <p>DWP will continue to review the Quality Assurance Framework alongside its Learning and Development products for Decision Makers.</p> |
| 17                     | 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><b>Accepted subject to scoping work on monitoring of specific quality outcomes.</b></p> <p>The content of the Quality Assurance Framework is currently reviewed on a regular basis as part of the Department’s continuous improvement processes.</p> <p>DWP recognises that this is a sensible suggestion and will undertake work on how best to monitor different aspects of quality.</p>  |
| 18                     | 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><b>Accepted.</b></p> <p>Decision Makers are currently able to and encouraged to contact healthcare professionals through existing help lines. DWP that recognises further consideration of this area could improve the experience of the claimant and will work with its health assessment provider to strengthen existing work between Decision Makers and healthcare professionals.</p>   |
| 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.  | <p><b>Accepted.</b></p> <p>DWP has done a considerable amount of work to improve training for Decision Makers, with a specific module on critical evaluation of evidence available. The content of existing training material is regularly reviewed to improve any weaknesses identified through the Quality Assurance Framework process.</p> <p>The process for collecting further medical evidence during the WCA process is being reviewed by DWP.</p>  |

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|    |   | Any changes introduced will be accompanied by relevant training for Decision Makers.  |
| 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              | <p><b>Accepted subject to further feasibility work and future decisions on recommendations 26 and 27.</b></p> <p>DWP recognises that there may be value in reviewing how work is allocated between different grades and the types of cases they are required to make decisions against.</p> <p>DWP will consider the feasibility of re-engineering the grade mix of Decision Makers and the types of cases.</p> <p>Any decision on whether to accept this recommendation in its entirety will only be made once this feasibility work, and work to consider recommendations 26 and 27, is completed.</p>  |
| 21 | Ensure the provider batches cases into point bands when they send to the Department to save the department admin / processing time  | <p><b>Accepted subject to further feasibility work and future decisions on recommendations 26 and 27.</b></p> <p>DWP will assess the feasibility of implementing this recommendation and examine whether batching cases would achieve efficiencies.</p> <p>A decision on whether to accept this recommendation in its entirety will only be made once this is completed.</p>  |
| 22 | Review the place of the Decision Assurance Calls and apply them only in “borderline” cases handled by Band C Decision Makers who should be up-skilled to make the intervention more effective | <p><b>Not accepted.</b></p> <p>This recommendation does not align with DWP’s strategic direction for the Decision Assurance Call which is to maximise the number of successful claimant contacts. This will provide the claimant with additional opportunity to provide further evidence, discuss the proposed decision and manage a smoother transition to alternative benefits (where applicable).</p> <p>DWP will trial a new process to the way in which Decisions Assurance Calls are made to ESA claimants. Early indications are that results have been promising: we therefore intend to formalise this initial start and consider alternative solutions, including introducing text messages prior to making the call in order to encourage claimants to answer their phone.</p> |
| 23 | Review the guidance on the preparation of Reasoning and audit completed documents on a regular basis to further improve quality   | <p><b>Accepted.</b></p> <p>As part of quarterly QAF reviews, reasoning is examined to ensure that it is robust. Where necessary, the findings are used to change guidance for Decision Makers.</p>  |
| 24 | Monitor overturns rates on an individual basis. Investigate exceptionally high and low rates as part of performance   | <p><b>Accepted subject to further feasibility work</b></p> <p>DWP will consider the feasibility of implementing this</p>  |

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|                                | management   | <p>recommendation.</p> <p>HM Courts and Tribunals Service (HMCTS), working closely with the Tribunal's judiciary and the DWP, introduced on a 'controlled start' basis the provision of Summary Reasons in appeals against ESA decisions. The Summary Reasons take the form of written text which is incorporated into the Decision Notice issued by the Tribunal, which is provided to both the appellant and DWP. A wider roll-out of the provision of summary reasons for decisions made by the Tribunal is planned for the first half of 2014.</p> <p>Any decision on whether to accept this recommendation in its entirety will only be made once this feasibility work is completed.</p> |
| <b>Simplifying the process</b> |  |  |
| 25                             | <p><b>Immediately, the Reviewer recommends that:</b></p> <p>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.</p>   | <p><b>Accepted.</b></p> <p>The Government accepts the Reviewer's recommendation in full and will continue to work with the BMA to further investigate ways of improving the way in which supporting evidence is collected during the WCA process.</p>  |
| 26                             | <p><b>In the medium term, the Reviewer recommends that:</b></p> <p>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"> <li>• DWP, rather than the HAP, issues the ESA50 and reviews the response with any supporting evidence supplied;</li> <li>• 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;</li> <li>• 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.</li> </ul> | <p><b>Accepted.</b></p> <p>DWP will carry out the recommended impact assessment to inform decisions about if and how triage of cases by Decision Makers might be implemented.</p>  |



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| 27                   | <p><b>In the longer term the Reviewer recommends that:</b></p> <p>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><b>Accepted.</b></p> <p>DWP will carry out the recommended impact assessment before making a decision about whether and how collocation of Decision Makers and healthcare professionals might be achieved.</p>  |
| <b>Mental health</b> |   |  |
| 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><b>Decision deferred until completion of further work to understand whether DWP would accept or reject the principles underpinning this recommendation.</b></p> <p>All healthcare professionals receive training and Continuing Professional Development in mental health.</p> <p>Further work is needed to understand exactly what Dr Litchfield means by 'suitable and sufficient' and how we would respond to his interpretation of this.</p>  |
| 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 reaccréditation should be dependent upon effective refresher training in key subject matter areas.</p> | <p><b>Accepted subject to the outcome of further scoping work on the overall effects of changing current approvals and training approach.</b></p> <p>All training for healthcare professionals is reviewed on a regular basis, including modules related to mental health. External clinical experts have, and will continue to be, involved in this review process to ensure that materials are clinically sound and based on the latest available evidence.</p> <p>DWP's focus is on ensuring appropriate standards are maintained through regular auditing of performance across the contract, including on performance around mental health cases.</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><b>Accepted.</b></p> <p>DWP has a range of learning products and guidance for DMs with clear focus on vulnerable customers, as well as Decision Maker training to facilitate conversations and deal with difficult or distressing conversations.</p> <p>Nonetheless the Department recognises that a review of this package of training might suggest ways to further build Decision Maker capability to dealt with distressed people or those who may be at risk of self-harm.</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</p>  | <p><b>Accepted.</b></p> <p>DWP currently review the ESA50 twice a year – we will incorporate these changes as part of the review which will be completed in October 2014. As with all</p>  |

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|    | will help Decision Makers.  | <p>changes to the ESA50, where appropriate we will work with representative groups to agree this new wording.</p> <p>DWP is also reviewing the contents of the letter sent with the ESA50 – the ESA51 – to ensure this information is contained in the letter.</p>        |
| 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. | <p><b>Accept subject to the outcome of further scoping work.</b></p> <p>DWP will ask Dr Litchfield to examine the Support Group criteria as part of the fifth independent review and consider what specific criteria might be applied to address this recommendation.</p> |

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