



Department
for Work &
Pensions

Fifth Independent Review of the Work Capability Assessment

Call for Evidence

June 2014

ISBN: 978-1-78425-240-3

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About this call for evidence

The purpose and scope of this call for evidence

The Department for Work and Pensions (DWP) has appointed Dr. Litchfield to carry out the fifth Independent Review of the Work Capability Assessment (WCA), following his work on the fourth Independent Review. This is the final statutory Independent Review of the WCA, as required by section 10 of the Welfare Reform Act 2007.

This call for evidence will be one of several methods used to gather information during the review. Evidence submitted will be used to inform Dr. Litchfield's report to the Secretary of State for Work and Pensions. This report will be laid before Parliament before the end of 2014.

As this is an Independent Review, the Secretary of State is not required to accept any or all of the recommendations, and any recommendations may be subject to further assessment by DWP.

This call for evidence applies to England, Wales and Scotland. A separate call for evidence will be held for Northern Ireland.

Who this call for evidence is aimed at

This call for evidence is aimed at those who have information that is relevant to how the WCA is operating and any further changes that may be needed to improve the process. As with last year's call for evidence, Dr. Litchfield is interested in receiving such information from both individuals and organisations.

The duration of the call for evidence

This call for evidence begins on 10th June 2014 and runs until 15th August 2014.

How to respond

Please complete the [online form](#). The online form is the preferred method for response.

If you are unable to use the online form, please use one of the following methods:

Email - wca.evidence@dwp.gsi.gov.uk or

Post - WCA Independent Review Team, 3rd Floor, Caxton House, Tothill Street, London, SW1H 9NA

Please ensure that your response reaches us by 15th August 2014.

When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of the members were assembled.

We will acknowledge all responses.

Alternative formats

The information contained here is available in a range of formats. Large print, Easy Read, audio and BSL documents will be made available online. In addition large print, Easy Read, Braille, audio cassettes and CDs, and BSL DVDs can be provided in hard copy.

Please be aware that alternative formats may take more time to prepare, so let us know as soon as possible if you will require them.

To request these formats, please contact:

Email – wca.evidence@dwp.gsi.gov.uk or

Post – WCA Independent Review Team, 3rd Floor, Caxton House, Tothill Street, London, SW1H 9NA

Queries about the call for evidence

If you have any further queries about this call for evidence, please direct them to:

Email – wca.evidence@dwp.gsi.gov.uk or

Post – WCA Independent Review Team, 3rd Floor, Caxton House, Tothill Street, London, SW1H 9NA

Phone – 02072453746

How we use the information you provide

Freedom of information

All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purposes of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information provided, or remove it completely. If you want the information in your response to the call for evidence to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this.

To find out more about the general principles of Freedom of Information and how it is applied within DWP, please contact:

Email – Freedom-of-information-request@dwp.gsi.gov.uk

Post – Central Freedom of Information Team, 4th Floor, Caxton House, Tothill Street, London, SW1H 9DA

The Central Freedom of Information Team cannot advise on specific consultation or call for evidence exercises, but can provide support with Freedom of Information issues. More information about the Freedom of Information Act can be found at:

www.gov.uk/make-a-freedom-of-information-request/the-freedom-of-information-act.

Foreword from Dr. Litchfield

Following the publication of my previous review of the Work Capability Assessment (WCA), I have been asked by the Secretary of State and the Minister of State for Disabled People to conduct the fifth Independent Review of the WCA. This is the final statutory Independent Review and builds not only on my own work in the fourth review, but on the valuable work of Professor Malcolm Harrington in the first three reviews. I hope in this review to continue the process of improving the Work Capability Assessment.

This call for evidence will enable me to gather further information to support the work being undertaken in the fifth Independent Review of the WCA. The questions asked of those answering as individuals focus on experiences of the WCA process. The questions asked of those responding on behalf of an organisation have been grouped under the following headings:

- the impact of previous Independent Reviews;
- the experience of the WCA process;
- the Work-Related Activity Group (WRAG) or Support Group; and
- Mental Health conditions and Learning Difficulties.

As with last year, I am particularly interested in objective data that underpins any views expressed.

I look forward to receiving your input as a contribution to the continuing review and development of the work capability assessment, which impacts so many lives.

Dr Paul Litchfield OBE OStJ FRCP FFOM

Context

Employment and Support Allowance

Employment and Support Allowance (ESA) was introduced in October 2008. It replaced Incapacity Benefit, Income Support by virtue of a disability and Severe Disablement Allowance - for those making a new claim for financial support on the grounds of illness or incapacity. ESA is intended for people who have limited capability for work (who are placed in the Work Related Activity Group), and those who are unable to return to work in the short-term (who are placed in the Support Group).

For this reason, there are two groups that those found eligible for ESA can be placed in. The expectations of people placed in the two groups are different, in order to reflect the nature of each group. Those placed in the Work-Related Activity Group (WRAG) are expected to undertake reasonable work-related activity. This is with a view to ensuring that they are prepared to re-enter employment when they are well enough to do so. It is not a condition of benefit that they look for or take up work, though support is available if they wish to do so. Those placed in the Support Group are not expected to undertake work or any work-related activities, though they have access to such support should they ask for it.

The Work Capability Assessment (WCA) determines whether a person making a claim for ESA has limited capability for work or not. People who are found not to have limited capability for work may be eligible for Jobseeker's Allowance, which is the benefit paid to those who are available for and actively seeking work.

The Work Capability Assessment

The WCA replaced the Personal Capability Assessment that was used to assess people claiming Incapacity Benefits. It is intended as a functional health assessment rather than as a diagnostic medical assessment, which will already have taken place through the claimant's General Practitioner or specialist healthcare professional. The focus of the WCA is on what people can do rather than what they cannot, and is based on a growing body of evidence linking good health and well-being to work.

The Welfare Reform Act 2007 legislated for the introduction of the WCA. This law provides the basis for the Independent Review, which this call for evidence forms a key part of. Section 10 states that:

“The Secretary of State for Work and Pensions shall lay before Parliament an independent report on the operation of the assessment annually for the first five years after those sections come into force.”

whereby if a person is not happy with their WCA decision and they want it to be revised, their case will be looked at again by a decision maker that did not make the first decision. If a person is not happy with the outcome of the mandatory reconsideration, only then can they can appeal the decision.

A text version of the above map can be found at [Annex A](#) at the end of this document.

More information about how the WCA works and the steps in the WCA process is available at: <http://www.dwp.gov.uk/docs/esa-stakeholder-information-pack.pdf>.

Previous Independent Reviews

The first three Independent Reviews of the WCA were conducted by Professor Malcolm Harrington.

The [first review](#) published on 23 November 2010 found that, whilst the system was not broken or beyond repair, it was not working as well as it should. The review made a number of recommendations to improve the fairness and effectiveness of the system. The [Government's response](#) accepted the majority of the review's recommendations.

The [second review](#) published on 24 November 2011 confirmed that the WCA remains the right process, and that the Department had adopted or was adopting all of the recommendations from the first review. Prof Harrington stressed that positive progress had been made and that he expected this to be consolidated over the next year. The second review made a series of further recommendations. The [Government's response](#) accepted the majority of these.

The [third review](#) published on 20 November 2012 found that real progress had been made, and that despite many people calling for the WCA to be scrapped, the Review had seen no evidence to suggest this should happen. The [Government's response](#) accepted the majority of Prof Harrington's recommendations

The [fourth review](#), conducted by Dr. Litchfield, was published on 12 December 2013. It found that overall the Department had made good progress with implementing previous recommendations, but that there were a number of areas where improvements could still be made. Many of these centred around improving the end to end process for the person applying for ESA and the decision making process itself. Again, the [Government's response](#) accepted the majority of Dr. Litchfield's recommendations, though several were accepted with certain caveats.

Questions

This call for evidence relates to the fifth and final statutory Independent Review of the Work Capability Assessment (WCA). As such this year's call for evidence will reflect on the evolution of the WCA over time and seek evidence on the overall WCA process.

As with last year, we invite individuals and organisations to submit evidence to help us assess how the WCA is operating by answering the following questions. There are two sets of questions depending on whether you are responding as an individual or as an organisation.

Questions for people responding as individuals

About you

1. What is your experience of the Work Capability Assessment (WCA)?
 - a. I have made an ESA claim myself.
 - b. I have a friend or family member that made a claim for ESA
 - c. I am a member of staff working within the delivery of the WCA
 - d. I work with people who are impacted by the WCA
 - e. Other
2. If you have made an ESA claim, what was your age at the time of your assessment? (If you have supported someone through the assessment, please put their age, and if a member of staff please state your age.)
 - a. Under 18
 - b. 18 – 24
 - c. 25 – 34
 - d. 35 – 44
 - e. 45 – 49
 - f. 50 – 54
 - g. 55+
3. Based on your experience, do you feel that people going through the WCA are given the information needed to understand what is expected of them and how the process works? If not, please give details of what additional information would be useful and why you think this would be helpful.
4. From the time a person makes a claim for ESA to when they receive a decision from DWP, that person is in the 'assessment phase' of their claim. This question applies to people with experience related to moving from the 'assessment phase' of the benefit to either the Work-Related Activity Group (WRAG) or onto Jobseeker's Allowance:

What do you think would helpful to prepare and support people moving from the 'assessment phase' to the WRAG or onto Jobseeker's Allowance?

5. Have you, or someone you support, been through the mandatory reconsideration process after receiving a WCA decision? If so, what was your experience of the process?
6. Thinking about the overall WCA process from when someone makes a claim to when they receive the final decision notification from DWP, are there areas where the WCA doesn't work well and/or could be improved? If so, please give details of the improvements you would make and how these would help.
7. Are there areas where the WCA process works well? If so, how could these be built on to improve the experience of people going through the WCA process?
8. If you or someone you support has a severe and enduring Mental Health condition or severe Learning Difficulties and have been through the WCA process:
 - a. are there parts of the WCA process that you feel are particularly difficult to navigate? Please give details of how this could be improved.
 - b. are there parts of the WCA process that you do feel support people well? Please give details of this particular area and why it works well.

Questions for people responding on behalf of a charity, advocacy group, representative body or other organisation

The impact of previous Independent Reviews

9. Over the course of the last four independent reviews, a number of recommendations have been made and implemented. How have these changes altered the experience of people going through the WCA? Please provide supporting evidence.

Experiencing the WCA process

10. In the fourth Independent Review Dr Litchfield recommended that the ESA50 and all letters and forms should be reviewed to improve how the DWP communicates with people undergoing a WCA. Are there any other specific areas for improvement in the way that the WCA communicates with people? Please give details of specific areas for improvement.
11. At certain points in the WCA process, either a person must take action to progress their claim or the expectations placed on them change. For example:
 - action is needed if the person wants a mandatory reconsideration; and
 - expectations change when a person is placed in the Work-Related Activity Group (WRAG) and is expected to undertake work-related activity.

Is the information currently provided to explain the process or the expectations of the person undergoing a WCA adequate? If not, please consider what further information would be useful and why, and who would benefit from it, and provide supporting evidence.

12. In October 2013, 'mandatory reconsideration' was introduced for a number of welfare benefits. Concentrating on the mandatory reconsideration process for WCA decisions, how do you feel this process is working? Please detail areas that do or don't work well, and provide supporting evidence.
13. Thinking about the overall WCA process from when someone makes a claim to when they receive the final decision notification from DWP, are there areas where the WCA doesn't work well and/or could be improved? If so, please give details of the improvements you would make, and provide supporting evidence.
14. Are there areas where the WCA process works well? How could these be built on to improve the experience of people going through the process? Please explain the impact that you would anticipate this having, and provide supporting evidence.

The WRAG and Support Group

15. In Employment and Support Allowance there are two groups that people can be placed in following the WCA process; the WRAG or the Support Group. Do you feel that the WCA is generally effective in correctly placing people in either the WRAG or the Support Group? If not, please detail areas of difficulty and provide supporting evidence.

Mental Health and Learning Difficulties

16. The WCA aims to differentiate between moderate or severe impairment of a person's capability for work, resulting from a health condition or disability. For those with severe and enduring Mental Health conditions or severe Learning Difficulties:

- a. what examples can you provide of this differentiation not working well? Please detail the parts of the WCA that contribute to this and provide supporting evidence.
- b. what examples can you provide of this differentiation working well? Please detail the parts of the WCA that contribute to this and provide supporting evidence.

17. For those people with more severe and enduring Mental Health conditions or severe Learning Difficulties:

- a. are there parts of the WCA process that you feel are particularly difficult to navigate? Please provide details of how this could be improved, and any supporting evidence that this would be effective.
- b. are there parts of the WCA process that you do feel support people well? Please provide supporting evidence.

Annex A: End to end map of WCA process – text version

- I telephone Jobcentre Plus to claim ESA. They take information to complete my claim and explain what will happen next.
- Assessment phase of ESA. I receive my first payment.
- I receive a letter telling me what will happen next, explaining the importance of completing the ESA50 questionnaire and attending the WCA appointment, and providing any additional information.
- I receive a Limited Capability for Work questionnaire (ESA50) to complete.
- (Face to face assessment is not needed if recommendation can be made on paper evidence.)
- I attend the Assessment Centre for a face to face assessment with Atos Healthcare.
- Atos Healthcare make a recommendation on prognosis to DWP.
- A DWP decision maker makes a determination on ESA entitlement.

Allowed and placed in the Work-Related Activity Group (WRAG)

- I receive a letter informing me of my benefit award.
- (Claimants who are placed in WRAG can request a mandatory reconsideration (this is a change to the process), and can then appeal).
- The Jobcentre contacts me to arrange a Work Focused Interview (WFI).
- The day before or on the day of my WFI my ESA Personal Adviser contacts me to remind me of the time and importance of my WFI, and explains what will happen. (This is a change to the process)
- I attend my WFI.
- I am supported by Jobcentre Plus.

Or

- I receive a letter informing me of my benefit award.
- (Claimants who are placed in WRAG can request a mandatory reconsideration (this is a change to the process), and can then appeal).
- The Jobcentre contacts me to arrange a Work Focused Interview (WFI).
- I contact DWP to dispute the decision. (This is a change to the process.)

- The day before or on the day of my WFI my ESA Personal Adviser contacts me to remind me of the time and importance of my WFI, and explains what will happen. (This is a change to the process.)
- I attend my WFI.
- I receive an Outbound Reconsideration phone call from DWP to confirm any points of issue and to identify whether there is any further evidence to be considered. (This is a change to the process.)
- If I am still unhappy with the decision following mandatory reconsideration, I can lodge an Appeal with the Tribunals Service.

Allowed and placed in the Support Group

- If I am in the Support Group I can volunteer for back to work support at any time.

Disallowed

- The Decision Maker calls to discuss determination/entitlement to ESA. I can discuss the reasons for the decision and provide further evidence for the Decision Maker to consider. I am advised of my options, and if I wish to claim Jobseeker's Allowance (JSA) I am transferred to someone who takes my claim details. I am also advised of the mandatory reconsideration process.
- I receive a letter informing me of my disallowance, giving the reasons for the decision and details of the mandatory reconsideration process.
- (Before I attend the New Jobseekers Interview at the Jobcentre, the WCA Outcome Disallowance Template, explaining reasons for disallowing my ESA claim, is shared with the JSA Adviser.) (This is a change to the process.)
- I contact DWP to dispute the decision. (This is a change to the process.)
- I receive an Outbound Reconsideration phone call from DWP to confirm any points of issue and to identify whether there is any further evidence to be considered. (This is a change to the process.)
- If I am still unhappy with the decision following mandatory reconsideration, I can lodge an Appeal with the Tribunals Service