

Research and analysis

ESA Underpayments: Forecast Numbers Affected, Forecast Expenditure and Progress on Checking

Published 17th October 2018

Policy background and introduction

1. Employment and Support Allowance (ESA) was introduced in October 2008 for people who have limited capability to work because they are disabled or ill. From March 2011 the Department began reassessing people on incapacity benefits (e.g. Incapacity Benefit and Severe Disablement Allowance) for eligibility for ESA.
2. More than 2 million claimants were receiving incapacity benefits before reassessment began and we have now reassessed around 1.5m people, nearly all of those who required a reassessment.
3. The Department is correcting some historic underpayments of ESA, which arose while reassessing incapacity benefit claims.

What you need to know

4. There are two main types of ESA:
 - contribution-based, which is based on National Insurance contributions; and
 - income-related, which is a means-tested benefit. Income-related ESA can be paid on its own or as a top-up to contribution-based ESA.
5. Extra payments, called premiums, are available only to qualifying customers who are eligible for income-related benefits. These include the Enhanced Disability, Severe Disability, Carer, and Pensioner Premiums.
6. Largely between January 2011 and October 2014 some people receiving Incapacity Benefit and Severe Disablement Allowance had their claims converted to contributory ESA. However, the possibility of whether they may also have been entitled to income-related ESA was not considered for all cases. This means they may have missed out on the payment of premiums, such as the Enhanced Disability Premium.
7. The Department became aware of some individual errors on cases in 2013 and processes were changed in 2014 to prevent future errors. In 2016, analysis of Fraud and Error National Statistics highlighted the scale of the potential error on historical conversions. The Department carried out a sampling exercise on 1,000 cases in the second half of 2017 to help inform the checking process and initial estimates of numbers affected and amounts owed. The Department then began work to assess cases in December 2017.

8. Initially the Department believed we were legally restricted to only making repayments from 2014 due to a statutory rule (section 27 of the Social Security Act 1998) which governs the position with regard to payment of arrears when a court or tribunal finds that the Department has made an error of law. In light of the legal advice we had at the time, we took the view that the law prevented us from paying arrears beyond the date of a legal judgment in October 2014, and an Upper Tribunal judgment in Scotland endorsed that approach.
9. However, the National Audit Office report published in March 2018 raised concerns about this, and the action brought by the Child Poverty Action Group raised new points for us to consider. The Secretary of State therefore asked officials to look again at all the relevant evidence and provide updated legal advice.
10. The Department has now undertaken further analysis of the relationship between “official error” and section 27 in regulating how, and to what extent, arrears can be paid. As a result, we are now paying arrears to those affected back to their date of conversion to ESA.

Purpose of publication

11. This publication provides an update of the number of cases estimated to be affected by underpayments of ESA on conversion from other incapacity benefits, and the forecast costs of repaying these cases.
12. It also presents Department for Work and Pensions (DWP) management information on progress on checking potentially affected cases as at 15 October 2018. It includes:
 - The numbers of cases started to date;
 - The number of cases completed to date;
 - Number of cases found to be in error to date;
 - The total amount of historical arrears the Department has paid out in correcting these cases;
 - Average arrears payment to date.

Results

How many are affected and how much money is payable

13. The Department is in the process of reviewing around 570,000 ESA cases that could be affected. It expects to complete the checking of 320,000 cases during 2018/19. The additional 250,000 cases, brought into scope by the Secretary of State’s announcement in July 2018 to pay all cases back to the point of conversion, are planned to be completed by the end of 2019.
14. The Department’s latest estimate of the number of people who will be due arrears and its expenditure forecasts are based on management information from the

checking exercise, dating from 10 September 2018, together with scans of the potentially affected claimants from the Department’s administrative data systems. We estimate that around 180,000¹ people could be owed arrears payments, with around 105,000 estimated to be repaid during 2018/19 and 75,000 during 2019/20.

15. The Department estimates it will pay £970 million² in historic underpayments largely over the financial years 2018/19 and 2019/20. In addition, it will pay higher awards to active claimants after their claim is corrected. These amount to around £60 million in 2018/19, £130 million in 2019/20, and then decline over time to £90 million in 2024/25 as claimants leave the benefit. Actual costs could be higher or lower than these amounts. Table 1 shows the Department’s lower, central and upper estimates of the amount of extra benefit that will be payable in each year, including both arrears payments and higher awards to active claimants.

Table 1: Total extra amount of Employment and Support Allowance (ESA) payable

£m	Up to 2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
Lower Estimates	690	230	90	90	80	80	70
Central Estimates	870	280	120	110	100	100	90
Upper Estimates	1,180	370	160	150	140	130	120

Notes:

1. The central estimate is the Department’s best estimate of the likely level of costs. The lower and upper cases illustrate the Department’s estimate of the likely minimum and maximum amounts. The actual amount will depend on the number of people affected and the amount of arrears owed in each case.
2. The £870 million central estimate up to 2018-19 comprises £810 million in arrears payments, plus £60 million in higher award payments to active claimants after their claims are corrected. The £870 million estimate includes around £20 million paid out in 2017-18.
3. The £280 million central estimate in 2019-20 comprises £160 million in arrears payments, plus £130 million in higher award payments to active claimants after their claims are corrected.

¹ Numbers of people estimated to be due arrears rounded to the nearest 5,000

² Forecast expenditure rounded to the nearest £10million

4. Forecasts of higher awards to be paid on corrected claims have been adjusted to account for inflation. Historic arrears accounted for are the benefit rates applicable to each year of underpayment.
5. Estimates are rounded to the nearest £10million.
6. Totals may not sum due to rounding.

Source: DWP analysis of management information from the ESA underpayment checking exercise at 10 September 2018, together with scans of the potentially affected claimants from the Department's administrative data systems.

16. Increases compared to previous estimates are due to:

- Evidence we have gathered from the checking exercise to date, showing a greater proportion of cases under consideration being identified as entitled to income-related ESA than was indicated by the 1,000 case sample on which previous estimates were based; combined with
- Reviewing additional cases and paying back to their date of conversion.

17. On average, the Department estimates that affected individuals could be due around £5,000³ in arrears. However, the actual amount payable will vary among individuals and depend on their circumstances, including specific entitlements to premia, the period over which they were entitled and any transitional protection that may have been in payment on conversion to ESA because the previous incapacity benefit award was higher than the new ESA award.

Progress on checking cases

18. In December 2017, following a sampling exercise on 1,000 cases in the second half of 2017, the Department scaled up the team undertaking the work from 10 to 50. The team grew further to 400 from April 2018, and will have additional staff join during October and November.

19. Many staff joining from April focused initially on checking information held on various Departmental administrative systems to identify which claimants needed to be contacted.

20. The Department has prioritised checking the claims of individuals whom we know from our systems to be terminally ill. Thereafter we are working through contacting cases identified as most likely to have been underpaid according to our systems. Some of the cases most likely to be in error are also some of the more complex cases.

³ Rounded to the nearest £1,000

21. DWP Management Information from the ESA Underpayments checking exercise at 15 October 2018 shows:

- Out of the 320,000 cases to be assessed by April 2019, around 270,000 have started the reassessment journey;
- Around 61,000 of these cases have completed the reassessment journey. This includes cases identified on DWP administrative systems as not entitled or who have identified themselves as not entitled prior to assessment, and also around 23,000 cases which have been through the full journey to assessment, including both error and non-error cases;
- Around 18,000 arrears payments have been made to qualifying claimants;
- The total amount of historical arrears paid to date is around £120 million;
- The average arrears payment to date is around £7,000.

Notes:

1. Data is reported without detailed verification.
2. The figures date from 15 October 2018. They are changing rapidly as around 400 staff continue to check potentially affected cases and the number of staff working on the exercise will be increased further over the coming months.
3. The number of cases started the reassessment journey is rounded to the nearest 10,000, the number of cases completed is rounded to the nearest 1,000; the total amount of historical arrears paid is rounded to the nearest £1million and the average arrears payment is rounded to the nearest £1,000.
4. The average arrears payment to date reflects a mixture of payments to point of conversion and to 21/10/2014. It is also affected by the prioritisation of cases more likely to have errors, among some of which there is a relatively high prevalence of higher value errors.

Source: DWP management information from the ESA underpayment checking exercise at 15 October 2018

Statement of Compliance with the Code of Practice for Statistics

The Code of Practice for Statistics (the Code) is built around three main concepts, or pillars: Trustworthiness, Quality and Value. The following explains how we have applied the pillars of the Code in a proportionate way.

- **Trustworthiness** – is about having confidence in the people and organisations that publish statistics

Professional analysts have independently produced the forecast numbers affected and forecast expenditure from management information from the ESA underpayment checking exercise at 10 September 2018, together with scans of the potentially affected claimants from the Department's administrative data systems.

Progress on the ESA Underpayments checking exercise is based upon DWP Management Information, supplied via a data capture tool built to allow consistent and efficient recording of case review progress in the ESA Underpayments checking exercise.

- **Quality** – is about using data and methods that produce assured statistics

The rigorous production of the forecast figures ensures they are our best central estimates of numbers affected and associated expenditure based on the information available. Figures have been independently quality-assured and validated against other ESA administrative datasets and modelling, where possible. The provision of upper and lower expenditure estimates indicate some of the uncertainty around the figures.

The data presented on checking progress is from the data capture tool developed to accurately record progress and levels of arrears payments. Drop down menus and built-in validation checks assist in reliable data recording. Data recording checks are carried out by operational staff. Small samples of figures have been cross-checked across jobcentres. DWP analysts have challenged some figures to ensure accurate representations of the activity undertaken

- **Value** – is about publishing statistics that support society's needs for information.

This release updates estimates of numbers of people affected and forecast expenditure currently in the public domain and latest figures will feed into DWP expenditure forecasts for Autumn Budget 2018. It also provides a progress update on the checking exercise following on from an update given in the Written Statement on 18 July 2018, together with context for those figures.

In addition, it aims to reduce the administrative burden of answering Parliamentary Questions, Freedom of Information requests and ad hoc queries to ensure timely responses to public queries.

To support financial planning and management of Departmental business, figures have been seen in advance by Ministers and officials, in line with the Code, where pre-release access does not apply for an ad hoc analysis release.

The Department intends to release future updates on progress on checking cases at quarterly intervals.

Where to find out more

- [National Audit Office \(NAO\) published a report on their investigation into errors in ESA on 21st March 2018](#)
- [Public Accounts Committee \(PAC\) hearing based on the NAO report on 21st May 2018.](#)
- [The PAC report was published on 18th July 2018.](#)
- [The Department's response to the PAC report was published on 9th October.](#)
- Written Statements were tabled on [14th December 2017](#), [15th March 2018](#), [18th July 2018](#) and [17th October 2018](#)
- [DWP Benefit expenditure tables](#)

Contact information

The Department for Work and Pensions will be contacting all those identified as potentially impacted to get the information we need to look again at Employment and Support Allowance claims. We have already started to contact customers and will contact everyone affected by December 2019.

For press enquiries, contact DWP Press Office on: 0203 267 5144.