

## Freedom of Information request 722/2013

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### Information request

provide the following information:

1. A list of all previous transitions made by the UK government prior to what was most recently called Incapacity Benefit in the last 20 years; and
2. the exact manner previous claimants on benefits, that were called something else prior to Incapacity Benefit and how that transition was made i.e. If they continued to receive EXACTLY the same contractual agreement during the transition and whether only NEW claimants moved into the newly named benefit while previous claimants kept the same arrangement despite the change of name for that particular benefit

### DWP response

In replying, I have ignored the introduction of Jobseeker's Allowance (JSA) in October 1996, and the way in which unemployed claimants who were formerly on Income Support (IS) were moved across to the new benefit, because your request specifically relates to transitions to Incapacity Benefit (IB). I am therefore providing information only on the transitions from Sickness Benefit, Invalidity Benefit and Severe Disablement Allowance.

Whenever the Government introduces a new benefit which is intended to replace an existing benefit or benefits, it has to decide whether, and, if so, how and when, to move the claimants who are on the existing benefit or benefits to the new one. The Government also needs to decide whether or not the claimants in question will have to make a claim for the new benefit.

### Transition from Sickness Benefit and Invalidity Benefit (1995)

Following commencement of the relevant sections of the Social Security (Incapacity for Work) Act 1994, which inserted new sections into the Social Security Contributions and Benefits Act 1992, **Incapacity Benefit (IB)** was introduced on 13 April 1995 for people who were incapable of work. It replaced **Sickness Benefit (SB)** and **Invalidity Benefit (IVB)**. At the same time, new tests of incapacity were introduced - the "own occupation test"

(which applied for the first 197 days of incapacity, and determined whether a person was capable by reason of some specific disease or bodily or mental disablement of doing work which he could reasonably be expected to do in the course of the occupation in which he was so engaged) and the "personal capability assessment" (which applied when the own occupation test was not applicable, or had ceased to apply, and assessed the extent to which a person who has some specific disease or bodily or mental disablement is capable or incapable of performing prescribed activities).

All claimants who were on SB and IVB immediately before 13 April 1995 were converted to IB from that single common date. They were not required to make a claim for IB. Their previous awards were treated as awards of IB (and their former rates of benefit were protected, where appropriate) on a transitional basis, pending application of the new tests. (See the Social Security (Incapacity Benefit) (Transitional) Regulations 1995 – Statutory Instrument 1995/310.)

### **Transition from Severe Disablement Allowance (2002)**

**Severe Disablement Allowance (SDA)** is covered by the Social Security Contributions and Benefits Act 1992 (SSCBA). This consolidated earlier legislation. SDA was first introduced on 29 November 1984. It was abolished for new claims in April 2001 by virtue of the repeal of sections 68 and 69 of the SSCBA, effected by section 65 of the Welfare Reform and Pensions Act 1999 (WRPA 1999). Article 4(a) of the WRPA 1999 (Commencement no. 9, and Transitional and Savings Provisions) Order 2000 provided for entitlement to SDA to remain in place for persons aged over 20 on 6 April 2001 on any day of incapacity for work in that period of incapacity for work. Under regulation 19 of the Social Security (Incapacity Benefit) Regulations 1994 (Statutory Instrument 1994/2946), SDA claimants who were below the age of 20 years on 6 April 2001 were transferred to long-term IB from 6th April 2002. No claim was required. Older claimants remained on SDA.

### **Transition to Employment and Support Allowance (2010 onwards)**

**Employment and Support Allowance (ESA)** was introduced on 27 October 2008 for claimants with limited capability for work or limited capability for work-related activity account of mental or physical illness or disability. The Employment and Support Allowance (Transitional Provisions) Regulations 2008 (Statutory Instrument 2008/795), made under the authority of the powers in Schedule 4 to the Welfare Reform Act 2007, provided that every new claim for an incapacity benefit (being IB and income support on the grounds of illness or disability) made on or after, or in respect of a period which began on or after, 27 October 2008, was automatically to be treated as a claim for ESA.

The provisions did not apply to claims that linked to previous awards under the relevant linking provisions of those awards.

On this occasion, in seeking to convert existing awards of incapacity benefits (as defined in paragraph 11 of Schedule 4 to the Welfare Reform Act 2007, namely IB, SDA and IS {where paid on the grounds of incapacity or disability}) to awards of ESA, the Government has adopted the approach of conducting the exercise on a rolling basis over a pre-determined period, applying the Work Capability Assessment\*\* (WCA) (this being the process by which people with health conditions or disabilities are assessed for ESA) as part of the conversion process, and moving the claimant to ESA only if they meet the qualifying criteria. (See the ESA (Transitional Provisions, Housing benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 - Statutory Instrument 2010/1907.) The conversion exercise began in October 2010 and is expected to be completed by Spring 2014. For those whose awards qualify for conversion, no claim to ESA is required.

For this conversion exercise, therefore, and unlike the exercise in 1995 to convert awards of SB and IVB to IB, existing awards of benefit are not being treated as awards of ESA pending application of the WCA. Given the wholly differing nature and composition of IB and ESA, however, the 1995 exercise was a much more straightforward one. Not only are (or were) SB, IVB and IB all contributory benefits, but also, whilst IB was payable at three basic rates, the appropriate rate to be applied on transition was based solely on, and could easily be determined by reference to, the length of time the person's incapacity had lasted. In contrast, the "existing awards" which are currently subject to conversion comprise a mixture of non-contributory benefits (SDA), income-related benefits (IS) and contributory benefits (IB), with many claimants receiving more than one kind; whilst ESA -

- has both contributory and income-related elements;
- has components which are paid at different rates depending on the degree of limitation of the claimant's capability for work;
- allows for additional sums to be paid in income-related cases depending on the degree of limitation of the claimant's capability for work;
- is payable at a higher rate than SDA; and
- has conditions of entitlement relating to work-related activity (with associated sanctions for non-compliance) which can be applied, or dis-applied as appropriate, depending on the degree of limitation of the claimant's capability for work.

Since neither the amount to be paid by way of ESA, nor the appropriate work-related conditionality regime could be pre-determined - and could only be determined on the basis of a WCA - it was not, as a consequence, possible to award ESA on a mark-time basis pending application of the WCA.

## **Future changes**

Looking to the future, the Government is, as you may know, introducing two major welfare reforms from April this year.

**Universal Credit** (UC) is a benefit for people who are of working age up to the age at which they are eligible for Pension Credit, currently linked to female State Pension age but due to be 65 for both men and women in 2018. It will be an integrated credit that provides a basic allowance with additional elements for children, disability, housing and caring. It will support people both in and out of work. UC is being introduced for a limited number of new claimants in specified geographic areas from 29 April this year. It will eventually replace all of the following existing benefits: Working Tax Credit, Child Tax Credit, Housing Benefit, IS, income-based JSA and income-related ESA - (this includes cases where the claimant's award of ESA has arisen as a result of the current conversion exercise). UC is not replacing the contributory elements of JSA and ESA.

Slightly earlier in April, from the 8th, Disability Living Allowance (DLA) will be replaced, for new claimants aged 16 to 64 in a limited number of geographic areas, by **Personal Independence Payment** (PIP). PIP is to help towards some of the extra costs arising from ill-health or disability. It includes an assessment of an individual's needs, based on how a person's condition affects them, not on the condition they have. PIP will eventually replace DLA for all existing recipients.