

The Billion Pound Welfare Reform Fraud: fit for work?

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Would you consider a person who became spontaneously unconscious once every five weeks fit for work? Would you employ them? Would you consider them fraudulent if they claimed that this condition was disabling? In the March 2011 version of training guidelines for the Atos Work Capability Assessment two of these options are valid. The Work Capability Assessment would rate such a person as fit for work and as a result a person who is neither sick or disabled¹.

The Work Capability Assessment is carried out for those migrating from Incapacity Benefit and for new claimants to Employment Support Allowance (ESA). It was put in place by New Labour in 2008. It is administered by the French/Dutch Company Atos at a cost of 300 million. Those going through the test can be put into one of three groups.

- ESA Support Group not required to undertake work-related activity – but will be reassessed continuously
- ESA Work Related Activity Group, for those deemed fit for work with support and preparation. Limited to just 12 months before ESA is stopped, also may be subject to reassessment in the 12 month period.
- Fit for Work not entitled to ESA but transferred to lower amount on Jobseeker's Allowance

One estimate claims that up to 500,000 people have been wrongly denied Incapacity status². In a 2011 February piece in the Guardian Amelia Gentlemen argues:

Since its preliminary rollout in 2008, people with terminal cancer have been found fit to work, people with mental health problems have complained their condition is not taken seriously, people with complex illnesses report that the tick-box system is not able to cope with the nuances of their problems.³

Citizens Advice Scotland reported that under incapacity benefits 37% were found 'fit for work' under Work Capacity Assessment, the figure had soared to 66%⁴

Between October 2010 and Spring 2014 those who receive Incapacity Benefit, Severe Disablement Allowance and Income Support paid on the grounds of illness or disability will be assessed for Employment and Support Allowance. Pilots in Aberdeen and Burnley have raised more criticisms of the process adding to the raft of criticisms from the British Medical Association, the originator of the software that Atos uses, GPs, Citizens Advice Bureaus (CABs), Members of Parliament and disability organisations.

The Work Capability Assessment replaced the Personal Capability Assessment. Yet, as long ago as 2006 the Green Paper: A New Deal for Welfare: Empowering People to Work, stated 'the current Personal Capability Assessment process (is) already recognised by the OECD as being one of the toughest in the world'.

Case studies have shown the inhumanity of a system based on government targets and the pain and misery of the increasing stringency of these tests. One example from the 2010 report from the Citizens Advice Bureau's report on ESA and testing procedures highlights the experiences that someone considered 'fit for work' by WCA might endure:

A Yorkshire bureau saw a woman in her forties who was working full-time and was enthusiastically looking forward to starting a new job, when she became ill. At first it was thought she had a viral illness, but she was subsequently diagnosed with lupus erythematosus and transverse myelitis. She was in a great deal of pain in her muscles and joints and had extreme fatigue. At times her balance was affected and she could not walk without someone to support her. Sometimes she lost sensation in her legs, and on her worst days she could not walk at all. Any exertion such as walking 40 or 50 metres led to days in bed. She had had a bad reaction to some of the treatment and an ECG showed her heart muscle had been damaged. Her husband had to come home from work each lunchtime to help her. Her immune system was weakened, so she had to be careful when mixing with others. She claimed ESA but was given six points in the Work Capability Assessment (WCA) and found capable of work. Her doctor supported her claim and she is currently appealing, but under Incapacity Benefit she would probably have been exempt and would have avoided this process

The WCA does not take into account GP assessments of an individual's impairment or long term condition, this is ignored in favour of an, or average, 15-45 minute set of questions administered through the LiMAS software developed by Atos. LiMAS asks a set of questions for which the applicant can

(but increasingly can't) score up to 15 points which would put them in the ESA support group. As GPs who may have known applicants for all of their lives with an understanding of the medical, social and emotional impacts are ignored, a new set of individuals come into play called 'health care professionals'. These individuals are trained by Atos for four to 16 weeks to understand targets and the all powerful LiMAS software; they are given time limits for each assessment and told that the more people they get through the better. They consist of physiotherapists, nurses and doctors usually with a general practice background or from overseas due to the notorious low pay of the multi- million pound profit Company Atos.

In 2008 The Department of Work and Pensions and Atos were severely criticised by Robert Martin the president of the appeals Tribunal Panel, a position now abolished:

Criticism was made of ATOS Healthcare medical practitioners who did not appear to pay sufficient attention to the appellant at the medical examination and who produced findings in medical reports based on observations that were inconsistent, or recorded in the medical report findings that were contradictory'⁵

In 2010 an independent review of the WCA tests by Professor Harrington concluded

There is strong evidence that the system can be impersonal and mechanistic, that the process lacks transparency and that a lack of communication between the various parties involved contributes to poor decision making and a high rate of appeals." and that "evidence has consistently and regularly highlighted problems with each stage of the WCA process, which limit both the assessment's fairness and effectiveness.

Prospect, the trade union who represents 135 Atos doctors, has stated that the target of seeing ten or more people a day is unrealistic and will lead to wrong assessments, especially in complex cases⁶.

Despite the overwhelming evidence that WCA was not working Atos were awarded a further contract by the Department of Work and Pensions in 2010.

Figures not Identified in the Media

The figures of those considered 'fit for work' by Atos testing systems regularly make headlines in newspapers such as the Daily Mail, the Express, and most recently the Guardian, but little investigative journalism has been exercised in examining this apparent miracle of 'curing of the sick and 'the disabled', nor looking at process, outcomes or the ways that these figures are produced.

For example, newspapers do not tell us that there has been a 56% increase in ESA appeals with figures up from 25,700 in the second quarter of 2009/2010 to 52,000 in the same quarter of 2010/2011⁷. Almost half of cases are overturned at appeal⁸. Nor are we told that figures from the Department for Work and Pensions show that of those declared 'fit for work' by the WCA system, just 13% are in employment, 27% temporarily sick and 28% classed as permanently sick⁹. The 'fit for work' myth does not convert into any form of reality.

Nor is the context of the claims ever provided, a representative survey carried out by Ipsos MORI and reported in Employment and Support Allowance: findings from a face to face Survey commissioned by the Department of Work Pensions found that nearly a third of those going through the ESA process were described as having 'literacy problems'. A further six per cent 'problems speaking English' and 11% had 'numeracy problems'. Twenty two percent were described as in one or more disadvantaged groups including those with mental health issues, ex-offenders, and those with perceived learning difficulties.

An overwhelming 69% of those going through the WCA process had 'multiple health conditions'. Those in the support group and in the 'fit for work' group both had the same number of 'health conditions' at 31.

In all groups 81% of people were receiving medical treatment for their condition, with 38% waiting for treatment or additional treatment¹⁰. These statistics do not present us with a set of fraudsters pretending to be sick or disabled, nor a set of individuals who have been languishing on incapacity benefits for years, in fact 71% of applicants to ESA were new claimants making their first ever claim¹¹.

Newspaper headlines have also made much of the incomplete claims and those that 'drop out' of the testing system. This rhetorical demonising does not

examine the process of WCA claims nor take into account the medical treatment. Where do these people go? Who knows Atos has no 'follow through' process in place to find out.

The first form that individuals will receive from Atos is an ESA50 form, of those surveyed almost half 46% said they found the form 'difficult' or that they were 'unable to complete it'. An initial point for non-completion, others could be knocked off the system if Job Centre Plus decide that they have missed an appointment, or not responded to a letter without 'good reason'. This would seem to complement the new punitive sanctions for universal credit and welfare reform first expressed in the Welfare Reform Bill.

The costs of tribunals, Atos contracts and the extra strain on the health service amount to a million pound fraud by successive governments. This does not count the human anxiety, misery or stress of the test, nor the suicides that have resulted because of it. Remarkably, Chris Grayling minister for employment (note minister for employment, not health or disability) said the government was making "almost constant improvements" to the WCA, but that he was "always willing to talk to the charities", not disability organisations run and controlled by disabled then. He said "if we do something that does not prove to be the right thing, we will be happy to change it"¹². The new set of training guidelines proves that changes have been made. However, these changes make the WCA more not less stringent, maybe the percentages of those declared 'fit for work' did not satisfy the existing regime. The recent Parliamentary Inquiry into the WCA and Atos identified that the new test would increase the percentages of those 'fit for work' by 5%.

New Training Guidelines for Atos 'Health Care Professionals' 2011

The training guidelines for the work capability assessment have made a number of changes which came into force in March 2011 to be incorporated into a revised Work Capability Assessment. The text below is copied from the Department of Work and Pensions Training & Development Revised WCA Handbook ESA (LCW/LCWRA) Amendment Regulations 2011 version 2. The introduction states:

This handbook has been written to support Health Care Professionals (HCPs) trained in the principles of Disability Analysis; in their training and in performing medical assessments in relation to the Employment and Support Allowance Limited Capability for Work / Limited Capability for Work Related Activity (LCW/LCWRA) Amendment Regulations 2011.

The amendment regulations of 2011 may also be referred to as “The Revised Work Capability Assessment” (Revised WCA).

Page 9 amazingly states: ‘The analysis of the data established that the WCA (ESA regulations 2008) was accurately identifying a person’s capability for work’.

However, an internal review produced the following recommendations. Text below is copied from pages 9-10 outlining the recommendations. Sections in bold are my own ‘disability analysis’.

Lower Limb Function

In this area, it was felt that the 2008 activities did not accurately reflect the level of function required for the modern workplace. As a result “walking” has been changed to “mobilising” to reflect the functionality of wheelchair users. It was also felt that considering standing and sitting abilities as separate entities was not relevant in the modern workplace and the new activity relates to the ability to remain at a workstation. In the 2008 descriptors, bending and kneeling were considered, however the ability to bend or kneel are no longer considered critical in the modern workplace, so this activity has been removed.

If you cannot stand, have difficulty sitting or cannot walk its OK because you have the ability to ‘remain at a workstation’ how you get to this ‘workstation’ is another matter. ‘fit for work’

Upper Limb Function

The review group felt that unilateral upper limb restriction would not significantly impact on an individual’s ability to work and therefore all descriptors now relate to bilateral restriction. As bilateral restriction is a significant issue, the manual dexterity scores have been revised to reflect this issue.

If you cannot move your arms, or hands presumably to type at your workstation ‘fit for work’ if you have no function in your legs but can mobilize 50 metres ‘fit for work’

Sensory Function

In the 2008 regulations, the activities in this area reflected impairment. Adaptation had not been taken into account in these areas. The review group felt that an individual’s ability to adapt must be taken into account and therefore the activity of vision has changed to the concept of being able to safely navigate. The activities of hearing and speech have been changed to

the more functional concept of being able to receive communication and communicate with others.

If you are blind, deaf, Deaf or unable to speak you are 'fit for work' It's about being able to safely navigate and receive communication and communicate with others, presumably with unavailable space age communication aids.

Continence

This made the assessment overly complex and thus the descriptors have been amended to reflect any loss of continence. The loss of dignity associated with incontinence has been reflected in the scoring of the descriptors.

Incontinence is too complex for the WCA but the loss of dignity is reflected in the new scoring: 'fit for work'

Consciousness

In this area, it was felt that infrequent loss of consciousness would not substantially impact on a person's ability to work and therefore only those experiencing weekly or monthly episodes of loss of consciousness will be awarded scoring descriptors.

If you spontaneously lose consciousness once every five weeks: 'fit for work'

Mental Function

In understanding and focus, it was felt that the 2008 descriptors were complex and difficult to interpret. These have therefore been simplified. In the area of learning tasks, how an individual learns is no longer considered to be the crucial factor – it is their ability to learn that is considered. In awareness of hazard the review group felt the important issue in the workplace was to assess the level of risk for the person and others. The activity of personal action has been amended to reflect a person's ability to prioritise and complete tasks.

In adapting to change, the highest descriptor reflects a total inability to cope with any change and is now a Support Group. In getting about, it was considered that the familiarity of a place was more important in functional terms rather than the frequency of ability to get to places.

In the area of social interaction, the review group felt the previous descriptors were rather negative in their wording and the new descriptors relate to ability

to engage in social contact an individual's ability to behave in an appropriate manner with others.

Mental functioning is too complex for the WCA it's no longer about learning simple tasks, but an ability to learn. If you are familiar with a place (?) this is considered more important than your ability to get to that place or any place with which you are unfamiliar with (?) 'fit for work'. If you are unable to deal with social contact that's OK as long as you behave in an appropriate manner with others: 'fit for work'

The Decline of Welfare: the rise of private profit

Neither the PCA or the WCA were ever really centred on assessing peoples' fitness for work; they were always part of a mutual linking between successive Government's will to cut social claims on the state, insurance companies such as the discredited UnumProvident (now renamed Unum Group) to 'open up' new markets, and private companies such as Atos' willingness to meet targets while increasing profit.

The entire process is likely to cost the hallowed taxpayer more than the original benefits bill did, the cost of Atos contracts, the cost of tribunals, and the cost of addition health care caused by the misery of the WCA add to the higher long term costs. Yet, it's all carried under the guise of state efficiency and the market economy.

The WCA is about exploiting aspects of the social model to develop a badly mutated individualistic 'can do' attitude merged with a culture of blame for 'can't do' aspects of bodies and minds in an increasingly disabling welfare reformist climate. The WCA bears no reality to the everyday aspects of working life or the complexity of impairment and long-term health issues.

It is a publically sanctioned fraud that misrepresents and bastardises its claims to support people while simultaneously undermining the logic, and the economic and social realities of any reasonable employment criteria. In 2007 Rutherford argued:

Welfare reform exemplifies the transformation of the old style nation state into a new kind of 'enabling' market state. Instead of providing social protection, the market state offers 'opportunities' and 'choice' to 'customers', who in return must shoulder a greater degree of responsibility for their individual predicament... But the compact

between the state and an individual whose life has been disrupted by disability or sickness is not an equal one... The history of the British welfare system has always been one of grudging, paternalistic and sometimes punitive forms of social protection. But even measured against its own limited ambitions, the future of welfare looks bleak¹³.

¹ Revised WCA Training & Development Revised WCA Handbook ESA (LCW/LCWRA) Amendment Regulations 2011 March 2011

² <http://www.guardian.co.uk/politics/2011/jan/03/incapacity-benefit-compass-survey-dwp>

³ <http://www.guardian.co.uk/politics/2011/feb/23/government-reform-disability-benefits?intcmp=239> 'The Medical was a Joke' February 23rd 2011

⁴ Citizens Advice Scotland. The work capability assessment. 2010. www.cas.org.uk/Resources/CAS/Migrated Resources/Documents/CR Work capability assessment.

⁵ <http://www.benefitsandwork.co.uk/news/latest-news/971-appeals-president-slams-dwp-and-atos>

⁶ <http://www.edinburghagainstopoverty.org.uk/node/38>

⁷ Quarterly Statistics for the Tribunals Service, 2nd quarter 2010-11 Ministry of Justice and Tribunals service 13th January 2011.

⁸ Three- Quarters of Sickness Benefit Claims Fit to Work says DWP Helen Mulholland, Guardian 28th April 2011

<http://www.guardian.co.uk/society/2011/apr/28/three-quarters-sickness-benefit-claimants-fit-work>

⁹ Employment and Support Allowance: findings from a face to face survey, Helen Barnes, Paul Sissons and Helen Stevens DWP research report no 707 2010

<http://research.dwp.gov.uk/asd/asd5/rports2009-2010/rrep707.pdf>

¹⁰ Employment and Support Allowance: findings from a face to face survey, Helen Barnes, Paul Sissons and Helen Stevens DWP research report no 707 2010

¹¹ Employment and Support Allowance: findings from a face to face survey, Helen Barnes, Paul Sissons and Helen Stevens DWP research report no 707 2010

¹² Work test reform plans could cause 'confusion' and 'misery' <http://www.bhfederation.org.uk/component/k2/item/1057-work-test-reform-plans-could-cause-%E2%80%98confusion%E2%80%99-and-%E2%80%98misery%E2%80%99.html> January 2011

¹³ New Labour, the market state, and the end of welfare, Jonathan Rutherford:
Soundings 2007 <http://www.lwbooks.co.uk/journals/articles/rutherford07.html>

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