

## Summary: Intervention & Options

<b>Department /Agency:</b> <b>Department for Work and Pensions</b>	<b>Title:</b> <b>Impact Assessment of The Employment and Support Allowance Regulations 2008 - Public Sector Impact only</b>	
<b>Stage:</b> Implementation	<b>Version:</b> Final	<b>Date:</b> 18 March 2008
<b>Related Publications:</b> 'A new deal for welfare: Empowering people to work' (Cm 6730), 'A new deal for welfare: Empowering people to work. Consultation report' (Cm 6859)		

**Available to view or download at:**

<http://www.dwp.gov.uk/welfarereform/legislation.asp>

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**What is the problem under consideration? Why is government intervention necessary?**

Currently, people claiming incapacity benefits receive them on the basis of their incapacity for work. Many believe that they are unemployable, with no life choices or long-term prospects, believing that their illness or medical conditions cannot be catered for in the workplace. However, with the right support, a substantial number are capable of doing work, either part-time or full-time. Government intervention is necessary to bring about a change in the way such claimants perceive their employment prospects and to provide the support necessary for them to achieve their potential.

**What are the policy objectives and the intended effects?**

To provide financial support for those new claimants who are entitled to benefit on the grounds of having a health condition or disability and, building on the Government's Pathways to Work pilots, to provide work-related support to those who can work that will focus on what they can do, rather than, as now, to pay benefit solely on the basis of what they cannot do. The intended effect is to contribute to the Government's overall aim of providing work opportunities for all, to increase the numbers moving off benefit and into employment and, thereby, to reduce poverty and hardship.

**What policy options have been considered? Please justify any preferred option.**

The policy options are discussed in the Regulatory Impact Assessment prepared for the Welfare Reform Act 2007 ("the Act") [available at <http://www.dwp.gov.uk/welfarereform/docs/WelfareReformRIA.pdf>]

During the drafting of the regulations, additional administrative expenditure of over £5m has been identified which impacts on the public sector only. This impact assessment relates solely to the impact of Regulations 19 and 34, and Schedules 2 and 3, on the public sector.

**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?** ESA monitoring and evaluation will be an ongoing process, as with other benefits. In the first 5 years, s.10 of the Act requires a report on s.8 and s.9, under which regulations 19 and 34 are made.

**Ministerial Sign-off** For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy; and (b) that the benefits justify the costs.

Signed by the responsible Minister:

.....Date:

## Summary: Analysis & Evidence

<b>Policy Option: WCA under ESA</b>	<b>Description: The new Work Capability Assessment (WCA), applied to ESA customers</b>
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<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups' The new WCA will be applied to ESA customers and will be a tighter gateway than the PCA; fewer people will gain eligibility to ESA. This will lead to costs (DEL) incurred through: (i) more appeals work and (ii) more administration of benefits where people failing the WCA make a subsequent claim to an alternative benefit
	<b>One-off</b> (Transition)	<b>Yrs</b>	
	<b>£ 0.5m</b>	1	
	<b>Average Annual Cost</b> (excluding one-off)		
	<b>£ 10.5m</b>		
<b>Total Cost (PV)</b>			<b>£ 90m (10years)</b>
Other <b>key non-monetised costs</b> by 'main affected groups' N/A			

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups' The new WCA will mean a lower ESA caseload, generating AME and DEL as a result of (i) fewer people being paid benefit (AME) and (ii) lower administrative costs maintaining the ESA caseload (DEL) - the latter will be modest and largely offset by higher caseload maintenance costs in non-ESA benefits
	<b>One-off</b>	<b>Yrs</b>	
	<b>£ 0</b>		
	<b>Average Annual Benefit</b> (excluding one-off)		
	<b>£ 215m (by year10)</b>		
<b>Total Benefit (PV)</b>			<b>£ 1.1bn (10years)</b>
Other <b>key non-monetised benefits</b> by 'main affected groups' N/A			

**Key Assumptions/Sensitivities/Risks** The estimated costs and savings are based on estimates for extra number of people not qualifying for ESA as a result of the WCA, and for the extra number of appeals. These estimates, which are partly assumption-based, are subject to a high degree of uncertainty.

Price Base Year 2008	Time Period Years 10	<b>Net Benefit Range (NPV)</b> <b>£ N/A</b>	<b>NET BENEFIT (NPV Best estimate)</b> <b>£ 1.0bn</b>
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What is the geographic coverage of the policy/option?	Great Britain				
On what date will the policy be implemented?	27 October 2008				
Which organisation(s) will enforce the policy?	N/A				
What is the total annual cost of enforcement for these organisations?	£ N/A				
Does enforcement comply with Hampton principles?	No				
Will implementation go beyond minimum EU requirements?	No				
What is the value of the proposed offsetting measure per year?	£ N/A				
What is the value of changes in greenhouse gas emissions?	£ N/A				
Will the proposal have a significant impact on competition?	No				
Annual cost (£-£) per organisation (excluding one-off)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">Micro</td> <td style="width: 25%; text-align: center;">Small</td> <td style="width: 25%; text-align: center;">Medium</td> <td style="width: 25%; text-align: center;">Large</td> </tr> </table>	Micro	Small	Medium	Large
Micro	Small	Medium	Large		
Are any of these organisations exempt?	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">N/A</td> <td style="width: 25%; text-align: center;">N/A</td> </tr> </table>	No	No	N/A	N/A
No	No	N/A	N/A		

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)
Increase of    £ N/A	Decrease of    £ N/A	<b>Net Impact</b> £ N/A

Key:

Annual costs and benefits: Constant Prices

## Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

The new Work Capability Assessment (WCA) will be applied to ESA claimants, instead of the Personal Capability Assessment (PCA) currently used in respect of Incapacity Benefit (IB) claimants. A number of ESA claimants who would have passed the PCA gateway, had it been applied, will not pass the WCA.

### ADDED APPEALS WORK

#### Background

As a result of the tighter gateway, it is anticipated there will be an increase in the level of appeals and appeal hearings where claimants are denied ESA.

Appeals will be further increased by new appealable decisions, which currently do not exist under incapacity benefits. The key one will be around group placement; appeals challenging decisions for whether the claimant should be placed in the new 'Support Group'. This group is for the more severely disabled on ESA who will not be required to undertake work-related activity. The WCA process determines who belongs in the Support Group. It will be based on an individual's functional capability, rather than on medical condition, and so arguably more subjective.

#### The number of appeals

##### ***Appeals against a failed WCA***

Estimates suggest around 60,000 more people a year will fail the WCA than are currently failing the PCA under IB, though this is partly the result of people being tested earlier under ESA. Based on current observation for those failing the PCA, it is estimated that around a third of those who fail the WCA will appeal and around 70 percent of these will reach an appeal hearing. It implies that 20,000 more will appeal each year and that 14,500 of these reach a hearing.

##### ***Appeals against placement in the Work-Related Activity Group***

It is assumed that slightly fewer claimants will be placed in the Support Group, compared to those who are currently PCA exempt, and that around 1% of awards inflows (or around 6,000 people) who would have been PCA exempt will not be placed in the Support Group. It is further assumed that all of these people will appeal and reach the hearing stage.

##### ***Appeals against sanctions***

It is considered that sanctions will apply to, at most, 0.5% of awards inflows resulting in a modest number of appeals each year (1,500).

##### ***Total added appeals***

In a full year it is estimated that an extra 26,500 appeals will be lodged, with 21,000 of those reaching a tribunal hearing.

**Table 1: increased number of appeals heard at tribunal under ESA**

Appeal type	2008/09*	2009/10	2010/11
(Baseline)			
Against WCA			
Failed test	+3,500	14,500	+14,500

Group placement	+1,500	+6,000	+6,000
Sanctions	+500	+1,500	+1,500
Improved appeals process	-neg	-1,000	-1,000
<b>Total</b>	<b>+5,500</b>	<b>+21,000</b>	<b>+21,000</b>

\* Part year

### **Costs of appeals**

The costs of these extra appeals are as follows:

#### ***Job Centre Plus***

A total of £4m a year to cover:

- processing extra appeals

#### ***Ministry of Justice***

A total of £5m a year to cover:

- provision for hearings (Tribunals Service)
- provision of legal aid (Legal Services Commission)

The total direct costs are therefore estimated at around £9m a year.

In addition to these ongoing annual costs, there are one-off set up costs to the Tribunals Service, covering the training of additional legal professionals for hearings, estimated at £0.5m.

### **The number of ‘double claims’**

It is expected that around half of the extra people failing the WCA (and who are unsuccessful at appeal) will move to Jobseeker’s Allowance (JSA). This is based on current observations for the destinations of those flowing off incapacity benefits as a result of failing the PCA and then adjusted to take account of the changing lone parent benefits regime. This will incur costs through new (additional) benefit claims, largely to JSA. There will also be modestly added JSA caseload maintenance costs but these will be offset by a lower ESA caseload maintenance.

Total added annual inflows to JSA as a result of the WCA are projected to be around 15,000 to 20,000 a year.

### **Costs of ‘double claims’**

A new claim to JSA costs around £90 to process. Based on the added claims to all other benefits annually, a cost of around £1½m a year (Job Centre Plus) is projected.

## **SAVINGS**

### **Fewer people being paid benefit**

The revised gateway affects the caseload through off-flows (from the assessment phase), not through initial inflows.

Firstly, the WCA will take place earlier than the old PCA; more people will actually take the test and so potentially they will move off ESA sooner. Secondly, the disallowance rate is expected to rise under the WCA, initially by around 12 percentage points (a third), compared to the PCA, adding to the off-flow effect. This will gradually reduce the ESA caseload with time.

Even taking into account those moving onto other benefits (described above), the expenditure (AME) savings across the whole benefit system are likely to be substantial. The savings will arise because:

- the other benefits that claimants will move to (e.g. JSA) will pay less than ESA rates
- a significant proportion of claimants is expected to leave the benefit system entirely, some into work – most of these will claim the Working Tax Credit. The expenditure savings (AME), together with the cumulative reductions in the ESA caseload, are estimated as follows:

**Summary of caseload impacts of applying the WCA to ESA claimants**

Financial Year	Cumulative ESA caseload reduction*	In-year expenditure savings (AME)*
2008/09	neg	-£0m
2009/10	-30,000	-£50m
2010/11	-50,000	-£85m
2011/12	-65,000	-£115m
2012/13	-75,000	-£135m
2013/14	-85,000	-£155m
2014/15	-90,000	-£170m
2015/16	-95,000	-£190m
2016/17	-105,000	-£200m
2017/18	-110,000	-£215m

\*average

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	Yes	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	No
Rural Proofing	No	No

# Annexes

## [Equality Impact Assessment](#)