



Time-limiting contributory Employment and Support Allowance

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Employment and Support Allowance (ESA) replaced incapacity benefits for people making new claims from October 2008. There are two forms of ESA: contributory ESA, for those with a sufficient National Insurance contribution record; and income-related ESA, which is means-tested. Claimants who satisfy the Work Capability Assessment for ESA may be placed in either the “Support Group”, if they are deemed to have a “limited capability for work-related activity”, or the “Work Related Activity Group”. Those in the latter group are required to attend Work-Focused Interviews and agree action plans.

The Spending Review on 20 October 2010 announced that, from April 2012, for those Employment and Support Allowance claimants assessed as eligible for the Work Related Activity Group, contributory ESA would only be payable for up to one year. Those still on benefit at that point may then claim income-based ESA, but they may not be entitled to any benefit if they or their partner have other income or capital above a certain level. The Government’s initial estimate was that the change would yield savings of around £2 billion a year by 2014-15, but the Office for Budget Responsibility now estimates savings of around £1.4 billion a year.

At May 2010, 527,000 people were claiming ESA but this will increase as the DWP begins reassessing 1.5 million of the remaining incapacity benefits claimants from April 2011. Claimants “migrated” from Incapacity Benefit to contributory ESA who are placed in the Work Related Activity Group will be subject to the one year time limit following reassessment. In all, the Government estimates that around 700,000 ESA claimants will be affected by the ESA time limit by 2015-16, but that around 60% will be fully or partially compensated by income-related ESA. This suggests that around 280,000 could lose entitlement to ESA completely. Disability organisations believe the actual figure could be higher.

Welfare rights and disability organisations have criticised the proposal which, it has been argued, would further undermine the contributory principle and, coming on top of other announced benefit cuts, increase poverty and cause financial distress for people with long-term health conditions or disabilities and their families.

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Contents

1	Background	3
2	Announcement in the Spending Review	3
3	Responses	5

1 Background

Employment and Support Allowance (ESA) replaced incapacity benefits for people making new claims from October 2008. There are two forms of Employment and Support Allowance:

- **contributory ESA**, for those with sufficient National Insurance contribution record; and
- **income-related ESA**, which is means-tested.

To be eligible for ESA, a person must undergo a **Work Capability Assessment (WCA)**. Claimants are assessed during the first 13 weeks of their claim (or longer if necessary) to determine whether they have a “limited capability for work”, and also whether they are capable of engaging in “work-related activity”. This second part of the assessment determines whether the person is placed in the “**Support Group**” or the “**Work Related Activity Group**”; for those in the latter group, access to the full rate of benefit may be conditional on participation in Work-Focused Interviews (WFIs) and agreeing an action plan. Those in the Support Group have more serious illnesses or disabilities, and are not required to undertake any further activities to receive their benefit.

At May 2010, 527,000 people were claiming ESA in Great Britain, of whom 189,000 received only the contributory version. 239,000 received income-related ESA only, while 33,000 received both contributory ESA and a top-up of income-related ESA.¹ At February 2010, there were 43,070 people receiving contributory ESA in the Work Related Activity Group.²

The introduction of ESA did not initially affect people already getting incapacity benefits, but existing claimants (apart from those reaching retirement age or otherwise expected to leave incapacity benefits) are to be reassessed under the Work Capability Assessment between now and 2014. Around 1.5 million people are to be reassessed over a three year period, equating to nearly 10,000 nationally a week. Those who satisfy the test will be “migrated” to ESA. The DWP estimates that around 19 per cent of those reassessed will be found “fit for Work” and of those around half will move onto Jobseeker’s Allowance.³

2 Announcement in the Spending Review

The Spending Review announced that, from April 2012, for those ESA claimants assessed as eligible for the “Work Related Activity Group”, contributory ESA would only be payable for up to one year. Those still on benefit at that point may then claim income-based (i.e. means-tested) ESA, but they may not be entitled to any benefit if they or their partner have other income or capital.

The initial estimate was that the measure would yield savings of just over £2 billion a year by 20114-15. However, in its *Economic and fiscal outlook* report accompanying the Autumn Statement on 29 November, the Office for Budget Responsibility estimated savings at £1,370 million in 2014-15 and £1,440 million in 2015-16.⁴ The revised estimates reflect “significant changes in the assumptions relating to the impact of the Work Capability Assessment” in the

¹ DWP [Tabulation Tool](#)

² HC Deb 18 November 2010 c910w

³ DWP website, [Reassessment of incapacity benefits: An introduction](#), December 2010

⁴ OBR, [Economic and fiscal outlook](#), Cm 7979, November 2010, Table A1, p150

light of more recent data. The assumption is that more ESA claimants will be found “fit for work” than was previously thought, although the OBR acknowledges that its assumptions could well change in the future as further data becomes available, for example on outcomes from the reassessment of incapacity benefit claimants.⁵

The *policy costings* document published alongside the Spending Review gives further details of how the time limit will be implemented:

This measure places a time limit on contributory Employment and Support Allowance (ESA) for those in the Work Related Activity Group (WRAG) to one year – commencing in April 2012:

- for existing contributory ESA customers, the time limit will apply at the point they reach one year including the assessment phase. Those with a claim duration of one year or more when legislation comes into effect will have their benefit time-limited immediately and will have at least 12 months to prepare for the change;
- those on Incapacity Benefit (IB) who migrate to the WRAG in ESA will be limited to one year entitlement following reassessment. For those reassessed first this will take effect from 2012-13;
- all new claims will be subject to the 13 week assessment phase, those in the WRAG will be time limited to one year contributory ESA which will include the assessment phase. This will start to take effect from 2013-14; and
- after the one year period, customers will be able to receive income-related ESA if they fulfil the conditions of entitlement, otherwise they will either claim another benefit or move off benefits.

Those in the ESA Support Group are exempt from this policy on the basis that they are the most severely ill or disabled.⁶

The Minister for Disabled People, Maria Miller, gave further information on the Government's reasons for introducing a twelve month time limit for contributory ESA for those in the Work Related Activity Group in a written answer on 31 January:

Stephen Timms: To ask the Secretary of State for Work and Pensions what the evidential basis is for his proposal that 12 months should be the maximum period for claimants in the work-related activity group to receive contributory employment and support allowance. [36247]

Maria Miller: We are introducing a time limit of 12 months for entitlement to contributory employment and support allowance for claimants in the Work Related Activity Group. The period of 12 months was chosen because it strikes the best balance between allowing people with longer-term conditions to adjust to their health condition and providing a level of access that is appropriate for contributory benefits. Around 60% of all those claiming ESA already come off this benefit within a year⁽¹⁾. We will be putting in place significant additional employment support through the Work programme.

⁵ *Ibid.* para 4.90

⁶ [Spending Review 2010 policy costings](#), p6

ESA has always been intended to be a temporary benefit for those in the Work Related Activity Group. It is important that we rebalance the benefit system so that it is fair to recipients as well as being affordable to the taxpayer.

Those in the Support Group, who have the most severe health conditions or disabilities, are not affected by this measure. Customers in the Work Related Activity Group whose entitlement to contributory ESA ends after 12 months will be able to claim income-related ESA if they are eligible.

⁽¹⁾ *Source:* Department for Work and Pensions Tabulation Tool.⁷

The Government currently estimates that around 700,000 claimants will be affected by the time-limiting of contributory ESA by 2015-16. Of those, it expects that around 60% will be compensated, in full or in part, by income-related ESA.⁸ This suggests that around 280,000 claimants could lose entitlement to ESA altogether. The Government stresses however that its estimates may change as new data on claimants in the Work Related Activity Group becomes available.

In a written answer on 21 December, Maria Miller said that the proposal to time limit contributory ESA was estimated to have “no significant impact on child poverty”, measured using a threshold of 60% of median equivalised household income.⁹

A full impact assessment for the measure, including the most up to date estimates of costs and savings, is to be published alongside the forthcoming Welfare Reform Bill.¹⁰

3 Responses

Disability and welfare rights organisations have expressed concern about the proposal to time-limit contributory ESA, coming on top of other announcements including a new assessment for Disability Living Allowance expected to result in a reduction of 20% in the DLA caseload, and the withdrawal of the DLA mobility component from people in care homes.

Following the Spending Review, Neil Coyle, **Disability Alliance** Director of Policy, commented:

Disability Alliance fears today’s Spending Review announcement signals the start of a difficult battle to preserve some essential sources of support for disabled people and could result in dire consequences for hundreds of thousands of families across the UK.

[...]

The coalition’s spending review risks increasing disability poverty. Cutting disabled people off ESA after one year despite a lack of employment opportunities and reduced support to get jobs will impoverish thousands of disabled people and their families. This cut will additionally affect many of the 360,000 disabled people no longer able to

⁷ HC Deb 31 January 2011 cc585-586w

⁸ HC Deb 9 December 2010 cc393-394w

⁹ HC Deb 21 December 2010 cc1186-1187w

¹⁰ HC Deb 31 January 2011 c585w

access essential DLA and the combined affect will mean some disabled people cut adrift from the entire welfare state.¹¹

The **National Association of Welfare Rights Advisers** press release in response to the Spending Review commented:

The plan to limit Contributory Employment and Support Allowance (ESA) to 1 year only, which seems to be a fundamental breach of the Government's contract with National Insurance payers. Until now "the deal" has been that in return for contributions made, people get a small measure of social security in the event of sickness from work.

"Now a million people will lose their entitlement, just as they make the difficult personal and financial adjustment to their illness unfortunately having becoming long term" commented NAWRA's South Wales representative, Tom Messere. While the most disabled minority of ESA claimants will be exempt from the new time limit, the majority will be affected.

This will particularly hit areas of high deprivation and poor health, which are already set to feel the effects of the impact of the last Government's plans to reassess all claimants under the new much tighter Work Capability Assessment. The result will be a significant cost in administration, appeals, emotional and financial distress to claimants and sadly in some extreme cases, people's lives. Up to 400,000 people could see benefits cut or lost altogether.¹²

Bob Stringe, Chief Executive of **Advice NI** (Advice Northern Ireland) said:

The impact of the cuts imposed under the Spending Review particularly in respect of welfare represent an attack on the poorest families. We are particularly concerned about the proposals to time-limit contributory Employment and Support Allowance. Effectively this represents a fundamental shift and reduction in support for people who are no longer able to work because of long term health conditions. Many people affected by this change will feel that they have paid their tax and National Insurance contributions and yet they will be denied support when they need it most.¹³

The Chair of the Work and Pensions Committee, Anne Begg, also raised the issue of the contributory principle in a Westminster Hall adjournment debate on Work and Pensions on 4 November:

That leads me to the third way in which the Government are planning to cut the benefits bill: limiting how long a person can be on a particular benefit. Even if a person is successful in being assessed as only partially fit for work, and qualifies for the work-related activity part of the employment support allowance or ESA-it gets no easier to say, but I do not know another way of doing it but to use acronyms or to give the full title-the CSR proposes that they will qualify for the contributory element for only a year. That means that people who have worked all their lives, and paid their national insurance contributions in the hope that they will act as an insurance against ill health, will get the benefit for only one year unless their household income is below the qualifying level for income support.

¹¹ Disability Alliance press release, [Spending Review risks increasing disability poverty: Some disabled people cut adrift from welfare state](#)

¹² NAWRA press release, [Benefit cuts target the sick, the disabled and children](#), 22 October 2010

¹³ Advice NI news release, [People on welfare benefits bear brunt of Osborne Spending Review](#), 20 October 2010

That poses the question of how much the Government want to continue with the contributory principle. Already, people receive unemployment benefit, or jobseeker's allowance, for only six months, and the contributory element of ESA is to last only for a year, yet they will have worked all their lives thinking that was why they were paying national insurance.¹⁴

The **Disability Benefits Consortium (DBC)** – a national coalition of over 30 charities and other organisations with an interest in welfare provision for disabled people – said in its response to the Spending Review that the proposal to time-limit contributory ESA was “very worrying”:

This policy means that disabled people who have worked and paid National Insurance throughout their lives who lose their job while still of working age will only be able to claim ESA for a year before being directed to other benefits. However, many of these people will then not be eligible for these benefits (because they have savings or their partner works for more than 24 hours per week) and could lose their independent income.

Being excluded from the benefits system is likely to limit a person's ability to get the help and support they may need to get back to paid work. It also ignores the reality that due to factors including discrimination and access, many disabled people can take significantly longer to move into work than non disabled people. This policy seems to contradict the government's stated aims of supporting hard-working families and of providing real support to those who need it most, and once again, we ask that it is scrapped.¹⁵

On 8 November, the co-chairs of the DBC Policy Group wrote a letter to the Secretary of State for Work and Pensions setting out the Disability Benefits Consortium's concerns about the impact of announcements in the Spending Review on disabled people. An extract is below:

The affect of cuts: contributory ESA

Following the reassessment of everyone on Incapacity Benefit it is expected that there will be over 1 million people in receipt of contribution based ESA. Due to the stringency of the test for ESA, this group will consist only of individuals with significant health conditions and impairments who are likely to meet the Equality Act's definition of 'disability'.

Once a claimant's 12 month contribution based ESA time limit has been reached a means-test will decide if they qualify for an income-based alternative out of work benefit. However, the criteria for means testing means that despite living in a low income household, many people will still not qualify for any support, as the following scenarios prove;

- Mr Williams loses contribution-based ESA but his wife earns £165 per week (before tax). He is not entitled to income-based ESA. This policy change will penalise couples and may influence decisions around co-habitation or work for both partners.
- Ms Hawkes is single but has a small occupational pension which she contributed to whilst working for a number of years. It pays £90 a week so she is also not entitled to an alternative when her contribution-based ESA is cut.

¹⁴ HC Deb 4 November 2010 c340WH

¹⁵ [Disability Benefits Consortium response to the Government spending Review](#), 18 November 2010

- Mr Lindars has £16,000 capital and is also not entitled to an income based alternative when his contribution based ESA is cut. In both these scenarios the time limit on contribution based ESA acts as a disincentive to saving.

[...]

The change to contribution based ESA will result in more disabled people living in poverty. The poverty threshold for 2008/09 was £119 for a single adult and £206 for a couple. The thresholds for income based ESA outlined above show that you can be ineligible for this benefit despite already living below the poverty line. The Spending Review provided a real opportunity to tackle disability poverty, but we are concerned that this change to contribution based ESA actually risks having the reverse affect.

Finally, aside from the financial impact of this change, we are also worried about the impact it will have on an individual's chances of finding work. When someone loses ESA after a year they may also lose access to support to find work. Furthermore, if unable to find work within six months of losing ESA, people will also lose access to disability premiums in Tax Credits – making work potentially unviable.¹⁶

A number of organisations also commented on the ESA proposal in their submissions to the [Work and Pensions Committee inquiry on the White Paper on Universal Credit](#).

Age UK was concerned that the measure would affect many claimants in the age group 50 and over:

A fair system should provide support to those in financial need but also ensure that people feel adequately rewarded for contributions made. People in their 50s and 60s with disabilities or health problems who have worked and paid national insurance for maybe 40 years or more are likely to feel let down if benefit stops after a year because they have modest savings or a partner in work and have not been able to return work. The Government should reconsider this proposal.¹⁷

The mental health charity **Mind** was also “deeply concerned” about the proposal:

In our view non-means-tested benefits for people with long-term mental health problems are an essential part of the system. Many such people rely on personal and emotional support from partners to be able to live in the community. Making partners wholly responsible for their financial support as well seems both unjust and self-defeating. It seems highly likely that the change would result in family breakdown in many cases and increased rates of hospitalisation and institutionalisation. Where this did not happen work incentives for the partners of people with long-term illnesses or disabilities would be dramatically worsened. All this seems directly contrary to the declared policy objective.

There is however a more fundamental objection. The proposal is that the Government should simply repudiate its obligations to a very large group of people, all of whom will have been paying National Insurance contributions for years and in many cases decades on the basis of what seemed like absolutely firm assurances of support if they were no longer able to work.

It is hard to imagine a Government reneging on its debts in this way in any other context. Financially no doubt there are equally good reasons for withholding pay or

¹⁶ [DBC letter to the Secretary of State for Work and Pensions on the Impact of the Spending Review](#), 8 November 2010

¹⁷ [White Paper on Universal Credit: Written Evidence Submitted by Age UK](#), December 2010

pensions from current and former Government employees or refusing to honour Government bonds. No such proposals have however been made and it would be very surprising if they were.

What is happening in fact is that a specific group of people has been targeted to have their rights withdrawn and that this group is defined specifically by the fact that all its members suffer from a long-term illness or disability. We find the implications of this very disturbing.¹⁸

The **Disability Alliance** – a charity concerned with poverty and disability, which has over 250 member organisations – sought clarification from the Government on whether its estimates of the impact of the proposed Universal Credit on poverty took account of the proposed change to ESA:

We would... welcome understanding if people losing all out of work benefits as a result of time limiting contributory ESA to 12 months is implemented has been factored into DWP tackling poverty estimates. The DWP have suggested 280,000 disabled people will lose contributory ESA and all out of work benefits through this time limiting and we believe this underestimates the figure – which our analysis suggests will be closer to 400,000 disabled people. Disability Alliance has sought answers from DWP on this issue and we believe these contradictory figures and Government estimates of tackling poverty through the UC require further examination and for Government plans to be fully developed and clarified.¹⁹

Disability Alliance also noted that the Government's initial estimate of the saving from time-limiting ESA matched its estimate of the cost of introducing the Universal Credit

We are concerned that disabled people are paying for the [Universal Credit] – which represents an unfair burden falling on already limited shoulders. A third of disabled people live in poverty in the UK and we believe the contributory ESA cut and other welfare changes risk increasing disability poverty.²⁰

¹⁸ [White Paper on Universal Credit: Written Evidence Submitted by Mind](#), December 2010

¹⁹ [White Paper on Universal Credit: Written Evidence Submitted by Disability Alliance](#), December 2010, para 3.74

²⁰ *Ibid.* para 3.8.1