

Benefits and Work
Guides you can trust

The Best Possible

Employment & Support Allowance and Universal Credit Claims On Physical & Mental Health Grounds

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Introduction - why this guide is so big

Dear Reader,

The first thing you're likely to notice about this guide is its sheer size.

We realise that when you already have to cope with a serious health condition or disability, discovering you need a publication of this size just to make a claim for a single benefit isn't good news.

Unfortunately, Employment and Support Allowance (ESA) includes the worst and most complex assessment procedure for a benefit that we have ever encountered. To make matters even more confusing, another benefit called Universal Credit (UC) is now being 'rolled out', as the government puts it. Some people will need to claim UC instead, or even as well as, ESA.

All this means our guide has to help you make sense of things that take a great deal of explaining. Fortunately, we don't need to worry too much about the differences between ESA and UC in this guide. This is because although there are many differences between the two benefits, the way they assess how your health conditions or disabilities affect you is exactly the same.

At the heart of the assessment procedure is something called the **work capability assessment**, which includes two medical tests.

These tests were designed by dubiously constituted committees, tried out on a statistically insignificant number of claimants, reworked to make them harder to pass and then hastily written up into almost incomprehensible legislation.

In 2011 the test was revised to make it shorter and even harder to pass, if not simpler to understand.

In 2013 it was revised again to make it still harder to pass for most people.

The questionnaire you have to fill in is misleading and, at times, different from the actual legal tests. The guidance given to health professionals carrying out the medicals is, in our view, at some points equally questionable.

So, this guide is designed to allow you to make an effective claim in spite of the system set up by the Department for Work and Pensions (DWP).

Our method is a slow, repetitive and painstaking one with quite a few uncertainties along the way. And we do not in any way guarantee that using this guide will mean that you will be awarded ESA or UC. That will depend on your health issues and how they affect you.

But we can say with certainty that if you follow the information in this guide you will provide the most accurate possible evidence about your entitlement to benefit. And you will avoid all of the deliberate, or merely incompetent, pitfalls we have identified which will undoubtedly lead to many thousands of less well-informed claimants missing out on a benefit they are entitled to.

Good luck!

Steve Donnison and Holiday Whitehead (barrister)

This guide is for physical and mental health conditions

This guide is for you if you are applying for ESA or UC because you have a physical health condition, such as:

- epilepsy
- arthritis
- heart disease
- back problems

or a mental, cognitive or intellectual health condition, such as:

- depression
- anxiety
- learning difficulties
- a brain injury
- substance misuse or dependency problems

What this guide is for

This guide will help you to:

- complete the ESA50 or UC50 questionnaire
- provide supporting evidence
- prepare for and attend a medical

How to use this guide

Use it slowly, bit-by-bit.

This is a step-by-step guide to a highly complex process. It will help you to make a very detailed and well supported claim and considerably improve your chances of success. But it's also very long and we often have to say the same thing in several different places, so please don't try to read it all at once. Use it like you would any other instruction manual – a car maintenance manual, say - just read the bit you need at the time and don't worry about the rest.

Should you claim ESA, UC or both?

UC is designed to replace a range of other benefits for people of working age, whether they are looking for work or unable to work because of ill health or disability.

When it was first brought in, however, only jobseekers had to claim UC. But this has gradually been broadened out to other claimants.

You might already be familiar with the way that Disability Living Allowance (DLA) is gradually being replaced by Personal Independence Payment (PIP), and many people are having to transfer from one to the other. UC is being introduced in a different way, and for the time being you will not be transferred to UC unless your circumstances change, and you have to make a new claim for benefit. UC has now been rolled out across the country for new claims but, **unless your circumstances change**, existing ESA claimants will **not** be required to transfer to UC until sometime between 2019 and 2023 (this is the current timescale but may be subject to change). During this period a process of managed migration of existing benefit claimants onto UC will take place with transitional protection for claimants who might otherwise be worse off under UC.

However, from 16 January 2019, if you have a Severe Disability Premium (SDP) in your legacy benefits, then you will **not** be able to apply for UC even if your circumstances **do** change. This is because existing claimants with an SDP have been identified as a group most likely to suffer financially from moving to UC as the new benefit does not include disability premiums. As a result, your move to UC will be delayed until the managed migration period when your income will be transitionally protected to ensure that you are no worse off on the new benefit. Until this time, you will be able to claim your legacy benefits.

If you were made to claim UC before 16th January 2019 you should be placed back on your legacy benefits, so that you don't lose money. This should be done automatically by the DWP, unless your legacy benefits included Tax Credits in which case you will have to reclaim them and ask for compensation for the money you lost.

On the other hand, if you're already on UC (probably as a jobseeker), and become unable to work because of ill-health or disability, you won't normally be able to get ESA: instead your UC award will continue, but instead of having to look for work you'll have to satisfy the rules that this guide is about.

If you are not excluded from UC because of an SDP (see above), you should also think about claiming new style ESA as well. This is because UC is purely a 'means-tested benefit'. This means that if your National Insurance record is good enough, you might be entitled to new style ESA because of this, even if your income (or your partner's, if you have one) means you can't get UC.

How to start your claim for ESA

There are 3 different types of ESA – contributory, income-related and new style – and the application process for the latter is different from the first two.

The number of people who can make a new claim for **contributory or income-related ESA** is now limited. You can only claim contributory or income-related ESA if you get a Severe Disability Premium in another means-tested benefit. This is because you are prevented from applying from Universal Credit (UC) until the managed migration process takes place between 2019-2023 when your current level of benefit income will be transitionally protected.

To claim contributory or income-related ESA you will generally need a fit note – previously known as a sick note. From March 17th 2020 for a period of at least 3 months, until June 17th 2020, you will not need to supply a fit note if: -

- You have been diagnosed with coronavirus
- You are self-isolating due to coronavirus
- You are caring for a child who satisfies one of the above two conditions.
- You have been told to stay at home by the NHS for 12 weeks because you're at high risk of severe illness, known as 'shielding'.

Assuming you have one of these the next step will be to make an initial application by phone:

Telephone 0800 169 0350
Text phone 0800 023 4888

Alternatively, you can download a paper claim form, an ESA1, from the Gov.uk website at:

<https://www.gov.uk/employment-support-allowance/how-to-claim>

(Google 'claiming ESA' and the link should be first, or very nearly first, in the list)

If you make your initial claim by telephone you will be sent a printed Customer Statement to check, sign and return. This is a record of the information you gave over the telephone and it's very important that you make sure it was taken down correctly.

Whichever method you use, you may be asked to provide other evidence, such as proof of savings and income as well as a fit note.

If you are not eligible to apply for contributory or income-related ESA because you do not have a Severe Disability Premium within an existing benefit, then you can only apply for new style Employment and Support Allowance.

To claim new style ESA, you would normally need a fit note – previously known as a sick note, but from March 17th 2020 for a period of at least the 3 months, until June 17th 2020, you will not need one if: -

- You have been diagnosed with coronavirus
- You are self-isolating due to coronavirus
- You are caring for a child who satisfies one of the above two conditions.
- You have been told to stay at home by the NHS for 12 weeks because you're at high risk of severe illness, known as 'shielding'.

You can claim by phone:

Telephone: 0800 328 5644

Textphone: 0800 328 1344

You will be connected to a dedicated team who will post or email you a NSESAF1 claim form. A form can also be downloaded [here](#) and you can also get a form from your local jobcentre. If you are not receiving Universal Credit or an appointee for someone, as of April 20th 2020 it is possible to claim new style ESA online.

<https://www.apply-new-style-employment-support-allowance.dwp.gov.uk/eligibility-start>

Normally your local jobcentre will contact you to book a face-to-face appointment to set up your new style ESA claim, but as of March 17th 2020 for a period of at least 3 months, until June 17th 2020 there will be no face-to-face appointments

Even if you are claiming UC for another reason (e.g. carer or parent), you should still claim new style ESA as well if you would like to be considered for benefit based on your National Insurance contributions. For example, you might have other income, or have a partner with income, which would reduce your entitlement to UC but would not affect any entitlement to new style ESA. However, it is important to remember that new style ESA counts as income for UC, so your new style ESA payment will be taken off your UC payment.

Note that if you are already claiming UC and want to claim 'new style' ESA you cannot do so online. You need to phone the UC helpline –

0800 328 5644

0800 328 1344 – Textphone

0800 328 1744 - Welsh

Whether you apply for contributory, income-related or new style ESA, once your initial claim is accepted you will be placed in the 'assessment phase'. There's more about this in the next section.

During the assessment phase, if you are getting ESA (or ESA and UC together) you will normally be paid benefit, at the 'assessment rate' while you are waiting for a decision on your capability for work. The main exception is if you have previously been found fit for work and have not been successful in getting that decision reversed, unless you can show that you have a new condition, or your previous condition has worsened. contributions. For example, you might have other income, or have a partner with income, which would reduce your entitlement to UC but would not affect any entitlement to new style ESA. However, it is important to remember that new style ESA counts as income for UC, so your new style ESA payment will be taken off your UC payment.

Whether you apply for contributory, income-related or new style ESA, once your initial claim is accepted you will be placed in the 'assessment phase'. There's more about this in the next section.

During the assessment phase, if you are getting ESA (or ESA and UC together) you will normally be paid benefit, at the 'assessment rate' while you are waiting for a decision on your capability for work. The main exception is if you have previously been found fit for work and have not been successful in getting that decision reversed, unless you can show that you have a new condition, or your previous condition has worsened.

How to start, or change, your claim for UC

As we explained above, you will need to claim UC as someone who is unfit for work if:

- You are already getting UC for another reason (see below).
- Or you are making a new claim for benefit as someone who is unfit for work.
- Or you are receiving a means-tested benefit that UC is replacing and experience a relevant change of circumstance (unless you receive a Severe Disability Premium in your existing benefits and are excluded from UC until managed migration (see above)).

To claim UC because of ill health or disability you will generally need a fit note – previously known as a sick note. From March 17th 2020 for a period of at least 3 months, until June 17th 2020, you will not need a fit note if you are claiming UC on the grounds that: -

- You have been diagnosed as suffering from coronavirus
- You are self-isolating as a result of coronavirus
- You are caring for a child who satisfies one of the above two conditions
- You have been told to stay at home by the NHS for 12 weeks because you're at high risk of severe illness, known as 'shielding'.

Assuming you have one of these the next step will be to make an initial application. Normally you are expected to do this online at: <https://www.gov.uk/apply-universal-credit>

If you cannot use the internet, or cannot access it, you should be given assistance to make the claim another way.

If you have the ability to use a computer but have no access to one, the Department for Work and Pensions (DWP) should provide this at your local jobcentre.

You can also obtain help in making a UC claim by contacting the [Citizens Advice \(CA\) Help to Claim service](#). CA are funded by the Government to provide assistance from your initial application, through to your first payment.

If, for whatever reason, you have not got the ability to make a claim on-line, you should phone the UC helpline – 0800 328 5644 – and explain this. They should then take you through the claim on the phone. You may need to be persistent to get this help. Ask to make a complaint if this help is not provided. The Welsh language helpline number is 0800 328 1744 and the textphone number is 0800 328 1344.

If you would like to be considered for benefit based on your National Insurance contributions, you should claim new style ESA as well. Be prepared for some duplication and, possibly, some confusion, as the DWP doesn't seem to have this option very well managed yet.

Jobseeking while you wait to be assessed

From March 17th 2020 for a period of at least 3 months, until June 17th 2020 you will be deemed (treated) as being sick if one of the following applies: -

- You have been diagnosed with coronavirus
- You are self-isolating as a result of coronavirus
- You are caring for a child who satisfies one of the above two conditions
- You have been told to stay at home by the NHS for 12 weeks because you're at high risk of severe illness, known as 'shielding'.

If you claim *just UC* and not ESA as well, you will now have to deal with one of the main ways in which UC differs from ESA. Until your capability for work is assessed the DWP will not normally treat you as though you are unfit for work. This will mean that they will initially expect you to comply with the rules that apply to jobseekers (i.e. be available for work and look for work). This is obviously likely to cause you problems. However, you do not have to comply with these requirements if you are unfit for work for:

- Up to 14 consecutive days (up to 28 days in total over twelve months);
- For longer than this, if the DWP thinks it would be 'unreasonable' to expect you to be available for work and look for work.

In either case, you will need to provide medical evidence (i.e. a fit note/sick note) after the first 7 days.

There are also some circumstances in which the DWP should treat you as unfit for work even if you have not yet had your capability for work assessed.

- If you are undergoing treatment as an inpatient or are recovering after being an inpatient.
- If, because of your condition, there would be a substantial risk to your physical or mental health, or that of any other person, if you were found fit for work. You can't use this route if reasonable workplace adjustments, or taking medication prescribed for you, would reduce this risk.
- Other circumstances relate to infectious diseases, life threatening conditions, and some types of dialysis, plasmapheresis, and parenteral nutrition, as well as reaching pensionable age.

These options are discussed in more detail in the section below: 'Seven ways to get into the work-related activity group without scoring any points'.

If you are already getting UC but are no longer fit for work

If you are already getting UC – as a jobseeker, for example – you will need to tell the DWP that you are no longer fit for work and be prepared to provide your fit note as evidence.

Unfortunately, you will *not* normally be released from any obligations you already have (such as work search requirements) until the DWP has completed the assessment procedure, which is supposed to take about three months. See the section immediately above this one for your options in this situation.

How you move from claim to assessment to award

Both ESA, and UC claimed because you do not think you are fit for work, are divided into two stages. These are called 'phases' in the ESA rules. Strictly speaking the UC rules don't refer to 'phases' but the same principles apply.

First, there is an assessment phase in which your eligibility for the benefit, and the group you will be placed in, is decided. For successful applicants, this is followed by the main phase. Unsuccessful applicants can request a mandatory reconsideration (and then appeal if the decision isn't changed) or apply for Jobseeker's Allowance (or stay on UC as a jobseeker), or do both.

Assessment phase

The assessment phase for ESA is intended to last for 13 weeks, from when you first make a claim for benefit to when a decision is made about your entitlement to main phase and additional components. In reality it often lasts for many months more than this. Some claimants are automatically placed in the main phase. The main group to whom this applies are those who are claiming on the grounds of terminal illness.

The rules for UC say that you can't get extra elements until three months after you first provide evidence that you are not fit for work. The same rules in relation to being automatically being placed in the main phase apply to UC as they do to ESA.

In either case, the test to decide whether you are eligible to move onto the main phase and, if so, at what rate is called the Work Capability Assessment (WCA).

About the work capability assessment

The **work capability assessment** is the collective name for two medical tests which are used to decide which, if either, component of ESA or UC you may be entitled to. (Again, strictly speaking UC calls these elements, not components, but they amount to the same thing).

Atos to Maximus

Until the beginning of March 2013, the tests were carried out by a private sector company called Atos. However, Atos have now been replaced by another private sector company called Maximus, which carries out its work under the name Centre for Health and Disability Assessments (CHDA).

The person carrying out the test will be a 'health professional', usually either a nurse or a physiotherapist. Many of these have been transferred from Atos to CHDA.

CHDA also continue to use the same LiMA software developed by Atos to carry out medical assessments.

Limited capability for work assessment

The limited capability for work assessment is the first medical test – if you pass this points-based test you will be eligible to join the **work-related activity group (WRAG)**. Most people who get ESA – or UC because they say that they are not fit for work – are in this group. You will receive a basic allowance, plus a work-related activity component if your claim was made before 3rd April 2017. You will also have to attend compulsory work-focused interviews and you may be required to attend a Work Programme.

Important – Changes to ESA work-related activity group payments from 3rd April 2017

New ESA claimants who were placed in the WRAG following a claim from 3rd April 2017 do

not get the work-related activity component. Instead, their benefit remains at the assessment rate. This means that new claimants for ESA after 3rd April 2017 are £29.05 per week (at 2019/2020 rates) worse off than existing claimants.

The equivalent amounts in Universal Credit were also removed from 3rd April 2017.

These changes do not affect ESA claimants who are placed in the support group, they will still receive the support component.

This will not affect you if your claim for ESA started before 3rd April 2017.

If you are placed in the WRAG after 3rd April 2017 you will still be entitled to the work-related activity component if any of the following apply:

- your claim is backdated for up to three months to a date before 3rd April 2017.
- you have been on ESA since before 3rd April 2017 and you are reassessed, even if you are moved from the support group to the work-related activity group.
- you are moved from Incapacity Benefit to ESA and put in the work-related activity group.
- your claim is made within 12 weeks of a previous claim for ESA which was in payment before 3rd April 2017.
- you were claiming ESA before 3rd April 2017 and your claim was closed while you were getting Maternity Allowance and you make a new claim within 12 weeks of Maternity Allowance ending.
- Your award is the result of a mandatory reconsideration or appeal decision made about a claim made before 3rd April 2017.

What difference is there between being a jobseeker and having limited capability for work?

If you are claiming Jobseeker's Allowance (JSA) and become ill, it is still important to declare this to the DWP. Some important differences between being a jobseeker and having limited capability for work are:

- You can only claim JSA while you are sick for up to 13 weeks.
- While you are in the WRAG, your conditionality is different. You are required to attend work focused interviews and may be required to undertake work-focused activity, but you cannot be required to apply for jobs or attend work experience schemes.
- You can be sanctioned for failing to attend interviews and refusing to undertake work-related activity, but you cannot be sanctioned for failing to look for work and apply for jobs.
- The government has undertaken to provide extra money to Jobcentres to provide tailored flexible support to help people get back to work as quickly as possible following a period of ill health.
- You can undertake a certain amount of work without your ESA being affected. This is called 'permitted work'. See the separate Permitted Work guide. Note that there is no provision for permitted work if you are getting Universal Credit.

Limited capability for work-related activity assessment

The limited capability for work-related activity assessment is the second test – if you pass this confusingly similarly named test as well you will be eligible to join the **support group**. You will receive a basic allowance plus a support component which is paid at a slightly higher rate than the work-related activity component. You won't have to have any compulsory work-focused interviews, although you may be contacted by the DWP to see if there is any help they can offer you.

In theory, everyone has to pass the limited capability for work assessment first – if you fail you have to claim JSA – and then a decision is made about whether you pass the second, harder, limited capability for work-related activity assessment for the support group.

In practice, the DWP try to pick out all the most severely disabled people who are eligible for the support group as early as possible, based on medical certificates from their doctor. This is done before you are even sent a questionnaire to complete.

Support group early entry

If they can't make a decision on the support group just from your fit note, CHDA health professionals may contact your doctor for more information before recommending to the decision maker that you should be in the support group. This will usually be done by sending your GP an ESA113 or UC113 form or a Factual Report form which asks specific questions about how your condition affects you.

If the CHDA health professional assesses you as eligible for the support group they must also say on what grounds you pass the limited capability for work assessment, so that they can show that you passed both medical tests.

ESA50 or UC50 questionnaire

If you are not placed in the support group at this stage, you will be sent an ESA50 questionnaire to complete. If you are getting UC you will be sent a UC50 questionnaire instead, but for all practical purposes it's just the same as the ESA50. Most of this guide is about completing that questionnaire.

Once your completed questionnaire is returned you may be placed in the support group or the work-related activity group. But in most cases, you will be asked to attend a medical before a decision is made about which group, if either, you should go into.

At the medical the CHDA health professional will assess what points they think you should score and create a medical report about you using LiMA computer software. This will be passed to the decision maker.

The decision

The decision maker will decide – supposedly based on all the evidence – whether:

- 1 You have failed the work capability assessment and will have to claim Jobseeker's Allowance, or – if you are in the UC system – comply with all the UC jobseeking conditions.
- 2 You have passed the limited capability for work assessment and are eligible to join the main phase of ESA or UC in the WRAG. If your claim was made before 3rd April 2017 you will get an additional work-related activity component (or limited capability for work element in UC).
- 3 You have passed both the limited capability for work assessment and the limited capability for work-related activity assessment and are eligible to join the higher paying support group. You will get an additional support component (or limited capability for work-related activity element in UC).

If you are not happy with the decision you can ask the DWP to look again at its decision (this is called asking for a mandatory reconsideration). If the DWP does not change its mind you can appeal.

Work-focused interviews and work-related activities

From March 17th 2020 for at least 3 months until June 17th 2020, you will not be subject to these work focused interviews if any of the following apply: -

- You have been diagnosed with coronavirus
- You are self-isolating as a result of coronavirus
- You are caring for a child to which one of the above two conditions apply
- You have been told to stay at home by the NHS for 12 weeks because you're at high risk of severe illness, known as 'shielding'.

Unless you get early acceptance into the support group you will have a compulsory work-focused interview at your local Jobcentre Plus. As a result of the Coronavirus pandemic these interviews have been suspended. At the time of writing, June 2020, it is not clear how long this suspension will last for. At this interview you have to draw up an action plan for moving into work and also discuss any problems you may have with working.

If you are put into the work-related activity group in the main phase you will have further interviews either at Jobcentre plus or with a private or voluntary sector organisation, depending on which area of the country you live in. Again, because of backlogs in the system, many people have some or all of their interviews before a decision has been made about which ESA or UC group – if any – they will be placed in.

If you are put into the WRAG you will also have to undertake work related activities: this might mean undertaking skills assessments, work focused health assessments, and training courses. It also might include work experience or work placement, although the DWP has made it clear it cannot force you to do these (at least for ESA).

If you do not attend work focused interviews or undertake work-related activities, you risk being sanctioned. However, the DWP has an obligation to take your particular circumstances into account.

The UC system calls work related activities 'work preparation requirements', but in general they operate in the same way.

If you go into the support group, you do not have to attend work-focused interviews.

The different routes into the work-related activity group – with or without points

As we've already explained, the limited capability for work assessment is a points-based system for assessing your ability to carry out various activities. If you score enough points under this assessment you will be eligible to join the WRAG. The assessment is made up of a physical health test and a 'mental, cognitive and intellectual function' test.

Claimants who are placed in the support group have to pass this assessment and then a further one, the limited capability for work-related activity assessment.

The majority of people who get into the WRAG do so by scoring 15 points or more in the assessment. But there are actually other ways of passing this test and not all involve points. ESA and UC approaches to this are similar, but not identical.

ESA

There are **three** ways of passing the test:

1. You can be treated as satisfying the assessment and therefore not need to show that you score enough points. This is also called being 'exempt' from the assessment.
2. You can score 15 or more points in the assessment.
3. You can fail to score enough points but be covered by the exceptional circumstances regulations.

UC

There are **two** ways of passing the test:

1. You can be treated as satisfying the assessment without having to show that you score enough points.
2. You can score 15 or more points in the assessment.

This makes it look as though a whole category of options are eliminated from UC compared to ESA, but in fact the exceptional circumstances from ESA are covered in the 'treated as' section of UC.

We deal with all these methods of passing the limited capability for work test in detail in this guide. For simplicity we will divide the methods into the two groups that UC uses; where the ESA rules differ, this will be highlighted.

Seven ways to get into the work-related activity group without scoring any points

There are a number of grounds on which claimants can be treated as satisfying the limited capability for work assessment; this is sometimes called 'being exempt from the test'.

If you are treated as satisfying the test you do not have to complete an ESA50 or UC50 questionnaire or attend a medical. You automatically pass the limited capability for work assessment and you may also pass the limited capability for work-related activity assessment - the support group test - as well.

You will be treated as having limited capability for work if any of the following circumstances apply:

1. You are terminally ill, i.e. you are suffering from a progressive disease and your death in consequence of that disease can reasonably be expected within 6 months.

This will also give you exemption from the limited capability for work-related activity assessment, allowing you to join the support group. This issue should be picked up by CHDA before you receive an ESA50 or UC50 form, and they will usually check to see if a DS1500 has been submitted, the form used in connection with claiming Disability Living Allowance or Personal Independence Payment under the special rules. You should not have to complete an ESA50 or UC50 and you should go straight into the support group without needing to spend 13 weeks in the assessment phase.

2. You are receiving one or more of the following types of therapy:

Chemotherapy or radiotherapy, provided that the decision maker is satisfied that you should be treated as having limited capability for work. You can also use this rule if you are not receiving these now, but you are still recovering from them, or if you are due to have them within the next six months.

The presumption is that such treatment should also give you exemption from the limited capability for work-related activity assessment, allowing you to join the support group. It should only be in unusual circumstances, such as a claimant having only a single radiotherapy session that is unlikely to have any significant effect, that the exemption may not apply.

There is a tick box in the form relating to cancer treatment and a form for your health professional to complete in relation to cancer treatment.

- Haemodialysis, plasmapheresis, or total parenteral nutrition. This only applies for those weeks when you receive this treatment.

3. In some circumstances, if you are pregnant

The circumstances that the DWP will consider differ depending on whether you are claiming ESA or UC. If you are claiming both, you can use the ESA rules.

- You are pregnant and there is a serious risk of damage to your health or to the health of your unborn child if you do not refrain from work.

This applies whether you are getting ESA, UC, or both.

This should also give you exemption from the limited capability for work-related activity assessment, allowing you to join the support group. There is a tick box on page 2 of the ESA50 and UC50 questionnaire which asks if you are pregnant. But it does not give any space to say if there may be a danger to you or your unborn child. You may wish to include

details in the 'Other information' section of the form and you should also consider contacting the office dealing with your claim and informing them separately.

- You are pregnant and within the maternity allowance period and entitled to Maternity Allowance.
- You are pregnant and within either six weeks of giving birth or have given birth in the last two weeks and you are not entitled to Maternity Allowance or Statutory Maternity Pay.

The above two pregnancy-related rules apply only if you are getting ESA, or both ESA and UC.

If you think that any of these exemptions may apply to you, inform the DWP office dealing with your claim and give them details of your GP or other health professional who can provide supporting evidence.

4. You have, or have been in contact with, a notifiable disease

According to the WCA Handbook:

'This category involves those who have been excluded from work through a Public Health Order. There are a number of Public Health Acts and a number of conditions covered in legislation. Infectious Diseases such as typhoid, salmonella and hepatitis may be covered.'

'However this does not mean that anyone carrying these diseases is considered to have limited capability for work. The condition of treating them as having limited capability for work only applies if there is evidence of a Public Health Order having been placed on the individual.'

5. You are an in-patient in hospital or recovering from in-patient treatment

In-patient treatment involves being advised by a health care professional to stay in a hospital or similar institution for a period of 24 hours or longer.

You will also be treated as having limited capability for work on any days in which you are attending residential rehabilitation for the treatment of drug or alcohol addiction. This does not need to be medical treatment. It could, for example, be a residential centre run by a religious organisation.

There are spaces in the ESA50 and UC50 form to give details of hospital treatment and of residential rehabilitation.

Exceptional circumstances

There are two more possibilities left to consider. They are handled slightly differently in the ESA and UC systems:

- If you are claiming ESA, these cannot be considered until after you have been through the scoring process. If you have not scored enough points, the DWP must consider if either of these options apply to you. They are called 'exceptional circumstances'.
- If you are claiming UC, these can be considered *before* you have been through the scoring process. If you satisfy either of these conditions the DWP say you are treated as satisfying the test (just like the other options above).

These are the two options:

6. You are suffering from a severe life-threatening disease

For your condition to qualify, the regulations require that:

- (i) there is medical evidence that the disease is uncontrollable, or uncontrolled, by a recognised therapeutic procedure, and*
- (ii) in the case of a disease that is uncontrolled, there is a reasonable cause for it not to be controlled by a recognised therapeutic procedure.*

So, for example, you may have severe inflammatory bowel disease, such as Crohn's disease, which is not currently being controlled by medication or you may have stopped taking medication because of very severe side effects.

Or you might have a serious eating disorder which is not controlled either by medication or by any kind of talking therapy. This is not uncommon for eating disorders and so there would be 'reasonable cause'. Ultimately such a condition could be fatal and so it should count as 'severe life-threatening' and so should fall within the exceptional circumstances regulations.

It's important to be aware though, that refusing to take medication or have treatment may mean that the decision maker concludes that there is not a 'reasonable cause' for the condition not to be controlled. In this case you would need to show that your refusal to take medication is reasonable.

If you think that this regulation applies to you it would be worth including information about why you think so in an additional sheet and attaching it to your ESA50 or UC50 questionnaire. If you think you can get medical evidence to support what you are saying attach a copy to your questionnaire.

7. There is a substantial risk to you, or others, if you are found not to have a limited capability for work

The regulation enables you to pass this test without having to score enough points if:

'you suffer from some specific disease or bodily or mental disablement and, by reasons of such disease or disablement, there would be a substantial risk to the mental or physical health of any person if you were found not to have limited capability for work.'

This regulation will not apply, however, if the risk could be reduced by a significant amount by:

- reasonable adjustments being made in your workplace; or
- taking medication to manage your condition that has been prescribed by a registered medical practitioner who is treating you.

For this exceptional circumstance regulation to apply you need to show firstly that you have a specific 'disease or disablement'. This could be, a physical condition such as a heart or lung condition or a mental health condition such as anxiety, depression or bipolar disorder.

Then you need to show that there would be a 'substantial risk' either to you or to someone else if you were found not to have limited capability for work.

For example, might the exertion involved in going to work lead to a serious deterioration in your health condition? Might the exertion even be fatal?

Might you attempt to harm yourself?

You will need to be prepared for the decision maker to suggest that reasonable adjustments could be made in your workplace which would significantly reduce the risk. If you don't have

a workplace anymore, then the decision maker will first have to decide what kind of workplace should be considered – generally by looking at your previous employment. If you think the choice of workplace is unreasonable this could form grounds for a mandatory reconsideration request, or later, an appeal.

The law doesn't seem to be concerned with the fact that very few employers are actually prepared to make adjustments of any sort for disabled employees, but suggestions that involve very expensive or difficult adjustments could possibly be challenged at a tribunal.

In relation to medication, it has to be medication that has actually been prescribed for you by your GP or other health professional, not simply medication that the decision maker or health professional thinks you ought to take.

If there is a good reason why you don't take medication that has been prescribed for you – for example because the side-effects are so unpleasant – then it would certainly be worth explaining this and also arguing it an appeal, although the law doesn't specifically deal with the issue of whether good cause for not taking medication should be considered.

We would also argue that if the decision maker considers that the medication would reduce the risk, they should also take into account any side-effects and how they might affect your capability for work. Again, this is not something that the regulations address, but it would be worth arguing at a tribunal.

If you believe that this exceptional circumstance applies to you, include information with your questionnaire and try to obtain supporting medical evidence. You can add the information in the 'Other information' section or on additional sheets with the heading 'Life threatening disease' or 'Substantial risk'.

Important! In many cases, if you are found to be covered by the substantial risk regulations you are likely to be found to be incapable of work and also incapable of work-related activity and placed in the support group.

So, please also see the section below in this guide covering '*More on the very important 'substantial risk' safety net*' as this includes detailed information about guidance issued to health professionals when making recommendations about substantial risk and the support group.

If you think that any of these grounds may apply to you, inform the DWP office dealing with your claim and give them details of your GP or other health professional who can provide supporting evidence.

Should you score enough points to get into the work-related activity group?

The limited capability for work assessment is divided into 17 activities: 10 physical and 7 which assess mental health and learning difficulties.

Each of these activities is divided into a number of 'descriptors' and each of these descriptors has points attached to it, ranging from 15 down to zero.

You need to score a total of 15 points in order to pass the limited capability for work assessment. If you have a mental health problem or learning difficulty as well you can add together your physical and mental health points and, if the combined total adds up to 15, you will have passed.

You can only score points for one descriptor from each activity – the highest one.

So, for example, if 1(c) applies you get 9 points, but you can't also have 6 points for 1(d) because they are both the same activity. But you can have 9 points for 3(b), if that applies, because that's a separate activity. In this case you would have 18 points and, provided the decision maker agreed with this assessment, you would be eligible to join the work-related activity group.

You'll find much more detail about points and how to give evidence about what you consider you should score as we work our way through completing the form further on in this guide.

The different routes into the support group – descriptors or other grounds

If you pass the limited capability for work assessment you will then have another test, the limited capability for work-related activity assessment. If you pass this test as well, you will be placed in the support group. Both tests are carried out on the same occasion if you have a CHDA medical – you won't even be aware that the second one is taking place.

For both ESA and UC there are two ways of passing the second assessment:

1. You can be *treated as* having limited capability for work related activity. The grounds here are the same, or very similar, to the 'treated as' rules from the first test. Again, this is sometimes referred to as being 'exempt' from the test.
2. You can be covered by one of the descriptors. These are mostly the highest scoring descriptors from the activities in the first test, but there are some differences and the descriptor numbers are therefore different in places.

We deal with both methods of passing the limited capability for work-related activity test in detail in this guide. One of the grounds for being 'treated as' having limited capability for work-related activity – the substantial risk – rule needs to be looked at in particular detail, so we devote a special section just for this.

Four ways to get into the support group without using the descriptors

If you pass the limited capability for work assessment you will go on to be assessed under the limited capability for work-related activity assessment.

Once again, the first question is whether you are exempt from assessment.

The following claimants are treated as having limited capability for work-related activity and will be assigned to the support group:

1. You are terminally ill, i.e. you are suffering from a progressive disease and your death in consequence of that disease can reasonably be expected within 6 months

2. You are receiving treatment for cancer by way of chemotherapy or radiotherapy

For this to apply you must either be actually receiving it, or:

- you are likely to receive such treatment within 6 months; **or**
- you are recovering from such treatment;
- **and** the decision maker is satisfied that you should be treated as having limited capability for work-related activity.

3. You are pregnant

There must be a serious risk of damage to your health or to the health of your unborn child if you do not refrain from work related activity.

As you can see, (1) is exactly the same as the exemption for the WRAG and allows you to be placed in the support group.

2) and 3) are almost identical to the exemptions for the work-related activity group except that now you need to show that you would have to refrain from 'work related activity' rather than actual work. This could include things such as interviews and training. In practice, if you are found to be exempt in the first test you can use this to argue that you should be found exempt for the purposes of this test too and placed in the support group.

There is just one more possibility left to consider. This is handled slightly differently in the ESA and UC systems:

- If you are claiming ESA, this cannot be considered until after you have been through the scoring process. If you have not scored enough points, the DWP must consider if this option applies to you.
- If you are claiming UC, this can be considered *before* you have been through the scoring process.

4. There is a substantial risk to you, or others, if you are found not to have a limited capability for work-related activity

This ground is so important that we need to devote a special section to it.

More on the very important 'substantial risk' rules

The substantial risk rules are very important – they are one of the most common ways that claimants are placed in the support group.

You will be treated as having limited capability for work-related activities if:

'you suffer from some specific disease or bodily or mental disablement and, by reasons of such disease or disablement; there would be a substantial risk to the mental or physical health of any person if you were found not to have limited capability for work-related activity.'

This is almost identical to [one of the exceptional circumstances for the work-related activity group](#) (see page 13) except that now you need to show that you would have to refrain from 'work related activity' rather than actual work.

This could include things such as attending a Jobcentre or Work Programme provider's office regularly, work experience, training, group activities, doing tasks online.

Falling support group numbers

From January 2016 the number of initial assessments that resulted in claimants being placed in the support group began to fall, from 56% in December 2015 to 48% in December 2018.

The main reason seems to be a much harsher interpretation of the substantial risk regulations. Guidance for health professionals has changed considerably. They are now told by the DWP that work-related activities will almost never put a claimant at risk because:

"Claimants must not be asked by DWP to do anything that is unrealistic or could put their health at risk . . . If the claimant feels that the work-related activity they have been asked to complete is inappropriate or unreasonable, they can discuss this with the DWP adviser, and if this does not resolve the issue the claimant can request a formal reconsideration."

The substantial risk regulations remain vitally important, nonetheless, and it's important you include evidence on them in your ESA50 or UC50 form if you think they apply to you.

Work-related activities and substantial risk

In 2015, an Upper Tribunal decision ruled that, where substantial risk is likely to be an issue at an appeal, the DWP must provide the tribunal with details of the range of work programme activities available in the claimant's geographical area. This followed on from an earlier decision, *Charlton v SSWP* which stated that any activities must be ones that you could carry out given your education and skills.

They must then say which activities the claimant is most likely to be asked to undertake if they are placed in the work-related activity group, so the court can decide if they might pose a substantial risk.

As well as the activities themselves, the tribunal will take into account the effects on you of travelling to and from a Jobcentre, workshop, voluntary placement or anywhere else you might be told to attend.

Knowing about this guidance is vital for the appeals process, but it can also be very helpful at the initial claim stage.

Guidance issued to decision makers explains that lists of work-related activities for Jobcentre Plus and for Work Programme providers exist and that *"the types of WRA on either list have not changed significantly since the requirement for ESA claimants to undertake WRA was introduced on 1.6.11."*

Which list applies to you will depend on how long it will be before your next work capability assessment (WCA):

- Where you are required to undertake work related activities and the period before you are referred for another WCA is 12 months or less, the tribunal will be provided with the work programme list.
- Where you are required to undertake work related activities and the period before you are referred for another WCA is more than 12 months, the tribunal will be provided with the Jobcentre Plus list. There are extracts from this list below.

As well as providing the list, the decision maker has to give the tribunal examples of the most and the least demanding activities on the list that they consider you could undertake.

One problem with this approach is that unless the decision maker has a very good understanding of your condition and how it affects you, they may suggest you can undertake activities without risk entirely wrongly.

For example, they may not take into account the effect that pain and fatigue might have on you or the degree to which the activity might cause you severe distress.

They may also not take into account the variability of your condition and the risk that you might be sanctioned, because sometimes your condition will prevent you from undertaking the activity.

Jobcentre activity list

Below is a list, taken verbatim from a DWP tribunal submission (so the errors are theirs), of examples of work-related activities that a claimant may be asked to carry out by their local Jobcentre. They are divided into what the DWP believe the average person would consider least demanding, medium demanding and most demanding.

You can use this list to help you give examples of work-related activities that might pose a substantial risk.

Average least demanding

Write a diary of what is done each day, to then look at transferable skills.

Write a diary to record thoughts, mood, panic attacks, pain, positive events or thoughts.

Techniques for coping with negative thoughts, anxiety or panic attacks.

Encouraging claimants to seek help with debt or housing problems.

Requiring a claimant to register at the local library for access to internet services.

Establishing daily routines.

Register on Universal Jobmatch through www.gov.uk.

To research local training to update their computer skills.

Setting individual goals such as exercise routines or places to visit.

Encouraging claimants to think about their hobbies or things they enjoy doing and to note them down.

Develop a positive health statement.

Write an advert for themselves, outlining their skills, qualifications and abilities, asking their friends what they consider are the claimant's good points.

Attend appointments with their adviser to get the support to suit your needs.

Look at the 'Expert Patient' programme online to help manage their health condition.

Create an email account, if they do not have one or if it is not appropriate.

Look into local support groups they can join (To expand on DPT).

Apart from their health, make a list of things they would like to change.

Imagine the claimant was an employer. What would be the most important qualities would they want from their workforce? What could the claimant do to make him or herself the ideal employee?

Average medium demanding

Put together a plan to manage their journey to employment.

A list of the claimant's skills and experience from previous employment.

Check public transport timetables and plan how they would get to a certain destination on time.

Look at local newspapers either online or locally distributed.

Make a list of employers that the claimant may want to work for.

Research the skills required to do a particular job.

Complete a 'Better off Calculation' with their adviser, or complete them through www.gov.uk and share the results with their adviser.

Research courses or training you might like to do.

Attend appointments with agencies and/or providers (Examples could be local work clubs, local colleges or learning centres).

List the types of work available in their local area that they could get to.

List the workers they meet over a week. (e.g. Bus driver, newsagent). What do they do in their day-to-day job that the claimant could also do?

Average most demanding

Compile their CV, with support, if needed from their adviser or local provider.

Complete a Jobcentre application form.

Put together a speculative letter with help from their adviser or local provider.

Compile a covering letter to enhance their CV, with support if required.

Practice completing online application forms (Possibly at a work club).

Attend the office as if the claimant were going to an interview (Flexible support fund can be used to help customers pay for interviewing clothing with proof of a job interview).

Ask for a mock interview to test out their technique.

Consider voluntary work, this can be as little as one hour a week (do-it.org).

Attend a funded course at a local site (e.g. ESOL, basic maths or English, confidence building).

Showing you may be at risk

The issues below are some of the ones that guidance in the past has suggested should be taken into account when considering substantial risk. If any apply to you, it is worth giving details.

Please note though that this list is far from exhaustive and you should include any evidence you think is relevant.

Would you be able to travel, if required to do so?

Could you cope with meeting new people?

Would you be able to talk about your health condition to people you don't know well?

What effect would having your benefits sanctioned have on you?

Would work related activities be likely to cause:

- an increase in symptoms
- a change in medication
- an increase in medical input

- hospital admission
- an increase in attendance at hospital?

Is your health condition stable? If not, what has caused any deteriorations in the past and would work related activity be likely to engage any of these triggers?

Are there any steps that can be taken to reduce any risk, for example by only doing activities in the morning before fatigue sets in?

Did you give up work because of your health condition? If so, what was your job?

If there is a risk, is it present throughout the day? Are there times of the day when activities could be carried out without risk?

Has the decision maker accepted that you satisfy a descriptor, and therefore cannot undertake an activity which might be required as part of any work-related activity and which might cause harm to your health?

Should you be in the support group because a descriptor applies to you?

If you are not exempt from the limited capability for work-related activity assessment, the next question is whether any of the descriptors in the assessment apply to you.

If any one of the descriptors below applies for the majority of the time or for the majority of the times that you attempt it, then you will be eligible for the support group. Any aid, appliance or prosthesis that you normally use, or that you could reasonably be expected to use, will be taken into account when assessing you.

Almost all of these descriptors are 15-point descriptors from the assessment for the work-related activity group, so we deal with them in great detail as we go through filling in the ESA50 or UC50 form with you. (Though please note that not every 15-point descriptor will get you into the support group, we explain which do and which don't as we take you through the form).

The only exceptions are:

8. Absence or loss of control over extensive evacuation of the bowel and/or bladder.

The support group descriptor requires you to lose control at least once a week, whereas the 15-point descriptor only requires once a month. In every other respect it is identical.

15. Conveying food or drink to the mouth and

16. Chewing or swallowing food or drink.

Neither of these activities appears in the assessment for the WRAG at all, because they have no equivalent in the WRAG test. The regulations say that if any of them apply then you will have passed the first test on the same grounds – not something you need to spend any time trying to make sense of.

Support group descriptors

Limited capability for work-related activity test.

[Descriptors 1-8 relate to physical conditions]

1. Mobilising unaided by another person with or without a walking stick, manual wheelchair or other aid if such aid is normally, or could reasonably be, worn or used.

Cannot either:

(i) mobilise more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion

or

(ii) repeatedly mobilise 50 metres within a reasonable timescale because of significant discomfort or exhaustion.

2. Transferring from one seated position to another.

Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.

3. Reaching.

Cannot raise either arm as if to put something in the top pocket of a coat or jacket.

4. Picking up and moving or transferring by the use of the upper body and arms (excluding standing, sitting, bending or kneeling and all other activities specified in this Schedule).

Cannot pick up and move a 0.5 litre carton full of liquid.

5. Manual dexterity.

Cannot either:

- (a) press a button, such as a telephone keypad or;
- (b) turn the pages of a book with either hand.

6. Making self understood through speaking, writing, typing, or other means which are normally, or could reasonably be, used, unaided by another person.

Cannot convey a simple message, such as the presence of a hazard.

7. Understanding communication by—

- (i) verbal means (such as hearing or lip reading) alone,**
 - (ii) non-verbal means (such as reading 16 point print or Braille) alone, or**
 - (iii) a combination of (i) and (ii),**
- using any aid that is normally, or could reasonably be, used, unaided by another person.**

Cannot understand a simple message due to sensory impairment, such as the location of a fire escape.

8. Absence or loss of control whilst conscious leading to extensive evacuation of the bowel and/or voiding of the bladder, other than enuresis (bed-wetting), despite the wearing or use of any aids or adaptations which are normally, or could reasonably be, worn or used.

At least once a week experiences:

- (i) loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder; or
- (ii) substantial leakage of the contents of a collecting device sufficient to require cleaning and a change in clothing.

[Descriptors 9-14 relate to mental health and learning difficulties]

9. Learning tasks.

Cannot learn how to complete a simple task, such as setting an alarm clock, due to cognitive impairment or mental disorder.

10. Awareness of everyday hazards (such as boiling water or sharp objects).

Reduced awareness of everyday hazards leads to a significant risk of:

- (i) injury to self or others; or
 - (ii) damage to property or possessions,
- such that they require supervision for the majority of the time to maintain safety.

11. Initiating and completing personal action (which means planning, organisation, problem solving, prioritising or switching tasks).

Cannot, due to impaired mental function, reliably initiate or complete at least 2 sequential personal actions.

12. Coping with change.

Cannot cope with any change, due to cognitive impairment or mental disorder, to the extent that day to day life cannot be managed.

13. Coping with social engagement due to cognitive impairment or mental disorder.

Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the individual.

14. Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder.

Has, on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.

[These final two activities below have descriptors that relate to both physical and mental health/learning difficulties.]

15. Conveying food or drink to the mouth.

- (a) Cannot convey food or drink to the claimant's own mouth without receiving physical assistance from someone else;
- (b) Cannot convey food or drink to the claimant's own mouth without repeatedly stopping, experiencing breathlessness or severe discomfort;
- (c) Cannot convey food or drink to the claimant's own mouth without receiving regular prompting given by someone else in the claimant's physical presence; or
- (d) Owing to a severe disorder of mood or behaviour, fails to convey food or drink to the claimant's own mouth without receiving —
 - (i) physical assistance from someone else; or
 - (ii) regular prompting given by someone else in the claimant's presence.

16. Chewing or swallowing food or drink.

- (a) Cannot chew or swallow food or drink;
- (b) Cannot chew or swallow food or drink without repeatedly stopping, experiencing breathlessness or severe discomfort;
- (c) Cannot chew or swallow food or drink without repeatedly receiving regular prompting given by someone else in the claimant's presence; or
- (d) Owing to a severe disorder of mood or behaviour, fails to—
 - (i) chew or swallow food or drink; or
 - (ii) chew or swallow food or drink without regular prompting given by another person in the physical presence of the claimant.

Completing the ESA50 or UC50 questionnaire

When you become subject to the limited capability for work-related activity assessment you will receive a letter from the DWP asking you to complete and return an enclosed Capability for Work questionnaire.

You must complete the questionnaire and return it within the time limit or you may be found capable of work, unless you can show that you had good cause for failing to do so.

You can download a copy of the ESA50 or UC50 questionnaire from the gov.uk website by following this link:

<https://www.gov.uk/government/publications/capability-for-work-questionnaire>

<https://www.gov.uk/government/publications/uc50-form-universal-credit-capability-for-work-questionnaire>

or by typing 'download ESA50' or 'download UC50' into Google. The electronic ESA50 or UC50 allows you to enter and save information on it, but please make sure it works correctly on your computer before relying on it. Also try to save a copy of the information elsewhere in case anything goes wrong with your electronic form. Once you have completed the electronic form you can print it off and post it as you would an ordinary paper copy.

However, do bear in mind that the boxes for entering information are very small and you will almost certainly need to include additional sheets. There's more on this below.

Returning the questionnaire

You will have four weeks to complete and return the questionnaire. A reminder will be sent three weeks after the questionnaire was sent out. If it is not returned one week after the date of that reminder you will be treated as not having limited capability for work unless you have good cause for not returning the questionnaire. Matters to be taken into account when deciding if you had good cause for not completing and returning the questionnaire include:

- (a) whether you were outside Great Britain at the relevant time;
- (b) your state of health at the relevant time; and
- (c) the nature of any disability you have.

Missed deadline

If you've missed the deadline, return the form as quickly as possible along with a letter explaining why you are late doing so. If the decision maker decides you have 'good cause' for sending your form in late they can still accept it, otherwise you will be treated as capable of work. Obviously this is a serious matter, so if you've been ill, away from home or have some other reason why you are late, explain in as much detail as possible.

If the decision maker refuses to accept your late form, get advice from one of the agencies listed in our 'Help with benefits' page as quickly as possible as you may be able to request a mandatory reconsideration and, if necessary, appeal this decision as well as making a fresh claim.

Use additional sheets

Some of the boxes on the questionnaire are very small.

In fact, they have become smaller and smaller each time a new version of the form is published, so that now there is barely room to write more than a sentence or two in most of the boxes.

It's definitely worth using additional sheets if you can't fit everything you want to say in the boxes. Make sure you include your name and National Insurance number on the top of every additional sheet you use and, if possible, staple them to the back of the questionnaire.

Keep a copy

We strongly advise that, if at all possible, you keep a copy of your completed questionnaire and any additional sheets. It's far from unknown for documents to get lost when sent to the DWP or their contractors. It will also be useful for you to be able to review your evidence before you have a medical, if you are called for one.

In addition, you are likely to receive another ESA50 or UC50 questionnaire to complete at least once a year and possibly even more frequently, so it's worth keeping a copy for reference. Though clearly you must ensure that the information you give on each new form is accurate and up-to-date.

Physical or mental – what if it's not that straightforward? Following changes to the law in January 2013, you can only score points for the physical health activities if the difficulties you have with them are caused by a physical health condition or physical disability or are a direct result of treatment by a registered medical practitioner for that condition.

This means that, for example, if you have problems with the physical activity of getting around safely because of the effects of very strong medication taken for a mental health condition, this is unlikely to be taken into account by the decision maker.

If, on the other hand, you have problems with the physical activity of getting around safely because of the effects of very strong pain killers taken for a back injury, this should be taken into account by the decision maker.

It is sometimes not clear how the DWP treat conditions that may have both physical and mental aspects, such as ME/CFS or multiple sclerosis. We suggest that you complete both the physical and mental health sections and, if you are not happy with the decision, then consider requesting a mandatory reconsideration and, if necessary, an appeal. It will then be up to a tribunal to decide whether you should score points for both. Do try to get advice if you have to appeal, though we do know how difficult getting advice is since the April 2013 legal aid funding cuts.

Similarly, if your medication for mental health affects your physical activities, we suggest you give clear information about this and, once more, if you are not happy with the result consider a reconsideration request and an appeal.

How to show you score points even if you can actually do an activity

It's very important that, before you complete your questionnaire, you understand that just because you can carry out an activity that doesn't mean you are prevented from scoring points for being unable to do it.

For example, **in relation to physical health conditions**, if you can perform an activity, but it causes you problems such as:

- severe discomfort,
- pain,
- breathlessness,
- extreme fatigue.

or if you could do it once but couldn't repeat it within a 'reasonable' space of time or with reasonable regularity or safely then that may count as being unable to do it.

For example, you may be able to walk or wheel your wheelchair 100 metres, but you are actually in severe discomfort after only 50 metres, then you should argue that 50 metres is the limit of your ability.

Or perhaps you can stand for 10 minutes without help from another person. But because of your ME/CFS you would be so exhausted at the end of that period that you would have to go and lay down for hours and might not be able to stand again for any length of time for hours. In that case you should argue that you are not able to stand for 10 minutes because you cannot do it with reasonable repeatability.

Or it may be that you have severe emphysema and you could walk up two steps, but you would be left extremely breathless by doing so. Again, you should argue that you are not able to walk up two steps because of the effect it has on your breathing.

In relation to mental health and learning difficulties, it's not so straightforward to see how this applies. But we consider that the most important issues are likely to be:

1. repeatability
2. variability
3. reliability
4. safety

For example, you may be able to cope with a social engagement in that you manage to attend a doctor's appointment. But the experience may leave you so distressed that you would be unable to attend another social engagement for many days. In this case, we would argue that you should be considered as unable to do it at least for the majority of the time because you are unable to do it with reasonable repeatability.

Or you may be able to cope with one planned change in your routine, but if there was a second or a third one that would be too much to cope with and would cause you so much distress that you would no longer be able to carry on with your day to day activities.

For **both physical and mental health**, your condition may be a variable one, meaning that on some days you can do an activity and on other days you cannot. In this case you should be assessed on how you are for the majority of the time. Try to explain on your form the ways in which your condition varies and give your best estimate of how many days a week you are unable to manage the descriptor in question. We do know how difficult this is likely to be, but better that you do it than leaving it entirely to the CHDA health professional.

If you have indicated on your ESA50 or UC50 form that your condition is variable, and this issue is not addressed by the health professional if you have a medical, that will be grounds for challenging the reliability of the report if you need to request a mandatory reconsideration or later, appeal.

For example, you may sometimes be able to do an activity and sometimes not, without any way of being able to predict which will be the case. This is less an issue of your condition being variable and more about being unable to rely on your ability to do a specific activity on any given occasion. We would argue that in this case you should count as not being able to do it, at least for the majority of the time, because you can never predict whether you can do it or not.

In addition, if you could do an activity but it would not be safe for you to do it, then you should be assessed as being unable to do it. So, if you could go to unfamiliar places but because you are not safe near traffic or because you approach strangers inappropriately you would not be safe doing so, then we would argue that you are unable to do so.

Of course, all these issues are very subjective, and some are impossible to measure: what is severe discomfort and how can you tell if someone is experiencing it, for example? All you can do is give as much information as possible in your questionnaire and, if you are not found to have limited capability for work, consider requesting a mandatory reconsideration and appealing if the decision is not changed.

But while you are filling out the questionnaire, please try to keep these issues in mind.

Aids and appliances

Any aid, appliance or prosthesis that you normally use, or that you could reasonably be expected to use, will be taken into account when assessing you. This could be things like a walking stick, spectacles, a wheelchair or a hearing aid.

So, if you normally use an aid or appliance you will be assessed as if you were using it. For example, if you can only walk 40 metres before stopping when not using a stick but can walk 200 metres before stopping when using a stick, then it is the longer distance that will be taken into account.

If you have been prescribed an aid or appliance, or it has been recommended that you use one, then you will be assessed as if you were using it – even if you don't normally do so.

Even if an aid or appliance hasn't been prescribed or recommended, if other people with the same difficulties as you would normally use one, then you will be assessed as if you use the aid or appliance, unless it would be unreasonable to do so.

When the decision maker is deciding if it would be reasonable for you to use an aid or appliance, there are a range of issues they should take into account. For example:

- Is it likely that your health professional would advise you to use the aid or appliance, if you asked them about it?
- Do you actually possess the aid or appliance? If not, is it widely available? And could you afford it, if it is not available on prescription?
- If it is a bulky item, like a wheelchair, do you have room to store it?
- Is your health condition likely to be a short one, meaning that it would be unreasonable to expect you to get the aid or appliance?
- Have you been given medical advice that means you shouldn't use an aid or appliance? For example, have you been told that you should walk as much as possible, even though it is slow and painful to do so, rather than use a wheelchair? This might be because it is important that you maintain or improve the muscle tone in your legs.
- Would you be able to use the aid or appliance if you had one? For example, does poor grip or strength mean that you couldn't use a walking stick or a manual wheelchair? Or do you have breathing difficulties which mean you would be at risk from the exertion required to manually propel a wheelchair?
- Do you have a mental health condition that means you would be unable to use the aid or appliance?

If you have not been prescribed the aid or appliance and you do not normally use it, the decision maker should explain how it will help you carry out the activity, not simply assume that it is obvious. The aid or appliance should also not be one that substitutes for the physical activity being assessed, such as a grabber in place of using your hands in the manual dexterity activity. But the use of prosthetic hands can be taken into account.

When you are completing the ESA50 or UC50 questionnaire, if there is an aid or appliance which someone with your condition would normally use but you are unable to, then consider explaining why in the 'Use this space' box.

How to complete pages 1-7

About you

This is probably the most straightforward part of the form. But don't delay returning the form if, for example, you don't know your National Insurance number. You can always make enquiries and send that in later if necessary.

If you have been in hospital for more than 28 days in the last 12 months, served in HM Forces or been released from prison in the last 6 months, then you need to add dates and details in this section.

Are you pregnant?

If you are close to your due date, you may be exempt from the limited capability for work assessment. See the section on 'Should you be in the work-related activity group on exemption grounds?'

If there may be a danger to you or your unborn child if you are not placed in the support group, make sure you give details here or in the 'Other information' section on page 21. You may also wish to try to contact the office dealing with your claim and inform them before returning this form.

If you are returning this questionnaire late

If you are sending in the form after the deadline then give reasons here. For example, you may have been too unwell to complete the form or have been in hospital.

If the DWP do not accept your reasons for being late then you have the right to request a mandatory reconsideration and, if necessary, appeal to a tribunal. (See: *Completing the ESA50 or UC50 questionnaire* above).

About your General Practitioner (GP) or doctor's surgery

The first question asks for details of your GP or your doctor's surgery. If your GP has little involvement in your health care it is worth making a note on the form saying so. Bear in mind that the DWP may well contact your GP even if you say you seldom see them. So, seriously consider making an appointment with your GP and updating them on your condition because inaccurate and unhelpful information from your GP can seriously damage your claim.

About other Healthcare Professionals, carers, friends or relatives who know the most about your disability, illness or health condition.

This space is for details of the professional other than your GP who knows you best. It could be a health professional, such as an occupational therapist, specialist nurse or consultant, or it could be someone like a social worker, housing support worker or similar.

If there is more than one person who you think could give valuable information, give details of others on page 21 or on an additional sheet. It is important that you do this as the decision maker should ensure that they have sufficient evidence to make a decision on, rather than solely relying on a CHDA medical report. So, if you ask them to contact specific health professionals and they fail to do so, this may be an issue you will want to raise if your claim is not successful and you request a mandatory reconsideration or later lodge an appeal.

Because there is no guarantee that the DWP will contact your health professionals you may need to approach them yourself and ask them if they are willing to provide evidence. See '*Supporting evidence means more chance of success*' later in this guide for more on the importance of supporting medical evidence.

About medical or other information you may already have

There is a list of items that CHDA say they would like to see, such as hospital reports, test results and prescription lists.

The form stresses that they only want you to send them copies, not originals – it's entirely possible they will get lost.

There is also a list of items that CHDA say they don't need to see, such as photos or letters about other benefits.

The form also says: **'Remember – only send us copies of information you already have. Don't ask or pay for new information.'**

We would never advise that you risk sending your ESA50 or UC50 form back late whilst waiting for extra evidence. However, it will often be a very sensible idea to collect and send additional evidence that you don't already have, if it is likely to support your claim. Not only might it increase your chances of getting the correct award, it might also reduce your chances of having to have a face-to-face assessment.

See *'Supporting evidence means more chance of success'*, further on in this guide for more on this.

Cancer treatment

If you are receiving, are likely to receive in the next six months, or are recovering from chemotherapy or radiotherapy treatment for cancer then you are likely to be treated as satisfying the work capability assessment and should be placed in the support group.

If this applies to you and you have no other health problems in addition to cancer, then tick the **Yes** box on page 5, sign on page 22 and get a health professional to complete page 24.

For more details, see the sections on exemptions for each of the two tests.

About your disabilities, illnesses or health conditions

This is your opportunity to give the clearest picture of how your condition affects you, not in terms of the activities and descriptors in the rest of the form, but in terms of what your life is like.

You might want to leave this box until you have done the rest of the form, so that you can include anything here that hasn't been covered elsewhere – but don't forget to come back and do it.

You need to say:

- What conditions you have and, if you know, when they began (even if this is approximate).
- Dates of events such as heart attacks, strokes or accidents.
- How your life is limited by your condition. You might be able to write about the things you used to do that you are no longer able to do, for example, the help you get from other people, what the future is likely to hold for you.
- How your condition varies.
- What aids and adaptations you use.

- Anything else that might make the decision maker understand just how much your life is affected by your illness or disability.

Drugs or alcohol

You are also asked to say in this box if you think any of your conditions are linked to drugs or alcohol.

If you do think you have a substance abuse or dependency problem it is important that you give details, even though you may fear that you will be treated unfairly or suffer prejudice as a result. Failure to do so could be treated very seriously.

In practice, CHDA health professionals see very many people with substance misuse and dependency problems and they are unlikely to treat you any better or worse than they treat other patients. If you are treated harshly or insensitively, don't hesitate to make a formal complaint.

The fact that you use substances will not invalidate your claim in any way and may allow you to be covered by the exceptional circumstances rules. For example, it may be considered that because of your substance misuse or dependency, you would be a danger to yourself or other people if you were found capable of work.

If you are in, or about to enter, residential rehabilitation there is space to say so further on in the form.

Don't forget, if you need more space to give this detail, make sure you include your name and National Insurance number on the top of every additional sheet you use and, if possible, staple them to the back of the questionnaire.

About your medication

This box asks you to list any medication you are, or will be, taking and any side-effects it has.

Give the name and the amount of any medication you take and how often, if possible. If you experience any side effects from your medication you should list them in this box.

You may be able to get a printout of your medication from your GP.

Hospital, clinic or special treatment like dialysis or rehabilitation treatment

Give details here of any hospital based in or out-patient treatment you receive or are expecting to receive.

If you are in, or about to enter, residential rehabilitation for treatment relating to drug or alcohol misuse give details here. You will be treated as being eligible for the work-related activity group on any days on which you are in residential rehabilitation. See the section on 'Should you be in the work-related activity group on exemption grounds?'

Also give details of any special treatment you are having, such as dialysis. Renal patients who receive dialysis treatment for chronic renal failure at least once a week will be treated as having a limited capability for work for each week of treatment.

However, if you think you should be placed in the Support Group, give full details of treatment and recovery days as this might assist the decision maker to conclude that you also have a limited capability for work related activity.

The DWP may contact your consultant, but there is no guarantee they will do so. So, if you think it is important that this person provides evidence to support your claim you may need to approach them yourself and ask them if they are willing to provide you with it.

Completing Part 1– Physical functions and Part 2 - Mental, Cognitive and Intellectual functions

Activities 1-10 relate to physical health conditions. Complete this section if you have a physical health condition such as epilepsy, arthritis, heart disease and back problems.

Activities 11-17 relates to mental health conditions. Complete this section if you have a mental health condition, a learning disability, a brain injury or a substance misuse or dependency problem.

It's very important that if you do have a condition such as depression or anxiety in addition to your physical health condition, that you fill in both parts of the questionnaire.

A total of 15 points from your combined score is sufficient for you to pass the test and be found to have limited capability for work.

How we guide you through this section of the form.

We've used a system for taking you through each activity in both the physical and mental, cognitive and intellectual functions test. It may seem rather complicated and repetitive at first, but the test itself is horribly complicated.

If you follow our system through step-by-step and take your time, you will give the most accurate and detailed evidence possible and may greatly improve your chances of success at initial claim, reconsideration or appeal stage.

The descriptors: what the law says you score points for

For each activity, we list the descriptors and the points that they score. Even though these descriptors and points aren't listed on the ESA50 or UC50 form, the entire purpose of the questionnaire is to see how you score yourself. If necessary you will then have a medical so that a CHDA health professional can decide what they think you should score.

So, it's vital that you know how the scores work for each activity.

In plain English

The descriptors are sometimes complex, so this is where we try to explain the whole activity in just a few simple sentences.

Support group alert

Most, but not all, of the 15 point descriptors will also get you into the support group. We let you know which ones do and which ones don't.

PIP alert

Some of the activities or descriptors are very similar to some of the grounds for getting PIP. We know that medical reports for ESA are sometimes used to assess PIP claims. So, it's really important that you are warned about activities which could have a particularly marked effect on any PIP award you have or are applying for.

In the end, any evidence in your form or from your medical could have a bearing on your PIP – and so we have highlighted the most closely overlapping areas.

Also consider

Here we alert you when we think that if you score points for one activity in this test there's a good chance you could also score points for another or you could qualify via the exceptional circumstances regulations.

Ticking the boxes

For each activity, there are a series of tick boxes with options such as: usually, not very often, it varies. These boxes are frequently confusing, unhelpful or just plain irrelevant. We tell you what the likely effect of ticking them will be.

A system for filling the 'Use this space' box

Each activity has a 'Use this space' box for giving additional information after – or possibly instead of – ticking boxes. It's absolutely vital that you give detailed evidence in these boxes and you may well have to use additional sheets. We give you a step-by-step guide for giving additional evidence for each activity.

Sample answer

For every activity, we give at least one sample answer, so that you can see how the step-by-step system works for that activity.

What CHDA health professionals are told this activity is about

For each activity, we tell you what the WCA Handbook used to train CHDA health professionals says about how to assess and score people, including the kinds of daily activities you should be asked about. Frequently, we think the Handbook has misinterpreted the law and that health professionals are assessing people wrongly. That is why we think it is vitally important that you follow our step-by-step system for completing the form: even if you are turned down at initial claim you will have excellent evidence when challenging the decision, or to take to a tribunal, who are more likely to apply the law correctly.

Understanding this activity in detail

Here we go through every important phrase in every descriptor, telling you how we think the law should be interpreted. This should be helpful in assisting you in filling out the questionnaire and will, we hope, be invaluable if you have to request a mandatory reconsideration or later, appeal the decision.

And finally . . .

We know this is a lot of information and there may be a temptation to stop using the guide once you've managed to assess yourself as scoring 15 points. But please don't. The health professional and the decision maker may very well not agree with your choice of descriptors in some cases but accept them in others. The more descriptors you can accurately identify as applying to you the better.

How to explain problems with: 1. Moving around and using steps

The descriptors: what the law says you score points for

1. Mobilising unaided by another person with or without a walking stick, manual wheelchair or other aid if such aid is normally, or could reasonably be, worn or used.

(a) Cannot either

(i) mobilise more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion

or

(ii) repeatedly mobilise 50 metres within a reasonable timescale because of significant discomfort or exhaustion. **15 points**

(b) Cannot mount or descend two steps unaided by another person even with the support of a handrail. **9 points**

(c) Cannot either

(i) mobilise more than 100 metres on level ground without stopping in order to avoid significant discomfort or exhaustion

or

(ii) repeatedly mobilise 100 metres within a reasonable timescale because of significant discomfort or exhaustion. **9 points**

(d) Cannot either

(i) mobilise more than 200 metres on level ground without stopping in order to avoid significant discomfort or exhaustion

or

(ii) repeatedly mobilise 200 metres within a reasonable timescale because of significant discomfort or exhaustion. **6 points**

(e) None of the above apply. **0 points**

What this activity is about

This activity is about two different things:

your ability to 'mobilise' on level ground – using a walking stick, manual wheelchair or any other aid it would be reasonable for you to use; and

your ability to walk up or down two steps using a handrail.

Support group alert

If descriptor 1(a) (i) or (ii) is accepted by the decision maker as applying to you, then you qualify for the support group.

DLA alert

If you are getting higher rate mobility then the distance you are assessed as being able to mobilise may be used to look again at your DLA. Bear in mind though, that the criteria are not identical. DLA doesn't take into account your ability to use a wheelchair or your ability to 'swing through' using crutches.

PIP alert

If you are already getting, or applying for PIP, your claim may be based in part on the PIP activity of 'Moving around'.

Although not the same as this WCA activity, there is some overlap between the two. So, take great care to give accurate evidence here, because a medical report for the WCA can be used to make a decision on a claim for PIP, or look again at an existing award of PIP. See below for how to deal with the 50 metre tick box.

Ticking the boxes

Please tick this box if you can move around and use steps without difficulty.

Only tick this box if you're sure none of the descriptors apply to you.

Remember! If this activity causes you severe discomfort, pain, breathlessness or extreme fatigue or if you could do it once but not repeatedly or if your ability varies then you may count as not being able to do it. See the section on: 'How to show you score points even if you can actually do an activity' above.

How far can you move safely and repeatedly on level ground without needing to stop?

For example, because of tiredness, pain, breathlessness or lack of balance.

- ☐ 50 metres
- ☐ 100 metres
- ☐ 200 metres
- ☐ It varies

You get 15 points if you can only walk 50 metres or less, 9 points for 100 metres or less and 6 points for 200 metres or less.

If you tick 'It varies', you will need to give full details in the 'Use this space' box. Your ability should be assessed based on what you can manage for the majority of the time.

50 metre tick box

If the distance you can walk is less than 50 metres and you are concerned about ticking a box saying you can walk 50 metres –especially if you are claiming PIP for which 20 metres is the relevant distance – then do not tick any boxes. Instead, write 'None applicable' next to the boxes and then give full details of your walking ability in the 'Use this space' section.

Warning – imaginary wheelchair!

The form says 'By *moving* we mean including the use of aids such as a manual wheelchair, crutches or a walking stick, but without the help of another person.'

However, the law refers to aids that are 'normally, or could reasonably be, worn or used' rather than 'usually' used and CHDA health professionals are told, in relation to 1(a) in particular that:

"In this activity, the HCP should consider whether a person could potentially use a wheelchair regardless of whether or not they have ever used a wheelchair."

If you have problems walking you may also be assessed looking at how far you could 'mobilise' using a stick or a wheelchair, even if you don't usually use one. See the 'Use this space box' below for more on this

Warning – repeatedly, reliably, and safely!

The issue is not just whether you could 'mobilise' a given distance once, but whether you could do it 'repeatedly' and 'within a reasonable timescale'. So if you would be exhausted after mobilising 50 metres once and would not be able to do it again for some time then that may count as not being able to do it. See the section on: 'How to show you score points even if you can actually do an activity' above.

A system for completing the 'Use this space' box

Give the distance you can walk or wheel a manual wheelchair if you normally use one in this box. (See 'Imaginary wheelchairs' at the bottom of this section if you don't normally use a wheelchair).

Bear in mind: this is about how far you can walk or wheel a manual wheelchair before pain, severe discomfort, fatigue, stiffness, breathlessness or balance problems cause you real difficulties, and whether you could walk the same distance again with reasonable repeatability. If you normally use a walking stick or other aid, then it's how far you can get using this that counts. If walking causes or worsens abdominal pain, soreness around the anus or other symptoms, say how far you can walk before severe discomfort begins.

If you have chosen 'It varies' then you need to explain how much it varies. Any award of points should be based on how you are for the majority of the time. If you have a medical then the health professional should investigate this variability with you and if they fail to refer to it in their report this would be part of your grounds of your mandatory reconsideration and, if necessary, your appeal.

It's a good idea to give information about any problems you have with the following activities, as these are ones you are likely to be asked about if you have a medical, according to the WCA Handbook used by CHDA health professionals:

- moving around at home;
- shopping and walking around a supermarket;
- exercising pets.

Imaginary wheelchair

The WCA Handbook suggests that if you have problems walking, you should also be assessed on how far you can propel a manual wheelchair, even if you don't use one. The DWP have now also issued guidance to decision makers which you can read about in detail in the earlier section in this guide on 'Aids and appliances'. This guidance supports the view that you should be assessed taking into account how far you could propel a manual wheelchair even if you don't have one, if it is reasonable to do so.

If there are compelling reasons why you would not be able to cover 50, 100 or 200 metres using a manual wheelchair, for example extreme fatigue or problems with your hands, arms or shoulders, then it may be a good idea to explain in this box.

You may also need to explain:

- whether your health professionals have suggested that a wheelchair should be used or whether, for example, the use of crutches is part of a rehabilitation programme;
- whether you would, in reality, have access to a wheelchair given the nature of your condition and availability of wheelchairs from local providers.

What CHDA health professionals are told

Remember: this is just how the DWP think the law should be interpreted – you don't have to agree with it.

CHDA health professionals are told to:

*'Bear in mind that a person who can easily manage around the house and garden is unlikely to be **severely** limited in their mobility. A person who can mobilise around a shopping centre/supermarket is unlikely to be limited to mobility of less than 200 metres although consideration must be given to the size of shop, speed of walking, stops and pauses etc. Someone who is **only** able to move around within their home is unlikely to manage 50m reliably.'*

This is guidance from February 2014, which has dramatically cut DWP estimates for how far people can walk. Prior to that, health professionals were told that people who could walk

around a supermarket could probably walk at least 800 metres and that people who could only move around in the home would be unlikely to manage 200 metres.

But if even these reduced estimates aren't true in your case then say so here – for example, do you always lean on a shopping trolley when walking around the supermarket and stop frequently? Or do you get shop assistants to help you with your shopping or does your partner or carer do the shopping whilst you sit on a chair and wait?

Sample answer

I suffer with rheumatoid arthritis. The condition has reached the stage where it is extremely painful to walk even a few yards. I have had to move my bedroom to a downstairs room, as I can no longer climb more than one or two steps without experiencing extreme pain. I can just about make it from one room to the next using either a walking stick or furniture for support before having to sit down to recover from the pain. I seldom go shopping and when I do I use a mobility scooter or my wife pushes me in a wheelchair. I could not wheel myself in a chair because of the pain it would cause my hands and shoulders.

Ticking the boxes - Steps

Going up or down two steps

Can you go up or down two steps without help from another person, if there is a rail to hold on to?

- ☐ No
- ☐ Yes
- ☐ It varies

If you tick 'No', you are assessing yourself as scoring 9 points.

If you tick 'Yes' you are assessing yourself as scoring zero points for going up and down steps, but you may still score points for mobilising.

If you answer 'It varies', you will need to give full details in the 'Use this space' box. Your ability should be assessed based on what you can manage for the majority of the time.

Warning! The descriptor refers to using 'a handrail' in the singular, but the WCA Handbook claims that even if you need to pull yourself up steps using two handrails rather than one, this doesn't score points. We think this is incorrect: using two handrails to haul yourself up steps doesn't seem the same as using one handrail to help you balance. So, if you need two handrails tick No here, give details in the Use this space box and be prepared to request a mandatory reconsideration and appeal if you don't score the points and fail the test as a result.

A system for completing the 'use this space' box

It's a good idea to give information about any problems you have with the following activities, as these are ones you are likely to be asked about if you have a medical, according to the WCA Handbook:

- moving around at home
- shopping and walking around a supermarket
- exercising pets

Also give details of any:

- breathlessness
- pain in your joints
- fatigue

- pain from fistulas
- vertigo

If you have to go up and down stairs at home on your bottom or if you have had falls when walking up and down steps give details here.

At the medical – walking and steps

If you have a medical the health professional may ask about things listed in the Use this space section above. They may also ask:

- do you live in a flat or a house with stairs;
- is your bathroom/toilet upstairs;
- do you sleep upstairs or downstairs?

The health professional may observe how:

- you walk from the waiting room to the examination room, including the speed you walk at and whether you have any problems with balance;
- how you walk back to your car or out of the examination centre – health professionals often observe people from a window or doorway as they leave the building after their examination;
- the way you climb on and off the couch, including whether you use a footstool – which should be available.

Remember: if it hurts, say so. So, if any of these activities cause you pain, fatigue or severe discomfort, don't just suffer in silence. Tell the health professional or they may assume you have no problems. And don't feel obliged to do anything the health professional asks you to do if you know it will cause you too much pain or discomfort.

According to the WCA Handbook, claimants who are clearly breathless walking in the examination centre should be considered for the support group.

What CHDA health professionals are told

CHDA health professionals are told to ask about how you travelled to the examination centre. If you came by bus they may know how far it is from the bus stop to the examination centre. They should ask how long it took you to walk, the number of rests required, and the lengths of the rest periods, but again they will often assume you walked from the bus stop at a normal pace and without stopping.

So, if you are asked about how you travelled to the medical, make sure you explain any problems or pain you experienced whilst travelling. Also explain if you were able to sit whilst waiting for the bus or any other ways you were able to make the journey less demanding.

How to explain problems with: 2. Standing and sitting

What this activity is about

This activity looks at your ability to:

- move from one seated position to another, such as when moving from a wheelchair to a toilet;
- stand;
- sit.

The descriptors: what the law says you score points for

2. Standing and sitting.

(a) Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person. **15 points**

(b) Cannot, for the majority of the time, remain at a work station, either:

(i) standing unassisted by another person (even if free to move around) or;

(ii) sitting (even in an adjustable chair); or

(iii) a combination of (i) and (ii),

for more than 30 minutes, before needing to move away in order to avoid significant discomfort or exhaustion. **9 points**

(c) Cannot, for the majority of the time, remain at a work station, either:

(i) standing unassisted by another person (even if free to move around) or;

(ii) sitting (even in an adjustable chair); or

(iii) a combination of (i) and (ii),

for more than an hour before needing to move away in order to avoid significant discomfort or exhaustion. **6 points**

(d) None of the above apply. **0 points**

Support group alert

You will qualify for the support group if it is accepted that 2(a) applies:

(a) Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.

PIP alert

If you are already getting, or applying for PIP, your claim may be based in part on the PIP activity of 'Washing and bathing'.

Although not the same as this WCA activity, there is some overlap between the two. So, take great care to give accurate evidence here, because a medical report for the WCA can be used to make a decision on a claim for PIP, or look again at an existing award of PIP.

Ticking the boxes – standing and sitting

Please tick this box if you can stand and sit without any difficulty.

Only tick this box if you're sure none of the descriptors apply to you.

Remember! If this activity causes you severe discomfort, pain, breathlessness or extreme fatigue or if you could do it once but not repeatedly or if your ability varies then you may count as not being able to do it. See the section on: 'How to show you score points even if you can actually do an activity' above.

Can you move from one seat to another right next to it without help from someone else?

- ☐ No
- ☐ Yes
- ☐ It varies

If you tick 'No', you are assessing yourself as scoring 15 points and also as being eligible for the support group.

If you tick 'Yes' you may still be eligible for a lower scoring descriptor.

If you tick 'It varies', you will need to give full details in the 'Use this space' box. Your ability should be based on what you can manage for the majority of the time.

This descriptor relates to such things as being able to transfer from a wheelchair to an ordinary chair or to a toilet or a bed, for example. Health professionals are told that 'this descriptor reflects a severe restriction of lower and upper limb function.'

Health professionals are also told that 'the use of simple aids such as sticks/ transfer boards can be taken into consideration' but hoists should not be.

A system for completing the 'Use this space' box

It's a good idea to give information about any problems you have with the following activities, as these are ones you are likely to be asked about if you have a medical, according to the WCA Handbook:

- Getting on and off the toilet unaided, without the assistance of another person
- The use of public transport in the absence of a companion
- The use of an adapted car by a wheelchair dependant person
- Getting in and out of a car; and
- Getting out of chairs or off the bed
- Aids used such as a board or hoist

Sample answer

My multiple sclerosis has caused loss of strength in my legs to the degree that I am now mainly restricted to my wheelchair. I also suffer with tremors in my arms that prevent me from supporting my weight. Therefore, I require physical help to move from my wheelchair to bed, into the car or getting on and off the toilet. When I am not in my wheelchair I still need help to rise from sitting.

While you are standing or sitting (or a combination of the two) how long can you stay in one place and be pain free without help from another person,

This does not mean standing completely still. It includes being able to change position.

- ☐ Less than 30 minutes
- ☐ 30 minutes to one hour
- ☐ More than one hour
- ☐ It varies

You score 9 points if you can't do this activity for more than 30 minutes and 6 points if you can't do it for more than an hour. If this is the case, make sure you give the correct length of time in the 'Use this space' box.

Warning – both standing and sitting!

The law was changed in January 2013, so that it's the length of time you can either stand or sit, or do a combination of both, in order to remain at a work station that is taken into account.

We would, however, still argue that the health professional would also need to collect evidence about your ability to rise from sitting to standing without help if they are going to assess a combination of both activities, something which they are not instructed to do. If you are unable to rise from sitting to standing, you may want to consider giving details in the 'Use this space' box.

A system for completing the 'Use this space' box - standing

The legal test is your ability to stand without help from another person even if free to move around.

The WCA Handbook states that:

'When standing, a person would not be expected to need to stand absolutely still, but would have freedom to move around at the workstation or shift position whilst standing.'

The precise meaning of 'move around' is not clear. We would argue that it means not standing stock still but not being able to walk up and down to relieve discomfort either. If you do need to move around then give as much detail as possible and, if you are not happy with the result of your claim, appeal.

What CHDA health professionals are told

CHDA health professionals are told that standing can be achieved with the use of aids but that:

'When standing, the person must be capable of some activity at the workstation, therefore someone who can only stand with the aid of 2 sticks would not be considered capable of "standing" in this context as they could not perform any useful function at the workstation.'

If you need to use sticks to stand for any length of time, then give details. If you need to hold a stick with one hand and have limited or no use of the other hand then we would argue that, following the logic of the WCA Handbook, you are not able to stand at a workstation because you will not have the use of either hand to 'perform any useful function at the workstation'.

It's a good idea to give information about any problems you have with the following activities, as these are ones you are likely to be asked about if you have a medical, according to the WCA Handbook:

- Standing to do household chores such as washing up or cooking.
- Standing at queues in supermarkets or waiting for public transport.
- Standing and waiting when collecting a child from school.
- Standing to watch sporting activities.

If you have said that your standing ability varies, give details in this box.

Assumption alert!

If you say you go shopping or catch buses, the health professional may assume you can stand in queues for 30 minutes or more. So, if you sit on walls or there are seats at the bus stops you use, say so. Likewise, if you go shopping with someone else and they stand in the queue while you sit down, or you lean heavily on your shopping trolley while queuing, you need to tell the health professional this. If you stand for a short time without apparent difficulty during the examination, the health professional may assume that you are able to do so for much longer. So, if it hurts, say so and try to make a note of how long you actually stand for uninterrupted during the examination.

A system for completing the 'Use this space' box - sitting

–For the purposes of this test, you will be assessed on the length of time you could sit in an 'adjustable' chair if this would allow you to sit for longer.

The WCA Handbook states that:

'Inability to remain seated in comfort is only very rarely due to disabilities other than those involving the lumbar spine, hip joints and related musculature. Reported limitations for reasons other than these require thorough exploration and strongly supported evidence. Often, a suitably adjusted chair will overcome many of these issues.'

If you have a different problem, such as painful fistulas, provide as much detail as you can and, if possible, supporting medical evidence.

The WCA Handbook also claims that:

'Sitting need not be entirely comfortable. The duration of sitting is limited by the need to move from the chair because the degree of discomfort makes it impossible to continue sitting and therefore any activity being undertaken in a seated position would have to cease.'

However, the 'degree of discomfort' provision actually comes from the legislation from the previous WCA. The legislators made the choice not to include this phrase in the current regulations. If you need to appeal a decision in relation to sitting, you may wish to make the possible misdirection of the health professional one of your grounds for a mandatory reconsideration or appeal.

It's a good idea to give information about any problems you have with the following activities, as these are ones you are likely to be asked about if you have a medical, according to the WCA Handbook:

- Watching television (for how long at a time and type of chair).
- Other leisure or social activities, e.g. listening to the radio, using a computer, sitting in a friend's house, pub or restaurant, cinema, reading, knitting.
- Sitting at meal times (which may involve sitting in an upright chair with no arms).
- Time spent travelling in cars or buses.

Sample answer

Following a fall and resultant injury to my coccyx I now find sitting down for long periods of time extremely uncomfortable. The symptoms of this injury have worsened over time so that I can no longer drive unless it is a very short journey. If I have to travel any distance as a passenger I request that we stop every 20 minutes at most so that I can get up and relieve the pressure. Unfortunately, even though I cannot stay sat down for very long, when I stand up the pain is excruciating. Sitting on soft surfaces aggravates the condition, so if I want to watch television I have to either lie down or sit on a dining chair rather than the sofa. This is still uncomfortable but means that I can stay sitting for about 20 minutes, rather than the 10 minutes or so that I could stay on the sofa. I eat meals quickly or get up half way through and move around.

If you have a medical

The health professional may ask you about the issues listed in the Use this space box above.

They may observe how you sit at the medical: if you sit still without obvious discomfort for say 10 minutes, the health professional may say that you could clearly have sat for much longer. They may also observe how long you stand for when asked to do so during the examination and make assumptions about how much longer you could stand.

Remember: if it hurts, say so. So, if sitting or standing causes you pain, fatigue or severe discomfort, don't just suffer in silence. Tell the health professional or they may assume you have no problems.

What CHDA health professionals are told

The health professional is likely to ask you what TV programmes you watch. If you say you watch films, for example, the health professional may assume you can sit for at least 90 minutes. Or if you say you watch Coronation Street the health professional may assume you can sit for at least 30 minutes. So make sure, even if you're not asked, that you tell the health professional if you have to get up during programmes, what sort of chair you sit in, whether it has special cushions or whether you lie on the sofa.

If you say you have been on holiday, perhaps driving from London to Cornwall, the health professional may assume that you can sit for at least three hours. Make sure that, if you do mention any especially long trips, you also make it clear if you had breaks, stood up and walked up and down on the plane or train, etc.

The time you arrived for your medical will have been noted and the health professional may assume, without ever asking, that if you were kept waiting for say half an hour, then you sat for that period. Don't expect to be asked, instead make a point of telling the health professional if you were unable to sit for the whole time.

How to explain problems with: 3. Reaching

What this activity is about

This activity is about your ability to raise either of your arms.

The descriptors: what the law says you score points for

3. Reaching.

(a) Cannot raise either arm as if to put something in the top pocket of a coat or jacket. **15 points**

(b) Cannot raise either arm to top of head as if to put on a hat. **9 points**

(c) Cannot raise either arm above head height as if to reach for something. **6**

(d) None of the above apply. **0 points**

Support group alert

If 3(a) is accepted as applying to you, then you will be placed in the support group.

PIP alert

If you are already getting, or applying for PIP, your claim may be based in part on the PIP activity of 'Dressing and undressing'.

Although not the same as this WCA activity, there is some overlap between the two. So, take great care to give accurate evidence here, because a medical report for the WCA can be used to make a decision on a claim for PIP, or look again at an existing award of PIP.

Ticking the boxes

Please tick this box if you can reach up with both your arms without difficulty.

Only tick this box if you're sure none of the descriptors apply to you.

Remember! If this activity causes you severe discomfort, pain, breathlessness or extreme fatigue or if you could do it once but not repeatedly or if your ability varies then you may count as not being able to do it. See the section on: 'How to show you score points even if you can actually do an activity' above.

Can you lift at least one of your arms high enough to put something in the top pocket of a coat or jacket while you are wearing it?

☐ No

☐ Yes

☐ It varies

This descriptor is not about whether you have the manual dexterity to actually put something in a breast pocket, just about whether you can actually raise either arm high enough to do so. If you can do so with one arm but not with the other, then you will not score points for this descriptor.

If you tick 'No' you are assessing yourself as scoring 15 points and as being eligible for the support group.

If you tick 'Yes' you are not assessing yourself as scoring points for this descriptor, but there are still two lower scoring descriptors.

If you tick 'It varies', you will need to give full details in the 'Use this space' box. Your ability should be assessed based on what you can manage for the majority of the time.

Warning – hat!

Although not mentioned on the ESA50 or UC50 form, there is another descriptor '3(b) Cannot raise either arm to top of head as if to put on a hat.' which scores 9 points.' If this applies to you, then may wish to write 'See below' and give the correct information in the 'Use this space' box.

Can you lift one of your arms above your head?

- ☐ No
- ☐ Yes
- ☐ It varies

Again, this descriptor is not about manual dexterity, just about whether you can lift one of your arms above head height.

If you tick 'No', you are assessing yourself as scoring 6 points (unless you've also chosen a higher scoring descriptor).

If you tick 'Yes' you are not assessing yourself as scoring any points at all for this activity.

If you tick 'It varies', you will need to give full details in the 'Use this space' box. Your ability should be assessed based on what you can manage for the majority of the time.

A system for completing the 'Use this space' box

It's a good idea to give information about any problems you have with the following activities, as these are ones you are likely to be asked about if you have a medical, according to the WCA Handbook:

- Dressing and undressing (including reaching for clothes on shelves/in wardrobes).
- Hair washing and brushing.
- Shaving.
- Household activities such as reaching up to shelves; putting shopping away at home; household chores such as dusting; hanging laundry on a washing line.
- Leisure activities such as aerobics, golf, painting and decorating.

Sample answer

I suffer with arthritis and cervical spondylosis, which makes my neck and shoulders sore and stiff, coupled with weakness in my arms. As a result, any activity that involves moving the affected joints e.g. dressing, washing up or reaching into cupboards, causes pain. The numbness in my arms makes these movements clumsy and I tend to knock things over easily. My husband helps me get dressed each morning particularly with tops and coats and I now have a friend who comes to clean for me as I cannot vacuum, put away dishes or do laundry. I now have my hair cut short so that it is less painful to look after. Even so, on most days I can't reach up to wash or dry it with either hand. Usually I have to get my husband to do it. Even a simple task like cleaning my teeth is extremely painful due to the discomfort I experience.

What CHDA health professionals are told

The CHDA health professional may ask about any of the activities listed in 'Use this space' above:

The health professional may observe how:

- You remove your outdoor clothes;
- Whether you are able to hang up your coat or jacket.

Remember: if it hurts, say so. So, if any of these activities cause you pain, fatigue or severe discomfort, don't just suffer in silence. Tell the health professional or they may assume you have no problems. And remember, you are free to decline to do things which you think would be too difficult or painful for you.

How to explain problems with: 4. Picking up and moving things

What this activity is about

This activity is about your ability to pick up and move objects. It doesn't include being able to carry them however, just move them whilst sitting or standing in one place.

The descriptors: what the law says you score points for

4. Picking up and moving or transferring by the use of the upper body and arms.

- (a) Cannot pick up and move a 0.5 litre carton full of liquid. **15 points**
- (b) Cannot pick up and move a one litre carton full of liquid. **9 points**
- (c) Cannot transfer a light but bulky object such as an empty cardboard box. **6 points**
- (d) None of the above apply. **0 points**

Support group alert

If 4(a) is accepted as applying to you, then you will be placed in the support group.

Ticking the boxes

Please tick this box if you can pick things up and move them without difficulty.

Only tick this box if you're sure none of the descriptors apply to you.

Remember! If this activity causes you severe discomfort, pain, breathlessness or extreme fatigue or if you could do it once but not repeatedly or if your ability varies then you may count as not being able to do it. See the section on: 'How to show you score points even if you can actually do an activity' above.

Picking up things using your upper body and either arm

Can you pick up and move a half-litre (one pint) carton full of liquid?

- ☐ No
- ☐ Yes
- ☐ It varies

If you tick 'No' you are assessing yourself as scoring 15 points and as being eligible for the support group.

If you tick 'Yes' you are not assessing yourself as scoring points for this descriptor, but there are still two lower scoring descriptors.

If you tick 'It varies', you will need to give full details in the 'Use this space' box. Your ability should be assessed based on what you can manage for the majority of the time.

As explained above, this isn't about picking up a carton and carrying it, just about lifting and moving it at waist level. It also doesn't matter whether you could pour from a carton of milk, all that is being tested is your ability to pick up and move.

The WCA Handbook argues that if you need to use both hands to pick up the carton that still counts as being able to do it. It also states that you do not need to have two hands to carry out these activities.

Difficulties could be caused by such things as a lack of strength in your arms, poor grip strength or limited movement in your fingers and hands or severe back or neck problems.

Can you pick up and move a litre (two pint) carton full of liquid?

- ☐ No
- ☐ Yes
- ☐ It varies

See half-litre carton above.

If 'No' is accepted for this descriptor you will score 9 points, unless you have also selected a higher scoring descriptor.

Can you pick up and move a large, light object like an empty cardboard box?

For example, from one surface to another at waist height.

- ☐ No
- ☐ Yes
- ☐ It varies

If you tick 'No' you are assessing yourself as scoring 6 points, unless you have also selected a higher scoring descriptor.

If you tick 'Yes' you are not assessing yourself as scoring any points at all for this activity.

If you tick 'It varies', you will need to give full details in the 'Use this space' box. Your ability should be assessed based on what you can manage for the majority of the time.

Again, the WCA Handbook argues that you do not need to have two hands to carry out this descriptor and that 'a person could reasonable [sic] manage this by using one hand and supporting the box against another part of their body.'

A system for completing the 'Use this space' box

It's a good idea to give information about any problems you have with the following activities, as these are ones you are likely to be asked about if you have a medical, according to the WCA Handbook:

- Cooking (lifting and carrying saucepans, crockery)
- Shopping (lifting goods out of shopping trolley or from the supermarket shelves)
- Dealing with laundry/carrying the laundry
- Lifting a pillow
- Making tea and coffee
- Removing a pizza from the oven/ carrying a pizza box

Sample answer

The muscle weakness in my arms and hands caused by Motor Neurone Disease has reached the degree that I can no longer pick certain things up e.g. cup of tea as my hands and arms are so unresponsive. I can usually lift a relatively light item like a box of tissues but often I drop it because I cannot control my grip. I can no longer carry bags or prepare food because I cannot keep hold of the objects.

What CHDA health professionals are told

The CHDA health professional may ask you about the issues in the Use this space, above. They may observe:

- How you remove and hang up a coat or jacket;
- How you lift a bag;
- How you use a hand to open the door.

Remember: if it hurts, say so. So, if any of these activities cause you pain, fatigue or severe discomfort, don't just suffer in silence. Tell the health professional or they may assume you

have no problems. And remember, you are free to decline to do things which you think would be too difficult or painful for you.

How to explain problems with: 5. Manual dexterity (using your hands)

What this activity is about

This activity is about your ability to use either hand to press, turn, pick up and manipulate objects.

The descriptors: what the law says you score points for

5. Manual dexterity.

(a) Cannot either:

(i) press a button, such as a telephone keypad or;

(ii) turn the pages of a book with either hand. **15 points**

(b) Cannot pick up a £1 coin or equivalent with either hand. **15 points**

(c) Cannot use a pen or pencil to make a meaningful mark. **9 points**

(d) Cannot single-handedly use a suitable keyboard or mouse. **9 points**

(e) None of the above apply. **0 points**

Support group alert

If 5(a) (i) or (ii) is accepted as applying to you, then you will be placed in the support group.

PIP alert

If you are already getting, or applying for PIP, your claim may be based in part on the PIP activity of 'Dressing and undressing'.

Although not the same as this WCA activity, there is some overlap between the two. So, take great care to give accurate evidence here, because a medical report for the WCA can be used to make a decision on a claim for PIP, or look again at an existing award of PIP.

Ticking the boxes

Please tick this box if you can use your hands without any difficulty.

Only tick this box if you're sure none of the descriptors apply to you.

Remember! If this activity causes you severe discomfort, pain, breathlessness or extreme fatigue or if you could do it once but not repeatedly or if your ability varies then you may count as not being able to do it. See the section on: 'How to show you score points even if you can actually do an activity' above.

Can you use either hand to:

- **press a button, such as a telephone keypad**
- **turn the pages of a book**
- **pick up a £1 coin**
- **use a pen or pencil**
- **use a suitable keyboard or mouse?**

☐ *Some of these things*

☐ *None of these things*

☐ *It varies*

If you tick 'Some of these things' you will need to give details of which one(s) in the 'Use this space' box. If there is more than one you will be given the points for the highest scoring descriptor that is accepted as applying.

If you tick 'None of these things', you are assessing yourself as scoring 15 points for this activity and also as being eligible for the support group.

If you tick 'It varies', you will need to give full details in the 'Use this space' box. Your ability should be assessed based on what you can manage for the majority of the time.

If you can do these activities with one hand but not the other, then you will not score points.

The WCA Handbook states that using a pen or pencil to make a meaningful mark only relates to the ability 'to make a purposeful mark such as a cross or a tick'. We would argue that at the very least the ability to make such a mark inside a small box on a form should be considered.

Health professionals are told that:

'When considering the use of a keyboard, ergonomic advances in equipment should be considered. The actual familiarity with the use of a PC in technical terms is not considered.'

It is possible to buy specially adapted keyboards and mice of various types. However, many of these are very expensive and will not necessarily solve issues with such things as fine motor skills. We suggest that you explain the difficulties you would have with an ordinary keyboard and mouse. If you have tried adapted equipment without success, then you may wish to also give details.

In January 2013 the law was changed to state that it is your ability to use a keyboard and mouse 'single-handedly' that is being considered. This means that if you can either move a mouse or type with one of your hands but not the other, you are less likely to score points for this descriptor.

A system for completing the 'Use this space' box

Give details of any descriptors you have problems with, not just the highest scoring one, as your evidence may be accepted for one but not the other.

You may have difficulties because of limited movement or feeling in your hands or wrists, because of co-ordination problems or because of pain or tremors, for example.

As well as giving details of the specific descriptors you have difficulties with, it's a good idea to give information about any problems you have with the following activities, as these are ones you are likely to be asked about if you have a medical, according to the WCA Handbook:

- Filling in forms e.g. ESA50 or UC50, national lottery ticket.
- Use of phones, mobile phones, setting house alarms, light switches.
- Paying for things with either cards or cash.
- Coping with buttons, zips, and hooks on clothing.
- Cooking (opening jars and bottles; washing and peeling vegetables).
- Leisure activities such as reading books and newspapers; doing crosswords; knitting; manipulating the petrol cap to refuel a car, using keys to open locks, etc.

Sample answer

I have had osteoarthritis for several years, mainly affecting the joints in my thumbs and fingers. I have lumps on these joints, particularly at the base of both my thumbs. I have not been able to complete tasks that require fine movements e.g. holding a pen or pencil, for a number of months. In the morning I can usually do more, for example I can butter my toast or turn on the taps to have a wash. However by lunchtime these tasks have become too painful. By the evening, even after taking painkillers I struggle to turn the pages of my book or hold a toothbrush to clean my teeth.

I no longer attempt to peel or chop vegetables because I have cut myself several times and my wife always does the driving and fills the car with petrol because I can no longer manage due to pain in my hands. I cannot handle coins of any sort and have great difficulty putting the correct pin number in when paying for things, to the extent that my wife now does all the shopping.

What CHDA health professionals are told

The CHDA health professional may ask you about the issues in the Use this space box above. They may observe you handling objects such as a tablet bottle, expenses sheet, repeat prescription, pen, paper, newspaper or mobile phone. They may also observe you adjusting your spectacles, undoing a button or adjusting your hair.

Remember: if it hurts, say so. So, if any of these activities cause you pain, fatigue or severe discomfort, don't just suffer in silence. Tell the health professional or they may assume you have no problems. And remember, you are free to decline to do things which you think would be too difficult or painful for you.

How to explain problems with: 6. Communicating – speaking, writing and typing

What this activity is about

This activity is about being able to communicate with other people verbally or by writing or using a keyboard.

The descriptors: what the law says you score points for

6. Making self understood through speaking, writing, typing, or other means which are normally, or could reasonably be, used, unaided by another person.

- (a) Cannot convey a simple message, such as the presence of a hazard. **15 points**
- (b) Has significant difficulty conveying a simple message to strangers. **15 points**
- (c) Has some difficulty conveying a simple message to strangers. **6 points**
- (d) None of the above apply. **0 points**

Support group alert

If 6(a) is accepted as applying to you, you will be placed in the support group.

PIP alert

If you are already getting, or applying for PIP, your claim may be based in part on the PIP activity of 'Communicating verbally'.

Although not the same as this WCA activity, there is some overlap between the two. So, take great care to give accurate evidence here, because a medical report for the WCA can be used to make a decision on a claim for PIP, or look again at an existing award of PIP.

Ticking the boxes

Please tick this box if you can communicate with other people without any difficulty.
Only tick this box if you're sure none of the descriptors apply to you.

Remember! If this activity causes you severe discomfort, pain, breathlessness or extreme fatigue or if you could do it once but not repeatedly or if your ability varies then you may count as not being able to do it. See the section on: 'How to show you score points even if you can actually do an activity' above.

Can you communicate a simple message to other people such as the presence of something dangerous?

This can be by speaking, writing, typing or any other means but without the help of another person?

- ☐ No
- ☐ Yes
- ☐ It varies

If you tick 'No' you are assessing yourself as scoring 15 points and as being eligible for the support group.

If you tick 'Yes' you are not assessing yourself as scoring points for this whole activity even though there are two lower scoring descriptors – see 'Warning – degree of difficulty!' below.

If you tick 'It varies', you will need to give full details in the 'Use this space' box. Your ability should be assessed based on what you can manage for the majority of the time.

Warning – strangers!

The form doesn't make it clear that you score points for difficulties you have communicating with strangers. So, even if you are able to communicate with people you know well, that doesn't prevent you scoring points.

Warning – degree of difficulty!

You score 15 points if you 'cannot' convey a simple message, but you also score 15 points if you have 'significant difficulty' conveying a simple message to strangers and 6 points if you have 'some difficulty'. If you can communicate, but only with difficulty, then you may wish to write 'See Use this space' rather than ticking any of the boxes and then give details there.

A system for completing the 'Use this space' box

If you can only communicate using sign language, then that should count as being unable to communicate as most strangers would not understand sign language.

If you have difficulties with speaking but can write or type, or vice versa, then you are unlikely to score points for this activity.

So, if you have problems that affect both your speech and your hands you may score points for this activity. This could be caused by, for example, a stroke, Parkinson's Disease or Motor Neurone Disease. Or you may be unable to speak and also have a severe visual impairment which makes writing or using a keyboard very difficult.

CHDA health professionals are told that '*expressive dysphasia (inability to express ones thoughts) resulting from brain injury*' may score points, but that the ability to write or type would also have to be considered.

However, if you don't have any keyboard skills and do not use a computer or other types of keyboard, you may wish to consider pointing out that you don't 'normally use' a keyboard to communicate, so at the very least you would have 'significant difficulty'. The DWP are likely to argue that it is your physical ability to use a keyboard, rather than your knowledge of how to do so, that counts. Ultimately it would be for a tribunal to make the final decision.

In addition, you need to bear in mind that in January 2013 the law was changed so that the decision maker can take into account means that could 'reasonably' be used as well as those that you normally use. So, if there are reasons it would be unreasonable to expect you to use, for example, a keyboard, then you should consider including them in the Use this space box.

Absolutely no guidance is given in the WCA Handbook as to how to distinguish between 'has significant difficulty' and 'has some difficulty'.

At this stage, all we can advise is that you should give very detailed information about the difficulties you experience and, if you are not happy with the decision, consider requesting a mandatory reconsideration and, if necessary, appealing.

Health professionals are told that claimants with ME/CFS may say that their speech is unclear when tired and people with panic attacks may say they have difficulty making themselves understood. The WCA Handbook suggests carrying out a mental health assessment in these cases.

The Handbook also says that where people have difficulty making themselves understood when breathless this is only likely to happen when they have undertaken extra physical effort rather than most of the time. If they are breathless all the time, health professionals are told they should be considered for the support group.

It's a good idea to give information about any problems you have with the following activities, as these are ones you are likely to be asked about if you have a medical, according to the WCA Handbook:

- The ability to socialise with family and friends.
- The ability to ask for items e.g. order drinks at a bar or ask for items in a shop where self –service is not available – do they use speech or do they write a list and hand it over.
- Ability to use public transport/ taxis.
- Ability to use a telephone.
- Ability to use text/e-mail.
- Ability to deal with correspondence. Completing your ESA50 or UC50 may be used as evidence about your ability to communicate in writing, so if you received help to complete it, make sure this is stated on the form on page 22.

Sample answer

One of the difficulties that I have as a result of suffering from Parkinson's disease is that I struggle to make myself understood verbally. I have trouble controlling both the volume and speed of my speech, which results in me speaking very slowly and quietly. Often I involuntarily repeat words and in general my sentences become a slurred jumble that people have difficulty understanding. Family and friends have become very patient and spend a lot of time ensuring they have understood me correctly. However, when in circumstances that requires me to talk to other people e.g. shops, the Jobcentre etc. it is very difficult to get across what I am trying to say. On many occasions people have become impatient which makes it even more difficult to control my speech. I no longer use the phone for all the above reasons and have family members that act on my behalf in circumstances where telephone contact is necessary.

I also struggle to write and would have great difficulty using a keyboard because of the severity of my tremors. Even if I manage to write, other people would have great difficulty reading my handwriting. I do not use a computer but it would be a very slow and laborious task for me to type any kind of message because of the difficulty of striking the correct key due to my tremors.

What CHDA health professionals are told

The CHDA health professional will ask you about the issues in the Use this space box above. They may also, for their report, describe the quality of your speech and any difficulty they have understanding you. They will also assess your hand function to decide if you would have any difficulty with writing or typing.

How to explain problems with: 7. Communicating – hearing and reading

What this activity is about

This activity is about being able to understand communications from other people, either spoken or written.

The descriptors: what the law says you score points for

7. Understanding communication by—

**(a) verbal means (such as hearing or lip reading) alone,
(b) non-verbal means (such as reading 16 point print or Braille) alone, or
(c) a combination of (a) and (b),
using any aid that is normally, or could reasonably be, used, unaided by another person.**

(a) Cannot understand a simple message due to sensory impairment, such as the location of a fire escape. **15 points**

(b) Has significant difficulty understanding a simple message from a stranger due to sensory impairment. **15 points**

(c) Has some difficulty understanding a simple message from a stranger due to sensory impairment. **6 points**

(d) None of the above apply. **0 points**

Support group alert

If 7(a) is accepted as applying to you, then you will be placed in the support group.

PIP alert

If you are already getting, or applying for PIP, your claim may be based in part on the PIP activities of 'Communicating verbally' and 'Reading and understanding signs, symbols and words'.

Although not the same as this WCA activity, there is some overlap between them. So, take great care to give accurate evidence here, because a medical report for the WCA can be used to make a decision on a claim for PIP, or look again at an existing award of PIP.

Ticking the boxes

Please tick this box if you can understand other people without any difficulty.

Only tick this box if you're sure none of the descriptors apply to you.

Remember! If this activity causes you severe discomfort, pain, breathlessness or extreme fatigue or if you could do it once but not repeatedly or if your ability varies then you may count as not being able to do it. See the section on: 'How to show you score points even if you can actually do an activity' above.

Can you understand simple messages from other people by hearing or lip reading, without the help of another person?

- ☐ No
- ☐ Yes
- ☐ It varies

Can you understand simple messages from other people by reading large size print or using braille?

- ☐ No
- ☐ Yes

☐ *It varies*

If you tick 'No' for either of these questions, you are assessing yourself as scoring 15 points and as being eligible for the support group.

If you tick 'Yes' for both of them, you are not assessing yourself as scoring points for this whole activity, even though there are two lower scoring descriptors – see 'Warning – degree of difficulty!' below.

If you tick 'It varies', you will need to give full details in the 'Use this space' box. Your ability should be assessed based on what you can manage for the majority of the time.

It is your ability to understand verbal or non-verbal messages that is being assessed.

So if you have normal vision, but cannot hear at all and cannot lip read then you should score 15 points. If you have normal vision but have significant difficulty or some difficulty hearing someone talking to you then you may score points.

Likewise, if you can hear without difficulty but cannot read 16 point print even with glasses and cannot read braille, then you should score 15 points. If you can hear without difficulty but have significant difficulty or some difficulty reading 16 point print or braille, then you should score some points.

Warning – degree of difficulty!

You score 15 points if you 'cannot' understand a simple message, but you also score 15 points if you have 'significant difficulty' understanding a simple message from a stranger and 6 points if you have 'some difficulty' understanding a simple message from a stranger. If you can understand simple messages but only with difficulty then you may wish to write 'See Use this space' rather than ticking any of the boxes, and then give details there.

Warning – stranger!

The questions on the form are highly misleading. To score 15 points and be put in the support group you need to show that you cannot understand a simple message. However, you also score 15 points if you have significant difficulty, and 6 points if you have some difficulty, understanding a simple message 'from a stranger'. So, as well as the issue of degree of difficulty there is also the issue of strangers.

If you can understand communications from people you know, but have difficulty understanding strangers then you should score points.

A system for completing the 'Use this space' box

It's a good idea to give information about any problems you have with the following activities, as these are ones you are likely to be asked about if you have a medical, according to the WCA Handbook:

- Consider any restrictions reported in the typical day with communication such as difficulty socialising, shopping and engaging in hobbies.
- Note the use of any accessory aids such as headphones or loop system amplification for TV, radio, or video; amplification for telephone handset; loud front door bells or door lights.
- Consider day to day tasks where contact with other people is likely or there is a need to understand the written word, such as in the supermarket, using public transport, etc.
- Consider their visual abilities, such as reading a newspaper, e-mails, use of the internet, watching TV etc. using subtitles on the television, reading numbers on buses, packaging in supermarkets, etc.

- Note the use of any accessory aids such as reading glasses, large print books, magnifying glasses, talking books, etc.

If you have been prescribed a hearing aid but have found it to be ineffective in your case, give details here.

The WCA Handbook states that the level of lip reading required is very basic and that 'it is expected that the vast majority of people would meet this level of proficiency' other than, for example, those with severe pre-lingual deafness and people with a visual impairment who cannot adequately see a person's face.

If you have tinnitus or Meniere's disease, describe any effects on your ability to hear and also any treatment you have received which may show the seriousness of your condition, such as: referral to a specialist; use of hearing aids, prescription of vasodilators, anti-depressants or sedatives. If your condition affects your concentration or your mood also consider completing the mental function section of this questionnaire.

Sample answer

I was born without correctly functioning nerve receptors in my middle ear, which has resulted in tone and frequency loss. The hearing loss is present in both ears but it is worse in my right side. The frequencies that I struggle most to hear are those contained in speech. Also, doorbells, the sound of people walking and certain sirens. If there is a lot of background noise such as the television, crowds of people, traffic etc. I am not able to hear what an individual is saying to me particularly if their voice is quite high or deep. I often won't hear warning sounds like car horns, shouts or someone running up behind me. Shopping can become quite stressful, as I usually have to ask shop assistants to repeat themselves or talk more clearly. I was fitted with hearing aids a couple of years ago but I find they give me headaches because for the first time in my life I can hear everything and it is incredibly overwhelming and disorientating to wear them in busy places like shopping centres and supermarkets. At home I have a loop system and a doorbell that flashes the house lights when rung.

Because of my visual impairment I also have great difficulty in reading ordinary type or handwriting and in lip-reading.

What CHDA health professionals are told

The CHDA health professional will observe your response to their speaking in an ordinary or quiet voice. In some cases, they may carry out a 'Conversational Voice test' in which the claimant is asked to respond to questions whilst facing away from the health professional.

Your ability to read 16-point print will be assessed if you have a visual impairment.

More details about this are given in the WCA Handbook.

How to explain problems with: 8. Getting around safely

What this activity is about

This activity is about problems with 'navigating' in familiar and unfamiliar places because of visual impairment.

The descriptors: what the law says you score points for

8. Navigation and maintaining safety, using a guide dog or other aid if either or both are normally, or could reasonably be, used.

(a) Unable to navigate around familiar surroundings, without being accompanied by another person, due to sensory impairment. **15 points**

(b) Cannot safely complete a potentially hazardous task such as crossing the road, without being accompanied by another person, due to sensory impairment. **15 points**

(c) Unable to navigate around unfamiliar surroundings, without being accompanied by another person, due to sensory impairment. **9 points**

(d) None of the above apply. **0 points**

Support group alert

None of these descriptors will allow you to be placed in the support group.

PIP alert

If you are already getting, or applying for PIP, your claim may be based in part on the PIP activity of 'Planning and following journeys'.

Although not the same as this WCA activity, there is some overlap between the two. So, take great care to give accurate evidence here, because a medical report for the WCA can be used to make a decision on a claim for PIP, or look again at an existing award of PIP.

Ticking the boxes

Please tick this box if you can get around safely on your own.

Only tick this box if you're sure none of the descriptors apply to you.

Can you see to cross the road on your own?

☐ No

☐ Yes

☐ It varies

If you tick 'No' you are assessing yourself as scoring 15 points.

If you tick 'Yes' you are not assessing yourself as scoring points for this descriptor, but there are still two other descriptors.

If you tick 'It varies', you will need to give full details in the 'Use this space' box. Your ability should be assessed based on what you can manage for the majority of the time.

Can you get around a place that you haven't been to before without help?

☐ No

☐ Yes

☐ It varies

If you tick 'No' you are assessing yourself as scoring 9 points (unless you have also selected a higher scoring descriptor).

If you tick 'Yes' you are not assessing as scoring points for this activity at all, unless there is a reason why you can cross roads safely but cannot navigate around unfamiliar places.

If you tick 'It varies', you will need to give full details in the 'Use this space' box.

Warning – familiar places

You score 15 points if you are unable to navigate around familiar places without help from someone else. If this is the case give details in the 'Use this space box'. You may be able to answer 'No' to both the questions above as well.

Warning – change in the law!

In January 2013 this activity was changed, so that your ability to get navigate 'using a guide dog or other aid if either or both are normally, or could reasonably be, used' is what is taken into account. However, this does not mean that decision makers can simply suggest that claimants should get a guide dog. The word 'reasonably' still applies and very few people are ever offered the opportunity to try to use a guide dog.

A system for completing the 'Use this space' box

It's a good idea to give information about any problems you have with the following activities, as these are ones you are likely to be asked about if you have a medical, according to the WCA Handbook:

- Driving – both from the visual acuity and visual field point of view.
- Ability to get around indoors.
- History of falls or accidents.
- Ability to use public transport- get on and off buses unassisted and read the bus name and number.
- Mobilising independently outdoors.
- Going to a supermarket.
- Reading newspapers or magazines.
- Maintaining safety in the kitchen, ability to cook meals.
- Getting in and out of a bath.
- Caring for children.

If you use aids, such as a white stick or a guide dog, but they still do not mean that you can navigate safely, you will need to explain in detail what the problems you face are. Clearly crossing a road with a white stick is exceedingly hazardous, but could you do it safely with your guide dog where there is no pelican or zebra crossing?

Sample answer

My sight has been affected by retinopathy and associated blurred and obscured vision. As such I am now unable to drive or even travel on my own as I cannot read signs or see dangers such as cyclists. It is no longer safe for me to cross roads unaccompanied because I cannot be sure that I have seen oncoming traffic. I trip often because the dark streaks in my vision prevent me from seeing some obstacles e.g. kerbs, bollards etc. and I recently walked into a small child because my sight of him was blocked. This was most upsetting and resulted in my refusal to go outside of my home without someone to guide me.

What CHDA health professionals are told

The CHDA health professional may ask you about the issues in the Use this space box above and about how you got to the examination centre. They may observe how you move about indoors and whether you can read things like labels on your medication and your expenses sheet.

Health professionals are told that: 'This activity not only relates to visual acuity (central vision and focus) and visual fields (peripheral vision) but takes into account the person's ability to adapt to their condition. The person's confidence and training must be taken into account.'

If you have lost your sight suddenly, CHDA health professionals are told, then you are less likely to have adapted quickly to your condition. They are also told to take into account any other health issues, which might exacerbate your problems with navigating safely. For example, if you have problems with memory or concentration as well as visual impairment, this may make it even more difficult to navigate safely.

Your near vision will be checked using a chart. Visual field testing is done using the 'confrontation method' in which you cover one eye with a piece of card and the health professional holds their arms out and asks you to describe their hand movements whilst looking directly into their eyes. There are more details on this in the WCA Handbook.

How to explain problems with: 9. Controlling your bowels and bladder and using a collecting device

What this activity is about

This activity is about your ability to control your bowels or your bladder or to use a stoma device or catheter without leakage.

We know that some people find it very difficult to answer questions about these issues either on paper or at a medical. But it is vital that you give all the relevant details about your incontinence or problems with stoma devices to ensure you get all the points you are entitled to.

The descriptors: what the law says you score points for

9. Absence or loss of control whilst conscious leading to extensive evacuation of the bowel and/or bladder, other than enuresis (bed-wetting), despite the wearing or use of any aids or adaptations which are normally, or could reasonably be, worn or used.

(a) At least once a month experiences:

(i) loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder; or

(ii) substantial leakage of the contents of a collecting device, sufficient to require cleaning and a change in clothing. **15 points**

(b) The majority of the time is at risk of loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder, sufficient to require cleaning and a change in clothing, if not able to reach a toilet quickly. **6 points**

(c) None of the above apply. **0 points**

Support group alert

None of these descriptors will allow you to be placed in the support group. However, if it is accepted that 9(a) applies at least once a week, rather than once a month, then you will be placed in the support group.

PIP alert

If you are already getting, or applying for PIP, your claim may be based in part on the PIP activity of 'Managing toilet needs or incontinence'.

Although not the same as this WCA activity, there is some overlap between the two. So, take great care to give accurate evidence here, because a medical report for the WCA can be used to make a decision on a claim for PIP, or look again at an existing award of PIP.

Ticking the boxes

Please tick this box if you can control your bowels and bladder without any difficulty.

Only tick this box if you're sure none of the descriptors apply to you.

Do you have to wash or change your clothes because of difficulty controlling your bladder, bowels or collecting device?

Collecting devices include stoma bags and catheters.

☐ Yes – weekly

☐ Yes – monthly

☐ Yes – less than monthly

☐ Yes – but only if I cannot reach a toilet quickly

☐ No

If you tick 'Yes – weekly' you are assessing yourself as scoring 15 points and also as being eligible for the support group.

If you tick 'Yes – monthly' you are assessing yourself as scoring 15 points for this activity, but not as being eligible for the support group.

If you tick 'Yes - less than monthly' you are unlikely to be awarded points for this activity, but see 'Yes – but only if I cannot reach a toilet quickly' below.

If you tick 'Yes – but only if I cannot reach a toilet quickly' you may score 6 points for this activity, because you don't only score points if you actually have episodes of incontinence, but also if you have to manage your life in such a way that you are always close to a toilet in order to avoid doing so.

The law was changed in January 2013 so that you have to be at risk of an episode of incontinence for 'the majority of the time'. So, if you have a condition like Crohn's disease with only short periods of remission, then this descriptor may still apply to you.

Give as much detail as you can in the 'Use this space box' about the condition that causes the problem and the ways that you organise your life to try to ensure that you can always get to a toilet quickly. Give details of any medication you have used to try to control the problem and whether it has been effective. Also explain whether you have used pads and, if so, why they are not effective.

If you tick 'No' you are not assessing yourself as scoring any points for this activity.

Mobility problems

The DWP have long argued that if you have a continence problem but the reason you sometimes don't get to the toilet in time is because you also have poor mobility, then this should not be taken into account. However, in 2014 an Upper Tribunal decision changed the law so that now the effects of poor mobility must be included, if you also have a bowel or bladder condition.

So, for example, you may have Crohn's disease which causes severe bowel urgency. In addition, you may also have a back problem which means you can only walk very slowly. The combination of the two conditions may mean that at least once a month you have an episode of incontinence because you cannot get to the toilet in time. In this case you should score 15 points.

If incontinence happens at least once a week in these circumstances, then this should be sufficient for you to be placed in the support group.

However, in relation to 9 (b), dealing with risk of loss of control if not able to reach a toilet quickly, guidance to assessors is that only claimants who have problems with rising from sitting as well as moving around are likely to score. This appears to be on the basis that reasonable adjustments in the workplace should ensure that you will be employed close to a toilet and will not have to go upstairs.

But this is guidance only and the degree of urgency you experience may mean that reasonable adjustments may not be sufficient in your case.

Seizures

The law was changed in January 2013 to say that the loss of control has to be whilst you are conscious. So, if you have episodes of incontinence whilst experiencing a seizure then this activity is less likely to apply to you.

Use of pads

The WCA Handbook states that:

'The descriptors do not refer to minor degrees of leakage that could be managed by the use of pads and not necessitate a full change of clothing. If a person is not using pads, they should be considered as if using pads as these are a widely available aid.'

So when giving information in the 'Use this space' box you will need to include details of episodes of incontinence and what steps you had to take afterwards. If you normally carry washing equipment or a change of clothes, give details of this too.

Night-time incontinence

According to the handbook, *'Incontinence which occurs only while asleep (enuresis) is not regarded as incontinence in terms of the legislation as, with the appropriate personal hygiene, this will not affect the person's functioning whilst awake.'* However, enuresis is defined as 'involuntary urination' only, suggesting that bowel incontinence even when sleeping is not excluded from the legislation and may score points. If you do suffer from night-time bowel incontinence give details in the Use this space box. But you may have to go to a tribunal hearing if you wish to try to score points on these grounds.

A system for completing the 'Use this space' box

It's a good idea to give information about any problems you have with the following activities, as these are ones you are likely to be asked about if you have a medical, according to the WCA Handbook:

- Shopping trips.
- Visits to friends or relatives.
- Other social outings.

You should give information about the frequency and length of any outings.

Sample answer 1

Since I started suffering from Ulcerative Colitis I have had a recurring loss of control over my bowels. I get very little warning that I need to "go", often only seconds and if I am unable to reach a toilet I will completely lose control. This is intensely embarrassing. I can sometimes go weeks without any trouble at all but I cannot predict when I am likely to get an uncontrollable urge. It happens on average at least once a month. It happened twice at work, where I soiled myself and had to go home, before I became so ill that I was unable to continue working. This issue coupled with the pain and fatigue of my condition has seriously reduced my quality of life. I no longer go out socially for fear of an episode and if I go shopping I make sure I only go to places where I know where all the toilets are.

Sample answer 2

Shortly following my colostomy I developed a hernia below the incision site. This has affected the efficiency of the stoma causing it to leak faecal matter, which in turn has created skin problems, ulcers and a constant odour. Even a small amount of leakage means that I need to wash and change and it is not possible to apply any kind of pad because of the position of the stoma.

How to explain problems with: 10. Staying conscious when awake

What this activity is about

This activity is about having fits, absences or something like that during the day when you are awake.

The descriptors: what the law says you score points for

10. Consciousness during waking moments.

(a) At least once a week, has an involuntary episode of lost or altered consciousness resulting in significantly disrupted awareness or concentration. **15 points**

(b) At least once a month, has an involuntary episode of lost or altered consciousness resulting in significantly disrupted awareness or concentration. **6 points**

(c) None of the above apply. **0 points**

Ticking the boxes

Please tick this box if you do not have any problems staying conscious while awake.

Only tick this box if you're sure none of the descriptors apply to you.

While you are awake, how often do you have fits or blackouts?

This includes epileptic fits and absences, and diabetic hypos.

☐ Weekly

☐ Monthly

☐ Less than monthly

If you tick 'Weekly' you are assessing yourself as scoring 15 points.

If you tick 'Monthly' you are assessing yourself as scoring 6 points for this activity.

If you tick 'Less than monthly' you are not assessing yourself as scoring any points for this activity.

It isn't just fits or blackouts that are covered by this activity, but any episodes of lost or altered consciousness that significantly affect your awareness or concentration. This could include: generalised, partial or absence seizures, cardiac arrhythmia, and hypoglycaemia.

The Handbook claims that giddiness, dizziness and vertigo are not covered by this activity. However, there is caselaw in relation to the Personal Capability Assessment for Incapacity Benefit which suggests that vertigo may cause lost or altered consciousness.

The Handbook also claims that migraine, even with an aura, is not covered. This was the case under the previous test for incapacity benefit. However, the wording of the ESA consciousness test is sufficiently different that this may no longer be true. So if you do have severe migraines give details in the Use this space box and be prepared to argue your case at a tribunal if necessary.

This activity relates to fits that happen when you are awake: any fits or other episodes that occur whilst you are asleep are not taken into account.

A system for completing the 'Use this space' box

It's a good idea to give information about any problems you have with the following activities, as these are ones you are likely to be asked about if you have a medical, according to the WCA Handbook:

- Driving – CHDA staff are told the DVLA will refuse to issue a licence to anyone who has had a daytime fit in the past year.
- Potentially hazardous domestic activities such as cooking.
- Recreational activities e.g. swimming, contact sports.

Sample answer

I suffer with epilepsy, which results in regular partial seizures. These seizures are a daily occurrence and on occasion I can have up to 5 episodes a day. The main symptoms of my seizures are inability to recognise the familiar e.g. people or surroundings, intense feelings of panic and memory loss. The symptoms can come on so suddenly and without warning that I could be in the middle of a conversation or crossing a street. Once I was on a train alone when I had a seizure, I could not understand how I got on the train or where I was going, which combined with the feelings of panic was absolutely terrifying. Sometimes an episode will only last a few moments or it can continue for up to an hour. Either way it will leave me very confused, tired and tearful for hours afterwards. Quite often my memory of events prior to the attack is affected so I find it difficult to concentrate on anything for much of the time.

How to explain problems with: 11. Learning how to do tasks

The descriptors: what the law says you score points for

11. Learning tasks.

11 (a) Cannot learn how to complete a simple task, such as setting an alarm clock. **15 points**

11 (b) Cannot learn anything beyond a simple task, such as setting an alarm clock. **9 points**

11 (c) Cannot learn anything beyond a moderately complex task, such as the steps involved in operating a washing machine to clean clothes. **6 points**

(d) None of the above apply. **0 points**

What this activity is about

This activity is about being able to learn how to do everyday tasks such as setting an alarm clock or operating a washing machine.

Support group

If 11 (a) is accepted by the decision maker as applying to you, then you will be placed in the support group.

PIP alert

If you are already getting, or applying for PIP, your claim may be based in part on the PIP activities of 'Preparing food'.

Although not the same as this ESA activity, there is some overlap between the two. So, take great care to give accurate evidence here, because a medical report for ESA or UC can be used to make a decision on a claim for PIP, or look again at an existing award of PIP.

Ticking the boxes

Please tick this box if you can learn to do everyday tasks without difficulty.

Only tick this box if you're sure none of the descriptors apply to you.

Can you learn how to do an everyday task such as setting an alarm clock?

- ☐ No
- ☐ Yes
- ☐ It varies

If you can't set an alarm clock then tick the No box.

But remember that setting an alarm clock is only an example of a simple task. If you are able to set an alarm clock but there are other tasks which you consider equally simple that you can't do, then you should tick the No box and explain in the 'Use this space' box below.

If you can sometimes do it, then you can either tick the No box or tick the 'It varies' box, but give a clear account of your difficulties and variability in the 'Use this space' box .

Can you learn how to do a more complicated task such as using a washing machine?

- ☐ No
- ☐ Yes

☐ *It varies*

As with setting an alarm clock above, bear in mind that operating a washing machine is just one example of a moderately complex task.

Warning – the tick boxes won't allow you to score six points!

The descriptors award points based on whether or not you can learn anything 'beyond' the activity.

So:

If you can't learn a simple task like how to set an alarm clock tick No and, if this is accepted you should be awarded 15 points and placed in the support group.

If you can learn a simple task but can't learn a more complex task like operating a washing machine tick Yes for the first question and No for the second. If this is accepted you should be awarded 9 points.

If you can learn a moderately complex task like operating a washing machine but could not do something more complex, then you have to tick Yes for both questions. However, if it is accepted that you cannot learn anything 'beyond' a moderately complex task then you will be awarded 6 points. But there is no tick box for this descriptor.

All you can do is put a note next to the tick boxes saying please see below and then explain in the 'Use this space' box that you cannot do anything beyond a moderately complex task.

A more complex task than using a washing machine might be something like driving a car.

A system for filling the 'Use this space' box

If you're struggling to know how to give detailed evidence for this activity, try writing the answers to these 5 questions:

1. What condition or medication causes you problems with this task?
- 2 Do you have problems learning to do simple tasks, moderately complex tasks or tasks that are 'beyond' moderately complex?
- 3 Does your condition affect your ability to:
 - learn how to do a task at the time; and/or
 - remember how to do it later?
- 4 How long does it take you to learn and remember how to do a task reliably and without needing prompting - is it days weeks or months?
- 5 How much of the time are you affected in this way?

Sample answers

Please note: these are just examples of the kinds of information you may wish to give – they aren't 'correct' answers of any sort. But it is vital that you give detailed evidence rather than just ticking boxes. You don't need to put the numbers in – that's just to show how the system works.

Learning difficulties

- 1 Because of learning difficulties.

2 I have problems with simple and more complex tasks. For example, I have never learnt how to set an alarm clock to go off at a given time and I have had to be shown repeatedly how to make a cup of tea with milk.

3 I have problems with both learning how to do things and remembering how to do them at a later date.

4 Even for simple tasks I need to be shown how to do them many times before I can understand the sequence and repeat it myself and this process may take days or weeks, depending on the task. But even after getting it right, by the next day if no-one is helping me I forget the right order and do things like put the tea bag in the cup but forget to put any water in the kettle before I turn it on. Or I put the water and milk in the cup and forget the tea bag.

5 My condition affects me like this all the time.

Brain injury

1 Because of a brain injury which has affected my ability to process sound, my concentration and my short-term memory.

2 I have problems with moderately complex tasks.

3 I have problems both with understanding and remembering instructions.

4 For example, I need to have tasks such as using a washing machine or sending an email explained but I will repeatedly ask questions about something I have just been told because I 'hear' the wrong words or they get drowned out by background noise. So, I have to be physically shown how each step works as well to help me process the information. I also don't follow sequences of directions well and need them broken down into very small steps or I will miss parts of the explanation and then do it wrong. Even after learning things like using a washing machine if I try to do it again the next day without anyone there to help I will do things like forget to put the soap in or put it in the conditioner slot.

5 My condition affects me like this all the time.

What CHDA health professionals are told this activity is about

Remember: this is just how the DWP think the law should be interpreted – you don't have to agree with it.

CHDA health professionals are told that this activity is relevant to:

- learning disability
- brain injury
- conditions causing difficulties in understanding language, such as receptive dysphasia or stroke

The WCA Handbook states that health professionals should take into account:

- The length of time taken to learn a task and the ability to retain the information.
- If the person needs to be shown how to do a task again they have not learnt it.
- If a person learns a task on one day but is unable to repeat it the next day, they have not learnt the task.
- If a person takes a very long time to learn a task, for example takes 2 years to learn how to wash and dress themselves, they do not have the ability to learn the task.

The WCA Handbook tells health professionals that 'a simple task may only involve one or two steps while a moderately complex task may involve 3 or 4'.

They are advised to collect evidence about the following sorts of daily activity in relation to simple tasks:

- Brushing teeth. This would involve remembering to put toothpaste onto a brush and brushing all areas of teeth
- Washing. This would involve the ability to use soap/shower gel and wash their body
- Brushing hair
- Turning on the television/ using basic functions on the TV remote control
- Getting a glass of water

In relation to moderately complex tasks, health professionals are told to look at things like:

- Using a microwave oven
- Making a cup of tea including filling kettle, putting tea bags in teapot, pouring into cup and adding milk and sugar
- Playing CDs on a stereo
- Using a Games Console
- Using a computer for basic activities such as playing a game
- tasks learned during training
- driving

Understanding this activity in detail

You don't have to read this section to complete your questionnaire. But if there are terms that you find confusing, or if you're preparing for a mandatory reconsideration request or an appeal, it may be helpful.

Caution: this is just our idea of what these terms may mean; the decision maker or tribunal may well take a different view.

Cannot learn

This activity doesn't use terms such as 'the majority of the time'. So, what if you would be able to complete the task successfully some of the time and not others? We would argue that the question that should be asked is:

"Could it be said that you can reliably set the alarm clock or use the washing machine?"

If you have learnt how to do it then you should be able to do it every time.

Once you have learnt, you shouldn't need someone to prompt you, supervise you or remind you how to do it. If you do need this level of help then we would argue that you 'cannot learn'.

So, if you often get confused or make mistakes, make sure you include details on your questionnaire.

How to complete

Completing a task should mean being able to do so from start to finish successfully and in a reasonable amount of time.

If you are asked to set the alarm for quarter past seven and you set it for half past then we would say you have not completed the task successfully.

If you're supposed to be washing woollens and you set the machine to wash synthetics or forget to put the conditioner in then, we would argue, you haven't completed the task successfully.

If it takes you twenty minutes to set the alarm or put the washing on, we would argue that you have not learnt how to do it because you are unable to do it in a reasonable amount of time.

Beyond

For (b) and (c) the test is not whether you can do a simple or moderately complex task, but whether you can do anything more complicated. If you can't then you get the points.

So, if you can do a simple task like setting an alarm clock but cannot do anything beyond that, then you should get 9 points. The issue then is what is a task 'beyond' setting an alarm clock. The DWP would presumably argue that it is a moderately complex task like operating a washing machine.

If you can operate a washing machine but not do anything beyond that, then you should get 6 points. The only hint that the WCA Handbook gives about what is an activity beyond operating a washing machine is that:

'More complex tasks should also be considered such as driving should be detailed and any previous tasks learned in training and employment should be considered.'

We have a strong suspicion that claimants will be wrongly assessed for this activity, scoring 0 points if they can use a washing machine instead of looking beyond that.

Simple task

The example given of a simple task is setting an alarm clock. The DWP seem to believe that this just involves learning 'how to push the buttons on the alarm clock'.

However, we think that this task at the very least involves you being able to read numbers and being able to tell the time.

So, for example, if someone said to you "I'm going to show you how to set the alarm for half past seven", this would involve moving the hands or setting the alarm time to 7.30 and then moving the alarm switch or button to the 'on' position. (The law doesn't specify what type of alarm clock – whether a digital one or one with hands).

What if you can set an alarm clock but couldn't do similar tasks, should you score points?

For example, it may have taken you a very long time – months or years – of being shown before you learnt how to set an alarm clock. But if you had to learn a new task of similar complexity would you be able to learn or understand it just by being given a demonstration? If not, we would argue you should score the points because you should be able to learn simple tasks in a reasonable period of time, such as the time that an employer might be prepared to devote to training you.

We would definitely explain which simple tasks you can't do and then be prepared to consider an appeal if you're unhappy with the decision.

Moderately complex task

The example given of a moderately complex task is 'operating a washing machine to clean clothes'.

We would argue that this involves:

- Sorting the clothes by colour, colour fastness and type of material, e.g. wool or synthetic.
- Reading labels to check what temperature wash and type of spin each item of clothing requires and to ensure that they are not dry clean only. (The DWP may argue that these first steps aren't included, but we would disagree).
- Making sure there are not too many or too few items for the capacity of the machine.
- Selecting the correct wash cycle, which will involve being able to read the instructions on the machine and turn the knobs or push the buttons as appropriate.
- Adding the correct amount of the correct sort of washing powder.
- Adding the correct amount of conditioner.
- Starting the machine and understanding why it may not start, such as the plug at the wall being switched off or the door not being properly closed.
- Knowing how to tell if the machine has completed its wash and rinse cycle.
- Opening the door and removing the clothes.

If you can't reliably learn how to do all these tasks we would argue that you have not learnt how to operate a washing machine.

How to explain problems with: 12. Awareness of hazards or danger

The descriptors: what the law says you score points for

12. Awareness of everyday hazards (such as boiling water or sharp objects).

12 (a) Reduced awareness of everyday hazards leads to a significant risk of:

(i) injury to self or others; or

(ii) damage to property or possessions,

such that they require supervision for the majority of the time to maintain safety. **15 points**

12 (b) Reduced awareness of everyday hazards leads to a significant risk of

(i) injury to self or others; or

(ii) damage to property or possessions,

such that they frequently require supervision to maintain safety. **9 points**

12 (c) Reduced awareness of everyday hazards leads to a significant risk of:

(i) injury to self or others; or

(ii) damage to property or possessions,

such that they occasionally require supervision to maintain safety. **6 points**

12 (d) None of the above apply. **0 points**

What this activity is about

This activity is about not being fully aware of the danger that everyday things such as boiling water and sharp knives pose. To score points, you need to show that:

- you are at risk of hurting yourself or other people or damaging things;
- the risk is caused by not realising dangers rather than realising them but not being able to avoid them;
- you need supervision at least occasionally – but please note, we think that **even if you don't get supervision** you may be eligible for points – see below.

You score points depending on how much of the time you require supervision.

Support group

If 12(a) is accepted by the decision maker as applying to you, then you will be placed in the support group.

DLA alert

If you are getting DLA on supervision grounds and you think that this activity applies to you then take great care to make sure you give accurate evidence because a medical report for this assessment can be used to look again at your DLA award.

Also consider – exceptional circumstances and activity 15

Exceptional circumstances

Astonishingly, causing danger to yourself or others frequently does not score enough points to be found to have limited capability for work, even though it would clearly make you a danger in the workplace.

If you are arguing that descriptors 12(b) or 12(c) apply then you should also very definitely consider arguing that the exceptional circumstances rules apply to you, on the grounds that there would be a substantial risk to yourself or to others if you were found not to have limited

capability for work and possibly also limited capability for work-related activity (support group). Indeed, the WCA Handbook says that the substantial risk issue should be considered where 12(b) applies, but in our opinion this does not go far enough as even an occasional risk – if the danger is severe enough – should be sufficient.

See '*Should you be in the work-related activity group because of exceptional circumstances?*' above for more details on giving evidence on this.

Activity 15

If you lack awareness of danger from traffic then it may be that you cannot get to specified or unspecified places without being accompanied by another person.

Ticking the boxes

Please tick this box if you can keep yourself safe when doing everyday tasks such as boiling water or using sharp objects.

Only tick the box if you have read the descriptors and are sure that none of them apply to you. Remember, this activity is not just about danger to yourself and other people but also about damaging property.

Do you need supervision (someone to stay with you) for most of the time to stay safe?

- ☐ No
- ☐ Yes
- ☐ It varies

Warning – most of the time!

This is a very misleading question. You can score points if you just need supervision frequently or even only occasionally. There was previously a 'sometimes' option on the form, but this has now been removed.

Warning – need supervision!

Before you choose a box, bear in mind that the regulations talk about whether you 'require' supervision, not whether you receive it. If you don't get supervision, but have accidents, hurt yourself or others, damage property or have near misses, then it may be that you do reasonably 'require' supervision even though you don't actually receive it.

Warning – damage to property!

The question above fails to ask about whether you'd be a danger to other people or whether you are liable to damage property, so it's really important that you give details in the '*Use this space*' box.

If you tick 'No' you are not assessing yourself as scoring any points for this activity.

Tick 'Yes' if supervision is required for the majority of the time.

Tick '*It varies*' and give details in the '*Use this space*' box if you need supervision frequently or just occasionally.

A system for completing the 'Use this space' box

If you're struggling to know how to give detailed evidence for this activity, try writing the answers to these 6 questions:

1 What condition or medication causes you problems with this task?

2 How does it reduce your awareness of hazards? For example, does it affect your ability to concentrate on things, to understand danger, or do you get confused?

3 Can you give examples of accidents or near misses you have had?

4 Do you get supervision from someone else?

6 How much of the time are you affected in this way?

Sample answers

Please note: these are just examples of the kinds of information you may wish to give – they aren't 'correct' answers of any sort. But it is vital that you give detailed evidence rather than just ticking boxes. You don't need to put the numbers in – that's just to show how the system works.

Depression

1 I have problems with this activity because of severe depression and because I self-medicate with alcohol.

2 As a result of the effects of prescription drugs and alcohol I am frequently confused, have poor concentration and do not realise when I am putting myself in danger.

3 I have fallen down stairs and cracked a rib, nearly been hit by cars, taken accidental overdoses of prescription medication leading to hospitalisation and burnt myself with hot drinks and hot pans. I frequently leave the iron, cooker or electric fire on and fall asleep with cigarettes burning. It's really only by luck that the house hasn't burnt down.

5 My flatmate keeps an eye on me most of the time.

6 I have accidents or near misses on most days.

Dementia

1 Because of my dementia.

2 I lack awareness that some situations could be dangerous and have very poor concentration.

3 It's not safe for me to cross roads alone as I often don't think to look for traffic. I don't remember whether I have taken my medication and so would sometimes fail to take it and sometimes take it several times if I wasn't supervised. It is not safe for me to cook, use knives or make hot drinks unsupervised anymore because I forget that I have a sharp knife or hot kettle in my hand. My partner always runs the bath for me because I have forgotten to turn it off and also made it much too hot and then attempted to get in. I cannot choose appropriate clothes to wear for the weather and would go out without a coat even on freezing, wet days.

4 My partner never leaves me on my own for more than a few minutes at most because it would not be safe to do so.

5 I have better and worse days, but no days on which I could be left unsupervised.

What CHDA health professionals are told

Remember: this is just how the DWP think the law should be interpreted – you don't have to agree with it.

The WCA Handbook says that this activity may apply to people with reduced awareness of danger due to:

- learning difficulties
- conditions affecting concentration
- effects of medication
- brain injury or other neurological conditions
- severe depressive illness and psychotic disorders which result in a significant reduction in attention and concentration

They are told that it applies where there is 'a lack of understanding that something is dangerous.' It also applies where claimants do not realise that it may be dangerous for them to attempt an activity, such as a person with dementia attempting to cook.

In relation to 12(a), however, the WCA Handbook confusingly says that:

'Those with simple concentration problems would not be considered in this area as they should normally have the insight to realise they have poor memory/concentration and therefore should avoid hazardous situations.'

However, if you are found capable of work then you will not be able to avoid potentially hazardous situations, without risking losing your benefits.

Health professionals are told that daily living activities that they should ask the claimant about in relation to this activity include:

- Ability to cope with road safety awareness
- Driving
- Ability in the kitchen
- Awareness of electrical safety
- Responsibility for children/pets

They are also told to consider whether the claimant 'could be safely left alone to manage basic daily life'.

Understanding this activity in detail

You don't have to read this section to complete your questionnaire. But if there are terms that you find confusing, or if you're preparing to request a mandatory reconsideration or an appeal, it may be helpful.

Caution: this is just our idea of what these terms may mean; the decision maker or tribunal may well take a different view.

Reduced awareness

You need to show that you don't fully realise the hazards you are facing, rather than that you *deliberately* or knowingly take risks or harm yourself or damage things.

Reduced awareness could be caused by, for example:

- confusion caused by dementia
- distraction caused by hearing voices
- learning difficulties
- extreme fatigue
- overwhelming anger or frustration
- substance misuse
- confusion or poor concentration caused by medication

Everyday hazards

Everyday hazards would be things you are likely to come into contact with at home or outdoors. These could be things like, for example:

- boiling water
- cooker rings
- dressing inappropriately for the weather
- electric appliances
- fire
- taking medication
- hazardous substances such as bleach
- food past its sell by date
- heights
- medication
- running water
- sharp objects
- traffic

It may be worth arguing that reduced awareness of the risk posed by just one or two everyday hazards should count. So, if you are only unaware of the risks of fire and electricity, for example, but safe around other things you should give details.

Inappropriate behaviour with strangers, such as allowing strangers into your home or behaviour that appears to be sexually provocative or aggressive may also be relevant. Ultimately, if the DWP disagree, it would be up to a tribunal to decide whether strangers constitute an 'everyday hazard'.

Failure to maintain personal hygiene, such as not washing your hands after using the lavatory, because of a lack of awareness of the danger of germs might also be relevant. Again, it would be up to tribunals to decide if health hazards such as germs and bacteria are an 'everyday hazard'.

Supervision

The level and type of supervision is not specified. Does it mean someone being present in the room with you or would just listening out from another room and checking on you from time to time be sufficient?

We would argue that supervision may include such things as checking rooms to see if there are any hazards present and then regularly checking back to see if you are safe.

As we said above, if you don't get supervision, but have accidents, hurt yourself or others, damage property or have near misses, then it may be that you do reasonably 'require' supervision even though you don't actually receive it.

Majority of the time

This may mean four or more days a week or for more than half of the day. Where there are periods of remission in the condition it may be possible to look at an average over a period of weeks or months.

Warning – majority!

The WCA Handbook advises that:

'The "majority of the time" would represent a need for daily supervision. Frequently would represent several times a week.'

We think that this is clearly wrong – daily supervision would be all the time, not the majority of the time. If you need supervision on four or more days a week or for more than half of the day and do not get put in the support group you may wish to consider requesting a mandatory reconsideration or later, appealing.

Frequently

Frequently, in this context, should mean less than a majority of the time - so may mean less than four days a week or less than half of the day. As stated above, the WCA Handbook advises that 'Frequently would represent several times a week.'

In the absence of a clear definition of frequently, try to give the clearest possible idea of how often you are at risk or have accidents.

Injury to self or others

Injury isn't defined and we would argue that it would include minor:

- bruises
- burns
- cuts
- scalds
- sprains

as well as more serious harm such as being hit by a vehicle or serious burns.

Damage to property or possessions

Damage to property or possessions could include things like:

- breaking crockery
- breaking windows
- burning holes in carpets
- flooding bathrooms or kitchens
- starting fires
- damaging electrical appliances

How to explain problems with: 13. Starting and finishing tasks

The descriptors: what the law says you score points for

13. Initiating and completing personal action (which means planning, organisation, problem solving, prioritising or switching tasks).

13 (a) Cannot, due to impaired mental function, reliably initiate or complete at least 2 sequential personal actions. **15 points**

13 (b) Cannot, due to impaired mental function, reliably initiate or complete at least 2 personal actions for the majority of the time. **9 points**

13 (c) Frequently cannot, due to impaired mental function, reliably initiate or complete at least 2 personal actions. **6 points**

13 (d) None of the above apply. **0 points**

What this activity is about

This activity is about the difficulty you have starting and then completing tasks.

Although the DWP seem to believe this activity is about completing simple tasks such as washing and dressing, we believe it can also be about difficulties you have completing more complex ones like arranging and keeping appointments or organising your finances.

Support group

If 13 (a) is accepted by the decision maker as applying to you, then you will be placed in the support group.

DLA alert

Your DLA claim may be based in part on being unable to motivate yourself to carry out everyday activities. If this is so, take great care to make sure you give accurate evidence for this activity, because a medical report for this assessment can be used to look again at your DLA award.

PIP alert

If you are already getting, or applying for PIP, your claim may be based in part on the PIP activities of 'Preparing food'.

Although not the same as this ESA activity, there is some overlap between the two. So, take great care to give accurate evidence here, because a medical report for ESA or UC can be used to make a decision on a claim for PIP, or look again at an existing award of PIP.

Ticking the boxes

Warning – difficulty of tasks

The form says that:

"This section is about whether you can manage to start and complete daily routines and tasks like getting up, washing and dressing, cooking a meal or going shopping."

We are concerned that the 'routine jobs' listed here are relatively simple and that this activity is also about more complex, less routine activities that require the problem solving, switching

and prioritising referred to in the law. If you have difficulties with more complex activities we would suggest that you give information in the '*Use this space box*' below.

Please tick this box if you can manage to do daily tasks without difficulty.

Only tick the box if you have read the descriptors and are sure that none of them apply to you.

Can you manage to plan, start and finish daily tasks?

- ☐ *Never*
- ☐ *Sometimes*
- ☐ *It varies*

If you can start and complete tasks, but it takes you great deal longer than it would take other people, then we consider that this should count as being unable to do that task.

If you start tasks and then forget what you are doing and start something else this should count as not being able to do them.

If you can start and complete tasks, but only if someone prompts or encourages you to do so, then we would argue that this counts as not being able to do the tasks. If you have a relative or carer who encourages or cajoles you, think about how you would manage if they were not there and give details in the '*Use this space*' box.

If you tick 'Never' you are assessing yourself as scoring 15 points and as being eligible for the support group.

If you tick 'Sometimes' this could relate to 13(b) or 13(c), so you will need to give more details in the '*Use this space*' box about whether this is for the majority of the time or 'frequently'.

'It varies' is extremely imprecise and is unlikely, as evidence on its own, to allow points to be scored.

A system for completing the 'Use this space' box

If you're struggling to know how to give detailed evidence for this activity, try writing the answers to these questions:

- 1 What condition or medication causes you problems with starting or completing tasks?
- 2 Do you have problems with starting tasks or with finishing them once you have started or both?
- 3 Do you need someone to prompt or encourage you to start or complete tasks?
- 4 Can you give examples of the problems you have and how someone can help?
- 5 How much of the time do you have these problems?

Sample answers

Please note: these are just examples of the kinds of information you may wish to give – they aren't 'correct' answers of any sort. But it is vital that you give detailed evidence rather than just ticking boxes. You don't need to put the numbers in – that's just to show how the system works.

Depression

1 Because of my severe depression.

2 I have problems motivating myself to start doing things and frequently give up after starting through apathy and fatigue.

3 If my partner is at home he encourages me to do things. He has to keep on reminding and hassling me until I do things.

4 For example, if he is not around I don't bother to get out of bed until lunchtime and then I can't get myself to have a proper wash. Often I won't bother to get dressed at all because I can't see the point. But if he's there he reminds and encourages me over and over again until I do get washed and dressed. I would never bother buying proper food or cooking a meal unless he was with me and kept encouraging me.

5 I have worse days when nothing even he says makes any difference, but for the rest of the time I can do things with enough prompting and encouragement.

CFS/ME

1 Because of my CFS/ME.

2 I get very 'foggy' and confused so that I forget to do things and can't concentrate when I do attempt to do things. I very often start things and then don't finish them because of poor concentration.

3 I need prompting or reminding in person, by phone and by using notes and alarms.

4 I have a pill dispenser with a timer which my wife fills and sets for me every morning. My wife also writes on a pad on the fridge anything I need to remember for that day, such as bringing the wheelie bin in or being home for a delivery. We have an arrangement that my wife will ring me from work several times a day to remind me to do things like let the dog into the garden. My wife comes home to find piles of clothes where I have started to sort some washing and then forgotten about it. I often leave washing out in the rain because I forget it is there. I frequently find that it is the middle of the afternoon before I remember to eat, dress or bathe. I can no longer drive a car because my concentration is much too poor for me to be able to do so. If I was left by myself I would not be able to cope.

5 I am like this on the majority of days although I have some better days and I have days when I am so bad I can't even get out of bed except to go to the toilet.

• Obsessive compulsive disorder

1 Because of my OCD.

2 I can do everyday tasks but it takes me a very long time to do most things.

3 With many tasks prompting or encouraging will not help.

4 I usually spend over an hour washing in the bathroom on a morning because I have to wash myself in a certain order and clean each part of my body a certain number of times and if I am not sure I have done it right I have to start again. Preparing even simple food such as a sandwich usually takes at least 20 minutes because I have to be very careful that I don't touch certain things in the kitchen and that different things don't touch each other. If I do touch them or get too close to them I have to wash myself very carefully and start again. I frequently have to stop whatever I am doing to check that all my books are there and in the right order. This means that whatever task I am doing can take a very long time because I have to keep stopping and checking. Leaving the house also takes half an hour to an hour

because I have to make sure that everything is switched off and that all the doors and windows are locked before I go out. I usually have to check everything at least half a dozen times before I can find the courage to go out.

5 I am always like this.

What CHDA health professionals are told this activity is about

Remember, this is just how the DWP think the law should be interpreted – you don't have to agree with it.

The WCA Handbook says that this activity is about the ability to:

“understand how to co-ordinate actions in the correct sequence such that they successfully complete any personal actions in a logical order for example washing before dressing.”

However, the law refers to 'planning, organisation, problem solving, prioritising or switching tasks' and we do not consider that washing before dressing– something that is done routinely and habitually - requires the ability to solve problems, prioritise, switch tasks or, in any real sense, plan or organise.

Health professionals are told that they must take into account whether a person can repeatedly and reliably complete tasks and that there has to be evidence that they can do so:

'For example, someone with OCD may initiate many actions, but due to rituals they may not actually be able to complete them and therefore should be considered not capable of personal action. Similarly, if a person perhaps with bipolar illness manages to wash and dress but then goes out and spends all their money on non-essential activities, giving no consideration to issues such as bills, rent, food etc., they would not be considered to be initiating effective personal action.'

Health professionals are told that severe concentration or memory problems would affect this activity and that the kinds of conditions that are relevant include:

- psychosis
- obsessive compulsive disorder (OCD)
- autism
- learning disability
- severe depression

They are told that personal action may include:

- ability to plan and organise a simple meal
- ability to get up, washed, dressed and ready for work in the morning
- ability to cope with simple household tasks e.g. sorting laundry and using a washing machine
- dealing with finances
- arranging GP appointments, picking up prescriptions, taking medication

Health professional are told that daily living activities that they should ask the claimant about include:

- Making travel arrangements
- Writing shopping lists
- Organising finances
- Planning a simple meal
- Getting washed and dressed

- Ironing clothes for the next day
- Caring for children: preparing clothing, lunches etc.

Finally, it is worth noting that the 'Work Capability Internal Assessment Review' which made the changes to the WCA made it clear that the intention was to amalgamate three of the activities from the original WCA into this one. The three activities were:

- Memory and concentration
- Execution of tasks
- Initiating and sustaining personal action

What we consider this activity is about

Caution: this is just our idea of what these terms may mean; the decision maker or tribunal may take a different view. You don't need to read this section to complete the questionnaire.

Cannot . . .reliably initiate or complete

If you can't get started on a relevant activity, or having started it can't see it through to completion, you should score points.

Impaired mental function

This could be virtually any mental health condition or learning difficulty.

Sequential

In relation to this activity, reliably completing '2 sequential personal actions' would, according to the DWP, be things like remembering to shower before getting dressed rather than the other way round. Although only 13(a) refers to 'sequential' personal actions it seems likely that sequential is implied in 13(b) and 13(c). As completing sequential actions is a more demanding activity – because you have to get them in the right order – you may wish to assume this is the case.

Personal action (which means planning, organisation, problem solving, prioritising or switching tasks)

Guidance issued with the first version of the test that used the phrase 'personal action' stated very clearly that this activity 'does not refer to the ability to self-care or maintain an acceptable level of personal hygiene'. Guidance given to health professionals carrying out the original pilots of the test said that 'it is designed to reflect those who struggle with their affairs such as bills or finances, such that the person may require an appointee or have input from a support worker or homemaker'. However, whilst the law hasn't changed, the guidance given to health professionals has been changed in order to make it much harder to score points.

So, if you have problems with simple everyday tasks then you should certainly give details. But even if you can manage everyday activities but can't manage more complex ones then you should also give details.

Possible relevant activities might include:

- Making and keeping a doctor's appointment
- Ensuring that your car has an up-to-date MOT
- Choosing and purchasing car insurance or home insurance
- Checking the estimated reading on a utility bill and arranging for the bill to be paid

Majority of the time

This may mean four or more days a week or for more than half of the day. Where there are periods of remission in the condition it may be possible to look at an average over a period of weeks or months.

Frequently

For 16(c) frequently must mean less than a majority of the time, so probably less than four days a week. In the absence of a definition of frequent, try to give the clearest possible idea of how often you have problems.

How to explain problems with: 14. Coping with changes

The descriptors: what the law says you score points for

14. Coping with change

14 (a) Cannot cope with any change to the extent that day to day life cannot be managed.

15 points

14 (b) Cannot cope with minor planned change (such as a pre-arranged change to the routine time scheduled for a lunch break); to the extent that overall day to day life is made significantly more difficult. **9 points**

14 (c) Cannot cope with minor unplanned change (such as the timing of an appointment on the day it is due to occur), to the extent that overall, day to day life is made significantly more difficult. **6 points**

14 (d) None of the above apply. **0 points**

What this activity is about

This activity is about being unable to cope with planned or unplanned changes in your routine. You score points depending on how much more difficult your daily life is made by your reaction to changes.

Support group

If 14 (a) is accepted by the decision maker as applying to you, then you will be placed in the support group.

PIP alert

If you are already getting, or applying for PIP, your claim may be based in part on the PIP activity of 'Planning and following journeys'.

Although not the same as this ESA activity, there is some overlap between the two. So, take great care to give accurate evidence here, because a medical report for ESA or UC can be used to make a decision on a claim for PIP, or look again at an existing award of PIP.

Ticking the boxes

Please tick this box if you can cope with changes to your daily routine.

Only tick the box if you have read the descriptors and are sure that none of them apply to you.

Can you cope with small changes to your routine if you know about them before they happen?

For example, things like having a meal earlier or later than usual, or an appointment time being changed.

☐ No

☐ Yes

☐ It varies

This question appears to relate to 14(a) and 14(b).

If you cannot cope with small *expected* changes for the majority of the time, your answer should be No. You can give details of any variability in the Use this space box.

'Cannot cope' in this context means either that you can't do any everyday tasks if there is an expected change or that it becomes significantly more difficult for you to do everyday tasks.

If you tick it varies, make sure you give full details of the variability in the 'Use this space' box. You should be assessed on how you are for the majority of the time.

Can you cope with small changes to your routine if they are unexpected?

This means things like your bus or train not running on time, or a friend or carer coming to your house earlier or later than expected.

- ☐ No
- ☐ Yes
- ☐ It varies

This question appears to relate to 14(c). If you have difficulties for less than the majority of the time you are less likely to score points.

If you cannot cope with small *unexpected* changes for the majority of the time, your answer should be No. You can give details of any variability in the Use this space box. 'Cannot cope' in this context means that it becomes significantly more difficult for you to do everyday tasks.

If you tick it varies, make sure you give full details of the variability in the 'Use this space' box. You should be assessed on how you are for the majority of the time.

A system for completing the 'Use this space' box

If you're struggling to know how to give detailed evidence for this activity, try writing the answers to these 5 questions:

- 1 What condition or medication causes you problems with this task?
- 2 Does your condition cause problems coping with expected changes, unexpected changes or both?
- 3 When change happens, are everyday activities made impossible for you, much more difficult or can you still manage?
- 4 Can you give examples of changes and the effects they have on your ability to carry on with your day?
- 5 How much of the time are you affected in this way?

Sample answer

Please note: these are just examples of the kinds of information you may wish to give – they aren't 'correct' answers of any sort. But it is vital that you give detailed evidence rather than just ticking boxes. You don't need to put the numbers in – that's just to show how the system works.

Autism

- 1 Due to my autism.
- 2 I have great difficulty with any changes, whether expected or not.
- 3 I am unable to carry on with any everyday activities if my routine is changed.
- 4 For example, I always eat toast and Asda strawberry jam for breakfast at 7 o'clock. If there is no bread or just blackcurrant jam I will become very distressed and may start to rock or

repeat the same word, refusing to do anything else until I have been given the right breakfast. This affects nearly all everyday activities including the time I leave the house, how I travel to destinations and the route taken. Even the programmes I watch on television need to be scheduled at least a week in advance so that I know what to expect and if a show is late starting I will become very stressed until it starts. Christmas is incredibly upsetting for me because so many things happen that are different to my usual routine, even if I have been prepared for the change I will still react badly and rock almost constantly until my routines are back in place.

5 I am like this all the time.

What CHDA health professionals are told this activity is about

Remember, this is just how the DWP think the law should be interpreted – you don't have to agree with it.

In relation to 14(a), the support group descriptor, the WCA Handbook states that this represents more than a dislike of change or problems related to change in a specific area of life and that:

'Their inability to cope with any change would result in such distress that they could not continue with their day to day life – even the most basic activities could not be managed.'

Health professionals are told that the kinds of conditions that are relevant to this activity include:

- moderate/severe learning disability
- severe anxiety
- autistic spectrum disorder
- brain injury,
- obsessive compulsive disorder
- psychotic illness

Health professionals are told that daily living activities that they should ask the claimant about include:

- Use of public transport
- Shopping
- Dealing with appointments at hospital, GP or Jobcentre Plus
- Coping with children and their out of school activities

Health professionals are given the examples of:

- A claimant with a severe form of mental disablement who may become so distressed by the supermarket being out of stock of their usual brand of breakfast cereal that they cannot continue with other activities or complete the rest of their shopping.
- A claimant who would be unable to cope with the train being cancelled and would return home rather than wait for the next train.

The Handbook also suggests that anyone who attends for a medical alone is unlikely to score points for this activity.

What we consider this activity is about

Caution: this is just our idea of what these terms may mean; the decision maker or tribunal may take a different view. You don't need to read this section to complete the questionnaire.

Cannot cope

Cannot cope may mean things such as becoming extremely distressed, having panic attacks, shutting yourself in your room or similar behaviour. Whatever your response it would have to affect your ability to carry on ordinary life.

Minor, planned change

Minor changes could be things like a change to the time a programme comes on, a change to the bus timetable or someone coming to visit you on a different day from the usual one. Whatever the change, it has to be one that you have been warned about in advance.

Minor, unplanned change

The important issue here is that these are minor but unplanned changes. So it could still be a change to the time a programme comes on, a change to the bus timetable or someone coming to visit you on a different day from the usual one. But this time you haven't been warned in advance.

Overall day-to-day life

Overall day-to-day life probably means the sort of ordinary tasks that most people deal with. Things like:

- getting up
- washing
- dressing
- cooking
- eating and drinking
- cooking
- going outdoors
- household chores
- shopping
- using the telephone
- socialising with other people
- watching TV
- going to bed

Cannot be managed

Even if you can do the activities above, can you do them successfully? So, for example, do you get up at a reasonable hour? Do you wash or bathe properly every morning? Do you put on clean clothes that are appropriate to the occasion and weather? Do you shop regularly, so that there is food in the cupboards and fridge? Do you cook and eat properly or just have sandwiches and microwave meals? Is your house reasonably clean and tidy? Do you get out and meet people? Do you undress and go to bed at a reasonable hour?

Do you personally successfully manage these things or are most of them done by, or with the help and encouragement of, a partner or carer?

Even if you live alone and manage to get by that doesn't mean that someone observing you from outside would agree that you 'successfully' manage day to day life.

So, your inability to cope with any change needs to result in your being unable to do at least some of the activities above successfully in order to score points for 14(a).

Made significantly more difficult

This may mean that you can still manage your everyday activities but you find it much more of a struggle to do so or become very distressed because of the change to your routine. You

may do things more slowly or get anxious and have to be calmed down before you can carry on with things.

How to explain problems with: 15. Going out

The descriptors: what the law says you score points for

15. Getting about

15 (a) Cannot get to any place outside the claimant's home with which the claimant is familiar. **15 points**

15 (b) Is unable to get to a specified place with which the claimant is familiar, without being accompanied by another person **9 points**

15 (c) Is unable to get to a specified place with which the claimant is unfamiliar without being accompanied by another person. **6 points**

15 (d) None of the above apply. **0 points**

What this activity is about

This activity is about being unable to get to places you know and places that you don't know.

Support group

None of the descriptors for this activity will qualify you for the support group.

DLA alert

If you are getting the lower rate of the mobility component, this activity may apply to you. If this is so, take great care to make sure you give accurate evidence, because a medical report for this assessment can be used to look again at your DLA award.

PIP alert

If you are already getting, or applying for PIP, your claim may be based in part on the PIP activity of 'Planning and following journeys'.

Although not the same as this ESA activity, there is some overlap between the two. So, take great care to give accurate evidence here, because a medical report for ESA or UC can be used to make a decision on a claim for PIP, or look again at an existing award of PIP.

Also consider – exceptional circumstances and activity 16

Exceptional circumstances

If you can't get to specified places without being accompanied or at all, would there be a danger to your health if you were found not to have limited capability for work? You would have to claim JSA, go to the Jobcentre Plus offices to sign on, draw up and stick to a jobseeker's agreement and possibly attend interviews, training programmes and possibly take a paid job. Would you be able to do all these things? If not, would your JSA be stopped? Would there be a danger to your health if you had no income? Could you buy food, pay for electricity, water and other services or would you have to try to survive without?

If you think you would be at risk, see 'Should you be in the work-related activity group because of exceptional circumstances?' above for more details on giving evidence on this.

Activity 16

If the reason that you can't get to familiar or unfamiliar places is about fear of meeting people then you may also score points for activity 16, Coping with social situations.

Ticking the boxes

Please tick this box if you can go out on your own.

Only tick the box if you have read the descriptors and are sure that none of them apply to you.

Warning – safely!

If you can get to places but it is not safe for you to do so then this may count as being unable to get to them. So, for example, if you are unable to cope with traffic or other common hazards then this may mean you score points for this activity.

Can you leave home and go out to places you know?

- ☐ *No*
- ☐ *Yes, if someone goes with me*
- ☐ *It varies*

If you are unable to go to places you know, even if someone comes with you, for the majority of the time, tick 'No'. You can give details of any variability in the 'Use this space' box.

If you can go out to places you know for the majority of the time, but only if someone comes with you, tick 'Yes'.

If you can manage it most of the time you are less likely to score points for this activity.

If you tick '*It varies*', make sure you give full details of the variability in the 'Use this space' box. You should be assessed on how you are for the majority of the time.

Can you leave home and go to places you don't know?

- ☐ *No*
- ☐ *Yes, if someone goes with me*
- ☐ *It varies*

If, for the majority of the time, you are unable to go to places you don't know, tick 'No'.

If you can manage to go to places you don't know for the majority of the time, so long as someone comes with you, tick 'Yes'.

If you tick it varies, make sure you give full details of the variability in the 'Use this space' box. You should be assessed on how you are for the majority of the time.

A system for completing the 'Use this space' box

If you're struggling to know how to give detailed evidence for this activity, try writing the answers to these 4 questions:

- 1 What condition or medication causes you problems with this task?
- 2 What would happen if you tried to go to a familiar or an unfamiliar place on your own?
- 3 What difference, if any, does having someone with you make?
- 4 How much of the time are you affected in this way?

Sample answers

Please note: these are just examples of the kinds of information you may wish to give – they aren't 'correct' answers of any sort. But it is vital that you give detailed evidence rather than just ticking boxes. You don't need to put the numbers in – that's just to show how the system works.

Agoraphobia

1 Because of my agoraphobia.

2 I cannot go anywhere on my own and just thinking about doing so makes me very anxious indeed. If I even leave my front garden I start shaking uncontrollably, my chest gets tight and I believe I'm going to stop breathing, my heart races and I break out in a sweat. The only way to control the panic is to go back inside my house.

3 Even if someone accompanies me I can only go as far as the corner shop (approx. 200 yards) and sometimes I cannot go into the shop because I am so scared that I will get trapped, particularly if there are other customers inside that could block the door. Often, I am so scared of the thought of having a panic attack in public that I will not even go out with supervision. My doctor visits me at home because I cannot go to the surgery and I have not seen a dentist for 3 years. I do all my shopping online or get friends and family to pick things (e.g. medication) up for me.

4 I am always like this.

Learning difficulties

1 Because of my learning difficulties.

2 I can only go out on my own to very nearby places such as the local shops. I often react adversely when in public places as I find crowds and loud noises distressing. I am highly impulsive and impatient so if I have to wait in a queue or the bus is late my behaviour will become unpredictable, I may start to flap my hands, repeat a particular word over and over or even be verbally aggressive. The more anxious I am the more I struggle to communicate my needs, which makes me even more anxious. I also find traffic noise disorientating as I cannot 'shut it out' and tend to over react to sudden bangs or shouts. This combined with my poor spatial skills and short-term memory problems means that I get lost easily even if the route is familiar.

3 If someone is with me they can calm me down when I get anxious and make sure I don't get confused and lost.

4 I always have these problems with going out alone.

What CHDA health professionals are told this activity is about

Remember, this is just how the DWP think the law should be interpreted – you don't have to agree with it.

Health professionals are told that the kinds of conditions that are relevant to this activity include:

- Learning disability
- Disorientation
- agoraphobia causing fear of travelling unaccompanied by another person.

They are told that it is not about 'lesser degrees of anxiety about going out'. They are also told it is not about problems with 'planning and timekeeping' and that how you travel is not relevant:

"For example, individuals who are unable to use public transport but are able to arrive at their destination by other means will not score on this activity."

Health professionals are told that daily living activities that they should ask the claimant about include:

- Shopping
- Attending the chemist
- Attending hospital or GP appointments
- Walking the dog
- Supervising children outdoors

Health professionals are also told that 'general safety awareness and abilities in the kitchen may support significant cognitive disruption resulting in safety issues if going out unaccompanied' and that there should be evidence of severe anxiety.

What we consider this activity is about

Caution: this is just our idea of what these terms may mean; the decision maker or tribunal may take a different view. You don't need to read this section to complete the questionnaire.

Cannot get to

15(a) relates to someone who is unable to get to familiar places even if someone is with them. This may apply to people with severe agoraphobia or anxiety conditions.

The law says 'get to' but doesn't say how. We think, but we can't be certain, that what is important is that it has to be you that's doing the 'getting to'. So, if you could walk or use public transport that may count as being able to 'get to'. But if you can only get there by taxi or if someone else drives you there, we would argue that this doesn't count as being able to 'get to' because someone else is taking you there – you haven't got there 'under your own steam'.

Is unable to get to

15(b) and 15(c) use 'Is unable to get' to rather 'Cannot to get to', but there seems no obvious reason for this change of wording. Once again, 'get to' is not defined, and again we would argue it is about whether you can walk or use public transport rather than using a taxi or getting a lift.

Any place outside the claimant's / A specified place with which the claimant is familiar

In January 2013 descriptor a) was changed from 'any specified place' to 'any place outside the claimant's home'. This would seem to mean a very severe degree of agoraphobia, preventing you from going out at all.

'A specified place' in 15(b) and 15(c) could mean that there is just one place that you cannot get to, though it seems unlikely that this is what the DWP intends. But it may mean that if there are some places you can get to and some that you can't 15(b) and 15(c) may still apply.

If in doubt, include as much detail as possible about where you can't get to and, if you're unhappy with the decision, consider requesting a mandatory reconsideration and, if the decision isn't changed, appealing.

Without being accompanied by another person

You may need accompanying because, for example, you have panic attacks or because it would not be safe for you to go unaccompanied because you lack awareness of danger from traffic.

How to explain problems with: 16. Coping with social situations

The descriptors: what the law says you score points for

16. Coping with social engagement due to cognitive impairment or mental disorder

16 (a) Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the individual. **15 points**

16 (b) Engagement in social contact with someone unfamiliar to the claimant is always precluded due to difficulty relating to others or significant distress experienced by the individual. **9 points**

16 (c) Engagement in social contact with someone unfamiliar to the claimant is not possible for the majority of the time due to difficulty relating to others or significant distress experienced by the individual. **6 points**

16 (d) None of the above apply. **0 points**

What this activity is about

This activity is about problems meeting people either socially or at things like appointments or interviews.

Support group

If 16 (a) is accepted by the decision maker as applying to you, then you will be placed in the support group.

PIP alert

If you are already getting, or applying for PIP, your claim may be based in part on the PIP activity of 'Engaging with other people face to face'.

Although not the same as this ESA activity, there is some overlap between the two. So, take great care to give accurate evidence here, because a medical report for ESA or UC can be used to make a decision on a claim for PIP, or look again at an existing award of PIP.

Also consider – activity 15

If you are distressed by meeting new people or encountering strangers you may also be unable to go to familiar or unfamiliar places, as set out in activity 15, Going out.

Ticking the boxes

Please tick this box if you can cope with social situations without feeling too anxious or scared.

Only tick the box if you have read the descriptors and are sure that none of them apply to you.

Can you meet with people you know without feeling too anxious or scared?

- ☐ No
- ☐ Yes
- ☐ It varies

Please note, this activity is about difficulty relating to other people – for example, causing offence without meaning to - as well as becoming scared or anxious.

If you are 'always' unable to meet with people you know for social engagements then the answer is No. You may also wish to tick No if this is the case for the majority of the time. However, you will need to give full details in the 'Use this space' box and you are less likely to score points for this as (16) (a) requires you to 'always' have this problem.

'It varies' is unlikely to score points.

One of the Upper Tribunal Judges (in [CE/4183/2012](#)) has stated that when considering social engagement, a distinction should be made between 'social contact' and professional encounters, such as medical examinations or a tribunal hearing. The judge suggested that professional encounters are not necessarily 'social' in nature, although they *could* be. The context and content of the engagement should be taken into account.

The judge also states that 'always' in this descriptor does not necessarily mean 'every time' but only 'repeatedly' or 'persistently'.

Another Judge agrees (in [CE/4125/2012](#)) and also states that 'always precluded' should take into account the claimant's ability to engage with others in any context (whether 'social' or otherwise), the distress it causes and the impact of distress on their the ability to engage socially.

Can you meet with people you don't know without feeling too anxious or scared?

- ☐ No
- ☐ Yes
- ☐ It varies

Once again, please note, this activity is about difficulty relating to other people as well as becoming scared or anxious.

If you are 'Always' unable to meet with people you don't know for social engagements then the answer is No. You should also tick No if this is the case for the majority of the time, which would relate to descriptor (16) (c).

'It varies' is unlikely to score points.

A system for completing the 'Use this space' box

If you're struggling to know how to give detailed evidence for this activity, try writing the answers to these 4 questions:

- 1 What condition or medication causes you problems with this task?
- 2 Do you become distressed if you have to meet people or have problems relating to them and, if so, does this only apply to new people or also to people you are familiar with?
- 3 Can you describe in detail the feelings or problems you experience if you have to engage in social contact?
- 4 How much of the time are you affected in this way?

Sample answers

Please note: these are just examples of the kinds of information you may wish to give – they aren't 'correct' answers of any sort. But it is vital that you give detailed evidence rather than just ticking boxes. You don't need to put the numbers in – that's just to show how the system works.

Depression

1 Because of my depression.

2 I have become very isolated and see people as little as possible.

3 I try to go out only very early in the morning or after it gets dark so that there is less chance of bumping into neighbours and having to say hello. Even having to speak to an assistant in places like the chemist, health food shop or library makes me feel very anxious and I try only to go to supermarkets because you don't have to speak to people there. If anyone in a shop does try to strike up a conversation with me I avoid going there again. I virtually never go to new places and would not dream of going to any sort of social event. Just setting foot outside my door makes my heart beat very fast and I have to fight back the panic.

If I felt that I had to attend some sort of social occasion, such as a funeral I would be frightened for days and days beforehand. I wouldn't eat properly for days because I would feel so sick and anxious that people would try to talk to me. I would be very tempted to have a few drinks before going and be very worried that I would drink too much and make a fool of myself. I would probably end up not going, but if I did go I would be terrified and would sweat and shake and mix my words when anyone acknowledged me or spoke to me. Afterwards I would feel ashamed and hate myself.

4 I am always like this and have been for a long time.

Post-traumatic stress disorder

1 Because of post-traumatic stress disorder.

2 I have found it increasingly difficult to be in any social situations or to meet new people.

3. I avoid going out as much as possible and if I do have to go out I always have someone with me. I no longer have a social life or see any of my former work colleagues. At home I can no longer have friends round as then I cannot get away if it all gets too much and I start to panic. Now the very possibility of being around people other than my direct family can set off an anxiety attack where I tremble, my heart races, I struggle to breathe and break out in a sweat.

4 I am like this for the majority of the time now and it seems to be getting worse.

What CHDA health professionals are told this activity is about

Remember, this is just how the DWP think the law should be interpreted – you don't have to agree with it.

In connection with 16(a), the support group descriptor, the WCA Handbook states that:

'This Support Group descriptor reflects severe restriction of the ability to engage in any form of face to face social contact.'

The Handbook states that the level of anxiety needs to involve more than fleeting anxiety, shyness or reticence and should include 'specific and overwhelming' fear, 'physical symptoms or a racing pulse' and often 'feelings of impending death'.

Health professionals are told that the kinds of conditions that are relevant to this activity include:

- severe anxiety
- autism
- psychosis

- learning disability

It suggests that for people with conditions like anxiety, panic disorder or agoraphobia there would need to be evidence that the condition was severe. For example, evidence of psychiatric input or medication.

Health professional are told that daily living activities that they should ask the claimant about include:

- Use of public transport
- Shopping
- Talking to neighbours
- Use of phone
- Hobbies and interests
- Social interaction with family

Health professionals are told that, if this activity applies, it is likely that the claimant would need to have a companion with them in order to attend the medical.

What we consider this activity is about

Caution: this is just our idea of what these terms may mean; the decision maker or tribunal may take a different view. You don't need to read this section to complete the questionnaire.

Engagement in social contact,

Engagement in social contact might include meeting friends and former colleagues as well as doing things like attending interviews, appointments, religious services and so on. It might also include answering the telephone, answering the door, going to the shops or other situations where you may have to interact with other people.

Precluded

This probably just has its ordinary meaning of prevented.

Difficulty relating to others

This may mean things like causing offence without meaning to, not understanding facial expressions or body language, misunderstanding what people are saying and become angry or upset, being too shy or anxious to speak or make eye contact, saying whatever you think other people want to hear.

Significant distress

This is a very imprecise term. It may mean things like trembling, being unable to speak, having panic attacks, being unable to sleep at the thought of meeting people.

Majority of the time

This may mean four or more days a week or for more than half of the day. Where there are periods of remission in the condition it may be possible to look at an average over a period of weeks or months.

How to explain problems with: 17. Behaving appropriately

The descriptors: what the law says you score points for

17. Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder

17 (a) Has, on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace. **15 points**

17 (b) Frequently has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace. **15 points**

17 (c) Occasionally has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace. **9 points**

17 (d) None of the above apply. **0 points**

What this activity is about

This activity is about are about behaving in ways that other people find strange or frightening.

Support group

If 17 (a) is accepted by the decision maker as applying to you, then you will be placed in the support group.

PIP alert

If you are already getting, or applying for PIP, your claim may be based in part on the PIP activity of 'Engaging with other people face to face'.

Although not the same as this WCA activity, there is some overlap between the two. So, take great care to give accurate evidence here, because a medical report for ESA or UC can be used to make a decision on a claim for PIP, or look again at an existing award of PIP.

Also consider – exceptional circumstances

If your behaviour is aggressive or disinhibited even infrequently, then we would argue that it is extremely likely that there would be a substantial danger to you or other people if you were not found to have limited capability for work. This is because other people may react aggressively to your behaviour, resulting in actual violence occurring. See 'Should you be in the work-related activity group because of exceptional circumstances?' above for more details on giving evidence on this.

Ticking the boxes

Please tick this box if your behaviour does not upset other people.

Only tick the box if you have read the descriptors and are sure that none of them apply to you.

How often do you behave in a way which upsets other people?

For example, this might be because your health condition, illness or disability results in you behaving aggressively or acting in an unusual way.

☐ *Every day*

☐ *Often*

☐ *Occasionally*

'Every day' relates to 17(a). 'Often' is likely to relate to 17(b) and 'Occasionally' to 17(c).

A system for completing the 'Use this space' box

If you're struggling to know how to give detailed evidence for this activity, try writing the answers to the questions below.

- 1 What condition or medication causes you to have uncontrollable episodes?
- 2 Do you become aggressive or disinhibited?
- 3 Can you give examples of your behaviour and what effect it has had on other people who were there at the time?
- 4 Is it easy to predict when you are likely to have an outburst and can you control it?
- 5 Roughly how often do these outbursts happen?

Sample answers

Please note: these are just examples of the kinds of information you may wish to give – they aren't 'correct' answers of any sort. But it is vital that you give detailed evidence rather than just ticking boxes. You don't need to put the numbers in – that's just to show how the system works.

Learning difficulties

- 1 Because of my learning difficulties.
- 2 I often behave in ways that other people find strange or alarming.
- 3 For example, if I see a strange male with long hair I try to go and stroke it if I am not restrained. This makes some men very nervous and others very angry and aggressive. Sometimes I get very excited for no obvious reason and start to clap and laugh out loud which makes people around me stare and move away anxiously.
- 4 These outbursts can happen at any time without warning.
- 5 They happen most days of the week.

ADHD

- 1 Because of my ADHD.
- 2 I find it very difficult to control my temper. I get irritated and angry very easily and for quite minor reasons.
- 3 For example my wife asked me recently if I had used her hairbrush, because she couldn't find it, and I exploded. I was already frustrated because I couldn't find my house keys so I over reacted and spent the next few minutes shouting and verbally attacking her until she was in tears and visibly frightened. Similar instances occur in various situations like waiting in queues or an item being out of stock in the shop.
- 4 My over-reactions often cause people to move away from me or stop serving me or talking to me. Sometimes I will be asked to leave a café, shop or doctor's waiting room.
- 5 Incidents like the ones above happen at least once a week, often more frequently.

What CHDA health professionals are told this activity is about

Remember, this is just how the DWP think the law should be interpreted – you don't have to agree with it.

The WCA Handbook states that this activity relates to conditions such as:

- psychotic illness
- brain injury
- autistic spectrum disorder

CHDA health professionals are told that it applies to conditions where there are occasional episodes of relapse, such as some psychotic conditions, as well as conditions which cause 'consistently abnormal behaviour'. But the Handbook adds that it does not apply to aggressive behaviour or anger management issues where there is no underlying mental health issue.

The Handbook states that:

'The descriptors relate to behaviour that would be considered in an average workplace such as a call centre as this provides a more general concept rather than applying "reasonable" to one person's standards as this may be subject to considerable variability. It is likely that the behaviour would extend beyond verbal aggression for the descriptors to apply.'

We think that this is absolutely wrong as there are very few workplaces where verbal aggression would be seen as anything other than unreasonable.

Health professionals are told to consider circumstances where interaction with others might occur, such as:

- Previous occupational history
- Shopping
- Childcare
- Parents nights at school
- Relationships with neighbours
- Ability to cope at appointments e.g. GP/ Hospital etc.
- Ability to cope with bills and on the phone
- Dealing with finances and bills at the post office
- Appointments with official persons such as the Bank Manager/ Social Worker/ Benefits Personnel

What we consider this activity is about

Caution: this is just our idea of what these terms may mean; the decision maker or tribunal may take a different view. You don't need to read this section to complete the questionnaire.

Uncontrollable episodes

If your episodes can be controlled then they may not count. However, if they happen without warning or they cannot be controlled once they begin then they should be taken into account.

Aggressive or disinhibited behaviour

This could be things like:

- Shouting
- Swearing
- Lashing out
- Singing loudly
- Removing clothing
- Crying

- Running about
- Challenging people to a fight
- Talking about inappropriate subjects, such as sex, to strangers

Unreasonable in any workplace

Any of the behaviour listed above would be unlikely to be acceptable in most workplaces.

on a daily basis

This would probably have to be on every, or almost every, day.

Frequently

There is no legal definition of frequently in this context. If the episodes are on a less than daily basis, all you can do is give detailed information and, if you are unhappy with the result of your claim, consider including this issue in your mandatory reconsideration request or appeal.

Occasionally

As for frequently above.

How to explain problems with: 18. Eating and drinking

What this activity is about

There are actually two activities involved in this part of the form, which relates solely to the support group, not to the work-related activity group. The activities are: getting food and drink into your mouth and chewing and swallowing food. These activities have both physical health descriptors and mental health/learning difficulties descriptors.

The descriptors: what the law says you score points for

15. Conveying food or drink to the mouth.

- (a) Cannot convey food or drink to the claimant's own mouth without receiving physical assistance from someone else;
- (b) Cannot convey food or drink to the claimant's own mouth without repeatedly stopping, experiencing breathlessness or severe discomfort;
- (c) Cannot convey food or drink to the claimant's own mouth without receiving regular prompting given by someone else in the claimant's physical presence; or
- (d) Owing to a severe disorder of mood or behaviour, fails to convey food or drink to the claimant's own mouth without receiving —
 - (i) physical assistance from someone else; or
 - (ii) regular prompting given by someone else in the claimant's presence.

16. Chewing or swallowing food or drink

- (a) Cannot chew or swallow food or drink;
- (b) Cannot chew or swallow food or drink without repeatedly stopping, experiencing breathlessness or severe discomfort;
- (c) Cannot chew or swallow food or drink without repeatedly receiving regular prompting given by someone else in the claimant's presence; or
- (d) Owing to a severe disorder of mood or behaviour, fails to—
 - (i) chew or swallow food or drink; or
 - (ii) chew or swallow food or drink without regular prompting given by another person in the physical presence of the claimant.

Ticking the boxes

Can you get food and drink to your mouth without help or prompting from another person?

- ☐ No
- ☐ Yes
- ☐ It varies

Can you chew and swallow food and drink without help or prompting from another person?

- ☐ No
- ☐ Yes
- ☐ It varies

If you tick 'Yes' for both these questions, then you are not assessing yourself as qualifying for the support group on these grounds.

If you tick 'No' for either of these questions, then you are assessing yourself as qualifying for the support group on these grounds whether the cause is physical or mental health.

If you tick 'It varies', you will need to give full details in the 'Use this space' box.

Problems with these activities would need to be due to severe impairments.

The WCA Handbook suggests problems could be due to conditions like:

- motor neurone disease or a stroke limiting upper limb movement;
- surgery for head and neck cancer;
- disorders of the gastro-intestinal tract.

Severe lung conditions might also be relevant.

In relation to prompting and mood or behaviour, learning difficulties and conditions like anorexia or other eating disorders may apply, but there would need to be evidence of their severity.

Face-to-face assessment

From March 17th 2020 for a period of at least 3 months, until June 17th 2020, face-to-face assessments have been suspended as a result of concern about the spread of coronavirus. Your assessment will either be based on the papers or a phone assessment. It appears that the vast majority of assessments are being carried out over the phone. There is more information below about how to prepare for a phone assessment, and what to expect when you are rung.

It is therefore vitally important that you include the all relevant information with your ESA/UC50, as you will not have an opportunity to present evidence face-to-face.

These were previously called medical assessments on the form. But it seems they no longer want to raise expectations by implying that the WCA resembles a proper medical as we know it.

If you have a mental health condition as well as a physical one and you would find it difficult to speak to someone on the phone to arrange an appointment, then consider not giving a phone number and instead explaining in the box that, because of your mental health condition you need them to write to you rather than phone.

Be prepared though. If they already have your phone number, they may just ring you anyway or they may send you a letter asking you to phone them within 48 hours.

In some circumstances phoning you when you have asked not to be telephoned may be a breach of the Equality Act (formerly the Disability Discrimination Act).

Tell us about any help you would need if you have to go for a face-to-face assessment.

The form lists problems with stairs, travelling, including using public transport or if you need a British Sign Language signer.

Despite these being suspended you still need to complete this section. At some point in the future face-to-face assessments will be re-introduced.

Beware! Some CHDA medical centres are not accessible to wheelchair users or even to people who have problems with stairs. Make sure you give full details of your access requirements here.

You may wish to tell them about any problems you would have with waiting in a public area amongst strangers or if you need access to a lavatory at all times because of continence issues. You can ask for a home visit. You will need medical support to show your need for

this. CHDA are very reluctant to arrange home visits. If they are not willing to do so, contact your MP and get them to complain on your behalf.

If you are unable to use stairs safely in an emergency, make sure you check whether the centre you are being sent to is on the ground floor as soon as you receive your appointment. If it isn't, contact CHDA and ask them to make alternative arrangements.

If you wish to have your medical recorded, it may be worth saying so here, though you may also need to do so again when you receive your appointment for a medical.

If you do not understand English or Welsh, or cannot talk easily in these languages, do you need an interpreter?

If you need a signer, see the box below.

Tell us about any times or dates in the next 3 months when you cannot go to a face-to-face assessment.

If you are bringing someone with you to the medical, make sure you give their unavailable dates as well. If there are times of the day when it would be particularly hard for you to attend, give information about this too.

You do not need to give the reason for your unavailability. Of course, hospital appointment dates may come up in the meantime, so you should not be "punished" for being unavailable on any date that is later set for your assessment.

In addition, your assessment date may well be made after of that 3-month period, in which case you may not have indicated that you were unavailable on any dates beyond the 3 months after you completed your form.

Providing 'Other information'

Use this space for any additional information you haven't had room for. If you need still more room then use additional sheets. But make sure you write your name and National Insurance number on each one and staple them firmly to the questionnaire.

Signing the 'Declaration'

You have to sign and date the form before you send it. Even if someone else filled it in for you, you must read the evidence given – or have it read to you – and then sign the form yourself. It is only if someone else is your appointee that they can sign the form for you.

You are signing to say that the information is 'correct and complete'. If you've followed this guide then that will certainly be the case.

You are also signing to say that you understand that you must promptly tell the office that pays your benefit of anything that may affect your entitlement to, or the amount of, that benefit. Depending on whether you receive income-related ESA, contributory ESA, new style ESA, UC, or some combination of these, this could mean things like:

- a change in your health condition outside its normal variation;
- you start doing any sort of paid or unpaid work;
- a change in who is living in your household;
- you begin to receive an occupational pension;
- you receive a bequest in someone's will;
- your award of another related benefit, such as income support, increases or decreases.

These are only examples. The safest rule is, if in doubt, tell the DWP. And, please, do it in writing and keep a copy because if you do it by phone they may deny the call ever happened and you could end up facing a huge repayment and even accusations of fraud.

For people filling in this questionnaire for someone else

If someone else is helping you to fill in the form but you are going to sign it yourself then we would say that it is up to you whether this part is completed or not.

However, the DWP seem often to be suspicious about evidence given by claimants themselves, particularly where conditions such as back problems, CFS/ME or fibromyalgia are involved. So, if you get help from a social worker, housing worker, health professional or someone similar, it may actually be to your advantage for them to complete this section.

In itself, it could be vital evidence of the help that you need to complete forms, concentrate, communicate or physically write.

What to do next

If you have any additional evidence, particularly medical evidence, you want to submit, send copies (not the originals) with this form as well as taking them along if you have to have a medical.

If you wish to have any face-to-face medical recorded, you may wish to enclose a letter to this effect now, though it would be wise to follow up with further letters if you are given a date for an assessment. See the section on '*Preparing for a medical examination*' for more on this.

Cancer treatment – for completion by a healthcare professional

If you are having, recovering from or waiting to have radiotherapy or chemotherapy for cancer then you need to get one of the health professionals involved with your treatment to complete this page. See 'Should you be in the work-related activity group on exemption grounds?' and 'Should you be in the support group on exemption grounds?' for more on this.

If this page applies you should be placed in the support group.

And finally . . .

Well done for sticking with it – you've reached the end of what is probably the most unfit for purpose form the DWP have ever managed to produce. We're sure it hasn't been easy. But if you've followed our guidelines you can at least reassure yourself that you've given yourself the best possible chance of getting the right decision.

Please do remember to take a copy before you send the form off, if you possibly can. And also either post it recorded delivery or get a free certificate of posting from the post office, so that if it does get lost you can prove that you sent it within the deadline.

Supporting evidence means more chance of success

What counts as evidence

The decision about whether you pass the assessment is based entirely on evidence.

The questionnaire you complete is evidence, as are the fit notes filled in by your GP and the report of the CHDA health professional if you have to have a medical. The more evidence you can submit to support your claim, the better the chances of success. You can submit both medical evidence from your GP and other health professional and non-medical evidence from friends and relatives, amongst others. Before we look at different sorts of evidence in more detail, there are some general rules about supporting evidence.

The importance of medical evidence

Following the first independent review of the work capability assessment by Professor Harrington in 2010, the DWP claim that they have now empowered decision makers to take a much more proactive role in deciding claims, rather than simply acting as a rubber stamp for CHDA health professionals' reports.

This should have meant that instead of accepting the health professional's findings in 98% of cases, as was happening before 2011, decision makers should take into account all available evidence and reach their own conclusion. In the words of a minister the importance of the CHDA report has been 'downgraded'.

However, this means that either the claimant or the decision maker must collect additional medical evidence in order to have something to set against the CHDA evidence, other than your completed ESA50 or UC50 form. So, if you possibly can collect medical evidence then do so. If you can't, for example because your GP or specialist will only supply it in return for a large fee then ensure that the decision maker is aware of the health professionals that you think should be contacted.

If the decision maker fails to contact your health professionals, but relies instead solely on a CHDA report, or on no report at all, then this is an issue you may wish to raise during a mandatory reconsideration or at an appeal.

Guidelines for collecting supporting evidence

Always try to arrange to have letters sent to you rather than direct to the DWP. If your doctor is reluctant to do this, point out that you want to keep a copy for your records because it is far from unknown for the DWP to lose papers. Read any evidence before you submit it. If there are points in it that are incorrect or missing and this might damage your case, try contacting the writer and asking them to send you an altered version. If they won't do this, or if the evidence is unhelpful for any other reason, then simply don't submit it.

If you write to someone asking for evidence, it's really important that you keep a copy of the letter you sent them. If you later have to go to an appeal hearing the tribunal may insist on having a copy of any letter you wrote. If you don't provide it they may adjourn the hearing in order to allow you to contact your doctor and get a copy. The reason they do this is to see how much of the information the doctor provides is simply taken from the letter you wrote, rather than based on the doctor's prior knowledge.

If you wish to avoid having to submit letters you wrote asking for evidence, then simply don't write any.

Instead, make an appointment to see your health professional or go and visit or telephone friends or relatives and explain to them in person what it is you require. Take a copy of the descriptors with you and discuss which ones you think apply to you and why, if necessary. If

you do have to attend a hearing you will have to say that this is what you did if you are asked.

Medical evidence from your GP

Under their contracts, GPs are obliged to complete certain forms for the DWP and are not paid separately for doing so. GPs are not under any obligation to provide supporting letters to patients, however. Some are happy to do so, some will not do so and some will only do so if paid.

Medical evidence from health professionals other than your GP

This can include letters from an occupational therapist, specialist nurse, consultant or any other health professional you see.

If possible, it's always best to make an appointment to talk to the health professional. Tell them about the kind of problems your condition causes in relation to your everyday life and the kind of evidence you would like them to provide.

However, some health professionals may refuse to write you a letter, saying that it's now a matter for the DWP, or they may say they will only write a letter if you are willing to pay for it. Health professionals are not under any duty to provide you with supporting letters, so unfortunately they are within their rights to refuse or to ask for money.

Sometimes a health professional will say that they will only write if the DWP contacts them. This may be because they can charge the DWP for providing evidence. However, the DWP may not contact people such as consultant psychiatrists for evidence, even if you very rarely see your GP and your psychiatrist knows a great deal more about you.

Non-medical evidence

Decision makers have to take into account all relevant evidence. This includes any letters from friends, relatives, carers, neighbours and support workers such as social workers and housing workers. If you live with someone, a partner or family member for example, they may be able to provide very detailed evidence about the way your condition affects you.

It can be very upsetting asking people to write about you in this way, try to ensure that you have someone to give you support, or possibly to approach people for evidence on your behalf.

How and when to submit supporting evidence

You can submit supporting evidence, especially medical evidence with your ESA50 or UC50 questionnaire. If at all possible, don't send the original letters, take photocopies and send those – it's far from unknown for the DWP to lose evidence.

Because the time for completing and returning the ESA50 has been reduced from six weeks to 4 weeks (the time for returning the UC50 has always been 4 weeks), it may be difficult to obtain supporting evidence in time to submit it with your form. If so, do not delay returning your form – it's vital that you return it within the deadline. Instead, submit any further evidence as soon as you get it.

We would also recommend you take copies along to your medical if you have to have one, just in case the ones you sent with your form have got separated. The WCA Handbook informs CHDA health professionals that:

*'At times the claimant may also bring additional evidence to the assessment. **Any evidence bought [sic] by the claimant must be read** and the report should make reference to the evidence that has been considered and justification provided if there is a conflict between the*

opinion of the HCP and the other medical evidence. Any evidence brought by the claimant, should be copied for the Decision Maker.'

What kind of assessment will you have?

All claimants for ESA/UC who are claiming because they have a health condition will have an assessment of some sort.

It may be a:

- Paper-based assessment
- Telephone assessment
- Face-to-face assessment

However, all face-to-face assessments have been suspended for three months from 17 March 2020, due to coronavirus. It was announced in Parliament on June 10th 2020 that the DWP are considering extending this period due to the Coronavirus pandemic.

So, at the time of writing, you will either have a paper-based assessment or a telephone assessment instead.

It is likely that if CHDA thinks they have enough information, they will opt for a paper-based assessment whenever they can.

However, the majority of claimants are still likely to have a telephone assessment at the moment.

Paper-based assessment

Many claimants would much prefer to have a paper-based assessment.

The main thing you can do to increase your chance of having one is to make sure your claim includes as much evidence, including supporting evidence, as possible. This means as detailed a claim form as you can create and any other evidence you can provide. You need to be aware that the DWP can use other evidence. For example, they have been known to use evidence from a PIP claim, especially if it does not support your evidence. If in due course you challenge their decision and you discover that they have done this, it is important to argue that the tests for PIP and the WCA are different.

However, you should be aware that having a paper-based assessment does not mean you will get an award. Paper assessments are also used where the health professional considers that there is little likelihood of your having any serious impairment.

You may not know that you have had a paper-based assessment until you get a decision letter from the DWP.

Alternatively, you may get a brief telephone call as part of the assessment process, where the health professional considers there are small amounts of additional information they need. You will not get any notice that you are getting a call in these circumstances.

There is more about this telephone call in the section on [If you get no warning at all](#) below.

Getting an appointment for a telephone assessment

The information on telephone assessments has been created in part by using almost 300 responses to our survey of claimants who have been through the telephone assessment process, although this was for PIP rather than ESA/UC. The survey has highlighted a number of issues that you need to be aware of.

Legal notice of a telephone assessment

WCA regulations state that if you are to have either a face-to-face assessment or a telephone assessment you must be sent written notice of the date and time at least 7 days in advance.

While there have been some legal arguments over what 'sent' means, in CIB 4012 2004 the upper tribunal held that the DWP need to show that they posted an appointment letter so that it would normally arrive at least 7 days before the appointment. A recent Upper Tribunal decision decided that the standard letter that you are sent notifying you of the requirement to attend an assessment is not legal, unless it clearly warns out that you must attend the assessment. In the Upper Tribunal case the letter sent to the claimant did not do so. The case is CE/2126/2018.

If you get less than 7 days

So, if you don't get 7 days' notice in writing and this going to cause you difficulties, contact the assessment provider straight away and explain that you need proper notice.

If they refuse to give you a new appointment, in writing, make a formal complaint and contact your MP.

However, you will need to think very carefully about whether, in these circumstances, you refuse to take part in the scheduled assessment.

If you do refuse, it is likely that your case will be returned to the DWP. It will then be up to you to prove that you were not notified correctly. It is very likely that in order to win the argument you would have to go to Tribunal, which is likely to be a long drawn out process.

Even if you think you have a good case regarding the lack of the appropriate notification, you should strongly consider submitting a fresh ESA/UC claim. If you don't you are relying on winning the original argument, and if you lose the argument, you will have lost the right to ESA/UC in the meantime.

If you get no warning at all

If you get a call without warning from a health professional asking questions about your condition and how it affects you, this is not necessarily a telephone assessment. Instead, it may be that a paper assessment (see [Paper-based assessment](#) above) is being carried out, but the health professional needs to clarify a small number of points before they can complete their report.

In these circumstances you do not have the right to 7 days' notice.

However, it would still be perfectly reasonable to ask the health professional to call back at an agreed time. You might, for example, be feeling unwell or expecting an important call from someone else or find calls without notice very unsettling.

You could ask the HP how long the call is likely to take and what issues they need information on, so that you can be properly prepared.

The call itself should only be a short one. If the health professional needs to ask a lot of questions then clearly a paper assessment is not appropriate.

It is clear then, that this is very different from a full assessment which will last much longer and would not include having the evidence read back to the claimant.

If, on the other hand, the health professional says it is a full assessment, then you have the right to 7 days warning. The risks of refusing to continue if the health professional does not agree to reschedule are, as above, that your case may be returned to the DWP and you may have to go to a tribunal to argue that you were not notified correctly.

What happens at a telephone assessment during the coronavirus crisis

All WCA face-to-face assessments have been suspended for three months from 17 March 2020, due to coronavirus. Claimants will have a paper assessment or a telephone assessment instead.

Recording a telephone assessment

We have been told by several members that if you ask CHDA in advance to record your telephone assessment they will do so and send you a copy. However, we have not seen official confirmation of this and there is no way for you to know until afterwards whether a recording has actually been made.

If you ask for permission to record your telephone assessment yourself, it will almost certainly be refused because you will not be able to use dual recording equipment and immediately provide the health professional with one copy as the DWP require.

But there is no legal reason why you should not covertly record your telephone assessment, provided the recording is only for your own use in the same way you might make and use handwritten notes. This includes offering a copy of the recording, or a transcript, to an appeal tribunal.

Almost one fifth of the claimants in our survey had recorded their call. Others told us that they did not do so but regretted it later, when they saw the difference between what they said and what was in the assessment report.

Some claimants also reported breaches of confidentiality and bullying behaviour by an assessor which could have been evidenced if they had made a recording.,

Guidance given to HPs carrying out face-to-face assessments states that if you are found to be secretly recording your assessment you should be asked to stop. If you do so the assessment can continue. If you refuse, the assessment will be halted and the DWP informed of the reason why and it is likely that you will be refused an award of PIP.

It is difficult to see how the health professional could tell that you were recording your assessment or how you could show you had stopped.

But the HP may ask at some point if you are recording the assessment, so give some thought to how you would deal with that situation.

If you do decide to record your assessment, it is definitely worth practising recording a phone call a few times so that you are familiar with the technology. You might choose to use a mobile phone's call recording function or to put your phone on speaker and use a separate recording device.

Whatever method you choose, make sure you are comfortable with using it. The last thing you want to do is spend the assessment in a state of even higher anxiety because you are worried about whether the recording is working or because you are concerned you might be questioned about whether you are recording.

It is still worth considering taking a few notes, just in case the recording doesn't work properly.

Having someone with you at a telephone assessment

It's really important that if you need someone to help you with your telephone call, that they are able to take part. The fact that this is a telephone assessment should not in any way prevent you getting support from family or friends. Yet we have heard from members who have been told by the assessment provider that they can't have anyone else take part in the call.

One member told us:

"My partner has a telephone assessment on Thursday. Told him it could last for 1 hour .He has copd and heart problems. I asked could I speak for him as he gets very breathless they said no he has to speak himself."

Guidance to health professionals, [PIP assessment guide part 1: the assessment process](#) says for face-to-face consultations:

1.6.51 Claimants have a right to be accompanied to a face-to-face consultation if they so wish. Claimants should be encouraged to bring another person with them to consultations where they would find this helpful – for example, to reassure them or to help them during the consultation. The person chosen is at the discretion of the claimant and might be, but is not limited to, a parent, family member, friend, carer or advocate.

It goes on to say:

1.6.53 Consultations should predominantly be between the HP and the claimant. However, the companions may play an active role in helping claimants answer questions where the claimant or HP wishes them to do so. HPs should allow a companion to contribute and should record any evidence they provide. This may be particularly important where the claimant has a mental, cognitive or intellectual impairment. In such cases the claimant may

not be able to give an accurate account of their health condition or impairment, through a lack of insight or unrealistic expectations of their own ability. In such cases it will be essential to get an accurate account from the companion.

We would argue very strongly that this all applies equally to telephone consultations.

And on 23 April, Justin Tomlinson, minister for disabled people, agreed with this. He told the Commons Work and Pensions Committee:

"If you are having a telephone assessment, we are allowing your friend, family, trusted partner to be part of that process which is something we introduced a few years ago for face-to-face assessments which has made a huge difference to the quality of the outcome of the assessments."

If the person is in the same household as you

If the person you want with you lives in your household then this is very straightforward. Make sure you introduce them when the call begins and explain why they are there.

If the health professional objects, read out the guidance above and the minister's statement to them.

If they still object, suggest that they ring Capita or IAS for advice before they continue with the assessment.

If the person is in a different household to you

If the person lives elsewhere they are unlikely to be able to join you because of the lockdown. It should be absolutely no problem for Atos or Capita to arrange a conference call to include your accompanying person.

Contact them as soon as you receive notice of the call and ask for this to be done.

If they refuse to do so, make a complaint immediately and tell them that you will be contacting your MP and getting advice on bringing a claim for breach of the Equality Act 2010.

Just in case of technical problems on the day, you might want to look into whether you can join a third party into a call yourself when it has already begun. There are some phone providers that make this possible.

Alternatively, if you have two telephones, you may be able to have them both on speakerphone and get round the problem that way.

We would not advise you to refuse to go ahead with a call if your accompanying person cannot be joined in, unless the health professional is happy to agree to rearrange for a different date. If you simply refuse to take part, your claim is likely to be returned to the DWP and you will then have to try to show that you had good cause for not taking part in the assessment.

It is likely to be safer to take part in the assessment and make a formal complaint afterwards. If you do not receive the correct PIP award, one of your grounds of appeal would be the failure to allow you to have your accompanying person at your assessment.

Things you will need at your assessment

The better prepared you are for your assessment, the more you will be able to concentrate on giving accurate, detailed evidence. The list below covers what we think are the main things you need to have for your assessment.

Private space. It can be hard in a lockdown to find somewhere quiet and undisturbed in your home for a call that could well last over an hour. But this really is essential if you are to give detailed and accurate evidence.

Your National insurance number: You may be asked for this as proof of ID. We had one member who had to go and find a letter with it on at the start of her assessment and was then grilled on where it was and how she had got there and back.

Letter with details of your assessment date and time. This should also have contact details of the assessment provider, you'll need these if the call doesn't come through or you get cut off and they don't call back.

Copy of your WCA form. It's definitely worth looking through this before the assessment. Are there points you think it's really important to make or things that you didn't put in that you want to tell the health professional?

Bullet point list of the most important points you want the health professional to be aware of.

Notebook and pen, even if you are recording the assessment it might be worth making notes if there is anything you are concerned about.

Phone with speakerphone. Around half of all telephone assessments last an hour or more, so it is definitely worth having speakerphone on if at all possible. Either use a landline or make sure your mobile battery is fully charged. If possible have it plugged in, because some mobile phones will not stay charged for a call lasting over an hour. Also try to be in the area of your house with the strongest signal, so you can clearly hear and be heard.

A separate phone on a different number, if possible. This will be useful if you need to call the assessment provider because the call has not come through. (See 'No caller ID' calls blocked, below).

Water. It's going to be a long call and you are going to do a lot of talking.

Recording equipment. Whatever method you are using to record the assessment, if you are doing so, make sure it's tried and tested.

List of medication and treatments. If there is an up-to-date list in your form, that's fine, otherwise make sure you have one.

Last minute medical evidence. It's not possible to show further written evidence at a telephone assessment, so if you haven't already sent it in try to get the DWP address that you can post it to immediately after the call. If the evidence is very short, offer to read it out to the assessor or read out key points from longer evidence, but keep it short and relevant.

Problems to be ready for

'No caller ID' calls blocked

We are hearing from an increasing number of members who have missed their PIP telephone assessment because they block calls where the caller hides their ID.

Most health professionals carrying out telephone assessments are working from home and using their own telephone, so they are hiding their number from claimants.

However, many people have set up their phones so that they either do not accept calls where the caller's number is hidden, or the call goes straight through to their answering service.

The result is that the health professional calls the claimant, can't speak to them and hands the issue back to the assessment provider.

They will either then contact the claimant to try to rearrange the appointment and ensure that calls are not blocked or, in the worst cases, gives the case back to the DWP on the grounds that the claimant failed to attend their telephone assessment.

So, if you are due a telephone assessment, please make sure that callers who have hidden their number can still get through to you.

The call may come early

70% of people in our survey say that their call came on time.

However, we have heard from people who were called up to three hours before the appointment time. This probably happens where a claimant doesn't answer the phone and the assessor then moves on to the next available claimant.

Some people were taken by surprise by an early call, left flustered and without a copy of their form. They fear the assessment went badly as a result. So, it's a good idea to have a strategy ready in advance.

One option is to have everything ready in case the call comes early.

Another option is to not answer the phone, although there is clearly an element of risk to this.

Another is to answer and insist that the call takes place at the agreed time, especially if you have arranged to have someone join you on the call. If the health professional is reluctant, tell them you wish to speak to the office you received the appointment letter from and verify if they are insisting you accept an early call. If they do insist, tell them you will be contacting your MP and making a formal complaint

The call may come late

Some people received calls half an hour or more after the appointment time. Sometimes the call was from a central office to say that the health professional was running late.

Our advice would be to leave it no longer than 10 minutes after the appointment time to call the assessment company, (See 'The call may not come at all' above for more on this).

Again, it is good to have a strategy in place for dealing with a late call. If you have to have therapy or a visit from a carer which will interrupt a late-running call, then the sooner you make this clear to the assessment provider the better.

The call may not come at all

We have heard from one member who told us:

"Capita did not call. My appointment was at 11.45, I waited and no call was received. I phoned them at 1215hrs and was told that I had failed to attend for my assessment and that they had called 3 times! I was sat with my phone waiting for the call. They then blamed it on Vodafone saying they must have blocked them. I confirmed with Vodafone that no blocks are on my line."

We have heard from people who were not called and, when they contacted the assessment providers later in the day their case had already been returned to the DWP marked that they failed to answer. In these circumstances it can be a long, hard fight to get the assessment reinstated.

We have no way of knowing how often this happens. But it is best to be prepared.

We would suggest that you leave it no longer than 10 minutes after the appointment time to chase up a missing call. If possible do this on a separate line, so that the health professional can get through if they try whilst you are calling IAS or Capita.

Call every 10 minutes until you get confirmation of the new time of your assessment. If it still doesn't happen on time, repeat the whole process. If the assessment is cancelled ask for a new date to be given to you whilst you are on the phone.

If they won't do that and you are not recording the call, ask for the name of the person you are speaking to and make careful notes of the conversations and the times they took place, in case you need to challenge a decision that you failed to take part in an assessment without good cause.

The call may be very long

Almost half the people who completed our survey said the assessment (for PIP rather than a WCA) lasted over an hour. For some it was over two hours and we even heard from someone for whom it was three and a half hours.

Give some thought to how you will deal with a very long call.

Will you need to ask for a break, either short or longer?

Do you need to ensure that you have drinks, food or medication to hand?

One thing we do know is the fact that you have managed to stay on the phone for so long can be used as evidence to show your powers of concentration and ability to carry out demanding tasks. If you don't use speakerphone assumptions may be made about your ability to hold and manipulate objects over a long period.

So be very sure to tell the health professional of any effects such a long call is having on you.

There may be technical problems

The main technical problem that people encounter is poor reception on phones. Not being able to hear the assessor's questions and/or the assessor not hearing your responses was a frequent issue.

"I frequently couldn't hear him and had to ask him to repeat himself again and again. He seemed to be mumbling and too far away from his phone. He became annoyed and rude just because I couldn't hear or understand him."

It would be worth ensuring that, if you are using a mobile phone, you are in a place in your home that gets a good signal. You may want to look at the possibility of using a headset or external speaker to help with volume problems.

Getting cut-off was a common occurrence too. At the start of the call, consider asking the health professional what the procedure will be if you get cut off. Will they call you back immediately? Do you have another number they can call in case there are problems getting through?

Some health professionals also had problems logging into their company's online system. There's not a lot you can do about this except be aware it may happen and be prepared to be patient whilst the problem is resolved.

There may be breaches of your privacy

It may seem astonishing, but we have been contacted by a number of claimants who heard other people talking and laughing in the background. Others told us the health assessor said they had a child with them.

In other cases, claimants have suspected someone else is there because they have heard doors opening and closing.

These sorts of breaches of confidentiality should never take place. If an assessor has not got a private space in which to work, then they should not take on clients.

It is worth thinking about how you will respond if this happens to you. Clearly it is a very difficult position to be placed in.

If you feel able, raise it with the health professional and say you would like an assurance that the assessment can be conducted confidentially or you would like it to be rescheduled.

You may wish to make a complaint about any breach of confidentiality. If so, be sure to copy it to your MP.

You may not be asked enough relevant questions

Around a quarter of respondents to our survey said they had not been asked enough questions at their assessment. This particularly related to questions about mental health.

It is worth having a bullet point list of the most important points you want to make to the assessor and ticking them off as you go through them

A very common technique of assessors when you try to raise issues is to say *'We will deal with that later'* and then never return to it.

So, at the end of the assessment, if there are points left on your list, tell the assessor there are some important points that have not been covered and you wish to briefly deal with them now.

If the assessor refuses, make a note of this as evidence for any appeal.

If you have recorded your assessment then you will have evidence of what you told, or tried to tell, the assessor.

The assessor may not have read your form

Six out of ten people thought the assessor had read their form. The rest either weren't sure or knew that the assessor hadn't.

"He actually said 'I haven't read it, have I?' when I referred to my claim form and supporting evidence as if he thought I was stupid to think he had."

Sometimes the health professional said they had read the form, but it was clear from their questions that they hadn't or that they were reading it for the first time as they carried out the assessment.

"Did not know my health condition kept naming condition not on the form."

So, please don't assume that the health professional actually knows anything about you, other than your name, before the assessment begins.

Again, it's a very good reason to have that set of bullet points that are the most important things you want the health professional to know. That may well include your health conditions.

Your preparations may be used against you

We have heard from people who said that the fact they could take part in a long telephone interview, understand and make themselves understood was evidence that they could carry out many demanding tasks.

If you are using your WCA form or other notes to help you answer questions, tell the assessor this and make it clear you are not relying on memory for all of your answers.

If the interview is causing you physical pain, fatigue or emotional distress make sure you make this clear to the health professional. If you record the call or keep notes, you will have evidence that you told them this, even if they do not make a note of it.

What you will be asked at your telephone assessment

Most telephone assessments last an hour or more and people who have had them report being asked a lot of questions about care issues, though sometimes fewer about mobility issues.

So, it seems very likely that the telephone assessment is very similar to a face-to-face assessment in terms of questions asked.

Guidance issued to health professionals tells them they should go through:

A history of your conditions – when they began, any changes over time, how much they fluctuate.

Summary of treatment - already undertaken and any that is planned.

All medication – prescription and non-prescription

Social and occupational history - this includes where you live, who you live with, what social and leisure activities you undertake or have had to give up and whether you work now or have in the past.

Typical day - all the activities you do on a normal day from getting out of bed in the morning to going to bed at night.

There is a list of [questions you may be asked at your assessment](#) further on in this guide, along with questions you may not be asked but should be. It's definitely worth reading through these and considering how you could most accurately answer them.

One member told us that they printed off the list and used it to help them make notes as the telephone assessment took place

Evidence that can't be collected at a telephone assessment

There are some things the health professional can do at a face-to-face assessment that they can't do on the telephone.

Travel to the assessment

Where a claimant has to travel to an assessment centre and wait in a waiting room, lots of unfair assumptions are often made based on how long the journey and the wait were.

This source of evidence is obviously not available in a telephone interview and most claimants would probably regard this as a good thing.

Informal observations.

Informal observations take place when the health professional watches you doing things, such as removing your coat or opening a door and then makes often very unfair assumptions based on them.

They also look at the way you are dressed, your facial expressions and your appearance and, again, make often very unfair assumptions about you.

Most of these observations will not be possible over the phone and. Once more, most claimants would probably regard this as a very good thing.

However, even over the phone, informal observations can still be made about such things as your mood, how you respond to questions, your ability to concentrate and your ability to hear.

Functional examination

If you have a physical health condition or disability the health professional at a face-to-face assessment may carry out a functional examination.

This includes:

- vision
- cardiorespiratory system
- musculoskeletal system

This could be things like a sight test, looking at how far you can raise your arms or legs, how far you can turn your head, asking you to rise from sitting or bend down, testing your lung function and so on

Clearly none of this can happen during a telephone assessment. So if, whilst you are being asked questions, you can provide the health professional with examples from your everyday life that will make up for their inability to carry out a physical function examination, that may help them to write an accurate assessment.

However, some aspects of a mental state examination can be carried out over the phone. This can include things like may being asked to do 'serial sevens' which involves counting backwards from one hundred in sevens.

Or you may be asked how much change you would get if, for example you bought a 75p loaf with a pound coin.

Or you may be asked to spell the word 'world' backwards.

Face-to-face assessment– will you have to have one?

From March 17th 2020 for at least 3 months, until June 17th 2020, these have been suspended as a result of concerns about the spread of coronavirus. Your assessment will either be based on the papers or will be a phone assessment.

What follows describes the position when face-to-face assessments are re-introduced.

If you have a serious condition and you clearly meet the criteria for limited capability for work and/or limited capability for work related activity and there is medical evidence to support this then you may not have to have an assessment. The medical evidence may be just a fit note (what used to be called a sick note) from your GP. Alternatively, the DWP may contact your GP or other health professional for a more detailed report, usually an ESA113 or UC113 or a Factual Report which asks specific questions about your condition and how it affects you.

It is very definitely worth considering contacting your GP and any other health professionals involved in your care as soon as you make a claim for ESA or UC due to ill health or disability. Update them about how your condition affects you, especially in relation to any activities in the physical health test that you think you may score points for.

If you can obtain supporting medical evidence and send copies (not originals) with your ESA50 or UC50 questionnaire this can make a big difference to whether you have to have an assessment.

Who carries out the assessment

It is unlikely to be a doctor who carries out your assessment. The law allows CHDA to use any registered health professional. So your assessment could be carried out by a nurse or an occupational therapist, for example. Many health professionals get paid per assessment by CHDA rather than getting a wage, so the faster they get through them the more they earn.

The WCA Handbook

You will find frequent references to the WCA Handbook throughout this guide. The Handbook is produced by CHDA and is both a training resource and a manual for health professionals carrying out work capability assessments. Although the vast majority of medicals are carried out using computer software called 'LiMA' – which we deal with later in this guide – the Handbook sets out how CHDA and the DWP believe the descriptors in the assessment should be interpreted. It also tells the health professionals how to carry out an assessment.

Please note though that the WCA Handbook is only guidance, it is not the law. There are a number of ways in which we think the WCA Handbook misrepresents the law and leads health professionals to produce unreliable evidence. We alert you to these as we take you through the process of completing the ESA50 or UC50 questionnaire. If you are found capable of work and request a mandatory reconsideration and later, appeal the decision, these possible errors can form part of your grounds for a dispute.

You can download a copy of the Handbook from the members' area of www.benefitsandwork.co.uk

Preparing for an assessment

We don't want you to be overly concerned about having an assessment. As we have explained elsewhere, many people with long-term health conditions pass the WCA without having an assessment at all. And even if you do have to have one, it is likely to last no more than half an hour to an hour and consist mostly of the health professional asking you questions about your everyday life.

Nevertheless, the health professional's opinion will be taken very seriously by the decision maker, so it's a good idea to be well prepared if you go for an assessment.

Getting your appointment

If you are required to attend an assessment you should receive at least 7 days' notice unless you agreed to accept a shorter period of notice in writing or otherwise.

CHDA generally tries to arrange an assessment by telephone and may leave messages warning you that your benefit may be affected if you do not return their calls. Alternatively they may write to you telling you that you must contact them within 48 hours to arrange an appointment.

If you are not able to use a telephone because of a mental health condition, then insisting that you use one may be a breach of the Equality Act (formerly the Disability Discrimination Act).

If you wish to have someone with you then you will need to check with them whether they are available before agreeing to attend on the suggested date.

Do I have to attend the assessment?

Yes, you do. If you fail to turn up to an assessment without good cause your ESA award, if you are receiving this, will end. If you are getting UC you will probably have to continue to show that you are actively seeking work. So, if you do miss the appointment, contact CHDA immediately, explain why and ask for another appointment. If this is refused and your benefit is stopped, try to get advice as quickly as possible from a welfare rights worker. You can request a mandatory reconsideration and, if necessary, appeal against the decision to find you capable of work.

Matters to be taken into account when deciding if you had good cause for not attending an assessment include:

- (a) whether you were outside Great Britain at the relevant time;
- (b) your state of health at the relevant time; and
- (c) the nature of any disability you have.

If you cannot attend the appointment because you are too ill to travel or have another appointment, such as a hospital visit which you cannot rearrange, then contact CHDA as soon as possible to rearrange the appointment. If you do this by telephone, make sure you get the name of the person you speak to and follow up your call with a letter confirming what was agreed.

Having an assessment at home

If you are unable to attend an assessment centre because of your health condition or disability, then you should be able to have an assessment at home. CHDA are reluctant to arrange assessments at home, however. Medical evidence that you are unable to travel to an examination centre will make a big difference to the strength of your case. If they will not

arrange an assessment at your home contact your MP and get them to submit a complaint on your behalf.

If you are unable to use stairs safely in an emergency, make sure you check whether the centre you are being sent to is on the ground floor as soon as you receive your appointment. If it isn't, contact CHDA and ask them to make alternative arrangements.

Preparing for questions

Before you attend the assessment, try to read through what you wrote on your questionnaire and have a look at any other evidence you have submitted. This might help to remind you of things you want to tell the health professional. In addition, it would be worth checking the section in this guide on questions you are likely to be asked at your medical examination.

If you have not completed a recent ESA50 or UC50 questionnaire

Benefits and Work has heard from a number of people who say they have been asked to attend an assessment without completing an ESA50 or UC50 at all, or when their last ESA50 or UC50 was completed two years or more ago.

CHDA say that everyone should have the chance to complete an ESA50 or UC50 and everyone has the right to submit a new ESA50 or UC50 if they consider that the one that they have is too out-of-date.

They told us:

"We would never refuse a customer the opportunity to submit an up-to-date ESA50."

"Any customer who believes that the information on their ESA is out of date is welcome to complete another form and either send it to us, or bring it along to their assessment."

(This assertion presumably also applies to UC50 questionnaires.)

You can [download an ESA50 here](#) or [a UC50 here](#), complete it and either post it to CHDA or take it with you on the day.

If you are told by anyone at CHDA that you cannot provide a new ESA50 or UC50, make a formal complaint to [CHDA customer services](#) and let us know too. We have heard from members who did this and got the refusal reversed immediately.

Caution! Travelling to an assessment

You can claim travelling expenses for going to an assessment, but taxi fares won't be paid unless this has been agreed beforehand with the DWP.

Give very careful consideration to how you travel to an assessment because you will be asked about how you did so, and enormous assumptions may be made on the basis of your being able to drive or use public transport on your own, for example. It may be assumed that you can walk to and from bus stops without pain, that you can stand to wait for buses, rise from sitting to standing, handle coins, get up and down steps, sit for long periods and so on.

If you do have to use public transport and it is painful or distressing for you, make sure you explain this to the health professional who assesses you.

Having someone with you

You are allowed to have someone come with you and sit in on your assessment. This can be anyone you like: friend, relative, carer, social worker, advice worker, etc. This may be particularly helpful if you are worried that you might be too fatigued or anxious to tell the health professional everything you think they should know. The health professional should give them the opportunity to provide information about you if that is what you want. But just having someone there may help you to feel more confident and to give more detailed information than you would be able to give if you were alone.

You or your accompanying person can also take notes at an assessment. The health professional may read out a 'Legal notice' if you or your accompanying person is seen taking notes. This notice just tells you that your notes will not be regarded as part of the 'official' record of the assessment and that you should not publish them elsewhere. However, there is nothing to stop you submitting your notes, or extracts from them, as part of any complaint, mandatory reconsideration or appeals procedure.

We always recommend that you take someone with you if you possibly can.

Just say no

Think about what you will do if the health professional asks you to do something you feel unable to do.

We would suggest that if the health professional asks you to do something that you know will cause you pain or severe discomfort you say that you can't do it and explain why. If, however, you do something and it hurts, don't suffer in silence. Tell the health professional you are in pain or they are likely to assume you have no problems with that activity.

And don't put on a brave face and tell the health professional 'I manage' when they ask you about daily living activities. If you do that then they will have no choice but to assume you don't score points. It's important that you put aside your normal coping strategies and any desire to avoid appearing to feel sorry for yourself. The health professional can't make an accurate assessment if you don't tell them just how difficult your life is, and how miserable that sometimes makes you, no matter how hard that might be to admit.

Recording your medical

In the past, the DWP have made it virtually impossible for claimants to record their medical by insisting that they had to bring their own sound engineer and a dual tape-recording device with them.

However, the situation has changed since the beginning of February 2012. If you wish to have a recording of your medical made, so you can be sure that what you believe you said matches what the health professional reports, this should now be done for free for you by CHDA.

A dual recording machine is used by CHDA to produce two CD recordings of your medical, one of which is given to you at the end of your examination and the other is retained by them.

There tend not to be enough of these recording machines to meet demand, so your WCA is likely to have to be rescheduled and will probably be delayed by several weeks or more whilst a machine is booked and sent to your local centre.

We have written a standard letter to be used when you are given a date for your WCA. You can also make the request verbally if you are telephoned with an appointment, but you should still follow up with a letter. If possible send a copy both to the medical examination centre and to the DWP office dealing with your claim.

Dear Sir/Ms,

Name:

National insurance number:

WCA medical date:

WCA medical venue:

Re: having my assessment recorded

I wish to have my work capability face-to-face assessment recorded and I understand that this will be done by CHDA using dual recording facilities and at no cost to me. If recording facilities are not available on the date of my assessment, I wish to have it postponed until they are.

If recording facilities are not available

If recording facilities are not available on the date of my face-to-face assessment, I wish, to be offered a later date rather than be obliged to attend an assessment which is not recorded, as the minister has said is my right.

I understand, however, that on some occasions staff have claimed that following revised instructions from the DWP they will no longer cancel appointments if it transpires that recording equipment is not available, in spite of a proper request having been made.

Complaint to my MP

I wish to make it clear that, should you seek to oblige me to attend an assessment without recording facilities I will immediately make a formal complaint to my MP

Reasonable adjustments

In some instances, such as where a claimant has difficulties with concentration caused by physical pain, fatigue or a mental health condition, it may be a reasonable adjustment under the Equality Act 2010 for the claimant to have the assessment recorded because they will be unable to take notes or properly recall what was said at the assessment.

Should you refuse to allow me to have my medical recorded I will seek legal advice as to whether I can take action against CHDA or the DWP for breach of the Equality Act. As a preliminary to that action I shall seek evidence of whether reasonable adjustments were considered in my case, such as inviting me to use my own recording device or postponing the assessment until a departmental device was available.

Appeal hearing

Should I be unhappy with the decision in relation to my capacity for work I will appeal the decision and ask the tribunal to make a finding as to whether the failure of the DWP and CHDA to follow their own guidelines in relation to recording medicals should be taken into account when assessing the reliability of the CHDA medical report.

This letter is sent without prejudice as to any other legal remedies I may seek if I am refused the opportunity to have my assessment recorded.

Yours faithfully,

If you wish to give notice before you are asked to attend a WCA, for example by stapling a letter to your ESA50 or UC50 then start like this instead:

Dear Sir/Ms,

Name:

National insurance number:

Re: having my assessment recorded

If it is decided that I need to attend a face-to-face work capability assessment I hereby give notice that I wish to have the assessment recorded and to be provided with a copy of that recording.

I understand that this will be done by CHDA using dual recording facilities and at no cost to me . . . etc. as above.

What happens at your LiMA computer controlled assessment

Almost all work capability assessments are carried out by a CHDA health professional using computer software called LiMA (Logic integrated Medical Assessment). The health professional is told by a computer screen what to ask you and spends a lot of the assessment answering multiple choice questions by clicking with a mouse.

Once the health professional has finished answering the questions, the computer generates a report selecting which descriptors it thinks should apply to you and pasting in what it considers to be evidence to support its choices.

The health professional is supposed to review the report before it is sent electronically to the DWP. It is possible for the health professional to disagree with the computer's report and change it, but they must justify doing so and it's always quicker just to go along with what the computer says. The health professional carrying out your assessment is likely to be on piece work: they get paid per medical and the more assessments they carry out the more they earn. So there is a big incentive to get through each assessment as quickly as possible.

Below is a screenshot from the 2003 version of the software used by CHDA health professionals.

Variable Selector -- Web Page Dialog

[[Variability]] [[CanDo]] [[BathroomActivity]] themselves.]

[Variability] ☒ X ☐ Always ☐ Usually ☐ Occasionally ☐ Rarely

[CanDo] ☒ X ☐ likes to ☐ is able to ☐ manages to

[BathroomActivity] ☒ X ☐ wash ☐ shower ☐ bath ☐ toilet ☐ shave ☐ clean teeth
☐ brush hair ☐ wash hair ☐ work taps ☐ do everything in the bathroom

Return

The health professional has to choose one answer from each of the three sets of options. The computer will then construct a sentence such as:

'Always manages to do everything in the bathroom themselves.'

Similarly, in the box on the next page, the health professional will choose options which will allow the computer to create a sentence such as:

'Always manages to dress without help.'



Variable Selector -- Web Page Dialog

[[Variability] manages] [[DressingItem] without help.]

[Variability] ☒ X ☐ Always ☐ Usually ☐ Occasionally ☐ Rarely

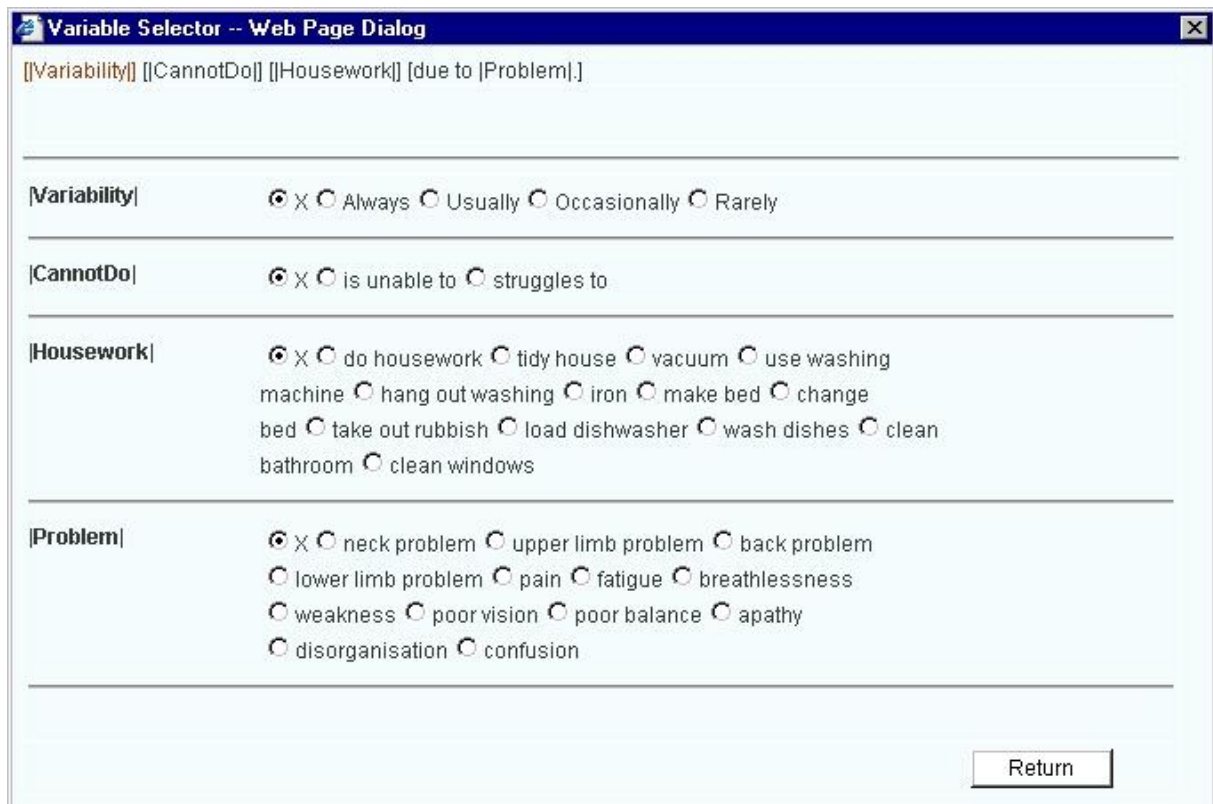
[DressingItem] ☒ X ☐ to dress ☐ shoes and socks ☐ trousers ☐ tights ☐ to dress bottom half ☐ to dress top half ☐ zips ☐ buttons ☐ shoelaces ☐ bra ☐ coat ☐ hat

Return

The computer will then paste these sentences repeatedly throughout the report to justify awarding or not awarding points for descriptors. For example, in relation to reaching the computer may also say that no points should be awarded because the claimant:

'Always manages to do everything in the bathroom.'

'Always manages to dress without help.'



Variable Selector -- Web Page Dialog

[[Variability]] [[CannotDo]] [[Housework]] [due to |Problem|.]

[Variability] ☒ X ☐ Always ☐ Usually ☐ Occasionally ☐ Rarely

[CannotDo] ☒ X ☐ is unable to ☐ struggles to

[Housework] ☒ X ☐ do housework ☐ tidy house ☐ vacuum ☐ use washing machine ☐ hang out washing ☐ iron ☐ make bed ☐ change bed ☐ take out rubbish ☐ load dishwasher ☐ wash dishes ☐ clean bathroom ☐ clean windows

[Problem] ☒ X ☐ neck problem ☐ upper limb problem ☐ back problem ☐ lower limb problem ☐ pain ☐ fatigue ☐ breathlessness ☐ weakness ☐ poor vision ☐ poor balance ☐ apathy ☐ disorganisation ☐ confusion

Return

If the health professional considered that the claimant had problems with housework then they might use the dialogue box above to allow the computer to create a sentence such as:

'Usually struggles to vacuum due to lower limb problem.'

The computer might then use this as justification for deciding that points should be awarded for:

'Cannot mobilise more than 200 metres on level ground without stopping or severe discomfort.'

It is possible for the health professional to type in their own evidence rather than using the multiple-choice answers. However, if they do so the computer cannot copy and paste these answers into different bits of the report because it doesn't have any way of understanding what the health professional has written. This means that the health professional will have to do the copying and pasting themselves which obviously takes more time and effort. The health professional may thus be reluctant to choose any option that is not already loaded into the software.

Questions you are likely to be asked at your assessment

Below are a number of questions you are likely to be asked at your assessment . Bear in mind that your answers may lead to further questions. For example, if you say that you use a computer you may be asked what you use it for, how often and how long for each time.

Some questions are more likely to be asked if you have a physical health problem. For example: 'How many stairs do you have?' and 'Is the toilet upstairs or downstairs?' Some are more likely to be asked if you have a mental health condition. For example: 'Can you follow a simple recipe?' and 'Are you safe around electricity and gas?'

But most people are likely to be asked the majority of these questions. It's worth looking through them and thinking about how you could most accurately answer them.

Travelling to the assessment

Have you come on your own?
How did you get here?
Where do you live?
How long did it take you to get here?
Where have you parked? or Where did the bus stop?
Did you have to walk (from the car park or bus stop)?
How far was it?

Your health conditions

What are your main conditions?
What medication do you take?
Who do you see about your conditions?
When did you last see them?
Have you seen a specialist?
Any hospital admissions in the last 12 months?

Accommodation

Do you live in a house or a flat?
How many stairs do you have?
Is the toilet upstairs or downstairs?
Does anyone else live with you?

Accompanying person

Who is this with you?
Are you a friend or a relative?
What is your name?

Past employment

What was your last job?
Why did you stop working?
When did you stop working?
Would you like to go back to work?

Sleeping, washing and dressing

What time do you go to bed?
How do you sleep?
What time do you wake up?
Do you have problems getting out of bed or dressing?
Does anybody help you?
Do you shower or bathe?

Cooking, housework and shopping

Do you do your own cooking?
What kind of cooking do you do?
Can you follow a simple recipe?
Are you safe around electricity and gas?
Have you had any accidents recently?
Do you keep your home tidy?
Do you do shopping?
Do you go to the supermarket or the local shop?
Do you walk or drive to the shops?
How long do you shop for?
How often do you go?

Hobbies and social life

What do you do all day?
Do you have any hobbies or interests?
Do you watch TV?
What do you watch?
Do you use a computer?
Do you have friends?
Do you have a social life?
Do you like to spend time with friends or family?
Do you go to pubs or night clubs?
Do you drink alcohol?
Do you use any street drugs?

Pets

Do you have a pet?
Do you feed your pet?

Communicating

Do you have a telephone?
Do you have problems with phone calls or doorbells?
Do you phone your friends or family?
Do you deal with you own letters and bills?
Did you fill in the incapacity questionnaire yourself?

Temperament

How is your temper?
How is your mood?
Do you have problems with anxiety or panic attacks?
Did you get anxious or lose sleep thinking about coming here today?

How the decision is made and what to do when you get it

How the decision is made

The decision maker should consider all the evidence available to them, not just the CHDA health professional's report, and reach their own conclusion about how many points you score. This evidence should include:

- Your ESA50 or UC50 capability for work questionnaire;
- Any medical certificates and other evidence such as an ESA113 or UC113 from your doctor if they have been requested;
- The ESA85 or UC85 medical report form from the CHDA health professional if you had a medical assessment;
- Any additional evidence, such as supporting letters from your GP, consultant, relatives and friends.

Phone calls from the decision maker

The decision maker may contact you to try to get further information before reaching a decision. However, decision makers are expected to call you if they are intending to find you capable of work, to ensure that they have all the available evidence. So, if you do receive a call from a decision maker, there's a good chance that you are about to be refused benefit.

If you do get one of these calls, you may want to ask the decision maker if they will put their questions in writing, but they may not be willing to do this.

If the call goes ahead, take notes yourself and consider recording it if you are able. You don't need permission to do this if the recording is for your own use. You can also ask the decision maker if the call is being recorded and ask for a copy of the recording if it is. In addition, you can ask for a copy of any notes made by the decision maker in the course of the conversation. All of this may be valuable evidence for your appeal.

If you have listed health professionals in your form from whom you have not been able to get evidence yourself, ask the decision maker if they have contacted them. If not, you may wish to tell the decision maker you will be raising the issue as part of your mandatory reconsideration request and, if the decision is not changed, your appeal, if they are not contacted.

If your claim is unsuccessful you may receive a further call from the decision maker explaining the decision and your options. Bear in mind that around two thirds of disputes against a decision that a claimant is capable of work are successful, so disputing the decision by requesting a mandatory reconsideration and, if the decision isn't changed, lodging an appeal is a very important option. See our mandatory reconsiderations and appeals guide for more on this.

Delayed assessment

If by the end of week 13 a decision has not been made on your eligibility, for example because you have been too ill to be assessed or because there is an enormous backlog in CHDA carrying out assessments, the assessment phase can be extended. Where this happens, when the decision as to which group you belong to is finally made, any back payments of an additional component owed from week 14 onwards will be made.

If you are found to have limited capability for work

You will be moved into the WRAG in the main phase of ESA or UC not sooner than thirteen weeks after you made your application. Do try to get your benefits checked at least once a

year by an advice agency, as you may be entitled to additional amounts because of your health condition or the length of time it has lasted.

Reassessment

How long it will be before you are assessed again will depend to a large extent on what prognosis was given by the CHDA health professional who examined you or made recommendations to the decision maker based on medical and other evidence.

Health professionals tend to be optimistic about the future, often suggesting that significant improvement may have taken place within three or six months. You may therefore, receive another questionnaire to complete less than a year after the decision has been made that you have limited capability for work.

It is vitally important to take as much trouble as possible over every questionnaire you receive. The fact that your condition has not changed, or has even deteriorated, since your last medical will not in any way guarantee that you will once again be found to have limited capability for work.

'Exemption' from reassessment

Claimants who have to attend a WCA from 29 September 2017 will not have to have repeat assessments if they are in the support group and meet certain other criteria.

However, you will only be considered if you are in the support group because of one of the ["functional descriptors"](#) due to either a physical or mental health condition.

This means that if you were placed in the support group [without relying on the descriptors](#) you will not be considered. So if, for example, you were placed in the support group because of the 'substantial risk' rules, you will not be considered.

You will also need to show that **all** of the following apply:

- Your condition will last for the rest of your life.
- The effect of your condition means that you will always meet at least one of the support group descriptors above. The DWP say that conditions which *might* qualify, include: *"Motor Neurone Disease (MND), severe and progressive forms of MS, Parkinson's, all dementias, all chromosomal conditions, Huntington's, severe irreversible cardiorespiratory failure, severe acquired brain injury ...this list is not exhaustive"*. The DWP also say that conditions which *might not* meet the criteria include *"recently diagnosed relapsing non-progressive forms of MS or some people with less severe mental health conditions with periods of reasonable function"*.
- There is no realistic prospect of recovery, such as a transplant.
- You have been diagnosed with an unambiguous medically recognised condition. This can include conditions such as ME/CFS and fibromyalgia.

A health professional will make a recommendation as to whether you meet the criteria for being exempt from further WCAs. A DWP decision maker will make the final decision.

There is no right of appeal against a decision not to exempt you from further WCAs.

If you think you should be in the support group

If you were placed in the WRAG but think you should be in the support group, you can request a mandatory reconsideration and if this fails, appeal the decision, (see below for more on mandatory reconsiderations and appeals). You will remain in the WRAG whilst your mandatory reconsideration and/or appeal are being dealt with.

Warning! You should be aware that if you asked to have your award looked at again; there is always a possibility that it could be taken away rather than improved. If you are concerned that this might be a possibility in your case, then please try to get advice before applying for a mandatory reconsideration.

If your condition deteriorates

If your condition deteriorates, or you develop a new condition, and you consider that you may now be eligible for the support group, you may wish to ask for your award to be looked at again. This is technically called a supersession. If you can obtain supporting medical evidence of your change of circumstances, this will be very helpful. See the warning immediately above for the potential risk involved.

If you are found capable of work

If you don't score enough points and weren't found to be exempt or covered by the exceptional circumstances regulations, you will receive a letter informing you that you are no longer entitled to ESA or UC on the grounds of sickness. If this happens, try to get advice from one of the agencies listed in the help section on our site

www.benefitsandwork.co.uk/help as there are strict time limits for challenging decisions.

Many people have no hesitation about appealing, as they consider that they have no choice but to do so. For other people, the emotional demands of preparing a case and possibly appearing before a tribunal are extremely daunting and they may find it very hard to come to a decision. If you do decide to go ahead, a separate, detailed guide to the mandatory reconsideration and appeals process is available from www.benefitsandwork.co.uk

If you were getting ESA

Important note: *as a result of the High Court decision in Connor dated July 24th 2020 you do not have to go through a mandatory reconsideration if you have been found fit for work under the WCA. You can go straight to appeal and will continue to be eligible for ESA. However, this does not apply if the decision was that you are not eligible for ESA because you failed to return your ESA50 or failed to attend a WCA assessment.*

Prior to the national roll-out of Universal Credit (UC), you may have been eligible for Jobseeker's Allowance while waiting for the outcome of the mandatory reconsideration. As all UK postcodes are now UC full service areas, you will not be able to make a new claim for income-based JSA. You can claim UC, but you will then not be able to return to ESA even if your mandatory reconsideration or appeal is successful. You will have to sign a claimant commitment setting out all the steps you have to take to look for work until a decision is made that you are not fit for work. Your Housing Benefit or tax credits will also be replaced by UC. The calculation of UC is different and there is no transitional protection in these circumstances if you are worse off under UC. If possible, **seek advice before claiming**.

However, if you do request a mandatory reconsideration, you will no longer be able to stay on ESA, until you have received a decision (which is not in your favour) and lodged an appeal.

If you do not claim UC during the mandatory reconsideration period, once you appeal the ESA decision you should be able to continue to receive ESA at the assessment phase rate, and so not have to sign on, while you are waiting for your appeal to be heard. You will need to submit medical certificates to be paid ESA pending your appeal. If you are in a UC full service area, but you have not claimed UC while you are waiting for the mandatory reconsideration, you can ask for your ESA to be reinstated at the assessment rate once your appeal is lodged. (See 'Reclaiming ESA after being found capable of work' below for when this does not apply). If your appeal is successful you will be paid any additional money that has been withheld.

If you have been getting UC

You will only continue to be eligible for UC if you fit one of the other categories of people who can get it, for example as a jobseeker or a carer. You will have to meet all the conditions that apply to that category, so if you wish to be considered as a jobseeker you will have to sign on as available for work and actively look for a job.

You can also do this if you decide to request a mandatory reconsideration and later, if you appeal against the decision that you don't have limited capability for work: the fact that you have been claiming UC as (for example) a jobseeker should not be used against you.

Unlike with ESA, you will have to meet other conditions of entitlement (such as being a jobseeker) all the way through the appeal process.

If your appeal is successful you will be paid any additional money that has been withheld.

'Within one month' deadline

The most important thing to be aware of if you wish to challenge a decision that you are capable of work, either by asking for a mandatory reconsideration or by submitting an appeal, is that you must normally do so within one month of the date on the letter giving you the decision. If you miss the one-month deadline then you need to explain why your mandatory reconsideration or appeal is late. The reasons don't have to be compelling, many late appeals are accepted as valid appeals. The absolute deadline is 13 months.

Reclaiming ESA after being found capable of work

If you were turned down for ESA, it used to be possible to make a fresh claim six months after the date of the decision refusing you an award. Whilst waiting for a decision on your new claim you were entitled to receive ESA at the assessment phase rate.

However, from 30 March 2015, this is no longer possible in most cases. If you have been turned down for ESA in the past and you reapply, you will no longer be entitled to ESA whilst you are waiting for a decision. Instead you will have to try to claim another benefit, such as UC.

In addition, if you are refused again and your mandatory reconsideration is also refused you will not be able to claim the assessment phase rate whilst waiting for your appeal to be heard.

There are exceptions to this rule, however.

You will need to go back to your GP and get a fresh fit note (formerly a sick note) and try to ensure that the GP notes on it that your condition has deteriorated or that you have a new condition. However, as all UK postcodes are now UC full service areas you will have to claim UC instead of ESA and you will be expected to look for work until you have been assessed as not fit for work. This should then trigger a fresh work capability assessment.

In addition, the rules do not apply if the reason you were refused ESA initially was that you failed to return your ESA50 form or you failed to attend a face-to-face assessment. In these circumstances you can reapply and be paid at the assessment phase rate even if your condition has not deteriorated and you do not have a new condition.

Also, if the decision was the first time you have been refused ESA, and you have been through the mandatory reconsideration process, and have lodged an appeal, you can ask for ESA (at the assessment phase rate) to be reinstated provided you can send in the sick notes to correspond with the period. ESA can be paid from the date you were first refused, if the sick note is also backdated.

Note: You cannot get UC on the grounds of limited capability for work while you are waiting for your assessment, whether or not you have previously been found fit for work. Nor can you get UC while waiting for an appeal to be heard, unless you fit one of the other categories (such as jobseeker), whether or not there has been a previous negative decision. In other words, if you have to claim UC rather than ESA, it makes no difference whether you've previously been refused or not – everybody is in the same boat.

Where to look for help with claims and appeals

It's entirely possible to challenge a WCA decision without help and many thousands of people do so every year. But if you can get support from an advice agency or similar organisation it can reduce the burden on you.

Visit the help page on our site www.benefitsandwork.co.uk/help for regularly updated information and a downloadable guide to getting help with your benefits.