WORK, HEALTH AND DISABILITY
GREEN PAPER: IMPROVING LIVES
RESPONSE BY CITIZENS ADVICE RICHMOND

February 2017

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INTRODUCTION

We welcome the attempt in the Green Paper to set out a vision for the improvement of employment support for disabled people that stretches beyond the current Parliament for a period of 10 years and the variety of action research projects now being undertaken to trial different approaches to improving employment support.

In the past four years we have monitored and recorded the experience of our clients in claiming Employment Support Allowance (ESA) and Personal Independence Payment (PIP) and have submitted to our local MPs and through them to Ministers three reports on what we consider to be serious flaws in the administration of these benefits for sick and disabled people. Consequently our main focus in responding to the Green Paper is on the proposals in Chapter 3 for improving the assessment and employment support for those who claim these benefits and now the comparable elements of Universal Credit (UC).

In addition our research team includes one member who has had experience of trying to recruit and support disabled people in the HR department of a public sector organisation and another who has carried out qualitative research into the experience of employees who had to stop work because they suddenly became disabled and the barriers that they faced in trying to retain their jobs or find a new type of employment. We have relied on the experience of both these members of the team to comment on the staff resources required within DWP to provide effective employment support, along the lines proposed in Chapter 2 of the Green Paper, for sick and disabled benefit claimants. The responses to the questions posed in the consultation on Chapter 4 of the Green Paper have been provided by our team member who has had special responsibility for recruiting and supporting employees in a public sector organisation.

RESPONSE TO CHAPTER 3 ON ASSESSMENTS

PROVIDING PUBLIC RESOURCES FOR PERSONAL EMPLOYMENT SUPPORT

An important question posed for the consultation is "**How can we ensure that each claimant is matched to a personalised and tailored employment-related support offer?**" The model for personal support advanced in the Green Paper depends on a trained Jobcentre Plus work coach as the key contact with ESA and UC Limited Work Capability (LWC) claimants for developing the support required. ("The relationship between a person and their work coach should be at the heart of each individual's journey in the welfare system"- para 86). It is envisaged that the work coach will have a Health and Work Conversation with claimants soon after they have applied for ESA or UC but before their Work Capability Assessment (WCA) has been carried out (paras 92-93). The purpose of this conversation will be to explore steps that could be taken to help claimants return to work, which will be firmed up in a Claimant Commitment after a decision has been taken on the WCA.

The work coach will be able to offer claimants locally available forms of employment support that could include a place on a Work and Health programme if they are judged to be capable of finding employment within 12 months (para 95), a Specialist Employability Support programme if their needs are more complex (para 96), a place

on a New Enterprise Allowance scheme if they aim to become self-employed (para 97) or possibly involvement in a peer group Journey to Employment Job Club (para 90) or an employment support scheme developed by a third sector organisation and financed by a Flexible Support Fund (para 89). It is also proposed that the work coach will be able to call on the expertise of the local Disability Employment Adviser (DEA) and in some areas a specially recruited Community Partner who could be seconded from a disability organisation and will have local knowledge of the support available for disabled people.

Despite all these forms of support the work coach will remain the claimants' key contact (para 133) and will be responsible for monitoring their progress towards meeting their claimant commitments (para 93).

There is no doubt that a positive, ongoing relationship between claimants and a well-trained work coach could help claimants negotiate the difficulties that they will face in trying to find employment or become self-employed; but it is not clear whether the Green Paper has taken account of the level of personal support that many claimants will need, not least those with mental health problems. It is difficult to be precise because the support required for individual claimants is bound to vary; but in our view a work coach could not be expected to link effectively with more than 20 claimants at any one time.

The number of trained work coaches required

There is no indication in the Green Paper of how many dedicated work coaches will be trained to underpin the model of employment support proposed. Statistics provided on page 11 of the Green Paper record that 20% of the 2.4 million ESA claimants are in the Work Related Activity Group (WRAG) or 480,000. On that basis there would need to be 24,000 trained work coaches throughout the country to satisfy the 1:20 ratio of work coaches to WRAG claimants. However an important aim of the Green Paper is to encourage many more ESA claimants in the Support Group to take up offers of employment support to get back into employment. The statistics provided record that 67% of the 2.4 million ESA claimants were in the Support Group, or 1.608 million. If one in five of these claimants volunteered to see a work coach to take up an offer of employment support this would require the addition of more than another 16,000 work coaches to satisfy the 1:20 ratio of work coaches to ESA claimants in the Support Group. There are no statistics in the Green Paper on the number of disabled people claiming the Limited Work Capability (LWC) element of UC nationally; so the requirement for 40,000 trained work coaches to help ESA claimants plan employment support will underestimate the total number of work coaches required when LWC UC claimants are included. In addition the Green Paper proposes that work coaches should be the "key gateway" to new packages of support to help disabled people already in work on a low income to increase their earnings and realise their full potential (paras 107-108). This proposal will further increase demand for more work coaches.

The number of DEAs required

These calculations have implications for the number of DEAs required to support, and supervise, work coaches. In their report on "The role of Jobcentre Plus in the reformed welfare system" in 2013/14 the House of Commons Work and Pensions Select Committee reported that " a number of witnesses highlighted with concern the relative lack of JCP resources devoted to supporting ESA claimants" and recorded that there were then about 900 DEAs spread across 719 Jobcentres for 546,000 ESA claimants in the WRAG.(para 72). Since then the number of DEAs must have been cut back to 200 because the Green Paper indicates that the addition of 300 DEAs will bring the total up to 500. That would imply a ratio of one DEA for 80 work coaches for a total of 40,000 work coaches. We suggest that the number of DEAs will need to be doubled to 1000 or possibly even trebled to 1500 to provide any chance of DEAs providing effective support for the work coaches in their areas.

The need to postpone the Claimant Commitment

The scale therefore of recruitment, training and management of Jobcentre Plus staff required to underpin the personalised and tailored support envisaged for ESA and disabled UC claimants is very substantial and will take time to achieve if sufficient public funds are provided. In the meantime we consider that ESA claimants in the WRAG and LWC UC claimants should not be expected to make claimant commitments except in areas where well-trained work coaches are available to carry out the Work and Health Conversation and to maintain contact and provide ongoing support. Otherwise the current situation will be perpetuated where these claimants have to make commitments that are not related to any analysis of what work they could do or what support they will need to obtain it.

IMPROVING THE WORK CAPABILITY ASSESSMENT

Two questions posed for the consultation are whether the assessment that an individual receives from the benefit system should be separate from the discussion that a claimant has about employment or health support and whether there are alternatives that could be explored to improve the current system for assessing financial support for disabled claimants.

What is wrong with the current WCA system?

There are fundamental flaws in the design and operation of the current Work Capability Assessment (WCA) that need to be addressed. These are:

1. The assessment is based solely on the medical model of disability. It considers only how far the disability or illness restricts or prevents particular physical or mental activities. It takes no account of the social model of disability i.e what facilities are available to overcome the restrictions to put the disabled person on the same footing as a non-disabled person. So it is an inadequate system for deciding whether someone is fit for work.
2. It relies on a system of closed questions to allocate points for individual activities. This enables the health professional carrying out the assessment to avoid making an overall assessment of the claimant's capability for work or to

allow claimants to discuss freely the impact of their disabilities or illnesses on their daily life. This approach can result in health professionals allocating zero points when the evidence supplied by claimants in their ESA50s or UC50s or by their own GPs, often confirmed on appeal to a tribunal, indicates that they should have been placed in the Work Related Activity or Support Group.(Some examples of such zero points decisions are included in a Case Summary Annex to this response). Evidence from the DWP's latest set of statistics on WCA outcomes indicates that for all claims started between October 2013 and March 2016 no less than 40 % of claimants were found to be immediately fit for work, or 48% for WCAs completed between April and June 2016 (DWP official statistics published in December 2016 for ESA outcomes of WCAs including mandatory reconsiderations and appeals- pages 3 and 6).

3. Although DWP is responsible for taking a decision on the report of the WCA it is rare for the DWP decision maker to reject the assessment of the independent health professional even when it conflicts with detailed, up-to-date medical evidence provided by the claimant's own GP or consultant. (See the example provided in the Case Summaries Annex)
4. Although claimants have the opportunity to ask for DWP to reconsider a claim that has been rejected (Mandatory Reconsideration or MR) few take this step. The statistics for claims started between October 2013 and March 2016 show that only 14% requested MR.(DWP statistics page 3). So the introduction of a second stage of DWP decision making with no further ESA payments during MR has provided an effective barrier to many claimants pursuing genuine claims.
5. Those of our clients who do request MR find that while their claim is being reconsidered they either have to borrow from friends to survive or apply for JSA and make a commitment to be immediately available for work, when that may be completely inappropriate, causing them considerable stress, particularly if they have mental health problems. This can be serious if there is a long delay before a decision is reached on the MR.
6. In the experience of our clients it is rare for a second DWP decision maker to change the original decision through MR even when the claimant's GP has presented further medical evidence that conflicts with the assessment of Maximus' health professional and the flaws in the original assessment have been set out in detail. (See the examples in the Case Summary Annex). The evidence in the statistics already referred to for October 2013- March 2016 indicates that only 10% of decisions were revised through MR, and in the month of October 2016 only 4% of Fit for work decisions were revised through MR (see pages 3 and 8). These results confirm that MR does not really function as an effective means of considering objections to the original decision or considering additional evidence; but it does prolong the assessment process and by rejecting the claim a second time dissuade the claimant from going to the third stage of a tribunal appeal. The statistics for October 2013 to March 2016 show that only 24 % of claimants appealed to a tribunal. (See page 3).

7. If claimants have to take their claims forward to an appeal to a tribunal this involves further stressful delay before a final decision is reached and additional costs for the Exchequer. However if an ESA appeal is heard by a tribunal it stands a good chance of being successful. The statistics already referred to indicate that 57% of ESA appeals were successful.(See page 3). We consider that more appeals would be successful if more claimants had support in setting out their case because when we have the opportunity to assist clients in preparing their appeals they are almost always successful. These results confirm that MR is not a genuine or useful stage in the assessment process.

Restoring trust in the WCA system

The overall impact of the flaws that we have identified is to create a very strong impression that the real purpose of this complex assessment process is not to reach a fair and rational judgement of claimants' eligibility for ESA but instead to reduce as far as possible the number of claimants who will qualify for ESA. It is very hard to resist this impression when we see claimants who are obviously seriously ill or disabled found fit for work and forced to endure months of stress and financial hardship before they can finally establish on appeal their right to be paid ESA in the Work Related Activity Group (WRAG) or Support Group. There is now a breakdown in trust among many claimants and their advisers that the WCA and MR are intended to provide a fair assessment system. We believe therefore not only that the WCA must be redesigned and simplified but also that the whole approach to dealing with ESA claimants must be changed radically to promote a culture where everyone involved in the assessment process treats with respect claimants who are disabled or have long term conditions and accepts that through no fault of their own they may be unable to work, either temporarily or in the longer term.

What is the alternative to the current WCA system?

No case for a separate financial assessment

The Green Paper suggests that what is now the WCA could in future be changed to decide whether the claimant should receive additional financial support but not to decide what level of contact the claimant should have with Jobcentre Plus.(para 131). The difficulty with this suggestion is that the assessment will still have to determine whether the claimant is likely to be capable of taking part in any work-related activities. From April 2017 new ESA claimants and disabled UC claimants will no longer qualify for more money than they would receive as JSA claimants if it is decided that although they are not fit to return to work immediately they are capable for preparing to return to work by taking part in work related activities; so a judgement will still have to be made as to whether they are incapable of taking part in work related activities for them to qualify for additional financial support. Consequently the so-called "financial assessment" will still have to weigh up the extent of their work capability. It is therefore essential to include any good evidence about their prospects for taking part in work-related activities in the assessment of whether they should receive additional financial support.

Our alternative to the current WCA

On that basis we propose the following alternative to the current WCA:

1. End the contract with Maximus as soon as possible to bring the whole assessment process in-house to the DWP. This will involve additional costs for the DWP but it is doubtful whether outsourcing the WCA to Maximus has been value for money, and putting the DWP in charge of all stages of the process should be simpler and more efficient.
2. When disabled people first claim ESA or UC ensure that they provide the name and contact details of their GPs or other health professionals in charge of their treatment and as soon as possible a fit note from their GPs
3. On receipt of their claims and fit notes:
   a. Arrange payment of the basic rate of ESA or the equivalent element of UC
   b. Send a DWP letter to the GP or other health professional setting out a simple list of questions (a draft is included as a separate annex to this response) to be answered as soon as possible but at latest within 4 weeks of the date of the letter. Answering the questionnaire should be mandatory, but perhaps there should be a standard payment to the GP when the completed questionnaire is received. However in addition if the claimant has a serious illness that is progressive requiring an increasing level of day to day care (or possibly terminal) the GP or other health professional will be encouraged to contact the DWP urgently so that the claimant need not be involved in completing an ESA50 or UC 50.
4. a. Unless the GP or other health professional provides evidence within two weeks that the claimant has a serious illness that is progressive or terminal making a return to work impossible, send a revised version of the current ESA50 or UC50 to the claimant. Questions about the claimant's physical and mental capabilities will be retained but simplified to concentrate on the claimant's description of any difficulties experienced. Some of the details will no longer be necessary because the points system will be abolished. However additional questions will be included to cover
      - whether the claimant has any educational or professional qualifications, and , if so , the most advanced
      - whether the claimant has been employed and, if so, how recently and for how long and in what type of job
      - how the claimant now views returning to employment
   b. Notify a work coach in the claimant's local area that he or she will be involved in the claimant's assessment
5. When the GP's questionnaire and completed ESA 50 or UC50 are received copy both to the work coach. The work coach can then decide whether in the light of the medical evidence provided in the GP's questionnaire there is no point in inviting the claimant to take part in a Health and Work Conversation (as described in para 92 of the Green Paper); but otherwise the claimant will be invited to see the work coach to discuss the possibility of returning to employment in future having regard to the claimant's disabilities or current health problems, and in view of the

claimant's qualifications, skills and job experience what type of job might be appropriate and what reasonable adjustments and types of employment support might be needed. The meeting with the work coach would be mandatory unless the claimant was too ill to attend; but the claimant would not be expected to agree to anything as a result of the discussion. The work coach will provide a report, which will be copied to the claimant, with conclusions on whether at this point the claimant could be involved in any work related activities and, if so, what they could be.

6. The medical questionnaire and the work coach's report will then be sent to the DWP decision maker. It would be ideal if the decision maker could be a DEA; but DEAs are likely to be overloaded. Nevertheless it is important that the DWP decision makers have some training in issues affecting the employment of disabled people.
7. The DWP decision maker will decide whether the claimant should qualify for additional financial support as being incapable of work related activity and, if so, whether and when this decision will need to be reassessed. The decision will be notified to the claimant, with the reasons for it, and to the work coach.
8. If the claimant is not awarded additional financial support there will be no need to seek MR to change the decision. MR should be scrapped. Instead the claimant will have a month in which to lodge an appeal to a tribunal and will be paid the basic rate of ESA or the comparable element of UC until the appeal is heard. The claimant will have the chance to rebut the work coach's assessment based on the Health and Work Conversation as part of the appeal.
9. When the appeal is heard wherever possible the tribunal panel will include a member who has a background in occupational health.

What benefits and challenges will this alternative approach bring?

The main advantages of this alternative approach to the current WCA are:

1. It will ensure that the DWP takes full responsibility for every stage of the assessment, including dealing with complaints, which are too often wrongly deflected to Maximus
2. The assessment process will be streamlined and simplified to get rid of the problems associated with the points system and MR
3. Much greater weight will be given to the medical evidence provided by the claimant's own GPs or other health professional in a more standard format and reliance on a 30 minute assessment by a health professional who has never seen the claimant before will be eliminated
4. Except where there is clear medical evidence that the claimant will be unable to work, the scope for the claimant to take part in work related activity will be explored and tested against the medical evidence before any decision is taken to award or deny the claimant additional financial support
5. If the claimant is not awarded additional financial support the work coach will already have a basis on which to discuss an offer of employment support by contrast with the current situation where in the experience of our clients

Jobcentre Plus staff often have no idea of what job or work related activity would be appropriate.

The only disadvantage with the new approach is that the involvement of work coaches would have be phased in gradually in areas where fully trained work coaches become available. However we see no reason why all the other changes proposed should not be introduced more quickly, including particularly the transfer of the whole assessment process and complaints procedure to the DWP and an obligation on DWP decision makers and tribunals on appeal to consider carefully, in the light of claimants' disabilities or health conditions and occupational information now provided in their revised ESA50s or UC50s, what type of work or work related activities they might be able to do and to specify in their decisions what these are if they conclude that the claimants do not qualify for additional financial support.

An alternative approach to ESA reassessments

We welcome the Government's decision not to subject claimants awarded additional financial support in the Support Group to reassessment if there is no realistic prospect of them working again. We hope that this type of claimant can be identified by the emergency procedure described at 3.b of the alternative assessment procedure that we are proposing. However the experience of some of our clients suggests that it will often be difficult or impossible to predict whether the treatment that claimants are receiving will be successful and they will regain sufficient health to return to work or how long it might take.

One example might be a claimant who has to undergo a long period of chemotherapy and perhaps radiotherapy for cancer. In such a case it might be sensible for the DWP to contact the claimant's GP when the treatment has been completed to find out whether or not the treatment has been successful and only if the claimant's condition has improved to launch a full scale reassessment of eligibility for additional financial support. Another example might be claimants who suddenly become profoundly deaf but have a good prospect of being able to hear again after an operation for a cochlear implant. Until they receive the cochlear implant they are unlikely to be able to do any work that involves communication, and after they have had the implant they will need time to adjust to their new method of hearing; but if the operation is successful they should soon be able to return to work that makes use of their previous skills and experience. Here again it seems sensible to check how long the claimant will have to wait for the cochlear implant operation and then whether it has been successful and only then to launch a full scale reassessment.

These examples indicate that reassessments should no longer be undertaken automatically at fixed intervals of a year or two years but should be tailored to the treatment schedules of individual claimants.

Using a wider range of medical evidence for ESA assessments

The Green Paper records that the DWP uses medical evidence available from the Service Medical Board for severely disabled members of the armed forces to avoid them having to undergo additional examinations to claim ESA (page 42 para 140)

and suggests that other sources of medical evidence could be used in the same way, such as adult social care plans (para 142). We agree that medical evidence should be used for assessments from a wide range of sources, including employers' occupational health reports that have led to claimants' retirement on medical grounds. Medical evidence that has been considered for DLA or PIP awards may also be relevant where an ESA or UC claimant has already been receiving one of these benefits before applying for ESA or UC. The DWP will need to be satisfied that this evidence is up to date at the time of the ESA or UC application; but it may be possible simply to call for information about any changes in the claimant's health condition since the previous evidence was supplied.

IMPROVING THE PIP ASSESSMENT SYSTEM

What is wrong with the current system of medical assessment for PIP?

Most of the flaws identified in the current WCA system are mirrored in the medical assessment for PIP. The official DWP statistics for PIP for claims started between its introduction in April 2013 and October 2016 record that more than half of new claims assessed for PIP (54%) were rejected. DLA claimants assessed for transfer to PIP were more successful, with only 27% being rejected. Only 24% of both types of claimant applied for MR when their claims were rejected, and only 15% of rejected new PIP claims, and 22% of claims rejected on transfer from DLA, were revised through MR. Comparable information does not seem to be available about the proportion of claims rejected at MR that went forward to appeal; but our experience of supporting clients on appeal is that those who do appeal with assistance are almost always successful. As for ESA we have examples of clients who were awarded zero points for PIP at initial assessment without regard to the medical evidence provided before the assessment, followed by rapid confirmation at MR, but who were then awarded PIP on appeal to a tribunal. (One of these is recorded in the Case Summary Annex).

What is the alternative to the current assessment system for PIP?

Closer co-ordination of assessments for ESA or UC with PIP assessments

The Green Paper mentions that 70% of those who claim both ESA and PIP apply for ESA first. (Page 42, para 143). The need for claimants to make two separate applications and go through two separate assessments, covering much of the same ground, has caused some of our clients considerable anxiety and stress and aggravated their mental health problems over a long period, particularly when PIP has been refused after the client has been granted ESA in the Support Group on the same medical evidence. We consider that it is urgent therefore to co-ordinate the assessment processes for ESA, UC and PIP much more closely than they are at present.

Our alternative approach to the current process for PIP assessment

Bearing in mind this need for closer co-ordination we would like to see the following changes to the way in which PIP applications are assessed and decided:

1. End the contract with ATOS as soon as possible and bring the whole assessment procedure for PIP in-house under the management of a unit established within DWP to control and co-ordinate ESA, UC and PIP assessments for disabled claimants.
2. Revise the PIP form "How your disability affects you" that claimants have to complete to eliminate the points system. Claimants should still be required to provide detailed information in response to questions, but eligibility for PIP should be decided by an overall assessment of claimants' needs for additional support for their daily living activities and/or their mobility and not by a mechanical addition of points for individual activities or mobility problems.
3. Review and consolidate the information required for the ESA50, UC50 and the PIP form to reduce the amount of separate information required for the PIP assessment.

   Comparison of the questions posed in the ESA50 and the comparable PIP form reveals areas where there is a considerable degree of overlap in the sort of information required although the questions are worded slightly differently. Examples are:

- The information required on the claimant's mobility is very similar, but with some interesting variations. The information required about standing and sitting and climbing up steps in the ESA50 would be just as useful for a PIP assessment although it is not included in the PIP form, and the questions about an ability to plan a journey included in the PIP form but not in the ESA50 would be useful in providing information about an ESA applicant's ability to travel to work or a work related activity.
- The questions about mental capability although differently worded cover some of the same ground particularly in the information required about social interaction. It is surprising that the ESA50 does not ask any questions about communication skills, an area which is fully covered in the PIP form, and that the PIP form does not ask any questions about awareness of hazards, which might call for additional support from another person. On the other hand the questions about making budgeting decisions are clearly more appropriate to the PIP assessment of the need for additional support to manage daily living than for ESA.

  There are then several sections of the PIP form that do not seem necessary for an ESA or UC assessment, requiring detailed information about daily living activities such as Preparing Food, Managing a Therapy or monitoring a health condition, Washing and Bathing and Dressing and Undressing. (Problems with incontinence are covered in both the ESA50 and PIP form).

  This analysis suggests scope for revising both the ESA50, UC50 and the PIP form to ask the same questions on mobility and on several areas on mental capability and to include an additional section on the same form that focuses on additional areas required to assess a claimant's need for support with daily living activities. If this is done it will be possible for an ESA or disabled UC claimant to pursue a claim for PIP at the same time as for ESA or UC simply by completing the additional section asking for information about daily

living activities.(An ESA or UC claimant who does not want to apply for PIP will not need to complete the additional section).

4. Where a claimant claims ESA and PIP at the same time the letter sent to the GP or other health professional will include two questions specifically about the claimant's ability to cope with normal daily living activities without support and about their mobility. (See the draft for this letter in the relevant Annex)
5. Since the issues for eligibility for ESA or UC and PIP are different the medical evidence provided by the claimant's GP or other health professional and completed composite ESA50 or UC50 and PIP form will be sent to two separate DWP decision makers, and consequently the decisions on eligibility for the two benefits may be different.
6. If the claimant is not granted PIP for the daily living component or the mobility component, or not at the enhanced level expected, the claimant will have a month from the date of the decision in which to appeal to a tribunal. Once again we think that MR should be scrapped. With only 15% of decisions on new claims revised through MR there is no question that MR fails to play a useful role in the assessment of these claims. With the revision of 22% of decisions referred to MR after reassessment on transfer for DLA there could be a slightly stronger case for retaining MR for this type of case; but on balance we see advantage in simplifying, and speeding up, the PIP assessment process by eliminating MR.
7. When a PIP appeal is heard the tribunal will include a member with knowledge and experience of social care provision wherever possible.

The advantages of this alternative approach to PIP assessment

The three main advantages of this approach are:

1. Provided that the right level of resources is put in place the DWP will be able to control and co-ordinate the assessment and provision of welfare benefits for disabled claimants of working age much more effectively than is possible currently and will need to take full responsibility for dealing with complaints.
2. Claimants who want to apply for ESA or the disabled element of UC **and** PIP will be able to apply for both at the same time and provide all the relevant information on one form, and GPs will be able to provide all the medical evidence required by answering one questionnaire
3. As with the alternative approach to ESA and UC the more streamlined process, with no points system and no MR, should enable PIP awards to be determined more quickly and at lower cost.

RESPONSE TO CHAPTER 4 ON EMPLOYMENT

Embedding good practices and supportive cultures

A. What are the key barriers preventing employers of all sizes and sectors recruiting and retaining the talent of disabled people and people with health conditions?

1. The most significant barrier is lack of job opportunities across most sectors, particularly at a time of public sector redundancies & cut backs which impact on the private sector as well (lack of procurement contracts etc.) There is evidence that graduates seeking work are finding it difficult, even unpaid internships are very competitive, so the likelihood of disabled people finding work is even more remote, particularly if they need a lot of support. There are currently over 1.6m people unemployed, four per cent of the total working age population, 386,000 of which are disabled so overall there is immense competition for jobs.
2. The increasing automation of work across the board means there is, and will be, less work around for everyone. According to an Oxford University Study, precisely 35 per cent of current British jobs could be done by machines within the next 20 years. As illustration, with more than 2.2 million people, eight per cent of the UK workforce, currently employed in transport and logistics, BMW is aiming to bring the first driverless cars to market by 2021. Uber is also investing heavily in the technology. Figures such as these are always followed by the caveat that automation will also create jobs, but this is very unlikely to be sufficient to replace all the jobs lost!
3. The change in the retirement age & the pension crisis means that older people are staying in work longer so there are less job opportunities for younger people with disabilities.
4. Cut backs in staffing within organisations means that staff are under more pressure than ever & have less time to devote to inducting, training & supporting disabled people.
5. Employers often lack expertise and information about grants or support available to assist & retain disabled people in work.
6. Employers do not have the resources available to navigate the often complicated and bureaucratic nature of the support & guidance that is currently available.
7. As well as lack of time, managers often lack confidence and skill in supporting people with disabilities.
8. Even where organisations are positive about employing people with disabilities, their recruitment & selection statistics demonstrate that few people with disabilities are applying and those who do apply do not always meet the specified criteria for the job. This illustrates, perhaps, that people with disabilities who may have faced potential discrimination in the past, or who lack the support required to navigate often complex recruitment processes, simply give up applying for jobs.
9. Some employers, particularly small businesses without HR or legal departments, may be fearful of inadvertently discriminating against people with disabilities, as they lack expertise and experience in this area of

recruitment, and do not want to risk adverse publicity, potentially high legal costs or reputational damage.

B. What expectation should there be on employers to recruit or retain disabled people and people with health conditions?

1. Employers who sign up to the "Disability Confident" Badge, which replaced the Two Ticks, Positive about Disabled People symbol, agree to shortlist disabled people who meet the essential criteria for the job. This is a good first step for employers although so far, just over 1000 employers have signed up.
2. Quotas have been tried before, do not work and are often seen as tokenism by disabled people and others. In general, disabled people want to be recruited on merit.
3. Most employers with a commitment to achieve equality of opportunity set targets & action plans for recruiting specific groups who are under-represented & these should be monitored at Board level. However, these can become mere box ticking exercises. The government could consider making targets and action plans mandatory but this is unlikely to work as it would be too expensive to monitor. The Government could instead offer a contract to the Supported Employment Sector to offer free consultations to employers who sign up to the Disability Confident Scheme to assist them in drawing up & monitoring more meaningful targets & action plans.
4. Dismissal of a person who becomes sick or disabled at work should be automatically unfair unless the employer has taken steps to refer to an Occupational Health Provider & made reasonable steps to implement their recommendations.
5. Employers could be mandated to advertise their job vacancies at Job Centres & agree to interview any disabled applicants who meet the essential criteria. However this is only feasible if the proposals for new work coaches and disability employment advisors is properly resourced.

C. Which measures would best support employers to recruit and retain the talent of disabled people and people with health conditions? Please consider:

- **The information it would be reasonable for employers to be aware of to address the health needs of their employees?**

Health & medical information are rightly confidential and should only be released with the consent of the individual. Only doctors or Occupational Health Providers are qualified to assess & report on health matters. They can be requested to provide a detailed report, if required, to help managers support & retain an employee with health issues (as is the case now).

- **The barriers to employers using the support currently available**

The main barrier to employers accessing support is that it is not centralised & is not always easy to find or to navigate once found. There

are several organisations offering support such as Remploy, BASE, The Clear Company, Business Disability Forum (all mentioned in the Green Paper) but employers are not always aware of these & nor can they necessarily afford to use them as not all services are free. In addition, employers do not have the staff time to liaise with them or to implement their recommendations.

- **The role a 'one stop shop' could play to overcome the barriers**

This is a good idea. There should be a government recognised scheme for Supported Employment Assistance with national occupational standards & a quality mark scheme for the sector which all employers could access for free.

This could combine best practice from existing organisations such as Remploy, BASE & the Business Disability Forum. In fact, the CAB website & information for clients and advisors could be a potential model for a one stop information site.

- **How government can support the development of effective networks between employers, employees and charities**

If employers sign up to the Disability Confident scheme, the government could offer grants, awards & other financial incentives to those who have active & effective links with charities or other organisations promoting the employment of people with disabilities.

The government could offer grants, financial incentives & public awards to charities or other organisations with a track record in liaising with employers & getting disabled people into work on a permanent basis.

The government could require employers of a certain size to have positions at Board level or at Trustee level specifically tasked with networking on disability issues.

- **The role of information campaigns to highlight good practices and what they should cover**

A one stop shop should have case studies, including videos, of:

- successful recruitment campaigns with statistics to back them up
- successful steps to adapt workplaces or specific jobs
- successful steps to retain people who have become sick or disabled at work.

Public bodies such as local authorities & Job Centres & larger employers such as Marks & Spencers could use part of their advertising budgets to highlight the active roles disabled people play in their work-forces.

- **The role for government in ensuring that disabled people and people with health conditions can progress in work, including securing senior roles**

The government can lead by example by recruiting & promoting disabled people in the public sector & highlighting their good practice & successes through the one-stop shop. They should also make parliament more accessible for disabled people and seek to increase the number of MPs with disabilities.

- **The impact previous financial, or other, incentives have had and the type of incentive that would influence employer behaviour, particularly to create new jobs for disabled people?**

Existing financial incentives are pretty ineffective. They do not begin to cover the extra time managers require to liaise with disability organisations, to try to access grants, or to properly train & support people with disabilities. Ideally employers need more resources within their organisations to provide one to one support & someone with the expertise to access grants & make adaptations if needed. If Job Centres or other Supported Employment organisations were properly resourced, they could offer this support to employers.

Alternatively the government could offer grants for employers to take on unemployed people on a job share basis to be trained up to provide one to one support to disabled employees within the work place. This could help reduce current unemployment figures overall.

- **Any other measures you think would increase the recruitment and retention of disabled people and people with health conditions.**

Meaningful resources & support are the only real incentives that might influence employer behaviour. In addition, there needs to be more government support for house building, infrastructure projects and other job creation schemes to stimulate the economy & create more employment opportunities generally.

Given the concern over the impact of Brexit on employers' ability to recruit for certain sectors, this may be an opportunity for government to exercise some joined up thinking in promoting & encouraging the employment of disabled people to fill some gaps.

D. Should there be a different approach for different sized organisations and different sectors?

1. Yes. Small businesses will not necessarily have the staff, resources or expertise to support disabled people at work. They could, perhaps, be offered

more favourable financial incentives & free support/advice to encourage them to employ disabled people.
2. Larger organisations could be encouraged to second their staff to small businesses to support them, offer HR and legal advice & potentially offer preferential access to their employee well-being & OHP schemes.
3. The government should assess if any specific sector is more successful than other sectors in employing people with disabilities. If so, can the government identify reasons why & disseminate their good practice?

E. How can we best strengthen the business case for employer action?

1. The business case for employing all under-represented groups has been well established over the years. It is largely the lack of real job opportunities, completely inadequate resources & an uncoordinated support/advice framework that result in a lack of opportunities for disabled people.

Moving into work

A. How can existing government support be reformed to better support the recruitment and retention of disabled people and people with health conditions?

1. The most important step the government can take is to properly resource Job Centres with Work Coaches & Disability Employment Advisors (DEAS) at a ratio of say 20:1.
2. The government could set up a scheme similar to "Teach First" to recruit graduates into a Supported Employment Network to train them as work coaches & DEA's. It could offer grants to help the long term unemployed to retrain for this field. These measures would have benefits for a number of different groups.
3. The government should ratify a set of nationally recognised Supported Employment National Occupational Standards which anyone working in this field would have to meet. Similarly the government could ratify a Quality Mark for people working in this sector. This would ensure high standards of support for disabled people to find work & for employers to gain access to high standards of advice & support to recruit & retain disabled people. (Note: BASE (British Association for Supported Employment) has drawn up a set of standards & a framework for employers which seek to provide a Quality Mark in this sector. The standards outline in details all the requisite steps required to assist a disabled person find & apply for work & how to help employers support & retain them once in employment.)
4. Employers of a certain size should be required to allow smaller employers to have access to their Occupational Health Provider & Employee Assistance schemes.

CASE SUMMARIES ANNEX

A. Work Capability Assessments (WCA) and decisions for Employment Support Allowance (ESA)

1.Examples of zero points decisions confirmed by MR

Kathleen is a 50 year old single woman, living in a care home. She suffers from spina bifida, severe back and leg pain, vision problems that have required a stent to be fitted in her brain, and has conjoined fingers on one of her hands. She had been in receipt of Income Support (IS) on grounds of disability for several years as well as the high rate mobility component of DLA. DWP had considerable evidence of her long term health conditions.

At the end of July 2015 she was summoned to a WCA as she was due to be transferred from IS to ESA, but was awarded zero points. Despite the evidence of her disabilities available to DWP this assessment was accepted and she was found to be fit for work. With help from the CAB she lodged a request for Mandatory Reconsideration (MR); but then to survive financially she had to claim JSA as though she was capable of taking up paid work immediately, and her Housing Benefit (HB) and Council Tax Reduction (CTR) were suspended while her JSA claim was being considered. This made her very anxious and aggravated her health problems.

At the beginning of September DWP upheld the original decision as a result of MR and Kathleen appealed to an independent tribunal. Her case was heard on 16 December 2015 and she was awarded ESA in the Work Related Activity Group (WRAG). So it took nearly 5 months for Kathleen to be transferred from IS to ESA when on the evidence available to DWP from the many years when she had been receiving IS and DLA a WCA interview was probably unnecessary to find her eligible for ESA in the WRAG, and the assessment that none of her disabilities would prevent her starting paid work immediately was obviously ill founded.

Ali is a 56 year old private tenant who lives with his wife and son in a two bedroom flat. He suffers from angina and other heart problems, pains in knees, diabetes and several other ailments including depression. He is unable to communicate without help from his son. When he first applied for Employment Support Allowance (ESA) he was awarded ESA in the Work Related Activity Group (WRAG) following a work capability assessment in which he scored 21 points for his mental assessment and 15 points for his physical assessment. Although his health had not improved he scored no points at all at a re-assessment two years later, and his ESA award was terminated. Ali then applied for Mandatory Reconsideration (MR) which confirmed the original decision. Ali was very upset by this decision and reported that it had increased his depression.

Ali then appealed to a tribunal against this decision with assistance from the CAB. The appeal, heard in December 2016, was successful. He was awarded 24 points and once again awarded ESA with the work-related activity component.

Donald is a 44 year old recovering alcoholic living on his own in social housing. Following intensive hospital treatment for his alcoholism he still had to attend Alcoholic Anonymous meetings on a daily basis to support his recovery. As a result of his addiction he had both short term and long term memory problems, was severely depressed and anxious about leaving home in case he had a panic attack and resorted to drinking again. One result of this was that he could not face using public transport. When he was anxious he could also become aggressive and had been in trouble with the police in the past.

He had been awarded ESA in the WRAG but when he came to be reassessed in July 2016 he was awarded zero points and his ESA was stopped. Donald had to apply for JSA as though he was immediately fit for work. He found this very difficult and the job search organisation put in charge of his case acknowledged that he was not well enough to work.

With the CAB's help he applied for MR and all the information about the effects of his alcoholism and current treatment was repeated in detail. Nevertheless the original zero points decision was confirmed by MR. Donald then appealed to a tribunal and his appeal was heard in December 2016. The tribunal awarded him 15 points for his mental health problems and placed him in the Support Group partly on the grounds that if he was expected to work this would be at substantial risk to his own health and to other people. The tribunal also recommended that his ESA should not be reviewed again for 24 months.

Harry is a single 62 year old man living on his own in social housing. He has multiple health problems including spinal vertebrae disintegration, heart problems, arthritis, frequent blackouts and alcohol dependency. As a result he suffers pain in his arms and spine and numbness in his left leg, could not walk more than 200 metres without getting out of breath and could not stand or sit for longer than 15 minutes without suffering pain and numbness. In addition he is unable to read or write and as such is unable to get to any unfamiliar places without being accompanied by another person as he cannot read signs. He is also fearful and phobic about travelling on his own due to fear of blackouts and the pain he experiences when walking. Harry admitted that he could become aggressive when drinking, and as a result had few friends and tended to be shunned in social situations.

Until recently he was in receipt of ESA, Housing Benefit and Council Tax Reduction (CTR). However following a work capability assessment, he was awarded zero points and his ESA was stopped on 17 November 2016 as did his Housing benefit and CTR which created immense financial difficulties. With reluctance he sought monetary help from the Council who referred him to the Local Assistance Fund (LAF). Since he is illiterate, he attended CAB for help with his application. Unfortunately the Council had misinformed him as he was not eligible to apply for LAF so was advised to apply for Job Seekers Allowance (JSA) while waiting for a

Mandatory Reconsideration for ESA. At this point, Harry had no money for food and was not even able to put money in his electricity meter.

Despite Harry's physical and mental health issues, his mandatory reconsideration confirmed the original decision and he has now lodged an appeal against this decision.

2.Ignoring Medical Evidence in the WCA and DWP decision

Jenny is a 54 year old single woman who is living with long term health conditions including plantar fasciitis affecting her right foot. As a result, she uses crutches to get around, walks with a limp and suffers severe pain. She is registered under West Middlesex Podiatry who gave her a steroid injection to alleviate her symptoms, specifically severe and constant pain in her foot, skin, knee, back of leg and hip. As a result of her condition, Jenny could not walk more than 100 metres before having to stop as the pain was so severe; she could not sit longer than 40 minutes due to pain in her hip and could not stand longer than a few minutes due to pain and spent a lot of her day lying down. The constant pain made her extremely tired and she was unable to focus or concentrate on day to day tasks. However her GP and other health professionals responsible for her care had developed a detailed health care plan that was submitted in evidence in support of her ESA claim.

Jenny had a number of appointments set up for an ESA assessment which were cancelled by DWP and in the event she was forced to go by taxi to the appointment which finally took place. Despite her condition and the health care plan submitted in evidence she was judged to have failed her WCA and was told by DWP to consider getting a wheelchair for work purposes as she could sit in a taxi. This was entirely contrary to the care plan devised by her GP, and Jenny was concerned that getting into a wheelchair would make her condition and overall health far worse.

It is obvious in this case that the WCA and DWP had not considered carefully enough the implications of the health care plan submitted in evidence. It may be that the client will be fit enough to work in due course when the health care plan has taken effect; but that is not the same as being fit for work straightaway. A more sensible assessment would have been to award Jenny ESA in the WRAG with a reassessment within 12 months.

In addition, the WCA and DWP decision did not include any consideration of what type of work Jenny would be able to do. The fact that she could travel to an assessment in a wheelchair in a taxi is not sufficient evidence that she can get a suitable job in a wheelchair, particularly as she is in pain when sitting for any length of time, or that in her current condition she could maintain concentration to focus on sequential tasks.

B. **Personal Independence Payment (PIP) claims**

Example of zero points decision confirmed at MR but reversed on appeal

Mike is a 25 year old, single man who lives at home with his brother and mother. He has a long history of mental illness including depression, with symptoms of low

mood, lack of concentration, insomnia and inability to take pleasure in everyday activities. He also finds engaging with other people extremely stressful. Mike self harms and has had occasional emergencies where he has taken overdoses. He has a history of engaging with therapy for a time, and then feeling it is not effective, and so withdrawing. This can in turn lead to him not engaging with medical professionals, and at times going for an indeterminate period without treatment, leading to additional risk of a significant downturn.

Mike made a claim for PIP on 13th April 2015. The CAB helped him complete the form which was returned with medical evidence on 8th May 2015. The decision maker phoned Mike on 13th May but Mike could not remember anything said during the call. Mike was not called for a medical assessment and on 20th May received a zero points decision. This was at odds with the evidence in his claim form and his submitted medical evidence.

We recommended that Mike request Mandatory Reconsideration and he did so by phone on 28th May. With our help he submitted a further statement about his difficulties, linking them to specific PIP descriptors. Mike was still not called for a medical assessment face to face and the MR decision letter, dated 16th June, confirmed the zero points decision. We then assisted Mike with a tribunal appeal. The appeal was successful and on 23rd September Mike was awarded the standard rate Daily Living Component of PIP for four years.

There are two aspects of the two DWP decisions in this case that reveal systemic problems with the operation of PIP. First the points system for individual descriptors encourages a purely mathematical and mechanistic assessment of the claimant's ability to carry out individual activities. By taking a very strict view of each activity the Health Professionals and two DWP decision makers felt able to reach a zero points decision on Mike's ability to lead a normal daily life without considering whether this overall assessment was compatible with evidence of self harm, overdoses and intermittent use of treatment and therapy.

Secondly both the WCA and the MR were carried out without any face to face interview with Mike. It is striking that the Health Professionals felt able to make an assessment of Mike's ability to engage with other people face to face and award zero points without interviewing him face to face. The tribunal in their decision on appeal stressed that they had been influenced by Mike's oral evidence at the tribunal hearing and awarded him 8 points on the grounds that he was unable to form social relationships.

LETTER & QUESTIONNAIRE TO GP FOR WORK CAPABILITY ASSESSMENT

Name and address of health professional *DWP address*

Date

Dear Dr (*name of doctor or other health professional)*

Work Capability Assessment for *(name and address of patient)*

We are writing to you because we understand that you have information about the medical condition and treatment of X [name of patient], who has applied for [Employment and Support Allowance (ESA)] [Universal Credit (UC)] on the grounds of having limited capability for work or work related activity.

To assess whether X is eligible for this benefit we need evidence about the impact of his/her medical condition and treatment on his/her capability for work or work related activity both now and in the future. We would be grateful therefore if could complete the attached questionnaire and return it in the envelope provided or online at [internet link] within the next 4 weeks [or by *give date*].

Normally we also ask ESA and UC applicants to answer a questionnaire to provide information about how they are affected by their illnesses or disabilities and the treatment that they are receiving. If however you consider that because of his/her medical condition X would be unable to provide this information at the present time or that his/her condition is so serious and long term that there is no reasonable prospect of him/her being able to work please contact us urgently [*give phone number and email address*] to explain the situation.

If this letter and questionnaire have been misdirected because you do not have information about X's medical condition and treatment we would be grateful if you could let us know and if possible pass them on quickly to whoever does have this information.

Yours Sincerely

[*signature and position of DWP manager*]

CAPABILITY FOR WORK QUESTIONNAIRE FOR EMPLOYMENT AND SUPPORT ALLOWANCE AND UNIVERSAL CREDIT

Patient's Name: Patient's Address:

Details of your patient's condition:

Details of treatment including expected duration and medication.

Is your patient:

Awaiting Surgery – YES/NO

Estimated date for Surgery:

Recovering from surgery or surgery related complications-YES/NO

How long do you estimate the recovery period will be?

Awaiting or undergoing chemotherapy or radiotherapy- YES/NO

Recovering from chemotherapy or radiotherapy-YES/NO

In your opinion is it likely that your patient will be able to do paid work within the next 12 months? YES/NO

If YES please describe any areas of work you would disqualify purely on medical grounds

If NO, please provide reasons and explain how long it will be before your patient will be able to start preparing to do paid work by taking part in programmes or training linked to work.

In your opinion is it likely that your patient will never be able to do paid work?

YES/NO/NOT SURE

If YES, please explain why

YOUR DETAILS:

Name

Job Title and qualifications

Signature and Date

Surgery Stamp, hospital stamp or address details:

LETTER AND QUESTIONNAIRE FOR GP TO ASSESS ELIGIBILITY FOR EMPLOYMENT AND SUPPORT ALLOWANCE OR UNIVERSAL CREDIT AND PERSONAL INDEPENDENCE PAYMENT

Name and address of health professional *DWP address*

Date

Dear Dr (*name of doctor or other health professional)*

Work Capability Assessment for *(name and address of patient)*

We are writing to you because we understand that you have information about the medical condition and treatment of X [name of patient], who has applied both for [Employment and Support Allowance (ESA)] [Universal Credit (UC)] on the grounds of having limited capability for work or work related activity and for Personal Independence Payment (PIP) to help meet the additional costs caused by his/her disability or long term health condition.

To assess whether X is eligible for these benefits we need evidence about the impact of his/her medical condition and treatment on his/her capability for work or work related activity now and in the future and on his/her needs for support with his/her daily living activities and/or mobility. We would be grateful therefore if you could complete the attached questionnaire and return it in the envelope provided or online at [internet link] within the next 4 weeks [or by *give date*].

Normally we also ask ESA, UC and PIP applicants to answer a questionnaire to provide information about how they are affected by their illnesses or disabilities and the treatment that they are receiving. If however you consider that because of his/her medical condition X would be unable to provide this information at the present time or that his/her condition is so serious and long term that there is no reasonable prospect of him/her being able to work please contact us urgently [*give phone number and email address*] to explain the situation.

If this letter and questionnaire have been misdirected because you do not have information about X's medical condition and treatment we would be grateful if you could let us know and if possible pass them on quickly to whoever does have this information.

Yours Sincerely

[*signature and position of DWP manager*]

QUESTIONNAIRE TO ASSESS ELIGIBILITY FOR EMPLOYMENT AND SUPPORT ALLOWANCE AND UNIVERSAL CREDIT AND PERSONAL INDEPENDENCE PAYMENT

Patient's Name: Patient's Address:

Details of your patient's condition:

Details of treatment including expected duration and medication.

Is your patient:

Awaiting Surgery – YES/NO

Estimated date for Surgery:

Recovering from surgery or surgery related complications-YES/NO

How long do you estimate the recovery period will be?

Awaiting or undergoing chemotherapy or radiotherapy- YES/NO

Recovering from chemotherapy or radiotherapy-YES/NO

In your opinion is it likely that your patient will be able to do paid work within the next 12 months? YES/NO

If YES please describe any areas of work you would disqualify purely on medical grounds

If NO, please provide reasons and explain how long it will be before your patient will be able to start preparing to do paid work by taking part in programmes or training linked to work.

In your opinion is it likely that your patient will never be able to do paid work?
YES/NO/NOT SURE

If YES, please explain why

ADDITIONAL QUESTIONS RELEVANT TO PERSONAL INDEPENDENCE PAYMENT

In your opinion is your patient likely to need help from another person with any of the following activities on a daily basis:

Preparing or cooking food	YES/NO
Eating and Drinking	YES/NO
Managing medication or therapy	YES/NO
Managing severe depression	YES/NO
Washing/bathing	YES/NO
Managing toilet needs	YES/NO
Dressing/undressing	YES/NO
Communicating verbally	YES/NO

Reading/understanding written/typed information	YES/NO
Making social contact with other people	YES/NO
Making budgeting decisions	YES/NO

In your opinion is your patient likely to need help with their mobility ?	YES/NO
If YES can your patient stand or move more than a metre unaided?	YES/NO
If YES can your patient move more than 50 metres unaided ?	YES/NO
If YES can your patient move more than 200 metres unaided?	YES/NO
Is your patient unable to undertake a journey because of the psychological stress that it causes?	YES/NO
If NO can your patient plan and follow the route of a journey unaided?	YES/NO
Can your patient use public transport?	YES/NO
If NO can your patient drive a car?	YES/NO

Please add any comments you think relevant to explain difficulties that your patient may have in managing daily living activities and/or with mobility:

YOUR DETAILS:

Name

Job Title and qualifications

Signature and Date

Surgery Stamp, hospital stamp or address details: