The Work Capability Assessment
A Call for Evidence: Year 2 Independent Review

Submission from the Centre for Mental Health, Mind, the Royal College of Psychiatrists and the Scottish Association for Mental Health

Who we are

Centre for Mental Health
Centre for Mental Health is an independent, national charity that aims to help to create a society in which people with mental health problems enjoy equal chances in life to those without. We aim to find practical and effective ways of overcoming barriers to a fulfilling life so that people with mental health problems can make their own lives better with good quality support from the services they need to achieve their aspirations. Through focused research, development and analysis, we identify the barriers to equality for people with mental health problems, we explore ways to overcome those and we advocate for change across the UK.

Mind
Mind is the leading mental health charity in England and Wales. We work to create a better life for everyone with experience of mental distress by:
- Campaigning for people’s rights
- Challenging poor practice in mental health
- Informing and supporting thousands of people on a daily basis

A fundamental part of Mind’s work is provided though our network of over 180 local Mind associations who last year worked with over 220,000 people running around 1,600 services locally. Services on offer include supported housing, crisis help lines, drop-in centres, counselling, befriending, advocacy, and employment and training schemes. Over 30,000 people are supported by our national telephone help lines. Welfare reform is a key issue for many of the people Mind has contact with.

Royal College of Psychiatrists
The Royal College of Psychiatrists is the leading medical authority on mental health in the United Kingdom and is the professional and educational organisation for doctors specialising in psychiatry.
The Scottish Association for Mental Health

SAMH is a Scottish mental health charity which provides an independent voice on all matters of relevance to people with mental health and related problems and delivers direct support to around 3000 people through over 80 services across Scotland. SAMH provides direct line-management to respect me (Scotland’s anti-bullying service) and ‘see me’ (Scotland’s anti-stigma campaign).

Introduction

We welcome the opportunity to contribute to the Year 2 Call for Evidence. Our organisations deal directly with thousands of people with mental health problems and represent the interests of hundreds of thousands more. The Work Capability Assessment is probably the issue we receive the most contact about and it is an issue of huge concern to many of the people we represent.

We very much welcomed how the first year of the Independent Review recognised and substantiated the concerns we had with the WCA process, and we were pleased with the recommendations that emerged from the review. However, we are concerned that, although accepting these recommendations, the Government has taken a number of other steps (such as introducing new descriptors and a new range of conditionality and sanctions) that we feel will negatively impact on the people we represent. It is, as yet, unclear what the combined impact of the Year 1 recommendations and these Government decisions will be.

We also feel that there are some fundamental issues with the WCA that were not addressed in the first year of the review. While we recognise the limited time that was available and understand the decision to focus on ensuring the assessment process improved, we feel that now is the right time to be looking at these more fundamental issues.

We understand the motivation for requesting ‘robust evidence’ within the Call for Evidence. As such, our responses to the questions posed by the Call for Evidence are in part based on a survey of almost 300 welfare rights advisers carried out by the Disability Benefits Consortium (DBC) (of which a number of our organisations are members) asking what impact from the Year 1 recommendations they had seen. Although some advisers will generally only see cases where applicants have been assessed poorly (and hence there will be some sampling bias), we believe that they are nonetheless in the best position to gauge whether the standard of various parts of the WCA process have noticeably improved since the recommendations were produced.

We also recognise the limitations on our ability to present ‘robust evidence’ (as opposed to ‘anecdotal’ evidence), due to the limited data sources we have.

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1 The survey was carried out online between July 19th and August 17th 2011. Dissemination was aimed specifically at welfare rights advisers; there was an initial question about whether the respondent was a welfare rights adviser (a negative answer locked the respondent out); and we monitored the content of the qualitative responses to ensure that these appeared to be from genuine advisers. The results from the survey have been passed on to the WCA Review team.
access to and the self-selecting nature of our samples. However, we believe that our collective direct and indirect experience of the various stages of the process allows us to offer valuable insight into where things are going wrong and how these issues might be addressed. There is also an issue with the collection and availability of Government data in this area which makes it difficult to precisely understand and demonstrate exactly where the key problems reside in the WCA process.

**Response to Call for Evidence questions**

**Question 1: Have you noticed changes to the WCA process as a result of the Year 1 recommendations? If so, what are these changes?**

A. Process has improved  
B. Process has broadly stayed the same  
C. Process has got worse  
D. Not noticed / not sure

Since we would expect to continue to receive contact from people who have had bad experiences of the WCA even if the process had improved, our main source of information for this question is the DBC survey of welfare rights advisers, as well as talking to advisers linked to our organisations.

Key findings from the survey relating to this question include:

- 75% disagreed or strongly disagreed that Jobcentre Plus support to customers had improved since the beginning of 2011.
- Over 80% disagreed or strongly disagreed that customers felt better informed about their responsibilities or were more aware of the need to collect additional medical evidence.
- Less than 2% of respondents thought the Atos assessor was taking more notice of the free text box on the ESA 50 form and only 5% thought the JCP Decision Maker was making more use of it.
- Although 67% of respondents were aware of the Atos Customer Charter, 74% thought it had not changed behaviour and 65% thought it would make no difference going forward.
- 87% disagreed or strongly disagreed that the Atos assessor’s reports had improved during this period.
- Very few respondents believed that communications had become:
  - clearer (10%);
  - less threatening (12%);
  - less jargonistic (17%);
  - more clear in their explanation of the process (9%).
- Only 15% of respondents agreed or strongly agreed that Decision Makers had taken a more central role in the process.
- Most respondents disagreed or strongly disagreed that Decision Makers had improved in terms of:
  - Being more likely to seek further medical evidence (69%)
  - Giving greater weighting to medical evidence (62%)
  - Being more likely to overrule the Atos recommendation (69%)
- 60% of respondents were not aware of Mental, Cognitive and Intellectual Champions in their area.
• 55% of respondents had not noticed greater use of the reconsideration process since the beginning of 2011.

As discussed in the introduction, we recognise the potential for sampling error in the survey, both in terms of more dissatisfied advisers being more likely to respond and advisers being more likely to see cases of poor assessments. However, we do believe that this evidence clearly demonstrates that the Year 1 recommendations have not yet had a significant impact on the quality of the assessment process.

The fact that, in some areas, responses were slightly more positive than others does suggest that there have been some improvements, for example:
• Around 10-17% stating that communications to applicants had improved in various regards.
• 36% being aware of the Mental, Cognitive and Intellectual Champions.
• 15% believing that Decision Makers were taking a more central role and 16% believing that they were giving more weight to medical evidence.
• 36% believing that the reconsideration process was being used more and 31% believing this was having a positive impact on the fairness of assessment outcomes for the customer.

It is important to state that, at the time that these recommendations were made, although we supported them we believed that they would take a substantial amount of time to fully implement. We knew that some of the recommendations entailed a cultural shift in the working practices of those involved in the process and that there would likely be a significant lag between taking action to implement the changes and actually seeing the impact in the assessment process.

For this reason, some of our organisations called on the Government to delay the start of the migration of existing claimants of incapacity benefits until it was clear that the recommendations had taken full effect. The Government ignored this suggestion, claiming that the recommendations would be implemented in time for the beginning of the migration. We feel this evidence vindicates our concern that huge numbers of people are being put through a highly unsatisfactory process.

Although we recognise that the Independent Review was not in a position to prevent the start of the migration, we do believe that steps could have been taken which may have resulted in a more detailed consideration by the Government of whether to push ahead with the process:
• The recommendations could have been accompanied by a clear framework for evaluating whether they had achieved their desired impact. We understood the intent behind recommendations such as ‘putting Decision Makers at the heart of the process’ but feel that the lack of specificity about what was expected meant that the Government was able to claim to have implemented the change without needing to demonstrate the impact.
• A timeline for implementation which included proper evaluation of impact would have allowed the review to legitimately and explicitly suggest that
the migration process should be delayed until it was clear that the recommendations had achieved their desired effects.

In addition to the DBC survey of welfare rights advisers, SAMH ran a separate web based survey to gauge the subjective experiences of people who had recently undergone a WCA. This survey generated 42 responses. Of the respondents who had undergone an assessment in the previous 1-3 months, 68% felt their most recent assessment to have been worse than previously. This further indicates that, from the claimant’s perspective, the year 1 recommendations have not yet had a significant impact on the quality of the assessment process.

Question 2: Are there further areas of work that you think should be added to the programme of work for Year 3? If so, what should these consider?

A. Major areas of work required
B. Minor areas of work required
C. No more areas of work required
D. Don’t know

We believe that there are still fundamental questions about the WCA that need to be considered if the Independent Review is to thoroughly examine and affect the fairness and effectiveness of the process.

Although the first year of the review was very comprehensive in its exploration of the assessment process, it did not look in detail at who should be receiving the benefit. We believe this is a pre-requisite to accurately examining whether the WCA is correctly assessing people. Without this analysis, it is very difficult to disaggregate whether people are being allocated to unsuitable groups because of procedural flaws or more fundamental issues with the policy.

As we understand it, ESA exists as a separate benefit to Jobseekers Allowance (JSA) for a number of reasons and in order to serve a number of different ‘claimant profiles’. The Support Group is the most straightforward of these:

- Some people cannot work at all, because of substantial illness or disability, are not likely to be able to work any time soon, and cannot even engage in work related activity.
- These people need to be supported at a rate of income which allows them to live in dignity.
- In theory, it should be relatively easy to identify which applicants should clearly fall into this category, however there will also inevitably be borderline cases which are harder to allocate confidently, especially among those living with mental health problems.

The WRAG is more complicated:

- It is intended for people who cannot work at this time, because of their illness or disability, but can engage in some preparatory activity and should be able to return to work at some point in the future, with the right support.
• It is not reasonable to put the same requirements on these claimants that are put on JSA claimants.
• Since WRAG claimants are likely to be on benefits for a longer time than those on JSA and will probably find it harder to achieve employment, they are supported at a higher rate of income.
• It is harder to clearly define and identify which applicants should fall into this category as there will inevitably be a ‘grey area’ between WRAG claimants and those on JSA with slightly more complex needs than a ‘typical jobseeker’.  

As such, eligibility for ESA, and the WRAG in particular, is always going to be an inexact science due to the levels of subjectivity involved. Someone with, for example, a diagnosis of depression may believe that they will never work again but, actually, with some assistance and preparation may find that work is a potential option. Equally, someone with psychotic symptoms may not be aware of the extent of the barriers they face in finding and maintaining employment. In this context, terms such as ‘substantial illness or disability’ and ‘cannot work at this time’ become hard to clearly define.

Currently, these terms are essentially defined by the WCA itself, so that being ‘not able to work at this time’ simply comes down to ‘scoring 15 points on the WCA’. This seems problematic for a number of reasons:
• It means that the proximate reason for awarding the benefit and the ultimate reason for awarding the benefit become the same. It would seem preferable to have a situation where there was a clear understanding of who should be on the benefit (i.e. an ultimate reason) and a reliable method for identifying these people (a proximate reason).
• There is no clear way of verifying that people are being correctly placed in the appropriate groups since, as the key terms in the claimant profile are dependent on the WCA, the only way of gauging this is how they score on the descriptors. The descriptors have not been tested against a ‘gold standard’ (i.e. a more prolonged and detailed assessment to accurately gauge the most appropriate group) and so it is unreliable to use them as the sole indicator of eligibility.
• If you do not qualify for the benefit on the basis of the descriptors, then there is little or no recourse for arguing that you do fit the profile for the type of person who should receive the benefit. Even when appealing, scoring against the descriptors is the arbiter of eligibility.
• Since the benefit and the assessment are subject to change (e.g. changes to requirements put on a WRAG claimant and changes to the descriptors) there is no consistent basis over time for either deciding the appropriate claimant profile for each group or accurately assessing which individuals fall into these profiles.

We believe there needs to be an element of objective measurability built into these profiles so that there is a way to independently assess whether the descriptors have correctly allocated applicants. The claimant profile could

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2 A ‘typical jobseeker’ is obviously a difficult category to clearly define, however we have heard Ministers and civil servants use this term as a formal category within the pricing structure for the Work Programme.
specify, for example, that claimants in WRAG were expected to take at least $x$ number of months longer than a ‘typical jobseeker’ to return to work because of their disability or illness. This would mean that, if significant numbers of people being found ‘fit for work’ were subsequently taking substantially more time than this to find work as a result of their disability, it would be clear that the WCA was not accurately allocating applicants. It would also mean that customers would be able to hold the DWP to account if they felt that they hadn’t received adequate support in order to return to work within this period.

There are also two other major areas that we believe need to be looked at as part of the review process:

- **Collecting evidence:** We believe that people with mental health problems are in a particularly difficult position in terms of collecting additional medical evidence. Difficulties with motivation, comprehension and social contact may well mean that people do not collect sufficient evidence to present as part of their claim. Due to levels of understanding of mental health, it may also be necessary for people to seek evidence from more specialist healthcare professionals who may not be as easy to access as GPs. We believe that the collection of medical evidence should become standard procedure, particularly for applicants with mental health problems who are likely to find it harder to accurately self-report their problems than other applicants.

- **Representation:** We know that success rates for appeals are much higher when claimants have representation from welfare advice services or other forms of support. We also know from our own welfare advisers and caseworkers that initial applications are far more likely to be successful if applicants are assisted in completing their ESA50 (which is complicated and can be particularly hard for people who struggle to describe their own symptoms) and collecting relevant evidence. It is therefore highly unfair that those people who are not able to, or do not know how to access such support are at a significant disadvantage in the application process. Our welfare advisers are confident that it is some of the most vulnerable people who are being turned down for the benefit because they have no social or support networks to assist them in applying. With cuts to legal aid this situation will only get worse and the Government needs to seriously address this issue if it is to claim that the ESA application process is fair and that the benefit is helping those most in need.

- **Frequency of reassessment:** This is a particular issue for people who have appealed a decision, as they often find themselves called in for another WCA soon after the tribunal reaches its verdict due to the long delays currently being experienced. Most applicants and claimants, but particularly those with mental health problems, find the assessment process stressful and unsettling, and it can often lead to people’s health deteriorating. It would seem far more efficient and sensitive to seek evidence at tribunals as to whether the claimant’s health has significantly altered since the original assessment and to award the benefit prospectively accordingly. This practice could also be replicated when the DWP is looking to reassess a claimant: if evidence from relevant professionals (for example health or back-to-work providers)
suggests that the claimant’s circumstances haven’t particularly improved or worsened then it seems unnecessary to call them in for a WCA.

Question 3: At what stage should we stop making changes to the system and let the changes already being made bed in to ensure they are having the desired impact?
A. Don’t stop making changes until the process is considered theoretically perfect
B. A few more changes are needed, but then pause to see their impact
C. After Year 2 changes it will be time to assess what impact changes to date have had before making more
D. Don’t know

We feel that this question is slightly problematic in terms of the gap between options A and B. We feel that there are still significant improvements that need to occur and that there needs to be an ongoing and constant effort to improve the system and ensure it is working properly. This is not to say that we expect it to reach a point where it is “theoretically perfect” though, as we accept that there are always likely to be issues with the process.

We recognise that there is a need to assess the impact of the changes being implemented. However, we are concerned that this process of evaluation is compromised for a number of reasons:

- There do not seem to be clear indicators of what ‘success’ would look like in terms of achieving reform and so it is very hard to see how comprehensive evaluation can take place. Appeals rates are one indicator but it is difficult to isolate the causes that lead to overturned appeals and to identify the implications for other parts of the process.
- The Government seems to have little appetite for seriously assessing the impact of different changes and has certainly not made it clear whether and how it intends to do so.
- There have been a number of concurrent changes, alongside the Year 1 recommendations, which the Government has implemented which we consider somewhat contradictory to the recommendations and which will make it very difficult to independently evaluate the impact of different changes. These are explored in more detail below.

What the ‘success’ of reforms should look like may seem to be intuitive and obvious: fewer people being wrongly assessed, fewer appeals, greater applicant satisfaction with the process. However, each of these measures are problematic: as discussed above, it is difficult to know exactly which group people should be in (and hence if the decision is correct) due to insufficient claimant profiles; appeals levels could drop but this might be as a result of lack of support to do so rather than acceptance of decisions; accurately gauging applicant satisfaction has proved difficult.

Of course, this does not mean that such measures could not be valid sources of evaluation, but they would need to be examined very carefully to ensure that the impacts of different factors are being isolated. We do not believe the
Government is sufficiently committed to such detailed evaluation. In meetings with the Minister responsible for this area, it has been suggested that the key indicator of success will be a fall in overturned decisions at appeal. However, fewer successful appeals could be the result of fewer claimants receiving representation, so in itself this is not a reliable indicator.

We believe that any serious attempt to evaluate the impact of reforms of the WCA would need to look at all of the following factors:

- How well the descriptors identify people for the different groups based on an agreed ‘gold standard’ measure of what sort of claimants should be allocated to each.
- Ensuring that people allocated to each group are able to cope with the conditions and requirements this entails and that they are supported appropriately.
- How appeals have changed in terms of numbers of appeals and success rates, including a consideration of the impact of representation. Also monitoring exactly why appeals have been overturned and feeding this back to other parts of the process to ensure improvements.
- What shifts have occurred in allocations to each group – since most of the recommendations were looking to improve flaws in the system leading to people being wrongly declared ‘fit for work’ the only logical impact of the reforms would be for the rates of ‘fit for work’ decisions to decrease.
- Customer satisfaction with various parts of the process, carried out independently (i.e. not by Atos) taking account of customers opinions pre and post their decision (the decision is a key component of satisfaction in terms of whether people feel their assessment has been fair and should not be dismissed as somehow ‘tainting’ their opinion of the process).

During the period of implementation for the Year 1 recommendations, the Government has also made a number other changes to the system which will inevitably interact with the recommendations and impact on the fairness and effectiveness of the process. These include:

- Introducing changes to the descriptors recommended by an internal review in 2010 which were opposed by the vast majority of relevant charities and representative groups. In the DBC survey, over 90% of respondents disagreed or strongly disagreed that these changes had made the assessment more fair and accurate.
- Increased the levels of conditionality and sanctions for those in the Work Related Activity Group (WRAG) by making any work related activity recommended by an ‘employment advisor’ potentially mandatory, with severe sanctions available for those who do not comply.
- Proposals to limit contributory claims for those in the WRAG to one year.
- The introduction of the Work Programme, in which the payments made to providers – and therefore the level of employment support people receive – are contingent on the outcome of the WCA.

These changes combined represent a fundamental shift in the nature of the benefit that the Independent Review needs to take seriously in terms of
considering how fair and effective the WCA is. For example, an examination of whether the WCA is correctly identifying claimants who should be in WRAG is no longer valid if what this entails in terms of expectations has changed substantially.

Question 4: Does the Year 1 recommendation go far enough in placing the right emphasis on the face-to-face assessment?
A. Does not go far enough – still too much emphasis on the face-to-face assessment
B. Balance between the face-to-face assessment and the rest of the process now about right
C. Goes too far – now too little emphasis on the face-to-face assessment
D. Don’t know

As with the previous question, we feel this is difficult to answer given the options provided. We feel that there is too much emphasis on the face-to-face assessment as it stands, but this is because it is so flawed rather than simply in principle. Furthermore, although the recommendations went a long way in terms of calling for the emphasis to shift towards the Decision Maker and their ability to consider a number of sources of evidence, the DBC survey referred to previously suggests that this is not yet happening.

Furthermore, in SAMH’s survey of people who had undergone the WCA, 78% felt that not enough attention was given to all the information they provided and that the face-to-face assessment was the most important part. This figure was 63.2% for those respondents who had undergone their assessment in the previous three months.

There remains a fundamental issue with the assessments for people with mental health problems because of the reliance on self-reporting. Since people will often lack insight into their problems or will struggle to fully articulate them, they are at a significant disadvantage. This issue is compounded by the problems with lack of mental health expertise in the system.

Question 5: Do you have any robust evidence about the face-to-face assessment processes and outcomes which will help us make recommendations for future improvements?

We are uncertain about exactly what would qualify as ‘robust evidence’ in this context. We continue to receive large volumes of correspondence suggesting that the face-to-face assessments are rushed, impersonal, often insensitive, don’t seem relevant to or suitable for people with mental health problems, and are carried out by staff with insufficient expertise. Even after acknowledging the fact that our sample is self-selecting, and hence not necessarily representative, it is nonetheless worrying that so many people have had very negative experiences of the assessment process.

Comments given in response to the SAMH survey further highlight some of these issues:
“Most of the questions were irrelevant to me, and there needed to be questions geared towards depressive illnesses.”

“No consideration given to day to day coping.”

“Mental health is often not a straight forward yes or no answer.”

“I was not allowed to ask questions or speak about how my condition affects me. I was told to be quiet and what I said was not relevant as she only had to answer the questions on the computer. She had no knowledge of my condition which I think need changing.”

“The person had no knowledge of the problems I faced, she stopped the assessment half way through as she said she had enough to go on, I was refused ESA and had to go to appeal tribunal which was stressful and confusing.”

“Questions asked did not take into account my mental health problems and I feel that my dyslexia was overlooked.”

In terms of more quantitative date, we feel that appeal rates and successes are clearly indicators that the face-to-face assessments are flawed. This suggestion is often dismissed by the DWP on the basis that many decisions are overturned on the basis of additional evidence. However, there are a number of problems with this analysis:

- Although this is true of some cases, it is certainly not true of all of them. Our welfare rights advisers have suggested to us that many cases are overturned because the tribunal judges have asked more detailed and direct questions to the client which related closely to the descriptors, before coming to the conclusion that the claimant did indeed qualify. This contrasts with the approach taken in the assessment which tends to avoid asking applicants directly about the descriptors, presumably based on the belief that this would make it easier to ‘cheat’ the assessment.
- We have heard from a number of people who claim that the evidence was presented at the time of the assessment but it was simply ignored by the assessor and it wasn’t until their appeal that sufficient attention was paid to it.
- Around 60% of successful appeals involve claimants who scored 0 points on their initial assessment. Even where additional evidence is presented, if tens of thousands of people with significant enough disabilities or illnesses are scoring at least 15 points on appeal, an assessment designed to gauge the impact of their impairments which scores them 0 is clearly fundamentally flawed.

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3 Response to Parliamentary Question from Simon Hart MP: http://services.parliament.uk/hansard/ Commons/bydate/20110628/writtenanswers/part011.html
**Question 6:** Are you aware of any concerns about the face-to-face assessment, and if so where have these been focused?
A. HCPs approach and the way they carry out assessments  
B. HCPs understanding of conditions  
C. The report created during the assessment and the IT supporting the assessment  
**D. All three of these**  
E. Don’t know

As discussed above, we continue to hear negative reports about both the manner of assessments carried out by Atos and the level of expertise of assessors in terms of mental health problems.

In terms of the reports, we consistently hear from people going through the system that, when they request their reports, they find them to be very inaccurate accounts of their condition and how they reported it. One particularly striking issue from looking at some reports is that the absence of symptoms that *may* occur with some conditions is frequently used as evidence that the impairment is not serious. For example, the fact that an applicant was not ‘rocking and sweating’ is used to suggest that their anxiety is not serious. This is simply a logical fallacy: a symptom that would be sufficient to indicate a condition is being used as if it were necessary to indicate the condition. Huge numbers of people will experience anxiety without displaying these symptoms and yet their absence is used to suggest that the applicant’s condition is not substantial enough to warrant scoring on a given descriptor. This flaw seems to be reflective of a more general approach where, in examples we have seen, the assessors seem to be seeking only sufficient evidence to discount an applicant from scoring on a descriptor rather than all the necessary evidence to make a fair and balanced judgement.

Linked to this is the LiMA system that structures the assessment. Our initial impression of the LiMA system, based on second-hand accounts of assessments, was that it was quite influential in guiding and influencing the assessor. However, after a recent demonstration, our concern is that, conversely, it leaves the assessment too open in terms of what areas the assessor covers and what information they collect. We believe a good assessor could use the system to collect a large amount of relevant information about the individual’s condition and impairments (including information about fluctuation). But since there are very few required areas of information collection, a poor assessor could miss key information which is vital for deciding whether they should score on the descriptor. This issue is compounded by issues with self-reporting for people with mental health problems; the indirect lines of questioning used in the assessment; and the insufficient expertise of the assessors.

In addition, after watching this demonstration, it was particularly notable that the level of information collected (particularly if this process was comprehensive) was highly incompatible with the nature of the descriptors. Since the majority of the descriptors principally measure one variable (such as severity or frequency) they are simply incapable of reflecting the level of detail that could (and should)
be collected during the assessment. This reinforces our belief that the narrow and one dimensional nature of the current descriptors means that they are wholly inadequate for fairly and accurately assessing applicants with mental health problems.

**Question 7:** If you have heard specific concerns about the IT supporting the assessment, do you have any robust evidence about how this adversely affects the assessment or its outcome?

Our concerns about the LiMA system discussed above are based on first and second hand experiences of the system. It is not entirely clear what ‘robust evidence’ would consist of in this context.

**Question 8:** Is there a need to present and explain the face-to-face assessment in a different way, making it very clear to claimants what it will involve and how a functional assessment relates to work capability?

A. Urgent need to present and explain the face-to-face assessment in a different way

B. A need to present and explain the face-to-face assessment in a different way

C. Not sure whether there’s a need to present and explain the face-to-face assessment in a different way

D. No need to present and explain the face-to-face assessment in a different way

E. Definitely no need to present and explain the face-to-face assessment in a different way

As with previous questions, we find it difficult to entirely endorse one of these options. Our experience suggests that there often is a mismatch between what applicants are expecting the assessment to be like (i.e. more of a ‘medical’) and what it is actually like. However, to an extent we believe that people are right to feel disappointed that the assessment did not seem to really take account of, or explore the impact of their medical condition and that instead it focused on ‘functional’ factors that did not seem particularly relevant or sensitive to their circumstances.

We accept that the assessment is supposed to look at the functional impact of someone’s impairments in relation specifically to work, rather than simply assessing the severity of their diagnosed condition. However, we do not feel that the functional impact of mental health problems is accurately taken into account and, in addition, we do not feel that the level of functionality being assessed is representative of working life. Not only does it not take account of a number of areas of function that most jobs would require, it also focuses on how the person currently functions rather than how they would be able to function at work. As such, it is understandable that applicants are often cynical about the suggestion that the assessment has gauged their functional ability to work.

The idea that the assessment is ‘functional’ rather than ‘medical’ is also used by the DWP to argue against the suggestion that HCPs should have relevant
medical expertise to the applicant they are assessing. We believe this argument is erroneous because relevant expertise would surely assist the assessor in ensuring that they are examining the most relevant aspects of functionality and that they understand the information provided by the applicant.

We therefore feel that, overall, confusion about the purpose and nature of the assessment is not limited to applicants for ESA – from those who designed the process and those carrying it out, it is far from clear exactly what the assessment is supposed to be gauging and how effective it is at doing this.

*Question 9: What one thing would you change about the WCA to make it operate more fairly and effectively?*

It is extremely difficult to identify just one particular change as being the ultimate change needed in relation to the WCA. It is highly unlikely that any change taken in isolation would be sufficient to ensure that the WCA operated more fairly and effectively. Since this submission is from a number of charities concluded that it was legitimate to specify a number of changes:

- As discussed above, there is a fundamental issue to be addressed in terms of clearly defining and explaining who should be eligible for each of the groups within ESA. These definitions or profiles should not be largely contingent on the WCA itself, as the current definitions appear to be. An objectively measurable element to these profiles would mean that the effectiveness of the descriptors could be properly assessed.

- Given that the descriptors lie at the heart of the WCA, they perhaps warrant the most urgent attention. At present, the one dimensional and constricted nature of the descriptors means they are fundamentally flawed in their ability to fairly assess applicants with mental health problems. This view was also shared by the majority of people surveyed, and spoken to, by SAMH who have undergone the WCA:

  “Look at how the points system fails to capture the mental health problems.”

  “Better descriptors to reflect my mental health more understanding of mental ill health more knowledge for the assessor better assessment more time accurate recording at WCA”

  “It should be able to accurately assess a person’s ability to realistically be able to work and/or have a quality of life”

- Even with improved descriptors, face-to-face assessments could be unreliable for a range of reasons including subjective judgements made by the assessor, or the applicant not being able to articulate their problems on the day of assessment. As such, there must be a concerted
effort to ensure that, as recommended in the Year 1 review, the face-to-face assessment is placed in context as a composite part of a much wider assessment process.

We would also recommend that the qualitative comments from the respondents to the DBC survey are considered as responses to this question. Although the welfare rights advisers were asked to suggest ‘no more than three’ changes, many have focused on just one and all offer a valuable insight into what problems with the process are commonly seen by advisers.

September 2011