

EBR charity group response to the 5th Independent Review of the WCA

NAT on behalf of the charities involved in the evidence-based review (EBR):

**Crohn's and Colitis UK
Forward ME Group
Royal Mencap Society
Mind
MS Society
NAT (National AIDS Trust)
The National Autistic Society
Parkinson's UK**

1. Introduction

The EBR charity group welcomes the opportunity to make a submission to the 5th Independent Review of the WCA. The EBR has been a key part of the Independent Review programme since 2011 and its findings point to specific improvements that could be made to the WCA in the short- and longer-term.¹

The charity group vehemently disagrees with a number of specific conclusions that the Government has drawn from the findings of the EBR. We are extremely concerned that the DWP has inappropriately interpreted some of the results which will limit the positive impact that the EBR could have on the future of the WCA.

We are not alone in voicing these concerns. The recent Work and Pensions Committee Enquiry into ESA and the WCA also scrutinised the EBR process and what should be claimed from that data.²

The Committee also criticised the pace of change to the WCA and DWP's actions on recommendations from previous reviews, and disappointingly despite the work that took place on the EBR since 2012, it appears there is little appetite within the Department for more substantial, meaningful change.

2. Descriptor change based on the EBR

We would like to express our disagreement with the following statement from the Government Response to the EBR:

Our assessment is that there is no evidence that changes to the WCA descriptors would significantly improve the overall assessment. However, the findings we have summarised indicate where it might be possible to make practical improvements to the assessment process (paragraph 14).

¹ <https://www.gov.uk/government/publications/work-capability-assessment-evidence-based-review>

² <http://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/inquiries/parliament-2010/esa-wca-inq-2014/>

This is a conclusion which simply cannot be drawn from the findings of the EBR, for the following reasons:

- The EBR was a process designed to test specific amendments to descriptors which were recommended by the charities at the invitation of the Independent Review and DWP. These charities were included because of their expertise in specific types of impairment (fluctuating conditions, mental health conditions and learning disabilities). The research was not asking any broader questions about the WCA.
- Throughout the development of the Alternative Assessment (AA), the EBR charity group emphasised that it would be inappropriate for the test to be treated as a simple comparison of one assessment versus another, where one would be considered 'stronger'. We were reassured that the intention was to test key principles of the AA and that insights into ways the descriptors may be improved would be properly considered following the testing process.
- The key principles of the AA to be tested were not limited to issues relating to implementation, as may be assumed from the Government Response, but were also around the design of descriptors and how individual claimants' limitation was recorded and scored. The AA developed a 'multi-dimensional' approach which would allow the assessor to record both the severity and frequency of the functional limitation within the descriptor. This approach was found to be successful in prompting assessors to formally consider both dimensions when recording their observations.
- The AA was tested on as close to a representative sample of ESA claimants as could be recruited (although the final sample size was much smaller than had been originally planned). It did not pose any problems for this group, who tended to slightly prefer the AA.
- The AA has not been further tested with those populations who are most relevant to its recommendations. For example, only a handful of participants in the sample had conditions which would allow comparison of the WCA's continence descriptor against that of the AA's continence descriptor. There were very few claimants included who have complex fluctuating and progressive conditions, meaning we cannot draw any conclusions about how the AA descriptors may improve their assessments. A number of charities involved in the EBR process, including the MS Society, Parkinson's UK and Crohns and Colitis UK are particularly concerned that there was very limited testing of the conditions they represent, and for which some of the AA recommendations are particularly appropriate.

We would also like to draw the Independent Review's attention to the following conclusion from the Work and Pensions Committee's scrutiny of the EBR process and its findings:

"We welcome the Evidence Based Review as a step towards evaluating the effectiveness of the WCA descriptors. However we do not believe that the Review was sufficient in itself to lay to rest concerns about the descriptors. There were factors both in the way the Alternative Assessment was piloted, and in how its

outcomes were compared with those of the WCA, which limit its value as a comparative test.”³

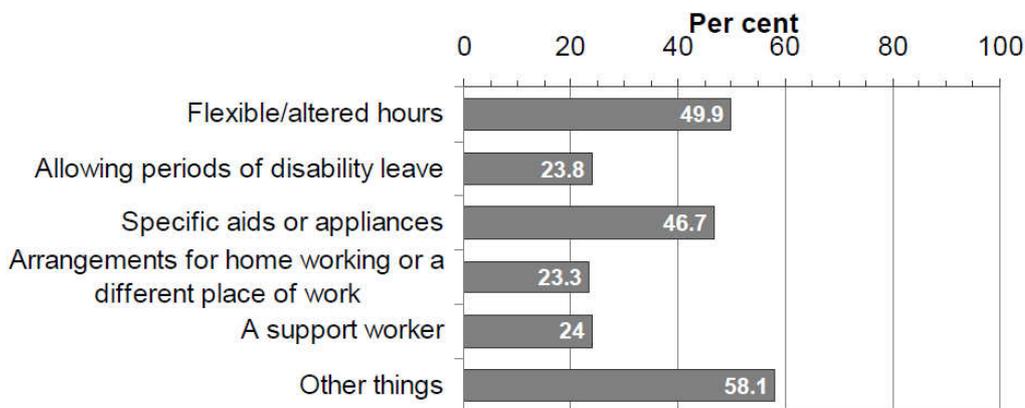
Recommendation: The Independent Review should look again at the potential improvements to descriptors which emerge from the EBR – especially the multi-dimensional approach to recording and scoring the impact of impairment.

3. The expert panel process

The EBR was originally intended to implement Professor Harrington’s recommendation that a ‘Gold Standard’ test of fitness for work be developed, in recognition that there is no agreed definition of ‘fit for work’ underpinning the WCA. The execution of the Expert Panel process clearly illustrated that such a Gold Standard is not a workable alternative to an objective definition of ‘work’. The most problematic area was the extent to which expert panels’ ‘fit for work’ assessment (made in 70% of cases) relied upon the assumption that a broad range of reasonable adjustments would be in place.

Of those found ‘fit for work’, 83% needed reasonable adjustments as follows:

Figure 4A Adjustments recommended for claimants considered to be fit for work



Source: DWP, *Evidence Based Review of the WCA*, December 2013.

It is not realistic to assume that 50% of people found ‘fit for work’ by the WCA will be able to get the flexible hours they need, or that 47% would be able to access aids and appliances – let alone 24% needing a support worker.

The comments provided by the Expert Panels also show that in the absence of an objective definition of work, there may be a temptation to instead take an aspirational

³ <http://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/inquiries/parliament-2010/esa-wca-inq-2014/>

approach to fitness for work: the idea that any disabled person can work if the right support is provided. For example:

“Once again it would appear that this individual is being under- managed medically and lack of work activities is exacerbating condition.”

“Quite complex. She would need significant adjustments and support, but we feel she would be capable of some work and it would likely be beneficial to her wellbeing. Part time work would be appropriate plus support with pacing. Types of jobs-call centre, administrative, reception (with flexible, part time hours). The [health] problem would possibly require disability leave....”⁴

- expert panel comments on specific cases

This attitude is a laudable one but does not align with the treatment that people found ineligible for ESA currently receive. Someone who needs a daily support worker is of course able to work given this support. But s/he is also going to have impairment/s which will make the journey (back) to work extremely challenging.

Indeed, it appears that the Expert Panels fundamentally misunderstood the purpose of the WRAG group, which should be to provide the tailored support needed to find work for those who are held back by workplace/social barriers and have a realistic prospect of returning to (or entering) the workplace.

Recommendation: The DWP must develop an objective definition of ‘work’ and ‘fitness for work’.

4. Year Four commitments and progress against these

We were encouraged by the following two commitments the DWP made in relation to the EBR, in the Government’s formal response to the Year Four Independent Review:

- *DWP will explore practical improvements to the assessment process in light of the EBR findings, in particular the feasibility of healthcare professionals using prompts from a semi-structured topic guide for WCA discussions.*
- *DWP will also explore the scope to further review healthcare professional training and guidance on considering and recording fluctuation during assessment discussions without placing undue burden on claimants.*

While we believe these changes would have the greatest positive impact if combined with the introduction of a multi-dimensional approach to descriptors, we agree that the semi-structured interview approach and better training on fluctuation would improve how the existing WCA is implemented.

The semi-structured interview approach was well-received by both claimants and assessors involved in the EBR, for example:

“The second did not feel like an interrogation. It was more relaxed and was able to elaborate on my status/condition.”

⁴ DWP, *Evidence Based Review of the WCA*, December 2013.

"Had more chance to express how I felt. More rapport-'going outside the box'⁵
- claimant comments on semi-structured interview

The semi-structured interview approach and topic guides could and should be introduced immediately. However, we have had no formal commitment or timelines from the DWP around this work, and indeed have heard that it will be delayed until late 2015. This makes no sense given a new WCA provider due to start their contract in early 2015 and could from the start adopt the semi structured interview approach using the work already completed by DWP consultants for the EBR.

Recommendation: The semi-structured interview approach and associated topic guides should be developed immediately for implementation by early 2015 at the latest. Charities such as those involved in EBR process should be involved in this work.

We also await specific details of how training and guidance would be improved. Again there is no need for delay on this piece of work.

Recommendation: DWP should commence work immediately on improving training and guidance on fluctuation. Organisations representing people with fluctuating conditions should be included in this process.

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⁵ DWP, *Evidence Based Review of the WCA*, December 2013.