

National Association of Welfare Rights Advisers

The National Association of Welfare Rights Advisers was established in 1992 and represents advisers from local authorities, the voluntary sector, trade unions, solicitors and other organisations who provide legal advice on social security and tax credits.

We strive to challenge, influence and improve welfare rights policy and legislation, as well as identifying and sharing good practice amongst our members.

NAWRA holds a number of conferences throughout the year across the UK, attended by members from all sectors of the industry. An integral part of these events are workshops that help to develop and lead good practice.

Our members have much experience in providing both front line legal advice on benefits and in providing training and information as well as policy support and development. As such NAWRA is able to bring much knowledge and insight to this consultation exercise.

The response has been put together from evidence collated through a questionnaire to members. It is a representation of views from frontline advisers and their clients from across the UK.

We asked our members how they thought we could ensure that Jobcentres can support the provision of the right personal support at the right time for individuals. Among the quantified responses were comments supporting work coaches beginning at the origin of the claim starting from the claimant commitment and making services more accessible for personal visits and free by phone. Work coaches should be flexible in the method of communication and contact with claimants according to the claimant's needs, and be able to spend more time with them where needed. We recognise that there have been significant

staff cuts within the public sector, so that those who remain are under considerable pressure in terms of the work that they have to cover and people they need to see. A recurrent theme in our survey indicated that members would support an investment in recruitment and training of staff, with one responder stating; "requires a major change in attitude and tolerance level. At present individuals are treated with scepticism and intolerance and people with disabilities and language difficulties are not tolerated at all." Alongside training, work coaches should liaise with other professionals already working with claimants – who are likely to have a far greater understanding of how their health impacts on their ability to work – and should accept evidence from these professionals about the level of work-related activity that is realistic for the claimant. The onus of evidence-gathering to support claims is too often put too much onto claimants themselves. Bringing back Disablement Resettlement Officers would also be effective and popular. Greater use of HCP reports from ESA/UC for PIP and vice versa needs to be given much caution as the tests have different purposes. The reports are often of a poor quality and may be out of date. That notwithstanding, we rarely see a report supporting clients' claim for one benefit being used for the other – only those that impugn the claimants' evidence even when the report relates to a decision that has been successfully challenged either by mandatory reconsideration or at tribunal stage.

Allied to this was the feeling that work coaches were ill equipped to work with the needs of disabled clients where partner organisations had a wealth of experience and expertise. Changes to Access to Work has been difficult with more experienced staff leaving and those who remain not being aware of the options available or the needs of the claimants. Many of our members who work with people who have disabilities or have disabilities themselves are finding Access to Work less responsive and almost that they are being discouraged from their application for help to remain in work. Much more of the onus is on applicants to manage their own support workers for example, where Access to Work previously used agencies. This adds to the workload and when a support worker is off, there is no replacement to support the disabled person, no training in management of the worker

and a potentially difficult relationship between the disabled person and the support worker.

We know the implications of the Equality Act 2010, but employers are likely to face additional costs when they employ a staff member who has a disability. One example of this is when Access to Work previously reimbursed the cost of adapted chairs but now insists that an employer must provide them. This can act as a disincentive to employ a disabled staff member and whether because of subtle or more blatant discrimination many disabled candidates report a fear of disclosing their disability. The cost of exercising a statutory right in taking a case of discrimination to an independent tribunal is prohibitive and few people who are unemployed can afford to take the risk of pursuing a claim. In those circumstances, one respondent suggested that the best help that jobcentre plus can offer to help those in work to stay in work would be “ongoing and positive relationships and employment legal advice to ensure all parties are aware of their rights and responsibilities.”

For those who develop a disability whilst working with an employer, there is little support apart from a referral to the company’s Occupational Health department and this is often seen as the first stage in removing them from their position. Access to Work demand a 20% contribution from an employer towards the costs of support when the employee has been in post for more than 6 weeks, and this is not always possible from small employers.

Many studies have shown the link between physical and mental health¹². We acknowledge that ideally physical activity improves mental wellbeing³, but for many people that is not possible because of their physical disability. Again, many of the people who responded to our survey mentioned the expertise already held by relevant specialist and disability groups that may be utilised with the possibility of job shadowing to allow greater

¹ <https://www.mentalhealth.org.uk/a-to-z/p/physical-health-and-mental-health>

² <https://www.kingsfund.org.uk/time-to-think-differently/trends/disease-and-disability/mental-and-physical-health>

³ <http://fitstar.com/5-ways-physical-health-impacts-mental-health/>

understanding of the challenges and best practice of each aspect. Mention has been made of using Cognitive Behavioural Therapy as a tool to help people back to work. Whilst we understand that this short term counselling may be helpful for some people to get back into work, it is far from a panacea and there are people who have much deeper-rooted problems including Post Traumatic Stress Disorder and some psychoses who could be very traumatised by this as part of a claimant commitment.

The stigma that accompanies mental health means that many people who suffer from it either lack the insight into their health problem or are reluctant to disclose, especially to people they do not know. Our members have indicated that where a health professional is already working with a claimant, that knowledge should be used to formulate the claimant commitment and whether the claimant states that s/he can look for work full time if their condition or the professional indicates that this would be unsustainable. We do not believe that claimants deliberately act to attract sanctions, and certainly not repeatedly. If the claimant commitment is not appropriate at the outset, our experience suggests that claimants find it very difficult to challenge those to have them reflect their ability to adhere to the commitment and to avoid sanctions. Studies do not support the view that sanctions are an effective way of modifying behaviour⁴⁵ and it is extremely doubtful that the picture is different for those amongst our most vulnerable in society.

There was an overwhelming response from members that the external groups could perhaps work with Jobcentre Plus staff to meet the needs of disabled clients but the voluntary sector should not be seen as a cheap replacement for funded public sector roles. We often hear that everyone will be better off in work, but we know that is not always the case, either financially or in terms of health, and it is not helpful for claimants to be presented with this mantra without thought for her/his individual circumstances. Financial incentives for moving into work are also

⁴ <https://www.gov.uk/government/collections/jobseekers-allowance-sanctions>

⁵ <https://www.nao.org.uk/report/benefit-sanctions/>

important, for example like the former 'Return to Work' Credit up to October 2013, improved UC work allowances, and more generous permitted work limits.

In some countries on the continent, the fact that a GP states that someone is unfit for work is sufficient to satisfy the conditions of the equivalent of ESA and employers. This compares unfavourably with the regime in the UK where many attending physicians report concerns the undermining of their professional opinions relating to patients with whom they spend time to build a relationship. They also have access to their patients' medical histories rather than the 'snapshots' from ESA or PIP assessments that disability analysts provide to decision makers. Of course, the NHS funding crisis is such that many doctors are unable to spend as much in terms of time or money on supporting their patients as they would ideally like. This indicates that a better use of money may be to fund those projects through the NHS rather than spend billions of pounds on outsourcing the assessments.

Amongst claimants and advisors there is scepticism that DWP uses any of these consultations as a means of saving money and not properly funding programmes to fit the needs of the claimant or expecting the voluntary sector to meet these needs. The overwhelming response from advisors to our survey was that insufficient resources were invested to provide this service to clients who may be able to carry out some work with support. There was also a scepticism that the government was demanding that people work without consideration to the impact on their health problems or thought to the local labour market and whether in fact jobs were available. This again is an exercise of expecting the third sector's input or employers to meet the additional costs of employing a person with a disability.

The question of whether targeted health and employment support should be offered to individuals in the ESA Support Group and UC equivalent brought a response of yes by 64.3% to 35.7%. The concern would be similar to the criticism of dismissing advice and treatment recommended by the patients' medical staff in favour of a system based on a punitive system

from a health assistant who may see the claimant on a one off basis. We would be committed to the view that offers of support must be on a purely voluntary basis for the claimant.