

# CAB Evidence Briefing

## Employment and Support Allowance

### CAB evidence on the administration of Employment and Support Allowance in Northern Ireland

#### Executive Summary and Recommendations

This report focuses on the administration of Employment and Support Allowance (ESA) in Northern Ireland. Its findings and recommendations do not seek to apportion blame but rather identify the problems being experienced with the benefit by CAB clients. Citizens Advice is aware that many of the issues with the administration of ESA are due to budgetary constraints which are beyond the direct control of the Social Security Agency (SSA). Nonetheless, many of the concerns outlined in this report need to be addressed. Therefore this report is aimed at assisting the SSA to make improvements to the current service provision within ESA and consequently achieving a better experience for all claimants of the benefit.

The main problems with ESA are in the following areas:

- 1. Administration problems**
  - 1a. Delays in Processing ESA**
  - 1b. Lost Documents**
  - 1c. Lack of communication/follow-up**
- 2. Waiting times and the cost of making calls to ESA**
- 3. Incorrect / Incomplete / Misleading Advice from ESA**
- 4. The Work Capability Assessment**
  - 4a. The Nature of the WCA**
  - 4b. Delays in getting a WCA**
- 5. Transferring from other Social Security Benefits**
- 6. Other Issues**

**Citizens Advice recommends that action is required in the following areas in order for the administration of ESA to improve:**

### **Policy**

- The Work Capability Assessment (WCA) should be reviewed with a view to assessing its suitability in identifying those with limited capability for work.
- Steps need to be taken to ensure that those applicants who are exempt from the WCA are correctly identified as soon as they apply.
- Claimants should be allowed to apply for ESA before their Income Support or Jobseeker's Allowance has ceased to ensure that there are no gaps in the payment of benefit which can subsequently lead to financial hardship.
- The descriptors used to award points for mental health issues should be reviewed.
- Where mental health conditions are present a specialist in mental health should carry out the WCA.

### **Telephony**

- The call centre should be evaluated to ensure that it is handling calls in the most effective manner.
- The performance of call handling staff should be continually reviewed to ensure that time spent on hold is reduced.
- All telephone numbers used to contact ESA for both claimants and third sector organisations should become Freephone numbers. This should include callers from all mobile phone networks.

### **Resourcing**

- Additional staff should be recruited to cope with existing demand and to deal with outstanding cases. In particular the call centre should be sufficiently resourced to cope with demand.
- Medical Support Services (MSS) should seek to ensure that there are suitable numbers of qualified doctors available to perform Work Capability Assessments to ensure that claimants do not suffer financial hardship due to delays in getting a WCA.

### Staff Training

- Improved staff training in relation to ESA itself, and also across the whole social security benefits system, is of critical importance. This would help to reduce instances of misinformation and incorrect advice. It would also help to speed up clearance times and assist claimants to identify and access other social security benefits where appropriate.

### Administration

- Improved recording systems to acknowledge the receipt of documents and track their progress through internal systems need to be established.
- Greater ownership of cases by ESA staff so that communication between them and claimants/advisers is improved so that any issues are progressed and claimants are kept informed about the status of their claim and any action they may need to take.

## Introduction

Since 27th October 2008, Employment and Support Allowance (ESA) has replaced Incapacity Benefit and Income Support paid on grounds of incapacity for new customers. ESA offers *“personalised support and financial help if people are not working due to an illness or disability.”*<sup>1</sup>

The policy motivations for this reform were driven by the Government’s desire to reduce the number of people on Incapacity Benefit and to ensure that more people were defined as capable of carrying out some type of work. *“The aim of these proposed reforms is to deliver a step change in support and expectations for people currently written off and trapped on benefits as a way of life. These reforms mark a radical shift towards a truly active and personalised welfare state, boosting employment and tackling long-term benefit dependency. They will go a long way to helping us achieve our goal of reducing the number of people on incapacity benefits by one million.”*<sup>2</sup>

Under ESA greater emphasis is placed on the requirement to engage in work-related activities. In order to access ESA most applicants must now undergo a new type of medical assessment<sup>3</sup> called the Work Capability Assessment (WCA). *“For both physical and mental health conditions, the WCA focuses far more on what an individual can do rather than what they cannot.”*<sup>4</sup>

The application and assessment process for ESA consists of two phases:

- **The Assessment Phase** - during this phase applicants will be paid a rate equivalent to that of Jobseeker’s Allowance. This rate is paid for the first 13 weeks of the claim while a decision is made on capability for work through the WCA.
- **The Main Phase** - this phase starts from week 14 of the client’s claim. If the WCA shows that their illness or disability does limit their ability to work they will be placed in one of the two groups – either the Work Related Activity Group or the Support Group. If the WCA shows that ability to work is not limited, entitlement to ESA will cease.

In the main phase applicants judged eligible for ESA will either be placed in the Work Related Activity Group or the Support Group. Those in the Work Related Activity Group will be expected to take active steps to prepare for a return to employment while those in the Support Group will receive a guarantee of a higher basic rate of benefit and can still volunteer for work related activity if they wish.

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<sup>1</sup> Key Facts about Employment and Support Allowance, [www.dsdni.gov.uk](http://www.dsdni.gov.uk)

<sup>2</sup> No one written off: reforming welfare to reward responsibility, DWP, July 2008

<sup>3</sup> CAB notes that some applicants will not be required to undergo this assessment

<sup>4</sup> No one written off: reforming welfare to reward responsibility, DWP, July 2008

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At the time of its introduction Citizens Advice was concerned about the policy implications given the likely impact of ESA in Northern Ireland. Citizens Advice felt that the effects of the introduction of ESA would be felt more acutely here as there were more Incapacity Benefit claimants in Northern Ireland as a percentage of the working population than in Great Britain. In Northern Ireland there were over 111,000 people receiving Incapacity Benefit representing 10.4% of the working age population. This compared to the UK as a whole where there were over 2.5 million claimants only representing 6.7% of the working age population.<sup>5</sup>

Nearly one in five people in Northern Ireland receive some form of out-of-work benefit, a higher rate than in any of the regions in Great Britain. Within this total the biggest group of claimants remains those who are sick or disabled (two-thirds of all working-age claimants), representing some 12% of all working-age adults in Northern Ireland compared with the Great Britain average of just 7%.<sup>6</sup>

Benefit Uptake work is an increasingly important part of the work of Citizens Advice in Northern Ireland. In 2008 Citizens Advice became the sole provider of the Social Security Agency (SSA) funded Benefit Uptake Programme. Upwards of 25,000 customers were contacted under the three categories<sup>7</sup> forming the project. This programme resulted in an additional 1,800 claims for benefit being identified which in turn amounted to £5.7 million annually. Citizens Advice also delivered the 2009 Benefit Uptake programme where a further 25,000 customers were contacted inviting them to participate in a benefit entitlement check. Entitlement to ESA was covered in the 2009 programme and formed part of the holistic advice offered by CAB advisers. The 2009 programme focused on older people, those with a disability, carers and families with children. An additional 1,887 claims for benefit were identified which amounted to £6.1 million annually. People who benefited from the project were on average better off by £55 per week with average arrears of benefit of £535.

Through our work on benefit uptake and general observations in work with clients, CAB managers and advisers have observed a number of barriers to people making a claim for benefits. These include the complexity of the benefit system and clients confusion about benefits generally, client's fears about their eligibility following a high profile SSA fraud campaign and issues relating to privacy and stigma.

Citizens Advice has prepared this evidence report to illustrate the problem areas with the administration of ESA. It is hoped that this report will also help to identify the processes and procedures within the administration of ESA which can be amended or improved for the benefit of both claimants and staff. Citizens Advice

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<sup>5</sup> Incapacity Benefit Claimants – May 2007, DWP data, Nomis

<sup>6</sup> Monitoring Poverty and Social Exclusion in Northern Ireland, Joseph Rowntree Foundation, [www.poverty.org.uk](http://www.poverty.org.uk)

<sup>7</sup> Attendance Allowance, Families and Pension Credit

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aims to do this through highlighting the experiences of our clients when making and progressing applications for ESA and in their dealings with ESA personnel.

An important aspect of the work of Citizens Advice is to carry out social policy work and advisers in individual bureaux across Northern Ireland have the facility to complete 'social policy evidence forms' when they identify a social policy issue. These forms contain details of the problem or difficulties a client has faced in a particular area and the effect this has had on them. These forms are an invaluable source of information on the effect that many Government policies and procedures have on the lives of individuals. The case examples used throughout this report are summaries of these social policy evidence forms which have been received on the issue of ESA.

In 2009/10 Citizens Advice Regional Office received over 1,700 completed social policy evidence forms from its network of member bureaux across Northern Ireland. 230 of these (13% of the total) related to problems with ESA and since its introduction this benefit continues to be one of the top social policy areas reported by advisers. In all but two months during 2009/10 more social policy forms were received about ESA than any other issue. This is therefore a large area of concern and raises questions about the adequacy of the existing administration procedures in ESA.

Statistics for the reporting year 2008/2009 show that Citizens Advice in Northern Ireland dealt with a total of 2,170 ESA issues<sup>8</sup> and during 2009 the number of issues increased substantially as it was the first complete calendar year that ESA had been in existence. During 2009/2010 advisers working in Citizens Advice Bureaux across Northern Ireland dealt with in excess of 11,428 related ESA issues<sup>9</sup>.

These statistics and the volume of social policy returns received indicate that this is an area that needs highlighting to policy makers and those within the SSA who are responsible for the administration of ESA.

The introduction of a new benefit has been a huge challenge for the SSA and makes new demands on all those involved. It is also acknowledged that with a live caseload of 19,000 claims in May 2010,<sup>10</sup> the majority of claimants have not felt the need to approach Citizens Advice for assistance. However, a sizeable minority do encounter difficulties when making a claim for ESA and evidence indicates that these difficulties are persistent and ongoing suggesting that there are systematic problems in the processing and administration within ESA. We note that there is currently a review of ESA being undertaken by the Minister for Social Development and we await with interest the outcome of that review.

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<sup>8</sup> ESA was introduced on 28 October 2009 and the recording year ran until the end of March 2009

<sup>9</sup> Figures for recording year April 2009 to March 2010

<sup>10</sup> Figures from the Disability Consultative Forum Meeting, Wednesday 30<sup>th</sup> June 2010

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## **.Problems with the administration of ESA**

### **1. Administration Problems**

#### **1a. Delays in Processing ESA**

Poor administration leading to delays in processing ESA is a problem identified by CAB clients, advisers and managers. Delays in processing ESA applications can mean that some applicants are left without any income whatsoever and without the means to sustain themselves. Those applying for ESA are often extremely vulnerable due to their state of health and feel the effect of these delays keenly.

Citizens Advice appreciates the tremendous effort that has been made by ESA to speed up clearance times for applications and recognises the significant improvement that has been achieved. The number of outstanding claims in May 2010 was 1,388 compared with 2,900 in May 2009. Clearance times have improved from 23.4 days to 15.2 days over the same period.<sup>11</sup>

We also recognise that ESA branch have made efforts to identify where improvements to their procedures can be made and have sought to make those improvements. In particular we note that ESA will now pay out on a client's contributory ESA claim whilst waiting to determine if their income-related claim is valid. This is a significant improvement on the previous situation, whereby, even if an entitlement to contributory ESA had already been established, no benefit would be paid to the claimant until a decision had been taken on their eligibility for income-related payments.

In the months after ESA was introduced delays were an acknowledged problem. However the issue of delays in the processing of ESA continues to be an issue which is being highlighted by CAB advisers.

*A client of **Dungannon CAB** is a lone parent. She claimed ESA but four months later had still not received any payment. The client contacted ESA but was unable to find out the reason for the delay. The CAB adviser contacted ESA on her behalf on two occasions and was assured that the problem would be resolved and ESA would make contact with the client. The client was eventually contacted about her claim and was told that her case could not be decided as they were "working on the wrong file" and no payment will be received for at least two weeks. The client was seriously ill and was due to go into hospital to have her*

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<sup>11</sup> Figures from the Disability Consultative Forum Meeting, Wednesday 30<sup>th</sup> June 2010

*spleen and pancreas removed. The client and her daughter were forced to live on a very low income for over four months*

*A client of **Belfast CAB** submitted an application for ESA but five months later had still not received a decision. The client and his wife had been living off their limited savings. The delay in payment has caused the couple great distress and they are worrying about their money situation. The client has phoned ESA on numerous occasions but without any result.*

*A client of **L'Derry CAB** is a widowed mother of two children. She suffers from depression, anxiety, panic attacks and Arthritis. The client applied for ESA but four months later had not received a decision on her claim. The client had completed two application forms but both had been lost and a further application had to be made. Numerous telephone calls from the client and the CAB adviser have made no difference. The client and the CAB adviser have both been promised call backs from ESA which did not happen. The client is experiencing financial hardship and the difficulty she is having getting feedback from ESA is adding to her mental health problems by increasing her stress and anxiety levels. The CAB adviser helped the client to make a formal complaint to ESA.*

*A client of **Newtownabbey CAB** received a letter from ESA stating that his medical certificate had not been received. The client came to the bureau for help with his claim. The CAB adviser contacted ESA and was told that the medical certificate was there. This poor level of administration meant that the client's ESA was delayed.*

*A client of **Ballymena CAB** had applied for ESA but his claim had not been put into payment three months later. The client suffers from knee and hip problems and is awaiting a hip replacement. The delay in processing his ESA claim is causing him financial hardship.*

*A client of **Newtownabbey CAB** applied for ESA but over ten weeks later her claim had not been put into payment. The client has 4 children and suffers from severe back pain. She cannot lift or hold anything heavy and cannot stand for long periods of time. When the client contacted ESA she was told that because she had a previous claim she had to complete a form stating that her first claim was closed. The client said that she had already completed this form but had still not had her claim processed.*

There are also issues with delays in processing claims for help with housing costs through ESA. This can have serious consequences for some clients who may find themselves at risk of repossession because they have been unable to meet their mortgage payments. This is particularly worrying in the current economic climate where many people are struggling to pay their mortgages.

*A client of **Newry CAB** is facing a repossession hearing as he is over £12,000 in arrears with his mortgage. The client is in receipt of ESA as a result of an accident and has completed three forms to apply for help with his mortgage through ESA. The client has been asked for further information which he has supplied but his claim for housing costs had not been processed. The client is very frustrated about this as he now faces repossession proceedings and has had no help with his mortgage costs through ESA. The client came to the bureau for help with this and the CAB adviser finds the problem is further exacerbated by the fact that the mortgage section within ESA can only be contacted by email by ESA call centre staff and cannot be contacted by outside bodies. The CAB adviser believes that there is no accountability within this section for the impact that delays cause to claimants.*

*A client of **Lurgan CAB** is in danger of losing his home due to a delay in receiving help with his mortgage interest. ESA lost his MI12 form for help with housing costs.*

*A client of **Newry CAB** lodged an ESA claim but four months later he had still not received his housing costs and his lender had brought forward repossession proceedings. The client was unemployed and his wife worked part-time and their joint income was insufficient to pay their mortgage.*

*A client of **Newtownards CAB** had not received help with his housing costs through ESA. He had spoken to ESA several times about this and received conflicting information each time. The client was then sent a new set of forms to apply for housing costs. He remains concerned about the length of time taken to deal with his claim as he has fallen into arrears with his mortgage.*

There is also an issue with delays in the payment of ESA following a successful appeal. This is particularly unfair to clients who have already had to go through the appeal process, obtain a successful outcome and then have to wait to receive the money which is rightfully theirs.

Advisers have reported that when a client wins an appeal and the decision is sent from The Appeals Service to ESA it is not being recorded on their computer system. This means that when a client contacts ESA about their case they are

often told that there is no record of a decision. This causes the client to make contact with CAB to try and progress the issue. When the CAB adviser makes contact with ESA and explains that a decision has been issued they are told by the ESA staff member that they will email a supervisor who will check. In many cases no further response or payment is received by the client resulting in a follow-up call to the ESA intermediary line by the CAB adviser which can sometimes resolve the issue in a very short time.

*A client of **Lurgan CAB** was successful at an ESA appeal but one month later had not received payment of his arrears or the work related activity component. When the client contacted ESA about the delay he was told that there was no information on his appeal result and was unable to get a reason for the delay. The decision had not been recorded on the computer system by the appeals section and therefore call centre staff did not know the appeal result. As it was not recorded nothing could be done. The CAB adviser contacted ESA and was able to sort out a manual payment for the client and an apology for the delay.*

*A client of **Causeway CAB** was helped by the CAB Tribunal Representative to successfully appeal her ESA decision. Some days after the successful outcome of the appeal the client had still not received any communication about her award. The CAB adviser contacted ESA and was told that the system had not been updated but that it would be looked into immediately. A month later the client's ESA award had still not been put into payment. This has caused a lot of uncertainty for the client who is suffering financial hardship.*

*A client of **Newtownabbey CAB** was successful in an ESA appeal but over two months later had not received any increased payments of ESA or a back payment. The client was upset that the rightful payments owed to her have been delayed unnecessarily and that she had to resort to Crisis Loans in order to survive. The CAB adviser believes that ESA need to have a system to properly record and update appeal results and to prioritise payments and back payments owed to clients following successful appeals. A time limit should be put in place by which successful appeal decisions should be put into payment.*

*A client of **Lurgan CAB** applied for ESA, was disallowed and then successfully appealed the decision. When the client contacted ESA to find out what was happening about her back payment she was told that she was getting all she was entitled to and was not entitled to a back payment. The CAB adviser contacted ESA about this and was informed that the appeal decision had been*

*received and that the delay is normal. The CAB adviser made multiple calls on behalf of the client to try and resolve this issue and helped the client to send in a complaint. This was highly frustrating for the client and caused hardship and confusion. The CAB adviser believes that no-one within ESA is taking responsibility for recording appeal decisions on the system and processing increased benefit/back payments. The CAB adviser could see no reason for the delay as the client was claiming ESA while appealing the decision.*

### **1b. Lost Documents**

Losing or mislaying paperwork, application forms and supporting documents is one reason that the payment of ESA claims can be delayed. It is time consuming and expensive for clients to copy and post documents, especially if this has to be done more than once. In the worst case scenario clients whose documents have been repeatedly mislaid could be put off claiming altogether. At best it will cause them to make repeated calls to ESA to check that documents have been received. Claimants who are unable to find out what is happening with their claim will not only become anxious but also feel the need to make contact with ESA more often than would otherwise be necessary. This will add to the already large volume of calls ESA have to deal with and increase the administrative burden and call waiting times.

The loss of medical certificates in particular has been particularly distressing for clients. Citizens Advice is aware that ESA branch has set up a spreadsheet system which is designed to ensure medical certificates are tracked from the moment they are received. We understand that this is a difficult task given the volume of medical certificates received. In February 2010 alone ESA received 11,985<sup>12</sup> medical certificates from claimants. Citizens Advice is pleased that better tracking measures have been introduced and acknowledge that this had led to a decrease in reports of lost certificates.

However, the issue of lost forms and other documents continues to be reported and Citizens Advice still feels that ESA needs to take further steps to ensure that all documentation is accurately recorded and tracked through its internal processes.

*A client of **Macmillan CAB** was sent a letter asking for further information on her ESA claim. The client was upset and frustrated as she had already provided this information. The client received the letter from ESA on the same day that she was told bad news about further treatment for cancer. Clients with serious health*

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<sup>12</sup> Taken from presentation by ESA Branch to CAB staff, 23<sup>rd</sup> March 2010.

*problems should not be subjected to repeated requests from ESA requesting the same information.*

*A client of **Newtownabbey CAB** had his medical certificate lost by ESA which then caused a three week delay in his payment. The client had to return to his GP and obtain a duplicate sick line and have this faxed through to ESA. He was advised that a Giro would be sent that day but instead the payment was sent to his bank account two days later.*

*A client of **Down District CAB** applied for ESA and was disallowed after a medical assessment. The client appealed and then experienced a change of circumstances so was asked to complete a new form. The client filled in the form but this was then lost by ESA.*

*A client of **L'Derry CAB** sent in his relevant ID documents to ESA along with his application form for the benefit. He was then informed that his claim could not be processed because his papers had been lost. This has prolonged the time it will take for the client to receive ESA. The client had a number of debts and had never missed a repayment but he was not able to make the next month's required repayments due to the delays with paying him his ESA.*

*A client of **Causeway CAB** came to the bureau as he had not received his ESA payment and had no money to live on. ESA had lost his medical certificates and the client brought duplicate receipts to the bureau for help in getting his payments reinstated. The client needed money urgently as he was struggling to meet his rent payments.*

*A client of **Belfast CAB** received a letter stating there were problems with his sick line. The CAB adviser contacted ESA and explained that the client had already submitted it. When ESA checked the computer system the sick notes were indeed there. The client received no apology for the delay in his payments and no explanation as to how the sick notes were missing and then subsequently turned up.*

### **1c. Lack of communication/follow-up**

Some clients experience difficulties and delays with their ESA claims because of a lack of communication or follow-up on their individual case by ESA staff. In some cases clients are being left without any communication at all from ESA and

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so are completely without information about the status of their claim or any action they may need to take to progress it.

*L'Derry CAB highlighted a problem two of its clients had experienced. They had both failed to attend a medical examination and both had their benefit suspended. The clients were written to by ESA and asked for their respective reasons for non-attendance. Both clients replied with what they felt were "good cause" reasons but heard no further word. Whenever the CAB advisers queried these cases with ESA they were told that "good cause" had not been accepted. Both clients' benefit had therefore been disallowed and both clients could appeal. The CAB adviser felt that if ESA are making decisions to disallow entitlement, they should ensure that this decision is immediately communicated to the client along with advising them of their right to appeal. ESA should not wait for the client to contact them to be alerted that their benefit has been disallowed.*

*A client of Down District CAB had not received any information from ESA regarding his appeal papers. The client's tribunal was listed for ten days time but had still not received his medical notes making it problematic for the client and his tribunal representative. ESA failed to respond to any of his calls or to contact the bureau in over a month.*

*A client of Strabane CAB had been waiting for three months to get his ESA payment sorted out. The CAB adviser contacted ESA to chase up the claim and felt that too many staff members had been passing on the details of the case and not following it up. This has caused the client stress and financial hardship.*

*A client of Belfast CAB sent in sick lines from his GP but ESA could not read the dates on them and sent them back to the client's GP. ESA did not inform the client of this and so he could follow it up with his GP. The client had received no ESA payments for two months and was not aware of the problem with the claim. The CAB adviser feels that ESA need to inform a client at once if there is a problem with a claim and that they need further details.*

*A client of Antrim CAB applied for ESA two months previously but had not received any payments and then came to the bureau for help. The CAB adviser contacted ESA and was informed he had insufficient contributions. The client was not informed of this and therefore he did not apply for income-based ESA. The client*

*had taken out a loan and because he had not been paid his ESA he had missed several payments and was worried.*

*A client of **Down District CAB** was told after persistent telephone calls to ESA from both the client and the bureau that his ESA would not be backdated after he had originally been told it would be. The client had still not received a decision letter 4 months later. A number of complaint letters had been sent by the bureau on behalf of the client but these had not been responded to by ESA. The CAB adviser was also promised that a supervisor would make contact about the case but this did not happen.*

*A client of **Strabane CAB** contacted the bureau as her son's ESA (she is an appointee) had not been put into payment as there had been a delay in putting his sick lines on the system. The client's son had had no payment in over a month. The bureau contacted ESA and was told that his sick lines had not been received and that duplicates would have to be sent in. The CAB adviser then contacted the customer services number and was told that the client did not need to send in sick lines as they had been received.*

**2. Waiting times and the cost of making calls to ESA**

Social policy evidence relating to telephony issues was among the most common received from CAB advisers after the introduction of ESA. Following the introduction of ESA it was a source of constant frustration to clients that they could not get through on the telephone to make a new claim or discuss an existing claim. Clearly this was a serious concern as those applying for ESA were likely to be experiencing difficult circumstances and coping with serious health problems which often resulted in financial hardship.

Citizens Advice is well aware that the introduction of any new benefit cannot be expected to progress without initial problems and occasional technical issues. We are also acutely aware of the problems caused by not having enough staff to deal with the large and unanticipated volume of calls which were received by ESA following its introduction.

Citizens Advice recognises the vast improvement ESA has made in its call handling times since May 2009 as shown in the table below.<sup>13</sup>

May 2009	May 2010
86%	93%

<sup>13</sup> Minutes of the Disability Consultative Forum Meeting, Tuesday 8<sup>th</sup> December 2009

The issue of time spent on hold was much more prevalent in the first nine months of ESA's introduction. In many cases the length of time callers had to wait before their query was answered was problematic. The waiting time made it impractical, if not impossible, for clients and advisers to remain on hold. This issue was successfully addressed with the addition of more staff to cope with call volumes<sup>14</sup>. In February 2010 staff working on the 0845 ongoing claim information helpline took 19,283 calls. With such a high volume of queries continuing to be received Citizens Advice recommends that resources continue to be made available to maintain the existing staff numbers. If staff numbers within ESA decreased again this would be to the detriment of clients and Citizens Advice believes that there would be a return to the type of issues which many clients experienced during the first year of ESA as shown in the case studies below.

*A CAB adviser in **Lurgan CAB** is concerned that many clients are not making calls to the customer services number for ESA for cost reasons. When the CAB adviser phoned this number on a client's behalf she had to wait 20 minutes to speak to a staff member.*

*A CAB adviser from **Belfast CAB** spent 38 minutes on hold with ESA when trying to contact them on behalf of a client.*

*A client of **Banbridge CAB** had problems contacting ESA to correct the details on his application form. The client had applied for ESA by telephone and had been sent his application form to check and confirm the details however some of the details were incorrect. The CAB adviser made several attempts to contact ESA in order to correct the information but was put on hold. After listening to the pre-recorded information the phone went dead. The form cannot be signed and returned until all the details are correct.*

*A client of **Strabane CAB** had numerous complaints about poor administration within ESA. His medical certificates had been lost and duplicates had to be submitted by fax and he did not receive his ESA payments when they were due. The client had tried to contact the ESA office on numerous occasions but was put on hold, on one occasion for 40 minutes.*

Many CAB clients are concerned about the cost of calling the ESA customer service line concerning ongoing claims. The cost of doing so, especially for those using a mobile telephone, can be expensive. This leads to some applicants being unable to check on the status of their claim or deal with a problem relating to it due to the cost of telephone calls.

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<sup>14</sup> As of February 2010 the 0845 number currently has 33 permanent and 13 recruitment agency staff.

This issue could be resolved by the provision of a *mobile friendly* free phone number for existing claims. Again, Citizens Advice acknowledges that ESA has taken huge strides forward since its inception and recognises that the majority of clients are not put on hold for long periods of time. However, some clients, especially those with complex cases, can be on the phone for some time and therefore the cost of calls remains an issue. Some client experiences are outlined below.

*A client of **Newtownabbey CAB** currently has no form of income and cannot afford to ring ESA to follow up her appeal as she only has a mobile phone and has no credit. The client has a mental health problem and gets stressed because she cannot afford to ring and find out what is happening with her claim.*

*A client of **L'Derry CAB** had not received the outstanding payment of the work related activity component despite numerous calls from the client and the bureau to ESA. The client could not afford to pay her phone bill due to the high cost of calls made to ESA in trying to sort her claim out.*

*A client of **Belfast CAB** had a change of circumstances which she wanted to report to ESA. There is a lengthy automated message for those making contact with ESA so the client spent £3 on her mobile phone before she was able to speak to a person within ESA about her case. The client needed to provide more information and came to CAB to phone from there as she had no credit left on her phone.*

*A client of **Newtownabbey CAB** tried to ring the ESA customer services number and listened to the automated message before being told that the line was busy and to ring back later. The CAB adviser feels that if the line is busy an engaged tone should be used so that clients do not have to pay anything for listening to an automated message.*

Given the emphasis on telephony as the main method of contact for ESA applications Citizens Advice believes that all telephone numbers used by clients and advisers should be free phone numbers. This would remove the disincentive for claimants to contact ESA on cost grounds as many may be financially vulnerable. It is now possible for Government departments to provide 'mobile friendly' helpline numbers which are free for mobile users from any network<sup>15</sup>.

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<sup>15</sup> The Helplines Association [www.helplines.org.uk](http://www.helplines.org.uk)

### **3. Incomplete, Incorrect and Misleading Information and Advice**

The benefit system is inherently complex and many clients who come to Citizens Advice for help do not have a detailed knowledge of social security benefits and how the different benefits interact with each other. Therefore, many clients need to receive specific advice in relation to the benefits system especially if they are changing from one benefit to another or are experiencing a change of circumstances. It is therefore of vital importance that the information and advice provided by ESA staff is as accurate and holistic as possible.

ESA staff members who are routinely customer-facing should be provided with sufficient information and training to ensure that their knowledge of ESA is fully complete. This should include how ESA is made up, how other benefits may affect ESA and what steps the client needs to take to ensure their claim will be efficiently processed. ESA staff members should be confident in all aspects of ESA so that they are able to ask the necessary questions and recognise the implications of the information given to them by claimants in relation to their ESA claim.

Citizens Advice believes that this is not the case for some staff within ESA who do not seem to know enough about the benefit or have given out incorrect or misleading information to claimants which in turn can potentially have serious implications for them.

*A client of **Strabane CAB** was in receipt of ESA. The CAB adviser contacted ESA to check the breakdown of her award but the ESA staff member could not explain the amount of the award the client was getting. When the CAB adviser enquired what premiums the client was getting, and specifically if he was getting the severe disability premium or had he been awarded the work-related activity component, the ESA staff member asked what premiums were and appeared to have no knowledge about how ESA is made up.*

*An adviser in **Banbridge CAB** identified that a client was not receiving a severe disability premium and help with housing costs as part of her ESA claim. ESA had not identified these at the time of the application. The client is a lone parent and lives in a co-ownership property with her son. She is struggling with her mortgage and rent and has arrears on both. The client has lost out on help with the housing costs for six months. This has caused the client extra stress at a time when she is undergoing chemotherapy for cancer.*

*A client of **L'Derry CAB** is a single parent with two children and is struggling to cope with paying her mortgage. The client came to*

*the bureau for help and the CAB adviser contacted ESA to request a form to allow her to claim for help with her mortgage. However, the ESA staff member was not aware of the form and said that the client was not entitled. The client had not been getting her correct entitlement to ESA as the agency failed to issue the necessary form for help with her mortgage when she made the original claim. The CAB adviser believes that further training is required for ESA staff to identify all the elements that a claimant may have an entitlement to.*

*A client of **Strabane CAB** is a widow with one child. She is in receipt of low rate mobility and middle rate care of DLA. When the client made her application for ESA a severe disability premium was not included in her award. The client is losing out on this premium on her award and is suffering severe financial hardship as a result and has had to get a Crisis Loan due to her financial situation. The CAB adviser feels that information needs to be gathered accurately as ESA is often dealing with vulnerable sick and disabled people who may not fully understand their rights.*

*A client of **L'Derry CAB** was awarded Carers Allowance but ESA failed to treat it as income leading to an overpayment for the client.*

*A client of **Newtownabbey CAB** applied for ESA and the benefit was accordingly put into payment. She later received a letter advising that she did not have enough National Insurance Contributions to be entitled to contributory ESA. However, the client's P60s showed that she had indeed paid enough contributions. The client then had to send in her P60s again as no copies had been taken by ESA. The client thought that their decision was correct and was not going to dispute this.*

*A client of **Belfast CAB** has been in receipt of contributory ESA and also DLA mid rate care, high rate mobility. The client was wrongly told to apply for housing costs to which she is not entitled as her husband works more than 24 hours.*

*A client of **Newtownabbey CAB** applied for ESA but his claim had not been put into payment. The client was initially informed by ESA that his claim was not on the system and that he would have to provide copies of his medical certificates again. The client went back to his GP to get copies of his medical certificates and sent these to ESA. When the CAB adviser contacted ESA to*

*confirm this he was told by another ESA staff member that the client's original details were already on the system.*

The following case studies highlight that ESA call centre staff are not giving clients the opportunity to apply for both contributory and income-related ESA at the same time even though the information given by the client should allow this to be identified by call handling staff.

*A client of **Carrickfergus CAB** was in receipt of contributory ESA. The client received a letter stating that she could not get help with her mortgage costs as she was on contributory ESA and not income-related ESA. The client was very concerned as she had used up all her savings to pay her mortgage payments. The client missed out on help with her housing costs because she had not been told she could apply for income-related ESA at the same time as contributory ESA.*

*A client of **Newtownabbey CAB** was advised by ESA that she could only apply for the contributory benefit. ESA quoted a 3-week turnaround time to process the application so the client would have to wait 3 weeks to be told that she did not meet the contributions conditions and would then have to make a fresh claim for income-based ESA. The CAB adviser believes that if there had been better questioning by ESA staff that it would have been identified that this client needed to apply for income-based ESA not contributory ESA.*

*A client of **East Belfast CAB** is in receipt of high rate care of DLA and this should have alerted the ESA staff member to the potential for an income-related ESA claim. This meant the loss of an enhanced disability premium and a shortfall in his benefit of £13.40 per week.*

*A client of **Strabane CAB** was contacted by the bureau for a benefit entitlement check. When the client contacted ESA to apply for the benefit he was asked if he wanted to apply for contributory ESA **or** income-related ESA. The CAB adviser identified an entitlement to a severe disability premium on a claim for income-related ESA but the client had asked to apply for contributory ESA and so had not been considered for this. This means that this client who is living on a low income was deprived of a substantial sum of weekly benefit as well as losing out on entitlements to passported benefits. Clients are potentially missing out on genuine entitlements to benefit as they are often eligible for payments of both contributory and income-related ESA.*

*A client of **Newtownabbey CAB** was not aware that she could make a claim for income-related ESA as well as contributory ESA when making an initial claim for the benefit. The client had been disallowed contributory ESA as she did not have enough contributions. She had been living on her Child Tax Credit and was in severe financial hardship. The CAB adviser believes that clients need to be made aware that they can claim for both contributory and income-related ESA when making an initial application or if they do not meet the contribution conditions they should be advised at that stage to apply for income-related ESA.*

It is also important that any written correspondence from ESA should be clear and complete so that claimants are able to understand it and are fully informed of all the facts relating to their case. Claimants should also be provided with any written information which is relevant to their claim in a reasonable time.

*A client of **Newtownabbey CAB** received a letter from ESA stating they could not pay him ESA because he had insufficient National Insurance Contributions. Further down the letter it stated that to continue to receive ESA he may need to attend a work focused interview or capability assessment. The client had not received any ESA and was left unsure about what was happening with his claim. The client contacted ESA about the letter and was told that someone would call him back but he did not receive a call back and came to the bureau for help. The client has mental health problems and this situation caused him additional stress.*

*A client of **Craigavon CAB** had attended a medical examination and received a letter stating that she had failed the Work Capability Assessment. When the CAB adviser rang ESA to enquire about this they were informed that the client had in fact passed the medical assessment.*

*A client of **Newtownabbey CAB** had been awarded only six points after his WCA assessment despite the fact that the client suffers from depression, anxiety and is awaiting a double hernia operation. The resulting disallowance letter was not dated and did not say how the six points had been determined. When the client's CAB adviser contacted ESA they were able to provide the date the letter was issued but could not say how the points were determined. The ESA staff member advised they would need to email the medical team who would then post the client details of how his points were determined. In the first instance the client had no information on which to base a decision on appealing his disallowance for ESA.*

*A client of L'Derry CAB suffers from mental health problems and bi-polar disorder. She was awarded ESA credits only but has never received a decision of her award in writing. This means that the client is unable to appeal the decision on her claim. Despite repeated requests the client has never received a decision in writing.*

#### **4. The Work Capability Assessment (WCA)**

The WCA is the main assessment for ESA claims and is made up of three different parts although not all clients will have all three assessments. When a claim for ESA is made the client has to complete a questionnaire about how their illness or disability affects their ability to complete everyday tasks. An approved healthcare professional will then consider the questionnaire and any medical evidence, along with any other information the client has provided. In most cases a claimant will be asked to attend a medical assessment to determine if they have limited capability for work.

##### **4a. Problems with the nature of the WCA**

In line with the policy objectives behind the introduction of ESA (namely a reduction of the number of claimants and an increased focus on work related activities which can be undertaken) most people who undergo the WCA will be placed in the 'Work Related Activity Group' and will consequently be expected to take steps to prepare for work. These include attending Work-Focused Interviews with their personal adviser. Those who refuse to attend run the risk that their benefit will be stopped.

Only a small percentage of claimants will be placed in the 'Support Group' and this will entitle them to receive a higher rate of financial support than those in the 'Work Related Activity Group'. Claimants in the Support Group are not required to take part in work-related activity but are free to do so on a voluntary basis.

CAB advisers are noting that the new WCA is more rigid than the previous Personal Capability Assessment and that clients with genuine disabilities are being judged as fit for work through the new WCA. Citizens Advice believes that the WCA has not been adequately developed and structured to ensure that its tests accurately reflect those obstacles which present themselves in both in everyday life and in a work environment. Citizens Advice feels that this is reflected in the high disallowance rate of ESA applications (currently 68%) and the level of appeal activity subsequently generated (52% of customers disallowed at WCA currently appeal the decision).<sup>16</sup>

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<sup>16</sup> Minutes of the Disability Consultative Forum Meeting, Tuesday 8<sup>th</sup> December 2009

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Indeed our colleagues in National Citizens Advice have recently published a report<sup>17</sup> in which concerns were raised about the current WCA for ESA. The report's main findings concern problems with each of the following aspects of the ESA assessment:

- seriously ill people are inappropriately subjected to the WCA;
- the assessment does not effectively measure fitness for work;
- application of the assessment is producing inappropriate outcomes.

Citizens Advice notes with interest the recently reported comments of a spokesman for the Department of Work and Pensions “*we will be reviewing it to see where improvements and changes need to be made to ensure that it is working as it should be.*”<sup>18</sup> The spokesman was responding to points raised by voluntary organisations and other interested bodies who have suggested that as a result of the way in which the current WCA is conducted many people were being wrongly judged as fit to seek work. This resulted in them being placed on Jobseeker's Allowance and denied access to programmes to help them find suitable employment, such as Pathways to Work, specifically set up to help those on Incapacity Benefit.

CAB is well aware that research shows that claimants who move off benefits and (re-)enter work generally experience improvements in income, socioeconomic status, mental and general health and well-being. However, it has also been established that “those who move off benefits but do not enter work are more likely to report deterioration in health and well-being”.<sup>19</sup> We therefore feel that it is vital that the WCA is capable of identifying those who are genuinely unfit for work and only stops access to ESA in those cases where a return to work is a realistic and practical possibility.

The summaries of case studies below illustrate some instances where the WCA has demonstrated itself as unsuitable for determining a person's ability to work.

*Despite the fact that a client of **Newtownabbey CAB** was in receipt of the high rate mobility and middle rate care components of DLA and being in constant pain she scored zero points in a WCA assessment and was disallowed ESA. The client is currently appealing this decision with the support of CAB and her GP but is suffering financial hardship as a result of this.*

*A client of **Lisburn CAB** is in receipt of high rate mobility and middle rate care of DLA. He was only awarded 6 points in his WCA and turned down for ESA. The client came to the bureau*

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<sup>17</sup> Not working – CAB evidence on the ESA work capability assessment, NACAB, March 2010

<sup>18</sup> The Guardian Online, Sunday 3<sup>rd</sup> January 2010

<sup>19</sup> Waddell and Burton (2006) Is work good for your health and wellbeing?

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*for help with an appeal. His GP had written him an excellent supporting letter. The client suffers from fused discs in his back and a degenerative disc disease. He suffers from depression as a result. This decision had a devastating impact on the client who is unable to cope with the situation.*

*A CAB adviser in **Cookstown CAB** represented a client at an ESA appeal hearing. On the ESA50 form the client had not ticked the box to suggest problems with walking despite the fact that she experiences extreme shortness of breath when doing so. The CAB adviser suggested to the panel that this was due to the way the question is laid out. The question begins by asking about the use of a stick or crutches then subsequently asks about ability to walk up steps. This suggests to an applicant that the question is asking about limb problems not lack of mobility due to shortness of breath. This descriptor and question should be amended to avoid this confusion.*

*A client of **Newtownabbey CAB** has been refused ESA as he had only scored 6 points on the WCA. The client came to the bureau for help to appeal the decision. The client was awarded 6 points for walking difficulties. He also feels that he should have been awarded points for standing and sitting, bending and kneeling, reaching and raising arms, picking things up and using hands. The client suffers from a form of arthritis and has repetitive strain injuries which affect his hands, feet and ankles. The client cannot understand being awarded 6 points for walking difficulties yet no other points for physical factors. The client felt that the examination under the WCA was rushed with few relevant questions asked.*

*A client of **Newtownabbey CAB** was awarded 12 points under two of the mental health descriptors. The client feels that she should have been awarded points under all of the other mental health descriptors. She suffers from severe work stress, depression, arthritis and back pain and attends a CPN. The client complained about the shortness and sparseness of her examination and felt a sense of injustice about being unfairly dealt with by the Examining Medical Practitioner.*

Citizens Advice is particularly concerned that the current system of assessment for ESA is adversely affecting particularly vulnerable groups of applicants. One of these groups is those suffering from cancer and terminal illness. This is despite Government assurance that these groups would be specifically safeguarded.

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A report<sup>20</sup> produced this year by Macmillan Cancer Support and Citizens Advice (England and Wales) highlighted a number of issues including:

1. Terminally ill cancer patients and people receiving non-oral chemotherapy are being required to undergo medical examinations and attend work-focused interviews when they should be automatically exempt from both.
2. People undergoing, or recovering from radiotherapy and inpatients are being refused ESA when they should automatically qualify for the benefit.
3. Cancer patients suffering from the long-term effects of cancer or cancer treatment are failing the medical assessment and being refused ESA.

These same issues are also being reported in Northern Ireland. An adviser from the Macmillan/CAB Welfare Rights project reports that Item 1 (above) is the result of an administrative error with ESA forms. The ESA 1 form requires the applicant to tick the box if they are receiving any “special treatment” including chemotherapy or radiotherapy. If the applicant ticks this box on the form this should be noted when it is received. They should then be sent an ESA50A to decide whether they also have limited capability for work-related activity and not the ESA50. The evidence provided on the ESA50A should then be used to determine if the claimant does, or does not, meet the criteria for inclusion in the support group. If the decision maker cannot determine this on the basis of the ESA50A information then the applicant may have to attend a limited capability for work-related activity only medical (i.e. not a full WCA).

The problems are arising because, even though clients have ticked the box and identified themselves as receiving chemotherapy or radiotherapy, they are still being sent an ESA50 instead of the correct ESA50A and being called for a full WCA. Macmillan/CAB Welfare Rights Advisers have reported that this has been the case with many clients they have seen to date. They are able to advise their clients to ensure they receive the correct ESA50A but are concerned that many other applicants, who do not seek help with the completion of forms will be unaware that they have been sent the wrong form.

*A client of East Belfast CAB had applied for ESA 29 weeks previously but was still waiting to be assessed for the limited capability for work-related activity. The CAB adviser contacted ESA and was told there was a backlog. When the CAB adviser checked the details of the client's case it was discovered that she should not have to meet the limited capability for work-related activity assessment as she was recovering from chemotherapy.*

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<sup>20</sup> Failed by the System. Produced by Macmillan Cancer Support and Citizens Advice, December 2009. Available for download at [www.macmillan.org.uk/Documents/GetInvolved/Campaigns/Benefits/FailedByTheSystemReport.pdf](http://www.macmillan.org.uk/Documents/GetInvolved/Campaigns/Benefits/FailedByTheSystemReport.pdf)

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*The CAB adviser informed ESA of this but the staff member incorrectly said that only terminally ill people are automatically treated as having limited capability for work related activity.*

Macmillan/CAB Welfare Rights Advisers also report dissatisfaction over the lack of communication between DLA and ESA branches. This is particularly so whenever the client concerned has a DLA award or application ongoing under “special rules” (they have been diagnosed as having less than 6 months to live). Where this is the case the applicant will have had to fill in a DS 1500 form to provide to DLA. When the same client is making their ESA application ESA branch are insisting that the client provides them with a copy of their completed DS 1500 instead of obtaining this directly from DLA branch. It is often difficult for a client to obtain a copy of the form, especially if it was filled in by an adviser (either a CAB or other voluntary sector adviser or by a social worker). This unnecessary process is causing anxiety to clients who are already experiencing a very difficult time and adds delays in receiving their ESA to their worries. Generally, where special rules cases are concerned, Citizens Advice believes that ESA should have some specialist staff trained to deal with applicant queries and be familiar with some of the special needs of this applicant group.

*A client of **East Belfast CAB** had applied for ESA. The nature of his illness and an active award of DLA made the CAB adviser suspect that this was a special rules case and the 13 week assessment period for ESA would not apply. The CAB adviser highlighted this as the type of case on which ESA would benefit from special training. Applicants may not know their DLA status/award is a special rules case. If they do not inform ESA of the fact that special rules apply they will likely have to wait 13 weeks.*

*A client of **Macmillan CAB** called into the bureau as she had received another letter from ESA for information on her payment protection insurance. The client was very upset as she had already sent this information and had help from the bureau to do this. The client is only receiving the basic assessment rate even though she is a special rules case. The CAB adviser believes that there needs to be better training for ESA staff specifically for cancer patients and special rules cases.*

The second vulnerable group which is causing our advisers particular concern consists of those applicants who have mental health problems. Generally CAB advisers report that both the ESA application form and the WCA have demonstrated themselves unsuitable to determine the capability for work of those people suffering from mental health conditions. Advisers also have stressed that clients with severe mental illness frequently lack insight into their condition, so if

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they complete an ESA50 themselves, or over the telephone, it does not give an accurate indication of their functional capability.

The case studies below illustrate these points and were provided to Regional Office in response to a request for client stories highlighting this specific issue. This monitoring exercise took place in March 2010 and all of the cases were received in the course of one week of monitoring. All of those received followed a similar pattern. A client with a mental health issue had attended their WCA, been awarded little or no points, subsequently appealed and had then been awarded the benefit. For ease of reference the results are tabulated.

<b>CAB Office</b>	<b>Points awarded at WCA</b>	<b>Points Awarded on Appeal</b>	<b>Notes</b>
Newry	0	15+	Client had severe depression along with alcohol and drug dependency issues. Already in receipt of DLA (low rate mobility and medium rate care) and had been sleeping rough.
Newry	6	15+	The client suffered from post traumatic stress disorder which was related to abuse as a child as well as depression, anxiety and alcoholism.
Newry	0	15+	Client suffered from depression and a persistent psychological disorder due to a prominent skin condition. Client had to pay to release her GP notes to ensure her appeal would be successful.
Fermanagh	0	15	Client suffered depression and alcohol problems.

Fermanagh	0	16	Client had severe depression.
Fermanagh	6	Panel stopped counting when they got to 15 points	Client had mental health problems.
Fermanagh	0	15	Client with depression and DLA (medium rate care)
Central Belfast	0	15+	Client had serious mental health issues.
Craigavon	6	15+	The client had attempted suicide 2 months prior to the WCA. Client was in receipt of DLA (high rate care and low rate mobility) and was receiving ongoing treatment from mental health services.
Craigavon	6	15+	The client had significant mental health problems and award of DLA (medium rate care and low rate mobility).
Craigavon	0	15+	The client had a DLA award (medium rate care and low rate mobility), attended a consultant psychiatrist, CPN, and a social worker.
Suffolk & Andersonstown	0	15+	Client had severe mental health problems.
Downpatrick	0	15+	Client was receiving a very high dose of medication and was attending a CPN and awaiting a Psychiatrist appointment.

Downpatrick	0	15+	3 clients all of whom had serious mental health issues and were awaiting referrals.
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As can be clearly seen from this table those who are attending the WCA to be assessed on the basis of their mental health are not being accurately or properly scored. It is worrying that in many cases they have received absolutely no points and were subsequently successful at appeal. CAB feels that this can only mean that either:

- a) the descriptors are inappropriately worded for those suffering from mental health issues; and/or
- b) those conducting the assessments are not suitably trained in mental health issues to recognise the potential effects of mental health problems on a person’s ability to work.

We note that the DSD website contains “Frequently Asked Questions” about ESA<sup>21</sup>. One such question is as follows:

**Q: Why aren’t the assessments for people with mental health conditions carried out by health care professionals who are experts in the condition?**

A: The work capability assessment and the work-focused health-related assessment differ from the task of a clinician. Clinicians make diagnoses and plan treatment for patients and this needs expertise in medical conditions. All health care professionals carrying out assessments are specially trained in assessing the effects a condition has on a person’s functional ability. They do not need expert knowledge of the condition to do this competently; their expertise lies in disability analysis.

With respect to the competence of the medical professionals carrying out the assessments Citizens Advice fails to see how this can be so. It is an extremely difficult task to discern how a mental health problem will affect a person’s capability for work without having a detailed understanding of their condition. Those individuals presenting with physical problems can more easily demonstrate the limits their illness or condition places upon their capabilities. Consequently, it is easier for a physician to see for themselves how that limitation will affect their potential for employment. This is not so for those suffering from a mental health condition. It is only through extensive knowledge and experience of mental health conditions that a physician can accurately assess how the symptoms and effects of the mental health condition can inhibit work capability. The fluctuating nature of many mental health conditions means that it is only

<sup>21</sup> [http://www.dsdni.gov.uk/index/ssa/benefit\\_information/ssani-esa/ssani-esa-faqs.htm](http://www.dsdni.gov.uk/index/ssa/benefit_information/ssani-esa/ssani-esa-faqs.htm)

through the intervention of a specialist in the area that the true nature and effects of the illness can be drawn out and assessed.

An adviser in **North Down CAB** who specialises in assisting clients with both mental and physical disabilities recently reported that she had a young client suffering with mental health difficulties. On some days she was extremely positive and upbeat about her condition, feeling that she could do anything. On other days she would be so down that she could hardly speak or hold her head up. Depending on the type of day she was having when she was called to attend her WCA she could receive vastly different scores. Unless medical practitioners are well versed in her particular condition they are unlikely to be able to determine what exactly the true effects of the condition are on the client. This is particularly true where the client is trying to minimise the extent of their mental illness and play it down. Mental health illness still carries a stigma and many people will try to hide their mental health problems as a result of this.

An adviser in **Newry CAB** pointed out under Incapacity Benefit there was always the issue that the Incapacity Benefit Questionnaire did not ask specific questions in relation to mental health. Under the ESA Questionnaire the Mental Health Descriptors are included but most clients with depression, anxiety, panic attacks and those types of problems are initially inclined to think that either none or very few of them apply to their situation. The adviser also felt that a rather narrow interpretation of these Descriptors was being applied by the Health Care Professionals in terms of their actual meaning.

#### **4b. Delays in getting a medical assessment**

The initial stage of ESA should last 13 weeks. Within 13 weeks of an application for ESA a claimant should have either been placed within the Work Related Activity Group or the Support Group on the basis of the information they provided, or have been called for a medical assessment and had their ability to work assessed in that way.

Unfortunately it has been the experience of many CAB clients that they are not being given their medical assessment within 13 weeks. This is leading to financial hardship, stress and anxiety for many claimants. The case studies below represent only a small handful of the many social policy evidence forms we have received on this issue.

*A client of **Strabane CAB** received income-related ESA due to Arthritis in his hips. He walks with crutches as he had undergone an operation to replace one of his hips. He is awaiting surgery for a second hip replacement. Despite being on ESA for over 23 weeks he has not yet had a medical assessment. Therefore he cannot receive the work-related activity component and is suffering financial hardship as a result.*

*A client of **Banbridge CAB** has been in receipt of the basic amount of ESA for 11 months and had still not had a medical assessment. This client has potentially lost out on an increased benefit entitlement for a long period of time.*

*A client of **Ballymena CAB** came to the bureau for help as she was still only in receipt of the basic amount of ESA as she had not been medically assessed six months after making her claim. This is causing the client major financial difficulties.*

*A client of **Suffolk & Andersonstown CAB** did not receive a medical assessment until almost one year after the initial application. During this time the client was only receiving the basic pre-assessment rate of benefit. The client is a recovering alcoholic who suffers from asthma, physical health problems and early dementia. This delay has caused the client extreme financial hardship.*

*A client of **Belfast CAB** has been claiming ESA since January 2009 but was only receiving the basic rate of ESA for over a year. The client is 23 and suffers from severe depression. He does not go out. The client was called for a medical in February 2010 but when the EMP saw his condition he sent him home saying that he would get a report from his GP but one month later had still heard nothing. The CAB adviser helped the client to prepare a letter of complaint to ESA.*

*A client of **Lisburn CAB** received his first ESA payment six months after applying. However, he had not been called to attend a medical assessment and he was only receiving the basic amount of ESA with no support component or housing costs. As a result of this the client had got into arrears of mortgage interest and was having to pay additional charges to his lender.*

The delays in medical assessments can potentially penalise clients with more short term health or intermittent health problems. Due to the length of time taken to arrange medical assessments for ESA some clients have improved/recovered by the time the medical assessment has been arranged. This means that the client will be found capable of work and will have been unable to access the higher rate of ESA if they had been assessed within the initial 13-week period when their illness had a greater effect on them.

*A client of **Ard's CAB** applied for ESA but seven months later had still not been given her medical assessment. She had only been entitled to the basic rate of ESA and could have benefited from the work-related activity component throughout her period of*

*sickness had she been assessed earlier. If she is now found capable of work she will lose her benefit and any backdated component.*

*A **Newtownabbey CAB** client reclaimed ESA for the same condition within 6 months of a previous claim and under the associated legislation; clients will not get paid while waiting to be assessed if they are claiming for the same condition. She has since returned to work but has now received a date for her medical assessment and will be unable to receive any benefit for the period she was off as she is unlikely to be able to provide medical evidence proving she was incapable of work for that period.*

*A client of **Portadown CAB** was unable to work due to mental health problems from April 2009. He was called for his medical assessment 11 months after the start of his claim. At the medical he failed to receive sufficient points to remain on ESA. The client did not wish to appeal the decision as he feels better and has started to work again. The client has lost out on the work related activity component over a period of 8 months which could have been worth £890 because his medical assessment took place so long after his original claim.*

*A client of **North Down CAB** applied for ESA but is still in receipt of the basic rate seven months later as he had not been assessed. If the client is now found capable of work he will have lost out on money he was entitled to if he had been assessed earlier.*

## **5. Transferring from other Benefits**

Several issues have been reported when a client stops receipt of one benefit in order to make an application for ESA. The former benefit could be Jobseeker's Allowance (JSA), Income Support or the person could be transferring from Statutory Sick Pay (SSP). Where individuals are already receiving one social security benefit or SSP and are required to transfer to ESA it is likely that they are already experiencing some financial strain. Their situation is not helped by the fact that it can take some time to process the transfer to ESA and in the meantime receipt of the formerly received benefit has stopped.

Income Support and JSA both need to work more closely together with ESA to try and ensure that financial hardship is not caused and debts incurred when one benefit stops prior to ESA starting. ESA staff need to be adequately trained to give correct and complete advice to ESA applicants concerning what steps they need to take when coming off one benefit and applying for another.

An efficient system needs to be established to ensure that once a client's claim for ESA has been finally refused they are immediately able to apply for JSA. It is unacceptable to delay a person's application for JSA any longer than is absolutely necessary. The closing of claims once non-entitlement to benefit has been established needs to be given greater priority.

Some examples of these issues are provided below and highlight the seriousness of the problem to those who are affected.

*Clients of **Causeway and Lisburn CABx** were moving off Income Support and were not allowed to submit a claim for ESA in advance resulting in a gap in income, financial hardship and anxiety for them.*

*A client of **Newtownards CAB** was in receipt of JSA (his only income) but was signed off the benefit when he applied for ESA with an 8 week sick line from his doctor. The client is an insulin dependent diabetic who also suffers from depression. He was advised that his ESA application would take 3-4 weeks to process. A Crisis Loan of £87 for two weeks was insufficient to cover the cost of special diabetic food and other necessities. The CAB adviser believes there should be an extension of JSA/Income Support safety net payments until an ESA payment is established.*

*A client of **Belfast CAB** was unable to make a claim for JSA. He had been refused ESA and lost his appeal against this. When he tried to claim JSA he was informed that he could not as ESA had not yet closed his claim despite the fact that over a month had elapsed.*

*A client of **Belfast CAB** will have her Income Support award stopped in the coming weeks. The CAB adviser advised her to submit an advance claim to ESA with her sick line to allow her claim to be processed and a transfer from Income Support straight to ESA. The client was told by ESA not to bother claiming until her Income Support award stops. This will leave the client with a gap between awards due to processing times.*

## 6. Other Issues

The client case studies below represent various other issues which do not neatly fall under any of the above headings. Citizens Advice feels that it is worth drawing attention to these other issues as knowing and understanding them could lead to improvements in the system.

- **Data Protection Issues**

*A client of **Armagh CAB** suffered from fibromyalgia and was retired from work due to ill health. After attending her WCA assessment the client received a letter stating she had scored no points. The client did receive details of her right to appeal, however the medical notes she received did not belong to her. They belonged to someone else and had another person's name, address, National Insurance Number, GP details and details of their medical assessment contained within them.*

*Advisers in **Craigavon, Causeway, Down District and Fermanagh CABx** have all reported problems when dealing with ESA appeals. In these cases incorrect medical notes or submissions were attached to the client's appeal form. This leaves clients uneasy as they often assume that if they have received notes that don't belong to them then another person must have access to their notes. This is a clear breach of Data Protection legislation.*

- **Failure to make promised call backs**

*An adviser in **Newtownabbey CAB** was carrying out follow-up work on behalf of a client and had been promised a call back which had not been made. The adviser contacted ESA again and was told the staff member she originally spoke to was on a break and would contact the adviser when she returned. No call was received so the adviser contacted ESA again and was told that a supervisor would ring back the next day and explain what is happening with the case. The CAB adviser feels that this is frustrating not only for the client who is not getting paid but also for advisers who are awaiting call backs and trying to get issues sorted out for clients.*

*A client of **Newtownards CAB** applied for ESA but three months later had received no decision or payment. The client contacted ESA six times over number of weeks to be told each time that his claim was being processed manually and that a supervisor would*

*call him back. The client has never received a call back. The client then submitted a formal written complaint and was advised that ESA would be in touch with him. The client came back to the bureau a month later and advised that he had still not received the promised call back or any ESA payment. The CAB adviser contacted ESA on the client's behalf on two occasions and both times was promised a call back which did not then happen.*

## Conclusions and Recommendations

This report is not intended to be critical of the SSA and its individual staff members. The implementation of a new benefit is a difficult task and is one which the SSA has been asked to undertake with a limited budget and resources. This report and its recommendations are intended to serve as an objective viewpoint and it is hoped that it will allow the SSA to highlight those areas of the current service which require further investment of both time and resources.

Delays and administration problems in the processing of ESA claims remain the primary concern of CAB advisers. The additional financial hardship, anxiety and worry caused to our clients, as well as the frustration and heavy workload it imposes on CAB advisers, can and should be rectified as soon as possible.

Delays are primarily due to lost documents, lack of resources to provide prompt medical assessments and poor administration. The recommendations made in this report would serve to alleviate the majority of delays caused for these reasons.

This report has highlighted areas of ongoing concern and has made recommendations accordingly. We hope that our observations and suggestions will enable the SSA to take the appropriate action to remedy some of the outstanding problems within ESA administration and consequently lead to an improved service for all claimants. Many of the cases outlined in this report have required the repeated intervention of CAB advisers to achieve a satisfactory outcome for the client. It is our hope that the following recommendations will lead to the smoother operation of the process from application onwards.

Citizens Advice is fully committed through its social policy function to continue to inform the SSA of the problem areas within ESA and to work with the SSA to help alleviate these problems wherever possible.

**Citizens Advice recommends that action is required in the following areas in order for the administration of ESA to improve:**

### Policy

- The Work Capability Assessment (WCA) should be reviewed with a view to assessing its suitability in identifying those with limited capability for work.
- Steps need to be taken to ensure that those applicants who are exempt from the WCA are correctly identified as soon as they apply.
- Claimants should be allowed to apply for ESA before their Income Support or Jobseeker's Allowance has ceased to ensure that there are no gaps in the payment of benefit which can subsequently lead to financial hardship.

- The descriptors used to award points for mental health issues should be reviewed.
- Where mental health conditions are present a specialist in mental health should carry out the WCA.

### Telephony

- The call centre should be evaluated to ensure that it is handling calls in the most effective manner.
- The performance of call handling staff should be continually reviewed to ensure that time spent on hold is reduced.
- All telephone numbers used to contact ESA for both claimants and third sector organisations should become Freephone numbers. This should include callers from all mobile phone networks.

### Resourcing

- Additional staff should be recruited to cope with existing demand and to deal with outstanding cases. In particular the call centre should be sufficiently resourced to cope with demand.
- Medical Support Services (MSS) should seek to ensure that there are suitable numbers of qualified doctors available to perform Work Capability Assessments to ensure that claimants do not suffer financial hardship due to delays in getting a WCA.

### Staff Training

- Improved staff training in relation to ESA itself, and also across the whole social security benefits system, is of critical importance. This would help to reduce instances of misinformation and incorrect advice. It would also help to speed up clearance times and assist claimants to identify and access other social security benefits where appropriate.

### Administration

- Improved recording systems to acknowledge the receipt of documents and track their progress through internal systems need to be established.
- Greater ownership of cases by ESA staff so that communication between them and claimants/advisers is improved so that any issues are progressed and claimants are kept informed about the status of their claim and any action they may need to take.