

**Health, Work and Wellbeing**

## Work Capability Assessment Internal Review

Report of the working group

Commissioned by the Department for  
Work and Pensions

October 2009

# Executive summary

1. The Work Capability Assessment (WCA) was introduced in October 2008, as part of Employment and Support Allowance, and is used to determine entitlement. The December 2008 White Paper, 'Raising Expectations' announced that there would be a department-led review of the WCA and this report sets out its method, findings and recommendations.
2. The purpose of the review was to establish whether the WCA is achieving its aim of correctly identifying an individual's capability for work. Furthermore it was tasked with consideration of both the appropriateness of the content of the assessment, and how it can be amended to better account for an individual's adaptation to their condition, enabling a more accurate reflection of their functional capability and ability for work.
3. The review engaged with medical experts, stakeholders and employers in expert case analysis and group descriptor analysis.
4. Analysis of cases established that the current WCA is accurately identifying individuals' capability for work. There was consensus that, in the cases reviewed, advice had been given in line with an individual's functionality and on the whole the assessment accurately identifies individuals for the most appropriate benefit.
5. However, the working group did identify areas where the assessment could be amended to better account for adaptation. Some descriptors focus on impairment and do not acknowledge the effects adaptations can have in improving an individual's function.
6. The working group also recognised that by simplifying the descriptors both the ease with which the assessment can be administered and the transparency of the process for claimants could be improved. This was achieved by identifying unnecessary complexities and overlaps.
7. The recommendations amend the assessment to be more inclusive towards adaptation, and to ensure transparency through clarification and simplification.

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# 1 Introduction

The Government agenda for welfare reform has been driven by recognition of the link between welfare dependency and social deprivation. Research shows that the best route out of poverty is through work. The Government has introduced reform to create an active benefits system where individuals are provided with greater support and in return take greater responsibility for their own circumstances.

In 2006 Gordon Waddell and Kim Burton published 'Is Work Good for your Health and Wellbeing?'<sup>1</sup> (TSO); a review which collates and evaluates the range of evidence available on the question posed. By looking at both the evidence available and the quality of the research undertaken, this review provides a strong source for understanding the accumulated evidence on the topic. The evidence shows that work is generally good for physical and mental health and well-being as well as the converse, a strong association between worklessness and ill health with prolonged time away from work making recovery and return progressively less likely.

Work can be therapeutic and generally, the beneficial effects of work outweigh the risks. These benefits can reverse the adverse health effects of unemployment and prolonged sickness absence. The evidence shows that on return to work, there is reduction in psychological distress (for return to both long term but also temporary work)<sup>2</sup>. Work has also been demonstrated to result in a reduction in cardiovascular morbidity and mortality.<sup>3</sup>

In October 2008 a new benefit, Employment and Support Allowance (ESA) was introduced for new claimants to replace Incapacity Benefit. It was accompanied by a new medical assessment to determine entitlement, the Work Capability Assessment (WCA). The WCA is crucial in ensuring that individuals are correctly identified for benefit and provided with the appropriate level of support.

ESA is an active benefit which provides individualised support for claimants on their journey towards work. The fact that the longer an individual is off work, the lower their chances of ever getting back to work,<sup>4</sup> highlights the importance of correctly identifying individuals at an early stage in their incapacity.

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<sup>1</sup> Waddell, G., Burton, A., 'Is Work Good for your Health and Wellbeing?', (TSO: London, 2006)

<sup>2</sup> Bjarnason, T., & Sigurdardottir, T. J. Psychological distress during unemployment and beyond: Social support and material deprivation among youth in six northern European countries. *Social Science & Medicine*. 2003; 56(5), 973–985.

<sup>3</sup> Brenner, M. H. (1997). Heart disease mortality and economic changes; including unemployment; in Western Germany 1951–1989. *Acta Physiologica Scandinavica*. 161(Suppl. 640), 149–152.

<sup>4</sup> Henderson M, Glozier N. and Elliot KH. Long term sickness absence. *BMJ* 2005;330:802-803

As part of the Government agenda for welfare reform, the December 2008 White Paper 'Raising expectations and increasing support: reforming welfare for the future' announced the intention to carry out a Department-led review of the Work Capability Assessment.

The purpose of the review was to establish whether the WCA is achieving its aim of correctly identifying an individual's capability for work. Furthermore, it was tasked with consideration of both the appropriateness of the content of the assessment, and how it can be amended to better account for an individual's adaptation to their condition, enabling a more accurate reflection of their functional capability.

This is a report of that review. It lays out the findings of the review and presents the proposals resulting from it. This report also includes an indication of the impact that implementation of the proposals would have.

This review is distinct from the independent review enshrined in the Welfare Reform Act 2007.

## 2 The Work Capability Assessment

In October 2008 the WCA replaced the Personal Capability Assessment (PCA) for new claims. Since the PCA was introduced in 1991 the demands of the modern workplace and the development and availability of adaptive technology have changed significantly. Both the prevalence and recognition of conditions have also changed. For example, in the past the most common conditions leading to benefit entitlement were musculoskeletal problems, now a much higher proportion of IB claimants apply for benefit on the basis of a mental health problem. Furthermore, the Disability Discrimination Acts of 1995 and 2005 mandate employers to make reasonable adjustments to accommodate employees with health conditions or disabilities. It was important to modify the assessment to reflect these changes.

The Welfare Reform Act 2007 legislated for the introduction of the WCA. Chapter 5, Part I, sections 8 and 9 outline the structure of the assessment, establishing that individuals will be assessed for benefit entitlement on the basis of their Limited Capability for Work (LCW), and for membership of the Support Group on the basis of Limited Capability for Work Related Activity (LCWRA). These two components make up the core decision making aspects of the WCA, but are accompanied by a third element, a Work Focused-Health Related Assessment for those who are found to have limited capability for work. This final aspect does not contribute to the decision on benefit entitlement, but provides a positive forum for individuals to consider their personal challenges to working.

### 2.1 Purpose of ESA

ESA provides support and encouragement to assist individuals' journey to the workplace; the WCA supports and promotes this aim. Where there are people who can work, it is crucial that they should not be identified as unable to do so on the basis of their condition. Doing so does the individual a disservice and goes against the positive design of the benefit.

ESA was developed as a temporary benefit for the majority. There are some individuals, those who have limited capability for work related activity, for whom entering work may be unlikely. However, those in the Work Related Activity Group receive ESA whilst they recover or adapt to their condition and move towards work with the additional support they receive. Most claimants are expected to move back into work within two years. It is important that the assessment supports this, that individuals are made aware of the expectation that they will return to work, and that they will be supported in doing so.

## 2.2 Limited Capability for Work

The majority of claimants awarded ESA are identified as having Limited Capability for Work (LCW) and placed in the Work Related Activity Group (WRAG). Individuals in this group are likely to have a substantial disability which renders work inappropriate at that time. However, through the provision of appropriate support, they will be assisted in adapting to their condition and preparing themselves for the workplace.

Laid out in schedule two of the ESA regulations 2008 are activities which relate to physical (part 1) and mental, cognitive and intellectual (part 2) function. The activities are broken down into descriptors which detail differing levels of capability. The descriptors are correlated with points of 0, 6, 9 or 15, reflecting the degree of limitation to an individual's functional ability. Any individual awarded 15 points or more is considered to have limited capability for work and be entitled to ESA.

Identification of limited capability for work can also be through other routes;

- Specific regulatory provision such as hospital in-patients; and
- Exceptional Circumstances that identify individuals who do not score functional points in the WCA but have a condition that may preclude work.

Work-related activity is any activity which helps the claimant to obtain work, remain in work or be more likely to obtain or remain in work. The activity with which individuals engage is decided between themselves and their personal adviser at their Work Focused Interviews. The agreed activity will be relevant to the individual's existing skills and circumstances, and may include work tasters, condition management programmes, skills, educational training, job-search assistance or activities to help stabilise the claimant's life.

## 2.3 Limited Capability for Work Related Activity

There is recognition that a group of severely disabled individuals exist for whom a return to work is substantially less likely. These individuals have a severe limitation which creates a significant disability in relation to the labour market, regardless of any adaptation they may make or support with which they may be provided.

This second component identifies individuals for the Support Group who have Limited Capability for Work Related Activity (LCWRA), where they receive a higher rate of benefit and participation in work related activity is entirely voluntary.

Part 6 of the ESA Regulations 2008 detail the criteria by which individuals are identified for inclusion in this group; for example those who are terminally ill. Individuals can also be identified on the basis of Severe Functional Disability, as defined in Schedule 3 of the regulations.

## 2.4 Work Focused Health Related Assessment



This final component of the assessment does not impact benefit entitlement but provides a positive addition to the assessment, inviting claimants who have limited capability for work to explore, with a healthcare professional, their aspirations, beliefs and perceptions about engaging in work.

It identifies the health-related challenges preventing an individual moving into work and interventions or types of work-place adaptation which might help to overcome these challenges.

## 2.5 Ready for Work

Individuals who are not entitled to ESA following assessment are considered capable of looking for work at that time. Nearly one in five people of working age (6.9 million, or 19%) in Great Britain are disabled.<sup>5</sup> Identifying an individual as fit for work does not necessarily mean that they have no health condition or disability, but recognises that they are capable of work in spite of it. It also doesn't mean that they are necessarily able to return to their previous employment, but that they are functionally capable of some work. The medical assessment identifies individuals on the basis of their functional capability, not their skill set, as different jobs require individuals to have different skills.

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<sup>5</sup> Office for National Statistics Labour Force Survey, Oct - Dec 2007

## 3 Methodology

### 3.1 Design

The review was led by officials from within the Department and began in March 2009, six months after the introduction of ESA. It involved experts in the fields of physical, mental and occupational health, as well as representatives of employers and stakeholder groups. A complete list of participants is included in Annex B.

Several thousand cases had been completed by the time it was underway. The data was therefore sufficient to fulfil its purpose, to look at accurately identifying individuals for benefit and better account for adaptation.

The review sought to achieve its aims through expert case study and descriptor analysis which are explained below.

#### 3.1.1 Expert case study

Experts were presented with a randomly chosen sample of cases. They were provided with the full documentation available to the decision maker when determining the outcome of each case. This includes documentation provided by the claimant's GP or specialist, the questionnaire which the claimant completes, and any advice or reports provided by the healthcare professional carrying out the WCA.

The cases analysed encompassed a wide range of conditions and scores, including cases that had met the criteria for LCW, LCWRA, and those that met neither of these. The cases analysed also included examples where individuals had been identified on the basis of Exceptional Circumstances, and others identified separately as having LCW through specific regulatory provision. In some cases advice had been possible on the basis of paper evidence whilst others had required face to face assessment.

This part of the review entailed identification of themes and issues in the application of the assessment and contributed to the descriptor analysis.

#### 3.1.2 Descriptor analysis

Discussion of the descriptors was split into specific physical, sensory (including continence and consciousness) and mental function meetings. This approach was to facilitate the most effective discussion of descriptors and ensure that any proposals made by the group were fully informed. It sought to combine medical expertise with knowledge of the challenges faced by those with physical and mental disabilities in relation to the particular activities being considered. There was also input from an employer representative to ensure that individuals that would be identified as fit for

work, based on the proposals made, would meet the requirements of an employer in the modern workplace.

## 3.2 Accounting for Adaptation

The current WCA looks at the effects of a condition rather than the condition itself since the focus is on function. The presence of a condition or symptom is a poor predictor of work limitation or work performance,<sup>6</sup> as the majority of conditions encompass a spectrum of levels of capability. In this review, the group was specifically tasked with considering adaptation. By accounting for any aids and adaptations which an individual may successfully and reasonably use to mitigate the disabling impact of their condition, their actual capability can be identified.

An accurate assessment should identify those individuals who lack the capability to work, rather than assume that they do as the result of a particular functional impairment. It is important to ensure that those who need more support are provided with it whilst an otherwise work ready group are not written off on the basis of impairment alone.

## 3.3 Ensuring an Accurate Assessment

An objective of the review was to determine if the WCA accurately identifies individuals for the right benefit and therefore for the right level of support. To achieve this, the assessment tool must be:

- a. Valid (correctly measuring what it is intended to measure)
- b. Reliable (providing consistent, reproducible results)
- c. Comprehensive and
- d. Easy to administer

### Validity

The scoring associated with descriptors must effectively identify those who can reasonably be expected to undertake work and those who cannot. The level must be appropriate so as not to over or underestimate those with significant disability with respect to work. This level is determined by the point at which the threshold to benefit is set.

Where individuals score in several activities as a result of the same impairment, double scoring, the result may be misidentification for the appropriate support. The review seeks to identify descriptors in the current assessment which are not discriminating, but which are often awarded with other descriptors as they identify the same disability.

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<sup>6</sup> Ustun B, Chatterji S and Kostanjsek N. Comments from *The journal of rehabilitation medicine – special supplement on ICF core sets*. J Rehabil Med 2004; Suppl. 44: 7–8

In addition, to treat individuals with a wide range of disabilities with impartiality there needs to be equity between different categories of descriptors and an ability to detect significant changes which affect work capability. This is determined by the weighting of the points associated with the descriptors which the review also examines.

## **Reliability**

Reliability, i.e. the consistency of the WCA, is determined by the quality and range of inputs that contribute to its development. Engaging with a range of stakeholders provided a knowledge base supplemented by analytical skills contributing to both the scope and scale of the descriptors derived. This pooled effort critically informs the thresholds defined and enables the establishment of a method which can discern those who can reasonably undertake work and those who cannot.

The assessment has been developed with input from medical experts with a variety of backgrounds and specialist skills. This variety of expertise ensures that each area dealt with is reviewed by those with specialist knowledge of the evidence base behind evaluation and management.

To accurately assess individuals in the UK with regard to their capability, it is essential to consider the experience of disabled people and the challenges which they face. The involvement of stakeholder groups ensured this. Additionally, in any consideration of work, employers play a key role. Input regarding their view of the employment context has provided an occupational context in which to understand the demands of the workplace upon the individual.

On an individual case level, reliability is achieved through the quality of the medical information which feeds into the choice of descriptor to be applied in each case. Skilled assessors with a thorough understanding of the impact of conditions upon functionality are crucial to provide this.

## **Comprehensive**

The WCA has been devised to account for a wide range of function based limitations. It covers physical, mental, cognitive and intellectual disorders. Descriptors are organised in a standardised way with each area covering a range of limitations that significantly affect one's ability to work. These are given hierarchical status in relation to their impact upon the individual's ability to work, and given associated point scores accordingly. This enables comparison between different types of impairment, as well as considering the individual as a whole.

Structuring the assessment of limited capability in this way enables an individual's entitlement to be determined on the basis of disablement in one activity, or through the scoring of points in several different activities. This acknowledges the interaction between disabilities, whereby the combination of several lesser disabilities may

cumulatively result in limited capability for work. Current evidence suggests that the joint impact of these categories of disability are additive.<sup>7</sup> This approach has been maintained and enhanced by the changes previously made to the mental function areas that are now equal, in score terms, to the physical areas.

### **Ease of administration**

A comprehensive system such as the WCA may have a tendency to become complex. However, it must be simple enough for routine use. A system which is user-friendly and practical to administer facilitates accurate assessment. Despite looking at complex functions, the descriptors used need to be presented in terms that are comprehensible and accessible to the majority of individuals. The review represented an opportunity to further consider this aspect of the assessment. Some of the descriptors currently used are complex to understand and apply; for example there are three different activities relating to continence. Simplification enables claimants to clearly understand the basis on which entitlement will or will not be granted, and ensures that healthcare professionals and decision makers are able to clearly identify the applicable descriptor in each case.

## **3.4 Other Disability Assessment Tools**

The concept of measuring functioning and disability is not new. The assessment tools available are mostly clinically based and condition specific, such as the Arthritis Impact Measurement Scale, AIMS 2; Hamilton Rating Scale of Depression, HAMD; McGill Pain Assessment Questionnaire, MPQ; Outcome Measures in Rheumatology Clinical Trials, OMERACT. There are also generic measures (SF-36, Nottingham Health Profile, EuroQol-5D). These tools are useful to track clinical outcomes, especially in the context of research where standardised outcomes are necessary to measure effect and for comparison between studies, however they are not comprehensive for the purpose of assessment of capability for work.

There is an absence of comprehensive disability assessment tools that look at work capability. In Australia, the Adult Disability Assessment Tool (ADAT) has been developed to establish eligibility for carer's allowance. ADAT measures the level of care needed by an adult because of a disability or severe medical condition. It was developed in consultation with representatives of disability and consumer groups and with specialists in adult disability from a range of medical and allied health professional backgrounds.<sup>8</sup> The approach is similar to that used in the UK; however it measures the level of care needs rather than capability in relation to work.

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<sup>7</sup> Scott K. et al. Mental-physical co-morbidity and its relationship with disability: results from the World Mental Health Surveys. *Psychological Medicine* (2009), 39, 33–43.

<sup>8</sup> Australian Government: Guide to Social Security Law Version 1.151 - Released 1 June 2009

While these tools can help to inform the development of our own assessment systems, they are developed to measure particular outcomes in specific contexts which do not mirror our circumstances. In relation to the identification of individuals for an income replacement benefit, it is important that individuals are assessed on the basis of their capability to engage in work.

## 4 Results

### 4.1 Performance of WCA

The members of The Technical Working group used their expertise to make judgements about the validity of the WCA on the basis of the case evidence studied. The cases evaluated included varying levels of severity of impairment. Physical function cases included a range of upper and lower limb conditions, back pain, cardio-respiratory conditions, and conditions affecting consciousness (epilepsy), vision, hearing and continence (bowel and bladder). In mental health conditions, anxiety/depression of varying degrees of severity was the predominant diagnosis; but there were also diagnoses of a wide range of conditions including other severe mental illnesses, learning disabilities and Autism. In addition, cases where a claimant did not score above threshold but were still considered to have limited capability for work were included (non-functional descriptor applied).

The medical experts determined for each case:

- Whether the WCA accurately reflected if the individual is unfit for work but would benefit from support and an eventual return to work (Work Related Activity Group)
- Whether the WCA accurately reflected limited capability for work related activity (support group)?
- Whether the WCA accurately reflected if the individual is fit for some work

There was written feedback on the cases, but primarily their findings and views were dealt with at round-table discussion. In general the experts that had participated in the previous review acknowledged the quality of assessments to be significantly better than in the past.

On the whole the expert group thought that cases assessed as being in the Work Related Activity Group were at the right level. A handful of these cases were considered ambiguous as it was not apparent if they should have been allocated to the support group or whether it was because the descriptors need modifying. The reverse was also true as there were a few cases allocated to the support group on the basis of the ESA50 without examination (with GP evidence) that one expert thought may have been more appropriately allocated to the Work Related Activity Group. The vast majority of cases allocated to the support group however were felt to have been appropriately evaluated. Crucially, all those cases where individuals scored below threshold were felt to be accurately assessed.

There was broad consensus among the experts that the WCA was performing according to design. The descriptors used in the WCA were indeed reliably identifying individuals according to capability.

## 4.2 Descriptor Proposals

Detailed consideration took place of each activity in turn, within the context of the general principles laid out in the previous chapter. Members of the group expressed their understanding of the existing descriptors, discussing issues such as the intention of the descriptors, their scope and limitation for achieving this, and potential means to improve the descriptors. Debate took place around the validity of concerns raised and the potential impact of possible amendments to the descriptors.

This section lays out detailed proposals to amend the descriptors. The existing legislation, including the policy intent of the activities, is included in order to document the reason behind the proposed changes.



## 4.3 Part 1 – Physical Disabilities

### 4.3.1 Lower Limb

The first three activities focus on capability in relation to lower limb and back functions; Walking, Standing and Sitting, and Bending or Kneeling. These seek to identify an individual's level of mobility within and around an indoor environment, the ability to remain in one place, and the ability to reach a low level such as the floor.

#### Existing Legislation

1. Walking with a walking stick or other aid if such aid is normally used.	1	(a)	Cannot walk at all.	15
		(b)	Cannot walk more than 50 metres on level ground without repeatedly stopping or severe discomfort.	15
		(c)	Cannot walk up or down two steps even with the support of a handrail.	15
		(d)	Cannot walk more than 100 metres on level ground without stopping or severe discomfort.	9
		(e)	Cannot walk more than 200 metres on level ground without stopping or severe discomfort.	6
		(f)	None of the above apply.	0
2. Standing and sitting.	2	(a)	Cannot stand for more than 10 minutes, unassisted by another person, even if free to move around, before needing to sit down.	15
		(b)	Cannot sit in a chair with a high back and no arms for more than 10 minutes before needing to move from the chair because the degree of discomfort experienced makes it impossible to continue sitting.	15
		(c)	Cannot rise to standing from sitting in an upright chair without physical assistance from another person.	15
		(d)	Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.	15
		(e)	Cannot stand for more than 30 minutes, even if free	6

to move around, before needing to sit down.

		(f)	Cannot sit in a chair with a high back and no arms for more than 30 minutes without needing to move from the chair because the degree of discomfort experienced makes it impossible to continue sitting.	6
		(g)	None of the above apply.	0
3. Bending or kneeling.	3	(a)	Cannot bend to touch knees and straighten up again.	15
		(b)	Cannot bend, kneel or squat, as if to pick a light object, such as a piece of paper, situated 15cm from the floor on a low shelf, and to move it and straighten up again without the help of another person.	9
		(c)	Cannot bend, kneel or squat, as if to pick a light object off the floor and straighten up again without the help of another person.	6
		(d)	None of the above apply.	0

These three activities represent a significant level of overlap. Individuals are likely to score in more than one activity for the same disability. For example a wheelchair user will currently score points for not being able to walk, not being able to stand, and not being able to bend or kneel. However, in the modern work place these may represent the same disability. As a result, the points scored in the assessment do not accurately reflect the individual's level of functional limitation.

## Walking

Assessing an individual's ability to walk does not provide the most appropriate measure of their capability for work. The intention of this activity is to identify an individual's mobility in and around the workplace; their capacity to get from A to B. This mobility can be achieved through a variety of means, of which walking is only one. Those individuals who use a wheelchair to mobilise, if working in a fully accessible area, are therefore not limited in their capability for some types of work. Hence, it is more appropriate to assess ability to mobilise than ability to walk. Given their wide availability, the guidelines for this activity should establish that 'wheelchair' refers to a manually propelled wheelchair.

Replacing the term Walking with Mobilising sets a precedent for ensuring that the activity assessed is the disability relevant to functionality at work. Constructing a valid

and consistent assessment across a wide range of disabilities mandates that this principle is applied throughout the assessment. Within this activity specifically it requires removal of the descriptor "Cannot walk at all". The score associated with the descriptor relating to the mounting of two steps should also be amended to score 9 points, to more accurately reflect the functionality of wheelchair users.

## Standing and Sitting

The modern work place requires an individual to remain at their work station long enough to do their job. Whether this requirement be to stand or to sit depends upon the job itself, therefore assessing the ability to do one or other within the same activity is inappropriate. Amalgamating the descriptors facilitates assessment of an individual's ability to remain at their work station either standing, sitting or a combination of both. In removing the requirement that an individual be able to both stand and sit, the need for a descriptor relating to movement between the two is also negated.

This activity currently specifies the type of chair that an individual must be able to sit in. In light of the range of adaptable chairs available, and that provision of an adaptable chair may be a reasonable adjustment for an employer to make, this specification is unnecessary.

## Bending and Kneeling

This activity represents an unnecessary requirement for the workplace. This is highlighted by the fact that wheelchair users who may be capable of work, may also be unable to bend or kneel. Changes to the two activities above mean that Bending or Kneeling is redundant as an activity. The removal of this activity is also in line with active encouragement in the workplace not to bend forward when lifting for health and safety reasons.

## Proposal

1. Mobilising with or without a walking stick, manual wheelchair or other aid if such aid can reasonably be used.	1	(a)	Cannot mobilise more than 50 metres on level ground without repeatedly stopping or experiencing severe discomfort.	15
		(b)	Cannot mount or descend two steps even with the support of a handrail.	9
		(c)	Cannot mobilise more than 100 metres on level ground without stopping or experiencing severe discomfort.	9
		(d)	Cannot mobilise more than 200 metres on level ground without stopping or experiencing severe discomfort.	6

	(e)	None of the above apply.	0
2. Standing and sitting.	2	(a) Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.	15
	(b)	Cannot remain at a work station, either:  (i) standing unassisted by another person (even if free to move around) or;  (ii) sitting (even in an adjustable chair)  for more than 30 minutes before needing to move around as the degree of discomfort experienced makes it impossible to continue.	9
	(c)	Cannot remain at a work station, either:  (i) standing unassisted by another person (even if free to move around) or;  (ii) sitting (even in an adjustable chair)  for more than an hour before needing to move around as the degree of discomfort experienced makes it impossible to continue.	6
	(d)	None of the above apply	0

### Further refinements following evaluation

The essence of the 'Standing and sitting' descriptor is to capture an individual's ability to remain at a work station either standing or sitting. To ensure that it is in fact the disruption of this activity that is measured, the phrase "moving around" is replaced with "moving away":

2. Standing and sitting.	2	(a) Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.	15
	(b)	Cannot remain at a work station, either:  (i) standing unassisted by another person (even if free to move around) or;  (ii) sitting (even in an adjustable chair)	9

for more than 30 minutes before needing to move away as the degree of discomfort experienced makes it impossible to continue.

- |     |  |   |
|-----|--|---|
| (c) | Cannot remain at a work station, either:   | 6 |
|     | (i) standing unassisted by another person (even if free to move around) or;  |   |
|     | (ii) sitting (even in an adjustable chair)   |   |
|     | for more than an hour before needing to move away as the degree of discomfort experienced makes it impossible to continue. |   |
| (d) | None of the above apply  | 0 |

### Limited Capability for Work Related Activity (Support Group)

In the activity relating to walking, the LCW assessment currently measures an individual's ability to cover 50 metres. In the criteria for LCWRA, this distance stands at 30 metres. Not only is the distinction between the two difficult to assess, but there is also substantial possibility that an individual's capability to cover this distance will fluctuate. Aligning these two distances at 50 metres would contribute further to the development of a comprehensive and administrable assessment.

- |   |  |
|---|--|
| 1. Mobilising with or without a walking stick, manual wheelchair or other aid if such aid can reasonably be used. | Cannot mobilise more than 50 metres on level ground without repeatedly stopping or experiencing severe discomfort  |
| 2. Transferring from one seated position to another.  | Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person. |

### 4.3.2 Upper Limb

The following three activities Reaching, Picking Up and Moving, and Manual Dexterity focus on upper limb function. They specifically identify limited capability in the areas of shoulder and elbow function, upper limb power, and hand and wrist function. This is reflected in the assessment of an individual's capability to raise the upper limbs, to pick up and transfer articles at waist level, and to manipulate objects.

## Existing Legislation

4. Reaching.	4.	(a)	Cannot raise either arm as if to put something in the top pocket of a coat or jacket.	15
		(b)	Cannot put either arm behind back as if to put on a coat or jacket.	15
		(c)	Cannot raise either arm to top of head as if to put on a hat.	9
		(d)	Cannot raise either arm above head height as if to reach for something.	6
		(e)	None of the above apply.	0
5. Picking up and moving or transferring by the use of the upper body and arms (excluding all other activities specified in Part 1 of this Schedule).	5.	(a)	Cannot pick up and move a 0.5 litre carton full of liquid with either hand.	15
		(b)	Cannot pick up and move a one litre carton full of liquid with either hand.	9
		(c)	Cannot pick up and move a light but bulky object such as an empty cardboard box, requiring the use of both hands together.	6
		(d)	None of the above apply	0
6. Manual dexterity.	6.	(a)	Cannot turn a "star-headed" sink tap with either hand.	15
		(b)	Cannot pick up a £1 coin or equivalent with either hand.	15
		(c)	Cannot turn the pages of a book with either hand.	15
		(d)	Cannot physically use a pen or pencil.	9
		(e)	Cannot physically use a conventional keyboard or mouse.	9

(f)	Cannot do up/undo small buttons, such as shirt or blouse buttons.	9
(g)	Cannot turn a “star-headed” sink tap with one hand but can with the other.	6
(h)	Cannot pick up a £1 coin or equivalent with one hand but can with the other.	6
(i)	Cannot pour from an open 0.5 litre carton full of liquid.	6
(j)	None of the above apply.	0

A number of the descriptors identifying upper limb disabilities may not accurately measure an individual’s capability for work.

## Reaching

Reaching assesses an individual’s capability to raise their upper limbs above waist height and also identifies those with very restricted shoulder movement. However the action described in the descriptor, of putting either arm behind your back to put on a coat, does not require both hands to go behind the back and therefore fails to identify this limitation. In addition, this is not required function in many workplaces making the descriptor superfluous to an assessment of capability in this context.

## Picking Up

The current assessment of an individual’s ability to pick up an object assumes that the individual has two hands. However, in order to complete the activity this need not be the case. For example, an item may be transferred by wedging it against the body, or another limb, to achieve the same outcome. Many amputees choose not to have a prosthetic limb in order to retain the sensation of touch; however they remain able to complete the task. Removing the reference to the use of hands would enable this to be reflected in the descriptor.

## Manual Dexterity

In the workplace an inability to turn pages can represent a more disabling limitation than the inability to pick up a £1 coin or equivalent. To provide an assessment with correctly weighted descriptors, it is appropriate that the two descriptors be swapped while both retaining a score of 15 points and so identifying an individual as LCW. However, the former rather than the latter will identify an individual as having LCWRA.

The descriptor relating to the turning of a star headed tap awards individuals a disproportionately high number of points for the disability it identifies which is not necessarily an activity for functioning in the workplace. This high scoring misidentifies individuals for ESA purposes. Claimants awarded this descriptor are currently placed in the Support Group and this is unsuitable for an individual identified solely on the basis of this function.

If an individual is capable of carrying out an activity with one hand, then they are capable of carrying out the activity; in this way their functional capability is not limited. Therefore, descriptors identifying limited capability on the basis of functional limitation in one hand, or relating to co-ordinated activity involving two hands, are inappropriate in the assessment of an individual's limited capability for work.

The proposals relating to manual dexterity recommend reducing the number of descriptors to facilitate clear and transparent application of the assessment. This reduction is also a result of removing those descriptors which do not represent a significant limitation of functional capability in relation to the workplace. The removal of all 6 point descriptors reflects the understanding that limited capability in relation to the upper limbs may be more significantly disabling in the work place than limited capability in relation to lower limbs. To ensure a valid assessment it is important that the point scores associated with the descriptors are equitable across the activities in terms of the level of limitation described.

## Proposal

3. Reaching.	3	(a) Cannot raise either arm as if to put something in the top pocket of a coat or jacket.	15
		(b) Cannot raise either arm to top of head as if to put on a hat.	9
		(c) Cannot raise either arm above head height as if to reach for something.	6
		(d) None of the above apply.	0
4. Picking up and moving or transferring by the use of the upper body and arms.		(a) Cannot pick up and move a 0.5 litre carton full of liquid.	15
		(b) Cannot pick up and move a one litre carton full of liquid.	9
		(c) Cannot transfer a light but bulky object such as an empty cardboard box.	6



		(d) None of the above apply	0
5. Manual dexterity.	5	(a) Cannot either: (i) press a button, such as a telephone keypad or; (ii) turn the pages of a book with either hand.	15
		(b) Cannot pick up a £1 coin or equivalent with either hand.	15
		(c) Cannot use a pen or pencil to make a meaningful mark.	9
		(d) Cannot use a suitable keyboard or mouse.	9
		(e) None of the above apply.	0

### Limited Capability for Work Related Activity (Support Group)

3. Reaching.	Cannot raise either arm as if to put something in the top pocket of a coat or jacket.
4. Picking up and moving or transferring by the use of the upper body and arms (excluding standing, sitting, bending or kneeling and all other activities specified in this Schedule).	Cannot pick up and move a 0.5 litre carton full of liquid.
5. Manual dexterity.	Cannot either - (i) press a button, such as a telephone keypad or; (ii) turn the pages of a book with either hand.

### 4.3.3 Sensory Function

The sensory function descriptors identify limited capability on the basis of impairment rather than situational circumstances such as the use of a different language or regional dialect. Speech is a complex activity, involving intellectual, neurological and musculoskeletal components, and may be affected by any condition involving these areas. The activity relating to hearing is not intended to reflect the ability to comprehend speech, but the ability to follow a conversation. Similarly, the activity relating to vision reflects the ability to see clearly, and is not intended to account for literacy.

#### Existing Legislation

7. Speech.	7	(a)	Cannot speak at all.	15
		(b)	Speech cannot be understood by strangers.	15
		(c)	Strangers have great difficulty understanding speech.	9
		(d)	Strangers have some difficulty understanding speech.	6
		(e)	None of the above apply.	0
8. Hearing with a hearing aid or other aid if normally worn.	8	(a)	Cannot hear at all.	15
		(b)	Cannot hear well enough to be able to hear someone talking in a loud voice in a quiet room, sufficiently clearly to distinguish the words being spoken.	15
		(c)	Cannot hear someone talking in a normal voice in a quiet room, sufficiently clearly to distinguish the words being spoken.	9
		(d)	Cannot hear someone talking in a loud voice in a busy street, sufficiently clearly to distinguish the words being spoken.	6
		(e)	None of the above apply.	0
9. Vision including visual acuity and visual fields, in normal daylight or	9	(a)	Cannot see at all.	15

bright electric light, with glasses or other aid to vision if such aid is normally worn.	(b)	Cannot see well enough to read 16 point print at a distance of greater than 20cm.	15
	(c)	Has 50% or greater reduction of visual fields.	15
	(d)	Cannot see well enough to recognise a friend at a distance of a least 5 metres.	9
	(e)	Has 25% or more but less than 50% reduction of visual fields.	6
	(f)	Cannot see well enough to recognise a friend at a distance of at least 15 metres.	6
	(g)	None of the above apply.	0

The activities Speech, Hearing and Vision, are overly focused on an individual's impairment, rather than the disability engendered by it. This focus hinders the assessment's ability to consider the individual's functional limitation in relation to their capability for work. Refocusing these activities would lead to alignment of the descriptors with the functional focus of the assessment. The necessary functions which they identify are expressive and receptive communication (achievable through various modes), navigation and maintaining safety.

In focusing activities on the disability rather than the impairment, the descriptors will be able to distinguish between those individuals who have adapted to their condition, and therefore reduced their level of disability, and those that have not, remaining significantly limited by their impairment. Removing the top descriptors in each activity: cannot speak at all, cannot see at all and cannot hear at all, from effectively automatic entitlement to benefit, prevents transmission of the message that individuals with such impairments inherently cannot work.

## Speech

In moving from an impairment based activity to an activity which recognises the disability which the impairment engenders, in this case expressing oneself, a wider range of means become available to accomplish the activity; Making self understood through speaking, writing, typing, or other means normally used. Speech is just one mode an individual may use to make themselves understood. It is appropriate that the content of the descriptors be aligned with this, identifying the ability to communicate, as opposed to the ability to speak.

Based on the inclusion of a wider range of methods of communication, the presence of 'great difficulty' in conveying a simple message to a stranger represents a more significantly disabling limitation in the work place than the existing descriptor. It is therefore appropriate that 15 points be awarded to individuals scoring on this descriptor.

## Hearing

In associating the activity of hearing with the function of receiving communication, the descriptors need to be restructured around the capacity to understand communication, rather than identifying degrees of hearing impairment. As the new activity mirrors the previous activity, the measure used to assess hearing presents a suitable hierarchy of ability with which to measure receipt of communication. The only difference being that descriptor b, identifying individuals with 'great difficulty' understanding a simple message from a stranger does not represent as significant a disability as the inability to convey a message to a stranger. This is because the methods available to convey a message cover a wide range of functions and represent a higher level of disability. It therefore retains a score of 9 points, as opposed to the 15 awarded to the corresponding descriptors in the previous activity.

A caveat should be included in the descriptors stating that the disability arises from sensory impairment to ensure that scores are awarded on the basis of a hearing impairment rather than cognitive limitation which hinders understanding, for which an individual will score points elsewhere in the assessment. This will improve claimants' understanding of what points they are entitled to in the assessment.

In discussion of this activity, concern was raised around the reference to British Sign Language (BSL). This is not the same language as English, which should not therefore be assumed to be an individual's first language. It was suggested that an individual's ability to express themselves through sign language does not constitute the ability to make themselves understood, as BSL cannot be comprehended by most people. In addition the prohibitive cost of a translator may prevent the use of one from being considered a reasonable adjustment under the DDA.

## Vision

In conjunction with the changes proposed elsewhere, consistency requires restructuring of the activity related to vision. In discussion it was noted that vision should not be considered a substitute for hearing. For determining LCW, the key disabling features of the impairment can be identified as navigation and maintaining safety.

The existing descriptors relating to vision match increasing levels of impairment with a higher points score. To replace this activity with navigation, different means of measuring the extent of the disability were considered. A temporal measure, which would identify the permanence of risk was considered, but it was decided that it is

due to the type of environment that the level of risk differs, for example the familiar versus the unfamiliar.

It was recognised that it is not solely the loss of vision that prevents navigation, but that confidence and individual training are also important. In a more familiar place, individuals are likely to face less limitation. Thus higher scores should be awarded to individuals who require support in the most familiar environments. Lower scores should be awarded to individuals with greater capacity to navigate their way around a familiar place, such as the work place, as they are less inhibited by the impairment in this regard.

Whilst familiar environments may become unfamiliar, health and safety requirements should make most work places safe for individuals with significant visual loss.

## Proposal

6. Making self understood through speaking, writing, typing, or other means normally used. 6	(a)	Cannot convey a simple message, such as the presence of a hazard.	15
	(b)	Has great difficulty conveying a simple message to strangers.	15
	(c)	Has some difficulty conveying a simple message to strangers.	6
	(d)	None of the above apply.	0
7. Understanding communication by hearing, lip reading, reading 16 point print or using any aid if reasonably used. 7	(a)	Cannot understand a simple message due to sensory impairment, such as the location of a fire escape.	15
	(b)	Has great difficulty understanding a simple message from a stranger due to sensory impairment.	9
	(c)	Has some difficulty understanding a simple message from a stranger due to sensory impairment.	6
	(d)	None of the above apply.	0
8. Navigation and maintaining safety, using a guide dog or other aid if normally used. 8	(a)	Unable to navigate around familiar surroundings, without being accompanied by another person, due to sensory impairment.	15
	(b)	Cannot safely complete a potentially hazardous task such as crossing the road, without being accompanied by another	9

person, due to sensory impairment.

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|-----|--|---|
| (c) | Unable to navigate around unfamiliar surroundings, without being accompanied by another person, due to sensory impairment. | 6 |
| (d) | None of the above apply.   | 0 |

### Limited Capability for Work Related Activity (Support Group)

By reworking the descriptors to ensure the identification of the individual's disability, rather than their impairment, the highest scoring descriptors have become a means to identify significant disability in activities which do not correlate with the schedule three criteria. As a result the highest scoring descriptors for Making Self Understood, and Understanding Communication, should be replicated in the LCWRA criteria.

The original criteria only identified individuals for membership of the Support Group on the basis of limited expressive communication. It is appropriate that this is expanded to include disablement caused by limited receptive communication as well.

6. Making self understood through speaking, writing, typing, or other means normally used.	Cannot convey a simple message, such as the presence of a hazard.
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7. Understanding communication by hearing, lip reading, reading 16 point print or using any aid if reasonably used.	Cannot understand a simple message due to sensory impairment, such as the location of a fire escape.
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### 4.3.4 Continence

The three sections of this activity distinguish between faecal incontinence, urinary incontinence, and individuals who have difficulty managing their artificial stoma. They all relate to the total involuntary voiding of the bowel or bladder, rather than providing an assessment of minor leakage, for example caused by minor degrees of stress incontinence. Similarly, urgency, which can be controlled through regular voiding, is not considered to be 'loss of control'. The activities all refer to the continence of the claimant whilst awake.

### Existing Legislation

10 (a) Continence other than enuresis (bed wetting) where the claimant does not have an artificial stoma or urinary collecting device.	10 (a)	(i)	Has no voluntary control over the evacuation of the bowel.	15
		(ii)	Has no voluntary control over the voiding of the bladder.	15
		(iii)	At least once a month loses control of bowels so that the claimant cannot control the full evacuation of the bowel.	15
		(iv)	At least once a week, loses control of bladder so that the claimant cannot control the full voiding of the bladder.	15
		(v)	Occasionally loses control of bowels so that the claimant cannot control the full evacuation of the bowel.	9
		(vi)	At least once a month loses control of bladder so that the claimant cannot control the full voiding of the bladder.	6
		(vii)	Risks losing control of bowels or bladder so that the claimant cannot control the full evacuation of the bowel or the full voiding of the bladder if not able to reach a toilet quickly.	6
		(viii)	None of the above apply.	0
10 (b) Continence where the claimant uses a urinary collecting device, worn for the majority of the time including an indwelling	10 (b)	(i)	Is unable to affix, remove or empty the catheter bag or other collecting device without receiving physical assistance from another person.	15

urethral or suprapubic catheter.		(ii)	Is unable to affix, remove or empty the catheter bag or other collecting device without causing leakage of contents.	15
		(iii)	Has no voluntary control over the evacuation of the bowel.	15
		(iv)	At least once a month, loses control of bowels so that the claimant cannot control the full evacuation of the bowel.	15
		(v)	Occasionally loses control of bowels so that the claimant cannot control the full evacuation of the bowel.	9
		(vi)	Risks losing control of bowels so that the claimant cannot control the full evacuation of the bowel if not able to reach a toilet quickly.	6
		(vii)	None of the above apply.	0
10 (c) Continence other than enuresis (bed wetting) where the claimant has an artificial stoma.	10 (c)	(i)	Is unable to affix, remove or empty stoma appliance without receiving physical assistance from another person.	15
		(ii)	Is unable to affix remove or empty stoma appliance without causing leakage of contents.	15
		(iii)	Where the claimant's artificial stoma relates solely to the evacuation of the bowel, at least once a week, loses control of bladder so that the claimant cannot control the full voiding of the bladder.	15
		(iv)	Where the claimant's artificial stoma relates solely to the evacuation of the bowel, at last once a month, loses control of bladder so that the claimant cannot control the full voiding of the bladder.	9



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|------|---|---|
| (v)  | Where the claimant's 6 artificial stoma relates solely to the evacuation of the bowel, risks losing control of the bladder so that the claimant cannot control the full voiding of the bladder if not able to reach a toilet quickly. | 6 |
| (vi) | None of the above apply.  | 0 |

Having three different variations of the activity relating to continence renders the assessment more complex than necessary. The distinction between the different parts is based on the individual's impairment. However, regardless of the type of incontinence which an individual has, or any adaptation which they may have made, it is the consequences of the disability which the assessment seeks to identify.

The disability associated with continence is largely one of social acceptability. Whilst the disability itself does not necessarily limit an individual's capability for work, the loss of dignity resulting from the associated soiling is considered severe enough to make it unreasonable to expect an individual with severe incontinence to work. On this basis there is a distinction between a sense of urgency and a loss of control, the former causing discomfort but not soiling.

Identification of the extent of this disability is achieved by measuring the need for 'cleaning and a change in clothing' following a significant episode. This recognises the fact that there is no differentiation between the impact upon the individual if the soiling is caused by the full evacuation of the bladder/voiding of the bowels, or leakage of any adaptive device used. This measure provides a transparent and universally applicable means to assess the impact of the condition upon the individual and their capability for work.

## Proposal

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|--|---|-----|---|----|
| 9. Absence or loss of control over full evacuation of the bowel and/or bladder, despite the presence of any aids or adaptations normally used. | 9 | (a) | At least once a week experiences  | 15 |
|  |   |     | (i) loss of control over full evacuation of the bowel and/or voiding of the bladder; or |    |
|  |   |     | (ii) substantial leakage of the contents of a collecting device;                        |    |
|  |   |     | sufficient to require the individual to clean themselves and change clothing.           |    |

- |     |  |   |
|-----|--|---|
| (b) | At least once a month experiences  | 9 |
|     | (i) loss of control over full evacuation of the bowel and/or voiding of the bladder; or<br><br>(ii) substantial leakage of the contents of a collecting device;<br><br>sufficient to require the individual to clean themselves and change clothing. |   |
| (c) | At risk of loss of control over full evacuation of the bowel and/or voiding of the bladder, sufficient to require cleaning and a change in clothing, if not able to reach a toilet quickly.  | 6 |
| (d) | None of the above apply.   | 0 |

### Limited Capability for Work Related Activity (Support Group)

The simplification of this activity can be replicated in the Support Group.

#### Proposal

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|---|--|
| 8. Absence or loss of control over full evacuation of the bowel and/or voiding of the bladder, despite the presence of any aids or adaptations normally used. | At least once a week experiences<br><br>(i) loss of control leading to full evacuation of the bowel and/or voiding of the bladder; or<br><br>(ii) substantial leakage of the contents of a collecting device;<br><br>sufficient to require the individual to clean themselves and change clothing. |
|---|--|

### Further refinements following evaluation

The group agreed that a change of terminology from “full evacuation” to “extensive evacuation” was necessary in order to clarify the qualification in the incontinence descriptor, to indicate unmanageable leakage that is disruptive.

#### Proposal

9. Absence or loss of control leading to extensive evacuation of the bowel and/or bladder, despite the presence of any aids or adaptations normally used.	9	(a)	At least once a week experiences	15
			(i) loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder; or	
			(ii) substantial leakage of the contents of a collecting device;	
			sufficient to require the individual to clean themselves and change clothing.	
		(b)	At least once a month experiences	9
			(i) loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder; or	
			(ii) substantial leakage of the contents of a collecting device;	
			sufficient to require the individual to clean themselves and change clothing.	
		(c)	At risk of loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder, sufficient to require cleaning and a change in clothing, if not able to reach a toilet quickly.	6
		(d)	None of the above apply.	0

## Limited Capability for Work Related Activity (Support Group)

### Proposal

8. Absence or loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder, despite the presence of any aids or adaptations normally used.	At least once a week experiences		
		(i)	loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder; or
		(ii)	substantial leakage of the contents of a collecting device;
			sufficient to require the individual to clean themselves and change clothing.

### 4.3.5 Consciousness

This activity encompasses involuntary loss or alteration of consciousness resulting in significantly disrupted awareness or concentration during waking hours such that it prevents the claimant from safely continuing with any activity.

#### Existing Descriptor

11. Remaining conscious during waking moments.	11	(a)	At least once a week, has an involuntary episode of lost or altered consciousness, resulting in significantly disrupted awareness or concentration.	15
		(b)	At least once a month, has an involuntary episode of lost or altered consciousness, resulting in significantly disrupted awareness or concentration.	9
		(c)	At least twice in the six months immediately preceding the assessment, has had an involuntary episode of lost or altered consciousness, resulting in significantly disrupted awareness or concentration.	6
		(d)	None of the above apply.	0

Evidence relating to the level of employment amongst individuals having loss or alteration of consciousness with varying degrees of regularity suggests that, if this is an individual's only disability, then such an event four times a year would not present a significant limitation to their functional capability. This suggests that the descriptor scoring 6 points is inappropriate to the assessment of an individual's limited capability for work.

The impact of this limitation is also particularly job specific. In many jobs, loss or alteration of consciousness will have little consequences whilst there are a number of jobs, such as managing heavy machinery, which the individual would clearly be unable to do. The main limitations associated with lost or altered consciousness can be mitigated if there are associated warning signs. Any distress caused by having an episode in front of colleagues may be reduced, and precautions can be taken to attain safety.

Once established that lost or altered consciousness significantly disrupts an individual's awareness or concentration, and that they occur without warning, the regularity of episodes remains the most appropriate measure to distinguish between

differing levels of limitation associated with their occurrence. It is apparent that events are either significantly regular to warrant entitlement to benefit on the basis of this single activity, therefore requiring a 15 point score, or they are relatively managed and controlled. In the latter case, although disabling, an individual's lost or altered consciousness would not play a significant role in limiting their capability for work.

## Proposal

10. Consciousness during waking moments.	10	(a) At least once a week, has an involuntary episode of lost or altered consciousness without warning, resulting in significantly disrupted awareness or concentration.	15
		(b) At least once a month, has an involuntary episode of lost or altered consciousness without warning, resulting in significantly disrupted awareness or concentration.	6
		(c) None of the above apply.	0

## 4.4 Part 2 - Mental, intellectual and cognitive function

### 4.4.1 Learning and comprehension

This activity relates to an individual's capability to learn and retain information as well as comprehend it. It seeks to identify individuals who have difficulty learning new tasks.

#### Existing Legislation

12. Learning or comprehension in the completion of tasks.	12	(a) Cannot learn or understand how to successfully complete a simple task, such as setting an alarm clock, at all.	15
		(b) Needs to witness a demonstration, given more than once on the same occasion, of how to carry out a simple task before the claimant is able to learn or understand how to complete the task successfully, but would be unable to successfully complete the task the following day without receiving a further demonstration of how to complete it.	15
		(c) Needs to witness a demonstration of how to carry out a simple task, before the claimant is able to learn or understand how to complete the task successfully, but would be unable to successfully complete the task the following day without receiving a verbal prompt from another person.	9
		(d) Needs to witness a demonstration of how to carry out a moderately complex task, such as the steps involved in operating a washing machine to correctly clean clothes, before the claimant is able to learn or understand how to complete the task successfully, but would be unable to successfully complete the task the following day without receiving a verbal prompt from another person.	9
		(e) Needs verbal instructions as to how to carry out a simple task before the claimant is able to learn or understand how to complete the task successfully, but would be unable, within a period of less than one week, to successfully complete the task the following day without receiving a verbal prompt from another person.	6

- (f) None of the above apply. 0

When piloting the WCA, the two aspects of this activity, learning and comprehension were tested as two separate activities. However, in producing the final version, they were combined in order to prevent double scoring. But, as the act of understanding how to do something is built into the process of retaining that knowledge, it can be considered superfluous to this activity.

The ability to learn is the key component of the activity in relation to the workplace. To measure functional capability, the means by which learning is achieved are less significant than the ability to learn. Therefore, identifying these means through indicators such as verbal prompting risks distorting the identification of whether the individual is able to learn, and thus carry out tasks. For example, if prompting and re-learning is required the following day, then in effect that task has not been learnt. In recognition of this, the necessary gradation between the descriptors is the complexity of the task which an individual is able to learn.

## Proposal

11. Learning tasks.	11	(a) Cannot learn how to complete a simple task, such as setting an alarm clock.	15
		(b) Cannot learn anything beyond a simple task, such as setting an alarm clock.	9
		(c) Cannot learn anything beyond a moderately complex task, such as the steps involved in operating a washing machine to clean clothes.	6
		(d) None of the above apply.	0

## Limited Capability for Work Related Activity (Support Group)

9. Learning tasks.	Cannot learn how to complete a simple task, such as setting an alarm clock, due to cognitive impairment or mental disorder.
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#### 4.4.2 Awareness of Hazards

The purpose of this activity is to identify individuals at risk from common hazards as a result of reduced awareness; this may be caused by learning difficulties, affected concentration and self-awareness, or the effects of medication. It reflects the absence of understanding or ability to recognise potential danger.

#### Existing Legislation:

13. Awareness of hazard.	13	(a)	Reduced awareness of the risks of everyday hazards (such as boiling water or sharp objects) would lead to daily instances of or to near-avoidance of:	15
		(i)	injury to self or others; or	
		(ii)	significant damage to property or possessions,	
			to such an extent that overall day to day life cannot successfully be managed.	
		(b)	Reduced awareness of the risks of everyday hazards would lead for the majority of the time to instances of or to near avoidance of	9
		(i)	injury to self or others; or	
		(ii)	significant damage to property or possessions,	
			to such an extent that overall day to day life cannot successfully be managed without supervision from another person.	
		(c)	Reduced awareness of the risks of everyday hazards has led or would lead to frequent instances of or to near-avoidance of:	6
		(i)	injury to self or others; or	
		(ii)	significant damage to property or possessions,	
			but not to such an extent that overall day to day life cannot be managed when such incidents occur.	
		(d)	None of the above apply.	0



The risk associated with reduced awareness of hazards represents an alternative measure of disability, rather than using frequency to assess the level of limitation. Consideration was given to the severity of the risk and how it could potentially be mitigated. Hazard awareness is frequently binary in nature; individuals are unlikely to be occasionally aware, or occasionally unaware. Therefore the most appropriate measure for this disability is the level of input required to manage the risk. The level of supervision required can act as a proxy indicator for this. In addition, for the descriptors to identify increased limitation it is irrelevant whether an incident is intentional or accidental, the important impact being the harm caused.

It is important to acknowledge that the level of risk present will vary from one job to another, as will the extent of toleration of that risk by employers.

## Proposal

12. Awareness of everyday hazards (such as boiling water or sharp objects).	12	(a) Reduced awareness of everyday hazards leads to a risk of  (i) significant injury to self or others; or  (ii) significant damage to property or possessions,  such that they require constant supervision to maintain safety.	15
		(b) Reduced awareness of everyday hazards leads to a risk of  (i) significant injury to self or others; or  (ii) significant damage to property or possessions,  such that they require supervision for the majority of the time to maintain safety.	9
		(c) Reduced awareness of everyday hazards leads to a risk of  (i) significant injury to self or others; or  (ii) significant damage to property or possessions,  such that they require frequent supervision to maintain safety.	6
		(d) None of the above apply.	0

## Limited Capability for Work Related Activity (Support Group)

10. Awareness of hazard.

Reduced awareness of everyday hazards, due to cognitive impairment or mental disorder, leads to a risk of:

- (i) significant injury to self or others; or
- (ii) significant damage to property or possessions,

such that they require constant supervision to maintain safety.

### 4.4.3 Completing Personal Action

The activities Memory and Concentration, Execution of Tasks and Initiating and Sustaining Personal Action, all identify limitations on an individual's ability to successfully complete tasks. Each attributes this limitation to a different cause, be it lapses in memory and concentration, possibly due to fatigue, depression or neurological impairment; the time in which an activity is completed, potential delays being obsessive compulsive behaviour, overwhelming fear or delusions; or the inability to initiate or sustain activity due to abnormal levels of apathy or fatigue for example. These are all the result of mental rather than physical disablement.

The overall intention is to assess an individual's capability to carry out routine activity.

### Existing Legislation

14. Memory and concentration.	14	(a)	On a daily basis, forgets or loses concentration to such an extent that overall day to day life cannot be successfully managed without receiving verbal prompting, given by someone else in the claimant's presence.	15
		(b)	For the majority of the time, forgets or loses concentration to such an extent that overall day to day life cannot be successfully managed without receiving verbal prompting, given by someone else in the claimant's presence.	9
		(c)	Frequently forgets or loses concentration to such an extent that overall day to day life can only be successfully managed with pre-planning, such as making a daily written list of all tasks forming part of daily life that are to be completed.	6
		(d)	None of the above apply.	0
15. Execution of tasks.	15	(a)	Is unable to successfully complete any everyday task.	15
		(b)	Takes more than twice the length of time it would take a person without any form of mental disablement, to successfully complete an everyday task with which the claimant is familiar.	15

		(c) Takes more than one and a half times but no more than twice the length of time it would take a person without any form of mental disablement to successfully complete an everyday task with which the claimant is familiar.	9
		(d) Takes one and a half times the length of time it would take a person without any form of mental disablement to successfully complete an everyday task with which the claimant is familiar.	6
		(e) None of the above apply.	0
16. Initiating and sustaining personal action.	16	(a) Cannot, due to cognitive impairment or a severe disorder of mood or behaviour, initiate or sustain any personal action (which means planning, organisation, problem solving, prioritising or switching tasks).	15
		(b) Cannot, due to cognitive impairment or a severe disorder of mood or behaviour, initiate or sustain personal action without requiring verbal prompting given by another person in the claimant's presence for the majority of the time.	15
		(c) Cannot, due to cognitive impairment or a severe disorder of mood or behaviour, initiate or sustain personal action without requiring verbal prompting given by another person in the claimant's presence for the majority of the time.	9
		(d) Cannot, due to cognitive impairment or a severe disorder of mood or behaviour, initiate or sustain personal action without requiring frequent verbal prompting given by another person in the claimant's presence.	6
		(e) None of the above apply.	0

Given that these three activities identify the same disability, the inability to complete a task, they provide a source of double, if not triple, scoring. The amalgamation of these three activities would remove this duplication.

It is unlikely that in a work context an individual would only be required to carry out a single task. The activity Memory and concentration currently recognises the importance of prioritisation, indicating that an individual is able to contextualise the carrying out of tasks in their broader context; it is important that this emphasis be retained in the new descriptor. This can be achieved by wording a new activity around the completion of two sequential tasks. By phrasing the activity to identify the completion of an action 'which includes planning, organisation, problem solving, prioritising or switching tasks', breadth is provided to encompass this.

Approximating the time it takes an individual to execute a task, identifying either one and a half, or two times longer than is considered normal, is a particularly complex measurement. There is always variation in the time it takes individuals to complete tasks and collecting substantial evidence in order to apply these descriptors is particularly problematic. In order to achieve a comprehensive assessment the descriptors must be applied according to clear regulated standards. In addition, assessment of this time period in isolation is not the best indicator of disability and therefore not appropriate in the context of this assessment.

If the time it takes an individual to complete a task means that it can not be executed reliably and repeatedly, then they will be considered unable to do so.

## Proposals

13. Initiating and completing personal action (which means planning, organisation, problem solving, prioritising or switching tasks).	13	(a)	Cannot, due to cognitive impairment or mental disorder, initiate or complete at least 2 sequential personal actions.	15
		(b)	Cannot, due to cognitive impairment or mental disorder, initiate or complete at least 2 sequential personal actions without requiring verbal prompting given most of the time by another person in the claimant's presence.	9
		(c)	Cannot, due to cognitive impairment or mental disorder, initiate or complete at least 2 sequential personal actions without requiring frequent verbal prompting given by another person in the claimant's presence.	6
		(d)	None of the above apply.	0

## Limited Capability for Work Related Activity (Support Group)

11. Initiating and completing personal action (which means planning, organisation, problem solving, prioritising or switching tasks). Cannot, due to cognitive impairment or mental disorder, initiate or complete at least 2 sequential personal actions.

### **Further refinements following evaluation**

The importance of considering the functional effects of certain conditions in relation to this descriptor was highlighted as part of the evaluation. A number of common medical conditions, such as obsessive compulsive disorder and head injury, may feature obsessive phenomena which can be significantly disabling. Therefore, it is important that this descriptor be applied in such cases where the nature of the disability is such that the personal action cannot be reasonably considered complete.

#### 4.4.4 Coping With Change

This activity identifies individuals with substantial difficulty in coping with changes in normal routine. This does not refer to simple dislike of changes to routine, but the inability to cope with them.

#### Existing Legislation

17. Coping with change.	17	(a)	Cannot cope with very minor, expected changes in routine, to the extent that overall day to day life cannot be managed.	15
		(b)	Cannot cope with expected changes in routine (such as a pre-arranged permanent change to the routine time scheduled for a lunch break), to the extent that overall day to day life is made significantly more difficult.	9
		(c)	Cannot cope with minor, unforeseen changes in routine (such as an unexpected change of the timing of an appointment on the day it is due to occur), to the extent that overall, day to day life is made significantly more difficult.	6
		(d)	None of the above apply.	0

In this activity the inability to cope with change represents the relevant disability. If an individual is unable to cope with planned change, then the planned nature of the change is irrelevant, it is the inability to cope which needs to be identified. However, in the lower scoring descriptors, it is crucial to distinguish between those individuals that are able to cope with planned change and those that are not. The ability to do so is a key indicator of the ability to function in the workplace; as an individual who can cope with planned change can be supported in the work place in order to do so.

Greater clarity could be achieved in this activity through reference to 'planned' rather than 'expected' change. This provides a clearer indication of the capability which the activity seeks to identify. In addition, the permanence of that change is irrelevant; it is the change itself which is of importance.

#### Proposal

14. Coping with change.	14	(a)	Cannot cope with any change to the extent that day to day life cannot be managed.	15
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- |     |   |   |
|-----|---|---|
| (b) | Cannot cope with minor planned change (such as a pre-arranged change to the routine time scheduled for a lunch break), to the extent that overall day to day life is made significantly more difficult. | 9 |
| (c) | Cannot cope with minor unplanned change (such as the timing of an appointment on the day it is due to occur), to the extent that overall, day to day life is made significantly more difficult.         | 6 |
| (d) | None of the above apply.  | 0 |

### **Limited Capability for Work Related Activity (Support Group)**

- |                        |  |
|------------------------|--|
| 12. Coping with change | Cannot cope with any change, due to cognitive impairment or mental disorder, to the extent that day to day life cannot be managed. |
|------------------------|--|



#### 4.4.5 Getting About

This activity identifies individuals who are unable to travel without supervision and support from another person. This may be due to disorientation or agoraphobia for example, but is not the result of a physical impairment, as covered separately in part 1. This activity does not reflect lesser degrees of anxiety about going out, nor does it reflect planning and timekeeping.

#### Existing Legislation:

18. Getting about.	18	(a)	Cannot get to any specified place with which the claimant is, or would be, familiar.	15
		(b)	Is unable to get to a specified place with which the claimant is familiar, without being accompanied by another person on each occasion.	15
		(c)	For the majority of the time is unable to get to a specified place with which the claimant is familiar without being accompanied by another person.	9
		(d)	Is frequently unable to get to a specified place with which the claimant is familiar without being accompanied by another person.	6
		(e)	None of the above apply.	0

In considering the impact on an individual's ability to get around, temporality is not the most insightful measure, as individuals with conditions such as agoraphobia may not show this kind of variation in their capability. Variation is more likely to be present based on an individual's ability to get about in some circumstances and not others, familiarity being the most telling indicator. As the work place is a familiar environment, identifying this differential will ensure that the descriptors are work focused.

The means by which an individual arrives at their destination is less important in the context of their capability for work. Individuals that are unable to use public transport, and yet are able to arrive at their destination alone through other means, will not score on this activity.

The reliance on accompaniment to get around raises an interesting point. Once at work, despite being accompanied on their journey to get there, an individual would still be capable of work. The individual has implemented a coping strategy in the form of accompaniment during their journey. However, the need for constant provision and reliability of that accompaniment presents a risk in relation to attendance at work.

**Proposal**

15. Getting about.	15	(a) Cannot get to any specified place with which the claimant is familiar.	15
		(b) Is unable to get to a specified place with which the claimant is familiar, without being accompanied by another person.	9
		(c) Is unable to get to a specified place with which the claimant is unfamiliar without being accompanied by another person.	6
		(d) None of the above apply.	0

#### 4.4.6 Social Situations

The activities Coping with Social Situations, Propriety of Behaviour with Other People and Dealing with Other People, all refer to an individual's ability to function in social situations. These activities are intended to reflect real difficulties with social engagement and behaviour. For example, displaying consistently abnormal behaviour, or a level of anxiety much more severe than fleeting moments of anxiety, which any individual might experience from time to time.

#### Existing Descriptors

19. Coping with social situations.	19	(a)	Normal activities, for example, visiting new places or engaging in social contact, are precluded because of overwhelming fear or anxiety.	15
		(b)	Normal activities, for example, visiting new places or engaging in social contact, are precluded for the majority of the time due to overwhelming fear or anxiety.	9
		(c)	Normal activities, for example, visiting new places or engaging in social contact, are frequently precluded, due to overwhelming fear or anxiety.	6
		(d)	None of the above apply.	0
20. Propriety of behaviour with other people.	20	(a)	Has unpredictable outbursts of aggressive, disinhibited, or bizarre behaviour, being either:  (i) sufficient to cause disruption to others on a daily basis; or  (ii) of such severity that although occurring less frequently than on a daily basis, no reasonable person would be expected to tolerate them.	15
		(b)	Has a completely disproportionate reaction to minor events or to criticism to the extent that the claimant has an extreme violent outburst leading to threatening behaviour or actual physical violence.	15
		(c)	Has unpredictable outbursts of aggressive, disinhibited or bizarre behaviour, sufficient in	9

		severity and frequency to cause disruption for the majority of the time.	
	(d)	Has a strongly disproportionate reaction to minor events or to criticism, to the extent that the claimant cannot manage overall day to day life when such events or criticism occur.	9
	(e)	Has unpredictable outbursts of aggressive, disinhibited or bizarre behaviour, sufficient to cause frequent disruption.	6
	(f)	Frequently demonstrates a moderately disproportionate reaction to minor events or to criticism but not to such an extent that the claimant cannot manage overall day to day life when such events or criticism occur.	6
	(g)	None of the above apply.	0
21. Dealing with other people.	21	(a) Is unaware of impact of own behaviour to the extent that:	15
		(i) has difficulty relating to others even for brief periods, such as a few hours; or	
		(ii) causes distress to others on a daily basis.	
	(b)	The claimant misinterprets verbal or non-verbal communication to the extent of causing himself or herself significant distress on a daily basis.	15
	(c)	Is unaware of impact of own behaviour to the extent that:	9
		(i) has difficulty relating to others for longer periods, such as a day or two; or	
		(ii) causes distress to others for the majority of the time.	
	(d)	The claimant misinterprets verbal or non-verbal communication to the extent of causing himself or herself significant distress to himself for the majority of the time.	9

- |     |   |   |
|-----|---|---|
| (e) | Is unaware of impact of own behaviour to the extent that:   | 6 |
|     | (i) has difficulty relating to others for prolonged periods, such as a week; or   |   |
|     | (ii) frequently causes distress to others.  |   |
| (f) | The claimant misinterprets verbal or non-verbal communication to the extent of causing himself or herself significant distress on a frequent basis. | 6 |
| (g) | None of the above apply.  | 0 |

These three activities represent two interrelated functions; the capability to deal with social situations, in terms of communication and personal distress, and the impact of the individuals' actions upon others within those situations, in terms of behaviour. The Dealing with Other People activity currently encompasses both those elements. This overlap suggests that splitting these aspects and distributing them between the other two activities would facilitate a clearer assessment and prevent inappropriate double scoring.

This activity was developed in part to ensure that the assessment identified individuals with Autistic Spectrum Disorder who would face significant challenges working. However, proposals for other activities mean that these functional limitations are identified elsewhere in the assessment and that the specific requirement no longer remains.

### **Coping with Social Situations**

The primary function of this activity is identifying functional capability in terms of social contact, making inclusion of the ability to visit new places inappropriate. Limitation in the ability to get around is identified elsewhere.

Temporality is not the best measure of an individual's capability in social situations. Scale is important, for example an individual may cope with contact with one or two individuals, but not a room full of people. However, familiarity provides a more appropriate measure in relation to the work place.

The individual's ability to *engage* in social contact is the crucial ability. An individual may be unable to engage in any social contact at all. For these individuals, contact even with those that are familiar is precluded. Individuals able to engage with those that are familiar present a lesser degree of disability, and if an individual is able to engage in contact with unfamiliar individuals, this does not present a limitation for work purposes. This distinction suggests that the disability is either pervasive,

precluding all social engagement, or presents little hindrance. To reflect this hierarchy of disability it is appropriate that the scoring for these descriptors is 15 and 9 points, with no 6 point descriptor.

### Appropriateness of Behaviour

Language used in the activity relating to the propriety of behaviour could be considered overly negative. There is scope to replace the words 'bizarre' and 'outbursts' with more neutral terms without losing meaning.

The descriptors implicitly consider whether an individual's behaviour is out of control. It is only if individuals are unable to control their behaviour within the workplace that disinhibited behaviour becomes important, there is utility in making this distinction explicit. The inability to control this behaviour makes it not only inappropriate for the work place but also may move responsibility for it, in part, to the employer.

There is also scope to simplify the activity by removing the distinction between provoked or unprovoked behaviour as it is unimportant; it is the consequences, not the causes, which are important.

What a reasonable person might consider appropriate is also not entirely indicative of what perhaps should be considered reasonable. For example, reasonable people may be uncomfortable with individuals' disabilities. Therefore it is more appropriate to apply the measure of reasonableness to the work place.

16. Coping with social engagement due to cognitive impairment or mental disorder	16	(a)	Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the individual.	15
		(b)	Engagement in social contact with someone unfamiliar to the claimant is always precluded due to difficulty relating to others or significant distress experience by the individual.	9
		(c)	None of the above apply.	0
17. Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder	17	(a)	Has, on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	15
		(b)	Most of the time has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	9
		(b)	Frequently has uncontrollable episodes of	6

aggressive or disinhibited behaviour that would be unreasonable in any workplace.

(c) None of the above apply. 0

### Limited Capability for Work Related Activity (Support Group)

13. Coping with social engagement, due to cognitive impairment or mental disorder Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the individual.

14. Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder. Has, on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.

### Further refinements following evaluation

Alteration of the 'Appropriateness of behaviour' descriptor to a 15 point descriptor of daily episodes and a 6 point descriptor of frequent episodes was decided. This change was brought about after consideration of what would pose a barrier to work, the likelihood of impairment in this area occurring in isolation or not and clarification of the language of the descriptor.

17. Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder	(a)	Has, on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	15
	(b)	Frequently has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	6
	(c)	None of the above apply.	0

## 4.5 Eating and Drinking

There is no proposal to amend or remove the following item from Schedule 3. However, there are very rare cases where an individual may satisfy these LCWRA

criteria but not any corresponding LCW criteria. Therefore, a similar provision should be made to accommodate this within the LCW regulations.

- |                                       |   |
|---------------------------------------|---|
| Conveying food or drink to the mouth. | <ul style="list-style-type: none"><li>(a) Cannot convey food or drink to the claimant's own mouth without receiving physical assistance from someone else;</li><li>(b) Cannot convey food or drink to the claimant's own mouth without repeatedly stopping, experiencing breathlessness or severe discomfort;</li><li>(c) Cannot convey food or drink to the claimant's own mouth without receiving regular prompting given by someone else in the claimant's physical presence; or</li><li>(d) Owing to a severe disorder of mood or behaviour, fails to convey food or drink to the claimant's own mouth without receiving—<ul style="list-style-type: none"><li>(i) physical assistance from someone else; or</li><li>(ii) regular prompting given by someone else in the claimant's presence.</li></ul></li></ul> |
| Chewing or swallowing food or drink.  | <ul style="list-style-type: none"><li>(a) Cannot chew or swallow food or drink;</li><li>(b) Cannot chew or swallow food or drink without repeatedly stopping, experiencing breathlessness or severe discomfort;</li><li>(c) Cannot chew or swallow food or drink without repeatedly receiving regular prompting given by someone else in the claimant's presence; or</li><li>(d) Owing to a severe disorder of mood or behaviour, fails to—<ul style="list-style-type: none"><li>(i) chew or swallow food or drink; or</li><li>(ii) chew or swallow food or drink without regular prompting given by someone else in the claimant's presence.</li></ul></li></ul>   |

## 4.6 Maintaining Personal Hygiene

- |                              |  |
|------------------------------|--|
| Maintaining personal hygiene | <ul style="list-style-type: none"><li>(a) Cannot clean own torso (excluding own back) without receiving physical assistance from someone else;</li><li>(b) Cannot clean own torso (excluding own back) without repeatedly stopping, experiencing</li></ul> |
|------------------------------|--|



- breathlessness or severe discomfort;
- (c) Cannot clean own torso (excluding back) without receiving regular prompting given by someone else in the claimant's presence; or
- (d) Owing to a severe disorder of mood or behaviour, fails to clean own torso (excluding own back) without receiving—
  - (i) physical assistance from someone else; or
  - (ii) regular prompting given by someone else in the claimant's presence.

The recommendations have so far introduced an additional number of new support group criteria including expressive communication, hazard awareness, coping with change and social engagement as well as appropriateness of behaviour. The level of functional impairment represented by an inability to maintain personal hygiene is extremely high and would be picked up by the other revised criteria. For example, the upper limb criteria when applied reliably and repeatedly cover the physical aspects of washing whilst detailed mental function descriptors cover the remaining aspects. This section can therefore be removed from the schedule.

## 4.7 Limited Capability for Work Related Activity

Section 35 of the ESA regulations make provision for claimants receiving certain chemotherapy to be treated as having LCWRA. These individuals are seriously ill and have a high level of functional impairment due to effects of the treatment and it is therefore unreasonable to expect them to work.

In the light of experience there is a further group who would also fall into this category. These are individuals who have just been diagnosed with cancer or whom are between treatment courses. Currently, such individuals may have to attend for face to face examination. Therefore, it is proposed to include individuals who 'are likely to receive chemotherapy within the next 6 months'.

## 4.8 Exceptional Circumstances

Individuals who do not score points on the assessment may still be considered to have limited capability for work on the basis of a non-functional descriptor. These apply if

(a) the claimant is suffering from a life threatening disease in relation to which—

- (i) there is medical evidence that the disease is uncontrollable, or uncontrolled, by a recognised therapeutic procedure; and
  - (ii) in the case of a disease that is uncontrolled, there is a reasonable cause for it not to be controlled by a recognised therapeutic procedure;
- or

(b) the claimant suffers from some specific disease or bodily or mental disablement and, by reasons of such disease or disablement, there would be a substantial risk to the mental or physical health of any person if the claimant were found not to have limited capability for work.

Similar descriptors were present in the PCA and were considered to retain relevance in the WCA. They provide a means to mitigate the risk that the assessment fails to identify individuals who may not have significant functional impairment but for whom it would be unsafe to expect to work at that time. The second of these is repeated in the definition of Limited Capability for Work Related Activity for situations where such individuals also fulfil this additional criterion.

No changes were suggested to this area.

## 4.9 Treat as Limited Capability for Work

There are further occasional situations where an individual may be treated as having Limited Capability for Work under Part 5 of the regulations<sup>9</sup>, for example;

### Hospital in-patients

- 25. —** (1) A claimant is to be treated as having limited capability for work on any day on which that claimant is undergoing medical or other treatment as an in-patient in a hospital or similar institution, or which is a day of recovery from that treatment.
- (2) For the purposes of this regulation, “day of recovery” means a day on which a claimant is recovering from treatment as an in-patient in a hospital or equivalent under paragraph (1) and the Secretary of State is satisfied that the claimant should be treated as having limited capability for work on that day.

These were not discussed at length amongst the working group and no further changes are proposed.

## 4.10 General Considerations

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<sup>9</sup> The Employment and Support Allowance Regulations 2008

Through expert analysis and group discussion, non-descriptor specific observations were identified. These provided overarching considerations which impacted upon the specific proposals developed by the group.

#### **4.10.1 Fluctuating conditions**

The group recognised that fluctuating conditions were important to consider. They distinguished between chronic fluctuating conditions, such as Chronic Fatigue Syndrome, and those conditions which manifest themselves in fluctuations, such as epilepsy. There was also recognition that cyclical fluctuations may be easier to identify and account for in the carrying out of an assessment, and that individuals whose capability fluctuates in a more random fashion could be harder to account for. Diagnoses were recognised as providing a frame of reference for identifying fluctuations of this nature.

Individuals whose conditions fluctuate in an unpredictable manner may provide a more significant challenge in relation to employment, as employers are less able to predict and manage their absence.

It was acknowledged that the introduction of the WCA has afforded individuals greater opportunity to detail the variations in their condition, specifically in the questionnaire which they are asked to complete. Rather than a yes/no format, the potential responses also include 'it varies', and space is provided for the detailing of this variation.

In the course of the assessment itself, healthcare professionals take into account fluctuations which an individual may experience in their capability. The assessment seeks to identify whether an individual is capable of carrying out an activity reliably and repeatedly for the majority of the time. If an individual is unable to do so, then they are considered unable to carry out the activity at all, and will be awarded points accordingly.

#### **4.10.2 Distress**

Consideration was given to the issue of distress as this can exacerbate both physical and mental health symptoms. It was noted that a number of the descriptors within the assessment identify activities which an individual may be able to achieve, but in doing so will experience substantial distress, for example, getting around, or coping with change.

The assessment of this distress can also be challenging. To establish a level of distress at which it becomes unreasonable to expect an individual to carry out an activity is complex in light of the spectrum of thresholds for distress across individuals. Secondly, evaluating an individual's level of distress is not practicably achievable. However, where an individual experiences distress to the extent that it

precludes the activity, the assessment is able to measure this and award points on that basis.

#### **4.10.3 Accessibility of Work Places**

One recurring issue was the percentage of workplaces which need to be accessible or appropriate for an individual in order to expect them to be able to work. The group acknowledged that not every job is available to all members of the general population due to limitations of both physical and mental function. For example, marines must be of a certain build and physical strength, scientists of a certain intellect.

In recognising that the general population does not have all jobs available to them, it was agreed that some limitation in job availability among individuals with limited functional capability due to a health condition or disability did not make it unreasonable to expect the individual to work. The arising question is at what point this narrowing render it unreasonable to expect an individual to be able to work.

On this basis, the LCW criteria should be developed to write individuals into, rather than out of, employment. This can be achieved by recognising that there are a substantial number of jobs that an individual is capable of, despite their health condition or disability, rather than considering all work precluded on the basis that some is.

#### **4.10.4 Adaptation Periods**

Acknowledgement was given to the fact that adaptation will often not be possible at the point of becoming disabled. In the absence of perfect information, there will often be a time lag before individuals gain access to the support which they need. Indeed, adaptation to a condition will not take the same time period among all individuals.

A suggestion was put forward that a time period could be built into the claim for adaptation to take place. This was refuted on the basis that one of the main aims of the benefit is to reach individuals as early as possible. This has been achieved, for example, by shortening the assessment period, and ensuring that claimants are seen earlier in their claim. This is in order to reduce the chances of negative implications from being out of work. The inclusion of an adaptation period would go against the philosophy of the assessment.

Furthermore, the speed at which individuals adapt is accounted for in the assessment. If an individual has not adapted to their condition then their capability will continue to be significantly limited, and they will continue to score highly. While the time period will vary from one individual to another, as an individual adapts to their condition they will reduce its impact upon their functional capability. In doing so they will score fewer points and their adaptation will be accounted for. The time

period in which an individual achieves this adaptation will not impact upon their receipt of benefits as the WCA will continue to assess their capability as it changes.

It was acknowledged that the spectrum of adaptation available would lead to an interesting scenario. For example, an individual who is unable to walk at all but able to use a wheelchair would score no points on mobility. Yet a less severely impaired individual, able to walk, and thus not using a wheelchair, but with severe difficulty, would score points on such a descriptor. The group agreed that in order to prevent a disincentive for individuals to adapt, the assessment should be carried out on the basis of what adaptation an individual could reasonably be expected to use if willing and able to do so.

#### **4.10.5 Capability Vs Employability**

A gap was identified between the capability to do a job, and the capacity to be employed. This differential was associated with the employer, and their attitudes towards the employment of disabled individuals. In consideration of the descriptors, the group focused on the capability to do a job, as this was felt to be most important for the individual. However, it was recognised that what might otherwise be considered reasonable is not always the case. For example, it was pointed out that 'reasonable' people may feel uncomfortable working with individuals with certain conditions.

In the employment of an individual with a health condition or disability, it was recognised that a level of risk considered acceptable to the individual, may be reassessed in the context of the workplace. As employers have to take on risk, the associated costs (for example with regard to health and safety, and insurance purposes) may provide a disincentive for the employment of individuals with a health condition or disability.

The extension of the Disability Discrimination Act in 2005 has influenced the responsibility of employers to make reasonable adjustments to accommodate people with long term disabilities. It has also raised the expectations of disabled people that adjustments should be made to enable them to work.

It was highlighted as an issue of concern by representatives of some stakeholder groups that employers remain prejudiced against the employment of individuals with disabilities and health conditions. A risk was recognised in the identification of individuals as fit for work whom employers would not employ. The result would be the creation of a group of long term unemployed individuals on JSA with a health condition or disability.

In appreciation of the fact that there will be individuals in receipt of JSA with health conditions and disabilities, in addition to the provisions already made, the Department is doing further work to address the risk that this group may experience longer durations on benefits.

#### **4.10.6 Mental Function**

Comment was made on the retention of references to diagnostic criteria in the descriptors. This was not aligned with the functional focus of the assessment, and so these references were removed. However, the group did insert some clarification with regard to cognitive impairment and mental disorder. As a point of clarity to both claimants and assessors, it was considered crucial that the descriptors relating to mental, cognitive and intellectual function be awarded on these grounds in order to ensure the correct application of the descriptors and to verify the validity of the assessment. Ensuring that individuals score points on the basis of these disabilities also facilitates the prevention of double scoring.

## 5 Evaluation

### 5.1 Method

Analytical work was undertaken to assess the implications of these proposals using existing data from new ESA claims. A model was created that compares the relationship between the revised and existing descriptors to determine what changes in outcome are likely. This has been achieved by using data from almost 60,000 new claim assessments. Further detailed analysis on specific cases was then undertaken by a panel of experts.

### 5.2 Overall effects

Currently, based on available data, the proposals are estimated to lead to an increase of around 5 percentage points in the overall number of new claims ineligible for ESA. Analysis has been unable to identify the impact of these changes upon the support group, however, it is estimated that there will be a small rise in the number of people identified for the support group on the basis of a relaxed mobility descriptor, changes to mental function assessment and the introduction of an additional sensory impairment related support group.

### 5.3 Effect from Physical and Mental Function Descriptor changes

In addition to the overall effect of the proposals it is possible to look at the physical and mental function changes separately. From this it is clear that the impact is far greater upon scores in relation to physical function. This is not unexpected as the majority of the changes that are proposed in this area encompass adaptation. The changes to mental function will have a less significant impact upon entitlement as these predominantly focus on simplification and clarification of the assessment.

### 5.4 Case analysis

The expert group undertook a detailed analysis of ESA cases in order to examine effects of the proposed descriptors more closely. During this evaluation exercise experts compared the outcome of current ESA cases and likely scores if the case was assessed using the proposed descriptors, based on evidence in the medical report. A cross section of cases was evaluated including a wide range of physical and mental health conditions. All these cases were initially identified through modelling as being affected by the proposed changes, such that a different decision

on entitlement was likely. This enabled testing of the validity of the revisions to the WCA. The experts considered two key areas:

1. Is the entitlement decision likely to change as a result of the revised descriptors?
2. If the decision changes, is it appropriate?

The overall analysis of the descriptors revealed that in the vast majority of cases experts thought that the new descriptors would result in appropriate changes in the entitlement decision. The descriptors were thought to be functioning as anticipated and providing a more concise and clearer assessment. The re-focusing of the physical functional areas better reflect the activities most applicable to the workplace. The mental function descriptors were found to be clearer and consequently minimised double scoring in addition to providing improved clarity.

The small number of cases that members felt would be inappropriately assessed resulted in further minor refinement of the descriptors. These changes are reflected above and are not likely to affect entitlement instead ensuring clarity of the original intent.

Whilst the current assessment was found to be working well, the proposals within this report represent a more robust and accurate evaluation of limited capability for work. This has been achieved by building on recent experience from ESA, simplifying aspects of the WCA, accounting for reasonable adaptation and further consideration of the necessary functions in a modern workplace.



# Annex A: Terms of Reference

## Remit of the group

1. Following the introduction of Employment and Support Allowance, to conduct a technical review of the WCA (excluding the WFHRA), in order to assess how well it is achieving its aims<sup>1</sup>, and how appropriate its design is to achieving that end.
2. Analysis of sample cases to review the implementation of the limited capability for work (LCW) and limited capability for work related activity (LCWRA) assessments to consider how well they correctly identify individuals:
  - a. Incapable of work related activity (Support Group)
  - b. Who are currently unfit for work but would benefit from support and an eventual return to work (Work Related Activity Group)
  - c. Who, in spite of their condition, are fit to continue work at that time
3. Technical analysis of the descriptors used in the LCW and LCWRA to ensure that they reflect an assessment of an individual's functional capability, including adaptation to a disabling condition, rather than a condition specific approach.
4. Review the LCWRA and LCW descriptors and scores to ensure consistency with the real capability of individuals in a modern labour market.
5. Produce recommendations for revised LCW and LCWRA descriptors which reflect the evidence obtained from the review.

Involvement of stakeholder groups to ensure the views of people with health problems or disabilities are represented.

## Scope and Limitations

1. The review was focused on the assessment of Limited Capability for Work and Limited Capability for Work Related Activity. These are the two aspects of the assessment which are used to establish an individual's entitlement to benefit, and determine whether the individual is firstly entitled to benefit, and secondly should be placed in the Support Group. The review did not include consideration of the WFHRA, which takes place as part of the WCA, but does not contribute to the decision making process. The decision maker does not see a report of the WFHRA in the process of making a decision on individuals benefit entitlement.
2. The review was technical in its nature, focusing on the content of the descriptors. This required informed consideration of the functional

requirements necessary in the work place, and the most accurate means to identify these in a descriptor based assessment.

3. This review was distinct and different from the previous review of the PCA. Its focus was the assessment as it exists, it was not a radical review to reform the entire assessment process as was the case in the previous review. The group was tasked with proposing ways to improve upon the foundations of the current WCA.
4. The timing of the review has meant that limited appeals on ESA decisions have been made, and even fewer heard. As a result, no appeals data was available to feed into the review. There was concern amongst some representatives present that this would hinder the capability of the review, as the true impact of introducing the assessment would be lost. However the use of live cases in the expert analysis was recognised to be an informative exercise.
5. Several areas considered outside the scope of the review were also identified as potential opportunities. Whilst the working group were not actively looking to identify problems in these areas, there was recognition that indicators could be fed back regarding training, quality and process issues.
6. The Government recognises that more individuals with health conditions and disabilities are found fit for work under ESA than for Incapacity Benefit and is committed to ensuring that all disabled people are provided with the support they need to prepare for work, regardless of what benefit they are on. ESA provides an income replacement benefit, making the identification of individual's functional limitation for the purpose of work the core purpose of the WCA. Issues which fall outside of this focus also fell outside the remit of the review.

# Annex B: Participants

## **Individual Attendees:**

Brigid Campbell, Social Security Advisory Committee

Dr Angela Graham, Atos Origin Medical Services

Dr David Henderson Slater, Consultant in Neurological Disability/Rehabilitation Medicine, Oxford Centre for Enablement

Dr Ed McDermott, Atos Origin Medical Services

Dr Gordon Parker, Consultant Occupational Physician

Professor Tom Sensky, Professor of Psychological Medicine at Imperial College, London

## **Represented organisations:**

Chartered Institute of Personnel and Development

Citizens Advice Bureau

Disability Benefits Consortium

Disability Employment Advisory Council

Mencap

MIND

National Autistic Society

Parkinson's Disease Society

Royal College of Psychiatrists

RNIB

RNID

RSI Action

# Annex C: Opportunities

The review inevitably identified wider areas worthy of discussion. Whilst making recommendations on these issues was not within the remit of the review, they remain essential to a reliable assessment.

## **Extent of justification**

It was felt that, at times, justification could have been more extensive. Explanation for applying schedule three could be vague and standardised, challenging the rigour of application. This was specifically highlighted in regard to the bowel incontinence descriptor. Without clear justification medical opinion may not be understandable to claimants, decision makers and appeals tribunals.

## **Language**

The language used to document an individual's condition on occasion was unclear. For example, individuals may be described as having a severe condition and yet awarded no points. Whilst this is feasible, as it is their functional capability which determines the points, ambiguous language may cause confusion. There was not a standardised use of some terms, with the meaning of mild, moderate and severe representing unclear boundaries.

Interest was also registered in the relationship between the use of computerised free text and drop down fields by healthcare professionals. It was clarified that both remain available to the practitioner at all times and it is considered important that free text should be used to complement reports and prevent any inaccuracies.

## **Return to work duration**

Concern was expressed about inconsistencies in the approach used to determine return to work duration. It was unclear to the expert group if this period was identified through speculation or a clear, logical and justified process. It was proposed that a more consistent approach may be required.

## **Measuring fatigue/fluctuations/distress**

The measurement of fatigue, fluctuations and distress are challenging to assess. However, it is important that healthcare professionals continue to fully consider these in the assessment. A comprehensive view must be maintained with regard to chronic fluctuating conditions and the concept of distress in order to incorporate it into the consideration of an individual's limited capability for work. Training provided to practitioners covers this area in detail and they must ascertain the impact of fatigue, fluctuations or distress on an individual.

# Annex D: Proposed Descriptors

## Assessment of whether a claimant has Limited Capability for Work

### Part 1 Physical Disabilities

(1)Activity		(2) Descriptors		(3)Points
1. Mobilising with or without a walking stick, manual wheelchair or other aid if such aid can reasonably be used.	1	(a)	Cannot mobilise more than 50 metres on level ground without repeatedly stopping or experiencing severe discomfort.	15
		(b)	Cannot mount or descend two steps even with the support of a handrail.	9
		(c)	Cannot mobilise more than 100 metres on level ground without stopping or experiencing severe discomfort.	9
		(d)	Cannot mobilise more than 200 metres on level ground without stopping or experiencing severe discomfort.	6
		(e)	None of the above apply.	0
2. Standing and sitting.	2	(a)	Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.	15
		(b)	Cannot remain at a work station, either:  (i) standing unassisted by another person (even if free to move around) or; (ii) sitting (even in an adjustable chair)  for more than 30 minutes, before needing to move away as the degree of discomfort experienced makes it impossible to continue.	9

		(c)	Cannot remain at a work station, either:  (i) standing unassisted by another person (even if free to move around) or; (ii) sitting (even in an adjustable chair)  for more than an hour before needing to move away as the degree of discomfort experienced makes it impossible to continue.	6
		(d)	None of the above apply	0
3. Reaching.	3	(a)	Cannot raise either arm as if to put something in the top pocket of a coat or jacket.	15
		(b)	Cannot raise either arm to top of head as if to put on a hat.	9
		(c)	Cannot raise either arm above head height as if to reach for something.	6
		(d)	None of the above apply.	0
4. Picking up and moving or transferring by the use of the upper body and arms.		(a)	Cannot pick up and move a 0.5 litre carton full of liquid.	15
		(b)	Cannot pick up and move a one litre carton full of liquid.	9
		(c)	Cannot transfer a light but bulky object such as an empty cardboard box.	6
		(d)	None of the above apply.	0
5. Manual dexterity.	5	(a)	Cannot either:  (i) press a button, such as a telephone keypad or; (ii) turn the pages of a book  with either hand.	15
		(b)	Cannot pick up a £1 coin or equivalent with either hand.	15

		(c)	Cannot use a pen or pencil to make a meaningful mark	9
		(d)	Cannot use a suitable keyboard or mouse.	9
		(e)	None of the above apply.	0
6. Making self understood through speaking, writing, typing, or other means normally used.	6	(a)	Cannot convey a simple message, such as the presence of a hazard.	15
		(b)	Has great difficulty conveying a simple message to strangers.	15
		(c)	Has some difficulty conveying a simple message to strangers.	6
		(d)	None of the above apply.	0
7. Understanding communication by hearing, lip reading, reading 16 point print or using any aid if reasonably used.	7	(a)	Cannot understand a simple message due to sensory impairment, such as the location of a fire escape.	15
		(b)	Has great difficulty understanding a simple message from a stranger due to sensory impairment.	9
		(c)	Has some difficulty understanding a simple message from a stranger due to sensory impairment.	6
		(d)	None of the above apply.	0
8. Navigation and maintaining safety, using a guide dog or other aid if normally used.	8	(a)	Unable to navigate around familiar surroundings, without being accompanied by another person, due to sensory impairment.	15
		(b)	Cannot safely complete a potentially hazardous task such as crossing the road, without being accompanied by another person, due to sensory impairment.	9

		(c)	Unable to navigate around unfamiliar surroundings, without being accompanied by another person, due to sensory impairment.	6
		(d)	None of the above apply.	0
9. Absence or loss of control leading to extensive evacuation of the bowel and/or bladder, despite the presence of any aids or adaptations normally used.	9	(a)	At least once a week experiences  (i) loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder; or (ii) substantial leakage of the contents of a collecting device;  sufficient to require the individual to clean themselves and change clothing.	15
		(b)	At least once a month experiences  (i) loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder; or (ii) substantial leakage of the contents of a collecting device;  sufficient to require the individual to clean themselves and change clothing.	9
		(c)	At risk of loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder, sufficient to require cleaning and a change in clothing, if not able to reach a toilet quickly.	6
		(d)	None of the above apply.	0
10. Consciousness during waking moments.	10	(a)	At least once a week, has an involuntary episode of lost or altered consciousness without warning, resulting in significantly disrupted awareness or concentration.	15



		(b)	At least once a month, has an involuntary episode of lost or altered consciousness without warning, resulting in significantly disrupted awareness or concentration.	6
		(c)	None of the above apply.	0

## Part 2

## Mental, cognitive and intellectual function assessment

11. Learning tasks.	11	(a)	Cannot learn how to complete a simple task, such as setting an alarm clock.	15
		(b)	Cannot learn anything beyond a simple task, such as setting an alarm clock.	9
		(c)	Cannot learn anything beyond a moderately complex task, such as the steps involved in operating a washing machine to clean clothes.	6
		(d)	None of the above apply.	0
12. Awareness of everyday hazards (such as boiling water or sharp objects).	12	(a)	Reduced awareness of everyday hazards leads to a risk of: (i) significant injury to self or others; or (ii) significant damage to property or possessions, such that they require constant supervision to maintain safety.	15
		(b)	Reduced awareness of everyday hazards leads to a risk, of (i) significant injury to self or others; or (ii) significant damage to property or possessions, such that they require supervision for the majority of the time to maintain safety.	9
		(c)	Reduced awareness of everyday hazards leads to a risk of: (i) significant injury to self or others; or (ii) significant damage to property or possessions, such that they frequently require supervision to maintain safety.	6
		(d)	None of the above apply.	0

13. Initiating and completing personal action (which means planning, organisation, problem solving, prioritising or switching tasks).	13	(a)	Cannot, due to cognitive impairment or mental disorder, independently initiate or complete at least 2 sequential personal actions.	15
		(b)	Cannot, due to cognitive impairment or mental disorder, initiate or complete at least 2 personal actions without requiring verbal prompting given most of the time by another person in the claimant's presence.	9
		(c)	Cannot, due to cognitive impairment or mental disorder, initiate or complete at least 2 personal actions without requiring frequent verbal prompting given by another person in the claimant's presence.	6
		(d)	None of the above apply.	0
14. Coping with change	14	(a)	Cannot cope with any change to the extent that day to day life cannot be managed.	15
		(b)	Cannot cope with minor planned change (such as a pre-arranged change to the routine time scheduled for a lunch break), to the extent that overall day to day life is made significantly more difficult.	9
		(c)	Cannot cope with minor unplanned change (such as the timing of an appointment on the day it is due to occur), to the extent that overall, day to day life is made significantly more difficult.	6
		(d)	None of the above apply.	0
15. Getting about	15	(a)	Cannot get to any specified place with which the claimant is familiar.	15
		(b)	Is unable to get to a specified place with which the claimant is familiar, without being accompanied by another person.	9
		(c)	Is unable to get to a specified place with which the claimant is unfamiliar without being accompanied by another person.	6
		(d)	None of the above apply.	0

16. Coping with social engagement due to cognitive impairment or mental disorder	16	(a)	Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the individual	15
		(b)	Engagement in social contact with someone unfamiliar to the claimant is always precluded due to difficulty relating to others or significant distress experience by the individual.	9
		(c)	None of the above apply.	0
17. Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder	17	(a)	Has, on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	15
		(b)	Frequently has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	6
		(c)	None of the above apply.	0

## Assessment of whether a claimant has Limited Capability for Work-Related Activity

<i>Activity</i>	<i>Descriptors</i>
1. Mobilising with or without a walking stick, manual wheelchair or other aid if such aid can reasonably be used.	Cannot mobilise more than 50 metres on level ground without repeatedly stopping or experiencing severe discomfort
2. Transferring from one seated position to another.	Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.
3. Reaching.	Cannot raise either arm as if to put something in the top pocket of a coat or jacket.
4. Picking up and moving or transferring by the use of the upper body and arms (excluding standing, sitting, bending or kneeling and all other activities specified in this Schedule).	Cannot pick up and move 0.5 litre carton full of liquid with either hand.
5. Manual dexterity.	Cannot either -  (a) press a button, such as a telephone keypad or; (b) turn the pages of a book  with either hand.
6. Making self understood through speaking, writing, typing, or other means normally used.	Cannot convey a simple message, such as the presence of a hazard.
7. Understanding communication by hearing, lip reading, reading 16 point print or using any aid if reasonably used.	Cannot understand a simple message due to sensory impairment, such as the location of a fire escape.

8. Absence or loss of control over extensive evacuation of the bowel and/or voiding of the bladder, despite the presence of any aids or adaptations normally used.	At least once a week experiences  (i) loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder; or (ii) substantial leakage of the contents of a collecting device;  sufficient to require the individual to clean themselves and change clothing
9. Learning tasks.	Cannot learn how to complete a simple task, such as setting an alarm clock, due to cognitive impairment or mental disorder.
10. Awareness of hazard.	Reduced awareness of everyday hazards, due to cognitive impairment or mental disorder, leads to a risk of:  (i) significant injury to self or others; or (ii) significant damage to property or possessions,  such that they require constant supervision to maintain safety.
11. Initiating and completing personal action (which means planning, organisation, problem solving, prioritising or switching tasks).	Cannot, due to cognitive impairment or mental disorder, initiate or complete at least 2 sequential personal actions.
12. Coping with change	Cannot cope with any change, due to cognitive impairment or mental disorder, to the extent that day to day life cannot be managed.
13. Coping with social engagement, due to cognitive impairment or mental disorder	Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the individual.
14. Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder	Has, on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.

# Definitions

It is helpful to clarify two important terms used throughout the report.

**Impairment** is a significant, demonstrable, deviation or loss of body structure or function. The key feature is that impairment can be identified through objective evidence: 'detectable ... by direct observation or by inference from observation'.<sup>10</sup>

**Disability** is limitation of activities and restriction of participation in life situations, in people with physical and/or mental condition(s) or impairment(s).<sup>11</sup> An individual may use aids and adaptations to modify the impact of their disability. This then determines their *capability* (the ability to effectively perform the tasks of a job) in relation to work.

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<sup>10</sup> WHO. *International Classification of Functioning, Disability and Health*. <http://www3.who.int/icf/icftemplate/cfm>. Geneva: World Health Organization, 2001.

<sup>11</sup> Boyd KM. Disease, illness, sickness, health, healing and wholeness: exploring some elusive concepts. *Med Humanit* 2000;26:9–17.

# Abbreviations

DDA – Disability Discrimination Act

DEA – Disability Employment Adviser

ESA – Employment and Support Allowance

HCP – Healthcare Professional

IB – Incapacity Benefit

JSA – Job Seekers Allowance

LCW – Limited Capability for Work

LCWRA – Limited Capability for Work Related Activity

PCA – Personal capability Assessment

SG – Support Group

WCA – Work Capability Assessment

WFHRA – Work Focused Health Related Assessment

WFI – Work Focused Interview

WRAG – Work Related Activity Group