



Employment and Support Allowance after brain injury

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Introduction

This factsheet has been written to offer information and guidance on the welfare benefit Employment and Support Allowance (ESA).

Welfare benefits can be complicated and eligibility usually depends on personal circumstances, so this factsheet only offers general information on what the benefit is, the application process, tips for managing this with a brain injury, and what to do if you disagree with a decision.

If you need further detailed guidance or support with ESA, there is a list of useful contacts at the end of this factsheet. Alternatively, visit www.gov.uk/browse/benefits.

What is ESA?

Sustaining a brain injury can affect a person's ability to return to work. For some, the effects of brain injury improve over time and it may be possible to gradually return to work with financial assistance in the meantime. For others, a brain injury may permanently affect the ability to return to work and it may be necessary to have ongoing financial support. In both instances, this is known as having 'limited capability for work' and Employment and Support Allowance (ESA) can help.

ESA is a welfare benefit to support people who are unable to work due to a disability or illness.

Previously, there were two types of ESA: contributory ESA and income-related ESA. Contributory ESA has now been replaced by the 'new style' ESA (nESA), which will be the focus of this factsheet, while income-related ESA has been replaced by Universal Credit. Information on Universal Credit is available in the factsheet *Universal Credit after brain injury*.

Both nESA and Universal Credit can be claimed at the same time if you do not have savings of more than £16,000.

To qualify for nESA you need to have previously been employed or self-employed and paid enough National Insurance contributions within the past two tax years. You can check this from the government website at www.gov.uk/check-national-insurance-record. You will need to report to DWP if you receive an occupational or personal pension of more than £85 per week, as



the excess can sometimes affect the amount of nESA payable.

To be eligible you must also be 16 or over, under the State Pension age and live in England, Scotland or Wales.

nESA is not means-tested, so your income and savings will not affect how much you receive.

Applying for nESA

To apply for nESA you need to complete an online form. The form is available on the government website at www.gov.uk/employment-support-allowance/how-to-claim.

If you are unable to use the online form, you can call the Universal Credit helpline to make an application instead (contact details are available at the end of this factsheet).

A relative, carer, friend or someone from your local Headway group can help with filling the forms in if needed. The Centre for Health and Disability Assessments (CHDA) also has an advisory team that can help with form completion; you can contact them on 0800 288 8777.

Further advice on completing the form is available in the factsheet *Tips for completing benefits application forms*.

Following your application, you will be contacted by the Department for Work and Pensions (DWP) for a 'New Claim Appointment'. This will either be over the phone or face-to-face.

The Work Capability Assessment

As part of your application, you may be asked to undergo a Work Capability Assessment (WCA). This is an assessment that gives you a chance to provide further information on how your brain injury affects your ability to work. You will be assessed by a healthcare professional, whose records of the assessment will be used to help DWP with making a decision about your eligibility for ESA.

There may be a questionnaire called ESA50 to complete and return first. The information you put down in it will be considered by a healthcare professional, who will decide on the next steps of your assessment.

The assessment will either be at your home or an assessment centre. Due to the Coronavirus pandemic, face-to-face assessments have currently been suspended and you may have a telephone appointment instead.



The assessment will take anywhere between 20 minutes to 2 hours depending on your individual case but will usually be completed within an hour.

Tips on how to prepare for the WCA are available in the factsheet *Preparing for welfare benefits assessments*.

The WCA assessment scoring, along with your application and other supporting evidence, will allow decision makers to decide whether you are considered to have 'limited capability for work'. This means that the DWP recognises that your brain injury affects your ability to work.

WCA 'activity areas' and scoring

During the WCA, you will be asked questions about how your brain injury has affected your ability to carry out various physical and cognitive/thinking activities that are typically used in a workplace.

You will be scored against 17 'activity areas', which are grouped into physical and mental/ cognitive/ intellectual skills.

The more difficult an activity is for you, the higher the score you will receive for it. For instance, if you cannot complete the activity at all, you will get the highest number of points for that activity. If you have no trouble completing it, you will get no points. You will need to score at least 15 points from the WCA to receive ESA.

Each activity area has specific criteria (called 'descriptors') to determine the number of points someone can get. It can therefore be useful to be familiar with the activity areas and their descriptors in advance. A full list of the activities and their descriptor scores is available on the organisation Entitledto's website at www.entitledto.co.uk/help/ESA_criteria.

The first part of the WCA scoring relates to physical activities. A brain injury can affect the skills covered under 'physical' activities in a number of ways. Think about any mobility issues you may have, weakness or paralysis, pain, fatigue, spasticity or dizziness or balance problems which may make it difficult to carry out work-related tasks, including the ability to sit at a desk for extended periods of time comfortably or move around an office or building.

Communication can be affected after a brain injury so that it may be difficult to understand or convey information; an assessor may not be familiar with the ways in which a brain injury can affect communication, so you may need to inform them of this. The Headway booklet *Coping with communication problems* can help with understanding this. Visual or hearing problems after brain injury that affect your ability to read or hear information should also be mentioned. These issues should be covered under activity areas 6 and 7.



Incontinence can cause difficulties with daily functioning, especially in a workplace where you may not be able to access a toilet quickly enough. Activity area 9 of the WCA will assess you on this and you will receive points depending on how frequently you have incidents of incontinence.

If you experience seizures following your injury, you may receive points under activity area 10 which relates to having periods of lost or altered consciousness.

Cognitive issues such as problems with memory, attention and concentration and adapting to changed circumstances, can affect a wide range of the 'activities' listed under the WCA's scoring system. Skills that come under the term 'executive function' are explored in activity area 13 – the Headway factsheet *Executive dysfunction after brain injury* can offer information on these skills and help to identify how they may affect you on a daily basis or in a workplace setting.

Psychological effects of brain injury may make it difficult for you to socialise or communicate with others, for instance if you experience depression or anxiety. This will be covered in activity area 16. For this, you will be scored depending on how much distress you experience when interacting with others, so try to be honest about how difficult you find this to be.

Inappropriate behaviour and difficulties with managing anger are effects of brain injury that can also affect social functioning. These will be covered in activity area 17. You will receive points depending on how frequently you have episodes of inappropriate behaviour or anger outbursts.

Application outcome

After your assessment, you will receive a letter or phone call from the DWP explaining what your outcome is.

If you are considered to be eligible for nESA, you will be placed in one of two groups:

- **A work-related activity group (WRAG)** – this is where the DWP recognises that you are unable to work now but will be expected to work in the future with support. nESA will be payable for a maximum of 12 months after which you may need to reapply.
- **A support group** – this is where the DWP recognises that you are unable to undertake work related activity, at least for now. There is no time limit for how long you can receive nESA, although you may be reassessed every few years.

If you are in the WRAG, you will be allocated a Work Coach and expected to follow a 'Claimant Commitment'. This is a list of things you agree to do, such as writing a CV or applying for jobs.



If there is anything in your Claimant Commitment that you feel might be difficult to commit to due to your brain injury, such as remembering appointments or completing tasks on time, talk to your Work Coach about it. This is because you could have your nESA payments stopped if you don't follow your Claimant Commitment, which is called being sanctioned.

Remember to tell the DWP if your personal circumstances or details change, as this could affect your eligibility.

If you disagree with a decision, for instance if you are considered to not be eligible for nESA or you feel you should be in a different group, there are a number of steps you can take to get this resolved. Information on this is available in the factsheet *Appealing a welfare benefits decision*.

Useful contact details

- **Citizens Advice**
Adviceline (England): 0800 144 8848
Advicelink (Wales): 0800 702 2020
Relay UK - if you can't hear or speak on the phone, you can type what you want to say: 18001 then 0800 144 8884
www.citizensadvice.org.uk
- **Turn2Us** helpline: 0808 802 2000
www.turn2us.org.uk
- **Universal Credit helpline:** 0800 328 5644 (choose option 3)
Textphone: 0800 328 13 44 (choose option 3)
Welsh language: 0800 328 1744
Relay UK - you can't hear or speak on the phone, you can type what you want to say: 18001 then 0800 328 5644
www.gov.uk

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