Draft response to the WCA consultation

 We strongly oppose the proposed changes and believe this is a deliberate attempt to save money by risking Disabled people’s lives

**General points**

We refute the government’s proposals to change the Work Capability Assessment descriptors.

 The stated aim to “support more Disabled people into work” will not be achieve through subjecting people to greater sanctions and reducing their income. More Disabled people will be pushed into poverty, we will see more deaths and greater deterioration in health.

 The proposals are ideological and will lead to serious consequences

The proposed changes are driven by two key elements:

A significant increase in the number of people who are economically inactive because of ill health and the desire to control welfare spending.

We believe reducing benefit payments and subjecting to conditionality to address economic inactivity is a political and ideological attack on Disabled people. It is especially true in the context of aggressive rhetoric towards Disabled people unable to work because of ill health.

 These changes rushed through despite the proposal to abolish WCA altogether indicates to us that the primary aim is saving money on the back of Disabled people’s lives and health.

 The talk of employment support is misleading.  The easiest and most constructive way to help more people into work is to ensure the workplace is inclusive, Access to Work is working effectively, provide good quality employment support to everyone on voluntary basis.  Those of us who want to work and are able to do so will seek support if it is effective.

The growing number of people who are out of work because of ill health is a reflection of demographic changes and discrimination in the workplace. The focus needs to be on improving the workplace, not on cutting people’s finances and subjecting them to compulsion.

Some Disabled people will not be able to work, neither engage in any work preparation activities. This is equally true for those who just acquire impairments and those who have been claiming benefits for some time. The proposed changes will mean that thousands of Disabled people whose health conditions make it difficult or impossible to work will be forced to carry out work preparation activity without a real prospect of a job.

**Thousands of people will be pushed further into deep poverty**

The low capability to work related activity element not only means the person does not have to fulfil job preparation requirements, it also means more money.  As a result of proposed changes people will lose £390 a month. It is shocking that the consultation proposal does not mention this at all.  It is also disappointing there is no clear indication of how many people will be affected.  This is crucial information and we seriously doubt the public can make informed contributions to this consultation without fully understanding the negative financial impact for future claimants.

An attempt to mirror WCA criteria with PIP now, is an attempt to deny as many people as possible transitional protection they may have if the WCA was abolished and PIP was used as a proxy to health element in UC.

Thousands of Disabled people will lose significant part of their income at a time of the cost of living crisis, where 34% of Disabled people are already materially deprived[1] and t 7 in 10 low income households with a Disabled person cannot afford the essentials and almost a half are in debt [2].

**Manipulating evidence**

The government justification for the reform is based on the research showing that 20% of people in the Support Group or on LCWA element said they would like to work at some point in the future.  The same research indicates that only 4% of those felt able to work now if the right job and the right support were available[3].

The reference to changes in the work conditions with an increase in home working is also not relevant to the cohort.  ONS data shows that home or hybrid working is much more prevalent among highly educated highly paid senior professionals.  This cohort or people are highly unlikely to even be entitled to Universal Credit.   On the other hand, the high number of people in low paid jobs are unable to work from home[4].  There is no evidence that the percentage of people working remotely is higher among Disabled workers.  Not all jobs can be done remotely and in any case remote working will still not be an option for the vast majority of Disabled UC or ESA claimants.

 It is also striking that the only data about changes in the workplace cited in the consultation document is about an increase in home working. There is no data to show improvements in the workplace.  There is on the contrary plenty of evidence that Disabled people are overrepresented in low paid jobs[5], are paid less[6] and are subjected to discrimination[7].

The rising number of people leaving work due to ill health should also be interpreted as a sign of deep structural problems in the workplace.

**Poor employment support**

Under the proposed changes many more people will be subjected to conditionality.

Work coaches are not specifically trained, it is unclear how they will be able to help Disabled people to, for example, manage mental health at work.  It is also potentially dangerous to leave so many decisions on the level of conditionality to individual work coaches, as those decisions could be influenced by their knowledge or the lack of it, preconceived ideas and stereotypes.  It also reduces accountability, certainty and the ability of the claimant to challenge.  The DWP research showed that those people who wanted to engage in employment support thought that the most helpful support is when it is individualised, delivered over a substantial period of time and by Disabled people.

We believe it is important for many of us to be able to get good employment support, the support should result in getting good jobs that benefit health.  While there is evidence that work can improve health, it is only true if thew job is the right kind of job and the work environment is inclusive.

The work coach will not be able to fast-track people through waiting lists for medical treatment, they will not be able to put in place appropriate social care and other support.  This is why it is important that Employment programmes targeted at Disabled people need to be co-produced by Disabled people with Disabled Peoples Organisations involved in their implementation.

The proposed approach to force support on people who are not able to work because of health conditions will lead to further deterioration in people’s health, greater pressure on the NHS and other services and will cause lost lives.  There is no evidence that sanctions work for Disabled people, there is plenty of evidence about the negative impact they have.

Employment programmes targeted at Disabled people need to be co-produced by Disabled people with Disabled Peoples Organisations involved in their implementation.

**Subjecting Thousands to punitive conditionality regime**

Sanctions are harmful and dangerous for Disabled people.

The work and pensions committee concluded in November 2018 that:

“Of all the evidence we received, none was more compelling than that against the imposition of conditionality and sanctions on people with a disability or health condition. It does not work. Worse, it is harmful and counterproductive.

 We recommend that the Government immediately stop imposing conditionality and sanctions on anyone found to have limited capability for work, or who presents a valid doctor’s note (Fit Note) stating that they are unable to work, including those who present such a note while waiting for a Work Capability Assessment.

Instead, it should work with experts to develop a programme of voluntary employment support.”[8]

 In December 2022 MPs were warned that the “aggressive attitude” on benefit sanctions that was taken by DWP in the coalition years of 2013 to 2015 was “back with a vengeance”[9].

The DWP’s own statistics show that [more than 500,000 sanction decisions](https://www.gov.uk/government/statistics/benefit-sanctions-statistics-to-february-2023-experimental) were made against universal credit claimants in the 12 months to January 2023.

In the Budget 2023 referred to strengthening and improving efficiency of the sanctions regime[10].  We are extremely concerned that changing WCA activities and especially changing non-functional criteria will lead to an increased number of Disabled people exposed to conditionality and sanctions.  Giving the huge extra costs of disability and more significant external barriers to work Disabled people face will be discriminatory and especially punitive and will lead move people further from the labour market.

**Response to specific questions**

Q1. What are your views on the three Mobilising options?

 WCA activities and descriptors were designed as a proxy to understanding how difficult it would be for a person to work and take into account wider barriers a person might face.  We fundamentally disagree with activities being taken literally. Therefore we disagree with all proposed options. Difficulties with  mobilising may indicate other things, for example a level of social care support a person might need.

Difficulties with mobilising may mean that a person may need more time, extra support to move around their home.

As mentioned above, there is no evidence that greater number of Disabled people work from home.

WCA mobilising descriptor is different from PIP moving around descriptor.  They were designed for different purpose.  PIP descriptors act as a proxy to identifying extra costs of disability, when WCA descriptors are proxies to barriers to work.

The real outcome of any proposed changes is fewer people qualifying for health element, greater number of people subjected to conditionality and greater number of people losing substantial amounts of money.  This is why we oppose those options.

 Q2. What are your views on the three Absence or loss of bowel/bladder control (Continence) options?

We disagree with the proposed options. This activity again acts as a proxy to the level of support a person may need.  Continence can still be a problem during online meetings, it also will require time and sometimes extra support to deal with it.

The real outcome of any proposed changes is fewer people qualifying for health element, greater number of people subjected to conditionality and greater number of people losing substantial amounts of money.  This is why we oppose those options.

Q3. What are your views on the two Coping with Social Engagement options?

Coping with social engagement is relevant in home working situation as well.  A person would need to communicate with their manager/employer in some way by having online meetings or engaging otherwise.

The real outcome of any proposed changes is fewer people qualifying for health element, greater number of people subjected to conditionality and greater number of people losing substantial amounts of money.  This is why we oppose those options.

 Q4. What are your views on the two Getting About options?

As stated above, there are many jobs that cannot be done online, very few Disabled individuals will be able get those jobs.  Changes to this descriptor will mean that some people with sensory or cognitive impairments will be subjected to work preparation activities for jobs that may never exist or jobs they can never get to.

The real outcome of any proposed changes is fewer people qualifying for health element, greater number of people subjected to conditionality and greater number of people losing substantial amounts of money.  This is why we oppose those options.

 Q5. In addition to the above options for change, are there any other WCA activities or descriptors that you think we should be considering changes to and why?

We believe there is a need for a radical reform of benefits, based on the recognition of everyone’s right to an adequate standard of living and the social model of disability.  This reform must be coproduced with Disabled people and our organisations.  We do not think the current WCA is working well, but we strongly oppose any changes that would lead to people getting less money, fewer people qualifying or greater number of people being subjected to compulsion and conditionality.

**Substantial Risk**

Q6. What are your views on how the LCWRA Substantial Risk regulations could be amended with the emphasis on what work preparation activity an individual is able to safely undertake?

 Q7. What do you think would be the impact of these changes?

Q8. What could constitute tailored or a minimum level of work preparation activity?

Q9. What are your views on whether we should remove the LCWRA risk group and place the people in this group in LCW risk instead?

Q10. How can this group be safely supported within the LCW risk group?

 We strongly disagree with any proposed changes to the risk criteria.  Restricting eligibility or removing it will put lives at risk.

The regulations as well as the DWP’s own WCA Health Assessment handbook is clear that this criterion only applies when there is good evidence -

*The substantial risk criteria should only be recommended if there is evidence that substantial risk to the mental or physical health of any person, by reason of some specific disease or bodily or mental disablement, would be triggered if the claimant were found not to have limited capability for work or work-related activity.*

 The award under substantial risk cannot be made without good evidence. The only consequence of changing or removing this criterion will be that people’s health and lives will be put at risk.  This can lead to serious violations of their human rights.  The reason why 14% of people qualify under this provision is that functional activities and descriptors do not capture everyone who needs this support.

The consultation document says that removing this criterium is not to subject people to conditionality, however, if substantial risk is removed then we do not see what safeguarding will exist.  This will mean that people who have medical evidence saying taking part in work preparation activity could put their life or health at risk will be left to decisions of work coaches, who are poorly trained and do not have specific knowledge and skills to support a range of Disabled people with different impairments and needs.  Work coaches are not professional psychiatrists or psychologists, they won’t themselves be seeking evidence of possible risk.  All burden will be on claimant to negotiate the level of work related activity they can do.  This will lead to some claimants being forced to do activities that will lead to deterioration in their health.  Some people become ill at work and subjecting them to work preparation activities is completely inappropriate.

We strongly believe no one should be forced to participate in anything that could put their health or life at risk.  Needing to claim benefits to be able to meet basic needs should not be a justification for compulsion, especially where it can lead to deterioration in health.

The better approach would be to offer individualised support on voluntary basis.

List of organisations submitting this response

Inclusion London

Greater Manchester Coalition of Disabled People

Disability Rights UK

[1] O El Dessouky & C McCurdy, [Costly differences: Living standards for working-age people with disabilities](https://www.resolutionfoundation.org/publications/costly-differences/), Resolution Foundation, January 2023.

[2]  <https://www.jrf.org.uk/blog/our-social-security-system-must-support-households-disabled-person-afford-essentials>

[3] <https://www.gov.uk/government/publications/work-aspirations-and-support-needs-of-claimants-in-the-esa-support-group-and-universal-credit-equivalent/the-work-aspirations-and-support-needs-of-claimants-in-the-esa-support-group-and-universal-credit-equivalent>

[4] ONS, <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/articles/characteristicsofhomeworkersgreatbritain/september2022tojanuary2023#characteristics-of-homeworkers>

[5] <https://www.tuc.org.uk/news/tuc-7-10-disabled-workers-earn-less-ps15-hour>

[6] <https://www.tuc.org.uk/research-analysis/reports/jobs-and-pay-monitor-disabled-workers>

[7] <https://www.tuc.org.uk/news/nearly-one-three-disabled-workers-surveyed-treated-unfairly-work-during-pandemic-new-tuc>

[8] <https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/955/95502.htm>

[9] <https://www.disabilitynewsservice.com/dwps-aggressive-post-2010-attitude-to-sanctions-is-back-with-a-vengeance/>

[10] <https://www.gov.uk/government/publications/spring-budget-2023/spring-budget-2023-html>