

Citizens Advice Scotland

Scottish Association of Citizens Advice Bureaux
www.cas.org.uk



Response to the Fourth Independent Review of the Work Capability Review ('Litchfield Review')

Response from Citizens Advice Scotland

August 2013

- Citizens Advice Scotland and its member bureaux form Scotland's largest independent advice network. CAB advice services are delivered using service points throughout Scotland, from the islands to city centres.
- Citizens advice bureaux in Scotland helped clients with over 500,000 new issues in 2011/12 – more than 1,400 new issues for every day of the year. Nearly 200,000 clients brought new issues to a bureau over the year.
- In 2011/12, Scottish bureaux achieved a financial gain of almost £140million for clients based on funding of £16.9million.

CAS welcomes the opportunity to respond to the fourth annual review of the Work Capability Assessment. CAS has submitted evidence to the three previous reviews of the Work Capability Assessment.

We are a member of the Scottish Government's Health Impact Delivery Group, and support the recommendations made in their paper to improve the process of the Work Capability Assessment. CAS is also a member of the Disability Benefits Consortium and we refer to their survey of benefits claimants and welfare benefits advisers in our response.

Context

Welfare changes and cuts will result in a loss of £1.7 billion from the Scottish economy every year. The migration of Incapacity Benefit claimants to ESA represents the largest portion of this by far, at £500 million a year¹.

Between 2008 (when Employment and Support Allowance was introduced) and 2011, the number of new advice issues relating to sickness or disability in Scottish bureaux increased by 55%. This is mainly due to Employment and Support Allowance. Between 2011/12 and 2012/13 there was a further 56% increase in the number of ESA issues² dealt with in bureaux, alongside a 61% increase in the number of ESA50 forms bureaux helped fill out. Scottish bureaux advised on with 76,000 ESA issues in 2012/13.

Summary of recommendations

Recommendation: We recommend that medical evidence should be requested automatically for all ESA applicants who indicate they have a mental health problem or learning disability.

Recommendation: The number of people who do not attend assessments should be monitored, and publicly reported on, along with the main presenting conditions.

Recommendation: The ESA 113 form should be reviewed in discussion with the DWP and medical practitioners to make it more fit for purpose. Consideration should be given to the guidance and training needed to support a revised form.

Recommendation: The timescales given to doctors for returning the form should be clarified and lengthened.

Recommendation: The DWP should urgently review its processes and timescales for processing medical evidence to ensure evidence is processed in a timely manner.

Recommendation: A review should be undertaken of the use ATOS healthcare practitioners and DWP decision makers make of medical and non-medical evidence and the relative weight ascribed to each.

¹ Beatty and Fothergill (2013) The impact of welfare reform in Scotland, Sheffield Hallam University http://www.scottish.parliament.uk/S4_Welfare_Reform_Committee/Reports/wrR-13-02w.pdf

² The number of issues includes both new and repeat issues. A repeat issue is where a client comes to bureau on more than one occasion or has more than one issue with the same benefit.

Recommendation: Awareness needs to be raised further in Jobcentres and ATOS centres of the special rules for people with cancer to ensure that they put the appropriate support in quickly

Questions 1 – 3: effectiveness of WCA process and improvements since previous reviews

The proportion of 34% of all ESA issues handled in bureaux relate to appeals, higher than any other benefit area dealt with in Scottish bureaux. Where bureaux provided representation at First Tier benefit tribunals, 61% of cases were partially or fully upheld for the claimant in 2012-13.

The Disability Benefits Consortium survey of welfare rights advisers' experience of the WCA provides strong evidence that welfare rights advisers across Britain do not feel that aspects of the Work Capability Assessment and related processes have improved since 2010. Anecdotally, this is also the experience of bureaux advisers in Scotland.

During the first part of 2013 one bureau in Glasgow undertook research into the experiences of five bureau clients who had been migrated from Incapacity Benefit through the ESA assessment process³. All were found fit for work as a result of their first WCA, but following appeal three were subsequently placed in the support group, one in the Work Related Activity group and the fifth was still in the assessment phase. Four out of five felt the assessment was not a reasonable assessment of their needs, and they found the process very stressful: "Claimants mentioned how they were nervous during the assessment and felt pressurised. They also spoke of how the assessment put pressure on them, causing them to panic and that they were unable to fully answer the questions. They felt agitated and angry. They did not understand the questions nor why they had been found fit for work."

Again this suggests that clients continue to experience the process as very difficult and inaccurate despite previous work to improve the WCA.

A case from the East of Scotland in July 2013 demonstrates the multiplicity of issues faced by ESA claimants. In this case a severely disabled client in the East of Scotland was placed in the WRAG without having a medical assessment. They received no notification of this decision. The process has been extremely distressing for the client, making them feel that they cannot cope with the process and may have to withdraw from their application altogether. This would leave them solely reliant on DLA and Carers Allowance for income. Her doctor believes it has exacerbated her health problems⁴.

Question 4: consideration of mental health conditions

The following case demonstrates the challenges some people with mental health problems experience in the ESA assessment process. We are concerned that some

³ Clarke, A (2013) Fitness for Work. Glasgow Central Citizens Advice Bureau

⁴ The case is presented in an appendix to the report

people may find the process of assessment for ESA so stressful that they drop out of the benefits system altogether.

North of Scotland CAB reports a client who has suffered from depression for many years and been on Incapacity Benefit. When he received an appointment for assessment for ESA he was unable to go because of his depression, which has the effect of making him feel unable to leave the house or respond to letters etc. As a result he has been without benefits for four months, dependent on hand-outs from friends, has failed to adhere to a repayment agreement with regard to Council Tax arrears and has a charge for payment and arrestment on his bank account. He has also failed to get medical certificates from his GP.

The adviser comments: "The client's response to the letter from Jobcentre Plus is typical of someone suffering from serious depression who finds themselves unable to cope with official letters and appointments. This reason is not acceptable to officials, and can of course be abused, but maybe there should be a way to help such clients."

Recommendation: We recommend that medical evidence should be requested automatically for all ESA applicants who indicate they have a mental health problem or learning disability.

Recommendation: The number of people who do not attend assessments should be monitored, and publicly reported on, along with the main presenting conditions.

6. Changes have already been made to the WCA face-to-face assessment since its introduction. Do you believe that further changes would improve the face-to-face part of the WCA? If so, please detail what changes you would suggest and provide supporting evidence that they would be effective.

Questions 8-9: further improvements to WCA process

Medical evidence

One of the key issues in relation to the Work Capability Assessment is the provision of supporting evidence from medical and other professionals.

In parts of Scotland some GP practices are charging clients significant sums of up to £100 for the provision of supplementary evidence. In other places, GPs now refuse to provide medical evidence to patients, particularly since the introduction of the "bedroom tax" in April, and the additional demands for evidence that generated.

- **North of Scotland CAB reports** a client telephoned the welfare benefits officer to advise that her local Medical Group had informed her that it would cost £75 to provide her with a medical report to substantiate her Employment Support Allowance Appeal (ESA).
- **West of Scotland CAB report** of a client appealing his ESA decision. The client had contacted the DWP after his ESA was stopped, they advised him to appeal and get a letter from his doctor to support his appeal. He went to his doctor who said his hands were tied and he could not write him a letter. Instead he gave him a copy of the letter he had received from the BMA explaining why doctors should not involve themselves in benefit appeals evidence. The client was very confused as the DWP had directed him to

ask his doctor for supporting evidence, and his doctor had supplied a sick line to say he was not fit to work yet is unable or unwilling to evidence this further.

However, as part of their contract, GPs are required to provide evidence to ATOS and the DWP through the ESA113, and there is financial provision for this work within the contractual agreement. CAS believes that if better evidence were gained through more effective and timely use of the ESA113 form, this could reduce the need for supplementary evidence at later stages of the process, including at appeal.

We regularly see cases where medical forms and sick notes from doctors are lost by the DWP. The following cases are all from July 2013. If claimants have to request further copies of evidence from doctors, this puts pressure on both claimants and medical services.

- **East of Scotland CAB report** *that the client came in again today, requesting the CAB to phone Jobcentre Plus regarding receipt of his medical line for ESA benefit. The client brought in a tracking receipt for his recorded delivery of his medical certificate which said it was delivered and signed for six days ago. Because he had not signed the back of previous medical certificates, the client has not had any money since the middle of June. Relatives are helping him out. The CAB phoned Jobcentre Plus, who said receipt of his medical certificate was still not on their system. They explained that although it arrived at their mailing department six days ago, it can take 4-5 days to arrive at the ESA department, and can then take 4-5 days to appear on the system. They suggested that he bring in his medical certificate and delivery receipt tomorrow and the CAB to phone again for him. If the medical certificate has still not been processed, the CAB should request an appointment at his Jobcentre, where he can ask them for his medical certificate to be faxed over and from that a payment could be made quickly. The client advised he has a copy of the front of his certificate only, but was going to try to get a new copy from his doctor by tomorrow morning and then come to Bureau. The CAB went through the DWP escalation procedure and explained the problem of length of time to process a medical certificate. The DWP adviser concurred this has been an increasing problem.*
- **North of Scotland CAB reports** *of a client who has sent in GP medical certificates, but Jobcentre Plus say they have not received them. This has happened to this client before. The client feels bad enough without having to go back to see his GP again for a duplicate medical certificate. The CAB called Jobcentre Plus who said there is no medical certificate on file and the client will have to get a duplicate one to send on.*
- **North of Scotland CAB report** *of a client who returned to the bureau to say that he was successful with his appeal for ESA, but had still not received any money. He had handed in a sick note to the jobcentre in Aberdeen on the 7 June but still had not received any money. He had been told by the people at ESA that the medical certificate had been lost and that he needed a duplicate to receive any benefit. The client has requested a duplicate from his doctor. He asked if the CAB could contact them to see when payments would start as he has had no money for several weeks and no gas or electricity since last Wednesday. The CAB adviser called the ESA department. They advised that the client could not receive benefit as he did not have a valid sick note. After numerous calls to DWP it appeared that the sick note had been received but not been transferred to ESA as they still thought that he was on Jobseekers which they had put him on by mistake.*

The Scottish Parliament Welfare Reform Committee took evidence on the issues around medical evidence in the benefits system earlier this year. Georgina Brown, representing BMA Scotland, suggested there were a number of issues that needed to be addressed in regard to the forms and requests for medical evidence from ATOS from their perspective. These included unclear or unrealistic timescales for returning forms, and sometimes unrealistically short timescales for them to respond, as well as difficulties with pulling information from their systems into the format required on the form. She noted that she regularly receives requests for information about people who are not her patients.⁵

- **North of Scotland CAB reports** of a client who came to bureau: her doctor's surgery had confirmed on 11th July that they had received form ESA113 on 5th July, but her GP was on holiday until 22nd July. The client's medical assessment is on 24 July. After several days of telephone call attempts, the client managed to contact ATOS today (17th). They requested that the client calls them again on the day of the assessment to check if the form has been returned. If it has not the assessment will be postponed. As the assessment is due to take place at 10.05am and the client must be there at least 10 minutes before the assessment, she would need to leave to attend around 8.00-8.15a.m. It was then agreed that the client should call the day before. The client is feeling very stressed by the level of uncertainty and the last minute nature of the arrangements.

The CAB suggested the client contacts the practice manager and asks that they consider communicating this to ATOS if the Practice Manager believes that the GP will not be able to return this information in time. The client was worried that the Practice Manager may refuse as previously it has been stated by the practice that they will only respond to ATOS and should not be contacted otherwise.

There is a danger that clients get caught in the middle between DWP requirements for medical evidence and medical professionals' inability to provide it, as the following case suggests:

- **North of Scotland CAB reports** that the bureau received a phone call from a decision maker at the DWP benefits centre regarding a client's ESA. The decision maker advised that they would need a letter from the client's GP to allow them to reassess her case early and that they would not request this so the client had to provide it. The CAB adviser pointed out that it can be difficult to obtain GP letters in the current climate and the GP is more likely to respond to a request from DWP but she said that it is not the DWP's responsibility to request this.

The CAB adviser comments that she found the conversation strange. The decision maker started out by saying that the client should have notified them of her walking difficulties earlier. The adviser explained that the client didn't understand that there was a support group and she said "that is what phones are for" and stated that "any reasonable person would have picked up the phone and asked". She also advised that the client had stated in her ESA50 that she cannot walk 50 metres and uses 2 crutches to walk. Apparently they believe this means that the client can walk more than 50 metres using

⁵ Scottish Parliament official report Welfare Reform Committee 22 January 2013 Col497-498 <http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=7978&mode=pdf>

the crutches although the adviser could not get an explanation of why this assumption was made. The decision maker said that clients are placed in the WRAG by default and it is up to them to prove they should be in the support group. This is always the impression this CAB have held but the adviser comments that she was very taken aback to hear this stated, given that it is not lawful.

Anecdotal feedback from bureau advisers suggests that despite previous Review recommendations, evidence from non-medical practitioners is given a lower priority than medical evidence.

Recommendation: The ESA 113 form should be reviewed in discussion with the DWP and medical practitioners to make it more fit for purpose. Consideration should be given to the guidance and training needed to support a revised form.

Recommendation: The timescales given to doctors for returning the form should be clarified and lengthened.

Recommendation: The DWP should urgently review its processes and timescales for processing medical evidence to ensure evidence is processed in a timely manner.

Recommendation: A review should be undertaken of the use ATOS healthcare practitioners and DWP decision makers make of medical and non-medical evidence and the relative weight ascribed to each.

Procedural problems

Being placed in the WRAG without medical assessment

We have seen a number of cases where people are being placed in the Work Related Activity group (WRAG) without having received any medical assessment. Some of these clients have severe disabilities, and this is entirely inappropriate and very worrying.

- **East of Scotland CAB reports** of a client who required a home visit. The client had been placed into the WRAG of ESA after completing an ESA50. The client did not have a medical as she was to have one with a neurological specialist but it was cancelled and never rescheduled. The client lives alone and suffers from Functional Neurological Disorder - this gives off similar disabilities as a stroke. The client is in a wheelchair and has very restricted movement. The client has limited speech - can only say yes and communicates via an ipad. The client relies on taxis to get out and cannot walk even a short distance due to her severe mobility issues. The client was seen by a Jobcentre Plus Disability Officer who thought the decision was so clearly wrong she asked if the adviser would go out to see the client and help her lodge an appeal.
- **West of Scotland CAB reports** a client who attended a drop-in session with an enquiry regarding a letter from Jobcentre plus (JCP) informing the client that her claim for Incapacity Benefit would be migrating to Employment Support Allowance in a month's time. The letter informed the client that she would be placed in the Work Related Activity Group (WRAG). The client has never been medically assessed for this. She suffers from Dyslexia, Irritable Bowel Syndrome, Severe Depression and Anxiety - these symptoms make it extremely difficult for the client to mix with the general public.
- **West of Scotland CAB reports** a client who came in to see the CAB as her son has recently been put into the WRAG for ESA. Her son did not have a face to face

assessment after her GP wrote to them advising he is unable to attend. They then decided to put him into the WRAG group. Her son has had multiple medical problems resulting from brain tumours and subsequent brain operations over the years. He has a chronic condition (Craniopharyngioma), loss of the pituitary gland function, lack of thyroid function, diabetes insipidus, acquired brain injury, weight management problems, depression, anxiety, panic attacks, chronic tiredness, overproduction of urine and thirst often at night, and low immunity which can cause him to contract infections easily which often results in hospitalisation. The client states that her son is unable to work and this decision is causing a lot of stress. She called the DWP and was told she had to appeal the decision and there was nothing they could do for her. The client is her son's full time carer.

Delays in WCA

We have seen a number of cases where clients have waited a significant period to have their medical assessment. This leaves clients in limbo and potentially on a lower rate of benefit than they should be on.

- **North of Scotland CAB reports** that a client telephoned the bureau to inform them that his ATOS medical assessment had once again been cancelled. He had an appointment six days ago which had been cancelled by ATOS with another appointment arranged for today. However he received a telephone call two hours before the appointment to inform him that his appointment had again been cancelled. He has received another appointment for five days' time. The client has been without benefit since he re-applied for ESA three and a half months ago. The client cannot qualify for a short term benefit advance as he has had no award decision.
- **North of Scotland CAB reports** of a client who has still not received a medical assessment. He has been on basic ESA for more than 18 months. He missed his appointment at Christmas because he was visiting his son. The CAB phoned the Aberdeen DWP Benefits Office who said they could not help and it was up to ATOS. The adviser then phoned ATOS and was told he was in the system and would be seen in due course.

Problems with ATOS assessment centres

One client has reported that he experienced people taking drugs and alcohol in the waiting room of the assessment centre he attended. He found this very difficult but no action was taken when he reported it to staff.

- **West of Scotland CAB reports** the client who recently attended a medical assessment at an ATOS centre. The client, who is a recovering alcoholic, described the waiting room at ATOS medical as being very disturbing. He claimed that he had to wait an hour for medical assessment and during that time other people waiting were drinking alcohol and using drugs. He advised the Health Care Professional who carried out his medical of this but she took no action. The client found experience very stressful.

Special rules for people with cancer

We have seen a small number of cases where Jobcentres seem not to have been aware of the special rules for clients with cancer.

- **East of Scotland CAB reports** a client who has a history of illness and was diagnosed with cancer in January 2012, which the client found extremely distressing and frightening. In June 2013 she was sent an ESA form to complete. As she falls under special rules she should not have been sent this form. When the adviser telephoned ESA department to discuss this they initially refused to discuss this client when she was not present. After he relented and the adviser explained this client falls into the special rules category he replied that all clients receive an ESA50 as they do not discriminate against any client, no matter how ill they are. The adviser informed him this was complete rubbish and that this client is exempt from any work-related activities and medical assessments and should automatically go into a support group. He then relented when the adviser requested a conversation with a supervisor and advised the client to ignore the ESA50. The adviser comments that she is sceptical that the DWP will follow the correct procedure so has advised the client to return the ESA50 to the CAB and the adviser will write an accompanying letter.
- **East of Scotland CAB reports** a client who has a terminal cancer diagnosis and was not advised that she required a DS1500. She was sent an ESA50 which she completed and sent along with a copy of her DS1500 which she was able to acquire. She has now been sent an appointment to attend a medical assessment. The CAB advised the client she should not have to attend this appointment. She should be in support group as she falls under DS100 (special rules).

The adviser telephoned ESA processing department who advised that the call should be made to ATOS. ATOS informed the CAB adviser that she was through to the wrong department and transferred the call (3 times) Each one said they could not assist. Eventually, they advised they would call back later this afternoon, at which point they confirmed the client would now be placed in the support group and would not have to attend the interview.

- **North of Scotland CAB reports** a client with stage IV ovarian cancer. With CAB assistance the client applied for DLA and was awarded full DLA as DS1500 was issued a few months ago. The client had claimed ESA when her statutory sick pay ran out and gave full information on the claim form. She was then sent an ESA50 and felt too ill to complete. The MacMillan Palliative nurse referred her to CAB. The client was quite distressed that she felt she was being hounded by DWP. The CAB phoned the ESA department and suggested that she did not need to complete the form because of her diagnosis. However they did not confirm this. The CAB was promised a call back which they did not receive.

A few weeks later the client called back as she had been sent another ESA50 form. Her GP wrote a letter saying that she was not fit to complete the form.

Recommendation: Awareness needs to be raised further in Jobcentres and ATOS centres of the special rules for people with cancer to ensure that they put the appropriate support in quickly

Consequences of wrong decisions

In the interests of an adequate income for sick and disabled claimants it is imperative that the Work Capability Assessment process is made as accurate, efficient and effective as possible. However, increasingly the impact of an incorrect decision has a wider detrimental impact on the client.

Sanctions

The benefits system is becoming increasingly punitive for claimants who are deemed to have failed to meet the required expectations. Since the end of 2012 JSA claimants can face a maximum benefit sanction of up to three years, and ESA claimants who fail to attend appointments face a much harsher sanctions system.

Many former Incapacity Benefits claimants are now claiming JSA following unsuccessful migration to ESA. The Government has not published any data on sanctions since the new conditionality regime was introduced, but previous data suggests that one in six of those facing sanctions have a disability.

Bureaux are now regularly seeing clients who have been sanctioned, and others who are frightened of being sanctioned but do not know what they can do to prevent it happening. Our evidence has provided examples of people who are being sanctioned for failing to meet requirements which they could not possibly have complied with, including people who have evidence from Royal Mail that letters requiring them to attend appointments were not sent to them, or where they have informed the Jobcentre that they cannot attend their appointment (for example for job interviews) yet have still been sanctioned. We have seen some particularly worrying cases of people with diabetes who have not eaten for several days at a time following a benefit sanction.

Mandatory reconsiderations

From October 2013 claimants will be required to go through a mandatory reconsideration before they can appeal a decision. While the DWP argued that this should mean people have a simpler process to get a decision corrected, particularly following the presentation of new evidence, originally the DWP did not set a timescale for this process to take place. This could mean that an individual's right to appeal could be delayed indefinitely. After lobbying from a range of organisations including the Administrative Justice and Tribunals Council⁶, the Government committed to introduce a time limit for mandatory reconsiderations.

Use of WCA decisions in other benefits

Bureaux in Scotland have seen a number of cases where changes have been made to awards for other disability benefits, particularly Disability Living Allowance, following a Work Capability Assessment decision.

- **West of Scotland CAB reports** *client who has been receiving ESA at £143.40 fortnightly for 3 years. He was medically assessed in June 2012 (13 months ago), however, there has been no contact from DWP relating to the outcome of the assessment and he has continued to receive the assessment rate of the benefit. His health has deteriorated and he required assistance to complete a DLA application form. When he received his award letter from DLA it stated that they were not awarding him any rate of either component, based on information from his claim form, and from the healthcare professional who examined him for ESA in June 2012. The client is not aware*

⁶ See for example ajtc.justice.gov.uk/docs/AJTC_Letter_to_IDS_11_4_13_final.pdf

of any of the information from the healthcare professional as he had no correspondence concerning the outcome of the assessment, however, he does not understand how a decision from a year ago and for a completely different benefit could be used to assess his eligibility for the benefit.

- **West of Scotland CAB reports** a client is appealing a decision made by the DWP. He applied for DLA in April of this year and was told he did not fit the required criteria. The decision was partly based on a medical report for ESA from April 2012. The client was placed in the Work Related Group but on reconsideration he was placed in the Support Group. The client is distressed that the ESA medical report was used in the DLA decision as he believes as he was placed in the support group that the original decision was overturned.
- **West of Scotland CAB reports** a client applied to claim DLA December 2012. She required assistance to complete the form. She duly received notice that her claim had failed. The client asked for assistance to appeal the decision. On attending Tribunal with the client her appeal was refused on the grounds that she failed to demonstrate the statutory criteria of any rate, however, the decision was weighted by the results of an ESA medical completed on 10th April 2012. The client's claim for DLA was made 7 months after the ESA85, however the Decision Maker submits that the ESA report is still relevant. The CAB respectfully submitted that the legal tests for ESA and DLA are completely different and that the ESA assessment fails to determine the clients mobility and care needs. The CAB have as yet received no response from The Tribunal Service.

These factors add increased urgency to the need to get Work Capability Assessments working as effectively as possible to correctly identify the level of claimants' ability to work.

*For further information please contact Beth Reid, Policy Officer,
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Appendix

An East of Scotland CAB reports of a couple who attended the bureau regarding the wife's ESA claim. Mrs Jones⁷ has a range of disabilities resulting from two brain haemorrhages and a stroke, including severe blinding headaches, incontinence, severe dizziness leading to regular falls throughout the day, inability to manage tasks due to memory loss and problems following through with plans, cannot go out alone due to risk of harm, stomach issues due to the amount of medication and side effects. She experiences severe anxiety in some situations, including inability to go into hospitals, and had previously required complete sedation before she was able to undergo tests such as scans. The client had an operation to treat the haemorrhage and during the operation suffered a stroke, which has left her with weakness down the left side of her body so she cannot safely grip, hold or carry things. No further treatment is possible so her condition will not improve or change. Her husband deals with most matters on her behalf.

Mrs Jones was migrated onto ESA, having been on Incapacity Benefit since her ill health began in 2003. She completed an ESA50 work capability questionnaire. The clients received no written decision about the award. A letter then arrived from the Jobcentre asking Mrs Jones to attend a work focused interview (suggesting she had been placed in the WRAG without a medical assessment). During that interview they were asked if they felt that Mrs Jones should in fact be in the support group. Mr Jones explained that they had not even been given a written decision about the award. The Jobcentre adviser then contacted the benefits centre to request a written decision be sent out which they needed to seek reconsideration or appeal the decision. This has not arrived three weeks later despite being told it would be with them in four days. They came to the bureau because they are not sure how to go about seeking the reconsideration and Mr Jones is extremely concerned that his wife cannot cope at all with any more interviews.

He explained that she became extremely distressed at the Jobcentre and they thought she was going to faint or have a seizure. He is very worried that she is now becoming very depressed by the situation. Mr Jones feels that his wife could not manage any medical assessment appointments and he is concerned that if they seek a reconsideration or appeal she may have to attend more appointments.

He expressed the view that if that was to happen they would not proceed. However he also explained that he feels his wife cannot cope with the Jobcentre interviews. During this Mrs Jones became very upset and tearful and appeared very anxious and upset. They are not sure what options they have or how to proceed.

We identified that Mrs Jones potentially meets 5 of the possible criteria for the work capability descriptors for the support group (limited capability for work related activity group). However the client could not manage a medical and would appear to be so severely disabled that she should be considered exempt from the work capability assessment.

There is a risk that they will eventually lose ESA if Mrs Jones cannot manage either Jobcentre or A4e appointments to meet the WRAG criteria; or will not be able to manage medical assessments for the support group. The clients feel that if they have to attend a medical they will not feel able to proceed with the ESA application. Their only other income is an award of High Rate Care Disability Living Allowance and Carers Allowance. Mr Jones is not working as he is his wife's sole carer. The clients have no other support at this time but the adviser

⁷ Not her real name

suggested they consider a community care assessment to explore additional support for both Mrs Jones and Mr Jones as her carer.

We may be able to look at a fresh claim for ESA as Mrs Jones may have developed a new condition due to the severe distress that these issues are causing; her GP believes she may now be suffering from depression.