

# Disability Law Service

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Offering free, confidential legal advice and  
representation for disabled people

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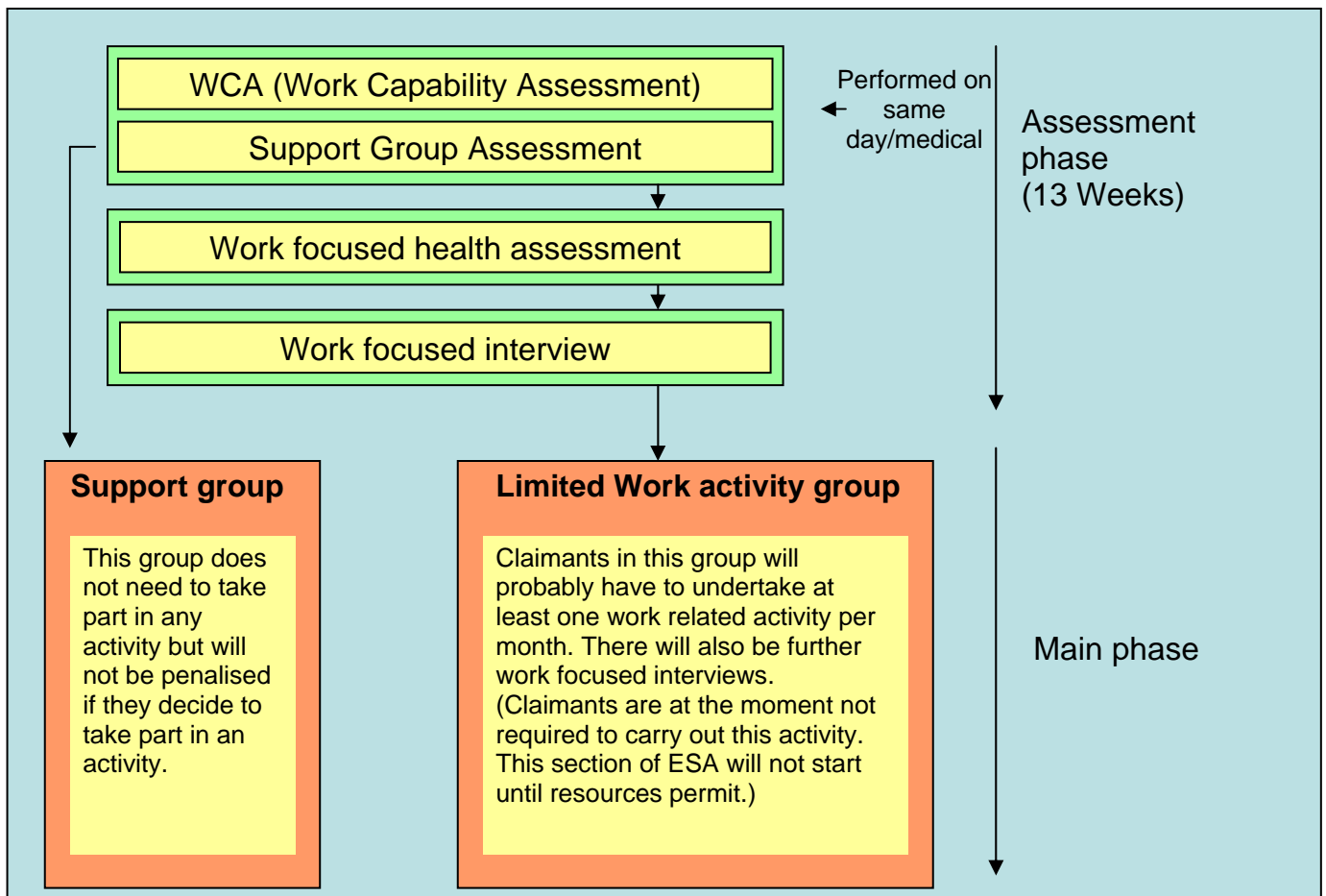
## **A basic guide to ESA (Employment Support Allowance)**

# **ESA (Employment Support Allowance) Factsheet**

## **Introduction**

ESA (Employment Support Allowance) is the replacement for Incapacity Benefit. It also replaces the Income Support on the basis of disability. ESA came into force on the 27<sup>th</sup> October 2008. It is only applicable to new claimants at the moment. Anyone who is already on Incapacity Benefit or Income Support on the basis of disability will continue to remain on that benefit, in some cases, until 2012/13 when they will be transferred to ESA. (As of this date no specific timetable has been put into place for transferring present claimants on to ESA.)

While ESA replaces the aforementioned benefits, it is structured in a completely different way for incapacity style benefits. Previously a person would expect to go on to an incapacity benefit believing that they would not be required to take any action other than filling in their yearly application for Incapacity Benefit. ESA changes this situation by requiring the majority of people on ESA to attend work-focused interviews which will draw up 'action plans' requiring them to take part in activities that will help get them back into the workplace. Those required to take part will be required to carry out at least one activity per month. Some reports at the moment state that some 80% of successful claimants are being placed in the Limited Capability for Work Group.



Claimants on ESA are put into either a **support group** or the **limited capability for work group**. As you can see from the diagram above, a claimant will start on ESA on the assessment phase which lasts 13 weeks.

## The assessment phase

As you can see from the diagram, the assessment phase has four main tasks to complete as follows:

1. They must assess whether you are **eligible for ESA** by giving you the WCA (Work Capability Assessment). This is a test similar to the PCA (Personal Capability Assessment) that is carried out for Incapacity Benefit. To be eligible for ESA you must gain at least 15 points by matching your issues to one or more of the descriptors. The descriptors are split into physical problems and mental problems. You can add physical scores and

mental scores to reach the score of at least 15. The doctor will make his assessment but it is the DWP decision maker that makes the final judgement. As a result, you can send in further evidence which they must take into account when making their decision. The descriptors are available in appendix 1 of this document. An example of a descriptor is shown below:

WCA descriptor examples:

- Cannot pick up and move a 0.5 litre carton full of liquid with either hand **(15 points)**
- Cannot pick up and move a one litre carton full of liquid with either hand **(9 points)**

2. They must assess if you are eligible for the support group or if you should continue on to the limited capability for work group. The assessment may be carried using a paper assessment or they may test you via a face to face assessment held at the same time as the WCA. If you are tested in person then they will assess you at the same time as the above WCA. To gain entry to the support group again requires that a claimant match a set of descriptors. In this case there are 46 descriptors and if you match one of them then you are eligible for the support group. As such there is no need for points. The test is much higher standard than the WCA. The descriptors are available in appendix 2 of this document. Below you will find examples o descriptors:

Support group descriptor examples:

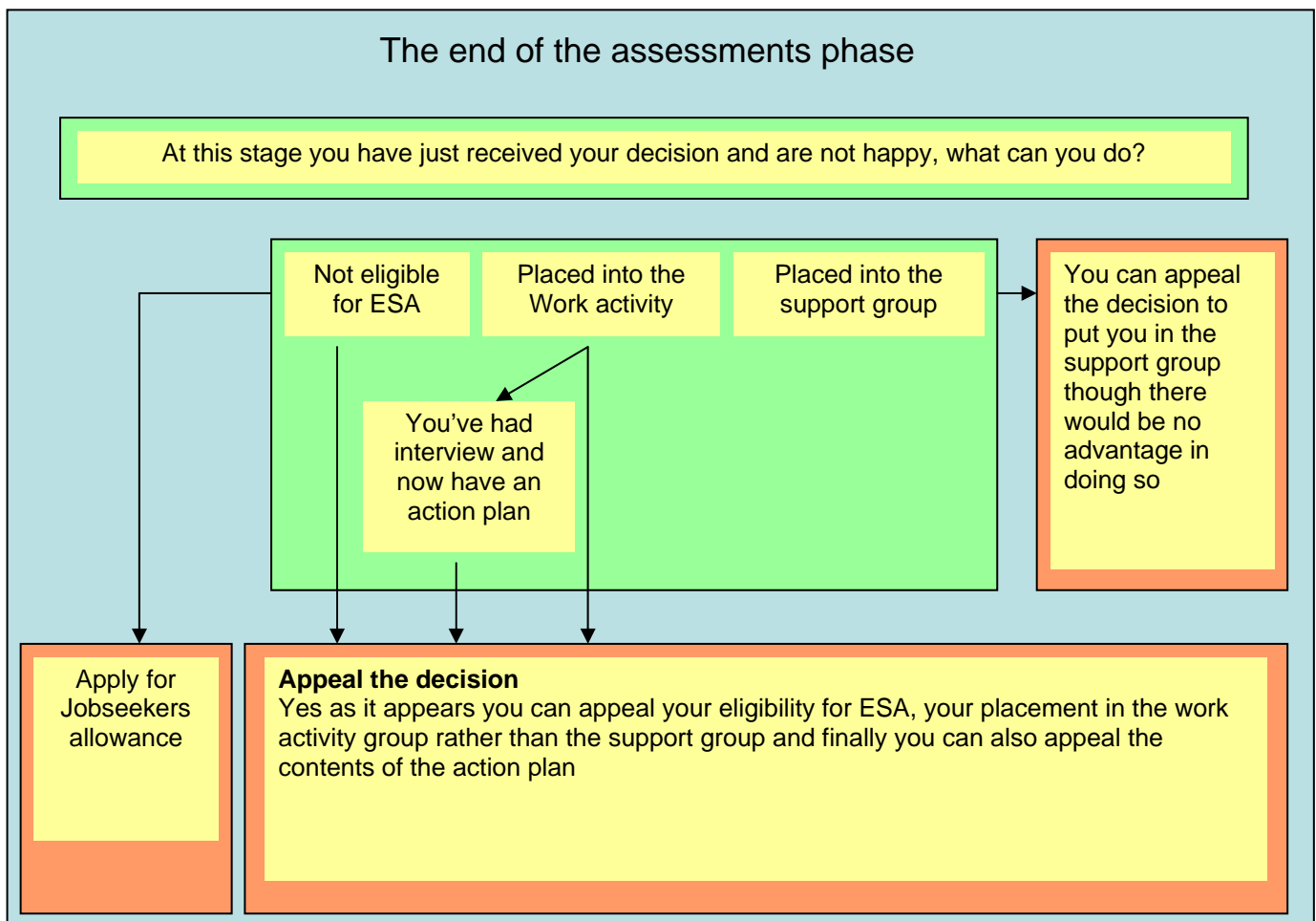
- Cannot manually propel the claimant's wheelchair more than 30 metres without repeatedly stopping, experiencing breathlessness or severe discomfort.
- Cannot pick up and move 0.5 litre carton of liquid with either hand.

3. They must now assess if you to see what problems you might have in the workplace using the 'work focussed health assessment'. This may held at the same time as the WCA. It will not be carried out if you look as though you are going into the support group. This assessment will have no effect on your eligibility for ESA.
4. The final task will be the work focussed interview. This is expected to be held around week 8. The focus of this will be to see what you can do and to produce an action plan. The aim being that each month you will complete at least one task that counts as an activity. The activity section of this will not be started immediately but will be put in place as the resources are available as ESA has only just started as a benefit and the DWP will have to organise providers for activities.
5. It must be noted that in a number of cases the DWP are behind the schedule so these timings may be different due to this.

## After the assessment phase

After the assessment phase you will be notified if you are entitled to ESA and if you are in the support group or work focused group. You have the right to appeal these decisions. If you appeal you have one month to do so and take the case to an appeal tribunal if the DWP decide not to change its decision.

If you fail to be awarded ESA then you can claim Jobseekers allowance. The table below shows your options.



## Appealing decisions

You have the right to appeal both the decision as to whether you have enough points for ESA and also which group you are placed in. The timeframes are the same as other benefits for appealing in that you have one month from the date of a decision to appeal against it. You should appeal using the GL24 form which is available from jobcentres, the DWP and from the internet. If you wish to appeal then you will be looking to compare the descriptors which you will find on the following pages to see which descriptors you believe you should be awarded. You will then want to gather as much evidence as possible to send to the DWP or the Tribunal in order to prove that you deserve a different award.

Please find on the following pages in the appendixes the new descriptors for being awarded Employment Support Allowance. Please note that it is different from the old incapacity descriptors. As stated, you need to get 15 points worth of descriptors to be classified as incapable of work.

# Appendixes

## ASSESSMENT OF WHETHER A CLAIMANT HAS LIMITED CAPABILITY FOR WORK

### PART 1 - Physical disabilities

#### **1. Walking with a walking stick or other aid if such aid is normally used.**

- a. Cannot walk at all. **15**
- b. Cannot walk more than 50 metres on level ground without repeatedly stopping or severe **15**
- c. Cannot walk up or down two steps even with the support of a handrail.  
i. **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.**

- 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 to move around, before needing to sit down. **6**

- 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.**

- 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**

**4. Reaching.**

- 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).**

- 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.**

- 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**

## **7. Speech.**

- 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 applies. **0**

## **7. Hearing with a hearing aid or other aid if normally worn.**

- 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 applies. **0**

**8. Vision including visual acuity and visual fields, in normal daylight or bright electric light, with glasses or other aid to vision if such aid is normally worn.**

- a. Cannot see at all. **15**
- 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 applies. **0**

**9. Continence**

**(A) Continence other than enuresis (bed wetting) where the claimant does not have an artificial stoma or urinary collecting device.**

- a. Has no voluntary control over the evacuation of the bowel. **15**
- b. Has no voluntary control over the voiding of the bladder. **15**
- c. At least once a month loses control of bowels so that the claimant cannot control the full evacuation of the bowel. **15**
- d. At least once a week, loses control of bladder so that the claimant cannot control the full voiding of the bladder. **15**
- e. Occasionally loses control of bowels so that the claimant cannot control the full evacuation of the bowel. **9**
- f. At least once a month loses control of bladder so that the claimant cannot control the full voiding of the bladder. **6**
- g. 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**
- h. None of the above apply. **0**

**(B) Contenance where the claimant uses a urinary collecting device, worn for the majority of the time including an indwelling urethral or suprapubic catheter.**

- a. Is unable to affix, remove or empty the catheter bag or other collecting device without receiving physical assistance from another person. **15**
- b. Is unable to affix, remove or empty the catheter bag or other collecting device without causing leakage of contents. **15**
- c. Has no voluntary control over the evacuation of the bowel. **15**
- d. At least once a month, loses control of bowel so that the claimant cannot control the full evacuation of the bowel. **15**
- e. Occasionally loses control of bowels so that the claimant cannot control the full evacuation of the bowel. **9**
- f. 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**
- g. None of the above apply. **0**

**(C) Contenance other than enuresis (bed wetting) where the claimant has an artificial stoma.**

- a. Is unable to affix, remove or empty stoma appliance without receiving Physical assistance from another person. **15**
- b. Is unable to affix remove or empty stoma appliance without causing leakage of contents. **15**
- c. Where the claimant's artificial stoma relates solely to the evacuation of the bowel, has no voluntary control over voiding the bladder. **15**
- d. 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**
- e. Where the claimant's artificial stoma relates solely to the evacuation of the bowel, at least once a month, loses control of bladder so the claimant cannot control the full voiding of the bladder. **9**
- f. Where the claimant's artificial stoma relates solely to the evacuation of the Bowel risks losing control of the bladder so the claimant cannot control the full voiding of the bladder if not able to reach a toilet quickly. **6**

**6**

g. None of the above apply. **0**

**10.Remaining conscious during waking moments.**

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**

**PART 2**

**Mental, cognitive and intellectual function assessment**

**11.Learning or comprehension in the completion of tasks.**

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**

**12.Awareness of hazard.**

- 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:
  - 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. **15**
- 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:
  - 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. **9**
- c. Reduced awareness of the risks of everyday hazards has led or would lead to frequent instances of or to near-avoidance of:
  - 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. **6**
- d. None of the above apply. **0**

### **13.Memory and concentration.**

- 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' 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**

### **14.Execution of tasks.**

- 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**

### **15.Initiating and sustaining personal action.**

- 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**

**16.Coping with change.**

- a. Cannot cope with very minor, expected changes in routine, to the extent that overall day to day life cannot be managed. **15**
- b. Can not 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**

**17.Getting about.**

- 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**

**18.Coping with social situations.**

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**

**19.Propriety of behaviour with other people.**

a. Has unpredictable outbursts of aggressive, disinhibited, or bizarre behaviour, being either: **15**

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.

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 severity and frequency to cause disruption for the majority of the time. **9**

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**

**20. Dealing with other people.**

- 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**

Are you to be put in the work related activity group or the support group? The following descriptors are used to clarify which group you are put into.

### **SCHEDULE 3**

#### **ASSESSMENT OF WHETHER A CLAIMANT HAS LIMITED CAPABILITY FOR WORK-RELATED ACTIVITY**

##### **1. Walking or moving on level ground. Cannot –**

- a. Walk (with a walking stick or other aid if such aid is normally used);
- b. Move (with the aid of crutches if crutches are normally used); **or**
- c. Manually propel the claimant's wheelchair; more than 30 metres without repeatedly stopping, experiencing breathlessness or severe discomfort.

##### **2. Rising from sitting and transferring from one seated position to another.**

###### **Cannot complete both of the following –**

- a. Rise to standing from sitting in an upright chair without receiving physical assistance from someone else; **and**
- b. Move between one seated position and another seated position located next to one another without receiving physical assistance from someone else.

##### **3. 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.

##### **4. Reaching.**

Cannot raise either arm as if to put something in the top pocket of a coat or jacket.

## **5. Manual dexterity.**

Cannot—

- i. turn a “star-headed” sink tap with either hand; **or**
- ii. pick up a £1 coin or equivalent with either hand.

## **6. Continence.**

### **A. Continence other than enuresis (bed wetting) where the claimant does not have an artificial stoma or urinary collecting device.**

- a. Has no voluntary control over the evacuation of the bowel;
- b. Has no voluntary control over the voiding of the bladder;
- c. At least once a week, loses control of bowels so that the claimant cannot control the full evacuation of the bowel;
- d. At least once a week, loses control of bladder so that the claimant cannot control the full voiding of the bladder;
- e. At least once a week, fails to control full evacuation of the bowel, owing to a severe disorder of mood or behaviour; **or**
- f. At least once a week, fails to control full-voiding of the bladder, owing to a severe disorder of mood or behaviour.

### **B. Continence where the claimant uses a urinary collecting device, worn for the majority of the time including an indwelling urethral or suprapubic catheter.**

- a. Is unable to affix, remove or empty the catheter bag or other collecting device without receiving physical assistance from another person;
- b. Is unable to affix, remove or empty the catheter bag or other collecting device without causing leakage of contents;
- c. Has no voluntary control over the evacuation of the bowel;
- d. At least once a week loses control of bowels so that the claimant cannot control the full evacuation of the bowel; or
- e. At least once a week, fails to control full evacuation of the bowel, owing to a severe disorder of mood or behaviour.

**C. Contenance other than enuresis (bed wetting) where the claimant has an artificial stoma appliance.**

- a. Is unable to affix, remove or empty stoma appliance without receiving physical assistance from another person;
- b. Is unable to affix, remove or empty stoma without causing leakage of contents;
- c. Where the claimant's artificial stoma relates solely to the evacuation of the bowel, has no voluntary control over voiding of bladder;
- d. Where the claimant's artificial stoma relates solely to the evacuation of the bowel, at least once a week, loses control of the bladder so that the claimant cannot control the full voiding of the bladder; **or**
- e. Where the claimant's artificial stoma relates solely to the evacuation of the bowel, at least once a week, fails to control the full voiding of the bladder, owing to a severe disorder of mood or behaviour.

**7. Maintaining personal hygiene.**

- a. Cannot clean own torso (excluding own back) without receiving physical assistance from someone else;
- b. Cannot clean own torso (excluding back) without repeatedly stopping, experiencing 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.

**8. Eating and drinking.**

**A) Conveying food or drink to the mouth.**

- a. Cannot convey food or drink to the claimant's own mouth without receiving physical assistance from someone else;
- b. Cannot convey food or drink to the claimant's own mouth without repeatedly stopping, experiencing breathlessness or severe discomfort;

- 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**
- d. Owing to a severe disorder of mood or behaviour, fails to convey food or drink to the claimant's own mouth without receiving –
  - i. physical assistance from someone else; **or**
  - ii. regular prompting given by someone else in the claimant's presence.

**B) Chewing or swallowing food or drink.**

- a. Cannot chew or swallow food or drink;
- b. Cannot chew or swallow food or drink without repeatedly stopping, experiencing breathlessness or severe discomfort;
- c. Cannot chew or swallow food or drink without repeatedly 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 –
  - i. chew or swallow food or drink; **or**
  - ii. chew or swallow food or drink without regular prompting given by someone else in the claimant's presence.

**9. Learning or comprehension in the completion of tasks.**

- a. Cannot learn or understand how to successfully complete a simple task, such as the preparation of a hot drink, at all;
- 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; **or**
- c. Fails to do any of the matters referred to in (a) or (b) owing to a severe disorder of mood or behaviour.

**10. Personal action.**

- a. Cannot initiate or sustain any personal action (which means planning, organisation, problem solving, prioritising or switching tasks);

- b. Cannot initiate or sustain personal action without requiring daily verbal prompting given by someone else in the claimant's presence; **or**
- c. Fails to initiate or sustain basic personal action without requiring daily verbal prompting given by some else in the claimant's presence, owing to a severe disorder of mood or behaviour.

**11. Communication.**

- a. None of the following forms of communication can be achieved by the claimant –
  - (i) speaking (to a standard that may be understood by strangers);
  - (ii) writing (to a standard that may be understood by strangers);
  - (iii) typing (to a standard that may be understood by strangers);
  - (iv) sign language to a standard equivalent to Level 3 British Sign Language;
- b. None of the forms of communication referred to in (a) are achieved by the claimant, owing to a severe disorder of mood or behaviour;
- c. Misinterprets verbal or nonverbal communication to the extent of causing distress to himself or herself on a daily basis; **or**
- d. Effectively cannot make himself or herself understood to others because of the claimant's disassociation from reality owing to a severe disorder of mood or behaviour.

## **Legal Disclaimer**

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For further advice on these matters please contact:

### **Disability Law Service**

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Fax: **020 7791 9802**

Email: **advice@dls.org.uk**

Website: **www.dls.org.uk**

Or write to us at: 39 – 45 Cavell Street, London E1 2BP

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**Registered Charity Number 280805, Company Registration Number 1408520**