

CURRENT ISSUES

AFTER ATOS: IS ESA FIT FOR PURPOSE AND DOES THE WCA HAVE A FUTURE?

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In June 2014 the British Broadcasting Corporation (BBC) reported that it had seen a number of UK Department for Work and Pensions (DWP) documents relating to the Employment and Support Allowance (ESA). These documents, which included six memos written by civil servants and government advisers, tell us very little that we did not know already. Namely that ESA is in crisis, and that waiting lists for assessment and appeals are unacceptable. However, what is significant is that these concerns are being raised within DWP itself. The underlying drift is that the question of whether the current model of ESA and Work Capability Assessment (WCA) is sustainable is now firmly on the UK government's radar.

Mike Penning, UK Minister for disabled people, recently admitted to the BBC "*We do have problems with the ESA assessment.*" (BBC 19/06/2014). Penning went on to describe ESA as: '*...something we inherited" from the previous Labour government*'

'we are doing everything we can to address [it] which is why I've negotiated Atos out of the contract and we're bringing in a new provider so we make sure that we can have proper flow of the benefits coming through' (BBC 19/06/2014)

The idea that Penning “negotiated ATOS out of the contract” is too many laughable. ATOS effectively withdrew in March 2014 from a contract to rollout and implement the Work Capability Assessment (WCA) it felt was damaging to its image and interests. Atos Healthcare (a subsidiary of the parent multinational ATOS) were contracted by the last Labour government to assess new claimants for their eligibility for ESA (Employment Support Allowance) and to eventually re-assess all individuals who are unable to work due to disability and long- term health issues. The disappearance of ATOS from the stage was widely welcomed by many of those who have experienced the reality of the WCA, as well as those who have monitored, commentated and supported those directly affected by the WCA.

The fact that ATOS is an outsourced provider gives the government an easy and convenient way to shift the spotlight from WCA as an idea in itself, and instead to place these problems within a wider discourse about the inadequacy of outsourced providers- arguably by casting ATOS as just the latest in a series of outsourced failures-for example, the G4S 2012 Olympic security debacle (The Guardian, 24/07/2012) and Serco Prisons and Prisoner mismanagement and alleged fraud (The Independent, 28/08/2013). This of course allows the UK government to claim it is parting company with a costly and inefficient provider. For example, when the news of the Atos departure was announced, Mike Penning was quoted as saying:

"I am pleased to confirm that Atos will not receive a single penny of compensation from the taxpayer for the early termination of their contract' (ibid)

. This does not stand up to any kind of close scrutiny. ATOS have already been paid millions of pounds for WCA work and have certainly not left the playing field - they are the major provider of Personal Independence Payment (PIP) assessments in the UK, itself a highly controversial development. The withdrawal from this contract by ATOS raises fundamental questions about the future viability of the WCA, and offers a timely opportunity for the process to be radically rethought.

The viability and credibility of the system has long been criticised by the individuals who have been subjected to it. Independent reviews carried out by Harrington and Litchfield were damning and could provide an insight into why ATOS has arguably chosen to withdraw from a highly lucrative contract rather than damage its reputation and commercial credibility further. In other words, when the problems of WCA can be demonstrated to outweigh the financial advantages, it is not surprising that a government set on reducing the benefits bill should ignore those that criticise the morality and the human cost. In 2010, the first Harrington report acknowledged that WCA was not working correctly and significant changes to the assessment and the process by which it was administered were suggested. Harrington (2010: 8) commented that *'the system can be impersonal and mechanistic, that the process lacks transparency and that a lack of communication between the various parties involved contributes to poor decision making and a high rate of appeals'*. The two subsequent reviews carried out by Harrington recommended further changes. Harrington departed from the role of 'independent reviewer' "in 2013 amidst rumours that it was his critical view of the process that had prompted his departure. However, BASE UK, the British Association for Supported Employment, reported Harrington as commenting that:

"They said to me 'you have been doing this for three years and you have come up with a number of recommendations which we are going to implement... we think it would be a good

idea if a fresh set of eyes looked at it for the final two years'. BASE, 30/07/2012 " <http://base-uk.org/members/news/judicial-review-wca-harrington-stands-down>

The latest review by David Litchfield, Harrington's successor and former head of occupational health at BT, has also recommended numerous changes to the system. His latest review suggested 37 changes to the system 32 of which applied to the DWP; these ranged from recommendations to ensure recommendations made in Harrington's previous three reviews were implemented (4 recommendations); making the assessment more effective (2 recommendations);), Changing perceptions of the WCA (8 recommendations); Strengthening decision making (9 recommendations);); Simplifying the assessment (3 recommendations); Improving the assessment of mental function(5 recommendations);). What is staggering is not so much the detail of the recommendations, but the fact that a system which has been in use for over 5 years should still be in need of this amount of modification.

Not only has this system been found to be essentially unfit for purpose, there is much evidence to suggest that it has been positively harmful, with WCA assessments being linked to and arguably contributing to numerous deaths of individuals who had recently undergone or were about to be reassessed by the process. In 2012 a freedom of information request by the Daily Mirror uncovered that between January and August 2001, 1,100 claimants died after they were put in the "work-related activity group" (04/04/2012). There have been many high profile cases; in February of this year The Guardian reported the death of Mark Wood. Mark, 44, was ruled fit for work against the advice of his GP and despite having complex mental health conditions. As a result, Mark's benefits were suspended and he died of starvation The Guardian (28/02/2014). There are also absurdities alongside the tragedies. Also in February 2014 it emerged that Sheila Holt of Rochdale had been contacted by the

Department for Work and Pensions, which invited her to attend "intensive job-focused activity" - however, Mrs Holt was in hospital in a coma at the time *The Guardian* (28/02/2014).

Academic research has suggested that the fear of the WCA and imminent arrival of the 'brown envelope' – an indicator of DWP correspondence – is a daily obstacle within the lives of people receiving long-term sickness benefits. This fear can have a profound impact upon the health and well-being of long-term sick and disabled benefits recipients (Garthwaite 2013). A recent report by the Centre for Welfare Reform '*Assessing the Assessors*' (Burgess et al. 2014) highlights the experiences disabled people have had undergoing WCA, with 95% of people surveyed stating they found the assessment damaged their health. Terms such as 'abusive', 'callous', 'unprofessional' and 'prejudiced' were all used to describe how people felt after the WCA.

Is WCA able to be reformed? Is there an alternative model which the government could implement instead? Perhaps lessons could be learnt from the experience of other countries which have sought to maximise labour market participation within Europe and beyond. For example, in Holland the number of individuals getting longer term health and disability related benefit has fallen dramatically in recent decades. However, as Van Oorschot (2002) has argued, this is not really about getting people into sustainable and high quality work, it is instead indicative of a successful strategy to shift individuals onto short term schemes and different benefits. Baumberg (2014) also argues that the Dutch model of incapacity assessment is preferable in that a medical assessment is followed by a labour market assessment, allowing a 'real-world' assessment of what work people can actually do in practice. It can be argued that all these models are flawed as they are not really about work

capability or helping find individual's appropriate work. Instead, they are concerned with establishing and enforcing a threshold for benefit eligibility via a system of test dressed up to look in some way scientific and objective. They are part of what Vic Finkelstein termed the administrative model of disability (Finkelstein 1980). They are in other words a benefit eligibility assessment, there is also an inherent assumption within them that they are seeking to root out undeserving "malingerers" and this is arguably their primary purpose rather than enabling and supporting individuals. Indeed, WCA providers benefit financially from transferring people onto lower value active benefits – as does the government. Any truly meaningful WCA would need to begin by re-examining what knowledge it would find valid and whose opinions count. The first place it should look is to the experience of individuals - there is considerable evidence to show that individuals largely know what they are capable and not capable of (Carson and Spiers 2004). This could lead to the establishment of trust with practitioners who could then explore options and offer support for those wishing to return to the labour market.

Such a transition may be problematic and financially difficult, as such transitional arrangements may require increased financial support in the short term. Attempting to access the labour market should not prompt the immediate withdrawal of personal support be it professional or financial. The "Pathways to Work" programmes of the Blair and Brown years were far from perfect but a case can be made that they did at least aim to help individuals back into work and fulfil their potential, although the mantra of "work is better than welfare" that went with these schemes was never far from the surface, and of course the emphasis has remained – indeed it has been increased. (Warren 2005:301)

Evidence also shows that local labour markets cannot be ignored. As Beatty and Fothergill have demonstrated numerous times (2010, 2011; 2013) if there is high demand for labour,

employers will employ and accommodate disabled workers, but this becomes more problematic when there is an abundant supply of non-disabled workers which are effectively functioning as part of what Marx called the ‘reserve army of labour’(Bambra, 2011). Place matters and this has to be recognised. A much broader assessment of “work feasibility” is required if there is any hope of helping individuals achieve what they are truly capable of. It is also clear that if this is to be successful a multi-agency approach which draws on the expertise of numerous professionals will be required. Case management approaches which focus on improving health can be successful (Bambra,2010; Warren et al 2013, 2014a; 2014b) but they require proper resourcing, the building of trust between practitioners and service users; they also take time they do not yield instant results. As such, it would seem unlikely that outsourced providers in the mould of ATOS are likely to find such a process manageable or financially viable.

It must be remembered that the market economy is structured in a way that disadvantages disabled people (Finkelstein 1980, Stone 1984; Gleeson 1991). Whilst this is not as stark as it once was but, the fundamental structures and demands of capital have arguably not changed. It should therefore be no surprise that an outsourced marketised version of state welfare is incapable of dealing with the problems the market has created. Tackling such problems cannot be done by re-inventing and outsourcing the workhouse means test in modern form which is how many now perceive WCA and will continue to do so until it is replaced.

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