



## Work Experience for ESA Claimants

### Comments from the Centre for Mental Health, Hafal, the Mental Health Foundation, Mind, Rethink Mental Illness, the Royal College of Psychiatrists, and the Scottish Association for Mental Health

We welcome the opportunity to comment on how the provisions in Clause 54 of the Welfare Reform Bill, on work experience and work placements for Employment and Support Allowance (ESA) claimants in the Work Related Activity Group (WRAG), will be implemented by the Department.

Approximately 40% of claimants in the WRAG are claiming primarily for mental health problems and many more will be experiencing mental health problems alongside a primary physical condition.<sup>1</sup> It is likely that this will increasingly be the case as current incapacity benefits claimants are migrated across to ESA. As such, it is vital that any changes to how the WRAG operates are implemented with due consideration of how they will impact on claimants with mental health problems.

A key concern about the implementation of Clause 54, and something that we have expressed during the passage of the Bill, is about the capacity of relevant members of staff in Jobcentre Plus and Work Programme providers to make appropriate decisions about what type of work related activity is suitable for claimants with mental health problems. As such, although we welcome the commitment that “the nature and amount of work-related activity required can vary for each individual but the requirement must always be reasonable in their circumstances”, our concerns about the ability of staff to make these decisions remain.

#### **Mandated decisions about work-related activity**

Judgments about what type of work-related activity will be appropriate will require significant knowledge of people’s conditions, needs and aspirations. In view of this we wish to ensure that the power to mandate such activity is only used in appropriate circumstances, where there is no doubt that it will be beneficial to the claimant in terms of both their health and their journey into or back to work. It is our understanding that, although such activity can be mandatory, it could also be offered on an optional basis to a claimant. We believe that, in almost all circumstances, this would be a more productive approach in terms of assisting the claimant to engage

---

<sup>1</sup> DWP (October 2011) Employment and Support Allowance: Work Capability Assessment by Health Condition and Functional Impairment: Official Statistics

positively and ensuring that there is not a negative impact on their health or wellbeing.

We have a general concern about the effectiveness of conditionality on disabled people or people on long term health-related benefits. The evidence for imposing extra conditionality on this group is very thin. For example, the Gregg Review (2008), commissioned by the DWP, found that it has only ever been tried in the UK, through Pathways to Work, where it stopped short of insisting that people had to do work related activity, and in some partial disability benefit schemes in Europe. In addition, a study of women with mental health problems in the US found that sanctions did not encourage them to seek work and that this group was more likely than most to lose benefits as a result. It concluded that: "Rather than creating behavioural change, sanctions imposed on unresponsive groups are punitive."<sup>2</sup>

### **Decisions about the type of work-related activity**

We do not believe that the majority of Jobcentre Plus or Work Programme advisers will have sufficient expertise to make reliable decisions about the appropriateness of different types of work related activity for claimants with mental health problems. In addition, we do not believe that the report from the claimant's WCA provides adequate information to inform this decision. Our experience suggests that these reports do not contain clear indications of what sort of activities the claimant may or may not be capable of undertaking, nor of their aspirations, strengths and talents – all of which are essential to the job searching process. It is therefore vital that the expertise of more qualified advisers is drawn upon when making these decisions, for example Disability Employment Advisers and Work Psychologists.

It is important to remember that a claimant allocated to the WRAG has been done so on the basis that they are not able to undertake work at this time. Our experience of the WCA suggests that threshold of eligibility for this group is high in terms of the severity of the disability or health condition required to qualify. It is also important to note that the assessment purports to look at the claimant's ability to function on a 'typical day'. With this in mind, the suggestion that "this [work related activity] is quite different from the more taxing demands of actual work which would normally be a longer term and less flexible commitment with much higher expectations on the worker" is not entirely reassuring. The fact that work experience or a work placement is less demanding than 'actual work' does not necessarily mean that it is therefore suitable for claimants in the WRAG. Based on our experience of the type of claimants found eligible for the WRAG, we would recommend that these powers are only used in circumstances where there is absolute confidence that the activities are suitable for claimants; that reasonable adjustments are made to the placement to accommodate their disability; that there is sufficient support available for the claimant (such as that offered through the Access to Work programme); and where the claimant agrees that the activity will be suitable and beneficial.

Where it is identified that the claimant has a fluctuating condition, it would also be beneficial if flexibility of engagement with these activities was a consideration from the outset; for example, a shared understanding that disengagement from the

---

<sup>2</sup> Meara E and Frank R, 2006, Welfare Reform, Work Requirements and Employment Barriers. National Bureau of Economic Research, Cambridge MA

activities for a time is a possibility, and an shared agreement about what should be put in place/happen if this does occur.

It will also be vital to consider the broader impact of undertaking these types of activities. The time of day at which the activities occur; the social aspects of the activities; and the impact of travelling to, from and within the activity could all have a significant impact on a claimant with a mental health problem. All these aspects need to be both discussed with the claimant and considered by an adviser with sufficient expertise to make reliable judgements about the likely impact of these factors.

### **Need for review of work-related activity**

Due to the fluctuating and changeable nature of mental health problems, we also believe it is vital for any work related activity of this kind (voluntary or mandatory) to be frequently and regularly reviewed to ensure that the claimant is coping with the activity; that they are finding it beneficial in terms of their confidence and skills; that it is having no detrimental impact on their health; and to ensure that claimants are not penalised for a genuine inability to participate in activities which are no longer appropriate. This should be based on the claimant's feedback as well as external observation.

It is vital that assumptions are not made about a claimant's ability to return to full-time employment based on their ability to undertake these activities. As the call-for-evidence acknowledges, this type of activity is very different from undertaking full-time work and should not be used as evidence to suggest that the claimant is 'fit for work' at subsequent assessments.

### **Need for co-produced action plans**

We would like to reiterate our support for the goal of helping people with mental health problems to start or return to work, where appropriate. However, we have grave concerns about the effectiveness and suitability of increasingly extensive conditionality and harsh sanctions for achieving this goal. Our experience suggests that co-produced action plans where claimants have trust and confidence in the appropriateness of the activities they are undertaking is the most effective approach. We would also recommend seeking the professional opinion of others involved in the clinical support of the individual so that co-production of plans is extended to a wider group in the interests of the individual and for the avoidance of conflict where the individual may hear opposing opinions. It is also vital that providers are meaningfully engaged with, and supported by, local agencies equipped to understand the issues for groups with complex needs.

**Recommendations:**

We understand that decisions about what activities can be mandated are taken by Ministers but we would urge those implementing these policies not to interpret permissive powers as necessarily requiring frequent use. Below are a summary of our recommendations discussed above as to how these powers should be implemented:

- In most cases, we believe that offering this type of work related activity on a voluntary rather than mandatory basis would be a more productive approach in terms of assisting the claimant to engage positively and ensuring that there is not a negative impact on their health or wellbeing.
- The expertise of more qualified advisers (for example Disability Employment Advisers and Work Psychologists) should be drawn upon when making decisions about assigning these types of work related activity to a claimant with mental health problems.
- Due to the high threshold of eligibility for the WRAG, these powers should only be used in circumstances where there is absolute confidence that the activities are suitable for claimants and where the claimant agrees that the activity will be suitable and beneficial.
- Plans should be co-produced and it should be ensured that they fit in with other plans and treatments that the claimant is engaged in, and the views of the claimant's health and social care professionals.
- The broader impact of the activities claimants are asked to do needs to be taken into account, including the times of day the activities occur, the social elements of the activities, and the travelling the activities entail.
- All such activity should be frequently and regularly reviewed to ensure that the claimant is finding it beneficial in terms of their confidence and skills, and that it is having no detrimental impact on their health.
- Work experience placements should be subject to the same reasonable adjustments legislation as permanent employment. Similarly, employment support such as that offered by the Access to Work programme, will be just as necessary for people affected by mental illness to access work placements as full time work.

## **Who we are**

### *Centre for Mental Health*

Centre for Mental Health is an independent, national charity that aims to help to create a society in which people with mental health problems enjoy equal chances in life to those without. We aim to find practical and effective ways of overcoming barriers to a fulfilling life so that people with mental health problems can make their own lives better with good quality support from the services they need to achieve their aspirations. Through focused research, development and analysis, we identify the barriers to equality for people with mental health problems, we explore ways to overcome those and we advocate for change across the UK.

### *Hafal*

Hafal is run by its 1,000 members - people with a serious mental illness and their families and carers. Every day our 160 staff and 150 volunteers provide help to over 1,000 people affected by serious mental illness across all the 22 counties of Wales. The charity is founded on the belief that people who have direct experience of mental illness know best how services can be delivered. In practice this means that at every project our clients meet to make decisions about how the service will move forward and the charity itself is led by a board of elected Trustees, most of whom either have serious mental illness themselves or are carers of a person with a mental illness. 'Hafal' means equal. Our mission is to empower people with serious mental illness and their families to enjoy equal access to health and social care, housing, income, education, and employment, and to achieve a better quality of life, fulfil their ambitions for recovery, and fight discrimination.

### *Mental Health Foundation*

The Mental Health Foundation is the UK's leading mental health research, policy and service improvement charity. We are committed to reducing the suffering caused by mental ill health and to help us all lead mentally healthier lives. We help people to survive, recover from and prevent mental health problems. We do this by carrying out research, developing practical solutions for better mental health services, campaigning to reduce stigma and discrimination and promoting better mental health for us all.

### *Mind*

Mind is the leading mental health charity in England and Wales. We work to create a better life for everyone with experience of mental distress by:

- Campaigning for people's rights
- Challenging poor practice in mental health
- Informing and supporting thousands of people on a daily basis

A fundamental part of Mind's work is provided through our network of over 180 local Mind associations who last year worked with over 220,000 people running around 1,600 services locally. Services on offer include supported housing, crisis help lines, drop-in centres, counselling, befriending, advocacy, and employment and training schemes. Over 30,000 people are supported by our national telephone help lines. Welfare reform is a key issue for many of the people Mind has contact with.

### *Rethink Mental Illness*

Rethink Mental Illness is a charity that believes a better life is possible for millions of people affected by mental illness. For 40 years we have brought people together to

support each other. We run services and support groups that change people's lives and challenge attitudes about mental illness. We directly support almost 60,000 people every year across England to get through crises, to live independently and to realise they are not alone. We give information and advice to 500,000 more and we change policy for millions.

*Royal College of Psychiatrists*

The Royal College of Psychiatrists is the leading medical authority on mental health in the United Kingdom and is the professional and educational organisation for doctors specialising in psychiatry.

*The Scottish Association for Mental Health*

SAMH is a Scottish mental health charity which provides an independent voice on all matters of relevance to people with mental health and related problems and delivers direct support to around 3000 people through over 80 services across Scotland. SAMH provides direct line-management to *respectme* (Scotland's anti-bullying service) and 'see me' (Scotland's anti-stigma campaign).