



Work Capability Assessment: Issues encountered by people with drug problems

The Work Capability Assessment – A Call for Evidence: Year 2
Independent Review, July 2011

A response from:

UK Drug Policy Commission
Central & NW London NHS Foundation Trust
Cranstoun
Crime Reduction Initiatives
DrugScope
Release
Turning Point



This production of this response was co-ordinated by the UK Drug Policy Commission drawing on the experience of the other organisations and their clients.

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Background information

1. Findings from UKDPC research 'Working towards Recovery: Getting problem Drug Users into Jobs' and "Getting Serious about Stigma"¹

- There are an estimated 400,000 problem drug users (PDUs) across the UK and an about 80% of those entering treatment are unemployed.
- DWP estimates a cost of £40 million in 2006/07 for providing Incapacity Benefit and Severe Disability Allowance to those whose main disabling condition was recorded as drug abuse.
- Mental and behavioural disorders due to psychoactive substance use including substance dependence syndrome are recognized disorders within the ICD10 Mental and Behavioural Disorders Condition Group (F10-F19).
- However, people with drug problems are heavily stigmatized and often treated differently to people with other mental health conditions, eg under the Disability Discrimination Act addictions were explicitly excluded from the provisions, unless resulting from prescribed medication, and this exclusion has been carried forward into the new Equalities legislation. In contrast the USA Disabilities Discrimination legislation specifically provides protection for those with addictions regarding employment.
- Work is recognised as having a key role in both achieving and sustaining recovery for people with drug problems. However, the evidence that we have assembled over the past 3 years demonstrates the many barriers that face recovering drug users in achieving employment which reduces their chances of recovery.
- Our recent stigma research illustrates the societal attitudinal barriers. Some **good news** first:
 - 81% of the public believe it is important for people recovering from drug dependency to be part of the normal community
 - 73% of people recovering from drug dependency should have the same rights to a job as anyone else
 - In general, respondents who currently or in the past had lived, worked or were close friends with someone with a history of drug dependence had more positive attitudes to such people than those who had not had any personal experience.
- But the '**bad**' news is:
 - 43% would not want to live next door to someone who'd had a drugs problem (only 9% with mental illness).
 - 39% think someone with a drug dependency history should be excluded from public office (only 20% for those with mental illness)
 - **Only two-fifths of people (41%) would be willing to work with someone with a history of drug dependence.**
- This stigmatisation is also evident in the many government pronouncements concerning the welfare system in which those with drug problems, although only a small proportion of those on benefits, are singled out as being targets for specific action. The potential for this rhetoric to paradoxically make it

¹ Available at: <http://www.ukdpc.org.uk/reports.shtml>

harder for people to obtain work has been highlighted with respect to the wide range of people with disabling conditions is highlighted by Garthwaite.² This is likely to be particularly relevant to people with drug problems.

- The basis for this stigmatisation appears to be a lack of understanding of addiction and the feeling that people choose to take drugs.
- Research commissioned by UKDPC to examine employers attitudes identified two main concerns for employers with respect to the employment of PDUs: the requirement for individuals to be '**fit for the job**', and the potential **risk** to their business or other employees.
- Nevertheless, in many cases where recovering PDUs had been employed they were seen as good employees. Our research found that experiences of employing this group are often very positive.
- But two-thirds of employers in a survey said they would not consider hiring someone with a history of heroin or crack use even if they were otherwise suitable.
- Specific concerns described by employers included the issue of dealing with relapse, recognising the recurrent nature of the condition, and concerns about methadone.
- Many drug users also have criminal records and the increasing use of criminal record checks in recruitment creates further disadvantage.
- In addition to often very low skills and limited exposure to employment, housing can also often pose an additional 'invisible' barrier to employment for this group – 'sofa-surfing', hostel accommodation etc is a poor platform for obtaining and retaining employment.

Key points

- Achieving employment is important for the recovery of people with drug dependence problems – and this is a key aim of the government's drug strategy.
- However, the stigma towards people with a history of drug dependence disadvantages them in their interactions with the welfare and employment services and increases the many barriers to achieving this goal.
- Many people with a history of drug problems have a wide range of issues that need to be addressed before they will be fit for full time employment: eg health problems both physical and mental, skills deficits and accommodation problems.
- Thus achieving employment for many needs to be a long-term goal and will be a lengthy process involving many different types of intervention. The value of quite long periods of work experience, such as volunteering to build skills, confidence and stability should not be underestimated. Pushing people into formal employment too quickly can create a vicious circle of failure and relapse.
- We need to ensure that the changes to the system, including the WCA, do not have a differential impact on this already disadvantaged and vulnerable group.

² Garthwaite, K. (2011) 'The language of shirkers and scroungers?' Talking about illness, disability and coalition welfare reform. *Disability & Society* 26 (3), 369-372.

2. Work Capability Assessments & recovering drug users

- We welcome the Government's commitment to recovery for people with substance misuse problems and within this the provision of support to assist them in accessing treatment and moving into employment. However, we have concerns about how this is working in practice.
- While some people recovering from drug problems may have reached a point in their recovery when they are fit for work and hence appropriately placed on JSA, many will be in need of or in the process of receiving significant levels of treatment that means that they will need to receive ESA. Quite a large proportion may be suitable for the Work-Related Activity Group, although it may be some time before they will be able to move into paid employment. There may also be a small group of people with drug problems that have such entrenched physical and mental health problems that they should be in the Support Group.
- A small survey of service users carried out by the Central and NW London NHS Foundation Trust (n=209, of which 12.4% were alcohol users) in October/November 2010 found that 90% were unemployed; over 80% of those had been so for more than 2 years. In total, 84% were claiming benefits with a close to equal split between Income Support/JSA and Sickness and Incapacity Benefits/ESA. Of those who said they had used JobCentre Plus, 54 people (47% of those who had used it) said JC+ provided a poor or very poor experience.
- The first review of the new Work Capability Assessments highlighted particular problems for people with mental disorders and other fluctuating conditions. It appears these may apply at least equally to people with drug problems (eg Release has supported many appeals which are almost all won).
- As illustrated by the case studies appended to this response there appear to be three main areas where the assessment process fails to deal appropriately with people who have substance misuse problems:
 - (i) self assessment – this is very complex and many do not have the capacity to complete this without support;
 - (ii) the assessment does not recognise the way drug problems and the requirements of treatment programmes impact on people's ability to work nor the fluctuating nature of the condition;
 - (iii) the JobCentre Plus Decision Makers appear to give priority to the findings of the Atos assessments over additional evidence provided by those who are providing treatment for the individual and have greater knowledge of the individual's condition.
- The assessment process is a source of enormous stress and exacerbates feelings of hopelessness and loss of control which can be counter-productive in exacerbating drug problems. There is a need for more information about the different benefits and their associated processes, expectations and conditionality.
- Some service users have indicated that it is hard for people with fluctuating conditions to know how to complete the self-assessment form. This highlights a need for improved information and guidance on completing the self-assessment forms and the types of supporting documentation that applicants should acquire in preparation for the assessment process. Independent advocacy support also needs to be made available.

- The limited evidence that is available also suggests that people with drug problems may suffer disproportionately from conditionality regimes with severe consequences for both themselves and their families, and our case studies illustrate this.³ It appears that there may be two problem areas:
 - (a) It appears that quite a large proportion of claimants engaged in drug treatment are being placed on JSA where the conditionality regime is inappropriate and interferes with their recovery and participation in necessary work-related activity.
 - (b) In some cases it appears that the conditions placed on people in the ESA Work-Related Activity Group do not adequately take account of the difficulties that people with drug problems have. They appear sometimes to be requiring too rapid movement into paid employment and not to be allowing the necessary time for individuals to develop skills and experience through training and volunteering first.
- The need for tailored conditionality, as should be provided within the ESA regime, to allow those in drug treatment to have time to address the range of barriers to employment that they face was recognised in the Government's 2010 drug strategy.⁴ This requires the assessment process to correctly assess individuals and place them on benefits that provide for this flexibility. At present this does not seem to be happening in a significant number of cases.
- The first review of the WCA did not consider the impact of the WCA on individuals with problematic substance use specifically. However there were a number of specific recommendations for people with mental health problems, including the establishment of Mental Health Champions to support Healthcare Professionals in meeting the needs of customers with mental health conditions.
- These changes together with the year 2 work by mental health charities suggesting changes to the assessment criteria may go some way to addressing these concerns, but to date there appears to have been little if any impact. Without work specifically relating to substance misuse, eg the development of specific guidance, the stigma associated with substance misuse problems may mean that they are ineffective for this group.
- From the examples we have encountered we would suggest that this work should include the provision of:
 - specific guidance and examples illustrating how the assessment criteria should be applied to people with drug problems;
 - guidance for Decision Makers on the appropriate use of supporting evidence from treatment providers in guiding decisions;

³ The UKDPC submission in response to the No-one Written Off Green Paper contained a summary of the evidence and issues around conditionality and people with substance misuse issues, see: http://www.ukdpc.org.uk/resources/Response_to_NOWO_Oct08.pdf page 11.

⁴ This said 'We will offer claimants who are dependent on drugs or alcohol a choice between rigorous enforcement of the normal conditions and sanctions where they are not engaged in structured recovery activity, or appropriately tailored conditionality for those that are' HM Government (2010) Drug Strategy 2010: Reducing Demand, Restricting Supply, Building Recovery. (available at: <http://www.homeoffice.gov.uk/publications/alcohol-drugs/drugs/drug-strategy/drug-strategy-2010>)

- training to all Jobcentre Plus staff and Atos assessors to improve their understanding of addictions and substance misuse problems.
- The introduction of Drug Champions in Job Centres alongside other aspects of the 'offer' for people with drug problems is to be welcomed, as the previous DH-funded drug coordinators appear to have been valuable⁵. However, there needs to be evaluation of how this operates and the way statistics are currently collected does not distinguish those with drug problems so they are a largely 'invisible' group. This is of concern as they are often singled out as a particular drain on resources on the basis of rough estimates from a feasibility study⁶ and may be harshly treated as a result but there is no way of monitoring the impact on them from official statistics.

Key points

- The first review highlighted a number of concerns relating to the treatment of people with mental health problems that apply equally to people with substance use problems. However, it is not clear to what extent the suggested changes will apply to or assist this latter group. Given the stigma that is associated with people with a history of drug problems there is a danger that they will be excluded from benefiting from these changes.
- We would suggest that specific guidance should be given illustrating how the assessment criteria should be applied to people with drug problems and also to Decision Makers on the appropriate use of supporting evidence from treatment providers in guiding decisions.
- Alongside this there needs to be clearer information on how people with drug problems and other fluctuating conditions should complete the self-assessment forms and what supporting information they need to provide.
- Training needs to be provided to all Jobcentre Plus staff and Atos assessors to improve their understanding of addictions and substance misuse problems.
- There is a need for some research or investigation in a range of areas:
 - Statistics need to be collected that allow the identification of those people in receipt of benefits due to drug and alcohol problems;
 - There needs to be some evaluation of how the Drug Champions and other aspects of the 'offer' for people with drug problems is operating;
 - There needs to be some research into what can be done in the long term for those people with a profound and long-term substance misuse condition who are unlikely to be able to enter the jobs market.

⁵ Fisher, C. (2011) Evaluation of the Jobcentre Plus Intensive Activity trial for substance misusing customers. DWP In-house Research No. 2.

⁶ Hay, G. and Bauld, L. (2008). *Population estimates of problematic drug users who access DWP benefits: a feasibility study*. Department for Work and Pensions, Sheffield. <http://research.dwp.gov.uk/asd/asd5/WP46.pdf> .

Responses to specific questions

Question 1: Have you noticed changes to the WCA process as a result of the Year 1 recommendations? If so, what are these changes?

B/C: Process has stayed broadly the same / Process has got worse

The people in drug treatment services are still encountering significant problems with the assessment process. However, since there are no up-to-date published statistics or research that distinguish the experience of people with drug problems and there is such wide variability in practice that it is hard to determine whether things are getting worse or simply staying much the same.

Question 2: Are there further areas of work that you think should be added to the programme of work for Year 3? If so, what should these consider?

Further work is required.

While we are aware that some attention is being given to the specific impact of the WCA process for people with drug problems we feel this is an area of work that will need to be continued into Year 3. In particular, we have highlighted the need for specific guidance and training for Decision Makers and Assessors. Our organisations would be happy to assist with work in this area.

A recent consultation with clients in one of our services drew particular attention to the confusion about the new benefits and associated processes as a whole highlighting the issue of appropriate information provision. None of the clients spoken to were clear about the process itself, especially how grouping was organised e.g. allocation to JSA, or in ESA, to the Work related activity group or work related support group. This is compounded by the variability in practice which makes the allocations seem arbitrary. The issue of the information provision to applicants needs consideration.

Another area for attention is the information and support for people in completing the self-assessment process. There is a need for independent advocacy and support throughout the assessment process.

Question 3: At what stage should we stop making changes to the system and let the changes already being made bed in to ensure they are having the desired impact?

This is a very difficult question to answer as there still seem to be flaws in the process. However, many of these appear to relate to how the processes are delivered rather than necessarily inherent in the system.

As mentioned above there does not appear to be uniform conduct of the WCA, e.g. one client involved in our consultations mentioned that the person undertaking the assessment was not interested in the clinical support the individual was receiving for his addiction, where another client mentioned that the person that did his WCA liaised with his clinical team for feedback.

If the changes being proposed to deal with the assessment of people with mental health issues are accepted then we would want specific guidance and training to accompany this about the application of these to people with drug problems, as stated above.

Once these have been introduced we would recommend a period of systematic evaluation of the impact of these changes and to identify how the system as a whole is working for people with drug problems. As we indicated in section 2, this data is not currently routinely available.

Question 4: Does the Year 1 recommendation go far enough in placing the right emphasis on the face-to-face assessment?

The variability in practice encountered makes it hard to give a formal rating to this question. As indicated above, some people seem to be giving due consideration to supporting evidence, others still do not.

A related concern is the guidance given to applicants on the type of supporting evidence that they should seek to provide.

Question 5: Do you have any robust evidence about the face-to-face assessment processes and outcomes which will help us make recommendations for future improvements?

See Background Information section of this response above.

Question 6: Are you aware of any concerns about the face-to-face assessment, and if so where have these been focused?

- A. HCPs approach and the way they carry out assessments; and
- B. HCPs understanding of conditions

Details of the concerns are given in Background Information sections above.

Question 7: If you have heard specific concerns about the IT supporting the assessment (i.e the Logic Integrated Medical Assessment or LiMA system), do you have any robust evidence about how this adversely affects the assessment or its outcome?

None known.

Question 8: Is there a need to present and explain the face-to-face assessment in a different way, making it very clear to claimants what it will involve and how a functional assessment relates to work capability?

- B. A need to present and explain the face-to-face assessment in a different way

See comments above about problems clients have with understanding the process and what they need to do and how to respond in relation to fluctuating conditions. However, this also needs to be matched by attention to how the assessors undertake the assessments.

Question 9: What one thing would you change about the WCA to make it operate more fairly and effectively?

Specific guidance and training for Decision Makers and Assessors on how the system should apply to people with drug problems.

Appendix: Case studies of the experience of people with drug problems

Case Study A

A service user on (ESA) employment support allowance, went for a WCA assessment with a doctor with whom there were language and communication issues. She told him about how she had battled over the months to get stable and then detox from suboxone and that she had only been clean a matter of days and felt extremely vulnerable and scared that the hard part was remaining clean and was unsure at that point if she could in fact do it. The doctor then asked her how many milligrams of suboxone she was presently on? At which point it became apparent he was either unable to comprehend what she was saying or was just not listening at all.

She left the assessment feeling very disheartened and a few days later received a letter stating that she was no longer entitled to ESA and that an appeal will take 6 months.

She was then moved on to (JSA) job seekers allowance and after a few weeks her benefits were suspended as the adviser felt she was not doing enough to find suitable employment, this then affected her housing benefit causing her to get in arrears and give up the property she was renting, ultimately she became what is termed voluntary homeless, and had to move back in with her parents.

Case Study B

I am concerned with the amount of clients with substance use/ mental health problems scoring nil points at their assessment. Yesterday I represented a client at a tribunal who scored no points during her WCA medical. At the time of her assessment the client had a social worker, was attending East Glade Mental health team and accessing Turning Point Adult treatment. She took the following medications:

Pregablin 50mg 3 x daily

Lofepamine 70mg x 2 daily

Chlorpromazine 25mg x 3 daily

In the appeal papers the Decision Maker stated there was no evidence that the client's health condition posed a substantial risk to anyone.

In a supporting submission, the client's GP stated that the client almost certainly has a personality problem, gets frequently aggressive, can have violent outbursts, also had problems controlling herself which led to a 12 month supervision order for assault.

Client stated at time of assessment she was drinking 100 units per week but in their report the DM stated **100 units is inconsistent with the fact she is taking care of her children.**

The DM did not take into account that the client's mother had priority care looking after children. Also social services were involved with ongoing child protection and care plan reviews. Client was moved by Social services and refused contact for four months until she was eventually allowed supervised visits.

In a supporting submission the client's GP stated the following: has multiple mental health problems which make her unfit for work for the foreseeable future; Persistent recurrent depression, constant anxiety with frequent panic attacks and agoraphobia, currently under mental health team, frequently aggressive and sometimes violent

outbursts, inability to cope, finds it difficult to keep appointments and meet deadlines, great difficulty with interpersonal relationships, whole energy consumed by own mental health problems. Could not sustain employment and could not achieve success in looking for a job.

Appeal was allowed. ESA work related activity component will now be backdated from time of medical.

Case Study C

Female, Age 24, Heroin user

P presented 2 years ago with heroin use; she left school at 16 and held a part time job as a kitchen assistant in a local cafe for approximately 9 months. During this time she met her then partner who used heroin and within a year she too had started using heroin. P stole the tip money from the café to fund her use and was caught; she lost her job and was arrested for theft, leaving her with a criminal conviction.

P attended a young person's drug service at the age of 18 and received a community detox, which she did well with and didn't use heroin for 12 months, during this time P did some volunteering at a charity shop which she enjoyed and felt that it had increased her confidence and gave her something to look forward to. Unfortunately the volunteering came to an end and P found herself with little to do and a lot of time on her hands. She slipped back into her old ways of using heroin and turned to criminal activities to fund her use. She was caught shop lifting and given a further conviction, the courts recommended that she attend support for her drug use.

It was at this point that she recognised how heroin had taken over her life and wanted to change

During her treatment she was in receipt of benefits and was regularly supported to visit Jobcentre Plus, however her confidence and heroin use at the time prevented her from applying for jobs. Following discussions with job centre plus they felt that P would be eligible to apply for Employment and Support Allowance due to her current circumstances which were preventing her from working. A Work Capability Assessment was requested, Ps GP was required to complete a mental and physical health check and supply further documentation to support the assessment and finally make recommendations.

P had to complete a self-assessment and was supported by her Keyworker; the Keyworker also completed a report on Ps treatment and submitted this with Ps consent to her GP.

A decision was made that P had limited capacity to work at the current time and would attend a Work Related Activity Group and be provided with a personal advisor where she would receive support to prepare her for the workplace.

However P struggled to attend and she felt that the impact of her heroin use had not been fully understood or taken into account as she was expected to start preparing for employment immediately, even though the initial application was made on the grounds that her current heroin use was preventing her from work.

Case Study D

A service has reported that many of their service users, especially those on JSA are having difficulty liaising with JCP to fulfil their JSA requirements. For example one of their clients was originally on IS due to him being treated for depression and arthritis alongside a history of substance misuse problems. Since starting his training and

placement at the Ealing Gatehouse Drug & Alcohol Team, he had moved to JSA, the move to JSA came after a health review interview with JCP.

Case Study E

A service user was on a peer support worker placement organised by the service's NHS User Employment Programme. This placement was not paid, but as part of the placement he was going to undergo Motivational Interview Training and IT training to give him the skills required for applying to a paid job. The placement was due to last for 4 months involving 1 day / 7.5 hours per week. The client had also undertaken the peer mentoring training through K&C DAAT and was due to start Sheffield Hallam's training in the near future.

After moving from IS to JSA, the client had a lot of trouble with his benefits, he was told that he must make himself available for work and provide evidence of 6 posts he had applied to. His employment support worker wrote to JCP to explain his situation, but this did not help. This case is not an isolated one.