

# Employment & Support Allowance

April 2017

Factsheet 1

**Employment and Support Allowance (ESA) is the benefit to meet your living costs if you are too sick or disabled to work. ESA replaced incapacity benefit, severe disablement allowance and income support on disability grounds, in October 2008.**

For all ESA claimants, the assessment process is known as the Work Capability Assessment. This factsheet guides you through that process.

## Welfare Rights Team

Revenues & Benefits  
Brighton & Hove City Council  
1st Floor Bartholomew House  
Bartholomew Square  
Brighton BN1 1JE

Advice Line: 01273 291116  
(Monday, 10am -1pm)

Email: [welfarerights@brighton-hove.gov.uk](mailto:welfarerights@brighton-hove.gov.uk)

## New claimants

You usually claim ESA by phoning the benefit contact centre on **0800 0556688**. You will need to take or send proof of identity and your medical certificate from your GP to the local jobcentre before your benefit can be paid.

## ESA50

A few weeks after your new claim, you will be sent a form ESA50. The ESA50 is a questionnaire asking about your illness or disability. You will have a time limit within which to return the form. If it is late without 'good cause' your claim could be stopped.

It is a very good idea to include any medical evidence you may have, e.g. letters from doctors, when you return the ESA50.

## Medical assessment

Once you have completed and returned the ESA50 you will usually be asked to attend a medical assessment with a health professional. This could be a doctor but it might be a physiotherapist or nurse. If you don't attend, your claim could be stopped unless you can show you had 'good reason' for missing the appointment.

It is a good idea to take a friend or relative with you to the medical and to take a copy of your completed ESA50.



## Work capability assessment

The test to decide if you qualify for ESA is called the work capability assessment. Your answers on the ESA50 are considered alongside what you say and do at the medical. You are only entitled to ESA if you can show that you have 'limited capability for work'. You are scored against a list of descriptors. To qualify for ESA you need to score 15 points.

As part of the assessment the decision maker also decides whether you should be in the support group or the work related activity group (**see below**).

## Contributory or income-related

You can get contributory ESA if you have paid sufficient National Insurance contributions. If you are paid contributory ESA, your partner's earnings and any savings can be ignored.

Contributory ESA can only be paid for one year for people in the work-related activity group (**see below**). If you are paid contributory ESA in the support group, the year long time limit does not apply and you can stay on contributory ESA as long as you continue to qualify.

If you are not entitled to contributory ESA you may be entitled to income-related ESA. On income-related ESA your household income, including any earnings from your partner is taken in to account. Savings are ignored up to £6,000. If you (and your partner) have more than £16,000 in savings you can't receive income-related ESA.

## The assessment phase

When you first claim ESA you are paid at basic JSA rates. These rates are lower if you are under 25. These rates continue for everyone for the first 13 weeks of claim during which time you should be assessed. You need to continue submitting medical certificates from your GP until the assessment process is complete.

In practice it may take longer for you to be assessed. If you are found to be entitled to ESA and placed in the support group, your benefit should increase and if necessary, be backdated to the 13<sup>th</sup> week of your claim.

## Work-related activity or support group and the end of the work-related activity component.

As part of the assessment the decision maker also decides whether you should be in the support group or the work-related activity group.

In the work-related activity group you are expected to: attend work focused interviews; draw up an action plan and participate in agreed activities on your plan. You may lose benefit if you miss interviews or don't participate in activities. People who were already claiming ESA before 3 April 2017 receive an extra £29.05 per week on top of the basic rate and this is paid at the over 25 year old rate of £73.10 for a single person and £114.85 for a couple once you have been assessed.

If your claim started on or after 3 April 2017 and you did not have an earlier claim that can 'link' to your new claim, meaning your period of illness or disability started prior to that date, then the work-related activity component of £29.05 will not be paid for your claim. You will continue to be paid at JSA rates and these will continue to be lower if you are under 25.

In the support group you get an extra £36.55 per week on top of the basic rate. You are not required to attend work focused interviews or activities. If you get contributory ESA in the support group, you can continue on it as long as you qualify for ESA.

For you to qualify for the support group you must have 'limited capability for work related activity'. This means you can say yes to at least one of a second list of descriptors (**see pages 8 and 9 of**

**this factsheet**). You can also qualify for the support group in 'exceptional circumstances' (**see below**).

## Exemptions

A small number of people will be exempt from assessment. You should automatically qualify for ESA without completing an ESA50 or attending a medical if:

- You are terminally ill – i.e. expected to die within the next six months (if you are covered by this rule you should also go in to the support group, **see above**); or
- You are: receiving, recovering from chemotherapy or radiotherapy for cancer or due to start such treatment within 6 months (if you are covered by this rule you should also go in to the support group, **see above**); or
- You are excluded from work because you've been in contact with an infectious disease; or
- You are a hospital in patient for 24 hours or more; or
- You are attending a residential programme of rehabilitation for the treatment of drug or alcohol addiction for 24 hours or more; or
- You are entitled to maternity allowance; or
- You are pregnant or have just given birth and you are in the period between the date six weeks before your due date and two weeks after the actual birth and you are not entitled to maternity allowance or statutory maternity allowance; or
- You are pregnant and there is a serious risk to you or your unborn child if you don't stop work months (if you are covered by this rule you should also go in to the support group, **see above**); or
- You can answer 'yes' to the descriptors **15 or 16** about eating and drinking/chewing or swallowing on page **9** of this factsheet; or
- You are receiving:
  - Regular weekly haemodialysis for chronic renal failure;
  - Plasmapheresis or radiotherapy;
  - Total parenteral nutrition for gross impairment of energetic function.

## Exceptional circumstances

Even if you do not score 15 points, you can still be treated as having passed the test in the following exceptional circumstances:

- You are suffering from a severe life threatening uncontrollable disease; or
- You suffer from some specific disease or disability which means there would be a substantial risk to the mental or physical health of anyone (including you) if you didn't pass the test. This doesn't apply if the risk could be significantly reduced by reasonable adjustments in the workplace or by taking prescribed medication. If you are covered by this rule you should also go in to the support group (**see above**).

## Scoring

Your highest scores for each descriptor are added together. Scores for mental and physical health descriptors are added together. A score of 15 points qualifies you for ESA. It is a very good idea to send medical evidence in with your ESA50.

<b>Physical Descriptors</b>	
<b>1. Mobilising unaided by another person with or without a walking stick, manual wheelchair or other aid if such aid is normally, or could reasonably be worn or used.</b>	<b>Pts</b>
<b>a. You can't either:</b> <ul style="list-style-type: none"> <li>Mobilise more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion; <b>or</b></li> <li>Repeatedly mobilise 50 metres within a reasonable timescale because of significant discomfort or exhaustion.</li> </ul>	15
<b>b. You can't mount or descend two steps unaided by another person even with the support of a handrail.</b>	9
<b>c. You can't either:</b> <ul style="list-style-type: none"> <li>Mobilise more than 100 metres on level ground without stopping in order to avoid significant discomfort or exhaustion; <b>or</b></li> <li>Repeatedly mobilise 100 metres within a reasonable timescale because of significant discomfort or exhaustion.</li> </ul>	9
<b>d. You can't either:</b> <ul style="list-style-type: none"> <li>Mobilise more than 200 metres on level ground without stopping in order to avoid significant discomfort or exhaustion; <b>or</b></li> <li>Repeatedly mobilise 200 metres within a reasonable timescale because of significant discomfort or exhaustion.</li> </ul>	6

<b>2. Standing and sitting.</b>	<b>Pts</b>
<b>a. You can't move between one seated position and another seated position located next to one another without receiving physical assistance from another person</b>	15
<b>b. You can't either:</b> <ul style="list-style-type: none"> <li>Remain standing unassisted by another person at a work station for the majority of time (even if free to move around) for more than <b>30 minutes</b> before needing to move away to avoid significant discomfort or exhaustion; <b>or</b></li> <li>Remain sitting at a work station for the majority of the time (even in an adjustable chair) for more than <b>30 minutes</b> before needing to move away in order to avoid significant discomfort or exhaustion; <b>or</b></li> <li>Remain in a combination of sitting or standing at a work station for the majority of the time (even if free to move around or in an adjustable chair) for more than <b>30 minutes</b> before needing to move away to avoid significant discomfort or exhaustion.</li> </ul>	9
<b>c. You can't either:</b> <ul style="list-style-type: none"> <li>Remain standing unassisted by another person at a work station for the majority of time (even if free to move around) for more than <b>an hour</b> before needing to move away to avoid significant discomfort or exhaustion; <b>or</b></li> <li>Remain sitting at a work station for the majority of the time (even in an adjustable chair) for more than <b>an hour</b> before needing to move away in order to avoid significant discomfort or exhaustion; <b>or</b></li> <li>Remain in a combination of sitting or standing at a work station for the majority of the time (even if free to move around or in an adjustable chair) for more than <b>an hour</b> before needing to move away to avoid significant discomfort or exhaustion.</li> </ul>	6

3. Reaching.	Pts
a. You can't raise either arm as if to put something in the top pocket of a coat or jacket.	15
b. You can't raise either arm to top of head as if to put on a hat	9
c. You can't raise either arm above head height as if to reach for something.	6

4. Picking up and moving or transferring by the use of the upper body and arms.	Pts
a. You can't pick up and move a <b>half</b> litre carton full of liquid.	15
b. You can't pick up and move a <b>one</b> litre carton full of liquid.	9
c. You can't transfer a light but bulky object such as an empty cardboard box.	6

5. Manual dexterity.	Pts
a. You can't <b>either</b> : <ul style="list-style-type: none"> <li>• Press a button, e.g. on a telephone keypad; <b>or</b></li> <li>• Turn the pages of a book with either hand.</li> </ul>	15
b. You can't pick up a £1 coin or equivalent with either hand	15
c. You can't use a pen or pencil to make a meaningful mark	9
d. You can't single-handedly use a suitable keyboard or mouse	9

6. Making yourself understood through speaking, writing, typing, or other means normally or could reasonably be, used, unaided by another person.	Pts
a. You can't convey a simple message, such as the presence of a hazard	15
b. You have <b>significant</b> difficulty conveying a simple message to strangers	15
c. You have <b>some</b> difficulty conveying a message to strangers	6

7. Understanding communication unaided by another person, by:	Pts
<ul style="list-style-type: none"> <li>i verbal means (e.g. hearing or lip reading) alone</li> <li>ii non-verbal means (such as reading 16 point print or Braille) alone; or</li> <li>iii a combination of (i) and (ii), using any aid that is normally or could reasonably be used unaided by another person.</li> </ul>	
a. You can't understand a simple message due to sensory impairment, such as the location of a fire escape.	15
b. You have <b>significant</b> difficulty understanding a simple message from a stranger due to sensory impairment.	15
c. You have <b>some</b> difficulty understanding a simple message from a stranger due to sensory impairment.	6

<b>8. Navigation and maintaining safety using a guide dog or other aid if either or both are normally or could reasonably be used.</b>	<b>Pts</b>
a. You are unable to navigate around familiar surroundings, without being accompanied by another person, <b>due to sensory impairment.</b>	15
b. You can't safely complete a potentially hazardous task such as crossing the road without being accompanied by another person, <b>due to sensory impairment.</b>	15
c. You are unable to navigate around unfamiliar surroundings, without being accompanied by another person, <b>due to sensory impairment.</b>	9

<b>9. Absence or loss of control whilst conscious leading to extensive evacuation of the bowel and/or bladder, apart from wetting the bed, despite the wearing or use of any aids or adaptations which are normally, or could reasonably be worn or used.</b>	<b>Pts</b>
a. You experience loss of control leading to extensive evacuation of your bowel and or emptying of your bladder at least once a month and it is sufficient to need cleaning and a change of clothes; <i>or</i> You have substantial leakage of the contents of a collecting device at least once a month and it is sufficient to need cleaning and a change of clothes.	15
b. You are at risk for the majority of time of loss of control leading to extensive evacuation of the bowel and/or emptying of the bladder, sufficient to require cleaning and a change of clothes if you aren't able to reach a toilet quickly.	6

<b>10. Consciousness during waking moments.</b>	<b>Pts</b>
a. At least once a <b>week</b> , you have an involuntary episode of lost or altered consciousness resulting in significantly disrupted awareness or concentration.	15
b. At least once a <b>month</b> , you have an involuntary episode of lost or altered consciousness resulting in significantly disrupted awareness or concentration.	6

<b>Mental Health Descriptors</b>	
<b>11. Learning tasks.</b>	<b>Pts</b>
a. You can't learn how to complete a simple task, such as setting an alarm clock.	15
b. You can't learn anything beyond a simple task, such as setting an alarm clock.	9
c. You can't learn anything beyond a moderately complex task, such as the steps involved in operating a washing machine.	6

<b>12. Awareness of everyday hazards (such as boiling water or sharp objects)</b>	<b>Pts</b>
a. Your reduced awareness of everyday hazards leads to a significant risk of: <ul style="list-style-type: none"> <li>• Injury to yourself or others; or</li> <li>• Damage to property or possessions</li> </ul> So that you need supervision for the <b>majority</b> of time to maintain safety.	15
b. Your reduced awareness of everyday hazards leads to a significant risk of: <ul style="list-style-type: none"> <li>• Injury to yourself or others; or</li> <li>• Damage to property or possessions</li> </ul> So that you <b>frequently</b> need supervision to maintain safety.	9
c. Your reduced awareness of everyday hazards leads to a significant risk of:	6

<ul style="list-style-type: none"> <li>• Injury to yourself or others; or</li> <li>• Damage to property or possessions</li> </ul> <p>So that you <b>occasionally</b> need supervision maintain safety.</p>	
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13. Initiating and completing personal action (which means planning, organisation, problem solving, prioritising or switching tasks).	Pts
a. Due to impaired mental function, you can't reliably start or complete at least 2 sequential personal actions i.e. One after the other.	15
b. Due to impaired mental function, you can't reliably start or complete at least 2 sequential personal actions for the <b>majority</b> of the time.	9
c. Due to impaired mental function, you <b>frequently</b> can't reliably start or complete at least 2 sequential personal actions.	6

14. Coping with change	Pts
a. You can't cope with any change to the extent that day to day life can't be managed.	15
b. You can't cope with minor <b>planned</b> change (such as a pre-arranged 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. You frequently can't cope with minor <b>unplanned</b> change (such as 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

15. Getting about	Pts
a. You can't get to any <b>familiar</b> place outside your home.	15
b. You can't get to a specified <b>familiar</b> place without being accompanied by another person.	9
c. You can't get to a specified <b>unfamiliar</b> place without being accompanied by another person.	6

16. Coping with social engagement due to cognitive impairment or mental disorder.	Pts
a. You are always unable to engage in social contact because you have difficulty relating to others or because you experience significant distress.	15
b. You are always unable to engage in social contact with someone <b>unfamiliar</b> because of difficulty relating to others or because you experience significant distress.	9
c. You are unable to engage in social contact with someone <b>unfamiliar</b> for the <b>majority</b> of the time because of difficulty relating to others or because you experience significant distress.	6

17. Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder.	Pts
a. On a daily basis, you have uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any work place.	15
b. You <b>frequently</b> have uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	15
c. You have <b>occasional</b> uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	9

## Support Group Descriptors

**1. You can't either:**

- Mobilise more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion; **or**
- Repeatedly mobilise 50 metres within a reasonable timescale because of significant discomfort or exhaustion.

**2. You can't move between one seated position and another seated position located next to one another without receiving physical assistance from another person.**

**3. You can't raise either arm as if to put something in the top pocket of a coat or jacket.**

**4. You can't pick and move a 0.5 litre carton full of liquid**

**5. You can't either:**

- Press a button, such as a telephone keypad; or
- Turn the pages of a book

**6. You can't convey a simple message, such as the presence of a hazard.**

**7. You can't understand a simple message due to sensory impairment, such as the location of a fire escape.**

**8. You have an incident at least once a week bad enough for you to need to clean yourself and change your clothes where you:**

- Lose control leading to extensive evacuation of your bowel and/or emptying of your bladder; or
- Have substantial leakage of the contents of a collecting device.

**9. Due to cognitive impairment or mental disorder, you can't learn how to complete a simple task, such as setting an alarm clock.**

**10. Your reduced awareness of everyday hazards, due to cognitive impairment or mental disorder leads to a significant risk of:**

- Injury to yourself or others; or
- Damage to property or possessions

So that you need to be supervised for the majority of the time.

**11. Due to impaired mental function, you can't reliably initiate or complete at least two sequential personal actions, i.e. one after the other.**

**12. Due to cognitive impairment or mental disorder, you can't cope with any change to the extent that you can't manage day to day life.**

**13. You can't ever engage in social contact because you have difficulty relating to others or you experience significant distress.**

**14. You have uncontrollable episodes of aggressive or disinhibited behaviour on a daily basis that would be unreasonable in any workplace.**

**15. You can't convey food or drink to your mouth without:**

- physical assistance from someone else; or
- repeatedly stopping, experiencing breathlessness or severe discomfort; or
- receiving regular prompting from someone else who is with you; or

You don't convey food or drink to your mouth because of a severe disorder of mood or behaviour without:

- receiving physical assistance from someone else; or
- receiving regular prompting given by someone else who is with you.

**16.** You can't chew or swallow food or drink.

You can't chew or swallow food or drink without repeatedly stopping, experiencing breathlessness or severe discomfort

You can't chew or swallow food or drink without repeatedly receiving regular prompting by someone who is with you.

You don't chew or swallow drink because of a severe disorder of mood or behaviour.

You don't chew or swallow food or drink because of a severe disorder of mood or behaviour, without regular prompting from someone else who is with you.

## **What if you fail the assessment? Mandatory reconsiderations and appeals**

If the decision maker determines that you are not entitled to ESA, you will be notified in writing and your ESA will stop. Any housing benefit or help with housing costs could also stop. If you agree with the decision you can claim an alternative benefit, usually jobseekers allowance.

If you do not agree with the decision you can challenge it. You need to ask for a 'mandatory reconsideration'. The decision might be changed in your favour, however if they still say you are not entitled to ESA, you can appeal.

You appeal directly to the Tribunals Service on a new form SSCS1. You can get this form online at [www.gov.uk](http://www.gov.uk) or [www.justice.gov.uk/tribunals](http://www.justice.gov.uk/tribunals). When you send in the appeal form, you also need to send the mandatory reconsideration decision letter. You cannot usually appeal without a decision on your mandatory reconsideration

Unfortunately, you will not be paid any ESA until you receive the decision on the reconsideration and your appeal has been lodged. You can make a claim for Jobseekers Allowance while you wait for the reconsideration decision. To claim JSA you need to be available for and actively seeking work but the jobcentre staff may be able to take some account of your health condition(s).

There is a time limit of a month from the date on your original decision letter in which to ask for the reconsideration. The DWP can still accept your request but remember to explain why you are late along with the reasons why you disagree with the decision.

Your appeal should be heard by an independent tribunal and they will assess you again looking at all the evidence and anything new that you submit to them.

It is always a good idea to have a representative at a tribunal. You might be able to get help with an appeal from the Welfare Rights Team or one of the other organisations listed on this factsheet **see 'Other sources of help' on the following page.**

## **Work and ESA**

There are special rules allowing you to do more work and have some earnings disregarded. This is called '**permitted work**'.

If you do any work while claiming ESA it is a good idea to discuss it with the jobcentre who will give you a form to complete. It is important to make it clear that you still qualify for ESA by scoring 15 points in the work capability assessment even though you are doing some work – perhaps your work is flexible so you can alter your hours to fit around your health condition.

You or your partner can earn up to £20 per week without your ESA being affected. This is called the 'lower earnings limit'.

## Supported permitted work

You can do work:

- carried out as part of your treatment programme under medical supervision while you are an inpatient or a regular outpatient of a hospital or similar institution; or
- under the supervision of a person employed by a public or local authority or voluntary or community-interest organisation that provides or arranges work opportunities for disabled people.

If your work is supported employment, there is not a limit on how long you can do the work for providing your earnings are no higher than **£120.00 per week**.

## Permitted work higher limit

If your work does not come under the definition of supported work above, you can still try out work and keep your ESA and other benefits providing you:

- work for less than 16 hours pw;
- and earn under £120.00 pw

You must advise DWP that you are working and they will ask you to fill in a form, you still need to ensure you are clear about why you still qualify as sick or disabled under the usual ESA rules but you can manage this work. For example, the work might be flexible so you can take time off if you are unwell. Since April 2017 there is no time limit on this type of work.

## Other sources of help or advice:

- **Citizens Advice Bureau - Brighton & Hove**  
Hove Town Hall, Tisbury Road Offices, Hove Town Hall, Tisbury Road, Hove.  
Tel: 03003309033  
Website: [www.citizensadvice.org.uk/local/brighton-hove/contact-us](http://www.citizensadvice.org.uk/local/brighton-hove/contact-us)
- **Possability People (Brighton & Hove)**  
Disability Advice Centre, Montague House, Montague Place, Brighton, BN2 1JE  
Tel: 01273 894040  
Website: [www.thefedonline.org.uk](http://www.thefedonline.org.uk)
- **Brighton Unemployed Families Centre Project**  
6 Tilbury Place, Brighton, BN2 0GY  
Confidential Advice Line: 01273 671213 or 601211  
Website: [www.bucfp.org](http://www.bucfp.org)
- **CASE Central**  
4 Crestway Parade, The Crestway, Brighton, BN1 7BL  
Tel. 01273 540717  
Website: [www.resourcecentre.org.uk](http://www.resourcecentre.org.uk)
- **Money Works**  
Moneyworks Advice Line: 08009887037 Email: [moneyworksadvice@moneyadviceplus.org](mailto:moneyworksadvice@moneyadviceplus.org)  
Website: [www.moneyadviceplus.org](http://www.moneyadviceplus.org)

For Occupational Therapy, contact the council's Access Point on 01273 295555.