

Universal credit, ESA, sickness and disability

August 2018

Factsheet 5

If you have a health condition or disability you may already be claiming Employment and Support Allowance (ESA). New claims for ESA are no longer possible in Brighton and Hove so if you are making a new claim with a health condition or disability it will be for Universal Credit.

When you are claiming benefit with a health condition or disability, the assessment process for ESA and Universal Credit is known as the Work Capability Assessment. This factsheet guides you through that process.

There is a different factsheet about Personal Independence Payment (PIP). You may be able to claim PIP in addition to ESA or Universal Credit.

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

Universal Credit

Universal Credit is the new benefit for people of working age. It replaces all the main means tested benefits including income related ESA and housing benefit. You usually claim Universal Credit online at <https://www.gov.uk/universal-credit/how-to-claim>. If you need to make a new claim for benefit to help with your living costs or your rent or mortgage, it may be a claim for Universal Credit. During the online claim process you will be asked if you have a health condition or disability that affects your ability to work.

ESA

ESA can be paid as a contributory or income related benefit.

It is no longer possible to make a new claim for income related ESA in Brighton and Hove, because it has been replaced by Universal Credit, but you can make a new claim for contributory ESA known as 'new style' ESA.

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 in the support group (**see below**), you can stay on contributory ESA as long as you continue to qualify.

You may be getting income related ESA already because you claimed before it was replaced with Universal Credit. 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.

You can claim 'new style' contributory ESA by completing the form ESA1, you can find the form at <https://www.gov.uk/government/publications/employment-and-support-allowance-claim->

form. 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. You can send us a fit note at <https://fitnote.itsbeta.net> If you want to claim benefit for your partner, children or to help with rent you will also need to make an online claim for Universal Credit.

The questionnaire

A few weeks after your new claim, you will be sent a form or questionnaire. The questionnaire is UC50 if you have claimed Universal Credit and ESA50 for ESA. You may also receive a questionnaire if you have been receiving benefit for a while, this is so you can be reassessed to check whether your health condition or disability has changed. The questionnaire asks about your illness or disability. You will have a time limit within which to return it. If it is late without 'good reason' 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 questionnaire. Keep a copy of everything you send.

Work capability assessment

Once you have completed and returned the questionnaire 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 copies of your completed questionnaire and any medical evidence.

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

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

The assessment phase

At the start of your claim you are paid at basic rates during the assessment phase. These rates are lower if you are under 25. These rates continue for everyone for the first 13 weeks or 3 months 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 than 3 months for you to be assessed. If you are found to be entitled and placed in the support group, your benefit should increase and if necessary, be backdated to the 13th week or 3rd month of your claim.

On ESA, so long as you submit medical certificates from your GP, you can be *treated* as having limited capability for work. This means you do not have to be available for and actively seeking work while you are in the assessment phase.

On Universal Credit there is no automatic rule allowing you to be *treated* as having limited capability for work despite the fact that you are submitting medical certificates. Instead you need to negotiate your claimant commitment (the steps you need to take each week to stay on Universal Credit) with your work coach and ask them to take your health condition or disability in to account. Your claimant commitment can require you to be available for and actively seeking work during the assessment phase.

Work-related activity or support group.

As part of the assessment the decision maker also decides whether you should be in the support group or the work-related activity group. The support group is for people considered to have greater difficulties because of their health condition or disability.

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 claimant commitment. You may lose benefit if you miss interviews or don't participate in activities.

People who had already claimed before 3 April 2017 receive an extra £29.05 per week, £126.11 per month on top of the basic rate. If your claim started after 3 April 2017 you stay on basic rates with no extra component but you are paid at the basic rate for people over 25 even if you are younger. This is £73.10 per week/£317.82 per month for a single person and £114.85 per week/£498.89 for a couple.

If you are placed in the support group you get an extra £37.65 per week/£328.32 per month on top of the basic rate for people over the age of 25. You are not required to attend work focused interviews or activities.

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 without attending a medical if:

- You are terminally ill – i.e. expected to die within the next six months; or
- You are: receiving, recovering from chemotherapy or radiotherapy for cancer or due to start such treatment within 6; 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; or
- You are receiving or recovering from:
 - Regular weekly haemodialysis for chronic renal failure;
 - Plasmapheresis or radiotherapy;
 - Regular weekly treatment for total parenteral nutrition for gross impairment of enteric function.

For ESA only, you are also exempt if you are entitled to the support group component on the basis that you meet one of the support group descriptors about eating or drinking **see p 9 of this factsheet.**

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 have an uncontrolled or uncontrollable life threatening disease, and there is medical evidence to show this. There must be reasonable cause for the disease not to be controllable by a recognised therapeutic procedure; 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.

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 means you qualify. It is a very good idea to send medical evidence in with your questionnaire.

Physical Descriptors	
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.	Pts
a. You can't either: <ul style="list-style-type: none"> • 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. 	15
b. You can't mount or descend two steps unaided by another person even with the support of a handrail.	9
c. You can't either: <ul style="list-style-type: none"> • Mobilise more than 100 metres on level ground without stopping in order to avoid significant discomfort or exhaustion; or • Repeatedly mobilise 100 metres within a reasonable timescale because of significant discomfort or exhaustion. 	9
d. You can't either: <ul style="list-style-type: none"> • Mobilise more than 200 metres on level ground without stopping in order to avoid significant discomfort or exhaustion; or • Repeatedly mobilise 200 metres within a reasonable timescale because of significant discomfort or exhaustion. 	6
2. Standing and sitting.	Pts
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	15

<p>b. You can't either:</p> <ul style="list-style-type: none"> • Remain standing unassisted by another person at a work station for the majority of time (even if free to move around) for more than 30 minutes before needing to move away to avoid significant discomfort or exhaustion; or • Remain sitting at a work station for the majority of the time (even in an adjustable chair) for more than 30 minutes before needing to move away in order to avoid significant discomfort or exhaustion; or • 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 30 minutes before needing to move away to avoid significant discomfort or exhaustion. 	9
<p>c. You can't either:</p> <ul style="list-style-type: none"> • Remain standing unassisted by another person at a work station for the majority of time (even if free to move around) for more than an hour before needing to move away to avoid significant discomfort or exhaustion; or • Remain sitting at a work station for the majority of the time (even in an adjustable chair) for more than an hour before needing to move away in order to avoid significant discomfort or exhaustion; or • 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 an hour before needing to move away to avoid significant discomfort or exhaustion. 	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 half litre carton full of liquid.	15
b. You can't pick up and move a one 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
<p>a. You can't either:</p> <ul style="list-style-type: none"> • Press a button, e.g. on a telephone keypad; or • Turn the pages of a book with either hand. 	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 significant difficulty conveying a simple message to strangers	15
c. You have some difficulty conveying a message to strangers	6

7. Understanding communication unaided by another person, by: i verbal means (e.g. hearing or lip reading) alone ii non-verbal means (such as reading 16 point print or Braille) alone; or iii a combination of (i) and (ii), using any aid that is normally or could reasonably be used unaided by another person.	Pts
a. You can't understand a simple message due to sensory impairment, such as the location of a fire escape.	15
b. You have significant difficulty understanding a simple message from a stranger due to sensory impairment.	15
c. You have some difficulty understanding a simple message from a stranger due to sensory impairment.	6

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

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.	Pts
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

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

Mental Health Descriptors	
11. Learning tasks.	Pts
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

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

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 majority of the time.	9
c. Due to impaired mental function, you frequently 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 planned 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 unplanned 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 familiar place outside your home.	15
b. You can't get to a specified familiar place without being accompanied by another person.	9
c. You can't get to a specified unfamiliar 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 unfamiliar because of difficulty relating to others or because you experience significant distress.	9
c. You are unable to engage in social contact with someone unfamiliar for the majority of	6

the time because of difficulty relating to others or because you experience significant distress.	
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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 frequently have uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	15
c. You have occasional uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	9

Support Group Descriptors
<p>1. You can't either:</p> <ul style="list-style-type: none"> 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
<p>5. You can't either:</p> <ul style="list-style-type: none"> 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.
<p>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:</p> <ul style="list-style-type: none"> 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.
<p>10. Your reduced awareness of everyday hazards, due to cognitive impairment or mental disorder leads to a significant risk of:</p> <ul style="list-style-type: none"> Injury to yourself or others; or Damage to property or possessions <p>So that you need to be supervised for the majority of the time.</p>
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 you don't score 15 points in the assessment, the process will be different depending on whether you are on ESA or Universal Credit.

Universal Credit

On Universal Credit if you score less than 15 points your benefit will not stop. Universal Credit will continue in payment but you may need to agree and sign a new claimant commitment containing different work related activities for you to undertake each week. If you pass the assessment you don't need to be available for or actively seeking work, if you fail the assessment your work coach can require you to look for work. It is very important to give them sufficient information about your health condition and to challenge the assessment decision if you feel it is wrong. If you don't meet the requirements of your claimant commitment you can be sanctioned and lose benefit.

If you feel the decision is wrong you need to request a mandatory reconsideration of the decision. You can do this by putting your request on your online journal. If you are able to provide more medical evidence then you should give this to your work coach. You have a month to request the mandatory reconsideration but late requests can still be accepted.

Your mandatory reconsideration decision will be posted on the online journal. If it does not change the decision and you still disagree then you can appeal (**see below**).

ESA

If you were on ESA when you failed the assessment, your benefit will stop. If you disagree with the decision you can challenge it by requesting a mandatory reconsideration but you will not be paid while you wait for this decision. You have a month to request the mandatory reconsideration but late requests can still be accepted. If the mandatory reconsideration does not change the

decision and you still disagree then you can appeal (**see below**) and at this stage your ESA can go back in to payment at the basic rate until the appeal hearing.

Claiming benefit while you wait for the mandatory reconsideration

While you are waiting for the mandatory reconsideration decision, you cannot receive ESA. Your housing benefit may also stop. If you ask what benefit you can claim during this time, you may be advised to claim Universal Credit. If you make a claim for Universal Credit, you will not be able to return to ESA even if you eventually win your appeal.

Universal Credit is sometimes paid at different rates to ESA. If you are likely to receive less benefit on Universal Credit than you were getting on ESA, you may decide to wait for your mandatory reconsideration without making a claim for Universal Credit.

If your housing benefit stopped when you failed the assessment, you will need to contact the local authority to ask for it to go back in to payment while you wait for the mandatory reconsideration. The local authority can usually pay your housing benefit on a 'nil income' during this period.

Appeals

You appeal directly to the Tribunals Service on form SSCS1. You can get this form at www.gov.uk or www.justice.gov.uk/tribunals. When you send in the appeal form, you also need to send the mandatory reconsideration decision letter. It may take several months to get a hearing date. Your case will be heard by an independent tribunal looking at all the evidence and anything new that you submit.

It is a good idea to have a representative at a tribunal. You might be able to get help from the Welfare Rights Team or one of the other organisations listed on this factsheet (**see Other sources of help**).

Work you can do on benefit

On Universal Credit you can work even if you have scored 15 points in the assessment. You usually need to earn less than 16 hours at the minimum wage (£542.88 per month for people aged 25+). You need to be able to show that you still score 15 points even though you are working. If you receive PIP or DLA you can earn more than this but you can still be referred for a new assessment if it looks like your health condition or disability has improved because of the work you are able to do.

If you are on ESA, there are special rules allowing you to do more work and have some earnings disregarded. This is called '**permitted work**'.

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 also 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 the number of hours of supported work you can do or on how long you can do the work for providing your earnings are no higher than **£125.50 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 £125.50 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. There is no 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
- **Possability People (Brighton & Hove)**
Disability Advice Centre, Montague House, Montague Place, Brighton, BN2 1JE
Tel: 01273 894040
Website: 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
- **CASE Central**
4 Crestway Parade, The Crestway, Brighton, BN1 7BL
Tel. 01273 540717
Website: www.resourcecentre.org.uk
- **Money Works**
Moneyworks Advice Line: 08009887037 Email: moneyworksadvice@moneyadviceplus.org
Website: www.moneyadviceplus.org

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