

Pathways to work: Helping People into Employment

Response by Citizens Advice

February 2003

Introduction

1. Annually Citizens Advice Bureaux deal with 450,000 enquiries on disability and sickness benefits, and provide advice and information to people wanting to work. We therefore welcome the opportunity to respond to the Government's consultation.
2. Citizens Advice nationally receives a high volume of reports from Citizens Advice Bureaux expressing concerns about the problems experienced by people receiving Incapacity Benefit. In 2002, for example, we received over 2000 such individual case reports on all disability benefits, including large numbers relating to incapacity benefit. The information in these reports may be useful to the DWP team co-ordinating work on *Pathways to Work*, and we invite the Department to examine our files of evidence reports.
3. Our evidence suggests that there are particular problems in the benefit system for people with mental health problems, and that the interaction between Incapacity Benefit and Income Support causes particular difficulties and considerable unfairness. We also have some reservations about the Government's general approach towards helping people on incapacity benefits to realise their potential to work.
4. We are concerned that the Government's proposals for moving to Income Support or Jobseekers Allowance from Incapacity Benefit make too great an assumption that decisions to stop benefit following a Personal Capability Assessment are always correct and fair, when other evidence suggests there is still considerable room for improvements in the quality of decision-making. We believe that the quality of medical examinations must improve further.
5. We suggest that Incapacity Benefit should not be withdrawn when a person makes an appeal, but should continue until the outcome of the appeal is known.
6. Whilst we regret the fact that many people are put onto severely reduced incomes if they appeal, we believe that the option of claiming income support, albeit at a very reduced rate, should continue to be available to people who fail a Personal Capability Assessment, until such time as the accuracy of decisions to stop incapacity benefits has improved significantly.

Helping people into employment

7. The Government has adopted the approach of increasing support for people with disabilities or illnesses who want to work. In 1998, it set out a revised framework for support for disabled people in 'A new contract for welfare: support for disabled people'. The Government set out its strategy in similar terms to 'Pathways to work':

“The Government believes that work is the best route out of poverty for disabled people, as well as for others of working age, wherever it is practical. Over half of disabled people aged under 50 are already working or seeking work. For people who have been in work, the primary aim must be to keep them in contact with the labour market and to help them back into work if they have to stop working on account of a long-term illness or disability.”

8. In 1998, the Government said that:

“At the end of May 1998, there were 1.6 million people receiving Incapacity Benefit - about three times the number receiving the equivalent benefits in 1980/81. A further 1 million people get other benefits or National Insurance credits on the grounds of incapacity for work. The overall total of those incapable of work, now over **2.6 million**, has increased four-fold since 1977.

9. The present consultation paper gives a figure of **2.7 million** people incapable for work and receiving incapacity benefits, broken down as:

Incapacity Benefit only	1,195,000
Incapacity benefit and Income support	310,000
National Insurance credits only	115,000
NI credits and IS	710,000
Severe Disablement Allowance	315,000
Income Support for disabled people	110,000

10. This suggests that between May 1998 and February 2002, the total number of people receiving incapacity benefits only rose by around 100,000, and so confirms that the rate of increase has now slowed considerably, and that the bulk of the increase in numbers occurred before the mid 1990s.

11. It is welcome that the Government is proposing to pilot more intensive help from October 2003. We agree that more must be done to support, advise, and assist people receiving Incapacity Benefit who would like to do paid work. The recent findings from evaluation of ONE, for example that “the evidence does not suggest that ONE has changed the probability of leaving benefit for sick or disabled clients in any of the delivery models”,¹ also suggest that there is a need for further investment to provide effective help for people with illnesses or disabilities who want to work.

¹ ‘The employment effects of full participation in ONE’, S. Kirby and R. Riley DWP research report 183, 2003.

12. We welcome the Government's recognition that more needs to be done to help people on incapacity benefits to realise their potential by undertaking paid work. We also strongly welcome the analysis in the paper of the numerous factors that can prevent people with disabilities from finding and keeping jobs.
13. However, we are sceptical about the Government's analysis and approach to the problem, because evaluation to date has not, as far as we are aware, demonstrated the effectiveness of the work-focussed interview model. *Pathways to Work* sets out a comprehensive analysis of the health background of incapacity benefit recipients, and points out that, objectively and with effective support and proper management, most people should be able to return to work. The paper goes on to analyse the obstacles that prevent people getting back to work, and notes the 'effects of inactivity' on physical and mental health. The paper also refers to the fact that many people receiving incapacity benefits would only gain a small amount, or in some cases could receive a lower income, by taking a job.
14. There is also recognition of the discrimination faced by people with health problems and disabilities in finding and keeping paid work. It is welcome to see that the problem of employer discrimination is recognised as a problem that needs to be addressed.
15. The Government also acknowledges that the benefit system does not do enough to encourage activity. In this section the paper mentions the research which showed that some benefit staff are not aware that people who qualify for Incapacity Benefit may still be capable of doing some work, that the very name 'Incapacity Benefit' reinforces this perception, and that the benefit system generally discourages contact with work and with employment advice.
16. The Government therefore proposes improving the pathways to work, through pilots in six areas, which would intensify contact with people receiving incapacity benefits through work-focussed interviews. The Government acknowledges that the overall impact of additional work-focussed support since 1997 has been small in this area – that is there is no sign that numbers receiving incapacity benefits are falling.
17. Our reservations about the general approach therefore stem from our concern that we have so far seen very little evaluation of the effectiveness of work-focussed interviews provided through Jobcentre Plus, and yet the proposal is to pilot a more intensive support regime, fronted by compulsory work-focused interviews. We would like to see more detailed examination of the effectiveness of the interview approach. We also have doubts about whether the intensive support regime could be extended nationally with sufficient resources, if it were to be judged successful.

18. There is a danger that the scheme will be regarded negatively, as making people with illnesses and disabilities jump through more and more administrative hoops. People may find that the scheme makes it more difficult for them to continue to receive benefit and sustain an income, without necessarily increasing their chances of finding and retaining suitable employment. The more intensive schemes could be particularly difficult for people with mental health problems and those with restricted mobility. It will of course depend on whether the choices are genuinely supportive and do in fact help people to find work. Much will rest on the quality of the work-focussed interview and the quality of medical examinations (see below).
19. In addition, the continuing programme of Jobcentre Plus office closures risks increasing the difficulties of accessing offices, in rural areas but also elsewhere.

Clearer incentives

20. The decision to end Disabled Person's Tax Credit and blend support for disabled people in lower paid work into Working Tax Credit from April 03 may reduce the visibility of additional help. Take-up of DPTC has, we believe, been low, and we remain unconvinced that the new tax credit system will increase take-up amongst people with disabilities. The eligibility criteria for Working Tax Credit require hours in excess of 16 on average each week, or 30 hours if people do not have children. This means that disabled people without children will have to work for 30 hours a week to get any Working Tax Credit, and is unlikely to benefit a significant number of people.
21. The proposed Return to Work credit would add to the panoply of tax credits, which are in our experience not readily understood by many people. It is nevertheless welcome that the credit could be payable to people leaving incapacity benefit for paid work of 16 hours. It is not entirely clear from the paper whether this credit is intended to operate only within the six pilot areas. We would in any case prefer to see the hours threshold for Working Tax Credit reduced to 16, or fewer, for disabled people without children, across the country.
22. Existing measures, including the linking rules and benefit run-ons are useful and welcome schemes, but are often not widely known. We would like to see clear references to schemes of this nature set out in good quality information for people receiving incapacity benefits, as well as being discussed at interviews.
23. A further important change we would like to see concerns access to free prescriptions. At present people receiving incapacity benefit at rates only just above Income Support have no access to free prescriptions, despite their health problems and consequent needs for medication. People who receive Working Tax Credit with a disability element will qualify for an exemption certificate, as will anyone with

annual income at or below £14,200. CAB evidence has shown that prescription charges can be damaging to health, when people are unable to pay for all the items prescribed for them.

24. A CAB survey found that 50% of clients paying charges had experienced difficulty affording the charge, and 28% had failed to get all or part of a prescription dispensed because of the cost. The worst affected group was people with long-term health problems. We believe that access to prescribed medication should be improved for people receiving incapacity benefit, and we have recommended that, if charges for prescriptions are to continue, help with payment should be extended to people with incomes above the present exempt levels. The simplest way to do this would be to introduce an income-related sliding scale for pre-payment certificates, allowing people on incapacity benefits to buy a pre-payment certificate at a significantly reduced cost.²
25. A further incentive issue is access to the Social Fund. We recently noted that the eligibility rules for discretionary social fund payments exclude many people whose incomes are barely above the level of Income Support or Income-based Jobseekers Allowance³. People on contribution-based JSA, or Incapacity Benefit, are at present excluded unless they have entitlement to Income Support. People receiving current, and it appears future, tax credits, are also excluded from applying for Budgeting Loans and Community Care Grants.
26. Many of the single people affected by this restriction are left in highly vulnerable situations, such as people with mental health problems resettling in unfurnished accommodation after leaving supported accommodation or hospital, those fleeing domestic violence, or leaving prison. We would like to see eligibility for community care grants and budgeting loans extended to people whose sole income is Incapacity Benefit.

Helping those moving to Income Support or Jobseekers Allowance from Incapacity Benefit

27. In March 1999, the Secretary of State for Social Security noted that one of the four strands to the Government's approach to helping disabled people who want to work was "taking obstacles out of the benefits system"⁴. The Government proposes increased support for people moving onto Jobseekers Allowance from Incapacity Benefit after failing the Personal Capability Assessment (PCA). However, there would be no right to claim Income Support, and receive a reduced rate of IS whilst challenging an incapacity benefit refusal.

² 'Unhealthy Charges: CAB evidence on the impact of health charges' NACAB July 2001.

³ 'Unfair and Underfunded' CAB evidence on what's wrong with the social fund NACAB October 2002

⁴ DSS Press release March 1999

28. Pathways to Work proposes that everyone in a pilot area who leaves incapacity benefits for jobseekers allowance sees a specialist adviser and receives immediate access to advice through the New Deal. It also proposes to remove the “anomaly” that affects people who receive a reduced rate of Income Support whilst they challenge a PCA decision.
29. The paper says that the Government is minded to remove the anomaly in the pilot areas only, so that the more skilled and personalised service can be offered. People would still be able to make an appeal against the decision to refuse or discontinue Incapacity Benefit, but they would also be subject to jobseekers allowance rules that require a person to be available for work and actively seeking work.
30. There are good reasons why people seek to challenge the loss of incapacity benefit following a medical examination as part of the Personal Capability Assessment.
31. Many people challenge Personal Capability Assessment decisions resulting in loss of Incapacity Benefit because they believe the decision is wrong. This is an important point, which should not be overlooked or diminished. People who seek advice following a negative decision often feel that their illness or disability genuinely removes their capacity for working. There is also some support from the results of appeals against negative PCA decisions. For example, the quarterly figures on the outcomes of benefit appeals show that fully 51% of oral hearings against a PCA Incapacity Benefit decision are decided in favour of the appellant. This proportion rises from over half to more than two-thirds (68%) when the appellant attends the hearing, and is represented by an adviser from a CAB or other organisation.⁵ This suggests that there is considerable room for improvement in the quality of initial decision-making, and in the ability of decision-makers to change their decisions before a case is appealed.
32. There has also been considerable concern expressed about the conduct of some medical examinations. Citizens Advice has previously sought improvements in the quality of medical examinations. We have received evidence that, in certain cases, CAB clients have been, on the face of it, subjected to actions that were incompatible with Medical Services Professional Standards.
33. Medical Services, who provide medical services to the DWP, have inspected some of the evidence we have received recently from bureaux, and noted that the reported problems fell into the following categories:

⁵ Figures are for quarter ending March 2002, DWP Work and Pensions Statistics 2002, DWP information Centre Analytical Services Directorate 2002

- Doctors not listening to clients;
- Poor recording of clinical findings;
- incorrect assumptions based on information from the client and from the medical examination;
- effects of mental illness not appropriately taken into account;
- difficulties in arranging home visits for some clients.

Citizens Advice is continuing to work with Medical Services to ensure improvements in the quality of medical examinations. We believe there is still considerable scope for improving the quality of medical examinations. We would also support the use of other professionals, with expertise in employment and disability, in assessing capacity for work.

34. The consultation paper says that a small number of people claim reduced rate Income Support, and receive about £10 less than they would if they were receiving Jobseekers Allowance. This is not entirely correct. In fact, the reduced rate of Income Support is only £10 less than Jobseekers Allowance if the person has been in receipt of Incapacity Benefit for less than a year. For those who have been in receipt of Incapacity Benefit for more than 12 months, the drop is from £76.95 per week (IB plus IS with disability premium top up) to £43.16 per week (IS less 20%). This represents a loss of £34.79 in weekly income, and is a huge sum for people to withstand. People with mental health problems, including depression, are hit especially hard by falls in income of this magnitude.
35. Falls in income may also be greater, and accompanied by other problems, when people lose Incapacity Benefit. For example, it is quite common for bureaux to report clients who have lost Incapacity Benefit, and also lose any additional Income Support top up, Housing Benefit and Council Tax Benefit, whilst being required to attend a jobcentre to apply for Jobseekers Allowance. This can result in rent arrears and threatened eviction and homelessness. It will be critical, therefore, that the system for providing an automatic interview with a Disability Employment Adviser or Jobcentre Plus adviser also provides interviews very quickly. We would also like to see a greater willingness to reverse a PCA decision that results in loss of benefit, through the existing mechanisms for reviewing decisions. This would help prevent cases going to appeal unnecessarily, and consequential losses for clients.

A Hampshire client, recovering from alcoholism, failed an assessment two months after leaving a hostel for an unfurnished council flat in poor repair. The client was repaying a social fund loan and was receiving reduced rate income support after appealing against loss of incapacity benefit. The client was left with £37 a week for food and fuel bills and other living expenses.

A Manchester client, a young pregnant woman, was receiving £36 in reduced income support after losing IB and appealing. Repayments to a social fund loan reduced the client's weekly income to just £24.

A client in Wales, one of a couple with two young children, was taken of incapacity benefit and appealed against the decision. A social security office informed the client that he was not entitled to any income support, and the client had lived without any income at all for a month, before contacting the bureau.

36. We make a further suggestion that Incapacity Benefit should not be stopped immediately following a PCA decision, but should instead be allowed to run on for a period (perhaps a month), or until the outcome of an appeal is known. At present clients are often surprised to hear that benefit has been stopped, with some even suffering a worsening in their health as a result. This would allow time for people to seek a review of the decision, whilst not immediately losing their income, if the decision to stop benefit was suspended, either for a defined period or until the outcome of an appeal was known.

37. There is also some evidence of problems paying arrears of benefit when an appeal succeeds. Citizens Advice has previously raised this problem with the Department's Standards Committee. We believe that arrears of benefit should be paid promptly when a person successfully challenges an appeal. For example:

A London client won an appeal against removal of incapacity benefit, but was not paid arrears. The client waited four months and contacted the social security office. The office told the client they were too busy to deal with arrears, and would not estimate when it would be able to deal with them. The client was left on a reduced income and in poor health.

38. As we noted above, there are good reasons why people seek to challenge the loss of incapacity benefit. Insisting that people must claim Jobseekers Allowance may risk running counter to people's feelings of natural justice, especially where people have a good reason to feel aggrieved about the decision.

39. There is considerable confusion amongst some benefit office staff about the present rules. Some clients are told that they cannot claim Income Support and must claim Jobseekers Allowance after failing a Personal Capability Assessment, whilst other clients who are manifestly unable to work through illness or disability, yet have failed a medical assessment, are told to claim Income Support whilst they appeal.

A woman client in the North West lost entitlement to IB following a medical examination. She was told an appeal could take six to

eight weeks, and that she should claim Jobseekers Allowance. The client went to a Jobcentre and was told she should not sign on for JSA, and the client went to the CAB for advice.

A man who missed a medical examination due to an injury lost benefit and was told to claim JSA, but was advised by a social security office not to mention his disabilities lest his claim was jeopardised.

A client in the Midlands, nearing retirement age, was not told that he could claim income support when his incapacity benefit was suspended, even though the client had asked the social security office if there was any other help available to him.

40. Citizens Advice does not support removing the right of people to claim Income Support whilst challenging a decision to stop incapacity benefits. The Government's proposals for changing the rules affecting people who fail the PCA in the pilot areas make too heavy an assumption that the PCA decision will be correct, and that anyone who fails should be available for and actively seeking work. People with serious illness or disability will run risk failing these conditions for Jobseekers Allowance and could end up without support. We would like to see further work done to ensure the accuracy of PCA decisions before this proposal is considered.

41. There are many cases seen by CABx in which it is quite inappropriate for a client to claim Jobseekers Allowance. For example,

A London bureau was advising a single woman with severe health problems who lost incapacity benefit. The client had recently received an increase in DLA, and the hospital had advised the client to seek additional support because she was at risk of choking if left alone at night. The client's GP and the bureau believed the client was quite incapable of work, and would have difficulty signing on. The option of claiming even the reduced rate of income support was a lifeline for the client.

42. At present, people who are disabled or ill for longer than a year and receive the higher rate of Incapacity Benefit will receive notification of the change to their benefit. We would like to see all notifications, and not just those issued within the proposed pilot areas, amended to include a reference to the need to contact a Jobcentre Plus or social security network office, to check if there is entitlement to Income Support via the disability premium. Notifications should also allude to the additional passported help that would then be available. This straightforward addition would lead more people to claim some additional support, in line with the Government's key welfare objective to provide support for those who cannot undertake paid work.

43. Citizens Advice wrote to the Secretary of State for Work and Pensions in October 2002⁶, to point out that people who are in receipt of Incapacity Benefit for more than a year do not receive any automatic notification that they may be entitled to claim an additional amount of Income Support. People who qualify for the long-term rate of Incapacity Benefit currently receive £70.95 per week after 12 months of incapacity. However, the applicable amount for Income Support for a single person after 12 months of incapacity is currently £76.95. Many of these people would therefore be entitled to at least an additional £6 per week if they knew that they could claim Income Support via the disability premium.
44. In addition, people who miss out on this extra help also often lose access to the wide range of other help made available by Government Departments. People on Incapacity Benefit are highly likely to need regular medication, yet will often not know that they qualify for free prescriptions unless they claim and receive Income Support via the disability premium. Non-recipients also often lose access to free school meals and Housing/Council Tax Benefits if they are not claiming already, as well as losing access to a variety of other help. People who only find out late about the additional support available may be prevented from claiming their full entitlement retrospectively because of rules that limit backdating.

A client in the West Midlands received a letter advising him that Income Support would no longer be payable after the initial six months on Incapacity Benefit. The client was not told that Income Support would become payable again after 12 months on Incapacity Benefit. The client was struggling to live on Incapacity Benefit and was entitled to claim Income Support via the disability premium but had not been aware.

A woman with a disabling back problem was under the impression that she was on the short-term rate of Incapacity Benefit when in fact she had been on the long-term rate for several months. The client was entitled to Income Support via the disability premium, and also to the linked Housing and Council Tax Benefits. In this period the client had been left no option but to apply for social fund loans to buy a new bed needed because of her disability, had been unable to meet basic bills, and had accrued rent arrears. The additional top-up of Income support via the disability premium could have eased her financial situation considerably.

A man who had suffered an injury at work had become entitled to Income Support via the disability premium after long-term incapacity. By the time the client came to the CAB he had been

⁶ Letter to the Rt Hon Andrew Smith MP dated 15 October 2002. No reply has yet been received.

unfit for work for three years, but had not realised he could claim any additional help.

Renaming Incapacity Benefit

45. Incapacity, and invalidity, are both terms with negative connotations. The suggested term 'Capability Assessment Allowance' is however overly bureaucratic, and most unlikely to be generally understood. It would also be a misnomer for the exempt groups. The name of the benefit is probably much less important than getting the assessment of the impact of illness or disability as accurate as possible. We would suggest the names Disability Allowance or Disability Credit as candidates.

Other stakeholders

46. Citizens Advice Bureaux in the pilot areas should be regarded as stakeholders. We would like to see a close working relationship between bureaux and Jobcentre Plus during the pilot schemes.