

## **AGENDA ITEM 6**

### **Overview and Scrutiny Board**

**14<sup>th</sup> March, 2013**

#### **Welfare Reform - Work Capability Assessments for Employment and Support Allowance**

##### **Matter for Consideration**

1. To consider emerging issues in connection with Work Capability Assessments, which people can undergo in seeking an Employment and Support Allowance.

##### **Background**

2. The Board will be aware that the Government has made a number of significant reforms to the welfare benefits system.
3. As there are a number of implications for Middlesbrough, the Council together with its partners have been working together, through a jointly agreed action plan and communications strategy, to put in place a number of actions which will help mitigate the impact of those changes.
4. Whilst a significant amount of work has been undertaken in this area, the focus of this report is on one particular element of the reforms.
5. Middlesbrough Partnership's Financial Inclusion Group (FIG), which is playing a key role in leading on the partnership response to the reforms, considered an item at its last meeting on the management and delivery of the Employment and Support Allowance (ESA).
6. At the conclusion of those discussions it was agreed that in the light of various concerns expressed, the Chair of the Overview and Scrutiny Board should be approached to explore whether ESA could be the subject of a scrutiny investigation. Following a meeting with the Chair, Councillor Jan Brunton subsequently agreed to the request.

##### **Employment and Support Allowance (ESA)**

7. ESA replaced Incapacity Benefit and Income Support which was paid because of an illness or disability. ESA has a focus of helping people with an illness or disability to move into work.
8. Whilst the Department for Work and Pensions (DWP) is responsible for its delivery, Healthcare professionals employed by ATOS Healthcare provide medical services to the DWP. Their main role is to give medical advice to help

decisions being made on entitlement to the benefit, A key part of their involvement is in the assessment process detailed below.

9. A person is eligible for ESA if they have an illness or disability that affects their ability to work and they are:

- off work or out of work;
- self-employed;
- working for an employer but cannot get Statutory Sick Pay; or
- getting Statutory Sick Pay but it has now stopped.

10. There are two elements to ESA:

- contributory - awarded if enough national insurance contributions have been paid by the claimant, however, the amount of time it can be paid for will be limited to 365 days; and
- income-related - awarded if the claimant's income and savings are low enough. It will not be provided if there are savings of more than £16,000.

11. The amount of ESA provided depends on different factors:

- whether you are getting contributory ESA or income-related ESA or both;
- whether you are in the first 13 weeks of a claim (assessment period);
- what level of support the claimant is considered to need after the first 13 weeks;
- whether you are aged 25 or over; and
- whether you live with a partner.

12. For both elements of ESA, the claimant will usually have to undertake Work Capability Assessments (WCA) to prove that they have limited capability for work. The Assessments which are in effect medical tests have two parts:

- part one - to assess whether the person has limited capability for work. This is a points-based assessment, focussed on the difficulties the person has in have carrying out a number of physical or mental tasks; and
- part two - is the limited capability for work-related activity assessment. This assesses whether you will be expected to undertake activities in order to prepare to return to work in the future. Only people with a severe level of disability will pass the limited capability for work-related activity test.

13. If a person has limited capability for work, but does not have limited capability for work-related activity, they will be put in the Work Related Activity Group (WRAG).

14. As such they will receive the basic rate of ESA plus an extra amount called the work-related activity component. The person will also have to attend a series of work-focused interviews with a personal adviser from the DWP.

15. If you have limited capability for work-related activity you will be put in the Support Group. You will receive the basic rate of ESA plus an extra amount called the support component.

16. If any person disagrees with the assessment decision, a request for a written statement of the reasons behind the decision can be made. If the person still believes the decision to be wrong, a request can be made for the decision to be looked at again and/or appealed.

17. The time limits are tight and the person will usually be given one month to dispute a decision.

18. Appeals are heard by an Independent Tribunal.

### **Areas of Concern**

19. Concerns being expressed both locally and to some degree nationally, are as follows:

- in making a claim, does the claimant have access to IT and the appropriate IT skills;
- the standard of advice being provided by the DWP to claimants;
- the new assessment criteria are stricter resulting in a greater number of claimants being turned down on the initial assessment stage;
- there are a high level of appeals being lodged (which need to be made under strict timescales) which is also resulting in a high level of success;
- if people need to appeal a decision the chances of success are greater if they are represented, but there is limited capacity for agencies to provide representation;
- if a person is successful at appeal, they are then provided, usually under short time scales, with a new assessment which can lead to them being found fit for work;
- it would appear that some people with serious health conditions can be assessed as being fit for work;
- are all claimants with possible mental health conditions being provided with the necessary support to help them through the assessment process;
- does the person undertaking the medical assessment always have the appropriate medical qualification/experience to allow accurate assessments to be made;
- are Government targets impacting on the decision making process and as such do the targets reflect what the actual level of eligibility to the Allowance might be;

- could these issues be replicated when the Disability Living Allowance is replaced by Personal Independence Payments later this year.

### **Relevant Bodies**

20. In looking at matters in further detail, some of the key bodies involved either directly or indirectly include:

- the Department for Work and Pensions;
- ATOS;
- Tribunal representatives;
- the Council's Welfare Rights Team; and
- the Citizens Advice Bureau

### **Wider Implications**

21. There are also possible wider implications to be considered some of which include:

- what is the impact on the claimant - in some cases it could be quite a stressful process on the individual - do they have the necessary access to support not only through the process but also pre and post process?
- will the changes have implications for Council services?
- are there impacts on our partners? and
- what is the wider impact on the local economy.

### **Recommendation**

22. The Board is asked to consider the issues raised in this report.

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**Citizens Advice Bureau**

**Welfare Rights**

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### **Background Papers**

Information provided on the DWP and Citizens' Advice Bureau web sites