

Berthoud, Richard

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The work capability assessment and a "real world" test of incapacity: Considerations from, and for, quantitative research

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The Work Capability Assessment and a “real world” test of incapacity

Richard Berthoud
Institute for Social and Economic Research
University of Essex

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& ECONOMIC RESEARCH

Non-technical summary

The Employment and Support Allowance (ESA) is the latest in a series of social security benefits paid to disabled people who are incapable of work for long periods. The Work Capability Assessment (WCA) is the test governing entitlement to the ESA. It is based on highly structured sets of rules which allocate entitlement according to the combination of impairments experienced by the claimant.

Quantitative survey research confirms that severe impairments seriously reduce people's chances of working. But it is not possible to draw a neat dividing line between those who can and cannot work.

Social security adjudication procedures have to choose between the relative importance of entitlement (based on formal regulations) and discretion (based on consideration of individual cases). In the case of benefits aimed at disabled people, even formal regulations lead to a significant range of uncertainty about entitlement.

A first step would be to propose changes to the regulations which would offer a closer fit between exclusion from the labour force and entitlement to benefit. There is also a strong case for adding a discretionary option (a *real world* test) to the existing potentially rigid assessment procedure. But it would probably have to be circumscribed by certain limits.

Further analysis of existing survey or administrative data could shed valuable light on the relationship between impairment and access to incapacity benefits. Finally, a new (and rather complex) survey could provide insights into the effectiveness of the WCA in sorting claimants between those who are and are not capable of work.

The Work Capability Assessment and a “real world” test of incapacity: considerations from, and for, quantitative research

Richard Berthoud
Institute for Social and Economic Research
University of Essex

Abstract

The Work Capability Assessment governs entitlement to the Employment and Support Allowance - the social security benefit for people who are “incapable of work”. It is based on rules which decide entitlement according to the combination of impairments experienced by the claimant. This paper discusses the relative merits of formal regulations and discretionary judgements in the assessment of “incapacity”, and considers the possible introduction of a discretionary (“real world”) test to complement the current rigid scoring system. The paper concludes with suggestions for further research which would shed light on the processes by which claimants are judged incapable of work.

JEL: I38, J14, J64

Keywords: disability, incapacity, social security, adjudication

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Corresponding author: berthoud@essex.ac.uk

1. Background

The Employment and Support Allowance (ESA), introduced in 2008, is the latest in a series of UK social security benefits paid to disabled people who are incapable of work for long periods. It replaced Incapacity Benefit (IB).

The Work Capability Assessment (WCA) is the test governing entitlement to the ESA. It is based on a highly structured set of rules which determines entitlement according to the combination of impairments experienced by the claimant. First, there is a scoring system in which points are allocated for each type of impairment according to its severity – a total score of 15 or more gains entry to ESA. Second, there is a list of impairments which are considered to prevent the claimant from undertaking work-related activity, which gain entry to the “support” group which attracts a slightly higher rate of benefit and less onerous conditions. Third, there are regulations (covering “exemptions” and “exceptional circumstances”) entitling people with certain types of health condition (eg terminal illness) to benefit even though they do not fulfil the impairment criteria.

The rules governing access to benefit were changed in 2011. For example, blind or visually impaired people were formerly assessed according to what they could or could not see:

9. Vision including visual acuity and visual fields, in normal daylight or bright electric light, with glasses or other aid to vision if such aid is normally worn.
 - a) Cannot see at all. *15 points*
 - b) Cannot see well enough to read 16 point print at a distance of greater than 20cm. *15 points*
 - c) Has 50% or greater reduction of visual fields. *15 points*
 - d) Cannot see well enough to recognise a friend at a distance of a least 5 metres. *9 points*
 - e) Has 25% or more but less than 50% reduction of visual fields. *6 points*
 - f) Cannot see well enough to recognise a friend at a distance of at least 15 metres. *6 points*
 - g) None of the above apply. *0 points*

Under the new rules, they will be assessed according to what they can or cannot do:

8. Navigation and maintaining safety, using a guide dog or other aid if normally used.
 - a) Unable to navigate around familiar surroundings, without being accompanied by another person, due to sensory impairment. *15 points*
 - b) Cannot safely complete a potentially hazardous task such as crossing the road, without being accompanied by another person, due to sensory impairment. *15 points*
 - c) Unable to navigate around unfamiliar surroundings, without being accompanied by another person, due to sensory impairment. *9 points*
 - d) None of the above apply. *0 points*

In principle, these sets of rules rigidly define acceptance or rejection of a claim, with little or no room for judgement of individual cases. It has been suggested, notably by Citizens Advice Bureaux (CAB 2011), that a *real world* test of incapacity should be added to the WCA, to allow decision makers to award benefit to people who are “obviously” incapable of work,

even though they fail to score 15 points in the structured scoring system, or do not meet the formal criteria for access to the support group. Consideration of a *real world* test has also been raised in the course of an independent review of the WCA (Harrington 2010).

This paper reviews the issue from the perspective of quantitative survey research. In general (discussed in more detail below) social surveys collect rather crude data about impairments – much less detailed than would be required to assess entitlement to ESA, and in any case lacking supporting evidence from a health professional. At first sight the idea of a real world test of incapacity in adjudication of ESA should be matched by proposals for qualitative rather than quantitative research. It turns out, though, that the quantitative perspective can make a substantial contribution to the debate.

2. Existing survey sources

Formal social surveys can be divided into three groups according to the level of detail with which they describe disabled people.

- a. Many general purpose surveys have a simple pair of questions asking whether the respondent has a long-standing illness or impairment, and whether this limits his or her activities in any way. Depending on the questions asked, a group of people is labelled “limiting long-standing illness” or “Disability Discrimination Act (DDA) disabled”. For example the Census and (for many years) the General Household Survey (GHS) provide no more detailed information about the illness or impairment; and even surveys with additional data (see point b) are usually analysed as though this simple yes or no classification provided an adequate measure of disability.

This oversimplification leads to two problems. First, it fails to recognise the diversity between those with minor conditions which have little effect on their activities, and those with very severe impairments who may be seriously disadvantaged. Second, the category labelled or interpreted as “disabled” often includes people whose health problems or impairments are so slight as not to be associated with any form of disadvantage. Exaggerating the size of the group does not help, because it automatically understates the extent of disadvantage. For example the Labour Force Survey (LFS) is commonly said to identify 20 per cent of working-age adults as disabled, with an employment rate of 50 per cent. Stricter definitions of disability tend

to put the prevalence of disability among working-age people at about 12 per cent, with the disability employment rate only 30 per cent (Berthoud 2008).

- b. Some surveys ask additional questions about the health condition causing the problem (eg LFS, GHS in some years), or the impairments affecting what the respondent can and cannot do (eg Family Resources Survey - FRS), or both (eg British Household Panel Survey - BHPS). Conditions and impairments are distinct concepts, and one is not very predictive of the other (eg there are many different conditions that might hinder or prevent someone from walking). These general-purpose surveys carry little or no indication of the severity of impairments, but it has nevertheless been shown that analysis by type and number of conditions/impairments differentiates between people with high and low employment rates (Berthoud 2011).
- c. A small number of specialist surveys have carried detailed measures of conditions, and impairments, including questions designed to estimate severity. Although the idea of a scoring system based on severity scales incorporated in the WCA can be traced directly back to the use of such scales in the 1985 disability survey (Martin and others 1988), there is no suggestion that survey questions directly replicate the WCA test in individual cases. But the survey data can be analysed to explore the relationship between severity of impairment, disadvantage in the labour market, and entitlement to Incapacity Benefit (IB) or ESA. The 1985 (Martin and others 1988, Berthoud and others 1993) and 1996/7 (Grundy and others 1999, Berthoud 2008) surveys have been analysed in some detail. A preliminary report on the 2009/10 *Life Opportunities Survey* (LOS) has been issued (ONS 2010), but detailed analysis of employment outcomes remains to be undertaken.

3. Incapable of work?

The Employment and Support Allowance, like its predecessor benefits (Sickness Benefit, Invalidity Benefit and Incapacity Benefit), is designed to be paid to people who are incapable of work.¹ It is paid at a higher rate than the Jobseeker's Allowance aimed at unemployed people, in recognition that many ESA claimants will be out of the labour market for long

¹ The term "incapacity benefits" (without capitals) covers earnings replacement benefits paid to people judged incapable of work for long periods – Sickness Benefit (1948-71), Invalidity Benefit (1971-96), Incapacity Benefit (1996-2008) and Employment and Support Allowance (2008 onwards) . See Berthoud (2011) for an analysis of trends in the number of people receiving these benefits.

periods, some of them permanently. The task of the regulations and the associated adjudication procedures is to distinguish between those who are capable and incapable of work.

The concept of incapacity is strongly rooted in the medical (or personal) model of disability, in which it is assumed that individuals' impairments – their inability to undertake normal activities like walking or seeing – directly prevent them from getting to work or from undertaking the tasks that are valued by employers. The social model of disability argues that it is the failure of care provision, transport networks or employers to adapt to varying needs that excludes disabled people from the labour market. It is not that people are unable to work, but they are unable to get a job. Although the social model demands policies aimed at organisations, rather than individuals, a social security benefit such as ESA necessarily targets individuals. Even the social model has to accept that people with the most severe impairments are the most likely to be excluded from employment, and need financial support. So both the medical model and the social model require the WCA to identify those whose impairments are so severe that that cannot be expected to have a job (Berthoud 1995).

The difficulty is in defining a neat dividing line between those who are capable and incapable. Many of the best-known disabled people in Britain – a Professor of Theoretical Physics, a former Home Secretary – are famous for their work, even though they would have been straightforwardly entitled to ESA if they had lost their jobs, because their impairments would have been judged to render them incapable of work. But many other people have found themselves out of the labour market for reasons associated with disability, even though their impairments are apparently not so severe as to prevent others, with similar conditions, from retaining their jobs. The all or nothing concept of incapacity needs to be replaced with a sliding scale of disadvantage.

There are all sorts of other characteristics which affect whether an individual does or does not have a job – gender, family structure, age, educational qualifications, ethnic group, and the state of the labour market. Detailed analysis of survey data can be used to show how much less likely a disabled person is to have a job, than other people with identical characteristics on other dimensions. The “disability employment penalty” (Berthoud 2008) is defined as the reduction in disabled people's chances of being in work, compared with what their chances

would have been if they had no health problems or impairments (medical model) or if their impairments had not been disadvantaging (social model).

The Health and Disability Survey of 1996/7 (HDS) has been used to estimate disability employment penalties (Berthoud 2008) using quite detailed data about health conditions, impairments and severity (as well as standard data about gender, family structure and so on). Figure A plots the distribution of penalties, so that the group of people whose pattern of health and impairment hardly affected their employment probabilities are on the right, and the group of people whose patterns of health and impairment meant that almost none of them had a job are on the left. The gradual rise and fall in the “mountain” suggests that there is no clear dividing line between those who were capable and incapable of work.

- A small number of people are hardly disadvantaged at all. No special social security provision is needed for this group.
- A small number of people are effectively debarred from work as a result of their impairments. They obviously need financial support for as long as their condition lasts.
- A large number of people are seriously disadvantaged by disability, though some members of the group are nevertheless in work. We can think of them notionally as having a 50:50 chance of employment. The half who have a job are not a problem for the social security system. But the half who do not have a job are clearly and severely disadvantaged by disability, even though others with similar impairments are in work.

No doubt even more detailed questioning and analysis could help to sort out what the personal circumstances are which distinguish between those (currently estimated to have a 50:50 chance) who are and are not able to work. Perhaps (for example) a person blind since birth would have learned to operate in a sighted world much more effectively than a person blinded last month. Or perhaps people with a progressive disease might be much less likely to re-enter work than other people with curable or stable conditions.

But however sophisticated our analysis of what distinguishes between disabled people with strong and weak opportunities, we will always be left with a large group whose observed characteristics are seriously disadvantaging, even though others with the same characteristics nevertheless have a job.

Figure A: Distribution of employment disadvantage associated with disability



Source: Berthoud 2008

The challenge for policy is to devise an effective and fair way of distinguishing between non-working people who are “capable” and “incapable” of work, when most of those concerned have conditions and impairments which are severely disadvantaging, without totally preventing any possible employment. A fairly arbitrary dividing line has to be drawn, but the main lesson of Figure A is that there will be a large number of people just above the threshold, and a large number just below the threshold, whose impairments, and employment probabilities, are very similar to each other. The outcome for individuals is very sensitive to exactly where the arbitrary dividing line is drawn.

Although the predecessor schemes (IVB and IB) had only two possible outcomes (capable or incapable of work), the ESA has introduced an element of flexibility by offering three possible outcomes (capable of work, incapable of work but capable of work-related activities, incapable of work-related activities). This relaxes, but does not eliminate, the difficulty of making judgements at the margin.

One of the difficulties in assessing a disabled person's work chances is to decide whether and how to take account of other factors affecting his or her opportunities – besides disability. A main criticism of the procedure for assessing the original Invalidity Benefit (IVB) was that family doctors were said to be writing long-term sick notes for people with relatively minor impairments, but who were unlikely to find a job because of their age, because of their lack of qualifications or because of local labour market conditions. But the same considerations could equally have been applied to people in perfect health, and it is clear in principle that a test of incapacity should take account only of impairments, not of other sources of disadvantage.

The principle is rather less clear when research shows that disability interacts with some other characteristics to create *double disadvantage* (Berthoud 2011). That is:

- Disabled people with degrees are relatively unaffected by disability compared with other people with degrees. It is disabled people without qualifications who are disadvantaged, even in comparison with the poor employment prospects of non-disabled people without qualifications.
- The employment rates of non-disabled people are hardly affected by the state of regional economies, ranging between the high unemployment afflicting the North East and the low unemployment enjoyed by the South East. It is disabled people who are doubly disadvantaged if they live in a depressed region.

These findings suggest that while it would be inappropriate to base ESA entitlement on qualifications and local conditions as scoring criteria *in their own right*, there is a case, at least in principle, for taking account of disability and other considerations *in combination*. The evidence suggests that such a combination would increase the efficiency with which the adjudication procedure could distinguish between disabled people whose impairments do and do not prevent them from working.

4. Entitlement versus discretion

Researchers who analyse the processes by which state bodies assess the needs of individual citizens make a main distinction between two alternative approaches (Mashaw 1983):

- *rules of entitlement* based on objective criteria enshrined in legislation or regulations; and

- *discretion* in which experts assess the merits of each case separately, based on consideration of all the claimant's circumstances.

Of course many schemes combine some elements of both approaches, so that in practice highly regulated schemes may offer an element of discretion, and discretionary schemes often have rules defining the boundaries of what outcomes can be offered.

Many public services are broadly discretionary – there is no rule book to tell doctors how serious a heart condition has to be before they recommend an operation, or to tell social workers how frail an old lady has to be before they provide a home help – though NHS trusts and social services departments may well have agreed guidance on how resources should be matched to needs. Other services, such as social housing, are often based on a points system which has strong elements of regulated entitlement.

The tax system is almost totally regulated. In social security, some benefits (like Child Benefit and its predecessors) have always been based on hard and fast rules – regulated entitlement. Others, such as National Assistance and (initially) Supplementary Benefit, had a set of rules for normal weekly requirements, but allowed staff to add extras which were largely discretionary. But as these discretionary additions became more and more common, it was argued (on the Treasury's behalf) that the cost was getting well beyond what had been intended as a marginal component of the scheme; and (on claimants' behalf) that it was not clear what extras were available, what the conditions were, and how staff decided, perhaps arbitrarily, between deserving and undeserving cases. For those readers old enough to remember the period, the system swung wildly towards fully regulated entitlement for single payments in 1980, and then wildly back to a discretionary Social Fund in 1988.

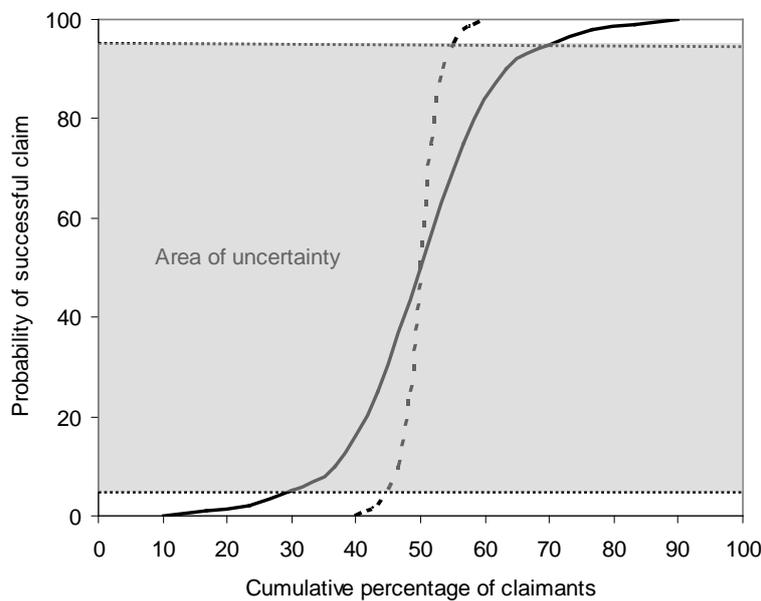
It is striking that when policy makers propose a reform, they emphasise the advantages either of regulated entitlement, or of discretion (depending on which they are proposing) without any analysis of the alternative merits of the two approaches, or any attempt to explain why *this* scheme should be bound by regulations, and *that* scheme should be discretionary.

In the case of incapacity benefits, adjudication of SB and IVB was in principle regulated as far as the administrators were concerned, because they had to award benefit if a doctor reported that a claimant was incapable of work. But it was in practice discretionary, because

the doctors had no set of rules defining incapacity. There was a steep rise in the number of claims in payment, especially over the 1980s and early 1990s, and the government suspected that family doctors were getting too lenient in their judgement, offering sick notes to people with poor employment prospects even though ill-health was not the main contributor to their disadvantage. Hence the decision (taking effect in 1996) to convert the effectively discretionary IVB assessment to the much more regulated IB and (in 2008) ESA assessments. The regulations state that if you cannot walk at all you are judged incapable of work and entitled to benefit; if you can walk at all (and have no other impairments) you are capable of work and not entitled to benefit. These are the rules, and if you think they have not been applied correctly you can appeal to a tribunal.

Regulated entitlement is based on the idea that people either are, or are not, entitled to benefit, and the only issue is how accurately the decision-maker distinguishes between the two. But even regulations conferring entitlement sometimes require judgement in individual cases. There may be a grey area where it is not entirely certain whether they are entitled or not. This may be true of all benefits to a certain extent, but the grey area may be quite wide for a benefit, like ESA, which depends on the decision maker's scoring the combination of answers to a series of questions about a complex set of impairments. Compare the stylized presentation in Figure B. The dotted line represents a benefit where 45 per cent of claims are almost certainly not entitled, 45 per cent are almost certainly entitled, and only 10 per cent are uncertain. The black line represents a benefit where only 30 per cent are virtually certain at either end, and 40 per cent are uncertain. (These figures are just to provide a pictorial illustration; it is not suggested that the actual area of uncertainty is as wide as either of the examples suggests.) The point is that for every benefit there will be a group of claims with around a 50:50 chance of success: this group is no doubt small for some benefits (eg Child Benefit, Retirement Pension), but may be much larger for other benefits (eg ESA, Disability Living Allowance).

Figure B Stylised representation of the distribution of benefit claims by the probability of entitlement



Bear in mind the evidence presented in Figure A that a high proportion of disabled people are on the boundary line between employment and non-employment. It would not be surprising if a high proportion of non-working disabled people were close to the boundary line between being judged capable or incapable of work. So even in a highly regulated scheme, there is likely to be large area of uncertainty in the outcome. Two identical claims might be submitted, one of which resulted in entitlement, and the other in rejection. If we wanted to blame the decision makers for getting it wrong, we would call this “inconsistency”. But both decision makers might have used their legitimate judgement of the facts to reach legally justifiable conclusions either side of the 15 point boundary.

The idea that there is uncertainty about the outcome of decisions even under regulated entitlement is supported by the large number of appeals submitted by disappointed claimants, and the high proportion of them that are upheld by tribunals.

We can think of three potential groups of non-working disabled people:

- a) those who in some moral sense *ought* to be entitled to benefit if the assessment system was perfect;
- b) those who in practice are awarded benefit under the current scoring system;
- c) those who would be offered benefit under a purely discretionary system.

Neither group b nor group c will exactly match group a. The question is, which of b or c gives the closest fit. Policy b has the advantage that it is clear and closely controlled, but the disadvantage that it is rigid in individual cases. Policy c has the advantage that it takes account of all the facts, but is unclear to claimants, potentially arbitrary, and there is no natural restraint on decision-makers becoming more and more lenient, and spending more and more money.

5. Options for reform

If it is feared that the current WCA regulations do not distinguish effectively enough between those who can and cannot work, there are three types of potential solution.

5.1 Adjusting the scoring procedure

The WCA is essentially a structured scoring system. The first priority for reform might be to assess whether there are certain types of impairment which should be scored higher (or lower) in the overall assessment of incapacity. Quantitative research analysing the relationship between impairment and employment might help here, but the case-experience of DWP decision makers, tribunals and claimants' advisers might also be of help to identify types of impairment which are frequently under- or over-valued.

A more complex adjustment might be based on the clear research evidence that impairment is more disadvantaging in some circumstances than in others. It would be entirely logical to allocate a higher weight to impairment scores if the claimant had no qualifications, had worked for many years in low-skilled occupations, or lived in an area of high unemployment.² This would improve the fit between a disabled person's employment disadvantage and his or her entitlement to benefit. But it is unlikely to be workable, either administratively or politically.

5.2 More exemptions and exceptions

The existing scoring system is over-ridden by regulations allowing benefits to be paid for certain "exemptions" and in certain "exceptional circumstances". The collective experience

² That is, existing scores might be *multiplied* by (eg.) 1.5 in circumstances of double disadvantage. Someone whose impairment score was zero would still score zero.

of hard cases in the operation of the scheme so far could identify further types of condition which should be treated as exemptions or exceptional circumstances. For example

- the exemption for people expected to die within six months might be extended to include people whose condition was expected to deteriorate significantly over two years;
- the exemption for people undergoing intravenous (and other invasive) chemotherapy could be extended to those taking oral chemotherapy, or more generally for treatments which are known to have a debilitating effect.

5.3 Discretion

The proposal for a *real world* test of incapacity is effectively arguing for an element of discretion to be added to the current highly-regulated scheme. The evidence quoted in this note suggests that a large proportion of decisions are likely to be marginal ones – they could go either way. A regulated scheme has substantial advantages for claimants as well as for administrators, and there is little demand for reverting to an entirely discretionary system. There is a strong case, though, for adding an element of discretion to an otherwise rigid scheme, in which an assessor was allowed to award benefit when consideration of individual circumstances suggested that a claimant was “obviously” incapable of work, even though s/he fell short of the 15 point threshold, or that it was “obviously” inappropriate to ask him or her to take part in work-related activities, even though s/he did not meet the criteria laid down in the regulations.

Key questions are: who would initiate a discretionary assessment, and who would take the final decision? Obviously the ATOS doctors and nurses, and the DWP decision makers, would be allowed to initiate an assessment if they felt that the scoring system had failed to reflect the extent of a claimant’s disability. But it would be important to allow other actors – the claimant’s family doctor, a welfare rights advisor, perhaps the claimant him or herself, to ask for special consideration.

Such an element of discretion would clearly increase, rather than decrease, the number of people receiving benefit³ – a trend strongly contrary to the government’s objectives. There would almost certainly have to be some limits on the extent to which discretion could be

³ There is no case for allowing decision makers to use discretion to overrule entitlements for those scoring 15 points or more.

used. For example (these are just suggestions, not proposals; many commentators might disagree with them):

- A limit of 10 per cent of monthly decisions might be imposed on discretionary enhancements.
- Claimants benefiting from discretion might have to be reassessed more frequently.

6. Options for new research

A period of change is a good time to undertake research, because policy makers' attention is focused on the issues, and because it may be possible to compare outcomes under the old and new schemes.

The proposal for a discretionary *real world* test of incapacity has a natural affinity with qualitative research approaches, in which all the circumstances of each individual claimant or respondent are taken into account. But as the analysis in this paper has demonstrated, quantitative research based on structured questionnaires and large samples has much to say about these issues. Three types of new research are possible.

6.1 Detailed analysis of existing social surveys

Existing surveys have been analysed to show the two-way relationship between disability and employment, but not to identify the three way relationship between disability, employment and the receipt of incapacity benefits. Such research could be started now. It would have to be considered whether to analyse:

- either or both of the specialist disability surveys which provide very detailed data about health conditions and impairments, but only self-reported data on benefits (the Health and Disability Survey of 1996/7 and the Life Opportunities Survey of 2009/10); or
- the Family Resources Survey which has summary data about impairments, but very precise information about benefits received (through the linked administrative dataset); and also the opportunity to make year-on-year comparisons as IB is replaced by ESA.

6.2 Analysing the outcome of the migration from IB to ESA

Although new claimants have been assessed for ESA since it was introduced in 2008, the DWP is only now reassessing the existing caseload of IB recipients under the new regulations. A pilot scheme has operated in two areas, and the whole country is now being included. This transition provides an unrepeatability opportunity to understand exactly how the two schemes compare. The research requires that detailed data about the claimants (or a large sample of them) should be captured and analysed in relation to the outcome of their reassessment.

6.3 Measuring the reliability of the assessment and adjudication procedures.

The word “reliability” is being used here in its technical sense – whether a decision taken on two or more occasions always comes up the same answer. We would expect a high degree of reliability on (say) Child Benefit decisions, because the only criterion in most cases is whether the claimant has children. But it has been argued in this note that there are wide ranges of uncertainty as to whether people are capable or incapable of work, and about whether they are entitled to benefit under the 15 point scoring system.

A complex research project could address this question, and also directly compare the outcomes of regulated and discretionary approaches.⁴ A sample of claimants would be selected and (with their agreement) interviewed in detail about their health and impairments. Each of their claims and transcripts would then be assessed independently by:

- two pairs of ATOS doctors and DWP decision makers – to show how often they agreed with each other;
- two welfare rights workers specialising in incapacity benefit – to show how wide the gap in perception might be from these groups coming from the opposite side of the fence.
- two members of voluntary or commercial groups working with ESA claimants to encourage them to return to work – to see whether this practical perspective makes a difference to opinions which are otherwise based entirely on structured questions about impairments.

⁴ A UCL research project with a broadly similar design is examining the consistency with which administrative tribunals assess appeals for Disability Living Allowance: see www.ucl.ac.uk/laws/socio-legal/index.shtml?project_tribunals

This three-way comparison could make an important contribution towards an assessment of whether a real world test would make a significant, and reliable, contribution to the adjudication procedure

7. Conclusion

Quantitative research has shown that there is substantial uncertainty as to whether individual disabled people are capable and incapable of work, and this probably implies uncertainty about the outcome of the WCA adjudication. There is little demand for a return to an entirely discretionary assessment, but adding an element of discretion – known as a *real world* test – would probably enhance the reliability of adjudication and public confidence in the scheme.

Further quantitative research would shed valuable new light on these processes, though it is not suggested that reform of the scheme should wait for the research to be completed.

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