

Centre for
Mental Health



also advised
a strategy
couldn't apply?

hafal

for recovery
from serious
mental illness



For better
mental health



The Work Capability Assessment A Call for Evidence: Year 3 Independent Review

Comments from Centre for Mental Health, Hafal, Mental Health Foundation, Mind, Rethink Mental Illness, the Royal College of Psychiatrists and the Scottish Association for Mental Health

Summary

Although we recognise that there have been improvements in the WCA process, we do not believe that reforms have gone far enough. People with mental health problems continue to report poor experiences of the WCA process and outcomes that they do not believe are fair. Huge numbers of people continue to successfully overturn Fit for Work decisions at tribunals, and welfare rights advisers tell us that the system is still not making sufficient use of additional evidence about claimants, which could help avoid poor decisions.

We also believe that there have not been sufficient efforts made by the DWP to monitor the impact of both the Independent Review recommendations and other changes made to the system during this period. Without this detailed analysis, it is difficult to understand exactly how the system has been changing over the last two years.

We believe that substantial further reforms are still needed and hope that the Independent Review will endorse the following recommendations:

- More detailed monitoring of a number of aspects of the WCA as it changes over time
- Additional evidence from applicant's medical and support staff routinely collected in cases involving mental health
- Assessors with specific expertise in mental health assigned to applicants with mental health problems, or, at the very least, testing of the impact of such an approach
- A more considered approach to the frequency of reassessment, taking into account the impact of the WCA process on claimants
- A detailed examination of the role of welfare advisers and the impact they have on claimants receiving a fair assessment
- A fundamental review of what is meant by 'work' and how the assessment gauges applicant's ability to work

Introduction

We welcome the opportunity to contribute to the third Independent Review of the Work Capability Assessment (WCA). The WCA process raises many important concerns for people with mental health problems and we believe that the input of the collective experience of our organisations is vital to the ongoing improvement of the assessment.

We recognise that this year's call for evidence is directed at individuals. While we support a focus on individual experience, we are concerned that asking people to compare two or more previous experiences of the WCA is not a particularly reliable indicator of effective reform.

We have therefore decided to offer a broad and general response to this call for evidence, based on our policy expertise; the experiences of the people we represent; and the views of the people who are possibly best placed to gauge any changes to the WCA, welfare rights advisers.

We recognise the significant work that Professor Harrington, and his team, has put into reviewing the WCA over the previous three years and we wish to thank him for this work, for his receptiveness to our concerns, and for the recommendations he has made. We believe that these recommendations have led to improvements in the system and that ongoing work, such as the 'evidence based review' of the descriptors will lead to further improvements.

However, we continue to have serious concerns about the WCA and the approach to reforming the assessment and surrounding process:

- We do not believe that adequate efforts have been made by the DWP to monitor what the impact of the Independent Review recommendations has been and what impact other factors, such as the internal review descriptor changes, have had on the process.
- Based on our monitoring, we do not believe that the Independent Review recommendations have had the full impact that they were intended to in a number of key areas.
- Despite reforms, we do not believe that additional evidence from the healthcare or support professionals of applicants for Employment and Support Allowance (ESA) being appropriately collected or rigorously considered during the decision making process.
- As yet, there has not been a proper examination of whether assessors with expertise in key areas, such as mental health, would make a fairer and more informed assessment of applicants with such conditions.
- Too many people are stuck in a revolving door of assessments and appeals and people are being called in for reassessment too frequently. This is having a detrimental impact on people's health and their chances of ultimately returning to work.
- The vital role that welfare rights advisers and other support services play in the WCA process has been overlooked. The impact of diminished access to these services is that many more people will not be able to obtain a fair decision from the WCA process.

In our response to this call for evidence below, we have set out in detail our concerns about monitoring the impact of recommendations and other factors; our

assessment of how the WCA has changed in recent years; and our recommendations for further reform.

Monitoring change

We very much welcomed the recommendations that emerged from the first Independent Review of the WCA. We agreed with the intent behind these recommendations, which included:

- To improve the 'customer experience' of the WCA, making it more personal and less mechanistic
- To improve the quality of Atos assessments and the accountability of their role in the WCA process
- To put DWP Decision Makers at the heart of the WCA process and ensure that the Atos assessment was just one component of the evidence which led to their decision
- To improve the collection and use of additional evidence from claimant's healthcare and support professionals in the process
- To improve communication between different parts of the WCA process

We also welcomed the DWP's decision to accept these proposals. However, we did not believe that they had grasped the degree of cultural change that was being called for and instead focused simply on making the specific reforms that had been recommended.

Our hope was that the second Independent Review would rigorously examine both whether the recommendations had been properly implemented and, vitally, whether they had led to the desired outcomes. However, we believe that the report in November 2011 did not sufficiently address the latter of these two issues.

As discussed below, we know that changes in the eventual outcomes of the WCA, and various component parts of the process, have indeed occurred. However, it is far from clear exactly why each of these changes have been made and what role the Independent Review reforms have played relative to other changes, such as the internal review descriptor changes. Without this detailed analysis, it is very difficult to say how much improvement has taken place and what steps are needed to bring about further reform.

Another example of the need for more detailed monitoring and evaluation is the role of the Mental Function Champions. In a recent answer to a Parliamentary Question, the Minister stated that there had been "no formal evaluation of the introduction of Mental Function Champions". The answer also stated that there is routine monitoring of the quality of the overall Atos survey and that there had been a generally positive response from Atos Health Care Professionals (HCPs) to the introduction of the Champions. As with other areas of reform, there seems to be satisfaction that, since the general recommendation has been implemented, the relevant problem has been addressed even though there has been no detailed attempt to evaluate or quantify the impact that the implementation has had.

In addition, two other key factors that have a dramatic impact on the WCA process and what this means for claimants have not really been considered as part of the Reviews:

- First, the requirements that claimants in the Work Related Activity Group (WRAG) are subject to were significantly changed during 2011 so that claimants can now be mandated to undertake any Work Related Activity rather than simply attending Work Focused Interviews. There has been no corresponding consideration of whether the WCA is correctly identifying people who can cope with these requirements.
- Second, welfare rights advisers play a vital role in helping people to get correct decisions first time round and to appeal bad decisions. However, access to this sort of advice and support varies dramatically and is likely to be severely restricted by changes in central and local government funding. The impact of these changes needs to be considered as part of the review.

What has changed?

Below we have presented all the information we could gather to assess what has changed in the WCA process over the last two years and why. The main sources of this information are: Government statistics and responses to Parliamentary Questions; data from a repeated Disability Benefits Consortium (DBC) survey of welfare rights advisers; polling data from Rethink Mental Illness on the views of GPs on the WCA; and data from a DBC survey of benefit claimants combined with the experiences of people we represent who have contacted our organisations.

Government data – WCA outcomes

Although there are many statistics and data available from Government sources about the WCA, much of this is spread across a number of different sources and takes considerable work to gather and collate. One of our recommendations at the end of this submission is for more central reporting of some of the indicators discussed below.

From the time the WCA was introduced, one of our key concerns was that there were simply too many people being declared ‘Fit for Work’ who would, in reality, have huge difficulties returning to work and many would not be able to do so without considerable support. We recognised that it was a number of factors that were creating this problem, but it was clear that an improvement in the system would involve a reduction in the number of applicants being declared Fit for Work.

By this crude indicator, it appears that there has been an improvement in that around 10% more applicants are accessing the benefit (see Fig. 1 below). However, there was a significant fall in this proportion for the most recent quarter for which data is available, so it is not clear yet how substantial this shift is or whether it will be sustained.

Fig. 1:

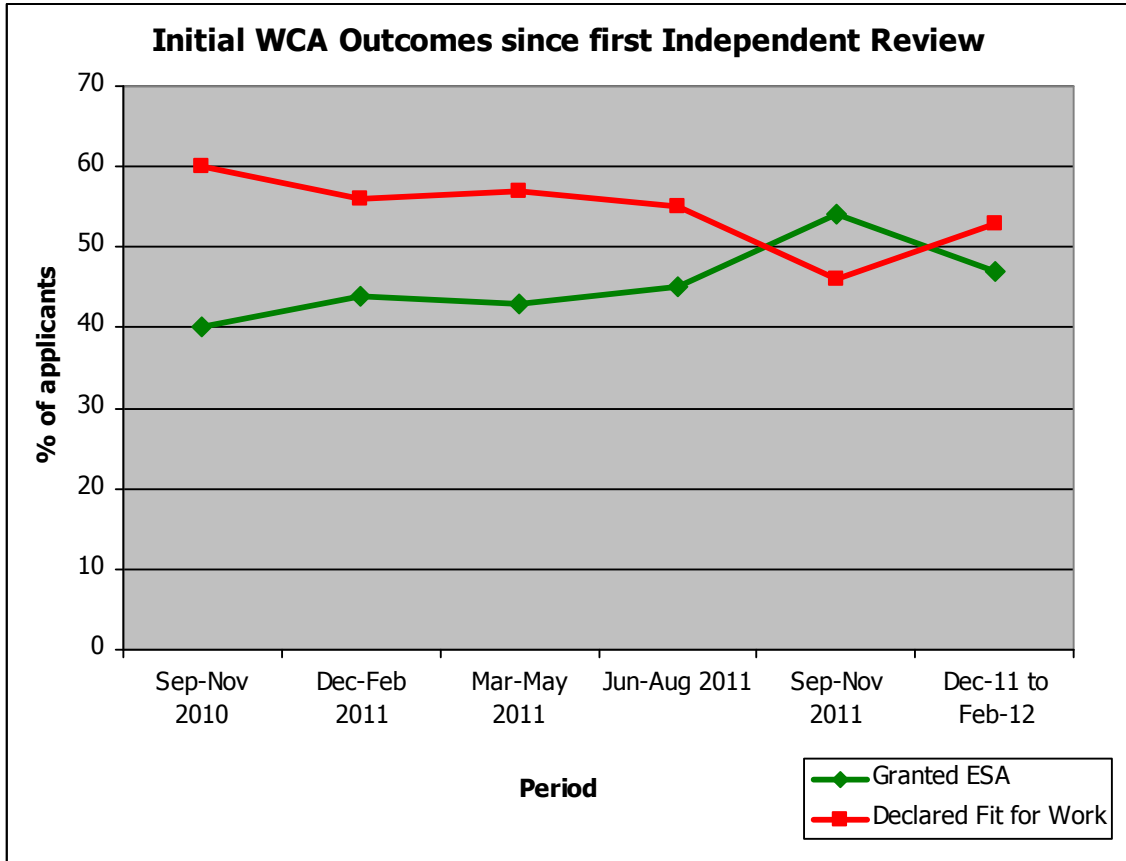
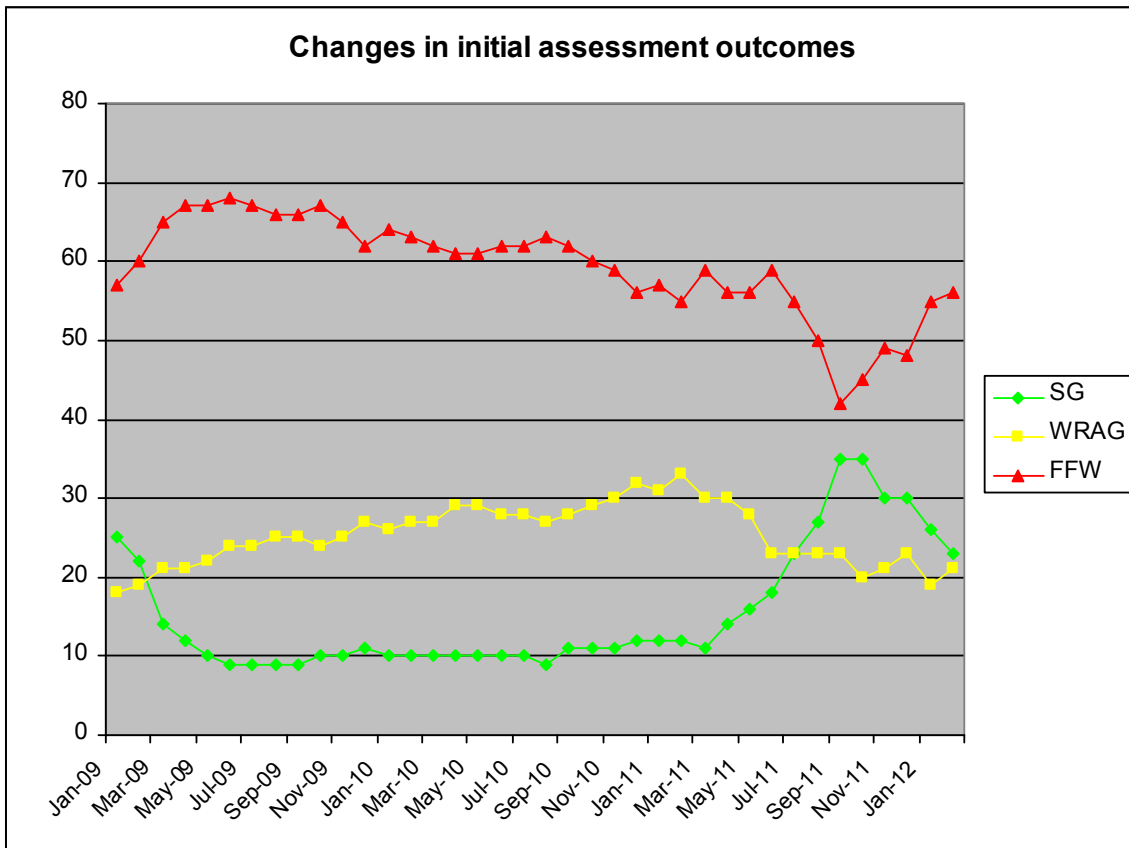


Fig. 2:

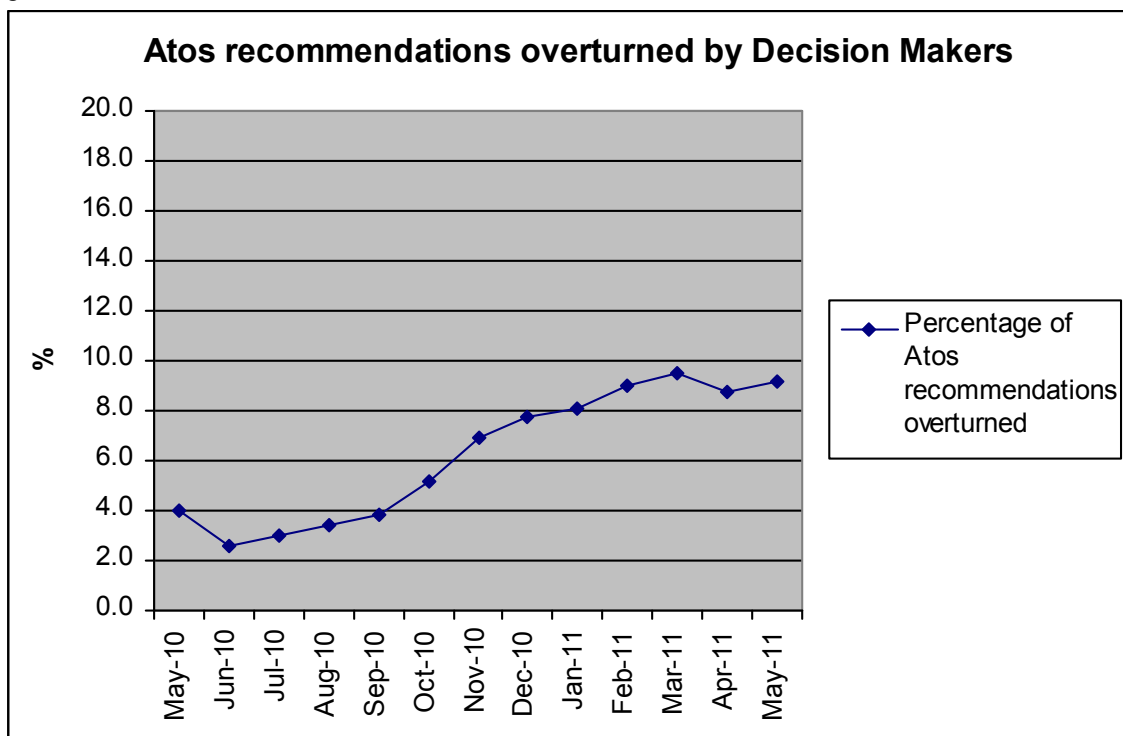


Drilling down deeper into these data presents a more mixed picture (see Fig. 2 above). The proportion of people being placed into the Support Group has increased dramatically from around April 2011; the proportion going into the WRAG increased initially after the first Independent Review and then started to decline; and Fit for Work decisions declined substantially. As with the overall outcomes, there was also a significant rise in Fit for Work decisions, and corresponding fall in Support Group decisions, during the most recent quarter for which data are available.

It is likely that a number of factors are at play here to create these shifts in outcomes but without better government statistics and analysis it is very difficult to disaggregate the impact of each. We have speculated on these trends below, based on what we know about changes to the WCA in last two years:

- It is likely that a stronger role for Decision Makers has played a part in these shifting outcomes. Fig. 3 below charts the changing proportion of Atos recommendations overturned by Decision Makers by mapping the number of overturned decisions (provided in an answer to Tom Greatrex MP by the Employment Minister, Chris Grayling MP in March 2012) with DWP data on the number of decisions made each month. There has been an increase in the proportion of recommendations overturned (although this trend did start before the first Independent Review reported) to around 9% of decisions.

Fig. 3:



- The descriptor changes from the Internal Review are likely to have played a significant role in these shifts in outcomes. These changes were introduced at the end of March 2011 which correlates to the trends shown above (Fig. 2). We expected more people to be placed in the Support Group due to these changes (with more 15 point descriptors in effect providing access to this group). We also expected this to lead to a fall in the WRAG due to the removal of some descriptors. It seems likely that the majority of those

people being placed in the Support Group would have previously been placed in the WRAG rather than declared Fit for Work (although the patterns in outcomes over time suggest that this may not always be the case).

The overall changes in outcomes may therefore be explainable as:

- Changes to the WCA process on the back of the first Independent Review (such as more independence for Decision Makers) lead to fewer people being declared Fit for Work and more people accessing the WRAG and the Support Group.
- The internal review changes mean that more people access the Support Group who would have previously been at the 'top end' of the WRAG, but more are declared Fit for Work who would have been at the 'lower end' of the WRAG.
- Overall, more people are allocated to the Support Group due to both the internal review changes and an improved WCA process following the Independent Review; allocations to the WRAG group grow due to the improved WCA process but decline substantially due to internal review changes; and allocations to the Fit for Work group fall substantially due to improvements in the WCA process but this decline is tempered by the allocation of some claimants who would have been placed in the WRAG before the internal review changes.

What we have set out above is a plausible interpretation of the available data. However, owing to the lack of available evidence, it is not possible to build a clearer picture of why these shifts have occurred. This again highlights the need for more detailed data and analysis.

Government data – appeals

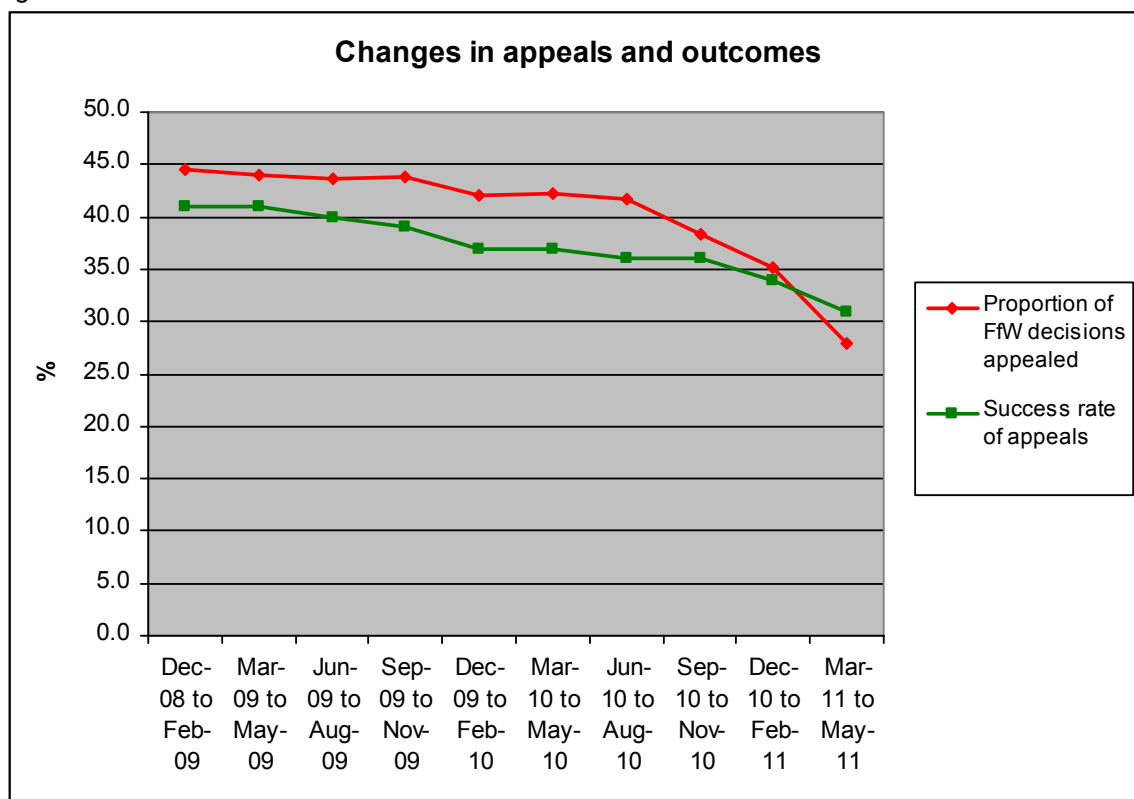
Some of the most commonly cited indicators of flaws in the WCA process are the rates of appeal and success rates for appeals for Fit for Work decisions. Both of these rates have stayed at around 40% in statistical releases from the DWP in the last couple of years. If the process improved and more people were satisfied with their outcome, then the rate of appeals should fall, and if the outcomes from the process were more fair and accurate then the success rate of appeals should also fall.

The difficulty with data on appeals is that, due to the long wait people face between appealing and having their case heard, figures are only available for up to claims that began in May 2011. Even for these figures, the picture is likely to be skewed as noted in previous DWP statistical releases:

“Due to the time it takes for appeals to be submitted to the Tribunals Service and heard, it is likely that there are more appeals that have not yet been heard, particularly for the most recent cohorts of ESA claims... Note also that the more recent cohort show a higher DWP Decision upheld rate. Data from previous quarters shows that the rate tends to be higher when a relatively low number of appeals have been heard and we expect the rate will fall as more appeals from the most recent cohorts are heard. These figures should continue to be treated as emerging findings and not final at this stage.”

However, even with this caveat, it seems from Fig. 4 that there has been a small fall in both the rate of appeal on Fit for Work decisions and the success rate of these appeals.

Fig. 4:



However, the difficulty is that it is not clear why this change has occurred and the data only take us up to the period when the first Independent Review recommendations had just been fully implemented (according to the DWP). The changes may be down to a better WCA process and fewer wrong decisions. However, since there is little detail available about why people appeal and why decisions are overturned or upheld, it is impossible to confirm this.

In addition, we know that a key factor for many people in getting a Fit for Work decision overturned is support from welfare rights advisers. The data below, obtained from the Tribunals Service under the Freedom of Information Act, shows how instrumental this support can be with 67% of those claimants who have representation at oral appeals having their decision overturned while those without this support only overturn 41% of decisions. However, only 21% of oral appeals have this sort of representation.

ESA Oral Appeal Hearings Apr-Oct 2011	Cleared	% of all Cases	Decision Upheld	Decision Upheld %	Decision in Favour	Decision in Favour %
All oral appeals	70,500	100%	37,100	53%	32,800	46%
Unrepresented	55,800	79%	32,500	58%	22,880	41%
Represented	14,700	21%	4,600	31%	9,920	67%

What this shows is that there is effectively a two-tier system of accessing support from ESA. If applicants are fortunate enough to access support from advice

services, or have sufficient ability and confidence to navigate the system effectively themselves, then they are much more likely to be able to access ESA. However, people with mental health problems are likely to be much more reliant on this sort of support due to difficulties they may have with self-reporting their condition and with navigating a system that is stressful and complicated.

The account below from a welfare rights adviser at a local Mind demonstrates why this support is so vital for people with mental health problems and also why they potentially less likely to access it unless prompted to do so:

I recently had an all-too-classic instance. The client, who plainly had a great deal of difficulty doing anything other than very routine domestic tasks, had scored no points on his WCA. We appealed and submitted a comprehensive document.

In the event, however, the client decided that he could not attend the hearing on his own and so opted for Tribunal hearing in absentia: he didn't tell me or his support workers that he'd done so. He lost the appeal. We were able to argue the Tribunal should have recognised that, as the appeal turned on his mental illness, the illness itself may have precluded his attendance and the ability to seek representation. The decision was set aside and a new hearing was arranged.

At the hearing itself he said that had I not been there he would have turned round and gone home. (This wasn't because of me but the need for support. He made all the arguments that won the appeal.)

What is so appalling is the catch-22: that he, like many, wasn't able to ask for assistance or make the case himself for his inability to work precisely because of his mental illness. It is compounded by the willingness of both the departmental and judicial bodies to grind out decisions which seem not to take the ability of the client to deal with these issues into account.

There is also a possibility that the apparent fall in appeal rates and appeal success rates is in part due to people increasingly struggling to access this sort of support, due to cuts in central and local government funding for advice services and overwhelming demand for these services in other areas, such as helping to complete ESA50 forms.

Finally, even if once the figures are complete they show that rates of appeal and success rates of appeal have dropped to about 35%, this is still unacceptably high and further reform is required to improve the system.

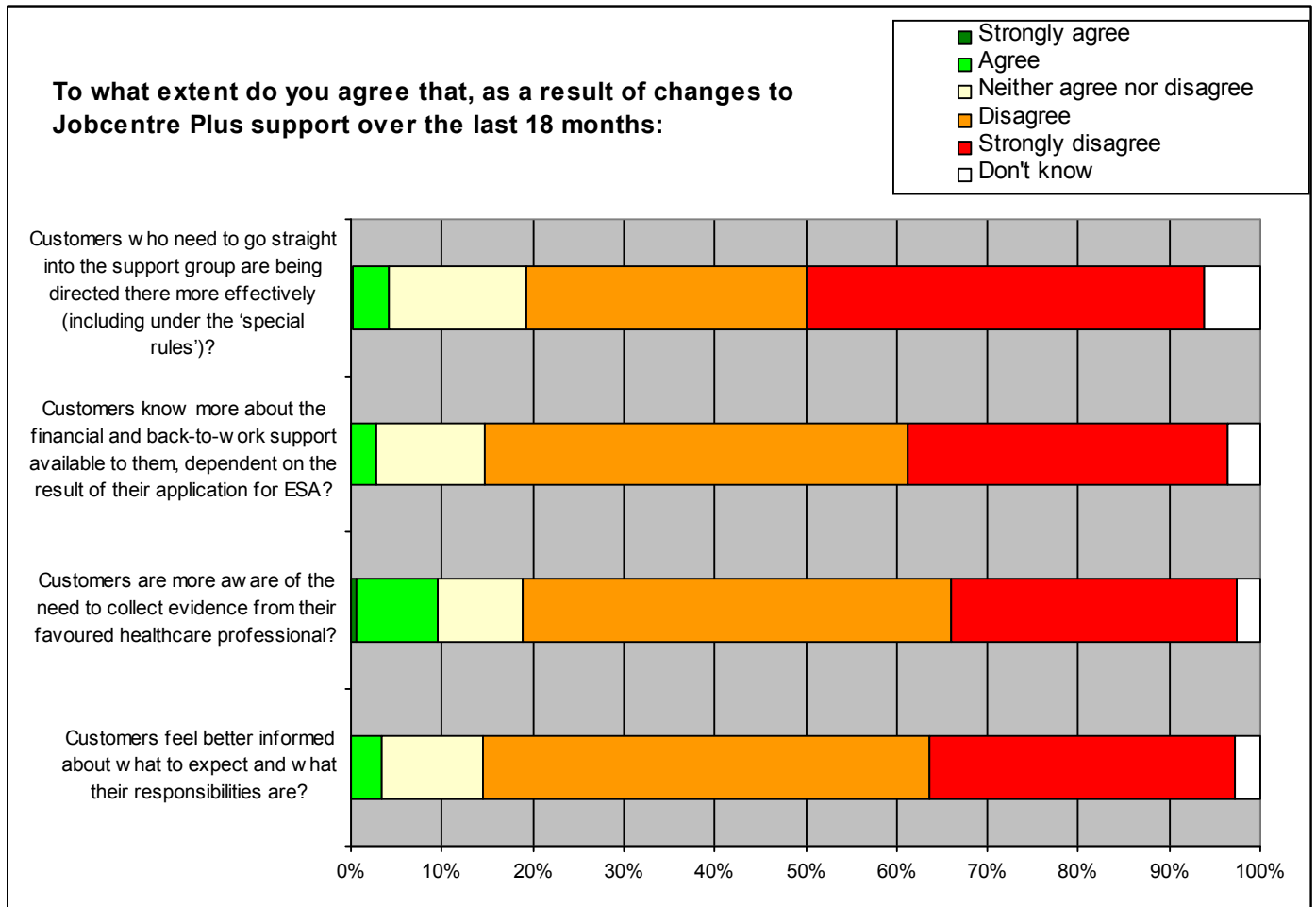
Welfare rights advisers

The Disability Benefits Consortium (DBC) has run a repeat of last year's survey of welfare rights advisers to help inform this year's Independent Review. The survey (running from July 4th to August 24th) received an even better response than last year with over 350 advisers responding to most of the questions. The survey asked advisers to consider any changes in the WCA they'd perceived over the last 18 months, covering the period since the first Independent Review's recommendations began to be implemented.

We believe that the views of welfare rights adviser are critical to understanding the problems with the WCA. Although advisers inevitably tend to see the cases where things have not gone well, many help people from the start of the process and so do have an overall perspective of how well the system is functioning. It is therefore disappointing that the majority of advisers who were polled have not seen a significant improvement in the WCA process.

The DBC will be sharing the full data from the survey with the Independent Review but we have summarised the results below:

Fig. 5:



There was a very strong consensus that the support from Jobcentre Plus throughout the WCA process had not improved significantly (see Fig. 5 above). Less than 5% of respondents agreed or strongly agreed with any of the statements below, except on customer awareness about the need to collect evidence, where almost 10% agreed:

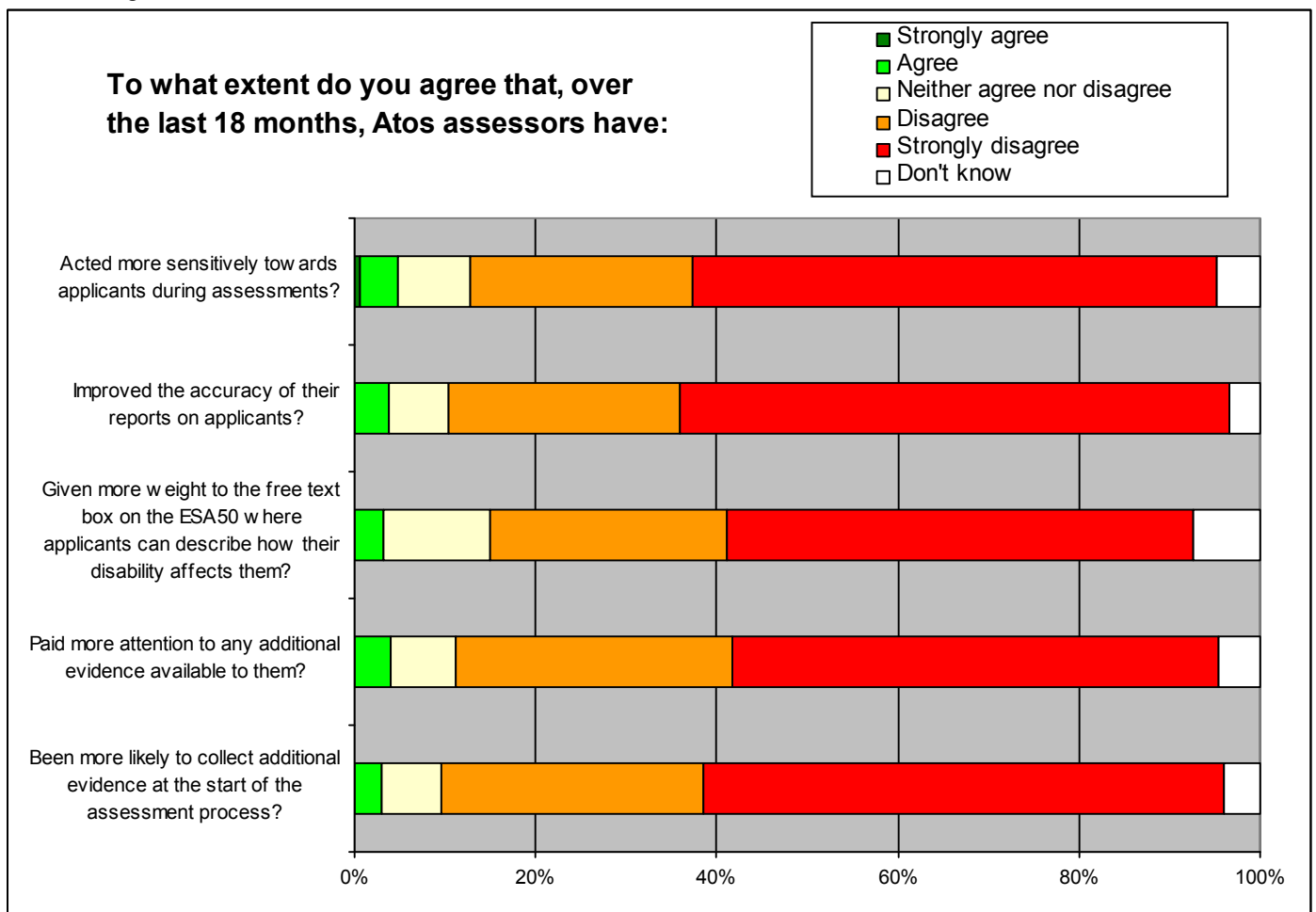
- Over 75% of respondents disagreed (or strongly disagreed) that support from Jobcentre Plus had improved over the last 18 months.
- Over 80% disagreed that “customers feel better informed about what to expect and what their responsibilities are”.
- Almost 80% disagreed that “customers are more aware of the need to collect evidence from their favoured healthcare professional”.

- Over 90% disagreed that “customers know more about the financial and back-to-work support available to them, dependent on the result of their application for ESA”.
- Almost 75% disagreed that “customers who need to go straight into the support group are being directed there more effectively”.

There was an even stronger consensus that the service provided by Atos had not improved, with less than 5% of respondents agreeing with any of the statements (see Fig. 6 below):

- Over 85% disagreed that assessors had “been more likely to collect additional evidence at the start of the assessment process”.
- Almost 85% disagreed that they had “paid more attention to any additional evidence available to them”.
- Almost 80% disagreed that assessors had “given more weight to the free text box on the ESA50 where applicants can describe how their disability affects them”.
- Over 85% disagreed that assessors had “improved the accuracy of their reports on applicants”.
- Over 80% disagreed that assessors had “acted more sensitively towards applicants during assessments”.

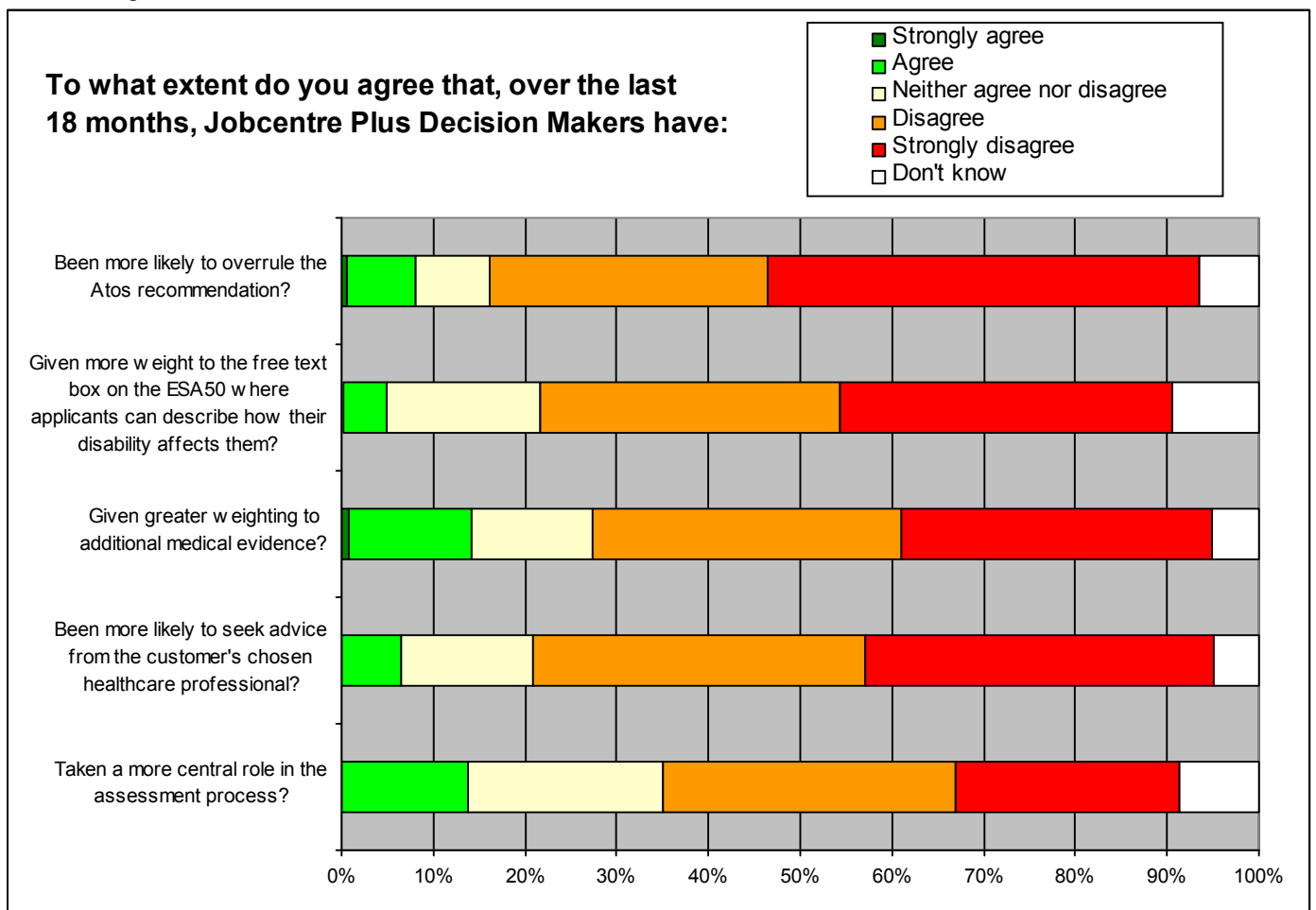
Fig. 6:



Over 70% of respondents were not aware of the Atos Mental Function Champions and those who were aware of them believed that they had had little or no impact on the quality of assessments for people with mental health problems, learning disabilities and autism. This reflects anecdotal evidence from local organisations that it has been difficult to make contact with the Mental Function Champions and that it has been far from obvious what role they are playing in improving the WCA. In terms of the role of the Jobcentre Plus Decision Maker, there was a slightly more positive response to a couple of questions, with around 14% of respondents agreeing that Decision Makers were taking a more central role in the process and giving greater weight to medical evidence. However, overall the response was largely negative (see Fig.7 below):

- Over 55% disagreed that Decision Makers had “taken a more central role in the assessment process”.
- Almost 75% disagreed that they had “been more likely to seek advice from the customer's chosen healthcare professional”.
- Over 65% disagreed that they had “given greater weighting to additional medical evidence”.
- Almost 70% disagreed that they had “given more weight to the free text box on the ESA50 where applicants can describe how their disability affects them”.
- Over 75% disagreed that they had “been more likely to overrule the Atos recommendation”

Fig. 7:



The most positive response in the survey was that 37% of respondents had noticed a greater use of the reconsideration process (although 57% had not) and 39% believed this had led to fairer outcomes (although 45% disagreed).

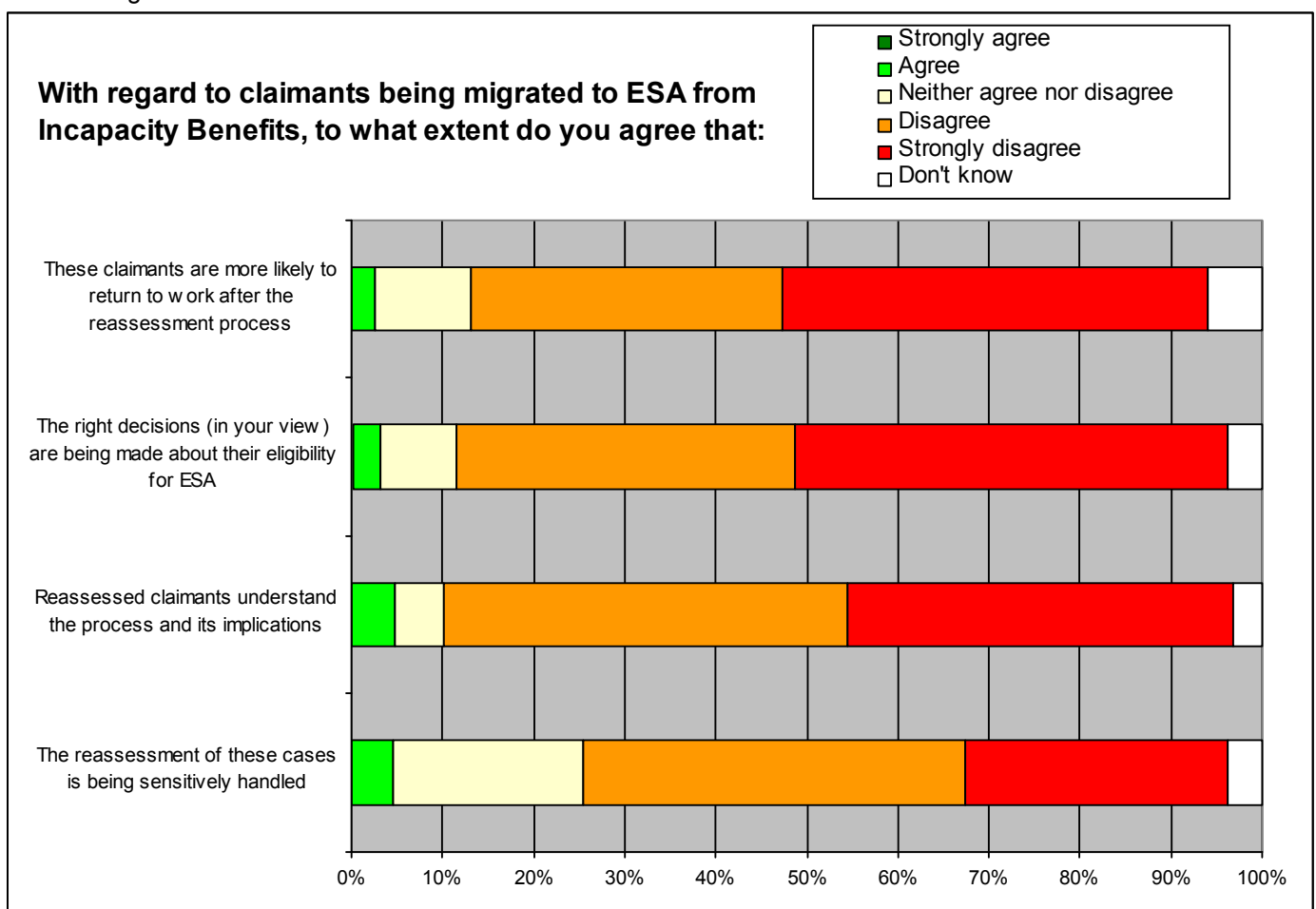
On the issue of the use of additional evidence in the WCA process, almost 80% of respondents disagreed with the Employment Minister's claim that "there is now virtually no new medical evidence coming forward at the appeals stage". 43% of respondents stated that additional evidence had been a key factor in over 75% of tribunals they had been involved in and another 32% stated that it had been a key factor in 50%-75% of tribunals.

58% of respondents were aware of the introduction of the changed descriptors in March 2011 following the Internal Review and over 75% of these advisers disagreed that it had led to a more fair and accurate assessment.

Following reports from claimants that they were being reassessed more frequently for ESA, we asked advisers about reassessments:

- Over 75% thought claimants were being reassessed more frequently.
- Over 80% thought claimants were being reassessed too frequently.
- Almost 90% believed the frequency of reassessment was having a negative impact on the health of claimants.

Fig. 8:



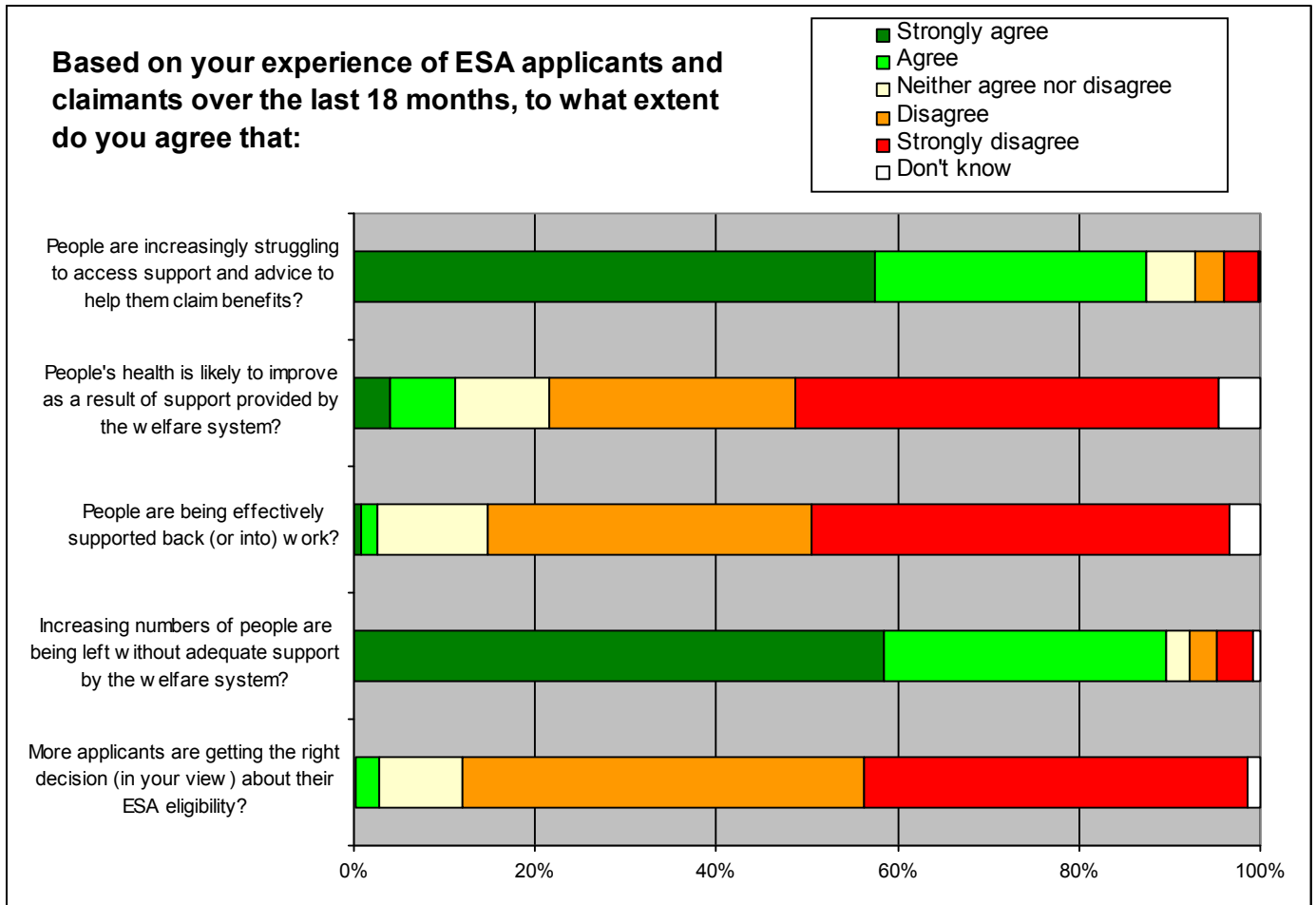
We also asked about the reassessment of Incapacity Benefit claimants (see Fig. 8 above):

- Over 70% disagreed that “the reassessment of these cases is being sensitively handled”.
- Over 85% disagreed that “reassessed claimants understand the process and its implications”.
- Almost 85% disagreed that “the right decisions (in your view) are being made about their eligibility for ESA”.
- Over 80% disagreed that “these claimants are more likely to return to work after the reassessment process”.

Finally, we asked about overall experience and outcomes of the WCA process over the last 18 months (see Fig. 9 below):

- Over 85% of respondents disagreed that “more applicants are getting the right decision (in your view) about their ESA eligibility”.
- Almost 90% agreed that “increasing numbers of people are being left without adequate support by the welfare system”.
- Over 80% disagreed that “people are being effectively supported back (or into) work”.
- Almost 75% disagreed that “people's health is likely to improve as a result of support provided by the welfare system”
- Over 85% agreed that “people are increasingly struggling to access support and advice to help them claim benefits”.

Fig. 9



The picture that emerges from the experience of welfare advisers over the last 18 months is that, in general, there has been little improvement in the WCA process or outcomes. It is particularly disappointing that the increased collection and use of additional evidence by both the Atos assessor and the Decision Maker that was called for by the first review appears to have not occurred. It also seems that some new elements in the process, such as the Mental Function Champions and the free text box on the ESA50 are apparently not having the desired effect. Overall, the assessment process still seems to be getting it wrong all too often and, particularly through increased frequency of reassessments, putting applicants and claimants through huge amounts of stress that results in them being further away from, rather than closer to, returning to work.

Claimants and applicants

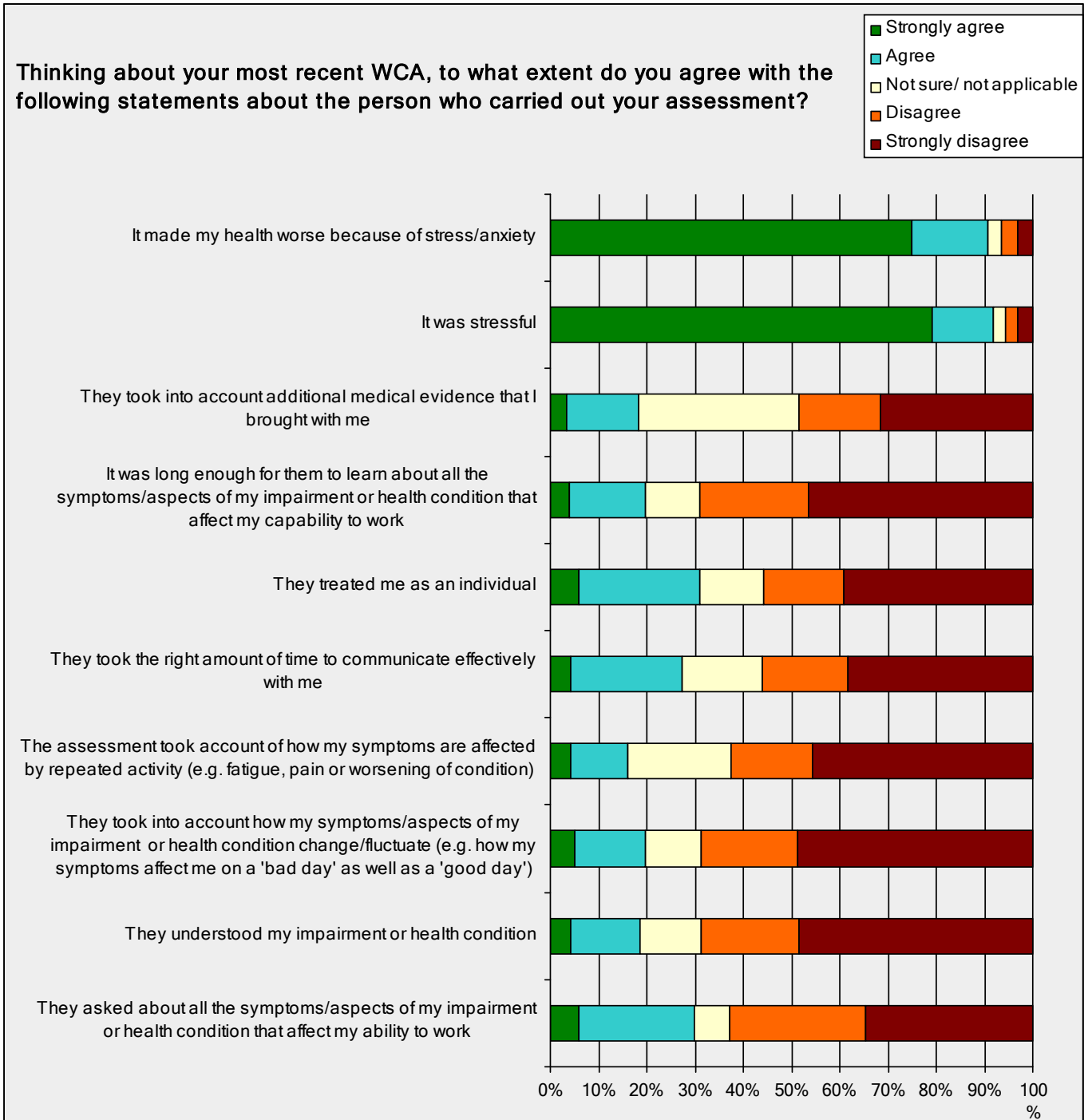
Another survey by the DBC focused on the experiences of people with disabilities and illnesses within different parts of the welfare system. As with the adviser survey, the DBC will share all relevant data with the Independent Review. The data discussed below represents provisional results as of August 21st (the survey started on July 11th) and focuses on the 796 responses from people with mental health problems.

The key results are (see Fig.10 below):

- 88% of almost 400 respondents who had been through the WCA in the last two years had found the application form difficult or very difficult to complete.
- The vast majority of almost 250 respondents felt that their assessment was poor and that it had been a difficult experience for them to go through:
- Almost 80% of over 300 respondents did not feel that the decision reached about their eligibility for ESA had been explained to them and almost 70% did not feel the meaning of the decision had been explained to them.
- Over 55% disagreed with the decision about their ESA eligibility.

As with the data from welfare advisers, the picture that emerges from the experiences of claimants and applicants is that there is still significant dissatisfaction with the WCA process. While it is unlikely that anyone is going to enjoy going through the WCA, there is a clear feeling that the system lacks 'procedural justice', i.e. that people disagree with the way in which the assessment has been carried out, as well as the outcome. This chimes with ongoing anecdotal evidence that all of our organisations continue to receive from individuals who have been through the WCA.

Fig. 10:



GP perspective

Rethink Mental Illness commissioned Vitaris Research Consultancy (part of the ICM Research Group) to poll over 1,000 GPs about their views on the WCA. The results of the polling were published on September 4th 2012.

It was clear from the results that GPs believe the experience of going through the WCA process is having a substantial negative impact on some of their patients with mental health problems:

- 84% of GPs say they have patients who have presented with mental health problems such as stress, anxiety or depression as a result of undergoing, or fear of undergoing, the Work Capability Assessment

- 21% of GPs say they have patients who have had suicidal thoughts as a result of undergoing, or fear of undergoing, the Work Capability Assessment
- 14% of GPs have patients who self-harmed as a result of undergoing, or fear of undergoing, the Work Capability Assessment
- 6% of GPs have patients who have attempted or committed suicide as a result of undergoing, or fear of undergoing, the Work Capability Assessment
- 75% of GPs said that patients who are negatively affected by undergoing, or fear of undergoing, the Work Capability Assessment for Employment and Support Allowance, need increased support from their GP

It was also clear that GPs do not believe enough is being done to ensure that their knowledge of their patients with mental health problems is being utilised to inform the WCA process:

- 61% of GPs say that Jobcentre Plus (via Atos Healthcare) does not make enough use of their knowledge of the mental health of your patients during the Work Capability Assessment process
- 67% of GPs think that the assessors should seek information from GPs directly for those patients with mental health problems who are too unwell or vulnerable to arrange this themselves

The high percentage of GPs who were both aware of the WCA and the impact it is having on their patients with mental health problems, and those who had strong views about the assessment, clearly demonstrates that the process is still not working fairly and effectively, that it is placing costs on other parts of the health and welfare system, and is in need of substantial further reform.

Conclusions

There are aspects of the WCA that we believe have improved, and we are pleased to see that fewer people are being declared Fit for Work (on the basis that we know that many people with significant barriers to working were previously falling into this category). However, the impression from the government data and views of advisers, claimants and GPs discussed above is that there has not been a significant improvement in the assessment process and that it is far from clear exactly what has changed and why.

Although we supported the previous recommendations that the Independent Review has made, we cannot see clear evidence that they have had the desired impact. We believe that part of the reason for this situation is that the recommendations were implemented around the same time as the internal review changes to the descriptors. This has made it difficult to isolate the impact of any one change. However, we also feel that there are further reforms that are needed to the WCA if the improvements envisaged by the first two Independent Reviews are to be achieved.

Recommendations

The evidence that we have accrued suggests that the WCA remains an ineffective process that operates neither fairly nor efficiently for people with mental health problems. We believe that significant further changes to the WCA are required in order for it to work fairly and effectively for people with mental health problems. We are fearful that recent shifts in the outcomes of WCAs and an apparent fall in the rates, and success rates, of appeals will be used to suggest that sufficient change has occurred and the system is now operating as it should be. We recognise that, as some improvements do occur, it becomes more difficult to gauge how much additional reform is needed. However, we believe that the evidence discussed above demonstrates that the WCA is still a long way from operating as it should do in an effective welfare state.

Our key recommendations for further improvement are:

- **More detailed monitoring of a number of aspects of the WCA as it changes over time**
- **Greater use of additional evidence from applicant's medical and support staff in the assessment process**
- **Assessors with specific expertise in mental health assigned to applicants with mental health problems**
- **A more considered approach to the rate of reassessment**
- **A detailed examination of the role of welfare advisers and the impact they have on claimants receiving a fair assessment**
- **A fundamental review of what is meant by 'work' and how the assessment gauges applicant's ability to work**

All of these suggestions, discussed in more detail below, are focused on:

- ensuring that the assessment is considering the right evidence
- that people are being thoroughly and accurately assessed
- that people are placed in the group that is most suitable for them in terms of their needs and barriers
- that the experience of going through the assessment process does not have a detrimental effect on people's health
- that, ultimately, that people who are able to are supported effectively to return to work while those who are not are ensured dignity and respect.

Any additional costs that these changes would lead to will be offset by the savings made in getting assessments right first time and creating a system that genuinely supports people back to work where appropriate.

Detailed monitoring

As discussed at length above, we think that there needs to be much more detailed monitoring of changes over time in the WCA process and analysis of why these changes are occurring. We would welcome an open discussion with the DWP about how this could be achieved but below we have suggested a number of specific additions to the quarterly statistics releases that are currently produced. Some of these indicators are already available through Parliamentary Questions or Freedom of Information requests but others would require new ways of monitoring the process.

- The number of reconsiderations each quarter and the outcome of these

- The number and proportion of Atos recommendations overturned by Decision Makers (and what group these applicants were placed in)
- The number and proportion of cases where additional evidence is actively collected by Atos or the DWP
- The number of points originally awarded to applicants who overturn decisions on appeal and the number of points awarded at Tribunal
- The reason why Tribunals have overturned DWP decisions (possibly from a checklist including factors such as new evidence being presented)
- The proportion of appellants who have representation at Tribunal
- The average frequency of reassessments

We also believe that a rigorous piece of analysis is required to explain the changing outcomes in WCAs over time and to establish what factors have led to these changes.

Only by undertaking as thorough monitoring and analysis as possible, and making all available data publicly available, can we reliably and constructively find the best way to improve the WCA and understand what impact past reforms have had and potential reforms could have.

Greater use of additional evidence

Our impression from the data above is that there is still an insufficient use of additional evidence from claimant's medical and other support staff. This view is clearly supported by both welfare rights advisers and GPs. We firmly believe that, for people with mental health problems (and people with learning disabilities and autism, for whom the issues discussed below often also apply), collection of additional evidence should be a standard part of the WCA process. The information that we have received from many Mental Health Professionals also confirms this.

People with mental health problems often have significant difficulties describing their conditions and the impact on their lives. This can be because of issues with confidence and social interaction; the complexity of their condition; or that they lack insight into the extent of their impairments. These factors can also lead to difficulties with collecting evidence independently or seeking support from advice services. In addition, we know that most Atos HCPs do not have a detailed understanding of mental health or sufficient experience of dealing with people with mental health problems.

As such, without collection of additional evidence for people with mental health problems we do not believe that Atos HCPs can make an informed and fair assessment of an applicant's fitness to work and the Decision Maker cannot consider if and why the HCP's recommendation differs from the medical advice that the applicant has received. This places people with mental health problems at a substantial disadvantage in the WCA process.

For many applicants, the flaws with the current process for people with mental health problems is demonstrated by successfully overturned appeals based on additional evidence. However, even more worrying are the many applicants who will not be able to face the stress of going through the appeals process and instead will be forced to accept an outcome which is incorrect due to insufficient

regard for evidence about their condition and the impact it has on their ability to work.

Expertise of assessors

We are convinced that the use of assessors with specific expertise in mental health would substantially improve the quality of assessments and accuracy of outcomes for applicants with mental health problems. The DWP has always insisted that, since the assessment is about functionality rather than conditions, this type of expertise is not required. However, the DWP clearly believes that some level of medical expertise is required in order to carry out the assessments in that Atos is required to only recruit assessors who meet a certain threshold. The argument that the current level of mental health training currently required is optimal is simply untenable without proper testing of what impact greater mental health expertise would have for applicants with these conditions.

The DWP rejection of this suggestion also represents a fundamental misunderstanding of why greater expertise may be required. Their argument is that the actual conditions and symptoms of applicants is of secondary importance to 'function' and that their HCPs can examine this accurately regardless of expertise in the condition that causes impaired function. We believe that, without expertise in the causal conditions, HCPs are not sufficiently equipped to understand why and how function may be impaired or to elicit the relevant information from an applicant who may have the difficulties in reporting their condition as described above.

This disagreement could be easily resolved if the DWP was willing to simply test whether the use of assessors with mental health expertise has an impact on the outcomes of assessments for applicants with mental health problems. There are likely to already be a number of assessors within the Atos HCP workforce who have a background in mental health. A suitable threshold for such expertise could be agreed (as, presumably, it was for those assessors selected to be Mental Function Champions) and a number of assessors identified. An equal sized control group of non-expert assessors could also be selected. It could then be examined whether there is a statistically significant variance in the outcomes of assessments between the two groups of assessors for applicants with and without mental health problems.

We hope that the Independent Review will see fit to recommend such testing. We recognise that there is a concern about the possibility of many other condition groups requesting expert assessors. However, applicants with mental health problems make up the largest single group, and are potentially among the most vulnerable claimants, and so it is fundamental to the fair operation of the system for the needs of this group to be recognised and responded to.

Frequency of reassessment

Our impression from advisers and claimants is that reassessment has become more frequent in recent months. Even if this is not the case, we know that many people are being reassessed after only six months. We disagree with both the means by which the reassessment date is decided and the focus on frequent reassessment.

As with other parts of the WCA system, there is far too little consideration when it comes to reassessment of the impact that going through the process has on individuals and the knock-on effect this has on their likelihood of returning to (or starting) work. Going through a WCA tends to be an extremely stressful period for people with mental health problems. Over 90% of people in the claimant survey discussed above felt the process had made their health worse. It is clear from the GP polling by Rethink Mental Illness that the process is having a significant impact on patient's health. For those who have to appeal a decision, the experience is even more detrimental. If the DWP is focused on supporting people back to work, they need to pay close attention to this impact.

For claimants placed in the WRAG, it may take them some time to overcome their WCA experience and get used to the expectations the group places on them. We believe that the focus on conditionality and sanctions in this group is misguided and counter-productive, but if people are to engage with the process then it will take time for them to build up their confidence and relationships. If they are reassessed six months later, progress in these regards could be jeopardised. We have heard from Work Programme providers that they often have to spend the first period of time with a claimant rebuilding their confidence and reengaging them with the welfare system following a bad experience of the WCA.

For applicants who have appealed, they may face up to a year's wait for their tribunal. However, even if they overturn a Fit for Work decision, they are likely to be reassessed within months if not weeks (as the Tribunal only relates to the original decision). We know of many claimants who have been through the process of being assessed, appealing, winning their appeal, being reassessed, appealing again and winning again two or even three times. These people experience years of uncertainty, anxiety and stress which can have a devastating impact on their health. This is no way to help people return to work.

Others may simply drop out of the system because they cannot face going through the assessment or appeals process again, even if they need support from ESA.

We want there to be an open and frank discussion between the DWP, the Independent Review and the disability sector about reassessment for ESA claimants, taking into account the following points and suggestions:

- There is very little evidence available about the reliability of the 'functional prognosis' set by the Atos HCP which seems to dictate both likely timescale for reassessment and, for those in the WRAG, expected timescale for engaging with the Work Programme.
- The rate of reassessment needs to be a practical decision considering what impact the assessment process might have on an claimant's health and their progress in becoming 'work ready' rather than simply an assessment of when their condition may have changed.
- There needs to be a mechanism for deciding a reassessment date for people who have had a Fit for Work decision overturned at Tribunal which actually takes account of the situation the claimant finds themselves in and allows them to engage with the support provided by ESA before going through the WCA again.

Role of advisers

We believe that, for many people with mental health problems, access to proper advice and support during the WCA process is vital in order for them to receive a fair outcome. It is not acceptable to simply view advice services as a separate entity to the assessment process – there needs to be a thorough examination of the role advisers play (from our perspective, particularly for people with mental health problems) and how current access to these services is affecting the chances of different applicants experiencing a fair assessment and receiving an appropriate decision.

We are seriously concerned about the potential impact of ongoing cuts to welfare advice services, particularly in the context of legal aid changes and stretched local authority budgets. Not only do we believe that the impact of these cuts on individuals has been underestimated but also that the savings good advice services lead to (through more correct decisions first time round and a filtering of applicants towards appropriate benefits and courses of action) has not been accounted for.

We hope that the Independent Review will recommend that DWP considers how it can ensure that anyone who needs it can access advice and support to navigate the WCA process (and other parts of the benefits system).

Descriptors and the 'real world' of work

We are pleased that the 'evidence based review' currently being undertaken by the DWP with the involvement of a number of charities, including Mind, will examine how the current outcomes of the WCA compare with the views of an expert panel and whether proposals for changes to descriptors from the charities would improve the accuracy of the assessment. We hope that this project leads to some positive and constructive reforms.

However, the proposals made by the charities involved were for improvements to the current structure rather than the model for an ideal assessment. We believe that there are fundamental elements of the WCA process that are not supported by sufficient evidence and have not been examined by the Independent Review.

An assessment of fitness to work for people with disabilities and illnesses needs to be built around a detailed understanding of a number of factors: what constitutes 'work'; what it requires of people; what (internal and external) factors might limit someone's ability to get and retain a job; and what support people might need to overcome these barriers. We believe that the current assessment process is deficient in all of these areas.

If the assessment is based on a detailed understanding of work and what it requires of people, then there should be a range of suitable potential jobs that those applicants who fall just short of the threshold for receiving the benefit could perform in their current condition. We do not believe that there is evidence to show this to be the case or that sufficient effort has been made to try to assess this.

The current system appears to be built around the premise that the principle limitation on someone's ability to work is their functional capability. This fundamentally contradicts the social model of disability that the DWP claims to

subscribe to, which would see the barriers that society puts in the way of disabled people from working as the key limitation. We believe that an assessment that took full account of this social model perspective would look very different.

There is very little focus in the assessment process on what specific barriers an individual applicant is facing in returning to or starting work, and what support might help to overcome these. As such there is virtually no continuity from the WCA into the back-to-work support that an individual receives. We have heard from Work Programme providers that this means that they have to make a whole new assessment of what support a claimant might need, because the WCA is of so little use in informing this decision.

We are not suggesting that these are easy things to account for and build into an assessment system. However, it is clear to us both that the current assessment system does not meet these requirements and that without doing so it cannot fairly and effectively assess and support people with disabilities and illnesses. As such, there needs to be greater recognition of the key role that the WCA plays in the wider benefits and welfare system and greater consideration of how it could be improved to better serve this function.

The second key issue is that, in effect, what the WCA is actually doing is deciding which group (Support Group, WRAG or Fit for Work) is most suitable for applicants. In order to make this decision fairly and accurately, we believe that the assessment should be able to discern whether an applicant could cope with the level of conditionality and sanctions attached to each group, and whether the support that will be provided will be suitable and helpful to them.

However, it is clear that this is not the case. Last year, the requirements on claimants in the WRAG shifted so that, whereas before they could only be mandated to attend Work Focused Interviews, they could now be required to undertake any 'work related activity' under the threat of sanctions. There does not appear to have been any consideration of whether the current assessment was only placing people in the WRAG who would be able to cope with these requirements. We have heard that Jobcentre Plus advisers are now often holding back from referring WRAG claimants onto the Work Programme because they do not think that they are ready to cope with the demands of the scheme.

We recognise that this raises issues wider than simply the functioning of the WCA process itself, but we believe that it is impossible to understand the extent of reform needed to the assessment process without placing it in the wider context of how the whole welfare system supports people with disabilities and illnesses to find and retain work, where appropriate.

Our organisations

Centre for Mental Health

Centre for Mental Health is an independent, national charity that aims to help to create a society in which people with mental health problems enjoy equal chances in life to those without. We aim to find practical and effective ways of overcoming barriers to a fulfilling life so that people with mental health problems can make their own lives better with good quality support from the services they need to achieve their aspirations. Through focused research, development and analysis, we identify the barriers to equality for people with mental health problems, we explore ways to overcome those and we advocate for change across the UK.

Hafal

Hafal is run by its 1,000 members - people with a serious mental illness and their families and carers. Every day our 160 staff and 150 volunteers provide help to over 1,000 people affected by serious mental illness across all the 22 counties of Wales. The charity is founded on the belief that people who have direct experience of mental illness know best how services can be delivered. In practice this means that at every project our clients meet to make decisions about how the service will move forward and the charity itself is led by a board of elected Trustees, most of whom either have serious mental illness themselves or are carers of a person with a mental illness. 'Hafal' means equal. Our mission is to empower people with serious mental illness and their families to enjoy equal access to health and social care, housing, income, education, and employment, and to achieve a better quality of life, fulfil their ambitions for recovery, and fight discrimination.

Mental Health Foundation

The Mental Health Foundation is the UK's leading mental health research, policy and service improvement charity. We are committed to reducing the suffering caused by mental ill health and to help us all lead mentally healthier lives. We help people to survive, recover from and prevent mental health problems. We do this by carrying out research, developing practical solutions for better mental health services, campaigning to reduce stigma and discrimination and promoting better mental health for us all.

Mind

Mind is the leading mental health charity in England and Wales. We work to create a better life for everyone with experience of mental distress by:

- Campaigning for people's rights
- Challenging poor practice in mental health
- Informing and supporting thousands of people on a daily basis

A fundamental part of Mind's work is provided through our network of over 180 local Mind associations who last year worked with over 220,000 people running around 1,600 services locally. Services on offer include supported housing, crisis help lines, drop-in centres, counselling, befriending, advocacy, and employment and training schemes. Over 30,000 people are supported by our national telephone help lines. Welfare reform is a key issue for many of the people Mind has contact with.

Rethink Mental Illness

Rethink Mental Illness, the leading national mental health membership charity, works to help everyone affected by severe mental illness recover a better quality of life. We help over 52,000 people each year through our services and support groups and by providing information on mental health problems. Our website receives over 600,000 visitors every year. Rethink's Advice and Information Service helps almost 8,000 people each year and advises people daily with benefit claims.

Royal College of Psychiatrists

The Royal College of Psychiatrists is the leading medical authority on mental health in the United Kingdom and is the professional and educational organisation for doctors specialising in psychiatry.

The Scottish Association for Mental Health

SAMH is a Scottish mental health charity which provides an independent voice on all matters of relevance to people with mental health and related problems and delivers direct support to around 3000 people through over 80 services across Scotland. SAMH provides direct line-management to *respectme* (Scotland's anti-bullying service) and 'see me' (Scotland's anti-stigma campaign).