

## **Employment and Support Allowance: capability, personalization and disabled people in the UK**

Chris Grover\* and Linda Piggott

*Centre for Disability Research, Lancaster University, Lancaster, UK*

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In 2008 the Employment and Support Allowance was introduced in the UK as the income replacement benefit for disabled people. In this paper we focus upon the reasons for its introduction, the notions of disability and the two main ideas – capability and personalization – that provide the framework for its operation. The paper engages with the arguments put forward by the UK’s government that the Employment and Support Allowance will enable disabled people to access paid work in greater numbers. The paper argues that Employment and Support Allowance will become part of a disabling employment architecture because it does little to improve the human capital of disabled people and is concerned with getting them into entry-level employment that is part of the ‘low pay, no pay’ cycle.

**Keywords:** capability; Employment and Support Allowance; paid work; personalization

### **Introduction**

Governments around the world have in recent years been concerned with the numbers of disabled people receiving out-of-work benefits and the length of time that they receive them for. In many senses, the response of governments has been similar. To varying degrees these have involved a combination of tightening the eligibility criteria for the receipt of out-of-work benefits and the development of policies that are supposed to help ‘support’ disabled people in securing paid employment (see Dingeldey 2007; OECD 2010). However, that various governments are taking similar approaches to financially supporting disabled people should not detract from the fact that to understand such developments, it is necessary to focus upon the changes in particular countries.

It would be wrong to assume that explanations of change and the operation of out-of-work benefits for disabled people are similar across countries. So, for instance, in Nordic Countries active labour market policies depend on encompassing social security largely paid for through voluntary (for example, Denmark, Finland, Iceland, Sweden) or compulsory (for instance, Norway) unemployment insurance, together with activation measures that are designed to upgrade employment specific skills in a social investment strategy. Low rates of long term unemployment and intensive investments in lifelong learning schemes are the cornerstones, alongside equality of income (Jochem 2011). In contrast, in the UK policies related to worklessness are

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\*Corresponding author. Email: [c.grover@lancaster.ac.uk](mailto:c.grover@lancaster.ac.uk)

based on the stigmatization of certain groups as being economically burdensome; 'welfare-to-work' policies as opposed to investment in increasing human capital, and low value, and increasingly means-tested, out-of-work benefits, access to which is governed by toughening qualifying criteria (for example, see Garthwaite 2011; Houston and Lindsay 2010; Patrick 2011a, 2011b; Piggott and Grover 2009; Spicker 2011).

In this paper we examine the reasons why in the UK the existing Incapacity Benefit (IB) was replaced by the Employment and Support Allowance (ESA) in 2008 and how the latter operates. We then explore the conceptual basis – capability and personalization – of the ESA to critically examine the model of disability that underpins it, and the contractual basis of its work focus. The paper concludes with discussion of whether the ESA might be interpreted as being enabling or disabling.

### **The antecedents of ESA**

The ESA was introduced during an economic crisis the likes of which had not been witnessed in the UK since at least the 1930s (Jones et al. 2011). For the then Labour government the fact that the country was facing an economic crisis was a good reason for going ahead with the introduction of the ESA:

[prose quotation, indent left and right] Some people say we should slow down welfare reform because we are entering a recession. The Government believes that we should do the opposite – we should increase the pace, because that means offering more support to people and matching it with the expectation that they should not fall out of touch with the world of work (Department for Work and Pensions [DWP] 2008a, 7).

What the then government meant by this was that welfare reform was important in the longer term because, in its interpretation, it would prevent workless people from becoming detached from labour markets during the economic crisis. This longer term need to ensure that disabled people did not become detached from labour markets was reflected in the reasons why Labour governments argued that there was need for fundamental change to income replacement benefits for such people in the UK. Economic and social imperatives meant that disabled people should be in paid work, rather than being supported in a situation of worklessness through out-of-work benefits (DWP 2006, 2007, 2008a, 2008b). Some reasons were related to macro-economic concerns with the need for the UK's enterprises to be able to take advantage of the skills that workless disabled people potentially had to offer them. The then government, for example, noted in the paper that first introduced the ESA to the public: 'In a modern dynamic economy, we cannot afford to be denied the skills and contributions of those who have the potential to work' (DWP 2006, 3). It went on to note: 'We compete in an increasingly global economy, and therefore we must make the best use of our most valuable asset – the talents of individuals. We cannot afford to lose the contribution of those who in the past were dependent on long-term benefits' (ibid., 19). In the knowledge-based economy, disabled people were held to be part of a group of people who, if not already, were in danger of becoming excluded from labour markets. However, given the opportunity, they had a great deal to offer UK enterprises (Grover and Piggott 2007).

It was also argued by the government that Britain needed to increase the proportion of its population that was in paid work to 80 per cent if it was to be able to address poverty, particularly among older people and children:

It is an achievement that people today are living longer and healthier lives, but two years from now the number of people over State Pension age will overtake the number of children for the first time. If we are to support such a future, ensure continuing growth and prosperity for all, reduce pensioner poverty and meet our goal of eradicating child poverty we must increase the number of people who are in work, able to support their children and able to save for their retirement (DWP 2006, 19).

The commitment to eradicating poverty among the UK's youngest and oldest people meant all those people of working age – including disabled people – would have to work if they possibly could. The argument seemed to be that in order to meet the costs of addressing child and pensioner poverty, some groups, including working age disabled people (see Bambra and Smith 2010), were going to have to face policies that, in the longer-term, would impoverish them by reducing the amount of benefit that they could claim when not in work.

In Labour thought these arguments dovetailed neatly with a set of ideological issues related to the responsibilities that benefit claimants, including disabled claimants, were held to have if they were in receipt of state-sponsored financial support (c.f. Callincos 2001). For the 1997–2010 Labour governments, the acceptance and, if necessary, the enforcement of responsibilities, was crucial for social order in its broadest sense. Extending and strengthening the contractual basis of benefit receipt was a reflection of this and people receiving disability benefits were not to be excluded from such trends. Hence, the argument that if disabled people wanted to enjoy rights (out-of-work benefits and the development of 'support' services to 'help' them into work) they would have to accept increased responsibilities, most notably mandated preparation for (re)entering paid employment (DWP 2008a).

The problem for disabled people and for the UK's economy was that the existing income replacement benefits for disabled people (IB) was held to be trapping too many people in a state of worklessness. Despite the fact the number of people receiving it was falling following several decades of increases (DWP 2006), IB was argued to be a benefit that was too easy to claim (the 'on-flow problem') and it was held to do too little to get people to leave it (the 'out-flow problem'). IB was argued to trap too many people for too long periods of time in a state of worklessness. The structure of IB, therefore, was held to have led to an increased proportion of the working age population being in receipt of out-of-work incapacity benefits; from 3 per cent in the 1960s to 7 per cent in the first decade of the 21st century (Grover and Piggott 2007). If such people were to be released to labour for their own and society's good, then the on-flow and out-flow 'problems' that were argued to exist with IB would have to be tackled. Income replacement benefits for disabled people would have to be made more difficult to claim and they would have to do more to get people to leave them as quickly as possible.

### **Employment and Support Allowance**

Given the two main problems held to exist with IB – the in-flow and out-flow problems – these were the focus of its replacement (the ESA). The 'in-flow problem'

was to be dealt with by changes, compared to the previous IB, to the 'gateway' on to ESA. The medical assessment – already acknowledged under IB to be one of the toughest in the world (DWP 2006) – was to be toughened further and an 'independent' medical assessment was to be brought forward so that it took place closer to the start of claims. The 'out-flow problem' was to be dealt with by changing the way in which increases in the amount of ESA paid to claimants were structured compared to IB and by demanding more of ESA claimants in terms of mandatory preparation for (re)entering paid work.

### ***Financial incentives to take paid work***

One of the problems that was held to exist with IB was that it encouraged people to receive benefits in the long term because of the way it was structured. 'There are', it was noted in *A New Deal for Welfare* (DWP 2006, 26) 'perverse benefits incentives [in IB] – paying more the longer people claim'. What was being referred to here was the fact that under IB the amount of money disabled people received increased over time. This was held by the then government to be an incentive for disabled people to remain on IB for long periods of time and, most importantly, beyond the time that they were well and/or capable enough to engage in paid work (ibid.). In addition, it was believed that the situation was made worse by the fact that the long-term rate payable after the first year was augmented by additions related to the age at which the claimant was disabled.

In order to encourage (or at least not to discourage) people from engaging in paid work over the longer term when the ESA was introduced it had a very different structure to that of IB. First, the two increases in IB at weeks 29 and 53 were abolished and replaced by a single increase in ESA after a three month 'assessment phase' (a period in which the claimant's entitlement to ESA is being established through its Work Capability Assessment (WCA)). Second, age additions were abolished, as were additions that had been available in IB for the spouses of disabled people<sup>1</sup>. What these facts mean is that in typical cases many people who receive ESA are worse off than they would have been had IB still been in payment. This is particularly so in the case of longer-term ESA claimants, younger ones and those with a partner or spouse (Grover and Piggott 2010). So, for example, at 2008/09 benefit rates a single person who was aged 30 when disabled would have been entitled to £102.85 per week in IB had they been receiving it for over a year. However, a person in a similar situation would only be entitled to ESA of £84.50 per week at 2008/09 rates.

The financial incentive to return to work has been further reinforced through austerity measures announced by the UK's current Conservative/Liberal Democrat coalition government. Most notably, in a move that it estimates will save £2 billion per annum by 2013/14, those people in the Work Related Activity Group (discussed below) of the ESA will only be able to claim the contributory version of ESA for one year. After that time they will have to claim the means-tested version of ESA which will be payable if ESA 'applicants [only] have modest amounts of savings, modest or no income and if their partner, if they have one, works a modest number of hours per week' (Grover 2011, 243; see also Spicker 2010).

***Assessing capability to work***

With regard to the ‘on-flow’ problem held to exist with IB, the government was concerned that: ‘The gateway to benefits is poorly managed – with claimants receiving incapacity benefits before satisfying the main medical test’ (DWP 2006, 4). What the government was referring to was the fact that the Personal Capability Assessment (PCA) of IB did not occur until after a disabled person had received it for at least six months. It was not, however, the case that for the initial period of IB receipt that claimants did not have to satisfy any test of their (in)capability to work. In contrast, they had to satisfy an Own Occupation Test (OOT) for the first 28 weeks of their claim.

What was problematic for the government was that the OOT was satisfied by the production of a medical certificate completed by the claimant’s General Practitioner (GP). In contrast, the PCA was carried out by a doctor employed by a private sector enterprise contracted by the DWP (see NACAB 2006). The latter was held to be more ‘objective’ because it was carried out by a doctor divorced from the claimant-GP relationship. This addressed the concern that GPs in issuing medical certificates to satisfy the OOT were doing so, not on the basis of functional (in)capability, but on the basis of wider economic factors (for example, the employment opportunities in a particular area) and social reasons (for instance, to preserve the doctor/patient relationships) (Grover and Piggott 2010). Under ESA the medical assessment is done by health professionals contracted to a private enterprise (ATOS Healthcare) to avoid this perceived problem.

Not only did the introduction of ESA mean medical tests were made sooner in the claiming process, they were also to be tougher compared to IB. This was done by ‘combining some activities, deleting the lower scoring descriptions altogether and allocating fewer points to many of the measures of disability’ (Messere and Stenger 2007, 330). Prior to the introduction of the new WCA it was estimated that a half of all applicants who underwent it would fail it (Henderson 2007). This represented an increase of a third over the previous PCA (Grover and Piggott 2010). However, since its introduction the WCA has been even more successful in declaring people capable of working. Two thirds (66 per cent) of applicants to the ESA have, after taking the WCA, been declared fit for work (DWP 2010a).

The then Labour government acknowledged that this was higher than anticipated, but suggested that ‘it may still be in keeping with changed attitudes towards health, disability, and capability for work; focusing on what people can do, rather than what they cannot’ (DWP 2010b, para. 8). It also argued (DWP 2009a, 16) through an internal review of the WCA that it is ‘performing according to design. The descriptors used in the WCA were indeed reliably identifying individuals according to capacity’. In other words, the WCA was doing what it was designed to do – to address the ‘on-flow problem’ of IB by making it tougher to claim. However, for organizations representing the interests of disabled people and social security recipients the concern is that the WCA is failing to take into account the full condition of applicants to the ESA (for example, Macmillan 2010; MIND 2010). The National Association of Citizens Advice Bureaux (NACAB), for example, highlighted ‘reports of rushed assessments, assumptions being made without exploration, inaccurate recording and poor recognition of mental health problems’ (NACAB 2010, 3). Such concerns have more recently been acknowledged by the UK parliament’s Work and Pensions Committee (2011).

The WCA does not just sort those people deemed capable of working from those deemed incapable of working. It also sorts those who are deemed to be so disabled that they cannot work into two groups; a Support Group (SG) and a Work Related Activity group (WRAG). The members of the SG are not expected to engage with mandated activities to prepare them for (re)entry into paid employment because they 'have a severe limitation which creates a significant disability in relation to the labour market, regardless of any adaptation they may make or support with which they may be provided' (DWP 2009a, 8). In contrast, those placed in the WRAG through the WCA are deemed capable of engaging with activities that it is believed will help them (re)enter paid work as quickly as possible.

People in the WRAG receive less weekly benefit than those in the SG and, on the threat of benefit reductions, they have to engage with various work-related activities. Initially, this involved five Work Focused Interviews and the agreement with their personal adviser of an Action Plan aimed at 'helping' them to find work. However, following the Welfare Reform Act 2009 ESA claimants can be mandated to do activities that 'might include... work tasters, improving employability, job search assistance, and stabilising life and in some circumstances, managing health in work' (DWP 2009b, para. 290). A majority of claimants (71 per cent of those successfully making a claim for ESA<sup>2</sup>) are placed in the WRAG. A minority (29 per cent of those people successfully making a claim for WCA<sup>3</sup>) are placed in the support group (DWP 2010a).

### **Capability, personalization and ESA**

Given the name of the assessment – the Work *Capability* Assessment – that controls access to ESA it should not be surprising that the adjudged capability of individuals is central to understanding the operation of the ESA. More specifically, the main concern is the relationship between paid work and the capability of the individual to do it. The WCA's assessment of whether applicants to the ESA have a limited capability for work or a limited capability for work related activity is highly medicalised (see Figures 1 and 2). For the Limited Capability for Work Assessment (LCWA) – that allows access to the ESA – the applicant has to reach 15 points from across ten activities which relate to physical capability and seven related to mental, cognitive and intellectual capability. Figure 1 reproduces the activities, descriptors and point allocation related to one of the ten physical capability activities ('standing and sitting') and one of the mental, cognitive and intellectual capability activities ('coping with change').

Health care professionals (HCPs) who conduct the WCA are informed that the 'standing and sitting' activity is concerned with 'lower limb and back function' (DWP 2011a, 68) and that the 'coping with change' activity is concerned with 'the flexibility needed to cope with changes in normal routine' (DWP 2011a, 106). It is 'intended to include difficulties that may be encountered by people with moderate/severe learning disability, autistic spectrum disorder, brain injury, OCD, severe anxiety or psychotic illness' (DWP 2011a).

The points that the HCP allocates to the activity is premised upon their judgement about the functional capability of the individual in relation to the activity descriptors. This is done through consideration of medical evidence provided for the HCPs, an interview with, and medical assessment of, the applicant and the HCP's knowledge of the 'likely effects of the condition' (DWP 2011a, 57). If applicants to

<b>Activity: Standing and sitting</b>	
<b>Descriptor</b>	<b>Points</b>
(a) Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.	<b>15</b>
(b) Cannot, for the majority of the time, remain at a work station, either: (i) standing unassisted by another person (even if free to move around); or (ii) sitting (even in an adjustable chair) for more than 30 minutes, before needing to move away in order to avoid significant discomfort or exhaustion.	<b>9</b>
(c) Cannot, for the majority of the time, remain at a work station, either: (i) standing unassisted by another person (even if free to move around); or (ii) sitting (even in an adjustable chair) for more than an hour before needing to move away in order to avoid significant discomfort or exhaustion.	<b>6</b>
(d) None of the above apply	<b>0</b>
<b>Activity: Coping with change</b>	
<b>Descriptor</b>	<b>Points</b>
(a) Cannot cope with any change to the extent that day to day life cannot be managed.	<b>15</b>
(b) Cannot cope with minor planned change (such as a pre-arranged change to the routine time scheduled for a lunch break), to the extent that overall day to day life is made significantly more difficult.	<b>9</b>
(c) Cannot cope with minor unplanned change (such as the timing of an appointment on the day it is due to occur), to the extent that overall, day to day life is made significantly more difficult.	<b>6</b>
(d) None of the above apply.	<b>0</b>

Figure 1. Examples of the limited capability for work assessment's activities, descriptors and point allocation.

Source: DWP (2011b, 18 and 22).

the ESA are found to have a limited capability for work by securing 15 points from the range of physical, and mental, cognitive and intellectual activities they then face being sorted into the SG or WRAG through the Limited Capability for Work Related Activity Assessment (LCWRAA). Which group they are placed in depends upon if they are deemed capable or not of doing *one* of a range of activities. Figure 2 reproduces four examples (two physical capability and two mental, cognitive and intellectual capability activities), although there are a total of 16. Essentially these activities that govern the sorting of ESA claimants into the SG and the WRAG are those that attract 15 points in the LCWA assessment.

It would appear from Figures 1 and 2 that the WCA is wholly medicalised, that disability is the consequence of having an impairment that affects functional capability. However, it is clear from guidance for HCPs doing the WCA that rather than just being in the medicalised tradition that the functional capability assessments for ESA are informed by a biopsychosocial paradigm that attempts to 'integrate a biomedical approach with a social understanding of illness' (Krohne and Bruge 2008, 850). This

<p>Cannot either:</p> <ul style="list-style-type: none"><li>(a) mobilise more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion; or</li><li>(b) repeatedly mobilise 50 metres within a reasonable timescale because of significant discomfort or exhaustion.</li></ul> <p>Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.</p> <p>Cannot cope with any change, due to cognitive impairment or mental disorder, to the extent that day to day life cannot be managed.</p> <p>Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the individual</p>
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Figure 2. Examples of the Limited Capability for Work Related Activity Assessment activities.

Source: DWP (2011b, 24 and 25–26).

approach, one that has increasingly been taken by a number of European countries in changing the governance of disability-related benefits (Krohne and Bruge 2008, 850), involves an understanding of the functional capability of the individual within their environment and, for benefits such as ESA, their work environments in particular.

Indeed, one of the main facilitators of the introduction of the ESA was an argument that the work environment of the late-modern knowledge-based economy was very different to that of industrial society and, therefore, there was a need to adjust the assessment of whether people could work or not. So, for instance, the then Secretary of State for Work and Pensions, Peter Hain, said: ‘Could they operate a computer properly, use a mouse, operate a keyboard rather than have they got the physical stamina to do the old type of jobs that involve a great deal of physical hard work’<sup>4</sup>. His comments are reflected in some of the descriptors for manual dexterity in the LCWA, for example, ‘cannot use a suitable keyboard and mouse’ (DWP 2011a, 19).

Furthermore, guidance for HCPs managing the WCA is replete with references to the ways in which the functional capabilities of claimants may relate to the ‘modern workplace’ and much of the explanation of the activity descriptors in the LCWA makes reference to the ways in which judgements about limited capability for work may relate to employment-based activities. So, for instance, in the case of the ‘sitting and standing’ outlined in Figure 1, these two activities were included together because it was ‘felt that considering standing and sitting abilities as separate entities was not relevant in the modern workplace and the . . . activity relates to the ability to remain at a workstation’ (DWP 2011b, 11). In considering the scope of this activity HCPs are told:

When standing, a person would not be expected to need to stand absolutely still, but would have freedom to move around at the workstation or shift position whilst standing. Similarly, it is considered reasonable that a person would be able to move around when sitting. The reference to an “adjustable chair” reflects the advances in ergonomics over the years. Those with some difficulty/discomfort on sitting can often be significantly aided by provision of an adjustable chair (ibid., 68).

While such an approach may be thought of as being an important move away from approaches purely based upon the biomedical, it is limited in at least two ways.

First, no matter what references are made to the working environment, the approach of the ESA cannot get away from the fact it is the capability of the individual (i.e. what their particular condition allows them to do) that is being judged against such an environment.

Of course, it might be argued that the UK has disability discrimination legislation (now the Equality Act 2010) which offers disabled people protection in the workplace. Such legislation also defines disabled people as being problematic because, as with the previous Disability Discrimination Act 1995, it is “premised upon the assumption that the individual’s impairment is the cause of disability . . . ‘reasonable adjustments’ . . . [define] the impairment as the ‘problem’, rather than the disabling environment” (Grover and Piggott 2005, 708). In addition, the idea that adjustments only have to be ‘reasonable’ means that economic concerns can override the rights of disabled people. Under the Equality Act 2010, for instance, ‘reasonable adjustments’ to the workplace need only take place after a range of considerations – such as ‘the cost’, the ‘resources and size’ of the employing enterprises and the ‘availability of financial support’<sup>5</sup> – have been taken into account. In other words, it is fine for employers to discriminate against disabled people if the economics of their enterprise can justify it.

Second, in the case of the UK the application of the biopsychosocial paradigm to issues related to the receipt of out-of-work benefits over-estimates the level of homogeneity of contemporary workplaces and the employment that disabled people do. Reference to ‘modern workplaces’ and ‘workstations’ in the DWP’s guidance on the WCA for HCPs implies that disabled people are primarily employed in, and are likely to find employment in office-based occupations. However, empirical work in the USA and the UK suggests that the employment patterns of disabled people are more varied than the assumptions of the ESA’s WCA suggest (see Meager and Hill 2005; Sapey 2000).

The issue here relates to the way in which the biopsychosocial paradigm is deployed in the WCA to consider only a limited conception of what work for disabled people might involve. The trend in the UK, as we see below, is towards ‘personalization’. Therefore, it might be expected that the approach of the WCA would be to focus upon the work environment that the applicant to the ESA was familiar with. However, the ESA takes an approach that is in the opposite direction to this. As we have seen, the OOT that was more in tune with the work environment of disabled people was abolished on the introduction of ESA because relating the LCWA to previous employment, although arguably more in tune with the environmental emphasis of the biopsychosocial approach, would allow disabled people to hold out for employment in an environment with which they were familiar. This would be in contradiction to the ESA which is aimed at getting disabled people into *any* paid work as soon as is possible.

### ***Personalization, employment and worklessness***

Drawing upon Williams (1976), Ferguson (2007, 388), argues that ‘personalization’, like ‘community’, is a ‘warmly persuasive word’, positive sounding, with many meanings and hard to be against. In the UK the work of Leadbetter (2004) has been particularly influential in relation to personalization (see Ferguson 2007). For Leadbetter (2004), personalization was to come through participation. What he meant by this was the development of ‘customer’ friendly services in health and

education that would mean people would have more say in the delivery, more say on spending, more participation in the design of services, and in developing self-organised solutions. In this context, personalization promoted the idea of empowerment and control on the part of service users, an idea that was visible in some Labour government policy documents and developments. For example, personalization was introduced into services for learning disabled people in *Valuing People* through the introduction of person centred planning. Robertson et al. (2005) argue this form of personalization supported the principles of rights, independence, choice and inclusion, as a means by which ‘people, their families, professionals and service managers could discover what is important to people with learning disabilities as a basis for action’ (ibid., 2). This was, in the vein of Cribb and Owens (2010), an observation of an approach to personalization that allows people to identify their basic needs and to choose the life that they wanted to lead. In some ways this vision of personalization could be argued to have helped to frame the development of practices, such as ESA, that expects more effort from workless people to (re)enter paid work: ‘We will increase personalised support for those out of work and embed the idea that clients themselves should help to define and jointly own their individual return-to-work plan’ (DWP 2008a, para. 1.20).

More predominantly though, the version of personalization that has framed the introduction of the ESA relates to a contractual version of it that is ‘based on a clear bargain that almost everyone on benefits would be expected to take active steps toward work, but where those expectations are based on an individuals’ needs and circumstances’ (DWP 2008a, para. 26; see also Gregg 2008). In the case of the ESA this was expressed on its introduction: ‘replacing the old one-size-fits-all model, which writes people off as completely incapable of work, with a tailored, active system that addresses each individual’s capacity’ (DWP 2006, 6). However, ESA claimants have a potentially high price to pay for such a ‘personalised’ system of ‘support’, because if they are not adjudged to be fully cooperating with ‘their’ plan to (re)enter paid work, ‘personalised’ financial sanctions follow. Their purpose, according to ones point of view, is to ‘encourage’ or ‘discipline’ disabled people into what is deemed to be a more cooperative stance (see Patrick 2011a, 2011b).

This version of personalization needs to be understood as being framed by unequal power relationships. The UK’s government sets the parameters of what is expected of the individual, even if they expect the individual to do something that otherwise they would choose not to do. Hence, rather than being a more empowering version of personalization related to rights and inclusion outlined above, the UK has a rather oppressive version of it. Indeed, it can be argued that what personalization in the ESA means is responsabilization; a shift away from a social protectionist ethic of the welfare state to an ethic of self-responsibility (Dean 2006). Such an approach to personalization can be justified in philosophical terms through readings of contractualism (see Deacon 2004) and in practice terms if it is the case that conditionality helps to get people into paid work.

In regard to the more philosophical approaches that underpin the contractual basis of the ESA’s personalization regime, it can be argued that such approaches are problematic because of the way in which the contractual expectation only focuses upon the ESA claimant. Given that it is a *contractual* approach, it is clear that the state must have some responsibility to the disabled claimant. It might be argued that this is fulfilled through the provision of benefits and ‘support’ services aimed at facilitating the (re)entering of paid work. However, it is arguably not enough for the state to just

provide benefits and services in order to fulfil its side of the contract. For White (2003), for example, governments must satisfy ‘core commitments’ which ‘include the elimination of “brute luck” poverty, adequate protection against market vulnerability, the reduction of inequalities and protection against discrimination’ (Deacon 2004, 915). However, given that disabled people are the among the poorest people in the UK and, despite legislation, still face systematic discrimination (Palmer 2007; Preston 2006), it might be argued that UK governments are failing their side of the contract.

With regard to the empirical evidence, it is not clear that increased conditionality improves the labour market position of those people subjected to it. In their summary of evidence from around the world, for example, Griggs and Evans (2010, 5) found that sanctions linked to employment-related conditionality ‘strongly reduce benefit use and raise exits from benefits’. However, they also note that exits from benefit receipt are not the only measure of the success of conditionality and sanctions. In contrast, on other measures, there are worrying trends. In particular, they have ‘generally unfavourable effects on longer-term outcomes (earnings over time, child welfare, job quality) and spill-over effects (i.e. crime rates)’ (Griggs and Evans 2010, 5). In other words, the use of conditionality and sanctions may encourage people to leave benefits, but at the expense of the longevity and quality of jobs they are able to access.

Such observations are problematic at an individual and societal level. At an individual level they are problematic because they suggest that conditionality leads to paid work that is neither fulfilling, nor permanent, and which has the potential to exacerbate the ‘low pay, no pay cycle’, a cycle that is attended by poor health (Kemp and Davidson 2010). It is known, for instance, that people who have recourse to ESA tend to be disadvantaged in labour markets because they tend to be in non-standard or ‘bad jobs’ (for example, Davidson and Kemp 2008; Kemp and Davidson 2010). These are jobs denoted by poor terms and conditions, such as low pay, little access to occupational sick pay and pensions, and with no recognised career or promotion ladder (Davidson and Kemp 2008, 225). It is unlikely, therefore, that the ESA will improve the already disadvantaged position that disabled people face in UK labour markets, something that it will have in common with previous policies to increase the number of disabled people in employment (Hyde 1996).

At a societal level, such trends suggest an exacerbation of exclusion as people may become detached from the very institution – paid work – that is supposed to ‘include’ them in civil society (see Blank 2007 on the USA; Petrongolo 2009 on Britain). The danger is that personalised conditionality encourages people to leave out-of-work benefits for the first available job that for a range of reasons they may not be suitable for. This may act to create economic problems, including a potential drag on productivity; a longer-term cost to the state through either ‘churning’ workers between the ‘low pay, not pay cycle’ or a longer-term effect on earning potential. Arni et al. (2009), for instance, found that benefit sanctioning policies encouraged people to leave unemployment benefits, but such policies also encouraged them to enter less well paid and less secure employment. Hence, Arni et al. (*ibid.*, 33) concluded that the ‘net effect of benefit sanctions is negative’. While support for benefit conditionality is often expressed in the economic (the need to reduce the number of people receiving out of work benefits) and the paternal (for example, work is good for disabled people), the evidence suggests that neither of these is necessarily the case.

Moreover, the focus of personalization is upon the individual disabled person; personalised conditionality is essentially a supply policy that locates worklessness

within the individual (RADAR 2007). They are held to be responsible for their position *vis a vis* paid work, a position that national governments and extra-national organizations (for example, see OECD 2010) suggest is encouraged by the payment of ‘passive’ out-of-work benefits for disabled people. However, it is clear from research that what is crucial in explaining the worklessness of disabled people is the strength of local labour markets. Disabled people are most likely to be workless in areas with weak labour markets and most likely to be employed in areas with strong labour markets (Beatty and Fothergill 2002; Beatty, Fothergill, and Macmillan 2000). As the OECD (2010) and others (for example, Bell and Heitmueller 2009) rightly highlight, therefore, disabled people are particularly exposed to worklessness during periods of economic crisis when the demand for labour is weakened further.

### **Conclusion**

The ESA was introduced in the UK as a measure to get more disabled people into paid work as a means of addressing political concerns of the then government – for example, reducing poverty among children and older people – and, rather paternalistically, for the good of disabled people. In this sense, the ESA was portrayed by the then Labour government, something that the Coalition government has accepted, as a policy that is essentially enabling for disabled people; enabling them to enjoy greater equality with able-bodied people by giving them greater access to paid employment.

Whether the ESA is such an enabling mechanism is, of course, debatable. On the one hand, it might be argued that the drive to increase employment participation among disabled people will overcome some of the issues raised by the government, for example, that the ghettoising of disabled people as being unemployable can be avoided. Such arguments, however, assume that contemporary forms of work and labour markets are themselves enabling. This, however, is not necessarily the case because post-industrial labour markets can be equally as disabling as industrial labour markets (see Roulstone 1998; Sapey 2000). Moreover, as we have seen, it is the case that the ESA is concerned with getting disabled people into entry-level employment. Successive governments in the UK have argued that such employment will lead to improved (better paid and more permanent) employment opportunities. However, the danger, particularly in a period of economic crisis, is that measures such as the ESA will contribute to the ‘low pay, no pay’ cycle that denotes the lives of many workless people. This is because the UK’s approach does little to increase the employment-related skills of workless people (including disabled people) (c.f. Dingeldey 2007), despite the fact that worklessness is defined as a supply-side, rather than a demand- side problem.

Furthermore, the ESA is premised upon an insistence that disabled people must compete in free labour markets. Again, the merits of such an approach is debatable. On the one hand, for example, to expect this might be seen as enabling because it is premised upon some notion of equality between disabled and non-disabled people. On the other hand, as explanations of worklessness among disabled people rooted in the social model tell us, paid work is organised in ways that discriminate against them. So, for example, Barnes (2000, 445) notes that the values and principles of paid work, ‘namely, the pursuit and maximization of profit, waged labour and competition between individual workers ... effectively disadvantage or disable people with any form of perceived functional limitation/impairment’. In this sense, it is likely to be the case that the ESA will be disabling, rather than enabling.

## Notes

1. Spouses were removed from income replacement benefits for disabled people on the introduction of ESA because the then government argued that the previous arrangements 'enshrine[d] a system of "dependent" spouses, rather than the equal partnerships of today' (DWP 2006, 45). However, such claims were problematic because the introduction of ESA did not depart from the fact that out of work benefits in the UK are paid, and, if means-tested, assessed at the household level. Attempts to reduce the 'dependency' of spouses might be welcomed. However, their removal from ESA indicated more a preference to make the spouses of disabled people, if deemed capable, to present themselves as unemployed through claiming Jobseeker's Allowance (the main benefit for administratively-defined 'unemployed' people in the UK), rather than a commitment to gender equality (Grover and Piggott 2010).
2. This equates to 24 per cent of people completing the WCA.
3. The equivalent of 10 percent of those people completing the WCA.
4. <http://news.bbc.co.uk/1/hi/uk/7101106.stm> (accessed 14 December 2011).
5. <http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-employers/the-duty-to-make-reasonable-adjustments-for-disabled-people/what-is-meant-by-reasonable/> (accessed 12 December 2011).

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