

What is Employment Support Allowance (ESA)?

Employment and Support Allowance (ESA) is a new benefit paid if your ability to work is limited by ill health or disability and you are claiming from 27th October 2008.

ESA is a single benefit, replacing both Incapacity Benefit and Income Support paid because of incapacity for work. It is paid not simply because you are found to be incapable of work, but is paid when you are found to have a 'limited capability for work'. ESA claimants are then divided into two separate groups: the 'support group' and the 'work related activity group'. The group you are placed in will determine the amount of ESA you receive and the responsibilities you will need to meet in order to keep receiving the benefit.

To get ESA, you must:

- Be at least 16 years old.
- Be under pensionable age, which is currently 65 for a man and 60 for a woman.
- Undergo a 13 week assessment phase (see below).
- Have 'limited capability for work'.
- Be in Great Britain.
- Not be entitled to Income Support or Jobseeker's Allowance (either alone or as part of a joint claim couple).
- Not be entitled to Statutory Sick Pay.

AND satisfy one of the following conditions:

1. Paid enough National Insurance contributions in the right years.
- or
2. Be under 20 and incapable of work because of a disability (or under 25 if in education or training).
- or
3. Satisfy the low income test (income below the ESA benefit levels and have savings under £16,000).

How to claim ESA

To start your claim for ESA ring the Jobcentre Plus claim-line on 0800 055 6688 (text phone 0800 023 4888). You will be asked to give information to complete your claim over the phone and the customer statement is then sent to you confirming the details so you can check they are correct.

Or claim online at: www.dwp.gov.uk/eservice

Or request a paper claim form ESA1 to make a written claim.

You will need to forward a medical certificate from your doctor to the office dealing with your claim. You may have to send in a back dated medical certificate in some cases.

Your claim will lapse if you do not provide all the information requested within the time stated (usually one month).

What happens after you claim: the Assessment Phase

The assessment phase applies to all new ESA claimants, with the exception of those who are terminally ill. The ESA **Work Capability Assessment** is more complex than that used for Incapacity Benefit. The assessment is carried out by a health care professional working on behalf of the Department for Work and Pensions.

The assessments usually takes place over 13 weeks during which time you will have to undergo some or all of the following assessments:

- 1. Work Capability Assessment (WCA)** – to find out whether you have a **'limited capability for work'**. If you do, you are entitled to ESA. It also determines the amount of ESA you receive and the responsibilities you must meet to keep the benefit. [See below for more details].
- 2. Limited capability for work-related activity assessment** – to determine whether you are considered to be **unable** to undertake any work and so be put in the support group. If you score 15 points or more in the Work Capability Assessment and you are assessed as having **'limited capability for work-related activity'** you are placed in the support group.

The assessment is undertaken by a health professional, who considers your abilities when:

walking, rising from sitting, picking up and moving things, reaching, manual dexterity, continence, maintaining personal hygiene, eating and drinking, learning or comprehension in the completion of tasks, personal action and communication.

You will pass the limited capability for work related activity assessment and qualify for the support group if, for example:

- you cannot turn a star headed sink tap with either hand.

or

- cannot communicate by speaking, writing, typing or signing.

Being in the support group means that you do not have to attend work- focused interviews or undertake work related activities to receive your ESA (although you can volunteer to do so if you wish).

You also become entitled to a higher level of ESA than if you were in the work related activity group.

You will automatically be accepted as having limited capability for work related in the following circumstances:

- You are suffering from a progressive disease and you are terminally ill
- you are receiving specific forms of chemotherapy, or recovering from such treatment
- you suffer from some specific disease or bodily or mental disablement and consequently there would be a substantial risk to the mental or physical health of any person if you are found not to have a limited capability for work related activity
- you are pregnant and there would be a serious risk to you or your child's health if you do not refrain from work related activity.

3. Work-focused health-related assessment – This only applies if you are put in the work related activity group. It is carried out by a healthcare professional and it explores your views on returning to work and any barriers you may face. It collects information about your health related conditions and considers any actions you could do, to support a move back into work. A report is then made and sent to you and a personal adviser. It usually takes place in a medical examination centre.

More about Limited Capability for Work

If you are not automatically accepted as having limited capability for work related activity you will be required to complete an ESA50 questionnaire. Points are scored based on your inability to carry out a range of physical or mental health activities.

For example:

- If you cannot walk more than 50 metres on level ground without repeatedly stopping or severe discomfort you will score 15 points.
- If you cannot physically use a pen or pencil you score 9 points.

If you score a total of at least 15 points you are considered to have limited capability for work and stay on ESA. If you fail the test, you will be moved on to Jobseeker's Allowance instead. You will not necessarily have a medical examination before your ESA is stopped. If you wish to challenge this decision, there is an appeal process. See below.

After the Assessment Phase

To continue to receive benefit you must:

- **Take part in one or more work-focused interviews.** You will usually be required to take part in a work-focused interview after the 8th week of your claim. If you are in the Work Related Activity Group, after the initial interview you will be expected to attend and take part in a series of five more, the second after 14 weeks and then one per month. At each interview you and a personal adviser will discuss job related activities and complete an action plan, listing the steps you are willing to take to enhance your job prospects. You will be given a copy of the action plan.

AND

- **Undertake work-related activity.**

You will not have to be in the Work Related Activity Group once you reach 60 or if you become a member of the Support Group.

Sanctions

You must attend both the initial work-focussed interview and the follow up interviews. If you fail to attend without good reason your ESA may be 'sanctioned' and paid at a reduced rate.

Sanctions are applied to the additional components – the Work-Related Activity Component, not the basic allowance. They can only be applied after the assessment phase.

For the first four weeks, the sanction will be 50% (half) of the additional component. After this, the additional amount will be removed completely. Once you comply with the requirement your benefit will be paid in full. You can appeal against a sanction – see below.

How much ESA do you get?

ESA is paid at different rates depending on your circumstances. You may be entitled to contributory ESA [based on your National Insurance contributions] or income related ESA [means-tested] or a combination of the two.

Contributory ESA

Weeks 1-13 The basic contributory ESA weekly element is:

- £50.95 (18-24 year olds)
- £64.30 (Single person 25 and over)

Week 13 onwards You will receive the higher basic element of £64.30 (whatever your age). Plus, either the:

Support Component of £30.85 for those in the Support Group

Or

A work-related activity component of £25.50 for those in the Work Related Activity Group.

Income Related ESA

Income related ESA will be paid depending on the circumstances of you and your partner (income and savings) and there may be an element for housing costs, usually mortgage interest.

Single person

Under 25 during the assessment phase	£50.95
Under 25 after the assessment phase	£64.30
25 and over	£64.30

Couple

Both aged 18 or over	£100.95
Both under 18, during assessment phase	£76.90
Both under 18 after assessment phase	£100.95

NB Couple rates are not paid automatically but depend on the circumstances of your partner.

Lone Parent

Aged 18 or over	£64.30
Under 18, during the assessment phase	£50.95
Under 18, after the assessment phase	£64.30

In addition to the appropriate rate above you may qualify for extra premiums such as severe disability, enhanced disability, carers or pensioner premiums and any housing costs to which you are entitled.

And after the 13 weeks assessment phase you are paid the Additional Components for Work Related Activity [£25.50] or Support [£30.85].

Working while claiming ESA

You can undertake voluntary work for a charity or voluntary organisation or be a volunteer and still be entitled to ESA as long as you do not receive payments for work done, although you can be reimbursed for reasonably incurred expenses.

You will be treated as not entitled to benefit during any week in which you are in paid work, unless it is **permitted work** – work that is specifically allowed (see below).

You will be allowed to carry out the following types of work without it affecting your ESA and if your earnings are within the permitted amounts. Earnings will not count as income and so will not affect either **income-related** or **contributory** ESA.

However, earnings over £20 from Permitted Work may be taken into account when you are claiming **Housing Benefit** or **Council Tax Benefit** if you are not getting income related ESA.

The types of work allowed are:

- Work earning up to £20.00 per week.
- Work earning up to £92 per week where it is part of a treatment programme and done under medical supervision [Supported Permitted Work].
- Work, earning up to £92 per week which is supervised by someone from an organisation which provides or arranges work for people with disabilities. If you are getting income related ESA the amount of benefit you get will be affected by these earnings.
- Work for less than 16 hours per week, earning up to £92 either for up to one year or without limit if in the Support Group.

You should always get advice if you are considering trying working or training to see how this may affect your benefit entitlement.

Appeals

You can appeal against nearly all ESA decisions including the imposing of a sanction.

If your appeal is against the failure to pass the work capability assessment, because you score less than 15 points, you can continue to claim the basic allowance of ESA while awaiting the outcome of the appeal.

Appeals must be entered within one month of the written decision and will be heard by the Independent Tribunal.

It is advisable to get help and advice from an advice agency on challenging a decision, appealing and representation.

Where to get help

If you have any queries about Employment Support Allowance, or you need someone to help you fill in the questionnaire, or represent you at an appeal tribunal. You can contact the County Council's Welfare Rights advice line on **0845 601 5943** between **11.00 am – 1.00 pm**. **We will return calls the same afternoon**, however if there is an exceptionally high demand we will try to call you back by the end of the next working day.



Nottinghamshire Welfare Rights Service (NWRS) also holds advice sessions for the public throughout the County and there are also a number of independent advice agencies who will be able to assist you. Telephone Nottinghamshire Welfare Rights Service on **(0115) 977 4018 (minicom 01623 520247)** to find out where your nearest advice centre is located; or visit our website at:-

www.nottinghamshire.gov.uk/benefitsadvice