

# Women and incapacity benefits

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**The Women's Budget Group** (WBG) is an independent organisation bringing together individuals from academia, non-governmental organisations and trade unions to promote gender equality through economic policy. Our vision is for a society which is equal for women and men, and in which women's financial status gives them independence and autonomy at work, home and in society.

We know that where there is real political commitment, money follows. So we ask questions about resources: for services, for policies, for women. We ask the question 'where are resources going, and what is their impact on gender inequalities' every time the Government announces how it is going to spend public money. Unless we know how resources are spent, we cannot tell whether women's inequality is being tackled or not. We work on women's poverty and pensions, and we lobby for improvements. We examine women's work, and how their unpaid caring work is undervalued in government policies.

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# Highlights and policy recommendations

Women are affected by the rules and operations of incapacity-related benefits in different ways from men – both as claimants and as the partners of claimants. It is, therefore, essential that the Government's incapacity benefits programmes take into account gender differences in their design and delivery.

The following research briefing outlines several key areas where incapacity benefits policy needs to be re-thought and inequalities addressed. The highlights include the following.

- ◆ The contributory and means-tested conditions attached to different benefits schemes can have differential impacts upon women men.
  - ◇ Contributory schemes (such as incapacity benefit (IB) are payable only to those who have built up national insurance contributions through periods of employment. Women, who need to have more interrupted patterns of work, are less likely to meet the contributions threshold. Women are more likely to be involved in unpaid work and have gaps in their work history due to pregnancy and childbirth, and caring obligations. Furthermore, women who do work may have earnings which fall below the lower earnings limit and will not qualify for IB. According to the Family Resources Survey, there were 1.4 million women working part time whose income was below the lower earnings limit in 2003/04 and, therefore, would not qualify for IB.
  - ◇ Women are disproportionately more likely than men to be disqualified from receiving incapacity benefits because they lack the necessary national insurance contributions.
  - ◇ Access to benefits is linked to immigration status, nationality and residency status – further factors complicating eligibility.
  - ◇ Black and minority ethnic women in particular, who may otherwise qualify, are at particular risk of being excluded.
  - ◇ Recent immigrants, asylum seekers and refugees are more likely to have irregular earning patterns due a shorter working history in the UK, or absences abroad.
- ◆ Means-tested benefits, such as income support, often exclude women who would qualify on their own, but are ineligible because they have a working partner.
  - ◇ Means-tested benefits are based on the assumption that income is equally shared within the household, which is not always the case. Although the household income may be high, women may experience little or no control over how household income is spent, resulting in a situation referred to as 'hidden poverty'.

- ◇ Studies have shown that women are more likely to forgo essentials in order to protect other family members, thereby exacerbating these inequalities.
- ◆ Women's caring obligations also need to be considered within IB systems, particularly in relation to work-related conditionality.
  - ◇ Caring responsibilities are commonly a reason why women may not be actively seeking work.

The gender equality duty, which came into effect in April 2007, places a statutory duty on all public authorities to have due regard to the need to eliminate discrimination and promote equality of opportunity. The following policy recommendations are therefore made.

- ◆ The eligibility conditions for benefits should not be structured in a way that disadvantages those claimants who have interrupted paid work histories. The contributory national insurance contributions conditions still favour traditional male full-time work patterns, despite the large increase in women's economic activity rates, particularly part time. It would be more equitable if the Government aligned the contributory model used for incapacity benefits with that used for pensions.
- ◆ Eligibility means-tests, which measure household income, assume that income within the benefit unit is shared equally. Policy makers should consider how these 'household' measures of income can mask hidden poverty and economic deprivation among family members.
- ◆ Caring responsibilities can have disadvantaging impacts throughout the benefits framework, from the rules of eligibility, to acting as a possible barrier to participating in work-related activities. Until there are sufficient and affordable high quality childcare and social services, these responsibilities should not put women at risk of sanctions and increase their risk of poverty. Claimants and recipients should not be penalised or have their benefits compromised because of their caring obligations, as can often be the case.
- ◆ The Government should undertake a gender analysis of the Pathways to Work process and outcomes to ensure the programme is adequately addressing the needs of women.

Women are affected by the rules and operation of incapacity-related benefits in different ways from men – both as claimants themselves and as the partners of claimants. This briefing considers how women – as claimants and as partners – fare differently under the current arrangements, and how the reforms proposed in the Welfare Reform Act 2007 will affect women and men and the way they experience the benefit system.

Proposals for reform of incapacity-related benefits, along with reforms for lone parents and older people, were published in January 2006.<sup>1</sup> These reforms also refer to a wider aim of an employment rate of 80 per cent of the working-age population and include proposals for more proactive intervention, including improvements to workplace health and absence management.

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## Disability, impairment and ill-health

The terms 'disability' and 'ill-health' can be interpreted in different ways, and there is a wide range of views about whether recipients of incapacity-related benefits are 'disabled' or not. In this report we adopt the definitions used by the Government in its report *Improving the Life Chances of Disabled People*, which states that a clear distinction needs to be made between disability, impairment and ill health:

Disability is defined as disadvantage experienced by an individual...

- ◆ resulting from barriers to independent living or educational, employment or other opportunities...
- ◆ that impact on people with impairments or ill health.

Impairments are long-term characteristics of an individual that affect their functioning and/or appearance. Ill-health is the short-term or long-term consequence of disease or sickness. Many people who have an impairment or ill-health would not consider themselves disabled.<sup>2</sup>

Whilst the pattern of impairments is similar for men and women, women are increasingly likely to report depression and other mental health problems.<sup>3</sup>

Women and men in receipt of the various incapacity-related benefits (described in more detail below) are a diverse group who may have impairments or ill-health, or have experience of specific conditions. Many are likely to be 'disabled' as a result of the way in which the labour market is structured, the attitudes of employers, or by the lack of support services that would otherwise enable them to participate.

In this report we refer to characteristics at the individual level as 'impairments' to distinguish them from the wider experience of disability and discrimination.

The Disability Discrimination Act 1995 (DDA) defines disability as ‘a physical or mental impairment which has a substantial and long-term adverse effect on a person’s ability to carry out normal day-to-day activities.’ It has recently been extended to cover certain conditions (such as HIV/Aids and cancer) from the point of diagnosis. This means that individuals who are covered by the DDA have rights not to be discriminated against, and that service providers and employers have corresponding responsibilities not to treat disabled people less favourably, including the important duty to make any ‘reasonable adjustments’ to policies, practices and procedures. Service providers have to anticipate the needs of disabled people in advance and, since 2006, public functions (that is, activities undertaken by the state or those under contract to state agencies) are also covered (for example, work-focused interviews and medical examinations).

Most of the women and men in receipt of incapacity-related benefits will count as ‘disabled’ under the DDA,<sup>4</sup> whether or not they view themselves as ‘disabled’. The Department for Work and Pensions (DWP), its agencies and suppliers, therefore, also have DDA responsibilities when delivering the public functions associated with incapacity-related benefits – for example, assessments and work-focused interviews. Where these functions are contracted out, the DWP retains liability for the contractor’s performance of public functions.<sup>5</sup>

Since December 2006, the DDA has also required public bodies to promote disability equality. This means giving due regard to the need to:<sup>6</sup>

- ◆ promote equality of opportunity between disabled people and other persons;
- ◆ eliminate discrimination which is unlawful under the DDA;
- ◆ eliminate disability-related harassment;
- ◆ promote positive attitudes towards disabled people;
- ◆ encourage participation by disabled people in public life;
- ◆ take steps to meet disabled people’s needs, even if this requires more favourable treatment.

This obligation includes undertaking disability equality impact assessments on policy changes. The DWP prepared a ‘draft’ assessment of welfare reform and pathways in advance of the duty becoming law.<sup>7</sup> Similarly, from April 2007 public bodies have had a duty to promote gender equality, including the duty to undertake gender impact assessments.

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## Incapacity-related benefits

From the discussion about definitions above, it should be clear that ‘disability’ does not mean the same as ‘incapacity’. This is particularly important when thinking about incapacity-related benefits, as often people receiving these benefits are assumed to be completely unable to

work at all or, conversely, that many people are assumed to be claiming inappropriately. These benefits are rooted in the concept of 'incapacity for all work', a concept which is assessed against a scale of functional limitations (the 'all work test', now called the 'personal capability assessment'). However, the threshold for incapacity-related benefits – as introduced in 1995 – was intended to be the point at which capacity for work is 'substantially reduced', not totally extinguished. In effect, this threshold indicates the point at which someone should not be expected to look for work as a condition of receiving benefit.<sup>8</sup>

Incapacity benefit (IB) is the main benefit for those who are not required to sign on as unemployed in order to receive benefit. IB is designed to provide income maintenance for those who have sufficient national insurance contributions (often from a history of paid employment). Claimants who are not eligible for IB because of their contribution record may be able to claim income support (IS) on incapacity grounds instead, provided their income and savings are within the limits. Severe disablement allowance (SDA), a non-contributory non-means-tested benefit also payable on incapacity grounds, was abolished for new claims from 2001. Women's work patterns and the greater role that many women take in caring responsibilities mean that women may be less likely to satisfy the contribution conditions for IB and are, therefore, more reliant on IS or SDA.

Increasingly, many people receiving incapacity-related benefits have been required to attend work-focussed interviews at the beginning of a claim and at later trigger points (such as after a personal capability assessment, and stopping or starting work of less than 16 hours a week). A more intensive regime of interviews and access to support in the early stages of a claim has been piloted since 2003 (called Pathways to Work). The 2006 welfare reforms build on the Pathways approach by reforming the structure of existing incapacity-related benefits, and integrating employment-related conditions and support into the benefits system. In essence, welfare reform entails the following.

- ◆ Replacing the three existing incapacity-related benefits with a single benefit (the employment and support allowance), with means-tested and contributory strands.
- ◆ Replacing 'incapacity for work' with the concept of 'limited capability for work', retaining the broad principles of the existing eligibility test but with significant modifications.
- ◆ Extending work-related conditionality as a condition of receiving benefit, alongside the provision of additional support to meet those obligations.

#### Notes

- 1 Department for Work and Pensions, *A New Deal for Welfare: empowering people to work*, The Stationery Office, CM 6730, 2006
- 2 Cabinet Office, Prime Minister's Strategy Unit, *Improving the Life Chances of Disabled People*, 2005, p8
- 3 Cabinet Office, Prime Minister's Strategy Unit, *Improving the Life Chances of Disabled People*, 2005, p37
- 4 Department for Work and Pensions, *Draft Disability Equality Impact Assessment: Pathways to Work rollout and incapacity benefits reform*, available at [www.dwp.gov.uk/welfarereform/incapacity.asp](http://www.dwp.gov.uk/welfarereform/incapacity.asp)

- 5 Department for Work and Pensions, *A New Deal for Welfare: empowering people to work*, The Stationery Office, CM 6730, 2006
- 6 Department for Work and Pensions, *Draft Disability Equality Impact Assessment: Pathways to Work rollout and incapacity benefits reform*, available at [www.dwp.gov.uk/welfarereform/incapacity.asp](http://www.dwp.gov.uk/welfarereform/incapacity.asp)
- 7 Department for Work and Pensions, *Draft Disability Equality Impact Assessment: Pathways to Work rollout and incapacity benefits reform*, available at [www.dwp.gov.uk/welfarereform/incapacity.asp](http://www.dwp.gov.uk/welfarereform/incapacity.asp)
- 8 See *Hansard* debates on the Incapacity for Work Bill 1994.

# Women as claimants: contributory and means- tested conditions

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## Incapacity benefit

Incapacity benefit (IB) is a contributory benefit, based on payment of national insurance contributions from a previous period of paid employment. After a year on benefit, the long-term rate of IB can be payable (£81.35 from April 2007). This can be topped up by age additions (the highest rates going to those who claimed early in their working life) and, in some cases, adult dependency increases. The average amount of IB in payment is £80.34 for women and £86.59 for men (August 2006).

To be eligible for IB in May 2007, a woman would need to have satisfied the two contribution conditions. The first requires actual payment of contributions amounting to at least 25 times that year's lower earnings limit (£2,175 – 25 times £87 in 2007/08). These contributions must have been paid before a claim for IB is made and must have been paid in one of the last three complete tax years before the benefit year in she becomes incapable of work. The benefit year runs from January to December.

The second contribution condition is that a woman must have paid or been credited with contributions of at least 50 times that year's lower earnings limit in each of the last two complete tax years ending before the relevant benefit year.

As more women enter employment and their working patterns become like those of a typical man, more are becoming eligible for the benefit. This has been one of the drivers of the increased caseload during the 1980s and 1990s.<sup>1</sup> Moreover, as the benefit is contributory, it generally can be paid regardless of other sources of household income. There are some exceptions for occupational or personal pensions paid above £85 to the claimant and also for some earnings. Thus, it is more likely to give qualifying women (and men) an independent income, unlike means-tested benefits where a wider range of income and capital is taken into account.

However, building up entitlement to benefit through national insurance contributions tends to privilege a typically male employment pattern – that of someone working full time with no significant career breaks. Many women's employment does not fit this pattern – 42 per cent of women work part time, for example, and many take time out from earning to care for children or other dependants.<sup>2</sup> Many women in low-paid, part-time work have earnings below the lower earnings limit,

meaning that they pay no national insurance contributions at all – and do not, therefore, earn any entitlement to contributory benefits. According to the Family Resources Survey, there were 1.4 million women working part time with earnings below the lower earnings limit in 2003/04, who would not be entitled to IB if they were to stop work because of illness.<sup>3</sup> Women taking time out to care for children also cease to pay national insurance contributions and, therefore, miss out on entitlement to this type of benefit. There is some provision for certain groups of people to receive national insurance credits, which can help them claim contributory benefits in the future – for example, a Class 1 credit is awarded for each week that someone receives carer's allowance (CA), which can help some carers to satisfy the second contribution condition in a claim for IB after a period on CA.

Department for Work and Pensions (DWP) data has traditionally shown that people may have met the 'incapacity' conditions for benefit but do not have entitlement to IB because they have not paid enough national insurance contributions at the right time. Statistics also distinguish between 'claimant' and 'beneficiary' – beneficiaries are those actually in receipt of a payment of benefit. The DWP data tabulation tool has now replaced regular publication of statistics.<sup>4</sup>

According to the most recent data about IB and severe disablement allowance (SDA) recipients available at the time of writing (August 2006), 58 per cent of recipients are male and 42 per cent female. Numbers of men and women receiving IB or SDA continue to decline; the numbers of women claiming fell by 8,000 in the year to August 2006 and numbers of men fell by 34,000.<sup>5</sup>

'Credits-only' cases – where people are entitled on 'incapacity' grounds but fail the contributory conditions – have increased over time. While numbers of claimants receiving the short-term and long-term rates of IB fell after 1995, the number of credits-only cases increased. Women are disproportionately likely to be credits-only.<sup>6</sup> In August 1999, over 417,000 men (around 25 per cent of male claimants) and 336,000 women (around 31 per cent of female claimants) were credits-only. By August 2006 this had risen to 536,000 men (34 per cent of male claimants) and 449,000 women (almost 39 per cent of female claimants). Although numerically more men than women are credits-only cases, as fewer women than men claim IB, a higher proportion of women claimants are credits only. Some of the credits only group may be entitled to income support (IS), but the statistics do not tell us precisely how many.

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## Severe disablement allowance

There has, in the past, been provision for those who have not built up enough national insurance contributions to claim IB – namely older women and people who have become ill or disabled at a young age. SDA, a non-means-tested benefit available to those who did not meet the contribution conditions for IB, is the most recent benefit designed to

fill this gap. However, SDA was abolished for new claims from 2001. As of August 2006, only 157,750 women and 119,270 men received SDA. Young people who became 'incapable of work' before age 20 (or age 25 in some cases) could qualify for IB without paying any national insurance contributions, but older people without the requisite contribution record were no longer eligible. This particularly affected older women who would have been previously eligible for SDA. Some women may have been able to receive IS instead. However, those with working partners or with other income would fall foul of the means-tested rules in IS and may, therefore, have no independent benefits income. Some women might be entitled to disability living allowance (DLA). This is a non-contributory, non-means-tested payment based on the need for help with care and mobility, and intended as a contribution towards the additional costs associated with their incapacity.

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## Means-tested support

Those who cannot claim IB because of insufficient contributions may be able to claim assistance in the form of IS – the means-tested social security 'safety net' for those who would not otherwise have enough to live on. Eligibility is based on having household income and capital below the limits set by the Government. Someone who is eligible on incapacity grounds (because they have passed the personal capability assessment) can be entitled to a disability premium on top of the basic personal allowance (a single person over age 25 would be entitled to a total of £84.40, comprising £59.15 personal allowance and a disability premium of £25.25 from April 2007). Other disability-related premiums can be payable on top of the personal allowance, such as the severe disability premium and enhanced disability premium. A carer premium is also be payable.

More men than women receive IS on incapacity grounds (633,040 men compared with 533,650 women). As there are more women claiming IS overall (many are claiming as lone parents), this suggests that 86 per cent of male recipients of IS are claiming on incapacity grounds while only 38 per cent of women are doing so.

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## Benefit combinations

IS can be paid on its own or as a top-up to other benefits and so, in some cases, people can receive both IS and IB.

Working-age client group statistics reflect the current gender differences in pension age (working age ends at 59 for women rather than 64 for men) which may have an impact on figures for benefit combinations during working age. These statistics for August 2006 show that 621,980 people received both IS (or pension credit) and IB, but almost two-thirds of these were men (381,010). 98,630 men and 59,210 women receiving this combination of benefits were aged 35 to 44. Almost half of people

receiving this combination were aged between 45 and 59/64 (45 per cent of women and 47 per cent of men).

A further 194,470 women and 291,400 men received three benefits – IB, IS and DLA. The highest numbers of men receiving benefits in this combination were in the 35 to 44 age group (almost 64,000) followed by those in the 60 to 64 age group (over 57,000). However, the age range with the highest numbers of claims in this combination for women was also 35 to 44; 60 per cent of recipients of this combination were men aged 45 to 64, and 55 per cent were women aged 45 to 59.

441,390 men and 315,800 women received IB only. For women, the highest numbers (almost 89,000) were in the 55 to 59 age group. There were also over 85,000 men of this age claiming IB only, but by far the largest group were those aged 60 to 64 (106,270).

Men were over three times more likely to receive IB only rather than IS only (441,390). The situation was reversed for women, who were around two and a half times more likely to receive IS only (705,810) rather than IB only (although their entitlement to IS may not have been on 'incapacity' grounds but for other reasons such as lone parenthood).

Women were more likely to receive DLA and SDA than men, but the numbers were small (33,780 women and 14,170 men).

There is a need for better information about the different combinations of benefits payable on 'incapacity' grounds (for example, IB credits only and IS, IB credits only and no other benefits) in order to understand the impact of benefit entitlement on women. It is also possible that women may not claim benefits if they do not expect to be entitled to any payment (for example, IB credits only) and may be further disadvantaged later – such as when claiming a state pension – yet little data on take-up estimates of 'credits only' appears to be available.

Means-tested benefits exclude women who would be eligible for IB but have not built up sufficient contributions, and have household income above IS – typically because of having a working partner. Women in this situation are not entitled to any income in their own right under the contributory or means-tested system, and they are also likely to miss out on any support that might be available to help them get back to work, as they would not be in contact with DWP agencies. It is possible that DLA provides an independent income outside of income maintenance benefits for some disabled women as it is non-means tested and non-contributory. According to August 2006 cross-benefit statistics, 164,800 women and 147,570 men receive DLA only.

The means test is based on the assumption that income is equally shared within the benefit unit – that a working partner will be forgoing some of their income to support the partner not in work. Yet this assumption is not always valid. Research has indicated that bringing money into the benefit unit often confers a sense of entitlement, and that partners bringing money in may have more say in how it is spent. As such, women may be living in 'hidden poverty' – while their benefit unit income appears high, their lack of control over supposedly shared

resources may mean that they are going without. The fact that women are more likely to forgo essentials in order to protect other family members exacerbates this effect.<sup>7</sup> Thus, having no entitlement to income in their own right is likely to leave some disabled women vulnerable to poverty that does not appear in official figures.

It is difficult to estimate the number of women who could be living in this situation, as, by definition, they do not appear in the DWP figures on benefit receipt. However, in responding to the annual publication of the statistics on Households Below Average Income, the Women's Budget Group has advocated that different types of equivalence scales should be developed to explore how many individuals might be living in poverty if different assumptions about income sharing are used.<sup>8</sup> Similarly, the Disability Rights Commission has called for changes in the way that poverty rates are calculated (DLA is currently classed as income but there is no corresponding off-setting or equalisation for additional costs arising from impairment).<sup>9</sup>

Applying a range of equivalence scales – from assuming equal sharing to assuming that no income is shared – to figures on income within the benefit unit where one partner is disabled could illustrate experiences of poverty.

#### Notes

- 1 For example, see R Walker with M Howard, *The Making of a Welfare Class? Benefit receipt in Britain*, The Policy Press, 2000
- 2 Equal Opportunities Commission, *Facts About Women and Men in Great Britain 2006*. Available at [www.eoc.org.uk/pdf/facts\\_about\\_GB\\_2006.pdf](http://www.eoc.org.uk/pdf/facts_about_GB_2006.pdf)
- 3 Parliamentary question, *Hansard*, 2006
- 4 See [www.dwp.gov.uk/asd/tabtool.asp](http://www.dwp.gov.uk/asd/tabtool.asp)
- 5 Department for Work and Pensions, quarterly statistical summary February 2007
- 6 P Kemp and T Thornton, 'Disguised Unemployment? The growth in incapacity benefit claims in Great Britain', in P Kemp and others (eds), *Sick Societies? Trends in disability benefits in post-industrial welfare states*, International Social Security Association, 2006
- 7 K Rake and G Jayatilaka, *Home Truths: an analysis of financial decision-making within the home*, Fawcett Society, 2002
- 8 Women's Budget Group, *Response to Department for Work and Pensions 16th Households Below Average Income Report*, WBG, 2005
- 9 Disability Rights Commission, 'Bringing an End to Child Poverty', one of ten priority areas for change discussed in *Creating an Alternative Future: the disability agenda*, 2007. Available at [www.disabilityagenda.org/](http://www.disabilityagenda.org/)

## Three

# Women, impairment and ill-health: eligibility for incapacity benefit

As noted in the previous section, receipt of one of the incapacity-related benefits does not necessarily equate to actual incapacity for work (though it may well be an indicator of barriers to employment). The general performance of the economy is as important for disabled people's employment rates as their impairment.<sup>1</sup>

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### Trends in disabled people's employment

The average reduction in the chances of disabled people having a job has been estimated as 40 percentage points.<sup>2</sup> Disabled women with a partner and women with children had substantially reduced employment rates. The position for disabled people's employment has deteriorated over the last thirty years; disabled people, together with Muslim women, are the two most persistently non-employed group (that is, their positions have worsened, or not improved, relative to other groups).<sup>3</sup> Disabled women appear to face more substantial discrimination than disabled men.<sup>4</sup>

Disabled people are more likely to work in unskilled or partly skilled manual occupations than non-disabled people, and to be paid less than non-disabled people. In 2005, disabled women received gross hourly pay of £8.77 compared with £9.55 for non-disabled women.<sup>5</sup>

During the first year after developing an impairment, it has been estimated that one in six workers lose their jobs. The risk of losing a job is higher for those in manual occupations (and twice as high again for disabled men and women).<sup>6</sup> Men under 45 appeared to be three times more likely to lose their jobs than non-disabled men, whilst the risk for women and older men was 1.5 to two times as great. Having access to a car and having educational qualifications are associated with better chances of being in work for disabled men and women. A later analysis showed that the factors increasing the risk of leaving work generally – including being a woman – also affect disabled people, but in addition those with mental health problems, those over age 45, and those living in a region with low labour demand, are particularly at risk of job loss.<sup>7</sup>

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### Trends in receiving incapacity-related benefits

Moves onto (and off) incapacity-related benefits will depend not only on the individual's health or impairment but the wider context of their local labour market, access to health care and support services, transport,

and wider social networks.<sup>9</sup> Men and women may make a benefit claim either directly following a period at work, from a period of being out of work, or from being in and out of work. There may also be variations depending on whether someone has a sudden or a gradual change in their health or impairment. There is limited evidence about the reasons for making a claim, the precise routes onto benefit, and how these may vary by gender. Some of the research evidence about factors influencing claiming focuses specifically on men<sup>9</sup> as this stands in contrast to the increase in proportion of women in paid employment over the past twenty years or so. The evidence for men points to a process of 'detachment' from the labour market, which includes consideration of family circumstances. Some of these factors may be common to both men and women but there is a need for more research to understand women's routes onto incapacity-related benefits.

Numbers of people claiming the contributory invalidity benefit (IVB) prior to its replacement by IB in 1995 had steadily increased since the 1970s. About 16 per cent of the increase could be attributed to more married women being in paid work (and so building up a national insurance contribution record, which enabled them to claim).<sup>10</sup> This in turn reflects the increasing labour market participation of women.

Between 1985 and 2004 trends in claims from people of working age show different patterns by gender. While the rate of claiming for men increased to 9.1 per cent in 1995, thereafter falling to 8.1 per cent in 2004, women's claims grew steadily throughout, rising from 1.5 per cent in 1985 to 5.5 per cent in 2004.<sup>11</sup> In 1975, women formed 12 per cent of the inflow onto IB/IVB, and 18 per cent of existing claimants. By 2003, women accounted for 39 per cent of both the inflow of new claims and the caseload of existing claimants. Thus the growth of IVB/IB claims by women has outstripped those of men. From 1995 to 2003, the number of male recipients grew by 3 per cent, but the number of female recipients increased by 32 per cent. As working age stops at 59 for women there are disproportionately more younger women claiming IB than men, though for claimants under age 60, the pattern for men and women is similar across the age ranges (rising slowly up the age range).

The length of stay on benefit has also been growing, and it appears that the increase in proportion of claims that were longer than one year has been faster among women than among men.<sup>12</sup> The rate at which people leave benefit has also declined, but relatively little data is available concerning reasons for benefit claims ending. In 2004, about 36 per cent had a closed certificate (for example, a doctor certifies that someone is fit to return to work) and 25 per cent were found to be capable of work under the personal capability assessment.<sup>13</sup> Data by gender is even more limited. In one of the last quarterly series of benefit statistics, November 2004, a table indicates where IB was terminated for reasons other than transferring to retirement pension (Table IB2.11). Women who left benefit were slightly less likely than men to have had a closed certificate (32 per cent and 34 per cent respectively), but slightly more likely to have failed the personal capability assessment (27.8 per cent of women compared with 25.8 per cent of men). As the rate of

personal capability assessment disallowances for mental and behavioural disorders are in similar proportion to the caseload, the assessment does not appear to be a significant factor in the rate at which these claimants leave benefit.<sup>14</sup> DWP research into destinations after leaving benefit also suggests that more men than women had their benefit stopped, or were told they were no longer eligible (13 per cent compared with 9 per cent).<sup>15</sup> This research also found that men were more likely than women to return to work for more than 16 hours a week, but women were more likely than men to start work for fewer than 16 hours. Research into 'permitted work' (where someone may remain on benefit while doing limited amounts of paid work) shows that marital status or living arrangements can be an important factor affecting movements into work.<sup>16</sup> Those moving into work and off benefit were more likely to have a working partner and were slightly more likely to be women than men (the latter being slightly more likely to remain on benefit doing permitted work).

Many other developed countries are facing similar trends in benefits that are broadly equivalent to IB/income support.<sup>17</sup> Across OECD countries, this evidence shows the following.

- ◆ On average, women had lower rates of inflow than men to benefits; after age 55 these are significantly lower (perhaps reflecting earlier access to other provision such as retirement. (This will change as women's pension age is raised in line with men's.)
- ◆ Up to about a third of benefit recipients are reported to have some mental health problems, especially people in the younger age groups.
- ◆ People with mental health problems tend to be over-represented in non-contributory and means-tested benefits (perhaps also related to the earlier age at which someone may be affected).

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## Trends in health conditions and impairment

Differences between men's and women's health and impairments may also affect their claims for incapacity-related benefits. Women appear to be particularly at risk of developing 'common' mental health problems (such as anxiety, depression, phobias, obsessive-compulsive and panic disorders).<sup>18</sup> Carers who provide substantial support are also at risk of mental health problems. Data about benefit claims shows a change in the pattern of conditions reported by recipients of incapacity-related benefits. Inflows for mental health conditions have increased from 7 per cent in 1975 to 18 per cent in 1995 and 33 per cent in 2003.<sup>19</sup> However, this category of 'mental and behavioural disorders' includes both mental health problems and learning difficulties. As these are very different experiences there is a strong case for disaggregating them. Overall, people in this broad category of mental and behavioural conditions also tend to remain on benefit for longer.<sup>20</sup>

Analysis of the 1999 Poverty and Social Exclusion Survey<sup>21</sup> found that the responses of 20 per cent of women indicated that they could be experiencing mental health problems, compared with 16 per cent of men. They also found that lone parents were at particularly high risk of reporting mental health problems – as lone parents are overwhelmingly women, this again indicates that women are at particular risk. This analysis of the Poverty and Social Exclusion Survey also demonstrated links between mental ill-health and poverty, whether measured by income or more subjectively. As previous Women's Budget Group work has shown that women are often the main managers of poverty, they would be particularly vulnerable to mental health problems as a result. While not all of the findings were broken down by gender, there were some which related specifically to women.

- ◆ On the deprivation scores, in which respondents stated whether they could or could not afford a particular item, women were more likely than men to be depressed if they also report that they could not afford to redecorate their home, replace furniture or household appliances or afford two pairs of shoes. Men were more likely to be depressed if they could not afford to spend a little money on themselves.
- ◆ Women with housing problems were more likely to be experiencing mental health problems than men in the same situation.
- ◆ Social isolation was shown to be associated with mental ill-health. While these findings were not disaggregated by gender, they do suggest that women might be particularly vulnerable. For example, those who reported that they felt socially isolated because of the demands placed on them by childcare were at high risk of mental ill-health – the majority are likely to be women.
- ◆ Time stress was also a predictor of mental health problems and had a slightly greater impact on women. The author speculates that this might be due to parenting duties, as families with children reported being the most time-stressed of all household types.
- ◆ Measures of intra-household deprivation indicate that women were more likely to go without things like going out, new clothes and shoes when money was tight. Comparing men and women who did go without shows that the impact on mental health was greater for women.

An Equal Opportunities Commission report found that these gender differences in health go beyond just mental health problems, but that there are differences in the physical health of women and men.<sup>22</sup> For example, women are 2.7 times more likely to develop auto-immune diseases, such as diabetes. These differences arise partly because of biological and genetic differences between men and women, but also by their socially constructed gender roles – women are less likely to smoke or drink heavily, but also less likely to exercise, which will affect their health.

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## Need for better data

The Equal Opportunities Commission report highlighted the fact that the data available on gender differences in health is 'partial and difficult to interpret'. Health status, especially self-reported health status, is difficult to capture in an objective way, which is one of the reasons for the problems interpreting this type of data. But there is also a need for better information by gender on the reasons for claiming, and on benefits data and health in order to understand the different reasons why men and women might come to rely on incapacity benefits.

### Notes

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- 18 L Taylor and others, *Public Health Interventions to Promote Positive Mental Health and Prevent Mental Health Disorders in Adults*, NICE, 2007
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# Women as carers and dependants

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## Carers

Any reform of incapacity-related benefits needs to take into account that women or men receiving these benefits may also have caring responsibilities that will affect their ability to participate in work, or work-related activities. Some women claiming incapacity benefit (IB) may have responsibility for children. Others may be caring for other adults, such as older relatives. Women in their fifties are more likely to be carers (25 per cent) than men in their fifties (18 per cent)

A recent evidence review suggests that barriers to work for older people can include multiple disadvantages such as poor health, lack of qualifications and (especially for older women) caring responsibilities.<sup>1</sup> For example, analysis of the Labour Force Survey shows that while only 7 per cent of disabled men who were not seeking work stated that the primary reason was because they were looking after family or home, 27 per cent of disabled women stated that this was the main reason they were not looking for work. Sixty-two per cent of inactive women who were not seeking work stated that this was because of their health, compared with 76 per cent of men. A recent OECD study found that those countries with the highest economic activity rates among older women are those with the most extensive formal public domiciliary and residential care services for older people.<sup>2</sup>

We also need to identify whether women as carers are also likely to be affected by the reforms – though it is difficult to know from official figures how many claimants of incapacity-related benefits are unpaid carers. A survey of recipients of incapacity-related benefits found that on average 8 per cent said they were looking after the home or caring for family, but those most likely to say this were women under age 50 (17 per cent) or women over 50 (10.2 per cent) rather than men.<sup>3</sup> IB claimants cannot claim carer's allowance (CA), but they may be eligible for an income support carer's premium – Department for Work and Pensions' figures for the number of IB claimants who also receive the carer's premium show that their numbers are small (only 76,000), but that the majority (around 44,000) are men. This is unlikely to be an accurate reflection of the numbers of people with health problems who are themselves engaged in caring activity, however, because of the eligibility rules and take-up issues. We do know that care-giving is associated with poor health independently of socio-economic status.<sup>4</sup>

This limited evidence highlights two potential areas where any IB reforms will impact in a particular way on women. Firstly, as the analysis of the Labour Force Survey shows, many disabled women are categorised as 'inactive' because of 'looking after family or home'. While some women would have taken on this role regardless of their

health problems, it is possible that those women who have had to leave the labour market because of an impairment or health problem may define themselves as a carer rather than as economically inactive. Arber and Ginn's analysis of the British Household Panel Surveys for 1991 and 1995 found that people doing a substantial amount of caring were less likely than others to be in paid employment before beginning care-giving.<sup>5</sup> Thus, these women (who may, for the reasons outlined above, be less likely to qualify for IB anyway) may be excluded from any intervention designed to help them return to work, even if this is something they might welcome despite their carer status.

Secondly, women who do claim incapacity-related benefits may have barriers to work other than just their health. For example, women participating in the New Deal for Disabled People were more likely than male participants to say that barriers to work include not being able to work regularly (50 per cent compared with 41 per cent). This may relate either to childcare responsibilities, which affect women more than men (8 per cent of women but only 4 per cent of men)<sup>6</sup> or to responsibilities for caring for an adult.

For some women, caring responsibilities may mean that a return to work is inappropriate, or that other factors, such as childcare, will be important in determining whether paid work is possible.

Thirdly, men and women combine care-giving and paid employment differently. In 2000, nearly half (47 per cent) of women who were caring at least 20 hours a week worked full time, compared with only 16 per cent men. In contrast, only 7 per cent of men compared with 26 per cent of women carers worked part time. This would matter less if the UK did not have a long hours work culture, which disadvantages those who can only work part time either because of their own impairments or because of their caring responsibilities. It is no accident that in the UK, which has the longest full-time working hours and is the only country to keep the individual 'opt-out' to the European Union's Working Time Directive, the gender pay gap experienced by women in part-time employment is the largest in the European Union.<sup>7</sup>

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## Dependants and partners

People receiving the contributory IB can have higher benefit if they qualify for an additional £48.65 per week adult dependency increase. This is payable if the claimant's partner is aged over 60 or looks after children, and either lives with, or is maintained by, the claimant. This addition will not be payable with the contributory employment and support allowance. The November 2006 *Pre-Budget Report* also announced the removal of adult dependency increases in CA for new claims from 2010.<sup>8</sup>

Feminists are divided on the issue of these dependants' additions. On the one hand, treating the household as one benefit unit, with one claimant (usually the man) claiming benefit for everyone in that

household has been argued to reinforce the assumption that women are dependants, and to deny them access to an independent income (see the discussion of means-tested benefits above). On the other hand, as Jane Lewis has argued, the organisation of benefits should reflect the reality of people's lives – and that at present, many women are, in reality, dependent on their spouse for financial support.

After a period of six months on incapacity-related benefits, any partner of someone receiving incapacity-related benefits is also required to take part in a work-focused interview. Dealing with partners requires advisers to take a more holistic view of the household, though the evidence suggests that advisers have not necessarily dealt with issues for the couple as a whole.<sup>9</sup> In particular, barriers to work faced by female partners may be cultural and social as well as caring responsibilities. Women are also more likely than men to lack qualifications and previous work experience.<sup>10</sup> Female partners of New Deal for Disabled People participants were more likely than male partners to have caring responsibilities (28 per cent compared with 22 per cent). This is higher than the average for working-age couples (13 per cent and 8 per cent respectively).<sup>11</sup> Substantial caring commitments affected the likelihood of the partner being in work; 57 per cent of those caring for more than 20 hours a week were in work compared with 66 per cent of those caring for fewer than 20 hours. As the authors indicate, 57 per cent is still a high percentage to be in paid work considering the extent of caring responsibilities. More research may be needed in order to understand the interaction between caring responsibilities, impairments and paid work within a household.

#### Notes

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# Five

## Incapacity, ethnicity and immigration status

Ethnicity and immigration status are further factors that can impact both on women's health and their ability to access incapacity-related benefits.

The Race Relations Amendment Act 2000 places a duty on public bodies to promote race equality and to eliminate discrimination on racial grounds. Any legislation should be subject to an impact assessment and benefit authorities must ensure that any services do not discriminate on racial grounds.

There is much evidence that Black and minority ethnic (BME) groups are over represented in the bottom fifth of the income distribution, are more at risk of unemployment and are more reliant on means-tested benefits than White households. Pakistani and Bangladeshi households are particularly at risk of unemployment and Caribbean households more likely to be lone-parent families.<sup>1</sup>

There are also some issues relating to specific illnesses for BME women. For example, in terms of physical illness:

- ◆ women of Bangladeshi origin are half as likely as the average to attend cervical cancer screening;
- ◆ African Caribbean women have 80 per cent higher rates of diagnosed high blood pressure than White women.

The link between mental ill-health and ethnicity is complicated, but ethnicity does appear to be a relevant factor. Research has found:<sup>2</sup>

- ◆ people from ethnic minorities are more likely to be diagnosed with mental illness;
- ◆ a two-fold higher prevalence rate of psychiatric illness for Black Caribbean people compared with the White population – those who are in poorer economic positions appear to have a higher risk;
- ◆ Irish men and Pakistani women have significantly higher rates of common mental disorders;
- ◆ depressive episodes and anxiety disorders are most common among Indian and Pakistani women.

Access to benefits has become increasingly linked to immigration status, nationality and residency status. These rules exclude many women who would otherwise qualify for benefit.

For example, asylum seekers are excluded from accessing income support (IS) and most other means-tested benefits while waiting a decision on their application for asylum. Yet their experience as an asylum seeker can often mean that they experience physical and/or mental ill-health, or disability. Asylum seekers are generally not allowed

to work when they arrive in the UK, so cannot build up the necessary contribution conditions for contributory incapacity benefit.

Even once a person has a more regular immigration status s/he may face problems. Refugees, in particular, face particular problems in accessing employment and their employment prospects are markedly worse than other BME groups generally.<sup>3</sup>

More recent residence conditions, such as the 'right to reside test' can exclude claimants indefinitely from accessing benefits such as IS. As new migrants, women will often not have built up sufficient contributions to qualify for contributory IB or they may be working part time and not paying national insurance contributions.

Their immigration status often renders the women invisible, highlighted by a recent report by the Women's Budget Group.<sup>4</sup> The report focuses on asylum seeker and refugee women who are more at risk of health problems because of their experiences in the UK. In particular, their exclusion from access to benefits and the fact that they are not allowed to work means they are open to exploitation and abuse. If they do work, it may be in the grey economy where they are expected to work long hours for very little pay, and with no health and safety provisions.

Even where BME women are eligible to work and benefits, they can experience particular difficulties. The contribution conditions can cause particular problems because they militate against those who have irregular earnings – for example, because of absences abroad or short working lives in the UK. The combined factors of gender and ethnicity mean that such women experience particular disadvantage, not addressed by the benefit authorities.

#### Notes

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# Pathways to Work and incapacity benefit reform

Recent proposals to reform incapacity-related benefits have the stated aim of helping more people move off benefits and go back into work.<sup>1</sup> This includes both increased support for claimants and increased conditionality, over time obliging individuals to participate in 'work-related activity' in return for benefit.

Pathways is the latest in a series of initiatives designed to help disabled people get or keep jobs. In addition to general programmes – such as New Deals – several programmes have targeted disabled men and women, which can be described as specific or specialist.<sup>2</sup>

- ◆ *Specific* programmes such as the New Deal for Disabled People (NDDP) targeted specifically at recipients of incapacity-related benefits. NDDP began as a series of personal adviser pilots in 1998 and extended nationally in 2001 as a voluntary programme of support delivered by a network of private and voluntary sector job brokers.
- ◆ *Specialist* programmes such as Access to Work (to help disabled people in work through support workers, equipment, travel to work) and Workstep (helping disabled people and employers through supported employment).

NDDP seems to have been reasonably successful with nearly half of those registering finding paid work in the year after registration, and 18 per cent saying they would not have found a job without it (rising to 26 per cent for those without qualifications).<sup>3</sup> Men are more likely to participate than women, but women participants are slightly more likely than men to enter paid employment (49 per cent compared with 45 per cent) especially in the secretarial and personal service sector.<sup>4</sup> Women participants are more likely than their male counterparts to have academic qualifications only (men being more likely to have vocational qualifications) and to have a mental health condition.<sup>5</sup> Women are also less likely than men to need aids and adaptations in employment, but more likely to need a personal assistant or support worker.

There is limited data by gender on the specialist schemes, which are available to a wider group of disabled people than recipients of incapacity-related benefits. Around 28,000 people received Access to Work support between 2004 and 2006. There is some evidence that there may be slightly more women than men receiving this kind of support.<sup>6</sup> During 2004/05 around 27,000 disabled people were supported by the Workstep programme. Most Workstep participants were men (66 per cent) and a third were recorded as having a learning disability.<sup>7</sup>

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## Work-focused interviews

Additionally, mandatory work-focused interviews have been progressively introduced into incapacity-related benefits, first through the ONE pilots and then through the amalgamation of benefits and employment support delivered through a single agency, Jobcentre Plus. Outside of Pathways areas, it is now mandatory for new recipients of incapacity-related benefits to have a work-focused interview at the eight-week stage of a new claim, every three years and at subsequent trigger points, such as following a personal capability assessment, stopping or starting work of less than 16 hours a week, or finishing education or training.<sup>8</sup>

The Pathways regime includes more interviews than this in the early stages of a claim. As noted above, welfare reform will involve a new regime modelled on the Pathways to Work pilots, which have been running in since 2003 in selected areas of the country.

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## Pathways to Work pilots and roll-out

- ◆ Currently the Pathways process involves the following.
- ◆ All new claimants attending a mandatory work-focused interview eight weeks into their claim (except where this is deferred or waived).
- ◆ A personal capability assessment 'fast-tracked' – that is, completed within 12 weeks.
- ◆ A further five mandatory work-focused interviews (roughly at monthly intervals) for those not screened out of the regime because of their health.
- ◆ Access to a specialist personal adviser.
- ◆ Access to the 'Choices' package including the NDDP and condition management programmes.
- ◆ A weekly return-to-work credit of £40 for a year, available to those who enter work of more than 16 hours a week but who earn less than £15,000 a year.

In addition, advisers have access to an Adviser's Discretion Fund and in-work support (including mentoring, financial and debt advice, and occupational health support) as well as other Jobcentre Plus programmes, such as Access to Work. From February 2005 as well as new claims, existing recipients were invited to attend a series of three work-focused interviews.

Statistics up to June 2006 shows that there have been 279, 580 starts in Pathways areas, 103, 430 mandatory initial work-focused interviews and 94,030 mandatory repeat work-focused interviews, and 26,520 job entries.<sup>9</sup> This data tends to be 'high level' and not broken down by gender.

So far the quantitative evidence about the impact of Pathways has been limited. Early evidence suggests that Pathways has, overall, had a large impact on moving people off benefit (an increase of 8 per cent) and getting people into paid employment (an increase of 9 per cent).<sup>10</sup> However, these are not necessarily the same people: people under age 45 are more likely to get paid work (but not necessarily leave benefit); conversely women over age 45 appear to have moved off benefit (but not into work). There is no statistically significant evidence of differential impact by gender per se, the significance being more by age, though this is not well understood and needs more investigation as the evaluation proceeds.

Take up of NDDP has increased from 4 per cent in Jobcentre Plus offices to 10 per cent.<sup>11</sup> People participating in NDDP in Pathways to Work pilot areas were slightly more likely to cite childcare as a barrier than in non-Pathways areas.<sup>12</sup>

Qualitative aspects of the Pathways evaluation offers limited insights regarding particular experiences for women participating in Pathways, though the evidence highlights mental health which can be associated with claims from women (see above). Longitudinal research with recipients found mixed evidence about the impact of Pathways. There was little evidence of people changing their views but information and advice helped smooth a return to work.<sup>13</sup> Pain, fatigue and depression were common experiences in people's lives and whilst there was strong support for the principle of Pathways, intervention at the right time and responding to individual circumstances was seen as most important. The largest group of recipients felt that they were not yet ready to work, but thought this might be possible in the future; others were either not thinking about work or were already focused on finding a job.

The evidence also finds that personal advisers perceived some groups of recipients easier to progress than others. In some localities examples of those 'harder to help' included non-English speaking women.<sup>14</sup> Patterns of ill-health and disability are not uniformly distributed across the country and neither are caregivers. Bangladeshi and Pakistani women are the most likely to be caring for an adult more than 20 hours a week, a reflection in part of their greater probability of living in a three-generation household and /or having a much older spouse.<sup>15</sup> At the same time, they are likely to have larger families and less likely to be economically active. The child care tax credit system does not adequately support families with three or more children. Personal advisers also reported that the issues faced by existing recipients were often more a matter of degree (rather than different problems), though in some cases advisers reported seeing more severe and enduring mental health problems than they had anticipated, for which they felt more support in their role was needed.<sup>16</sup> Similarly in some localities there were reports from some condition management practitioners that mental health problems were more common than expected.<sup>17</sup> Practitioners also often viewed people with mental health problems as being 'harder to help' and take-up by Black and minority ethnic clients (especially women) was thought to be low.

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## Delivery

In the next stages of Pathways roll-out the Government has invited private and voluntary sector organisations to bid to run Pathways after the first work-focused interview. The contracts are likely to be let to a 'prime contractor' who will then sub-contract. Funding is to be based on 30 per cent up-front administration fee; 50 per cent for job outcomes; and 20 per cent for a sustained job outcome. This is intended to avoid the risk that efforts will be skewed towards those who are already closer to the labour market if funding is based solely on outcomes. Funding regimes that are based solely on outcomes could cause systematic bias against women as they may have greater barriers to work – for example, caring responsibilities. However, even where the programme is being delivered by public sector institutions, such as Jobcentre Plus, there is a danger that excessive targets will also distort priorities with potentially similar results.<sup>18</sup>

Work-focused interviews, action plans, monitoring of activities and, if necessary, issuing directions to a claimant that a particular activity should not count as work-related, can be undertaken by a personal adviser either in Jobcentre Plus or contracted out to the private and voluntary sector. It is also important that the moves made into employment are sustainable, and that job retention is measured alongside movements into the labour market. The scheme will also need to be monitored to ensure that participants are moving into employment which is suitable for them.

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## Employment and support allowance

The Welfare Reform Bill is a 'framework' Bill, with much of the detail left to regulations (containing some four hundred regulation-making powers). Some draft regulations have been published as the Bill has progressed through its Parliamentary stages.<sup>19</sup>

The Bill replaces incapacity benefit (IB) and income support paid on incapacity grounds with a single benefit, the employment and support allowance (ESA), which will contain both contributory and means-tested strands (very like jobseeker's allowance (JSA)). This suggests that if these strands are paid at the same rate there may be fewer people receiving the contributory benefit with a means-tested top-up. The implications for women are unclear as the detail of benefit rates and their interactions are not available – though the Government has stated that ESA will be payable at a level above the long-term rate of IB (£81.35).

Similar rules are likely to apply as now in so far as the contributory conditions and the income and capital rules are concerned. It is possible that ESA may continue the national insurance disadvantage faced by some women, as discussed above.

However, ESA will be structured differently from current benefits as there will no longer be any age or adult dependant increases with the

contributory benefit, nor any disability premium with the means-tested benefit. Instead, ESA will have the following structure.

- ◆ **The assessment phase**, which, for most people, will last for a fixed period of 13 weeks, where benefit will be paid at the basic rate, based on JSA personal allowance levels (this will include a lower rate for under-25s). For those receiving the means-tested strand, premiums except for the disability premium will be payable as now. During this phase the (revised) personal capability assessment process will take place.
- ◆ At the end of the assessment phase, **the main phase** of ESA begins. During the main phase the basic rate will be payable at the same rate, regardless of age. Depending on the personal capability assessment results, if someone is eligible for ESA, one of two components will be payable in addition to the basic rate. The exact rates of these components, and the differential between them, are unknown.
  - ◇ For what is expected to be the majority of claims, a **'work-related activity component'** will be payable, dependent on the individual attending work-focused interviews. Over time the Government has said that claimants may be required to undertake one of a range of 'work related activities' over a specific period (eg, one month). If someone fails to comply with those conditions without having good cause, a 'sanction' may apply. This means that the work-related activity component will be reduced by 50 per cent for the first four weeks and 100 per cent thereafter (the basic rate is not sanctionable).
  - ◇ For what is expected to be a minority, a **'support component'** will be payable at a higher rate than the work-related activity component, and without any work-related conditions.

The concept of 'incapacity for work' is being replaced by 'limited capability for work' as the main eligibility condition for ESA. In addition, eligibility for the support component will be based on people having 'limited capability for work-related activity'. These will all be assessed through the revised personal capability assessment process.

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## The new personal capability assessment

Under ESA the role of the personal capability assessment will be different. Now, it refers to the test of 'incapacity for work' as assessed against physical and mental health 'descriptors' of inability to undertake certain activities; some categories of people are exempt from the personal capability assessment (such as people with certain conditions or in receipt of the higher rate of disability living allowance).

Under ESA, the personal capability assessment will have three distinct assessments.

- ◆ 'Limited capability for work' for ESA eligibility, using a revised set of physical and mental health descriptors, and without diagnosis-based exemptions. This will be the threshold at which someone's capability for work is so limited that it would be unreasonable to require them to work.
- ◆ 'Limited capability for work-related activity' for eligibility for the support component, which assesses individuals against another set of physical or mental descriptors indicating a severe level of functional limitation (one out of a possible 46). This will be the threshold at which it would be unreasonable to require someone to undertake any work-related activity. Additionally, the support group will include people in certain circumstances (such as people with a terminal illness, or pregnant women who would risk damage to her or her baby's health if undertaking work-related activity).
- ◆ 'Work-related health assessment' to indicate residual capability and the possible interventions that might improve these.

There have been considerable criticisms of the personal capability assessment, especially in relation to people with mental health problems.<sup>20</sup> As part of the reforms flagged up in the Department for Work and Pensions Green Paper,<sup>21</sup> the Government set up a series of technical groups and consultative groups to consider how the personal capability assessment descriptors (stage 1 above) could be revised. This work was reported in September 2006, identifying revisions to the personal capability assessment, including a wider range of mental health descriptors, to include intellectual and cognitive impairments, to make the scoring system more fair and equitable between physical and mental health descriptors, and to improve the evidence-gathering process.<sup>22</sup> It also proposed removing the lower scoring physical descriptors. A stage 1 evaluation has taken place with a very small number of cases looking at the impact of the proposed descriptors. As a result of this stage 1, there will be fewer descriptors than in the September proposals.<sup>23</sup>

The Government has also now agreed that the point scores for physical and mental health descriptors can be added together.<sup>24</sup> There have been concerns that the approach and timescale for the evaluation exercises are limited and that the methods of assessing certain conditions (such as mental health conditions, learning difficulties and autism) need to be changed as well as the descriptors themselves.<sup>25</sup> A more comprehensive assessment of mental health problems should, in theory, be advantageous to women. However, the stage 1 trial runs did not include a breakdown by gender and, as yet, there is limited detail available on which to base an assessment of possible impact.

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## Work-related conditionality

As outlined above, the conditions for the work-related activity component of ESA when it is first implemented in 2008 will include the requirement to attend work-focused interviews (broadly as now, but

possibly on a more frequent basis). Into the future ('as resources allow') more activity may be required of this group of ESA recipients. The January 2006 Green Paper gave some examples of what might constitute work-related activity: as well as training, basic skills and jobsearch assistance measures, exploring childcare possibilities is included as one of the activities which could be included in a claimant's action plan.<sup>26</sup> Also included are actions to help clients with particular mental health problems, such as condition management support, and 'stabilising life' activities such as managing housing or financial situations. A broad approach to 'work-related activity' is likely to be helpful to women as it recognises that people may have multiple barriers to paid employment, and may have other responsibilities such as parenting and caring.

However, unless caring responsibilities are given proper consideration when looking at whether people can reasonably be required to engage in work-related activity, women will be at risk of sanctions which increases the risk of poverty. Equally, doing these activities also depends on other public service providers. For example, if suitable childcare is not available, then claimants must not be penalised if this prevents them returning to work. The same consideration applies to those caring for a frail older or other dependent adult. Social care services are currently under-resourced and in 2005 only 10 per cent of carers were getting any support (including information and advice).<sup>27</sup> Since then there have been further cuts.<sup>28</sup> There is also uneven provision at present of certain support services such as talking therapies. The Healthcare Commission's recent research into the availability of talking therapies for depression also indicates that other public services may not be in a position to provide the support required.<sup>29</sup> The Government's commitment to roll out the Pathways to work approach nationwide – including access to condition management programmes – before ESA is introduced should help to kick-start such provision where it does not as yet exist.

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## Existing claimants

The Welfare Reform Act provides for transitional provision for existing claimants of incapacity-related benefits, while at the same time there is a commitment to the level of the new benefit being higher (though there may be groups losing out with previous entitlement to additional amounts). Whilst initially it is intended that the new regime will only apply to new claimants, there is provision in the Act for regulations which would allow voluntary or mandatory migration of existing claimants onto ESA. This is likely to mean undertaking a revised personal capability assessment process at some point (in order to determine eligibility for the work-related component or support component) though the Government has indicated that existing claimants should not lose out financially at the point of change. Existing claimants are also likely to be expected to attend work-focused interviews rather than work-related activity.

Around one in six recipients have a dependent child.<sup>30</sup> Recipients with children, and those who have claimed more recently, are likely to be the first groups to be 'migrated across' in this way, dependent on lessons from the Pathways evaluation.<sup>31</sup> This suggests that it is possible that some women are likely to be migrated across sooner than single, older men who have been receiving benefit for some time. Migration could also impact on women, not only as claimants but as dependants of current claimants.

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## Sanctions

Currently, very few people have been sanctioned as a result of non-compliance with Pathways.<sup>32</sup> This may be due to attempts to maximise attendance (such as phone calls to explain the work-focused interview requirement) and the safeguards in place before a sanction is imposed (for example, visiting people with a known mental health problem or learning disability). Qualitative research also suggests little evidence that compulsion had increased interest in, or movement towards, work among people whose compliance was driven by fear of losing benefits.<sup>33</sup>

Draft regulations concerning work-focused interviews for ESA carries over some of the existing provisions for good cause for not taking part if they can show that circumstances applied to them within five days. This includes misunderstanding the requirement because of learning or language difficulties; a physical or mental condition made it impossible to attend at the time; or where someone to whom the claimant provides care had an accident, illness or relapse or had to attend a medical appointment. There will be fewer circumstances when work-focused interviews can be waived completely but one may be deferred.

### Notes

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The evidence presented and discussed in this report shows that there are important differences between women and men claimants of incapacity benefits. Some relate to different causes of impairment, such as a higher prevalence of mental health problems among women, others to their household responsibilities and circumstances, which in the past would have excluded women from being claimants in their own right. The reform's objective of increasing economic activity rates among people with impairments or ill-health also means that those implementing these reforms must be sensitive to women's – and some men's – different work histories. In particular, the availability of services which support parents and carers in combining paid work with their caring responsibilities is essential if they are to take up and remain in paid employment. While there are important local variations as well as differences within minority ethnic groups and between them and the White population, gender remains a key variable overall. This report demonstrates that a commitment to achieving gender equality requires a careful understanding of the consequences for social policies of the different needs and lives of men and women.