

# Spartacus response to the proposed cuts to Employment and Support Allowance

In his summer 2015 budget, the Chancellor announced that some disabled people assessed as unfit for work will see a 30% drop in their income from April 2017 under his Welfare Reform and Work Bill.

Osborne claimed that disabled people would be protected from cuts and freezes, and this is true for some disability benefits, such as Personal Independence Payments. But other benefits that disabled people also claim, such as Housing Benefit, are not exempt from austerity, and nor is Employment and Support Allowance (ESA).

Spartacus researchers believe that the Chancellor's justification for targeting some people on ESA for cuts rests on a distinction between the "most vulnerable" disabled people and the "remainder", which doesn't hold up to scrutiny (See Spartacus ESA Mythbuster).

ESA is the benefit we are entitled to if we fall ill, become injured or are born with impairments and score 15 points or more in the "Fit for Work" test known as the Work Capability Assessment.<sup>1</sup>

The cut of over £1,500 p.a. from 2017 applies to new claimants placed in the Work Related Activity Group (WRAG) of ESA, who have to prepare for work as a condition of receiving the benefit. Osborne said the reduction in benefits would provide an incentive for people in this group to move into work.

The proposals leaked before the Emergency Budget<sup>2</sup> also included a toughening of conditionality for those in the WRAG, which will put this group at greater risk of having their benefits sanctioned (ie stopped, for a specific period of time).

## Spartacus researchers believe that:

- The proposal to incentivise work through increased hardship appears to be based on the false assertion that people in WRAG are fit for work, contrary to their award of ESA under its strict criteria for work capability.
- It is not lack of motivation but poor health or impairment that prevents people in the WRAG from working.<sup>3</sup> This, in combination with the lack of progress in addressing structural barriers in the UK labour market,<sup>4</sup> explains the low rates of return to work from the WRAG.
- Reducing disabled people's income to JSA rates would be a deliberately retrogressive measure, in violation of the right to social security and to an adequate standard of living under the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>5</sup> **and** the UN Convention on the Rights of Persons with Disabilities (UNCRPD).<sup>6</sup> The UN Committee on Economic, Social and Cultural Rights (CESCR) stated, in 2007, that there is a strong presumption that retrogressive measures taken in relation to the right to social security are prohibited under ICESCR.<sup>7</sup>
- Of particular relevance, the UN CESCR has also pointed out that the UK has specific international treaty obligations to provide disabled people, who are denied employment opportunities, with an adequate income, including adequate food, clothing and housing.<sup>8</sup>
- The UK's levels of ESA and JSA are already considered inadequate.<sup>9 10</sup> Sick and disabled people are likely to be out of work for longer than non-disabled people, so need an income slightly greater than the minimal level provided by JSA. JSA is calculated to allow short term subsistence during periods of

temporary unemployment<sup>11</sup> but does not reflect the longer term costs of food, housing, heating and healthcare borne by people with long term health related barriers to work. This measure would therefore put disabled people at huge risk of unsecured debt.

- Increasing conditionality for the WRAG would not increase employment rates in this group. Rather it would lead to increased sanctions, greater food poverty and a consequent deterioration in the mental and physical health of claimants. The Work and Pensions Committee found a lack of evidence for the efficacy of financial sanctions in moving claimants with long -term health conditions and disabilities closer to employment; the Government should answer its call for a full independent review following evidence that benefit sanctions are not being applied fairly or proportionately.<sup>12</sup>
- In order to meet its target of halving the disability employment gap, the Government should be investing more in measures that seek to address the structural barriers to employment, including the Access to Work scheme and the models of employment support that assist both potential employees and employers, both of which are proven to be successful. Pushing disabled people further into poverty is not an effective way of removing the structural disadvantage that prevents them working and participating in society.

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<sup>1</sup> "If you're ill or disabled, Employment and Support Allowance (ESA) offers you:

- financial support if you're unable to work
- personalised help so that you can work if you're able to

You can apply for ESA if you're employed, self-employed or unemployed." <https://www.gov.uk/employment-support-allowance/overview>

<sup>2</sup> <http://www.bbc.co.uk/news/uk-33347511> ("Sickness benefit shake-up considered")

<sup>3</sup> Hale, C. (2014) *Fulfilling Potential? ESA and the fate of the work related activity group* (Mind).

<sup>4</sup> Young, J. et al (2014) *Dignity and Opportunity for All: securing the rights of disabled people in the austerity era* (Just Fair Consortium) pp 88-98; 103-117.

<sup>5</sup> ICESCR Articles 9 (the right to social security) and 11 (the right to an adequate standard of living).

<sup>6</sup> UNCRPD Article 28 (the right to an adequate standard of living and to social protection).

<sup>7</sup> UN CESCR General Comment no 19, para 42

<sup>8</sup> UN CESCR General Comment no 19, para 20.

<sup>9</sup> Hirsch, D. (2015) *A minimum income standard for the UK in 2015* (JRF): JSA is 37% of Joseph Rowntree Foundation's Minimum Income Standard; ESA WRAG lifts this to 52% <http://www.jrf.org.uk/publications/minimum-income-standard-uk-2015> .

<sup>10</sup> The findings of the European Committee on Social Rights, in January 2014, noted that.... "minimum levels [sic] of short-term and long-term incapacity benefit is manifestly inadequate; .... the minimum level of jobseeker's allowance is manifestly inadequate" - European Committee of Social Rights (2014), Conclusions XX-2 (2013) (Great Britain) Articles 3, 11, 12, 13 and 14 of the 1961 Charter, p 19.

<sup>11</sup> "The provision of unemployment benefits through social insurance in the UK has been principally designed to deal with the short term unemployment of those normally in regular employment who need to be tided over a period of temporary difficulty. The type of provision established was based on a number of assumptions. The first was that a man or woman with a good employment record would not experience serious difficulty in finding another job. The second was that such a person would not have any difficulty in building and re-building a good contribution record. The third was that, given there had been regular employment, the person concerned would have some savings or other private provision or, if not, could weather a period on a relatively low benefit in the knowledge that work would soon be available again. The low benefit encouraged and supplemented self help and at the same time provided a spur to job search, a search which was expected to be successful."- Brown, J. C. (1990) *Victims or Villains? Social Security Benefits in Unemployment*, Policy Studies Institute <http://www.psi.org.uk/publications/archivepdfs/Victims/VV3.pdf> .

<sup>12</sup> House of Commons Work and Pensions Committee (2015) *Benefit sanctions policy: beyond the Oakley Review*.