***This letter challenges*** *the DWP’s failure to; provide a home visit, failure to decide whether the claimant had good cause not to attend a work capability assessment, failure to provide reasonable adjustments and failure to make a re-assessment decision on the basis of sufficient paperwork with the result that ESA has been terminated.*

Please read the whole letter carefully and change any text in red and/or [square brackets].

Return all text to black.

Seek advice if needed jrproject@cpag.org.uk

**DELETE BOXES BEFORE POSTING**

***Only use this letter if your client:***

* Was previously receiving old-style ESA and has a disability
* was called for a face-to-face work capability re-assessment (WCA) and did not attend
* the WCA was not done on paper and a home visit had not been offered,
* ESA was terminated as a result.

**Note this letter is drafted for Old Style ESA claims where a claimant has been called for re-assessment by way of a work capability assessment. References for New Style ESA (ie, if ESA claimed since UC rollout) are in the footnotes should you need to adapt it.**

**DELETE BOX BEFORE POSTING**

**Before you use this letter:**

Judicial review is a ‘remedy of last resort’. If there is a right of appeal, you must use it before sending a pre-action letter, unless that right of appeal can be said to not be effective.

Send a mandatory reconsideration (MR) request and ask for a response within 28 days, or 14 days in exceptional circumstances (which you will need to explain). Feel free to use the references in this pre-action template when drafting your MR request.

Explain that if an MR decision is not received within the time requested, you will send a judicial review pre-action letter.

If an MR decision is not received, your pre-action letter should then address the substantive issue and the delay in providing an MR decision within a reasonable time.

**DELETE BOXES BEFORE POSTING**

**IMPORTANT:** the address for service changed in February 2024, as below.

Please send your letter by post to DWP and by email to the Treasury Solicitor.

Please seek advice from JRProject@CPAG.org.uk if no response is received within 14 days, or consider referring to a solicitor to issue judicial review proceedings, see [this CPAG page](https://cpag.org.uk/welfare-rights/support-advisers/support-advisers-england-and-wales/support-judicial-review-process/pursuing-court-and) for more information.

Delete Box Before Posting

[address your letter to either the:

address on your client’s decision letter,

address your client sent their claim to, or

address on relevant DWP correspondence; or

request an upload link to post it to your client’s online UC account]

**And by email to:** thetreasurysolicitor@governmentlegal.gov.uk

**Our Ref:**

**Date:**

**Judicial Review Pre-Action Protocol Letter Before Claim**

**Dear Sir or Madam,**

**Re: Proposed claim for judicial review against the Secretary of State for Work and Pensions by [full name]**

##### We are instructed by [Name] **in relation to [her/his] Employment and Support Allowance (“**ESA**”) award. We write in accordance with the Pre-action Protocol for judicial review. Please note that we are requesting your response as soon as possible [and, in any event], no later than by **5pm on [date].****

**Proposed Defendant: Secretary of State for Work and Pensions (“D”)(“SSWP”)**

**Claimant:** [full name] (“**C**”)

**NINo:** [xxxx]

**Address:** [xxxx]

**Date of Birth:** [xxxx]

**Note on the address for Pre-action Protocol correspondence**

1. This letter is sent to you because in February 2024 a Senior Lawyer at Decision Making and Debt DWP Legal Advisers, Government Legal Department, Ground Floor Caxton House, Tothill Street, London, SW1H 9NA advised that:

*Pre-action correspondence should now be sent directly to DWP, not to DWP Legal Advisers. DWP Legal Advisers is part of the Government Legal Department, not DWP itself. Pre-action correspondence should be sent to the relevant section of DWP. This will normally be the section of DWP responsible for the decision which is the subject of the pre-action correspondence via their usual communication methods. For example if it relates to a particular benefit decision then the pre-action letter should be sent to the address at the top of that letter.*

1. **This letter is also sent by email to the Treasury Solicitor as** Cabinet Office practice direction ‘Crown Proceedings Act 1947’ (December 2023)[[1]](#footnote-1) requires:

*“****All documents*** *required to be served on the Crown for the purpose of or in connection with any civil proceedings by or against the Crown shall, if those proceedings are by or**against an authorised Government department,* ***be served on the solicitor****, if any, for that department”*

(Emphasis added)

1. The practice direction provides that the solicitor for service in connection with civil proceedings against the Department for Work and Pensions is “The Treasury Solicitor”.
2. **The Government Legal Department webpage**[[2]](#footnote-2) **further instructs:**

***[…]***

*The email addresses above are for the service of new proceedings only.
They should not be used for letters before action, or pre action protocol correspondence. If sending such documents to GLD please email these to**thetreasurysolicitor@governmentlegal.gov.uk**.*

**The details of the matter being challenged**

1. **C is challenging SSWP’s:**
2. **failure to exercise the discretion available to assess C’s ongoing eligibility for ESA on the basis of C’s paperwork when sufficient paperwork was available to do so,**
3. **failure to make reasonable adjustments to prevent disadvantage resulting from C’s [mental / physical] health disability;**
4. **failure to offer a home visit; and**
5. **failure to follow its own policy when deciding whether C had ‘good reason’ for not attending a work capability assessment (“WCA”).**

**Factual background**

1. **[C’s details],**
2. **[Household, Family]**
3. **[Disability and prognosis]**
4. **[Dates notified the SSWP of physical and/or mental health needs and what was said]**
5. **[Dates requested contact in writing only and what was said]**
6. **[Date C was called for a WCA.]**
7. **[Date C notified SSWP s/he was unable to attend because…And provided what evidence?]**
8. **[Date C received a decision that her/his ‘good reason’ had not been accepted for not attending the assessment and her/his ESA had been disallowed between…]**
9. **[Previous ESA award** (if relevant)]
10. **[Current ESA/ Universal Credit award** (if relevant)]
11. [Any contact with DWP and their response.]
12. **[C is suffering considerable financial hardship and has debts of…]**
13. **[Effect on health etc.]**

**Note on D’s duty of candour**

1. As D will be aware, the duty of candour arises as soon as a public authority becomes aware that someone is likely to test or challenge a decision or action. The duty is engaged at every stage of the proceedings, including the pre-action stage, as confirmed in *R (HM, KH and MA) v Secretary of State for the Home Department* 3 [2022] EWHC 2729 (Admin).
2. If any guidance, policy or guidelines exists concerning any of the matters raised in the Background section above, we consider that compliance with the pre-action protocol and the duty of candour requires that it be i) disclosed and ii) provided in full for inspection, as part of the response to this letter.

**Legal background**

**Legislation**

1. **To be entitled to ESA, a claimant must have a limited capability for work. This is defined in s1(4) of the Welfare Reform Act 2007 (“WRA”), which states:**

***“1.- […]***

***(4) For the purposes of this Part, a person has limited capability for work if –***

1. ***his capability for work is limited by his physical or mental condition, and***
2. ***the limitation is such that it is not reasonable to require him to work.”***
3. **The** Employment and Support Allowance Regulations 2008 (“**ESA Regs**”) **are made under** powers conferred by the WRA. Reg 19 of the ESA Regs addresses determination of limited capability for work and states:

*“****19****. - (1) For the purposes of Part 1 of the Act, whether a claimant’s capability for work is limited by the claimant’s physical or mental condition and, if it is, whether the limitation is such that it is not reasonable to require the claimant to work is to be determined on the basis of a limited capability for work assessment of the claimant in accordance with this Part.*

*(2) The limited capability for work assessment is an assessment of the extent to which a claimant who has some specific disease or bodily or mental disablement is capable of performing the activities prescribed in Schedule 2 or is incapable by reason of such disease or bodily or mental disablement of performing those activities.”*

1. **The information required in determining whether the claimant has limited capability for work is detailed in reg 21** ESA Regs**:**

***“21. - (1) Subject to paragraphs (2) and (3), the information or evidence required to determine whether a claimant has limited capability for work is-***

1. ***evidence of limited capability for work in accordance with the Medical Evidence Regulations (which prescribe the form of doctor’s statement or other evidence required in each case);***
2. ***any information relating to a claimant’s capability to perform the activities referred to in Schedule 2 as may be requested in the form of a questionnaire; and***
3. ***any such additional information as may be requested.”***
4. **There is no requirement in the regulations for a physical examination and it is clear that the assessment can involve consideration of paper evidence only.**
5. **Under reg 23 of the ESA Regs a claimant may (and may also therefore not), be called for a medical examination to determine whether he has limited capability for work. If so called, a claimant must attend unless they have ‘good reason’ not to do so:**

***“Claimant may be called for a medical examination to determine whether the claimant has limited capability for work***

***23. - (1) Where it falls to be determined whether a claimant has limited capability for work, that claimant may be called by or on behalf of a health care professional approved by the Secretary of State to attend for a medical examination in person, by telephone or by video.***

***(2) Subject to paragraph (3), where a claimant fails without good cause to attend for or to submit to an examination mentioned in paragraph (1), the claimant is to be treated as not having limited capability for work.***

***(3) Paragraph (2) does not apply unless –***

***(a) written notice of the date, time and place for the examination was sent to the claimant at least seven days in advance; or***

***(b) that claimant agreed to accept a shorter period of notice whether given in writing or otherwise.”***

**(Emphasis added)**

##### Therefore, the attendance of the claimant at a medical examination is not essential to the work capability assessment and, even where the claimant has been called for a medical assessment, [s/he] does not need to attend where [s/he] has good cause not to.

##### Under s.19 of the Equality Act 2010 (“EA 2010”) it is indirectly discriminatory to claimants with protected characteristics, which include disability, to apply a criterion or practice to all claimants, which places claimants with that protected characteristic at a disadvantage where that criterion or practice cannot be shown to be a proportionate means of achieving a legitimate aim.

##### *“Indirect discrimination*

##### *19. 19.- (1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.*

##### *(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—*

##### *(a) A applies, or would apply, it to persons with whom B does not share the characteristic,*

##### *(b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,*

##### *(c) it puts, or would put, B at that disadvantage, and*

##### *(d) A cannot show it to be a proportionate means of achieving a legitimate aim.*

##### *(3) The relevant protected characteristics are—*

##### *[…]*

##### *disability;”*

##### Under s.20 EA 2010 the Defendant and its contractors have a duty to make reasonable adjustments in the way contact is made and the way assessments for ESA are carried out to avoid disadvantage to claimants with disabilities, such as C.

##### *“Duty to make adjustments*

***20****.****- [****…]*

*(2) The duty comprises the following three requirements.*

*(3) The first requirement is a requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.”*

1. Under s. 21 EA 2010, failure to comply with the s.20 duty to make adjustments constitutes discrimination:

##### *“Failure to comply with duty*

***21****.-(1) A failure to comply with the first, second or third requirement is a failure to comply with a duty to make reasonable adjustments.*

*(2) A discriminates against a disabled person if A fails to comply with that duty in relation to that person.”*

1. Under s. 29 EA 2010 the duty to make reasonable adjustments applies to service providers and persons exercising public functions:

*“****29****. -[…]*

 *(7) A duty to make reasonable adjustments applies to—*

*(a) a service-provider (and see also section 55(7));*

*(b) a person who exercises a public function that is not the provision of a service to the public or a section of the public.”*

**Defendant’s Guidance**

**Issue 1: Paper Assessment**

**Decision Makers Guide (“DMG”): Volume 8: Chapter 42 - Limited Capability for Work and Limited Capability for Work-Related Activity** **[[3]](#footnote-3)**

1. **The guidance in the relevant DMG chapter makes clear a medical examination may not be necessary at all:**

***42176*** *As part of the assessment, claimants who are not treated as having LCW* ***may be required*** *to complete a questionnaire (see DMG 42161) and* ***if necessary*** *attend a medical examination. If they fail without good cause to do either, they can be treated as not having LCW1 (see DMG 42450 et seq). 1 ESA Regs, regs 22 & 23*

(Emphasis added).

1. This confirms the position as set out in the ESA Regs, that attendance at a medical examination may be required, but that it is not always necessary.
2. The circumstances in which a claimant’s capability for work can be measured without the need for a face-to-face assessment for both ESA and Universal Credit are dealt with in the Centre for Health and Disability Assessments (“CHDA”) publication *“WCA Filework Guidelines”[[4]](#footnote-4),* where multiple examples are provided of circumstances when a face-to-face assessment will not be necessary:

***“1.4 Purpose of WCA Filework***

***The purpose of the WCA filework process is to identify those individuals for whom advice on limited capability for work (LCW) and limited capability for work and work-related activity (LCWRA) can be provided without the need for a face-to-face assessment. The evidence may suggest that the claimant:***

* ***Is terminally ill***
* ***Has severe functional restriction fulfilling the criteria for a functional LCWRA category***
* ***Meets the criteria for LCWRA on other grounds that do not directly measure function (such as cancer treatment)***
* ***Fulfils criteria for being treated as having limited capability for work (‘Treat as LCW' categories); and where adequate evidence is available to advise on limited capability for work and work-related activity (LCWRA)***
* ***In scrutiny cases, continues to meet the functional threshold of limited capability for work (LCW) where they have previously been identified as having functional LCW at a medical assessment***
* ***In scrutiny cases, meets the criteria for LCW on substantial physical / mental risk, where adequate evidence is available to advise on limited capability for work and work-related activity (LCWRA).***
* ***Fulfils the criteria for LCW or LCWRA where they were previously accepted or exempt as unfit for work under the Incapacity Benefit/Personal Capability Assessment (PCA) regulations, and where the evidence suggests that they are likely to reach the threshold of LCW or LCWRA under the WCA regulations”***

(Emphasis added)

1. **C meets these criteria [How? Emphasise relevant in bold above and delete any wholly irrelevant bullet points].**
2. **The Defendant’s guidance *“A Guide to Employment and Support Allowance – the Work Capability Assessment”****[[5]](#footnote-5)***, which is aimed at professionals and contractors, further details when an assessment can be carried out on papers only:**

*“If the healthcare professional feels that they can provide comprehensive and fully justified advice to the Departmental decision maker on the basis of the available paper evidence, then the claimant will not be asked to attend a face-to-face assessment.”*

*(pp.13)*

1. The healthcare professional therefore has a discretion to provide advice to the decision maker based solely on the paper evidence available.

**Issue 2: Home visit**

1. The Defendant accepts in *WCA Filework Guidelines[[6]](#footnote-6)* that a home visit will sometimes be required [and that the request may be accepted from someone involved in the claimant’s care: DELETE IF NOT RELEVANT]

***“10.3 Domiciliary visits***

*Not all benefit assessments are conducted at an Assessment Centre. Sometimes a claimant indicates that they are unfit to travel to or to attend the Assessment Centre and then a domiciliary visit (DV) may be necessary.*

*…it is recognised that, at times, the assessment needs to be conducted in the claimant’s home.*

*[…]*

*The request for a DV may come from a GP or other health care professional involved in the claimant’s care.”*

1. *WCA Filework Guidelines[[7]](#footnote-7)* goes on to give examples of evidence that may support a request for a home visit. This includes having a “d*iagnosis suggesting significant disability that may make travel extremely difficult”,* there being evidence “*that the claimant receives home visits or telephone consultations with their GP (due to inability to attend the surgery),” or evidence “that the claimant has home visits from the psychiatrist/CMHT”.* In C’s case...[state how C meets the criteria and what evidence has been provided].
2. The intention demonstrated by this guidance is that a home visit will be provided where it is necessary and evidence of the need for a home visit has been provided, as in this case.

**Issue 3: Good Cause**

1. In line with the ESA Regs, set out above, the Defendant’s DMG[[8]](#footnote-8) addresses the potential consequences of failing to attend a medical when given sufficient notice by the Department of Work and Pensions:

*“42481 Claimants can be treated as not having LCW if*

***1.*** *they fail without good cause to attend or submit to a medical examination1* ***and***

***2.*** *they*

***2.1*** *had at least seven days’ written notice of the examination2* ***or***

***2.2*** *agreed to accept a shorter period of notice whether given in writing or otherwise3.”*

*1 ESA Regs, reg 23(2); 2 reg 23(3)(a); 3 reg 23(3)(b)*

1. **It is evident from this that a failure to attend a face to face medical examination will only result in the claimant being treated as not having limited capability for work if there is no good cause for the failure to attend.**

**Grounds for judicial review**

**Ground 1: Failure to exercise discretion and/or take account of relevant information in not deciding the Claimant’s claim on the paperwork available when all the evidence needed to make an award was available**

1. The Defendant’s discretion to require a face-to-face assessment, or not, is clear under reg 23(1) ESA Regs **and throughout its own guidance.**
2. The Claimant has provided the following evidence which confirms unequivocally that [her/his] capability for work is limited by [her/his] physical or mental condition and such that it would not be “reasonable” to require [her/him] to work or undertake work related activity (under reg 19(1) or 34(1) ESA Regs):
* [C’s evidence]
* [How does it show what points s/he scores? Detail points (in an appendix if very lengthy)]
* [When is it dated?]
* [Where is it from?]
* [When was it provided to the Defendant?]
1. In failing to exercise the discretion available to it under r**eg 23(1) ESA Regs, as reiterated in the Defendant’s own guidance,** to decide the Claimant’s claim on the paperwork available, the Defendant has unlawfully failed to take account this wholly pertinent information and evidence.
2. The Defendant is aware of the Claimant’s medical conditions and the impact that this has on [her/his] capability for work, and evidence of this has been provided. The Defendant does not appear to have given due consideration to this evidence. Had this evidence been appropriately taken into account, the conclusion would necessarily have been reached without a face-to-face assessment that Claimant’s condition is such that [her/his] capability for work and work related activity is so limited that it is not reasonable to require [her/him] to look for work or undertake any work related activity. The Defendant instead appears to be unlawfully operating a blanket policy of requiring every claimant to attend a face-to-face assessment.

**Ground 2: Failure to offer a home visit**

1. Without prejudice to the foregoing ground that an assessment should have been conducted solely on the papers, it is contended in the alternative that it was unlawful not to offer C a home visit. The Defendant’s guidance is clear. As stated in part 10.3 of the *WCA Filework Guidelines*, a home visit, or domiciliary visit, should be carried out where needed, including where a claimant is unable to travel.
2. In the Claimant’s case, [s/he informed the Defendant on multiple occasions of her/his severe mental health problems and that this results in inability to…and therefore attend assessments] yet a home visit was not offered, and appears not even to have been considered.
3. In failing to offer a home visit when presented with clear evidence that it was not possible for the Claimant to [travel to/ attend] the assessment centre by reason of his [physical/ mental] health condition, the Defendant is in breach of its own policy as set out in the *WCA Filework Guidelines*.

**Ground 3: Failure to make reasonable adjustments and discrimination**

1. The duty to make reasonable adjustments applies to the Defendant under s.29 EA 2010.
2. As above, the Defendant is aware of the Claimant’s [mental/physical] health condition and has been specifically advised of [her/his] needs. Further the Claimant has requested the reasonable adjustment of [contact only in writing] because of the severe anxiety and distress that other forms of contact cause.
3. In failing to take account of the Claimant’s [mental/ physical] health problems and needs, and disregarding [her/his] request for contact to be made in writing to avoid significant and undue mental health distress, the Defendant has failed to make reasonable adjustments.

##### In requiring claimants such as the Claimant with conditions that make attendance at such appointments difficult to attend face-to-face assessments at an assessment centre, for, when there are other readily available ways of assessing claimants’ capability for work and of obtaining such information or evidence as is required (assessing on the papers, offering a home visit and contacting in writing), the Defendant has indirectly discriminated against the Claimant in breach of s.19 EA 2010.

1. In failing to take account of the Claimant’s preferred method of contact, calling her/him] to a face-to-face assessment and failing to offer a home visit when aware of the psychological distress this would cause, with the result that **a negative determination was made when [s/he] was unable to attend the assessment scheduled because of [her/his] [physical/mental] health condition (when a person without the Claimant’s health condition would have been able to attend),** the Defendant has in breach of s.20 EA 2010 put “*a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled”* and has unlawfully failed to take *“such steps as it is reasonable to have to take to avoid the disadvantage”.* Non-compliance with the duty to make reasonable adjustments under s.20 EA 2010 amounts to discrimination under s.21 EA 2010 and the Defendant has therefore discriminated against the Claimant on the grounds of [her/his] mental health disability in breach of EA 2010.

**Ground 4: Failure to follow the law and own guidance in not accepting the Claimant’s ‘good reason’ for not attending the assessment on [Date]**

1. **Without prejudice to the foregoing grounds that** the Claimant **should never have been required to attend a face-to-face assessment at all or, in the alternative, one that was not in [her/his] own accommodation, it is contended that** the Claimant **had good cause for not attending the face-to-face assessment.**
2. **Under reg 23(1) ESA Regs, a claimant must attend an assessment unless they have ‘good cause’ not to do so.**
3. **Under the Defendant’s guidance: DMG ‘Chapter 42 - Limited Capability for Work and Limited Capability for Work-Related Activity, consideration of good cause includes the following (at 42500):**

*“****1.*** *whether the claimant was outside GB at the relevant time* ***and***

***2.*** *the claimant’s state of health at the relevant time* ***and***

*3. the nature of any disability the claimant has1.*

*Note: The list is not exhaustive (see DMG 42501 - 42543 for further guidance on good cause).*

1 ESA Regs, reg 24

1. Under para 42507 Decision Makers are reminded that the nature of the claimant’s disability is a factor that must be taken into account when considering whether good cause is shown, which at para 42508 may be particularly relevant in cases where the claimant has:

*“****1.*** *mental health conditions affecting memory or concentration*

***2.*** *a learning difficulty, for example where this affects comprehension*

***3.*** *medication which affects memory or concentration*

***4.*** *a sensory impairment, such as being registered blind*.”

1. The Claimant’s individual facts and circumstances are that he has [condition] which affects [her/his] [ability to…].The Defendant was informed of this and that this applied on the date of assessment [on [date] and the following evidence was supplied:].
2. **In failing to accept the Claimant’s good reason for failing to attend the face-to-face assessment, the Defendant has unlawfully failed to follow its own guidance.**

**The details of the action that the defendant is expected to take**

**The Defendant is requested to:**

* Reinstate ESA between [date and date] without delay including LCWRA element.
* Provide the Claimant with a written apology and compensation for the catalogue of failures by the Defendant and or her agents as detailed above which have resulted in a level of service which is far below that which should be expected and has resulted in the Claimant being without a significant amount of income for x months and has caused him needless stress and anxiety further exacerbating his existing mental health issues.
* Ensure vulnerable claimants are identified, their needs recorded and this record is available to and referred to when both further contact is made by the Defendant or her agents (including Maximus).
* **Accept that the Claimant has been unlawfully discriminated against on the grounds of [her/his] [mental health disability] contrary to the Equality Act and agree to pay [her/him] damages for the financial and non-financial loss, including injury to feeling, suffered as a result.**
* Ensure guidance to staff on seeking further evidence to support a paper assessment (if needed) where it is identified that a face-to-face assessment will cause severe distress to the Claimant is followed.
* Ensure guidance to staff on offering assessment on home visit when aware that attending an assessment centre will severe distress to the Claimant is and followed.
* Ensure internal monitoring of decisions over when to have paper based or home based assessments is carried out.

**The details of documents that are considered relevant and necessary**

**Please find enclosed copies of the following documents:**

* **Medical evidence**
* **Signed form of authority for** the Claimant

**ADR proposals**

**Please confirm in your reply whether the Defendant is willing to consider alternative dispute resolution.**

**The address for reply and service of court documents**

**[Advice agency name,**

**Address and**

**Email]**

**Proposed reply date**

Please provide your response promptly and in any event within 14 days (by **5pm on [date]**).

If you consider that you require more than 14 days from the date of this letter to provide your response, please inform us in writing immediately, giving full reasons and the date by which you will be able to respond substantively to this letter [Edit as appropriate].

Should we not have received such a request for further time nor a substantive reply by the given deadline, the Claimant reserves [her/his] right to issue proceedings for judicial review without further notice to you and to seek [her/his] costs of doing so from you.

Yours faithfully

**[Adviser signature]**

Enc

1. assets.publishing.service.gov.uk/media/657c891d83ba380013e1b66c/List-of-Authorised-Government-Departments-under-s.17-Crown-Proceedings-Act-1947-15.12.2023.pdf [↑](#footnote-ref-1)
2. gov.uk/government/organisations/government-legal-department [↑](#footnote-ref-2)
3. For New-Style ESA see identical provision at Advice for Decision Making (ADM) Chapter U2: ESA Limited capability for work and Limited capability for work-related activity U2176: assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_data/file/865053/admu2.pdf [↑](#footnote-ref-3)
4. This applies to both Old and New Style ESA, and Universal Credit: 2nd April 2019 MED-WCAFWG~001 [www.whatdotheyknow.com/request/601653/response/1442629/attach/3/WCA%20Filework%20Guidelines.pdf](http://www.whatdotheyknow.com/request/601653/response/1442629/attach/3/WCA%20Filework%20Guidelines.pdf) [↑](#footnote-ref-4)
5. ESA214 - July 2016 assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_data/file/535942/esa214-july-2016.pdf [↑](#footnote-ref-5)
6. n 2 [↑](#footnote-ref-6)
7. n 2, 10.3 [↑](#footnote-ref-7)
8. See ADM U2481 *for* New-Style ESA identical provisions assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_data/file/865053/admu2.pdf [↑](#footnote-ref-8)