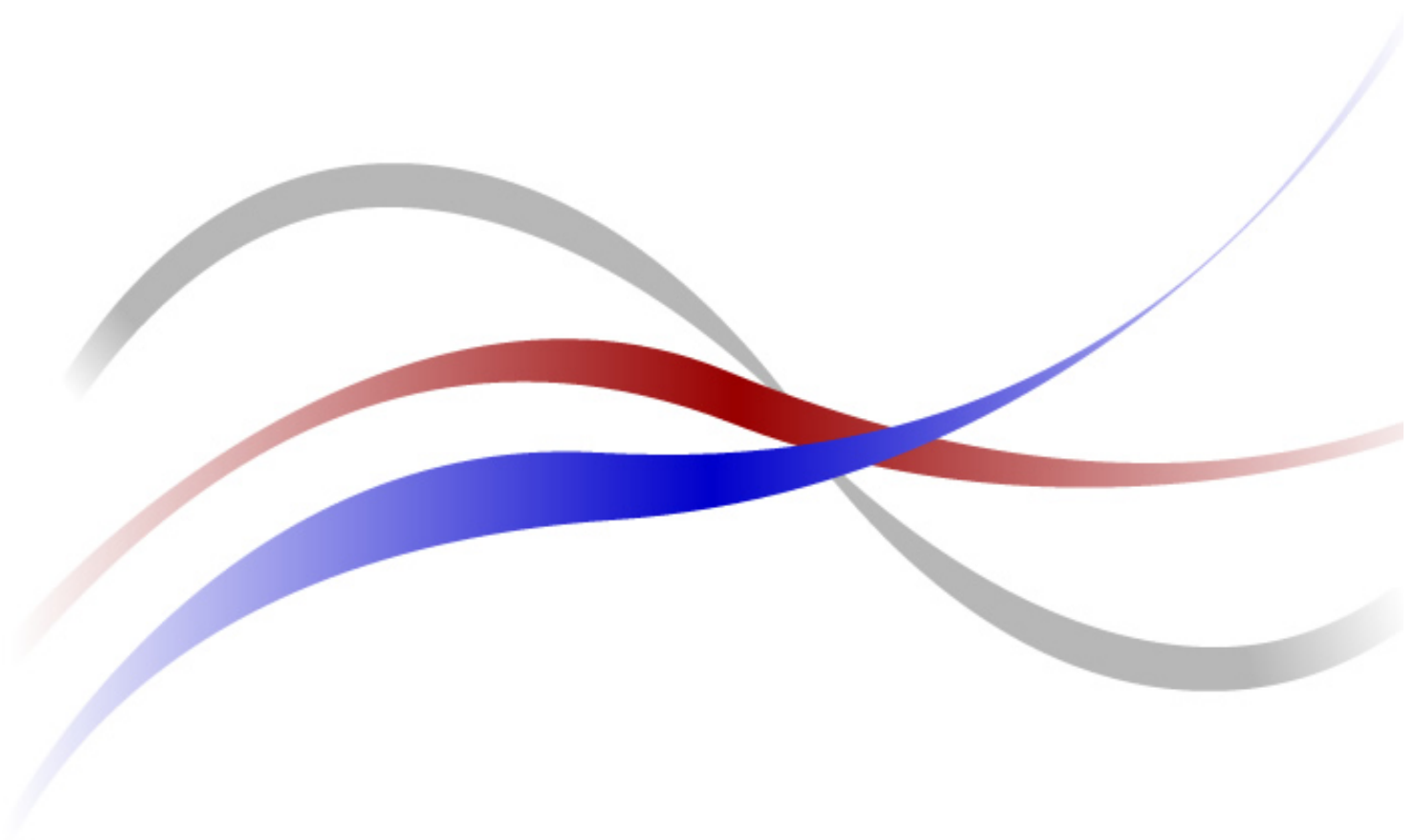


Employment Support Allowance



...because life needn't stop when you're paralysed.

Fentons Solicitors LLP

Fentons Solicitors LLP is one of the country's leading claimant personal injury solicitor firms, recovering tens of millions of pounds worth of compensation for accident victims every year.

Fentons has a specialist team dedicated to pursuing compensation claims on behalf of victims who suffer spinal injuries in all types of accident, be it a road collision, an accident in the workplace or whilst on holiday or travelling in a foreign country.

The firm continues to attract increasing numbers of serious injury instructions nationally and these are often high-profile cases involving brain, spinal and /or other catastrophic injuries. Fentons serious injury team includes leading national experts, with many years experience of handling cases of the maximum value and complexity.

For a number of years, Fentons has been a keen supporter of the work of the Spinal Injuries Association, which offers invaluable support and advice to those living with spinal cord injury throughout the UK, regardless of how their injury occurred. Fentons is proud to be the sponsor of the SIA's Advice Line, its' very important flagship service.

WHAT IS SIA?

SIA is the national organisation for people with spinal cord injuries and their families. If you, a relative or friend is paraplegic or tetraplegic, or you are interested in our work, why not join us? We welcome all as members. Full membership (if you are spinal cord injured) is £20 in the UK, £25 in Europe and £32 elsewhere per annum. Junior membership (17 and under) is free. Associate membership (prices the same as Full membership) is open to everyone interested in our work and to other disabled people. Affiliate membership (companies and organisations) is £85 per annum, while Life Membership is a one-off payment of £200.

SIA publishes a lively bi-monthly magazine *forward* packed with news and views which is free to members. We also circulate a bi-monthly Online Newsletter, 'e-clips' to all who subscribe (free) while our popular interactive Website offers Chat Rooms and a Message Board as well as hundreds of pages of useful information.

We produce a wide range of publications (available to purchase) which deal with all aspects of living with spinal cord injury, e.g. books on bowel and bladder management, sexuality, publications for health care professionals, as well as sports opportunities. We also have an extensive series of Factsheets on a wide range of topics, and, for those pursuing a compensation claim; we publish a Directory of Personal Injury Solicitors.

Our Advice Line is accessible by e-mail, fax, post and telephone and provides accurate and up-to-date information on subjects including welfare advice, specialist equipment, legal rights etc as well as health related topics. We run an employment service, Workwise, for those wishing to return to employment or take up retraining or volunteering.

Externally, our Peer Advisors (staffed by spinal cord injured people) operate at the Spinal Injuries Centres in England, Wales and Northern Ireland providing practical advice and support for those who sustain damage to the spinal cord, whilst our Community Peer Support Service provides a similar service to those who are spinal cord injured and who are being treated in District General Hospitals and Neurological Centres.

SIA also actively campaigns on vital issues affecting the everyday lives of disabled people, set out in our manifesto 'Campaigning for Change'. We are represented on major voluntary and statutory bodies and our own Governing Board is composed of spinal cord injured people. We have our own state-of-the-art premises, SIA House, which combines the twin principles of inclusive design and accessibility and from here we run the only specialist spinal cord injury Library in the country.

To find out more, or join us, please write to us at:

Spinal Injuries Association, SIA House, 2 Trueman Place, Oldbrook,
Milton Keynes MK6 2HH

Tel: 0845 678 6633 (General Office – 9- 5) 0800 980 0501
(Freephone Advice Line (9.30-1pm & 2pm–4.30pm) Fax
0845 070 6911

Web: www.spinal.co.uk E-mail:
sia@spinal.co.uk

Employment Support Allowance

Introduction

The government has replaced Incapacity Benefit (IB) and Income Support (IS) for all new claimants with, Employment and Support Allowance (ESA). People will now be required to pass through the ESA assessment to determine which group you will be put in to. Individuals who are currently on IB will stay on it until they migrate to ESA at a date yet to be confirmed by the government.

ESA is a benefit for people of working age and can only be received up to State Pension Age.

The government wants to move people who are capable of working away from the benefit system to a more positive assessment, around ability to work (rather than inability to work) and into sustainable mainstream employment through work programs such as Pathways to Work. There is no specific disability grouping so people will be assessed on their individual capability.

The government will be offering more financial support to those disabled people who are assessed as incapable of working. However, you will be able to volunteer for support if you do want to return to work.

The aim of this factsheet is to give you up to date information on how these changes will affect you, and where you can find additional information.

Assessment Phase - Work Capability Assessment (WCA)

When an individual applies for ESA they will be asked to undergo a 13 week assessment on their disability and their ability to work, this is known as a **Work Capability Assessment (WCA)**. This consists of a face to face meeting, which will explore how your disability affects your ability to work and carry out day to day activities. This is in three parts, and will assess what you are able to do, rather than simply what you cannot do.

The three parts of the Work Capability Assessment are

1. The assessment of limited capability for work. This part seeks to understand the affect your SCI has, and how it will affect you ability to work. It will determine whether ESA is appropriate for your needs. You will be requested to attend a medical assessment close to your home; this will be carried out by an independent healthcare professional appointed by the secretary of state, either a doctor or a nurse. This will not be carried out by your own GP or a healthcare professional from a Spinal Cord Injures Centre.
2. The new work-focused health related assessment. This part provides you with access to a healthcare professional. This will be a GP, nurse or occupational therapist, who will specifically to discuss you views and options about moving into work
3. The assessment of limited capability for work related activity. This part identifies, through a series of “descriptors”, people with the most severe limitations arising from your SCI. They will become members of the “Support Group” of ESA and will not be expected to look for work. From your ESA assessment, even if you are put in the “Support Group”, you can volunteer to be entered into the Pathways to work programme. It can help those who want to get back to work but assume they are unable to do so as a result of their SCI.

The test of whether or not you have a limited capability to work determines whether or not you remain on ESA. If you reach or surpass the require points, you would have passed the test and will stay on ESA. If you do not reach the required points, you have failed the test and will move onto Job Seekers Allowance.

What are the descriptors?

This is a points related test where a number of physical mobility and mental health capabilities are considered, these are called 'descriptors' and points are awarded on your ability to carry out the related tasks. These address:

- Walking
- Standing and sitting
- Bending or kneeling
- Reaching
- Picking up and moving things
- Manual dexterity
- Speech
- Hearing
- Vision
- Continence

Within each type of activity there is a list of descriptors with associated scores ranging from 0 to 15. The descriptors describe related tasks of varying degrees of difficulty. A score is allocated when you are *not* able or part able to perform the activity described. Though more than one descriptor may apply to you, you can only pick up one score from each type of activity; in each case whichever scores the highest.

If you score 15 in any one activity, you automatically pass the test, for example.

- Cannot walk up or down two steps even with the support of a handrail.
15 points
- Cannot put either arm behind back as if to put on a coat or jacket.
15 points
- Cannot pick up and move a one litre carton full of liquid with either hand.
9 points
- Cannot raise either arm above head height as if to reach for something.
6 points

If your score is less than 15 in a group of questions, it can be added to the scores you pick up from any of the other types of activity (in both the physical and the mental parts of the test). If your total score reaches 15, you pass the test, and therefore qualify for ESA.

Though the list of types of physical activity for this new test is not dissimilar to the list in the current incapacity benefit, there are a number of significant differences. The new test is, generally speaking, much tighter.

All the lower score descriptors within each activity listed have been removed in the new test. These would normally score you 3 points each. They would allow someone with a range of relatively minor disabilities to reach the required 15 points to pass the WCA. It is believed that the removal of the lower score descriptors from the WCA will lead to a substantial increase in the number of claimants with physical and mental health conditions who do not qualify for ESA.

The continence descriptors have had been expanded to address a wide range of continence issues faced by individuals.

The “Work-related activity group”

If you pass the assessment and are identified as capable of taking part in some form of work-related activity you will be entitled to claim ESA. You will be required to attend work-focused interviews on the Pathways to Work scheme, to help you overcome any barriers to work and support you into long-term sustainable employment. Those who do not fulfil these conditions without a good reason could have their ESA partially cut.

The “Support Group”

If you are identified as not able to take part in any work-related activity (the most severely disabled group) you will not be expected to take part in work-focused activities unless you want to, and will not face any sanctions. However, if you are placed in this category but would still like to volunteer for Pathways to work, you can do so if you want to. Your initial contact is the Disability Employment Adviser at your local Jobcentre Plus.

Anyone claiming ESA may also continue to be eligible for other benefits, such as Disability Living Allowance, Housing and Council Tax Benefit.

Those who do not qualify for ESA can instead apply for Jobseeker’s Allowance and will be expected to take part in the work-focused interviews and programmes to help them get back to work.

What is Work Choice?

This programme takes forward changes to the Specialist Disability Employment Provision and will replace the existing DWP Work Preparation and WORKSTEP programmes and the Job Introduction Scheme. The aim is to provide a tailored,

range of specialist employment services which can respond more flexibly to the individual needs of people with Spinal Cord Injury and their employers and make better use of resources. Dependant on where you live the programme will be delivered by the government preferred providers such as Shaw Trust or Working Links.

Work Choice is a three part modular programme

Module 1: Work entry support

This can last up to six months with a choice of activities.

- Individually tailored guidance to your needs and development planning to help identify and address support needs.
- Job-skills support, confidence building, and capacity building.
- Jobsearch support – advice, job matching of individuals to identified vacancies, active sourcing of suitable jobs, and advising employment on opportunities for job-carving.
- Job application support – including managing disclosure of health/disability information, CV and interview preparation, skills development, advocacy to the employer if needed.
- Providing Better Off in Work calculations.
- Promoting in work benefits.
- Assisting with tax credit applications.
- Close working with employers to help them see beyond perceptions of a person's disability and help them focus on abilities and strengths.
- Brokerage between employers and customers- analysing the support needed with the customer prior to the support being put into place.
- An explanation to both the customer and the employer of the appropriate types of adjustment of the workplace and the wider support available from DWP and beyond.
- Help for customers wanting to enter self-employment.

Module 2: In-work support

Once a customer has found paid employment, or self-employment the provider will work with the employer and customer to identify the support required to stay in work. This module can last up to two years.

- Discuss with the customer what their career goals are.
- Discuss with the customer and employer how these goals can be met.
- Agree a support package that is tailored to the needs of the individual customer which will ensure the customer is able to stay in employment and develop further.

- Ensure the customer is aware of any changes to their benefits entitlement and ensure that they are receiving all appropriate in-work benefits.
- Work with Access to Work, where appropriate, to provide advice and support about accessibility solutions.
- Agree with all parties, a development plan that will normally taper off the support from the supplier.
- Contact regular reviews with the customers and their employers.

Module 3: Longer term in-work support

The longer-term supported employment strand will focus on helping provide a stable working environment and helping the individual develop their career. This module will recognise that, for some people, there will always be a need for them to be supported in the workplace. Longer-term supported employment will have a clear focus on the ongoing development of customers through their career. As part of the longer-term service, there should be regular checks to ensure that customers are receiving a quality service, they are in receipt of all in work benefits and that the support they are continuing to receive remains appropriate. Bidders are expected to set out how they will provide agreed support to long term supported employment customers.

What is Pathways to Work?

Pathways to Work has been introduced to provide support and opportunities to people with health problems or disabilities to get back to work if you are receiving Incapacity benefit, Income support related to disability or severe disability allowance. They offer you the support of a personal adviser, arranged through your local Jobcentre Plus, who will discuss work opportunities with you. Depending on what area you live in this may be delivered by an external providers such as Shaw Trust, Next Step, therefore the support may differ slightly from that delivered by your Jobcentre Plus.

A personal adviser (PA) will be allocated to you to deliver Pathways throughout the process, taking your SCI into consideration; they can help you in many ways to identify the type of career you may like to consider. Your personal adviser can arrange work experience for you, which can often be a stepping stone to a career; it can give you a chance to develop work-related skills and a strong attitude to working life. This effective route back into employment will give you the opportunity to develop or refresh your skills, as well as helping you find out whether a particular career is right for you.

It isn't unusual for people not to have a CV or to find the one they have is out of date. Having an up to date CV is essential, and therefore needs to represent the best you have to offer. They can provide you with professional advice on this skill, as a well written CV can help you find the right career for you.

Many companies now advertise jobs online and through their own website. If you are “Job ready”, there are opportunities for you to start applying for work immediately. In conjunction with local employers, solid relationships have been formed so they can advise you on how to access to the right vacancies that are best suited to you.

Your personal adviser will explain the support that may be available to you; this could be extra money when you start work. Depending on your starting salary you may qualify for Working Tax Credits, which will take into consideration your income and other benefits; it is a tax free payment of £40 a week paid direct to you on top of your salary for 52 weeks if you work for 16 hours or more a week. In addition to this, after securing a position, your adviser will keep in touch with you to make any recommendations that will assist with your transition back to work, for up to a period of six months.

If you choose to volunteer for the Pathways programme through a provider in your area such as [Shaw Trust](#), and working with your personal adviser you become unsuccessful in finding you suitable sustainable employment you will be referred back to your Disability Employment Adviser (DEA) at you Jobcentre Plus.

What is Job Seekers Allowance?

It is a benefit for people who are currently not working. However, to be eligible for JSA you must be “actively seeking employment”. To receive the benefit, you will need to meet with a personal adviser at the Job Centre on their request at least once every 2 weeks. You will be expected to show evidence to them of what efforts you are making to find employment; such as application that you have made and interviews you have attended. Your personal adviser is there to explain what other support is available to you and advice you on interview skills and techniques you can use to give you the best chance of successfully finding employment.

The Benefits and Work website have an on-line ESA self assessment test that you can go though which will ascertain which group you will fit into. www.benefitsandwork.co.uk Or you can ring 01297 442549 for a copy.

When does ESA start?

The process for this hasn't changed from the IB and IS claimants. If you are on statutory sick pay (SSP) while in hospital you will stay on this until your sickness period is completed. If you are then unable to return to work you will automatically go on to ESA assessment. If you are unemployed or self-employed ESA will start from immediate effect, although your assessment is unlikely to

Start until you have been discharged from hospital.

What about those who are already getting SDA IB or IS

If you are already receiving incapacity benefit (IB) or income support (IS) or severe disablement allowance (SDA) paid on the grounds of incapacity when ESA is introduced, you will continue to receive those benefits, rather than ESA, for the time being.

You will also continue to come under the rules and conditions which apply to SDA IB or IS. Your incapacity will be tested under the old IB personal capability assessment rather than the new ESA work capability assessment.

From April 2010 / 2011 at the earliest you will be required to take the work capability assessment test. If you continue to be entitled to one of these benefits you cannot claim ESA instead.

What is Permitted Work?

You can't usually work while claiming Incapacity benefit. However, you may be able to do some types of work – within limits. This is called Permitted work, but you would be advised to check with your local Jobcentre Plus office before you start, to confirm it applies to you.

It is purely a benefit arrangement; employers can not offer 'permitted work' it is to help people move closer to the labour market, and test your own capacity for doing some work and perhaps gain new skills.

Permitted work is work you can do up to 16 hours per week while you are getting one of the following because of illness or disability.

- Incapacity Benefit
- Income Support
- Severe Disablement Allowance
- Housing and Council Tax Benefit (with a disability premium)
- National Insurance credits

From October 2008 permitted work will become more flexible for people to use, by increasing the type of work that can be carried out under this scheme. You can work for up to 16 hours a week on average, and earn up to

£95.00 a week, for a 52 week period. At the end of 52 weeks if you do not start employment; you must wait another 52 weeks before applying for permitted work again.

People with a disability who do not need a medical examination can work up to 16 hours for no more than £95.00.

What is Supported Permitted Work (unlimited period)

This is work that can be done by people whose condition means that it is unlikely that they will be able to work more than 16 hours a week. If you are supervised by a voluntary organisation, public or local authority or voluntary group; you can work for an unlimited period as long as you earn no more than £95.00. This could be work done in the community or in a sheltered workshop. It also includes work done as part of a hospital treatment programme.

Permitted work lower rate

To encourage social inclusion, you can earn up to £20.00 a week. This rule operates for an unlimited period of time and an unlimited period of hours as long as you are receiving the benefits above.

If your circumstances change in any way, it is always advisable to contact your personal adviser or Disability Employment Adviser at your local Jobcentre Plus for advice.

Alternative support available from SIA - Employment Clinics

SIA are well aware that returning to work after SCI can be a very daunting experience. Whether you are able to return to your previous employment or not, it is unlikely to be easy, and the right type of support can be difficult to access. One area where support is readily available is the employment clinics running at most of the Spinal Cord Injuries Centres.

Employment clinics offer support to every patient at an early stage of rehabilitation enabling people to explore the options available and to take these forward when they feel ready. They are not exclusively for in-patients; at most centres, people can be referred through their out-patients department, or through the SIA. We hope to encourage people who have had their SCI for some time

and now feel ready to look for sustainable employment to request an appointment. Our employment adviser attends the clinics on a regular basis and SIA are happy to offer our support to this project as it expands to all of the Spinal Cord Injuries Centres.

What topics are discussed at a Clinic Session?

- Returning to work
- Future career options
- Education and training
- Voluntary work
- Leisure and recreation, i.e. sport, fitness and health

Objectives?

- To provide an initial contact for in-patients and out-patients to discuss issues relating to employment careers advice.
- To assist individuals with exploring different career and employment options by empowering and providing direction
- To give advise on returning to their previous employment
- To hold evidence based literature in the form of current research and publications containing relevant materials.

What happens at the end of the session?

From the ideas that are discussed at the meeting, it is agreed with the individual what needs to have further research on their behalf. Unless they prefer to research the information themselves; this is usually carried out by the SIA employment adviser.

Further information

To find out more contact John Leonard on 0845 678 6633 Ex 216 or email J.leonard@spinal.co.uk

Additional information can be found on the following websites.

www.dwp.gov.uk/esa

www.disabilityalliance.org

www.direct.gov.uk

www.rightsnet.org.uk

www.jobcentreplus.gov.uk

www.benefitsandwork.co.uk

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