The ESA Work Capability Assessment
Using the Atos Complaints Procedure

Many people come to the CAB having experienced problems with the Work Capability Assessment (WCA) carried out as part of their ESA application. Atos Healthcare, the company carrying out the assessments, claims they will strive to ensure you have a positive experience, that they will provide a fair and accurate assessment and take any complaints you may have seriously. Making a complaint will not jeopardise your ongoing claim – there is no link between the complaints procedure and the decision making process. We have prepared this factsheet to guide you through the process of making a complaint about your WCA.

**Important:** If you disagree with your ESA decision, you should ask the DWP to reconsider it within one month of the date of the decision. You will find more information on how to do this on your decision letter, and help is always available from the CAB. *This is a separate process from the Atos complaints procedure.*

Who do I complain to?

There are a number of ways you can complain to Atos. You could do it by phoning 0113 2309175 or by emailing customer-relations@atoshealthcare.com. However, we would recommend you make your complaint in writing. A leaflet is available from Atos which includes a complaint form, or you could send a letter of complaint to:

Customer Relations Manager
Atos Healthcare
Block 1 Wing G Government Buildings
Otley Road
Lawnsworth
Leeds LS16
5PU

What can I complain about?

You can complain to Atos about the way the assessment was carried out, problems with the test centres, about healthcare professionals or administrative staff and procedures. Here are some of the more common issues you may want to consider including in your complaint.
HOW THE ASSESSMENT WAS CONDUCTED

I should not have been required to attend
The information you supply when you apply for ESA is used alongside further evidence from a GP or medical professional to determine the need for a face-to-face assessment. If, for example, your condition is severe enough to prevent you from leaving your house, then the assessment would be both inappropriate and unnecessary.

I was kept in the waiting room for an unreasonable length of time
Being kept waiting for extended periods not only runs counter to Atos’ customer charter, it can also present problems for many claimants who find it difficult to sit for long intervals. Be sure to let Atos know if a prolonged wait has caused discomfort or pain.

There was not enough time to complete an accurate assessment
Atos assessors must allow sufficient time for the assessment to be carried out so that the report can be completed to the required standard.

My companion was excluded
You are allowed to bring a companion with you to the assessment, and where appropriate any relevant information they may have should be considered by the assessor.

I used an interpreter, but we were not allowed enough time
If English is not your first language you may need to bring an interpreter. In these situations the assessor should be aware that the assessment may take longer than usual.

PROFESSIONAL BEHAVIOUR OF THE ASSESSOR

The assessor was rude, confrontational or unhelpful
The interview should be carried out in a friendly, professional and non-confrontational way. Did they fail to explain the process to you? Did you feel rushed to give answers, or that you weren’t given time to settle down?

The assessor used terms that I didn’t understand.
Atos assessors must use clear and understandable language, so that misunderstandings can be avoided.
The assessor drew misleading conclusions about everyday tasks.
The assessor will ask questions about your ‘typical day’. This is to establish how you cope with ordinary everyday tasks. This should be your own account of your abilities – the assessor must not put their own interpretation on your responses.

The assessor tried to give me medical advice.
The job of the assessor is to establish the limitations that your illness or disability places on your everyday life. They should not give you medical advice, and they should certainly not challenge or comment upon the advice of your GP or specialist.

The assessor did not listen to me.
The assessor should keep an open mind. They should summarise your responses accurately and not reinterpret them in way that might mislead.

WHAT INFORMATION WAS CONSIDERED

Further Medical Evidence was not considered
Atos assessors must read documents that have been submitted and all evidence should be considered. This includes any evidence brought by the claimant to the assessment – this should be copied and passed on to the decision maker. The report should make reference to the evidence that has been considered and justification should be given if there is a conflict between the opinion of the assessor and the other medical evidence.

Mental health issues were ignored.
It is important that assessors fully explore psychiatric symptoms in claimants with mental health issues, including thoughts about suicide.
The assessor gave no opportunity to explain my answers. Assessors often use 'closed' questions, which don’t give you the opportunity to fully explain your circumstances. For instance, the question ‘Do you do your own shopping?’ can be answered by either a yes or a no, and may give a wrong impression. An ‘open’ question, such as ‘How difficult do you find it to do your own shopping?’ can paint a much more accurate picture of the day to day problems that you encounter. Assessors must use both types of questions; limited response and leading questions should be avoided.

INTERPRETING YOUR RESPONSES

The assessor’s findings did not reflect my everyday level of functioning
It is important that the assessor does not base his/her findings on a ‘snapshot' of your performance during the assessment, but that they reflect your functional ability over a period of time.

The assessor ignored information because it was inconsistent
The assessor is obliged to investigate all information, even if it may at first seem contradictory. For example, if you have claimed that you are able to get on a bus by yourself, but need to be accompanied when going shopping, the assessor must still explore this inconsistency, and any conclusions they make must be justified.

The assessor did not consider the pain or difficulty arising from repeated activities
The assessor may observe you performing a simple physical task, such as rising unaided from a chair. It is not enough for them to note that you are capable of this, they must also consider how much pain this may cause, your ability to repeat the action, whether you need to take time to recover, and whether you can perform the action without danger to yourself or others.

The assessor only considered my limitations on ‘good’ days
Many conditions vary from day to day, and in these cases the assessor should use all the available information to consider what you are capable of doing most of the time.
PHYSICAL EXAMINATION

*An appropriate physical examination was not carried out*
Where it has been indicated that you have a physical restriction, a
detailed and appropriate examination must be carried out - for example
you may have limited movement in your shoulder. This should be
properly investigated.

*The examination caused unnecessary pain*
Pain should be avoided during the examination. You should have been
advised to inform the assessor if any movements were uncomfortable,
and further discomfort should have been avoided.

CONCLUDING THE ASSESSMENT

*I was not given an opportunity to ask about the procedure*
At the end of the interview and examination, you should be given an
opportunity to ask about the ESA procedure. The assessor can tell you
how your claim will proceed, but they usually won’t be able to give you an
idea of timescales.

*The assessor told me that my claim would not be successful*
ESA claims are decided by a DWP decision maker on the basis of all the
available evidence – not just the WCA report. *The assessor should give
no indication of the likely outcome of the claim.* The assessor is not in
a position to give you information on this, and any opinion they offer may
be misleading.

THE REPORT

*Following the WCA Atos will forward a report to the DWP decision maker.*
You can request a copy of this report if you’re unhappy with the
assessment or you wish to appeal.

*My condition(s) was not identified in the report*
The assessor must include all your conditions (diagnoses and symptoms)
in the report. This includes those listed in your application plus any other
additional evidence and symptoms reported during the assessment. The
assessor should also note any deterioration since these diagnoses were
first made. They should note ‘no other conditions claimed or identified’ once they have clarified that there are no further symptoms to discuss with you.

**My medication and medical history was not fully recorded.**
The assessor should note all the medication you are taking, both prescription and over-the-counter drugs. They should also include a concise report of relevant clinical history, eg hospital treatment.

**I dispute the findings of the report**
The assessor’s findings may differ from your stated level of disability. In this case the assessor must justify this conclusion and provide sufficient evidence for a decision maker to make a judgement.

**Why complain?**
Remember, if you want to dispute a **decision** you must make an **appeal to the DWP**. But the Atos complaints procedure gives you an additional opportunity to have your say about the way your assessment was carried out. The more people are prepared to speak out, the greater the opportunity Atos will have to make improvements, and the better the process will be for people using it in future.

>You can get help with using the Atos Complaints procedure at your local CAB – and be sure to let us know about when you get a response. It will help us to monitor the effectiveness of the procedure.

Information for this guide was drawn from the following sources:
1. Atos Customer Charter v1.3 (Atos 2011)

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