

Bias in the Work Capability Assessment: a Human Rights issue?

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Abstract

There are over 2.3m people claiming Employment and Support Allowance, the UK's social security benefit for people unable to work due to disability or illness. The majority of claimants must undergo a medico-legal test, the Work Capability Assessment, to confirm their eligibility for the benefit. There have been widespread concerns about the validity of this assessment since its inception in 2007. In this analysis, significant bias against claimants in poorer and less healthy areas is observed, and the WCA cannot therefore be a valid test of disability. This is discussed in the context of an ongoing UN investigation into UK violations of disabled people's rights.

Introduction

Employment and Support Allowance (ESA) is the UK's social security benefit for people who are incapable of work due for medical reasons. To claim the benefit, claimants must first submit evidence from their General Practitioner that they cannot work, and are then assessed in a medico-legal test, the Work Capability Assessment (WCA). The WCA can have one of three outcomes; the claimant is found fit for work (FFW), they are found capable of work-related activity and are placed in the Work-Related Activity Group (WRAG), or they are found incapable of work-related activity and placed in the Support Group (see Welfare Reform Act, 2007).

Before 2015, claimants who were placed in the WRAG or Support Group would be paid approximately £100 per week, with claimants in WRAG expected to undertake 'work-related activity' decided by their local Jobcentre Plus advisors. Following the passing of the Welfare Reform and Work Bill (2016), the WRAG component payment is being reduced to approximately £75 per week. It is therefore essential that the WCA is a fair and valid test of disability to prevent the system reinforcing systemic disadvantages that disabled people face, such as higher rates of poverty (Papworth Trust, 2013).

The WCA, and ESA in general, has been widely criticised, most notably by the Citizen's Advice Bureau who describe the system as "not fit for work", and claim that medical reports prepared for the WCA are "seriously inaccurate" (Citizens Advice Bureau, 2014) There have been studies and consultations, produced by disabled people, which further support the idea that the WCA is not a fair or valid test (Spartacus Network, 2014).

While some have criticised the WCA, the Government have proposed that its rollout in 2010 was a method of reducing social security expenditure in a fair way, providing financial support to disabled people who 'truly need it'. It has also been suggested by people who have worked as WCA assessors (Greg Wood, personal communication, 2014) that the system's complexity is better suited to people with better educations who may be more capable of getting the required evidence, for example.

Thus, if the WCA were a valid assessment of disability, we can make three predictions:

1. The proportion of WRAG, and particularly Support Group, judgements will increase as local health decreases.
2. There will be no relationship between the proportion of WCA outcomes and local poverty rates.
3. There will be no relationship between WCA outcome and local educational attainment.

It has been suggested that the proportion of claimants that will be allocated to each group has been pre-determined and is forced upon assessors in the form of targets. If this is the case, there will be a relationship between the total number of WCAs and the WCA outcomes after controlling for other variables as areas that do more WCAs are more likely to reach that target proportion.

The question of the validity of the WCA has reached paramount importance, as it was recently acknowledged that the UK is the first state to be under investigation for breaking the terms of the United Nation's Convention on the Rights of Persons with Disabilities [CRPD; Pring, 2005].

Method

I compiled a dataset from freely-available Government sources for 324 Local Authorities in England. WCA data for Incapacity Benefit claimants being migrated to ESA was provided by the Department for

Work and Pensions (2015). This data is most useful as, not only were claimants previously assessed as being incapable of work, it is updated with appeal decisions made by Tribunals independent of the assessment process.

Health data was provided by Public Health England (2013) and poverty data was provided by the Office for National Statistics (2013). Average local life expectancy was chosen as the primary variable to measure local health, as it is more objectively assessed than self-reported disability.

The proportion of the population with 5 or more A*-C GCSEs as the educational measure, and the proportion of local households with two or more indicators of deprivation as the poverty measure.

Results

The dataset contained information on a total of 1,176,630 WCAs across 324 Local Authorities. Descriptive statistics are shown in Table 1. It can be seen that the rate at which claimants are allocated to the Support Group, for example, vary significantly between areas with the highest rate being almost double the lowest. This is concerning, considering the financial and security benefits from being in that group. All $N_s = 324$ and all p -values are two-tailed unless otherwise stated.

	Mean	SD	Min.	Max.
Total WCAs	3634.57	3435.62	330	29660
Fit for Work %	18.95	3.57	10.84	31.01
WRAG %	33.25	4.01	20.76	43.56
Support Group %	44.06	4.95	33.33	58.47
Life Expectancy	81.17	1.42	76.68	84.68
5+ GCSE %	58.950	6.93	31.87	80.98
Poverty %	56.18	6.33	40.60	25.90

Table 1. Descriptive statistics.

Before proceeding to a more in-depth analysis, I conducted correlations between key variables to determine if it was worthwhile to proceed. These Pearson correlations are shown in Table 2. Given the distribution of the number of WCAs, the following analyses will all be bootstrapped with 1000 samples.

	Life Expectancy	5+ GCSE %	Poverty %
Fit for Work %	-.610	-.257	.559
WRAG %	-.156	-.257	.096 ^{ns}
Support Group %	.446	.369	-.425

Table 2. Correlations between key variables. ^{ns} = $p > .05$, * = $p < .05$, all other $p < .001$.

A cursory examination of Table 2 shows some relationships that hint at problems with the WCA. The total number of WCAs correlates as expected, but the proportions of outcomes do not. For example, the percentage of Support Group judgements decreases as the rate as life expectancy increases. I therefore decided to conduct a more in-depth analysis.

I conducted a forced-entry linear regression for each of the three WCA outcomes. Independent variables were total WCAs, life expectancy, poverty rate and 5+ GCSE rate, in that order. Results are shown in Table 3, below. As the total number of WCAs conducted was not normally distributed, the following regressions are conducted with 1,000 bootstrap samples. Residuals were normally distributed with no evidence of autocorrelation (Durbin-Watson 1.9-2.1).

Dependent Variable	Predictor	B	95% Confidence Interval		SE(B)	β**	p	Model				
			Lower	Upper				R	Adjusted R ²	F*	p	
Fit for Work %	Life Expectancy	-.957	-1.26	-.654	.157	-.425	<.001	.631	.391		52.879	<.001
	Deprivation %	.122	.053	.191	.035	.241	.001					
	Constant	87.361			13.722							
WRAG %	Total WCAs ¹	-.206	-.359	-.052	.078	-.237	.009	.314	.087		8.717	<.001
	GCSE %	-.137	-.206	-.068	.035	-.237	<.001					
	Constant	99.260			21.014							
Support Group %	Life Expectancy	.1.076	.556	1.596	.264	.309	<.001	.508	.249		27.791	<.001
	Deprivation %	-.123	-.241	-.005	.060	-.158	.041					
	Constant	-45.026			23.562							

Table 3. Results and bootstrapped coefficients for WCA outcome regression models. *DF = (4,319) **not bootstrapped ¹Total WCAs divided by 1000 for ease of interpretation. Non-significant predictors not shown.

Discussion

There is a great deal of variance between areas with regards to the proportion of the different WCA outcomes, with some regions allocating claimants to the Support Group at a rate almost twice that of other areas. While some variance may be expected due to varying rates of disability and poverty, the fact that these variances occur in a sample where each claimant was previously recognised as being unable to work (and paid Incapacity Benefit) is cause for alarm.

The proportions of the two ESA groups are related to the number of WCAs completed, and this was not expected. As the number increases, more claimants are placed into the Support Group. This could be due to assessors or Tribunal staff becoming more skilled and experienced with repeated assessments and thus understanding disability better, or it could be due to other staff (such as Welfare Rights Officers) becoming more experienced at appeals, as the data analysed only counts the appeal decision if the judgement was appealed.

There was a significant relationship between the proportions being found fit for work or going into the Support Group and local life expectancy. It would be expected that more people would be found fit for work in areas with lower disability and ill health, but this was not the case. Counter-intuitively, healthier areas were finding claimants fit for work less frequently and placing claimants into the Support Group more frequently. This is the opposite of what would be expected of an accurate test of disability.

Deprivation was also significantly related to the rates at which claimants were found fit for work or placed in the Support Group. As these claimants were already poor enough to be claiming Incapacity Benefit when they were assessed, there should be no relationship between WCA results and deprivation were the test valid. As deprivation increases, the rate of claimants being found fit for work also increases, and the rate of claimants going into the Support Group decreases. This suggests a significant bias against claimants in poor areas, who are being removed from sickness benefits at a higher rate and granted the benefits of the Support Group less frequently.

There was also a significant relationship between local educational attainment and WCA outcome. In areas with higher GCSE performance, claimants were placed into the Support Group more frequently in lieu of being placed in the WRAG. Education should play no role in the outcome of the WCA, which assesses, for example, whether someone can press a button or “convey a simple message”.

One possible explanation of this relationship is that people with better educations might be more able to complete the significant paperwork required to claim ESA, or are better at seeking appropriate evidence and assistance.

Whether targets play a significant role in WCA outcomes cannot be definitely answered by the data, but the results are inconsistent with that hypothesis assuming those targets are chosen to deny claimants' benefits. If targets were a cause then it would be expected that the proportion of Support Group judgements would decrease as total WCAs increased; the allowed Support Group allocations would be used, and more claimants would have to be found fit for work or placed into the WRAG inappropriately. However, Support Group judgements increase along with the number of WCAs.

It should be noted, however, that these WCAs are only a proportion of those completed; these are the WCAs done to migrate claimants from Incapacity Benefit to ESA and the data does not include WCAs for new claimants. It is possible is that the targets may not manifest in this data if these WCAs were completed before those for new claims. For example, if only 2 claimants in 10 were allowed in the Support Group and 10 claimants (5 migration claimants then 5 new claimants, 2 of each who were eligible for the Support Group) were assessed, the migration claimants may be allowed into the Support Group by virtue of being assessed first. This group would not be affected by the target, but the group of new claimants would.

This study has shown the existence of biases in the WCA using Local Authority-level data and thus the results must be interpreted at that level. In order to determine the causes and extent of any bias in the WCA, it would be necessary to have access to individual claimant data to test, for example, whether their education level is related to their WCA outcome. This is not feasible due to confidentiality concerns, among others. This study was a compromise between the availability of data and the necessity of the analysis and was at the lowest level of abstraction possible.

It has been established that there are significant biases in the WCA, the test which determines whether claimants are eligible for the out-of-work sickness benefit ESA. These biases serve to reinforce the structural and systemic disadvantages faced by disabled people, such as their higher levels of poverty. Not only is the WCA not a valid assessment of disability, it is disproportionately removing benefits from people in poorer areas and is in need of reform.

Complicating this matter is the current UN investigation of the UK's compliance with the CRPD, which was triggered by submissions of 'reliable and consistent evidence' by disability organisations. Consider, for example, Articles 5(1) and 28(2b). These articles state that all persons are entitled to equal treatment under the law, and that disabled people are ensured access to "assistance from the State with disability-related expenses, including ... financial assistance". Article 28(1) also states that disabled people have the right to an adequate standard of living and to continuous improvement of their living conditions.

It is difficult to reconcile the data presented with the adherence to the CRPD. For example, it has been shown that disabled people (claimants in this data were already successfully claiming Incapacity Benefit) in less healthy areas are having financial support withdrawn at a rate higher than those in healthier areas. Not only is this a possible example of discrimination against areas with higher disability, the removal of up to 30% of the claimants' income is a clear regression of living standards to a level far below that required for a socially acceptable quality of life. Claimants found capable of work who then go on to claim Jobseeker's Allowance, or new claimants placed in the WRAG, will receive approximately £75 per week excluding any other benefits such as Housing Benefit. The income level required for an acceptable standard of living for a single adult, excluding housing and childcare costs, is £195 per week [8].

Not only is the WCA not a valid assessment of disability, but this test may be contributing to violations of the human rights of disabled people. It is clear that urgent intervention is required by the Government to improve the quality of this test and potentially stop human rights abuses of a great many people – in this data, 208,410 people whom had previously been declared medically unable to work had their sickness benefits withdrawn.

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