



# Benefits Series

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## Universal Credit and ESA Work Capability Assessment guidelines

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Please see our website for up-to-date information: [www.downs-syndrome.org.uk](http://www.downs-syndrome.org.uk)

If you have concerns, please ring the DSA's Benefits Adviser Helen Wild

Monday & Thursday 10am-4pm Tues & Weds 10am-12.30pm | Telephone: 0333 1212 300

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Prior to Universal Credit, income related Employment and Support Allowance (ir ESA) was the benefit to claim if you were 16-64 and could not work because of sickness or disability.

It has been replaced by Universal Credit in most areas now. Some people are still receiving income related ESA. The work capability assessment is the same in both benefits.

There are 2 parts to the work capability assessment (WCA). The first part determines whether or not you are entitled to benefit and the second part decides whether you are placed into the 'work related activity group' or 'the support group'.

- New Style ESA is a contributory benefit. To be awarded payment, you need to have paid National Insurance contributions. Savings do not affect contribution based ESA. It is restricted to 12 months payment if you are placed in the work related activity group. It is not restricted if you are placed in the support group.

*You do not automatically qualify for free prescriptions and help toward dental/optical care. You will therefore need to complete a HC1 form from NHS direct. Call 0300 330 1343 to speak to an adviser. They can also fill in the form over the phone which will be sent to you to sign and send back.*

- Universal Credit is a means tested benefit. Savings can affect income related ESA. There is no limit to the length of time it is paid. It has extra allowances which contribution based ESA does not have.

*You are generally entitled to free prescriptions, dental and eyesight tests if you receive Universal Credit and you have little or no earnings.*

Universal Credit is included in the benefits cap for those placed in the work related activity group. Those placed in the support group will not be affected by the benefits cap. The majority of our members are placed in the support group.

## Tax Credits and Child Benefit, or Universal Credit?

If you are still claiming Child Tax Credits for your family, check first to see if you will be better off claiming benefit in your child's own right. You may yourself already be in receipt of Universal credit rather than the tax credits which it has replaced.

If you haven't yet been affected by universal credit, it may be better waiting until your child no longer qualifies for child benefit. You cannot claim benefit on behalf of your son or daughter and still keep the Tax Credits and Child Benefit relating to your child.

## Making a Claim for Universal Credit

Claims for Universal Credit are made online. If you are not comfortable with claiming this way, you can call the Universal Credit helpline on 0800 328 5644

## Savings

Savings over £6,000 in your son or daughters name will affect their claim to income based benefit. Any savings of £16,000 or more will stop income based benefit altogether. Savings of between £6,000-£16,000 will result in a reduction of benefit.

It is important to get independent financial advice if your child has savings. You may want to consider setting up a Discretionary Trust Fund to put the savings in. It is advisable to have this Trust Fund in place a few years before means tested benefit is claimed. This is because suddenly moving money from their bank account to the trust fund could be viewed as deprivation of capital in order to claim benefit.

## Education

Full time students under are not generally able to claim Universal credit, however, you can claim if your child is in receipt of Disability Living Allowance or PIP and have been found to have limited capability for work. Those who claimed income related ESA prior to UC were automatically treated as having a limited capability for work without having to score 15 points if they were a student in full time education and entitled to Income Related ESA because they receive DLA or PIP.

## The Waiting Period

During the first 3 months you will be paid a basic allowance of Universal Credit. It is slightly higher for those aged 25 and over.

During this period and after supplying a sick note or doctors note, you should have the first work capability assessment (WCA) after which time you will receive extra allowances in your benefit if you are found to have limited capability for work related activity.

You may have to attend further Work Capability assessments in the future to determine further entitlement and to see whether the group you have been placed in is still appropriate. You will be asked questions about physical and cognitive ability.

***If you total 15 points or more, you are assessed as having a limited capability for work.***

## The Work Capability Assessment

This assessment determines whether you have either limited capability for work or limited capability for work related activity.

This information is gathered from either the UC 50 or ESA 50 and from face to face assessments.

## Completing the form

Before you complete this, please have a look at the descriptors online:

ESA: <http://www.legislation.gov.uk/uksi/2011/228/schedule/1/made>

UC: <https://www.legislation.gov.uk/uksi/2013/376/schedule/6/made>

Activities 1-10 cover physical disability and 11-17 cover cognitive disability. You need to score 15 points or more. If any activity in italics applies (physical -1-7 or cognitive-11,12,13,14,16 and 17) you will satisfy the limited capability for work related activity assessment and be placed in the support group.

## About you

Remember you are putting your son or daughters details here. If you are filling the form in for them, you will need to put your details on the declaration at page 18 'Filling the form in for someone else'.

## About your GP and other professionals

This is where you will put your GPs name and any other healthcare professional that cares for you.

## About your health condition, illnesses or disabilities

As well as writing about Downs Syndrome, it is important to let them know if you are having treatment for any other reason be it related or unrelated to Downs Syndrome. Examples could be heart condition, diabetes or thyroid disorder. Mention any health issues and if these cause more of an issue because your son or daughter has learning difficulties. For example, if your child is diabetic - do you have to manage their medication and treatment? Are they able to recognise when they need to take medication.

## About other treatment

You can write about any hospital, clinic or special treatment you are having here. If this section is relevant to you, you could also say that your son or daughter needs extra supervision and help because they have a learning difficulty - maybe if they are at an age when a person would be able to attend appointments or treatment without being accompanied

## Part 1: Physical functions

These functions need to be carried out safely, to an acceptable standard, as often as you need to and in a reasonable length of time. They will not necessarily apply to all our members but it is worth mentioning issues with concentration span and safety awareness.

### 1. Moving around and using steps

The descriptor here will consider how you move even with the use of an aid such as a walking stick or a wheelchair. This is without help from another person.

The question asks about the distance you can move before being in significant discomfort. Do not count the distance if you are walking in pain.

If you have dizzy spells or are unsteady on your feet, mention it.

If you use a wheelchair but are unable to operate it unless someone is helping you, then put that you are unable to use the wheelchair unaided. Do not count how far you can move with someone's help. This is for distance covered without help from another person.

## **2. Standing and sitting**

If you need help moving from one seat to another or if you cannot stand for more than 30 – 60 minutes, you will score points on this section.

This section is looking at your ability to sit behind a desk and get up at intervals. Again it is looking at the physical act of doing this.

If you have problems with standing or sitting you should explain how moving between these activities would be difficult and why.

## **3. Reaching**

If you have problems with raising your arms above your head or with putting on a hat or a coat then you need to explain about this. You need to be able to do this repeatedly and so if you tire or if you would be in pain you need to explain.

## **4. Picking up and moving things**

This question is judging your ability to move light bulky items and whether you can do this repeatedly. If you have any problems with grip or weakness you should put this here.

It asks if you can lift a 1 pint or 2 pint carton of liquid.

Would your son or daughter be able to judge what was safe to lift? Although this isn't strictly what they are looking for, it will give insight into potential judgement difficulties.

## **5. Manual Dexterity**

If you cannot operate a keyboard, use a push button telephone or turn the pages of a book without difficulty then you should score points. Mention also if you have difficulty using a pen.

If your son or daughter can do all these things but they are unable to write or read the keys on a keyboard you could mention this here. Again it isn't strictly what they are looking for but it will build a picture for the cognitive section.

## **6. Communicating with people**

This question deals with the ability to communicate through speech, typing and writing. It asks if you would be able to warn someone of a dangerous situation.

If your son or daughter has poor safety awareness, write about this here. If their speech is not clear or if it is limited, write it down.

## **7. Other people communicating with you**

This is about your son or daughters ability to understand simple spoken or written communication from other people.

If they have problems with comprehension you must mention this. They may pretend that they understand what the other person is saying to avoid being embarrassed. If they are able to

read, can they understand what is written down? The example given is the location of a fire escape. If your son or daughter has any difficulties with communication, then you need to say what they are and how it affects them.

## **8. Getting around safely**

This section is about any visual problems a person may have and your ability to move around in familiar and unfamiliar surroundings.

Does your son or daughter have poor eyesight and need someone with them to keep them safe?

You could of course also write that although they have no visual problems, they need someone with them for vulnerability and safety issues.

## **9. Controlling your bowels and bladder and using a collecting device.**

If there are any continence issues then you need to write about this here, even if these are just occasional accidents. Write about what would happen, would your son or daughter be able to deal with washing and changing themselves or do you help them?

## **10. Staying conscious when awake**

This would apply to people who lose concentration, maybe if they have epilepsy or if they have diabetes.

If this is an issue then explain about what happens and how often.

# **Part 2: Mental, cognitive and intellectual functions**

## **11. Learning how to do tasks**

The example given is setting an alarm clock. If your son or daughter is unable to tell the time, let alone set an alarm clock, tell them here.

The washing machine example does not mean the parent setting the programme and the son or daughter pressing the start button. If they would be unable to work the machine and set the appropriate programme, then tick No.

If your son or daughter has to be shown repeatedly how to do things, even simple tasks, after being shown before, then explain this to them. It is very common for people with Downs Syndrome to forget a task even after being shown or taught, maybe not immediately, but they may need showing again the next day or time.

## **12. Awareness of hazards or danger**

In this section you can explain about any lack of safety awareness and also vulnerability issues. For example, you could use cooking hazards - what has happened or could happen without supervision.

Examples could be answering the door to a stranger, running a hot bath, putting metal implements in a microwave, using knives, locking doors etc.

## **13. Starting and finishing tasks**

This question is to see how you plan and organize yourself. This is about your son or daughter's ability to plan and so if it is you who has to do this, then you should tick never.

If you need to prompt your son or daughter frequently so they get themselves up and dressed and then again so they have their breakfast and they need prompting to keep them on task all day, then you need to write this. If they cannot execute two actions in a row and you find that you have to break instructions down step by step, please let them know about this.

If they are easily distracted and become bored then write about this also.

#### **14. Coping with changes**

Many people with Down's syndrome like to have a routine and a change can upset them. This can be worse if your son or daughter also has Autism. If you know that they cannot cope with change, even small expected change then tick No.

Explain what would happen if they missed their bus, who would they ring, are they able to ask someone else?, can they understand the bus timetable? Etc.

If anxiety is an issue, mention this here.

#### **15. Getting about**

The majority of people with Down's syndrome would not be able to go out on their own and you should tick that they would need someone with them in both familiar and unfamiliar places.

Explain about vulnerability issues here and the potential for becoming lost etc.

#### **16. Coping with social situations**

You need to think about whether your son or daughter would be anxious meeting unfamiliar people.

Would they be able to cope in a noisy environment or would they be scared or distressed. If they would be overwhelmed and unable to cope then you should write about this.

You could also mention any potential communication difficulties.

#### **17. Behaving appropriately**

If there is any history of aggressive or unusual behaviour then you need to put this down.

Examples could include hitting or, conversely, hugging if it were deemed inappropriate.

### **Face to face assessment**

This page asks for phone details so an appointment can be made for you to see an assessor.

They may ring to arrange a medical assessment. They can ring anytime between 9.00-8.30 Monday to Friday and between 9-5pm on a Saturday. It doesn't give you an option for the best time to call and so if there is a best time to ring, there is no harm in mentioning this time here.

You may be asked to attend an assessment and you will be asked similar questions to the form you have completed (UC/ESA 50) although you may be asked to demonstrate – such as raising your arms up etc.

Do not worry if your son or daughters speech is not clear, that is for the assessors to realise so don't be too quick to jump in with answers. If your son or daughter says they can do things which you know they cannot, then you need to let the assessors know that you have to supervise them etc.in these tasks. This can be awkward as it does little for the confidence of the person in question.

If your son or daughter is in supported living or lives away from home, make sure that the person that goes with them knows to speak up when appropriate if the answers given are not a true picture.

### **Tell us about any help you would need if you have to go for a face to face assessment**

Here you can write about the difficulties your son or daughter would have. Do they understand the implications of the assessment and need help to get up and dressed in time. Do they need someone with them to get to the assessment, can they use public transport without help, could they read the map or understand directions of where they need to go. Is their speech clear, will they say 'yes' - just so that they can do things just to get out of the interview as soon as possible? Mention this here.

### **Other Information**

Anything that you think hasn't been fully explained, please put here. You can attach additional sheets but please remember to put your National Insurance number and name on each sheet in case it becomes detached. You may want to enclose supporting letters from your GP or other healthcare professional, again make sure they have your name and reference number on them.

### **Supporting Evidence**

It may be helpful to provide medical evidence from your GP or other health care professional. You can also send a letter from someone who knows your situation well.

First check that the letter is relevant to your son or daughters claim. It needs to be a letter stating what they have difficulties with rather than one stating what they are capable of.

### **What happens next**

A decision maker will look at the assessors report and also your completed UC/ESA 50. They will make a decision about whether you have limited capability for work.

You can appeal if you are unhappy with the decision. You have one month to do this.

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Please call and speak to the benefits adviser at the Downs Syndrome Association for further help. Monday & Thursday 10am-4pm Tues & Weds 10am-12.30pm | Telephone: 0333 1212 300

The Down's Syndrome Association provides information and support on all aspects of living with Down's syndrome.

We also work to champion the rights of people with Down's syndrome, by campaigning for change and challenging discrimination.

A wide range of Down's Syndrome Association publications can be downloaded free of charge from our website.

## Contact us

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[www.dsactive.org](http://www.dsactive.org)



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