Tribunal encourages Government to trial changes to fit-for-work benefits test

Thursday 12 March, 2015

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12th March 2015 – A Tribunal has encouraged the Department for Work and Pensions (DWP) to trial changes to its fit-for-work benefits test, after finding that it puts people with mental health problems, learning disabilities and autism at a "substantial disadvantage".

The judgment by the Upper Tribunal is a result of a judicial review brought against the DWP by two anonymous claimants with mental health problems in relation to the Work Capability Assessment (WCA). This is the process used to determine whether someone applying for Employment and Support Allowance (ESA) is fit for work.

The charities Rethink Mental Illness, Mind and the National Autistic Society intervened in the case to provide evidence based on the experiences of their members and supporters.

The case centred on how evidence is gathered for the WCA. People are expected to provide evidence from a professional such as a GP or social worker themselves, which can be extremely challenging for those affected by mental health problems, learning disabilities or autism.

There is no obligation for the DWP to collect evidence, even on behalf of the most vulnerable claimants, apart from in some rare cases. As a result, people who most need support are often being assessed without crucial medical or other relevant evidence being taken into account.

In the Upper Tribunal ruling, judges said that the WCA puts people with mental health problems, learning disabilities and autism at a "substantial disadvantage", and that there may be reasonable adjustments that could be made to improve the process.

The Tribunal also stated it did not have enough information to compel the DWP to make a specific change to the WCA. However, judges encouraged the DWP to trial reasonable adjustments to the test "as soon as possible".

In a joint statement Rethink Mental Illness, Mind, and the National Autistic Society said:

"The Tribunal has clearly stated that the current process puts people with mental health problems, learning disabilities and autism at a substantial disadvantage, and has encouraged the DWP to trial changes to the test. Our supporters say that the WCA is causing great distress, and is pushing many people to the brink. What more will it take to get the DWP to fix the fit-for-work test, so that it no longer disadvantages people when they are at their most vulnerable?"

"Not only is this flawed test having a devastating impact on so many of those going through it, it's also costing the public huge amounts of money, because a high proportion of decisions are being appealed and overturned. That's why it's in everyone's interest to have a fair process which gets it right first time.

"This is one of the most important issues for the millions of people we represent, and we will continue to fight for a fair benefits system. We urge whoever forms the next Government to work with us to fix the system, so that it no longer punishes so many of the people it's meant to support."

ENDS

Please see more information about the judicial review in the FAQs attached.

Notes to editors

For more information or case studies about the Work Capability Assessment, please contact:

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