

Preventable harm and the Work Capability Assessment

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Abstract

Introduced in October 2008, the work capability assessment (WCA) is used by the UK government to limit access to the long-term sickness and disability benefit, known as the Employment and Support Allowance (ESA). The scope of the assessment was increased in 2010. Extensive evidence suggesting that the WCA is a dangerous and fatally flawed assessment model for disabled and chronically sick people continues to be disregarded by successive governments. This article identifies the influence of American corporate funders with UK welfare reform policies since 1992. I argue that these influences shaped the WCA in ways which cause preventable harm in the lives of chronically sick and disabled people, who are dependent upon the ESA for their financial survival. Further, I argue that the ESA assessment process was adopted to encourage the general public to purchase income protection insurance, which intentionally undermines the UK welfare state.

Keywords

work capability assessment, welfare reforms, biopsychosocial model

Introduction

Successive calls for welfare reform in the UK are not as progressive as they might appear to the outside world. From the point of view of chronically sick and disabled people themselves, the problems started thirty-five years ago under the Thatcher government when privatisation, a consumer model of care and individualism were introduced, arguably to the detriment of disabled people. The legacy of Margaret Thatcher's neoliberal policy decisions continues to influence UK government policy (Scott-Samuel et al, 2014). Dismantling of the UK welfare state was first suggested by Margaret Thatcher in 1982, and wide spread speculation at the time claimed that the suggested removal of the welfare state was due to her very close bond with

the American President Ronald Reagan . In my view, Thatcher's legacy continues to this day as successive Prime Ministers engage with her ultimate goal which, I have argued elsewhere, is the eventual removal of the welfare state and the adoption of private healthcare insurance in its place (Stewart 2016).

The Thatcher Legacy begins

Further historic context helps illuminate the emergence of risk-averse government following in Thatcher's footsteps. In 1992 John Major's Conservative government invited the American corporate giant UnumProvident™ Insurance to consult with reference to future welfare claims management. John LoCascio, the UnumProvident™ Vice-President, was appointed as the corporate consultant. By 1994, the company were appointed as official government advisers and the 1994 Social Security (Incapacity for Work) Act introduced Incapacity Benefit, as designed to limit out-of-work disability benefit, which had significantly increased due to the increasing numbers of claims for mental health illnesses (Stewart 2017).

By 1995 the Department for Social Security's Principal Medical Officer, Mansel Aylward, co-authored an academic paper with LoCascio. 'Problems in the Assessment of Psychosomatic Conditions in Social Security and Related Commercial Schemes' (Aylward and LoCascio 1995) argued that GPs should not be expected to determine a patient's incapacity, and the authority and clinical opinion of GPs would eventually be curtailed. This was the preamble to the future use of private contractors by the renamed Department for Work and Pensions (DWP), to assess chronically ill and disabled people for access to long-term sickness and disability benefit as previously identified by their family doctor.

In 2005 there was a total of 39% of Incapacity Benefit claimants in receipt of the benefit for a mental health problem, which was just under one million people. Since that time, politicians have prioritised the reduction of claimant numbers by one million, due to costs, suggesting that mental health was of little significance other than a drain on resources. Incapacity Benefit was changed to the Employment and Support Allowance (ESA) in October 2008. To access the ESA, claimants would be assessed by the new Work Capability Assessment (WCA) as DWP Ministers continued to claim the need to reduce the claimant numbers regardless of very predictable human consequences. Not to be confused with a medical

assessment, the WCA is described by the DWP as a ‘functional assessment’, using an IT tick-box questionnaire and totally disregarding diagnosis and prognosis (Stewart 2017).

The use of the WCA was planned long before its introduction. UnumProvident™ Insurance funded research by Gordon Waddell and Mansel Aylward from 2004, at a cost of £1.6million over a five year period, which would justify the DWP adopting a biopsychosocial (BPS) model of assessment for all future claimants of long-term sickness and disability benefits (Stewart 2016, p13). UnumProvident™ Insurance use a BPS model to assess claimants of income protection insurance. Commissioned by the DWP, ‘The Scientific and Conceptual Basis of Incapacity Benefits’ was quickly produced by Waddell and Aylward in October 2005. The report recommended the use of sanctions to remove all access to funds to incentivise claimant compliance (Waddell and Aylward 2005, p166). This arguably allowed preventable harm by the State to creep into disabled people’s lives, using a fatally flawed BPS assessment model (Shakespeare et al 2016) plus sanctions, which were known to cause preventable harm by enforced starvation.

The BPS model of assessment, as used for the WCA, totally disregards diagnosis, prognosis, prescribed medication and past medical history, so that with key evidence missing in assessment, deaths of people wrongly assessed were inevitable due to neglected medical evidence (Butler 2015). The WCA was exclusively conducted until 2015 by Atos Healthcare, a corporate IT giant whose doctors, according to the General Medical Council, have total immunity from all medical regulation as they work on behalf of the government (Stewart 2015).

UnumProvident™ Insurance were fined \$31.7 million in 2003 in a class action law suit in California for running ‘*disability denial factories*’ and \$15 million in 2005 by the California Department of Insurance Commissioner, John Garamendi, who stated that ‘*Unum Provident is an outlaw company. It is a company that has operated in an illegal fashion for years...*’ By 2006 the State insurance commissioners of 48 American States approved a settlement in an investigation of the UnumProvident™ Corporation that required the healthcare insurance giant to reconsider 200,000 claims and to pay \$15million in fines; as the BPS assessment used by the corporate insurance giant caused identified preventable harm when the company resisted funding genuine income protection insurance claims. At the same time as paying these fines

in America for malpractice, the company were funding the research of Waddell and Aylward in the UK (Stewart 2015). UnumProvident™ Insurance changed its name to Unum Insurance in 2007 to distance itself from increasing negative publicity for identified malpractice. Notwithstanding these concerns, the only opinions considered by the DWP regarding the benefits of work and the BPS assessment model used to assess long-term sickness and disability benefit claimants continued to be those emerging from the research sponsored until 2009 by Unum; identified by the American Association of Justice in 2008 as the second most discredited insurance company in America (Stewart 2015).

The influence of UnumProvident™ Insurance upon UK welfare reforms was demonstrated in supplementary memorandums provided for the government's Work and Pensions Committee, which listed the transformation of Incapacity Benefit to the ESA long-term out-of-work sickness and disability benefit. The requirement to '*resist diagnosis*', '*revise the 'sick note*', '*encourage the Government to focus on ability and not disability*', '*change the name of Incapacity Benefit*' and '*benefits not to be given on the basis of a certain disability or illness but on capacity assessments*' have all come to pass, as embedded in UnumProvident™ Insurance guidance on UK government welfare policy since 1994 (Stewart 2017).

In 2016, when Professor Tom Shakespeare and colleagues exposed the BPS model of assessment as having '*no coherent theory or evidence behind this model*' and demonstrating '*a cavalier approach to scientific evidence*' (Shakespeare et al 2016), there was little public attention paid to his concerns. Shakespeare's paper exposed the DWP's commissioned research as being '*policy based research*' and not '*evidence based research*'; data had been constructed specifically to justify DWP policy and hence was wholly unreliable. So now there was academic scrutiny to add to other detailed evidence emerging, that the DWP commissioned research, as used to justify the introduction of the WCA to intimidate chronically ill and disabled people, was discredited and did not withstand academic analysis (Stewart 2017).

From City Banker to DWP Minister

Having installed a discredited assessment model to guarantee that fewer people would qualify for State financial support for long-term illness and disability, more commissioned 'independent' research was needed to persuade the House of Commons as to a consequential

need to completely reform welfare. The report of the subsequent enquiry '*Reducing Dependency, Increasing Opportunity*' (Freud 2007) was rapidly produced in just six weeks, by the former City banker David Freud, making claims of a potentially massive reduction in Incapacity Benefit claimants. In May 2007 Professor Danny Dorling, writing as Guest Editor for the Journal of Public Mental Health, identified flaws in the Freud Report including that numbers used to produce the report were '*wrong*' and references misinterpreted, suggesting proposed welfare reforms would not be associated with the predicted massive fall in claimant numbers (Dorling 2007). At this point we can see that the ongoing severe welfare reforms have been built on the basis of two discredited government commissioned reports. Following the report, Freud was appointed as a Shadow Minister in 2009, and as a junior Minister in the 2010 Coalition and 2015 Conservative governments, where he continued to produce DWP reports to limit government funding to chronically sick and disabled claimants.

Conclusion

Unless commissioned by the DWP, the government disregard all evidence relating to the ESA, the WCA, the BPS model or the identified ongoing preventable harm created by the ESA assessment process. Over time coroners, academic experts, the Work and Pensions Select Committee, the British Medical Association, the Royal College of General Practitioners, the Royal College of Nurses, the British Psychological Society, the President of the Appeal Tribunals for Social Security and Disabled Peoples' Organisations have demanded that the WCA should be stopped (Stewart 2017). Resistance to the WCA is brushed aside by the current UK Government and disabled people and their representative organisations find their struggle for justice unheard. Reports of suffering are mounting. Thousands have died after being found '*fit for work*' following a WCA (Butler 2015) and activists continue to assert that significant harm will be caused to more chronically sick and disabled people if the WCA is not removed. From January 2011 to February 2014, a total of 91,970 Incapacity Benefit and ESA claimants died (Stewart 2016, p94). The DWP's response to concerns regarding the mortality totals of ESA claimants was to refuse to publish any more updated ESA mortality totals.

Disclosure statement

No potential conflict of interest was reported by the author.

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