

Ways to avoid losing Employment and Support Allowance (ESA)

This factsheet looks at how you can keep Contribution Based Employment and Support Allowance or avoid losing ESA. You may even be entitled to more ESA or Universal Credit!

What is ESA?

Employment and Support Allowance (ESA) is for people who cannot work due to ill health or disability. It has two parts:

- **Contribution Based ESA (CB-ESA)** which you get if you have paid enough national insurance contributions; and
- **Income Related ESA (IR-ESA)** which you get if you can't get CB-ESA or you get as a top-up of CB-ESA.

In ESA, if you are too sick to work, you need to provide a doctor's 'fit note' and are assessed under the 'Work Capability Assessment'. After that process, you are placed in one of two groups and *may* get an extra amount. If you can think about work, you are placed in the 'work related activity group' and receive the additional work-related activity component (although the government stopped this for new claims from April 2017). If you are too ill or disabled to do this, you go into the 'support group' and get the extra support component.

Universal Credit

There are similar rules for those on the sick in Universal Credit. For example, Universal Credit tops up CB-ESA and the support component group is very similar to the Universal Credit 'limited capability for work related activity' (LCWRA).

For details see our **factsheet 1 'The ESA and UC work capability assessment'** on www.newcastle.gov.uk/benefitinformation

Contribution based ESA 52-week limit

Contribution based ESA (CB-ESA) stops after 365 days.

This time limit also applies if you have been moved from Incapacity Benefit to CB-ESA.

But all is not lost!

There are reasons CB-ESA should continue beyond the 365 days. And, it may be that income related ESA or Universal Credit can be paid aswell or instead. **Read on...**

Can income related ESA be paid as well as CB-ESA or instead?

- If CB-ESA stops you may be entitled to income related ESA instead. To make sure, you should claim it from Jobcentre Plus. Phone 0800 055 6688.
- It may be that you are already getting it on top of your CB-ESA. If so, Jobcentre Plus should increase it to the same level, when your CB-ESA stops.
- It may be that you are getting CB-ESA and entitled to income related ESA but not getting it. In that case, you should get it and try for backdating. If so, phone Jobcentre Plus or contact an independent advice service: www.newcastle.gov.uk/benefitcontacts.

Can Universal Credit be paid as well as CB-ESA or instead?

Universal Credit replaces six means tested benefits including income related ESA. It may be - as above and instead of IR-ESA - that it can be paid in addition to CB-ESA (which in a Universal Credit area is called 'new style ESA').

Universal Credit may be less than your existing benefits that Universal Credit is replacing. Please get advice www.newcastle.gov.uk/welfarights

Warning - if you challenge an ESA decision

If you are on IR-ESA and reassessed and the decision is that you don't satisfy the Work Capability Assessment (don't score enough points), you may want to challenge the decision. To do this you have to submit a 'mandatory reconsideration'. Whilst waiting for the decision, you cannot claim basic ESA. Your option (in a UC area) is to claim UC - or not. Before you do this, get advice as UC may be less than your existing benefits and once claimed you cannot usually return to your previous ESA: www.newcastle.gov.uk/benefitcontacts. See also our factsheet 'What to do if you disagree with a WCA decision on your ESA or UC' from www.newcastle.gov.uk/benefitinformation.

Can Contribution based ESA continue beyond 365 days?

Days in the **ESA support group** or the **Universal Credit equivalent (LCWRA)** do not count towards the 365 days. So long as you stay in that group, your CB-ESA should continue.

If you are not in that group, you should check if you should be. Our factsheet 1: 'The ESA and UC work capability assessment' explains the rules. It is on our page: www.newcastle.gov.uk/benefitinformation

To get CB-ESA you must have paid sufficient national insurance contributions in certain years. The rules are explained in:

www.entitledto.co.uk/help/employment-and-support-allowance-contribution-based

You can get details about your national insurance contributions phone 0300 200 3500 or see the website: www.gov.uk/check-national-insurance-record

Challenging decisions

If you are unhappy with an ESA or Work Capability Assessment (WCA) decision or you have had a decision refusing you ESA because of time limiting or any other reason, you can challenge the decision. You can do this yourself or you may be able to get help from an advice service. See the **warning** above about ESA and Universal Credit.

See our factsheet on 'what to do if you disagree with a WCA decision in ESA or UC' from www.newcastle.gov.uk/benefitinformation

Carers

If you are a carer and think the above might affect you, get advice:
www.newcastle.gov.uk/benefitcontacts

Useful contacts and information

Jobcentre Plus:
Phone 0800 055 6688

Government website:
www.gov.uk/employment-support-allowance

Newcastle Welfare Rights website:
www.newcastle.gov.uk/welfarerights

Disability Rights UK website:
<http://disabilityrightsuk.org/>

This information was as accurate as possible at the time of writing: December 2018