

# DWP Benefit Safeguards:



Protecting employment and support allowance claimants with mental health conditions

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# Employment and support allowance

- Main benefit for people who have a limited capability for work
- Replaced incapacity benefit, to be replaced by universal credit

# Employment and support allowance

- Two versions: Contribution based and income related
- Two phases: Assessment and main phase
- Two groups: Work related and support
- Two components: Work related and support

# Employment and support allowance

- Entitlement decided by the *work capability assessment*: Questionnaire and medical
- Some claimants treated as having a *limited capability for work/work related activity*
- Many claimants have to do work related activity
- Sanctionable

# Why are we talking about safeguards?

Where a client:

- Has a mental health condition, learning disability, cognitive or communication impairment; *and*
- The DWP are aware, *and*
- The claimant fails to comply with an aspect of their ESA claim,

Safeguarding procedures should be considered.

When safeguarding procedures are not followed,  
the decision can be revised.

# Minimum Requirements

The minimum requirements are:

*“Where the claimant has a known background of mental illness there are minimum requirements that Jobcentre Plus should be adopting to ensure that we are not found to be neglectful in our duty of care towards these claimants.”*

- *Where the claimant has been attending a Psychiatric Unit, a liaison officer should be appointed to maintain good communications between Jobcentre Plus and the Patients Affairs Officer.*
- *Where it is known that the claimant has a social worker designated to them we should liaise closely with Social Services Department.*
- *All cases, where there is a known history of mental illness, should be referred to a manager before a decision is made to withdraw benefit.*

# Origins of safeguarding guidance

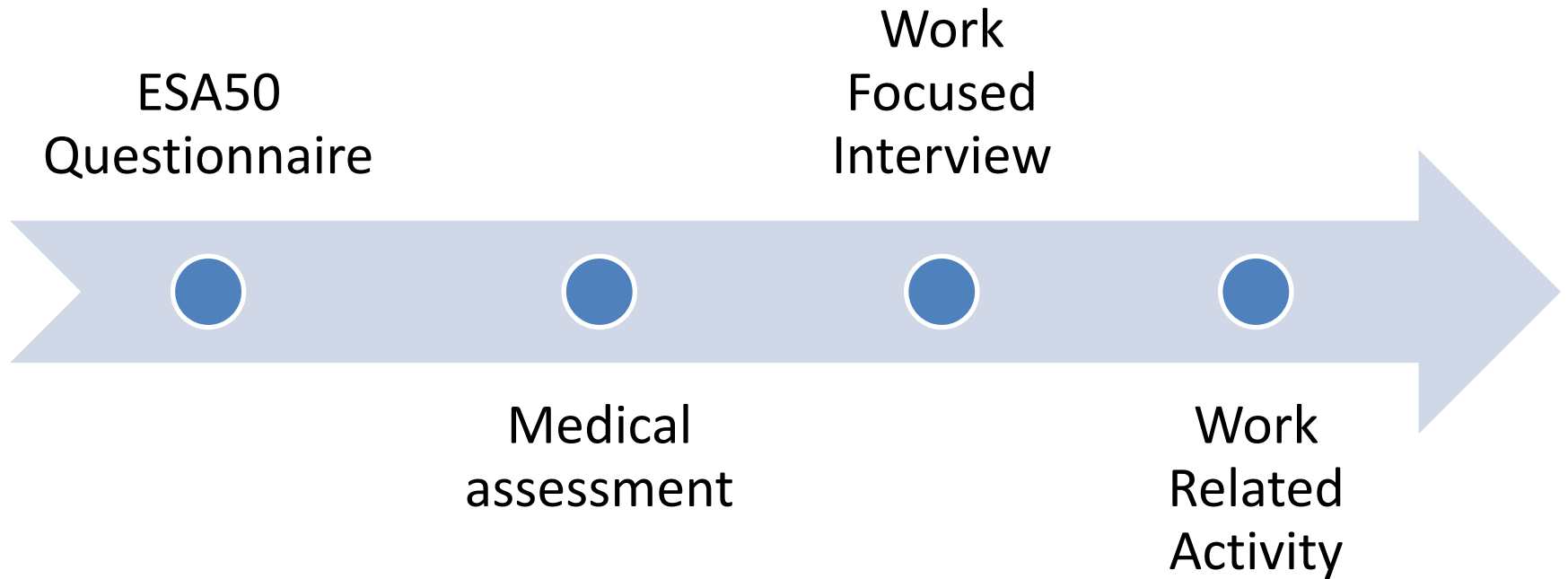
- Introduced in 2000 following heavy criticism from a coroner of the Benefits Agency following the death of a claimant.
- Known as Minimum Requirements guidance.
- These represent a clear policy intent within the DWP to protect benefit claimants who suffer from mental health conditions.



# Core Visit Safeguards

- Core Visits enable the DWP to manage aspects of their role on a face to face basis
- Conducted by the Pension Service
- Contained within ESA Operational Procedures
- Separate sections of ESA guidance refer to how Core Visits should be arranged
- Similar procedures for core visits are echoed in guidance for DWP sub-contractors

# ESA claim journey



# Why safeguards are useful

- Any decision regarding complying with ESA claim requirements and which has caused benefit payment to stop, taken without following these procedures, can be overturned.
- It does not matter whether the DWP had information about a client's mental health problems\* when they made their decision.

# Failure to comply with JCP requirements

- JCP advisor considers whether good cause can be accepted
- If claimant has mental health condition\*, Core Visit arranged to:
  - Establish if claimant understands requirement
  - Gather information for good cause to be considered
  - Assist to rearrange interview
- Ineffective visits: If first visit unsuccessful, a 2<sup>nd</sup> attempt should be made. If also unsuccessful, referred to manager to consider if further safeguarding steps required.
  - Only after above is case referred to LMDM

# Failure to attend WCA

## *Safeguarding provisions within guidance:*

- Where mental health condition\* is flagged a referral can be made for a Core Visit
- The Core Visit is to ensure that the claimant understands their responsibilities, and the implications of not attending.
- Good cause reasons then supplied to Decision Maker

## *Not within guidance:*

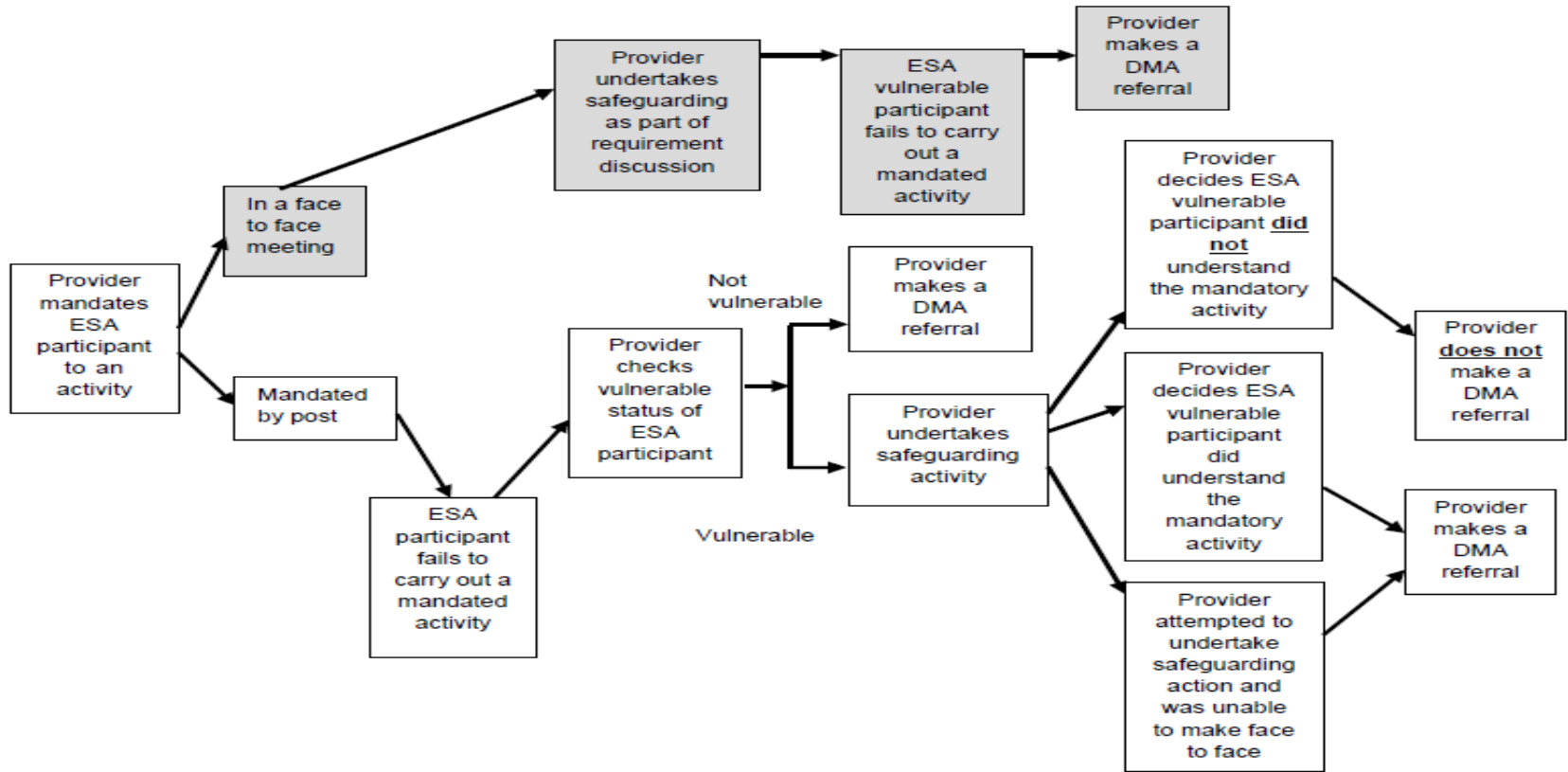
- Lack of guidance about what happens if Core Visit unsuccessful

# Work Programme Requirements

- Work Programme Provider will not raise a compliance doubt until safeguarding procedures followed
- Home visits may be required, if necessary
- Safeguarding details must be included in compliance doubt form, which is provided to Labour Market Decision Maker
- WPP safeguarding guidance has been significantly watered down

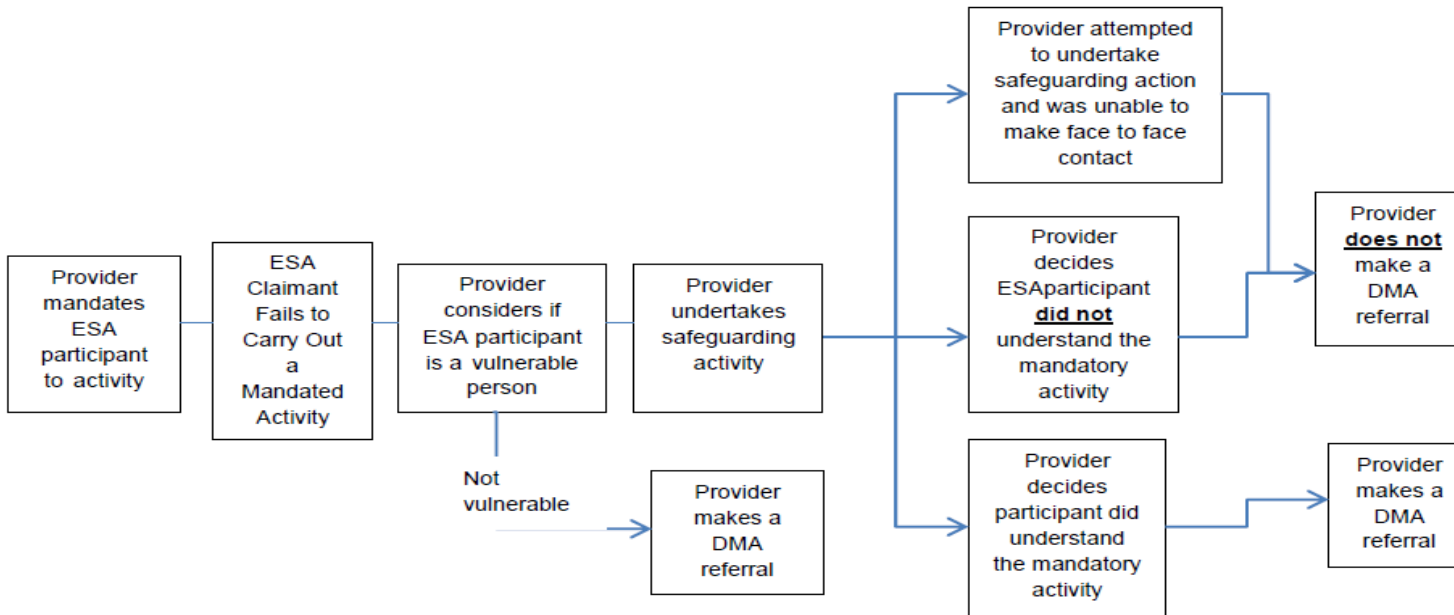
# WPP Guidance: Chapter 4b, 10/2/16

## High Level Must Do's



# WPP chapter 4b, May 2015

## High Level Must Do's





# Example of using safeguards

*Ms C was referred to us from RBG local welfare assistance scheme.*

*She had failed to attend a Work Capability Assessment 3 months ago. Her ESA & Housing Benefit had stopped, and she had been living off Child Benefit & Child Tax Credit.*

*She was recovering from an operation several months ago. She also suffers from mental health problems, and had on-going involvement with NHS mental health services.*

# Example of using safeguards

*Case escalated to Belfast BDC.*

*DWP confirmed that safeguarding procedures had not been applied. The client's original ESA claim was on the basis of her physical health. She had disclosed her mental health on her most recent MED3, which was provided after failing to attend. The safeguards should still have applied however.*

*Case referred to a Decision Maker same day, and decision revised on the basis of safeguards having not been followed.*

# Example of using safeguards

*Mrs E was sanctioned for 6 weeks for not attending Work Related Activity.*

*She suffers from an enduring mental health disability and is agoraphobic, and has been unable to leave her home for many years.*

*Neither the Work Programme Provider or Labour Market Decision Maker (LMDM) applied any safeguards before making the decision to impose sanctions.*

*We queried whether safeguards had been used with the LMDM, which led to the sanction decision being revised.*

# How to use safeguards

## Tool to reinstate benefit

- Query with DWP (preferably to the Benefit Delivery Centre) whether the safeguarding procedures have been applied).
- Request DM reconsiders on basis of safeguards not having been applied

## Preventative measures

- Has the client disclosed to the DWP their mental health condition?
- Are the DWP aware of a nominated mental health professional?

# Inconsistencies within Safeguarding Guidance

- Does the guidance take into account claimants with fluctuating health conditions? / What happens if a claimant repeatedly fails to meet conditions?
- What should happen if a Core Visit is ineffective?
- How well does the guidance reflect and maintain the original policy intent of the Minimum Requirements?
- What is the purpose of the Core Visit?

# Example of weakness within guidance

*Mrs F suffers from Multiple Spectrum Disorder, Bipolar Disorder and Aspergers Syndrome, and is linked with Oxleas, about which she had notified the DWP.*

*She failed to attend a Work Capability Assessment. Prior to her benefits stopping, two home visits had been conducted but these were deemed ineffective. No further safeguarding steps were taken.*

*Mrs F did not receive ESA for 6 months. She had attempted to claim JSA but was unable to meet the requirements of this benefit.*

# Example of weakness within guidance

*RBG WRS were able to intervene to ensure that good cause was accepted for failing to attend, resulting in ESA being reinstated. However, the DWP does not accept that further safeguarding procedures should have been considered.*

*We are escalating this through the complaints procedure, however as this is a policy issue we are not expecting this route to change the safeguarding procedures.*

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# Raising awareness

## **Benefits Safeguarding Alert**

**My name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**National Insurance Number:** \_\_\_\_\_

**Mental Health Diagnoses:** \_\_\_\_\_

**Learning Disabilities:** \_\_\_\_\_

**Conditions affecting cognition:** \_\_\_\_\_  
(e.g. autism, addiction)

**My signature:** \_\_\_\_\_

I am claiming benefits and wish to nominate a health professional who has personal knowledge of me, and request that you contact them as part of any future safeguarding process and to ensure that reasonable adjustments are made and/or additional support provided.

Please ensure all of the following are made aware of this alert: Benefit Delivery Centre, Local Jobcentre Plus, Relevant Work Programme Provider and their sub-contractors, Labour Market Decision Maker, and any other organisations relevant to my benefit claims.

**Data protection:** I authorise JCP, DWP, Work Programme Providers and their sub-contractors, work capability assessment providers, Royal Greenwich, and my nominated health professional to share information by email with each other about my case.

### **My nominated Health Professional is:**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

**Email and telephone:** \_\_\_\_\_

**Their status** (select as applicable): GP / Consultant Psychiatrist / Registered Nurse / Social Worker / NHS Clinical Psychologist / Occupational Therapist / Employment Adviser /

Other (please state) \_\_\_\_\_

**Signed** (Professional)

\_\_\_\_\_

**Date** \_\_\_\_\_

**Organisational Stamp** (if available)

# Key Issues

- Awareness of safeguarding guidance (within DWP and publicly)
- Inconsistent safeguarding guidance: WCA guidance much weaker
- Poor information sharing between DWP&WPP regarding vulnerability of individuals
- No safeguards for when claimant fails WCA

# Key Issues

- Only exist within ESA guidance  
(apart from very limited transfer into UC guidance)
- Recommendations of W&P Select Committee Report
- Do not exist in legislation.

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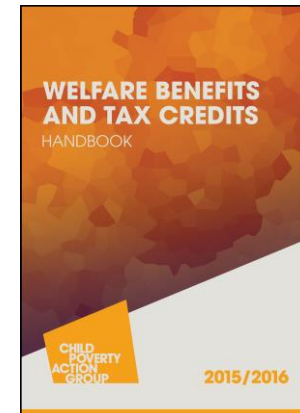
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