

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 (also called 'New Style ESA' for recent claims); 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.

For 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 are placed in the 'work related activity group', you get the basic ESA amount, which is lower for under 25's. The government stopped the additional work-related activity component for new claims from April 2017. If you are more disabled or ill, 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 Universal Credit 'limited capability for work related activity' (LCWRA) element is very similar to the ESA support component except it is a much higher amount. Universal Credit has replaced IR-ESA for new claims.

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) normally stops after 365 days.

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 as well or instead. **Read on...**

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

- Universal Credit replaces six means tested benefits including IR-ESA. Like IR-ESA, it can be paid in addition to CB-ESA.
- It may be that you are only getting CB-ESA and entitled to a top up of Universal Credit but not getting it. In that case, find out if you are entitled to it and claim it – see www.gov.uk/universal-credit or www.newcastle.gov.uk/universalcredit
- Although normally you cannot make a new claim for IR-ESA, if you were getting CB-ESA under the 'pre-Universal Credit system' your CB-ESA will be classed as 'Old Style ESA' – in which case you should be able to still get IR-ESA as a top up. If not, ask for it and for backdating.
- Universal Credit may be less - or more - than your existing benefits that Universal Credit is replacing. A 'better off' calculation can help you to compare your current benefits to the entitlement you would have on Universal Credit. Please see our pages: www.newcastle.gov.uk/universalcredit and get advice: www.newcastle.gov.uk/benefitcontacts.

What happens if CB-ESA stops?

If you are already getting IR-ESA as a top up of CB-ESA, the DWP should increase it to the same level, when your CB-ESA stops. You may need to inform the DWP. The same should happen if you are getting Universal Credit as a top-up of CB-ESA.

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. In which case, please read our advice in Factsheet 3: 'What to do if you disagree with a WCA decision on your ESA or UC' from www.newcastle.gov.uk/benefitinformation. Not only to get advice about challenging the decision but to avoid losing your IR-ESA.

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 above page and 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 169 0310

Universal Credit: Phone 0800 328 5644

Government websites:

www.gov.uk/employment-support-allowance

www.gov.uk/universal-credit

Advice services in Newcastle:

www.newcastle.gov.uk/welfarerights

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: May 2022