

# **STATE CRIME BY PROXY:**

## **corporate influence on state sanctioned social harm**

**An independent report by Mo Stewart**

### **Abstract**

In the UK there are three words that identify the government enforced suffering of sick and disabled people, and they are: Work Capability Assessment (WCA). This report identifies the influence of an American healthcare insurance giant with successive UK governments since 1992, the influence of a former government Chief Medical Officer and the use of the WCA, conducted by the private sector, as the government permit state crime by proxy when justified as welfare reform.

### **Key words**

work capability assessment, biopsychosocial model, neoliberal politics

## Introduction

Historically, the United Kingdom's (UK) welfare state provided a guaranteed financial safety net for those in greatest need, from the Beveridge Report (Beveridge 1942) until recently. However, with people living longer and the cost of the welfare budget rising, in 2006 the New Labour government identified future welfare reforms (DWP 2006) to reduce the growing costs of out-of-work disability benefits. Identified as '*a political choice and not a financial necessity*' when introduced '*without any ethical approval*' (McKee 2014), the adoption of additional austerity measures by the Conservative led Coalition government in 2010, which accelerated the welfare reforms, soon created a climate of fear for chronically sick and disabled claimants dependent upon welfare income for financial survival. Subsequently, government imposed benefit sanctions, used to enforce the welfare reforms, would eventually cause death by starvation in C21st UK (Gentleman 2014).

The future demolition of the welfare state was first suggested in 1982 by the Conservative Prime Minister, Margaret Thatcher (Travis 2012). Using neoliberal politics, every UK government since that time has covertly worked towards that goal. It is the political thinking used as justification for the welfare reforms of the New Labour government, which introduced the use of the Work Capability Assessment (WCA) for all out-of-work disability benefit claimants (Stewart 2015), and for the extensive welfare reforms and austerity measures introduced by the Coalition government since 2010, and the Conservative government since 2015.

In 2008 the out-of-work disability benefit was changed from Incapacity Benefit to the Employment and Support Allowance (ESA), in an attempt by the then New Labour government to limit claimant numbers. Outsourced to the private sector, all claimants of the new ESA would be subjected to the WCA 'fitness for work' assessment, as exclusively conducted by Atos Healthcare, with the WCA using the critically flawed (Shakespeare *et al* 2016) biopsychosocial (BPS) assessment model (Waddell and Aylward 2005), adopted to limit the numbers of successful ESA claimants, as the diagnosis and prognosis of the claimants would be totally disregarded, as first advised by Aylward in 1995 (Aylward and LoCascio 1995: 755).

Using the BPS model, the WCA was identified as causing preventable harm to chronically sick and disabled claimants who were not fit to work (Stewart 2011, Jolly 2012, Hale 2014), together with the inevitable harm created by the adoption of additional austerity measures (Pring 2015; Barr et al 2015; Stewart 2016a; Garthwaite 2016; Shakespeare et al 2016; Elward 2016), with all additional research evidence disregarded by the Department for Work and Pensions (DWP), who exclusively cite DWP commissioned research in official reports.

## Background

Following in Thatcher's footsteps, in 1992 the John Major Conservative government invited the American corporate giant UnumProvident Insurance to consult, with reference to future welfare claims management. 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 access to out-of-work disability benefit (Wikeley 1995), which had significantly increased due to increasing numbers of claims for psychological causes of illness.

By 1995, the Department for Social Security's (DSS) then Principal Medical Adviser, Mansel Aylward, co-authored an academic paper with UnumProvident government adviser John LoCascio, the second Vice-President of UnumProvident Insurance. *'Problems in the assessment of psychosomatic conditions in social security and related commercial schemes'* (Aylward and LoCascio 1995) was supported by evidence from America, and argued that the UK's General Practitioners (GP) should not be expected to determine a patient's incapacity, and so the authority and clinical opinion of GPs would be curtailed (Aylward and LoCascio 1995: 755)

Prior to joining the Civil Service, Aylward was a GP and also worked in the private sector as Chairman and Managing Director of Simbec Research, from 1974 - 1984, which was a company founded by Aylward (Wales online 2004). Shortly after being appointed as the Principal Medical Adviser for the DSS, Aylward was identified in the national press as having been involved with the creation of a private company

identified as Mediprobe, when trading as the Nationwide Medical Examination and Advisory Service Limited, and used by healthcare insurance companies to medically assess insurance claims (Rowe,1998). The company was incorporated in 1994 and dissolved on 20<sup>th</sup> January, 2015. This clear conflict of interest was disregarded by the DSS, yet Aylward's significant links with the private healthcare insurance industry questions his objectivity when writing a future government commissioned report regarding the assessment of welfare claimants for disability benefit (Waddell and Aylward, 2005).

The 1995 paper (Aylward and LoCascio 1995) expressed concern as to the increases in '*subjective impairments*', with conditions such as chronic pain and fatigue syndrome listed as the significance of diagnosis was rejected as having '*a high degree of subjectivity*'. This had implications for the welfare budget, and it was suggested that claimants of Incapacity Benefit should have a psychiatric evaluation (Aylward and Lo Cascio 1995:760).

The introduction of the biopsychosocial (BPS) model of assessment had been successfully adopted by UnumProvident Insurance in America, to limit payment for healthcare income protection insurance claims (Rutherford 2007, Bach 2012, Stewart 2015), and LoCascio was guiding the DSS as to how to introduce the BPS model into the UK. Quite literally, by disregarding diagnosis, the main emphasis of the BPS assessment would be an excessive concentration on psychological factors. The DSS doctors were trained by LoCascio, and DSS non-medical Adjudicating Officers would make benefit decisions based on activity '*descriptors*', not medical evidence, as the claimant's doctors' opinions were marginalised (Sivier 2013).

The former Department for Health and Social Security was split into the Department for Health and the Department for Social Security (DSS) in 1988 and the DSS was then renamed the Department for Work and Pensions (DWP) in June 2001. By November 2001 a conference was assembled at Woodstock, near Oxford, with the conference listed as '*Malingering and Illness Deception*' (Conference 2001). Many of the conference participants had an association with UnumProvident Insurance, as represented by John LoCascio, and the goal of the Oxford conference was the future

demolition of the British welfare state (Stewart 2015). There was a total of 39 participants, including the DWP Chief Medical Officer Mansel Aylward, and Malcolm Wicks, in his capacity as the then DWP Parliamentary Under Secretary of State for the New Labour government. To reduce the numbers eligible for benefit, illness would be redefined and many welfare claimants would be declared fit for work, and incentivised into jobs as entrepreneurs if no paid employment was available (Conference 2001: 290).

New Labour was committed to reducing the 2.7 million people claiming Incapacity Benefit and, to do that, a new assessment model would be used. From 1979 to 2005 the numbers of working age claimants of Incapacity Benefit had increased from 0.7m to 2.7m. A total of 21% were recorded as having a mental health problem in 1995 but, by 2005, a total of 39% of claimants had a mental health problem, which was just under 1 million people (Rutherford 2007: 40). Since that time, politicians of all persuasions have prioritised the reduction of Incapacity Benefit claimant numbers by 1 million people. New Labour decided to alter this situation, which had implications for the welfare budget and so *'...claimants will become customers exercising their free rational choice, government services will be outsourced to the private sector, and the welfare system will become a new source of revenue, profitability and economic growth'* (Rutherford 2007: 41).

More DWP commissioned research was to follow to justify future government plans. Dr Mansel Aylward was the DWP Chief Medical Officer until 2005 and accepted his future appointment, as the Director of the new UnumProvident Centre for Psychosocial and Disability Research (the Centre) at Cardiff University in 2004, with no-one other than Professor Malcolm Hooper objecting to this very obvious conflict of interest (Stewart 2015).

### **The Waddell-Aylward biopsychosocial model**

Commissioned by the DWP, *the Scientific and Conceptual Basis of Incapacity Benefits* (S/C Basis) was rapidly produced in 2005 by Gordon Waddell and Mansel Aylward (Waddell and Aylward 2005), when both authors were sponsored at the

Centre with £1.6 million by UnumProvident Insurance (Cover 2004), who fully expected to gain from the UK welfare reforms, and the planned future reduction of the numbers eligible for State funded welfare support for sickness and disability (Stewart 2015).

The S/C Basis DWP commissioned report (Waddell and Aylward 2005) was used as evidence for much of the 2006 Green Paper (Green Paper 2006): *A New Deal for Welfare: empowering people to work 2006*, which criticised the ‘*perverse incentive*’ of giving people more money the longer they stayed on benefit (Green Paper 2:13). The Green Paper also claimed that up to one million people could return to work, with further political claims that a million DWP claimants had expressed the wish to do so, which was dismissed as being without foundation in the S/C Basis footnote 16 (Ravetz 2006).

The S/C Basis report (Waddell and Aylward 2005) identified Incapacity Benefit which it claimed ‘*traps*’ people on benefits and, effectively, condemned claimants to a lifetime of dependency. The report acknowledged that: ‘*Contrary to some sensational headlines, IB is not out of control... There is no “crisis”...*’ (S/C Basis, 4: 75) The emphasis of the DWP commissioned S/C Basis report by Waddell and Aylward (2005) was that the model used to assess Incapacity Benefit claimants was incorrect and, instead of using the medical model, which the report claimed focused on a claimant’s incapacity rather than their ability, the Waddell and Aylward recommended model to be used was the biopsychosocial (BPS) model.

Of course, the medical model of assessment also acknowledged medical opinion, so it was time to change to using the BPS model of assessment, which disregards medical opinion in order to limit the possible number of future claimants. This was a replica of the BPS assessment model successfully introduced by UnumProvident Insurance in America to limit access to healthcare insurance claims and to guarantee future profits (Stewart 2015, Bach 2012, Rutherford 2007).

Waddell and Aylward’s 2005 report (S/C Basis), which would be used by the New Labour government to justify the introduction of the welfare reforms, was

subsequently exposed by Emeritus Professor Alison Ravetz, who identified the DWP commissioned report as being '*largely self-referential*' (Ravetz 2006). The Waddell and Aylward designed BPS model would eventually be discredited by academic excellence, which exposed the Waddell and Aylward BPS model as having '*no coherent theory or evidence behind this model*' and demonstrated '*a cavalier approach to scientific evidence*' (Shakespeare et al 2016), when referencing '*Models of Sickness and Disability applied to Common Health Problems*' (Waddell and Aylward 2010).

The former city banker, David Freud, was commissioned by the New Labour government in December 2006 to offer recommendations to reduce the welfare budget. Commonly known as '*the Freud Report*', '*Reducing Dependency, Increasing Opportunity*' (Freud 2007) was rapidly produced in six weeks, with claims of a potential massive reduction in Incapacity Benefit claimants. By May 2007 Professor Danny Dorling, when writing as the Guest Editor for the Journal of Public Mental Health, exposed the identified flaws in the Freud Report. It seems that Freud had '*got his numbers wrong*' and had misinterpreted his own references, so there never was going to be the predicted massive fall in claimant numbers (Dorling 2007).

The protocol and limitations of being published in an academic journal meant that Dorling's substantial evidence, which had exposed significant flaws in the Freud Report, would not become public knowledge and the DWP based their future welfare reforms on more totally discredited DWP commissioned research. Enobled, never elected and appointed as the DWP Shadow Minister for Welfare Reform in 2009, in 2010 Freud was appointed as the DWP Parliamentary Under Secretary of State for the Coalition government and was reappointed as the DWP Minister of State for Welfare Reform in May 2015 for the Conservative government. A DWP press release in December 2016 announced Freud's retirement from his ministerial position (DWP 2016a) and claimed that Freud had been '*...the architect of welfare reform, which has revolutionised the way benefit claimants interact with the state*'.

The influence of UnumProvident Insurance with the UK welfare reforms was demonstrated in the supplementary memorandums provided for Work and Pensions

Select Committee (WPSC) reports, which clearly listed the transformation of Incapacity Benefit to the new ESA out-of-work 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 UnumProvident Insurance have influenced UK government welfare policy since 1994 (Stewart 2015). Yet, the fact that UnumProvident Insurance was identified, in 2008, by the American Association of Justice (AAJ, 2008) as the second worst insurance company in America was totally disregarded by the DWP.

Gordon Brown succeeded Tony Blair in 2007 as the New Labour leader and Prime Minister and, in 2008, introduced the WCA for the future reassessment of all Incapacity Benefit claimants, and the assessment for all new claimants of its replacement, the ESA. The lucrative WCA contract was outsourced to Atos Origin IT Ltd, identified as an international IT corporate giant with no healthcare experience. To conduct the WCA, a branch of the company identified as Atos Healthcare was formed, and the Lima software used for the WCA computer questionnaire was designed by Atos.

Adopted by the Brown government in 2008, following the introduction of New Labour’s 2006 Welfare Reform Bill, the recommendations from the 2001 Malingering and Illness Conference (Conference 2001), the S/C Basis DWP commissioned report (Waddell and Aylward 2005) and the Freud Report (Freud 2007) would greatly reduce the authority and the clinical opinion of GPs, and offer the assessment of claimants who are too sick or profoundly disabled to work to the private sector whose doctors, according to the General Medical Council, *‘have total immunity from all medical regulation’* (Stewart 2015).

Based on the BPS model, the removal of the significance of GP opinion opened the door to the introduction of the WCA ‘non-medical’ assessment. This meant that very many genuine ESA claimants were to be refused financial support, and the ‘non-medical’ BPS assessment of chronically ill people would be conducted by the



unaccountable private sector, as recommended by Waddell, Aylward and LoCascio and by former City banker David Freud, when adviser to the New Labour government (Freud 2007). Atos Origin IT Services UK Limited is a French corporate IT and software company, who were contracted by the New Labour government in 2008 to conduct the WCA, at a then cost to the public purse of £500 million per annum (Rutherford 2007).

From 2010 Atos Healthcare used the computer based WCA questionnaire to begin to reassess all long-standing Incapacity Benefit claimants being migrated to the ESA. This meant that very many genuine claimants were refused financial support and instructed to apply for the unemployment benefit, Jobseekers Allowance, with severe sanctions and the total loss of income, often for weeks, when too ill to attend an appointment with the Jobcentre (Stewart 2016a). *'It is discussed how the state and business act in collusion, as both generally share the same neoliberal conviction on how society should function. This partnership is no more evident than within welfare, where the state have established proxy measures to outsource harm production to distance themselves from potential ramifications'* (Elward 2016). In March 2015, Atos Healthcare were replaced by Maximus to conduct the WCA.

The American healthcare insurance system of disability denial was used for the design of the WCA (Stewart 2013), and the involvement of Atos Healthcare was used to distance the government from the preventable harm created by the use of the WCA. Identified state crime by proxy was knowingly created by the DWP, as the private sector was introduced on a wide scale in many areas of welfare and social policy (Elward 2016). As of February 2014, 92,000 people have died following a WCA, including 2,380 people who died after being found 'fit for work' (Butler 2015), as the DWP have again refused to publish the updated ESA mortality totals (DWP 2016b).

Zemiology is the study of social harm. Eight years after the introduction of the WCA, when using the totally discredited Waddell and Aylward (2005, 2010) BPS model of assessment (Shakespeare et al 2016), the preventable social harm created

by the introduction of the WCA has been identified by independent research (Stewart 2015, Barr et al 2015, Baumberg et al 2015, Shakespeare et al 2016, Garthwaite 2016, Stewart 2016b), which continues to be disregarded by DWP Ministers. Instead, Ministers prefer to reference DWP commissioned policy based reports, or publications from a right-wing think-tank, whose research exclusively references DWP commissioned policy based research and demonstrates that the claimed ‘independent’ research is ideologically motivated (Robertson, 2012).

It remains cause for concern that, in keeping with Conservative Party ideology, certain corporate funded academic think-tank research demonstrates the ongoing influence of neoliberal politics in published reports when claiming: ‘...almost three quarters of claimants who have had their assessment are in the support group and subject to no conditionality, with very little support to return to work.’ (Pickles et al 2016: 6). This one statement demonstrates the danger of right-wing think-tanks whose research demonstrates that costs, not need, are the priority of the welfare reforms when presuming that people in the Support Group, allocated because they are considered by the DWP to be too ill to work, yet ‘independent researchers’ continue to suggest that there is a problem because these often very, very ill people haven’t yet made any effort to find work. One more example of the danger of commissioned academics considering cash not care, when totally disregarding diagnosis and prognosis in any welfare setting (Stewart 2016b).

These influential reports either commissioned by the DWP (Waddell and Aylward 2005, Aylward and LoCascio 1995), or provided by right-wing think-tanks (Pickles et al 2016) when funded by the private sector (Robertson 2012), continue to demonstrate the ideological resistance to the fact that many chronic illnesses are permanent. Recovery is not possible for many very ill people, and totally disregarding diagnosis and prognosis is dangerous as is the constant psychological pressure that welfare benefit for a permanent diagnosis is no longer guaranteed (Stewart 2015), and those in greatest need are intimidated by the DWP who have ‘...guaranteed human suffering of the least able on a vast scale.’ (Stewart 2017)

What was once the psychological security of the welfare state has been totally destroyed by neoliberal politics, when enthusiastically supported by the national press (Stewart 2017). The market is the dominant force, costs are the only priority, and all evidence of care, concern and compassion has been successfully removed when using academic research that lacks credibility and totally fails scrutiny (Shakespeare et al 2016, Stewart 2016b).

## Conclusion

By disregarding diagnosis, prognosis and the claimant's past medical history, when using the Waddell and Aylward (2005) BPS model for the WCA, the constant suggestion by DWP Ministers is that claimants of out-of-work disability benefit are 'inactive', so disregarding the vast numbers of chronically ill and disabled people who do work in the voluntary sector whenever well enough.

By definition, anyone allocated to the Support Group following a WCA are too ill to work in paid employment. But, the constant political rhetoric insists that not enough people leave the Support Group to find work (Pickles *et al* 2016). There seems to be no comprehension that working in paid employment is inflexible, whereas working in the voluntary sector means that chronically ill volunteers can work when having a 'good day', and rest when too ill to contemplate leaving the house. This is very obvious to anyone whose healthcare trained, and whose priority is the welfare and wellbeing of the chronically ill claimant and not simply the desire to reduce the costs of the welfare budget, regardless of human consequences (Stewart 2016a).

There is a strong ideological resistance within the DWP as to the reality of the lives of chronically sick and disabled people. The DWP disregard the fact that many ESA claimants are profoundly ill, and will never recover regardless of intimidation and coercion. Relentless DWP threats of benefit sanctions, using a discredited assessment model (Shakespeare et al 2016) that totally disregards failing health and can oblige claimants to seek Jobseekers Allowance when deemed 'fit to work' regardless of diagnosis, prognosis or consultant medical opinion (Stewart 2016b) was always guaranteed to cause preventable harm on a vast scale. When advised by Waddell and Aylward (2005), illness is dismissed by the DWP, as is diagnosis and

prognosis, and this problem remains relentless and a constant threat to the wellbeing and the survival of chronically ill claimants.

Due to policies demonstrated to have created state crime by proxy when using the private sector to distance the government from the predictable inevitable harm created by the introduction of extreme right-wing policies (Elward 2016, Stewart 2016b), those who were meant to benefit from a welfare state as originally designed to protect them, now live in fear of the DWP, which is causing them guaranteed preventable harm and unnecessary loss of life (Scott-Samuel et al 2014, Gentleman 2014, Pring 2015, Butler 2015, Elward 2016, Stewart 2017).

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