Benefits Services

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BRAIN INJURY GROUP
Providing practical answers

Employment and Support Allowance **Explained**

Employment and Support Allowance (ESA) **Explained**

Employment and Support Allowance, or ESA, is an income replacement benefit to assist people with their living costs if they're too unwell or disabled to work full time.

This guide is designed to help you determine whether or not you're eligible for ESA and what your entitlement may be. However, working out benefits entitlements can be complex. Adroit has a welfare benefits adviser who is able to discuss this with you, advise you of your entitlements and help you through application process.

Should you have any queries, please contact our welfare benefits adviser on 0330 995 6838.

The information contained in this brochure was obtained from the Welfare Reform Act 2012 and was correct at the time of going to print in October 2018.

The Basics

An introduction

New Style Employment and Support Allowance is a wage replacement benefit for individuals who are ill, disabled or a have a health condition that prevents them or limits them from working.

To qualify, you need to have paid or been credited with enough National Insurance contributions in the two full tax years prior to you making a claim for the benefit.

Any gaps in your National Insurance contributions within this time will remove eligibility.

Any Statutory Sick Pay needs to have ceased.

New-Style ESA is a fortnightly payment.

Your savings and Income do not affect how much New Style ESA you will be paid. However, personal pensions can affect the amount you receive.

Please see page 16 for information about other forms of ESA under Legacy Benefits.

Credits Only Claims

You can make a 'credits only' claim for ESA when you are not eligible for payments of ESA. This kind of claim is made when you wish to still receive National Insurance credits.

These claims help avoid gaps in NI contributions which could affect your State Pension entitlement.

They are also useful for future benefits claims, particularly for young disabled people who may be approaching further education and who may wish to claim Universal Credit in the future.

What are the additional Components?

If your application for ESA is successful, and it's agreed that you're unable to work full time as a result of your condition or disability, you'll be put into one of two groups.

Support Group - You'll be put into this group if it's unlikely that your condition will improve enough in the future for you to be able to work.

Work-Related Activity Group - You'll be put into this group if it's likely that your condition will improve enough in the future for you to be able to work.

If you receive ESA-CB and are put in the Work-Related Activity Group, you'll only receive the benefit for **52 weeks.** After that, you'll only be able to apply for another income replacement benefit if your medical condition changes or if you've replenished your National Insurance contributions.

If you're placed in the Support Group, it doesn't matter if you receive ESA-CB your benefit will continue for as long as your condition or disability continues.

What are the benefit rates?

The amount of ESA benefit you receive will depend on a variety of criteria, such as:

- Your age
- Your status (i.e. if you're single, a lone parent or a part of a couple)
- Who you live with
- Your income and financial situation
- Which Additional Component you receive
- The severity of your disability

These figures can change from year to year, but if you would like an idea of what you might receive, our Welfare Team will be able to assist you with the calculations.

Can you claim other benefits when receiving EAS?

ESA-NS: You may receive Universal Credit as a top-up depending on your circumstances. If you get both, your ESA-NS will be deducted from your Universal Credit payment. You're not guaranteed extra money.

The Application

Where do you start?

To apply for ESA generally you must apply online: www.gov.uk/how-to-claim-new-style-esa

Alternatively, you can telephone the Department for Work and Pensions, DWP, and provide the following information:

- Your name, date of birth, National Insurance Number, address and contact details
- Your GP's name, address and phone number
- Details about your partner, if you have one, and anyone else that lives with you
- Details of any work you and/or your partner do and/or details of when you stopped working
- Details of any savings you have
- Details of any other benefits you receive
- Details of why you wish to make a claim
- Your bank details

You cannot apply online if you are applying as an appointee on someone's behalf.

Jobcentre Plus new claims helpline:

Telephone: 0800 055 6688
Textphone: 0800 328 1344

You, the applicant, need to be present when the application is made, unless you're applying on behalf of someone else as their Appointee or Deputy.

If the applicant is not present, you can request that application form ESA 3 is sent to you. This form covers the same questions above and needs to be completed and returned to the DWP within 30 days.

What happens once you've made the application ESA 3?

Once the DWP have processed your application, your claim will start to be paid at the basic rate. This is called the 'assessment phase'.

During the assessment phase you'll receive a Capability for Work Questionnaire, form ESA 50. This second form is about your health condition, illness, or disability and how it affects you.

This form comes in three parts:

Part 1: The first part of this form is about you, your condition, any medication or treatment, and your GP, therapist or carer. You're able to ask them to write a supporting letter and send this with the application form.

Part 2: The second part of this form asks how your condition affects your physical and mental capabilities.

Part 3: The third and final part of this form relates to you attending a medical assessment.

ESA 50 - How Your Condition Affects You

Other than the medical assessment, what criteria determines your level of ESA?

The second part of form ESA 50 sets out a list of descriptors which you must choose to describe how your condition affects you, both physically and mentally.

The DWP will use this to assess your work capabilities.

Remember when you answer these questions you must describe how you are "most" of the time – so 50% or more of the time.

Try to be accurate and use examples where you can. So for example, if for mobility the best descriptor was d) you could write:

"I'm able to walk short distances. However, after around 100 meters I start to feel significant discomfort and need to stop for a moment. Approximately four days out of seven I am unable to mobilise for more than 200 meters within a reasonable time scale. This means I'm unable to walk my children to school or visit the local shops."

In order to help you understand how the effects of your condition are assessed, the next section of this brochure has the descriptors which you'll be asked about in form ESA 50, together with the point structure.

The categories of descriptors are:

• Physical capabilities - These are on a points structure to determine your level of ESA.

• Mental, cognitive and intellectual function - These are on a points structure to determine your level of ESA.

• Work-Related Activity Group / Support Group criteria - These are not on a points structure but determine which support group you will be put in.

What should you remember when completing the second part of form ESA 50?

When completing the second part of form ESA 50 about how your condition affects you, you should use the following as a checklist:

• Describe how you are most of the time – so 50% or more of the time. Try to be accurate.

• Use the criteria set out in the tables to help you answer the questions.

• Use examples to illustrate the difficulties you have and how that affects your day to day life.

• Make sure the form is completed and returned to the DWP within 30 days.

• If you need to have the medical assessment at your home, make sure you request this and provide a reason why you need to be seen at home.

• We would always recommend that you make a copy of the form before you submit it.

• Ask someone who knows you well to check your form and accompany you to any assessments or follow up meetings.

• If you're unable to attend your medical assessment you must let the assessment centre know before your appointment.

Part 1: Physical descriptions of the work capability assessment

Activity	Descriptor	Points
1. Moving around and using steps. Mobilise unaided by another person with or without a walking stick, manual wheelchair or other aid if such aid can reasonably be used.	(a) Cannot either: (i) mobilise more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion; Or (ii) repeatedly mobilise 50 metres within a reasonable timescale because of significant discomfort or exhaustion.	15
	b) Cannot mount or descend two steps unaided by another person, even with the support of a handrail.	9
	c) Cannot either: (i) mobilise more than 100 metres on level ground without stopping in order to avoid significant discomfort or exhaustion; Or (ii) repeatedly mobilise 100 metres within a reasonable timescale because of significant discomfort or exhaustion.	9
	(d) Cannot either: (i) mobilise more than 200 metres on level ground without stopping in order to avoid significant discomfort or exhaustion; Or (ii) repeatedly mobilise 200 metres within a reasonable timescale because of significant discomfort or exhaustion.	6
	(e) None of the above.	0

Activity	Descriptor	Points
2. Standing or sitting	(a) Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.	15
	(b) Cannot, for the majority of the time, remain at a work station, either: (i) standing unassisted by another person (even if free to move around) for more than 30 minutes; or (ii) sitting (even in an adjustable chair) for more than 30 minutes before needing to move away in order to avoid significant discomfort or exhaustion. (iii) a combination of paragraphs (i) and (ii) for more than 30 minutes, before needing to move away in order to avoid significant discomfort or exhaustion.	9
	(c) Cannot, for the majority of the time, remain at a work station, either: (i) standing unassisted by another person (even if free to move around) for more than one hour; or (ii) sitting (even in an adjustable chair) for more than one hour before needing to move away in order to avoid significant discomfort or exhaustion. (iii) a combination of paragraphs (i) and (ii) for more than an hour before needing to move away in order to avoid significant discomfort or exhaustion.	6
	(d) None of the above.	0

Activity	Descriptor	Points
3. Reaching.	(a) Cannot raise either arm as if to put something in the top pocket of a coat or jacket.	15
	(b) Cannot raise either arm to top of head as if to put on a hat.	9
	(c) Cannot raise either arm above head height as if to reach for something.	6
	(d) None of the above	0

Activity	Descriptor	Points
4. Pick up and moving or transferring by the use of the upper body and arms.	(a) Cannot pick up or move a 0.5 litre carton full of liquid	15
	(b) Cannot pick up or move a one litre carton full of liquid	9
	(c) Cannot transfer a light bulky object such as an empty carboard box.	6
	(d) None of the above	0

Activity	Descriptor	Points
5. Manual dexterity.	(a) Cannot either: (i) press a button, such as a telephone keypad; Or (ii) turn the pages of a book with either hand.	15
	(b) Cannot pick up a £1 coin or equivalent with either hand	15
	(c) Cannot use a pen or pencil to make a meaningful mark	9
	(d) Cannot use a suitable keyboard or mouse	9
	(e) None of the above	0

Activity	Descriptor	Points
6. Communicating - Speaking, Writing & Typing. Making yourself understood through speaking, writing, typing and other means normally used, unaided by another person.	(a) Cannot convey a simple message such as the presence of a hazard.	15
	(b) Has significant difficulty conveying a simple message to strangers.	15
	(c) Has some difficulty conveying a simple message to strangers.	6
	(d) None of the above.	0

Activity	Descriptor	Points
7. Communicating - Hearing, reading and understanding communication by both verbal means (i.e. hearing/lip reading) and non verbal means (i.e. reading 16 point print) using any aid reasonable to expect, unaided by another person.	(a) Cannot understand a simple message due to sensory impairment, such as the location of a fire escape.	15
	(b) Has significant difficulty understanding a simple message from a stranger due to sensory impairment.	15
	(c) Has some difficulty understanding a simple message from a stranger due to sensory impairment.	6
	(d) None of the above.	0

Activity	Descriptor	Points
8. Getting Around Safely - Navigation and maintaining safety, using a guide dog or other aid if normally used.	(a) Unable to navigate around familiar surroundings, without being accompanied by another person due to sensory impairment.	15
	(b) Cannot safely complete a potentially hazardous task such as crossing the road, without being accompanied by another person due to sensory impairment.	15
	(c) Unable to navigate around unfamiliar surroundings, without being accompanied by another person due to sensory impairment.	9
	(d) None of the above.	0

Activity	Descriptor	Points
9. Controlling your Bowels and Bladder - Absence or loss of control leading to extensive evacuation of the bowel and/ or bladder, other than enuresis (bed wetting) despite the presence of any aids and adaptations normally used	(a) At least once a month experiences: (i) loss of control leading to extensive evacuation of the bowel and/ or voiding of the bladder; Or (ii) substantial leakage of the contents of the collecting device sufficient to require cleaning and a change of clothes.	15
	(b) Cannot safely complete a potentially hazardous task such as crossing the road, without being accompanied by another person due to sensory impairment.	6
	(c) None of the above.	0

Activity	Descriptor	Points
10. Staying conscious when awake.	(a) At least once a week, has an involuntary episode of lost or altered consciousness resulting in significantly disrupted awareness or concentration.	15
	(b) At least once a month, has an involuntary episode of lost or altered consciousness resulting in significantly disrupted awareness or concentration.	6
	(c) None of the above.	0

Part 2: Mental cognitive and intellectual function descriptors of the work capability assessment

Activity	Descriptor	Points
11. Learning Tasks.	(a) Cannot learn how to do a simple task, such as setting an alarm clock.	15
	(b) Cannot learn anything beyond a simple task, such as setting an alarm clock.	9
	(c) Cannot learn anything beyond a moderately complex task, such as the steps involved in operating a washing machine to clean clothes.	6
	(d) None of the above.	0

Activity	Descriptor	Points
12. Awareness of everyday hazards (such as boiling water or sharp objects). NB: Make sure you include examples to illustrate the difficulties you have	(a) Reduced awareness of everyday hazards leads to a significant risk of: (i) injury to self or others; Or (ii) damage to property or possessions such that they require supervision for the majority of the time to maintain safety.	15
	(b) Reduced awareness of everyday hazards leads to a significant risk of: (i) injury to self or others; Or (ii) damage to property or possessions such that they frequently require supervision to maintain safety.	9
	(c) Reduced awareness of every hazards leads to a significant risk of: (i) injury to self or others; Or (ii) damage to property or possessions such that they occasionally require supervision to maintain safety.	6
	(d) None of the above.	0

Activity	Descriptor	Points
13. Initiating and completing personal action (which means planning, organisation, problem solving, prioritising or switching tasks).	(a) Cannot, due to impaired mental function, reliably initiate or complete at least two sequential personal actions.	15
	(b) Cannot, due to impaired mental function, reliably initiate or complete at least two personal actions for the majority of the time.	9
	(c) Frequently cannot, due to impaired mental function, reliably initiate or complete at least two personal actions.	6
	(d) None of the above.	0

Activity	Descriptor	Points
14. Coping with change.	(a) Cannot cope with any change to the extent that day to day life cannot be managed.	15
	(b) Cannot cope with minor planned change (such as a prearranged change to a routine time scheduled for a lunch break), to the extent that overall day to day life is made significantly more difficult.	9
	(c) Cannot cope with minor unplanned change (such as the timing of an appointment on the day it is to occur), to the extent that overall, day to day life is made significantly more difficult.	6
	(d) None of the above.	0

Activity	Descriptor	Points
15. Getting about	(a) Cannot get to any place with which the claimant is familiar	15
	(b) Is unable to get to a specified place with which the claimant is familiar, without being accompanied by another person.	9
	(c) Is unable to get to a specified place with which the claimant is unfamiliar without being accompanied by another person.	6
	(d) None of the above.	0

Activity	Descriptor	Points
16. Coping with social engagement due to cognitive impairment or mental disorder.	(a) Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the individual.	15
	(b) Engagement in social contact with someone unfamiliar to the claimant is always precluded due to difficulty relating to others or significant distress experienced by the individual.	9
	(c) Engagement in social contact with someone unfamiliar to the claimant is not possible for the majority of the time due to difficulty relating to others or significant distress experienced by the individual.	6

16.	(d) None of the above.	0

Activity	Descriptor	Points
17. Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder.	(a) Has, on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	15
	(b) Frequently has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	15
	(c) Occasionally has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any work place.	9
	(d) None of the above.	0

Support Group Criteria

If one or more of the descriptors below describe you, you'll be put into the Support Group category.

1. Mobilising unaided by another person with or without a walking stick, manual wheelchair or other aid if such aid can reasonably be used.	Cannot either (a) mobilise more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion; or (b) repeatedly mobilise 50 metres within a reasonable timescale because of significant discomfort or exhaustion.
2. Transferring from one seated position to another.	Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.
3. Reaching.	Cannot raise either arm as if to put something in the top pocket of a coat or jacket.
4. Picking up and moving or transferring by the use of the upper body and arms (excluding standing, sitting, bending or kneeling and all other activities specified in this Schedule).	Cannot pick up and move a 0.5 litre carton full of liquid.
5. Manual dexterity.	Cannot either: (a) press a button, such as a telephone keypad; or (b) turn the pages of a book, with either hand.
6. Making self understood through speaking, writing, typing, or other means normally used.	Cannot convey a simple message, such as the presence of a hazard.

7. Understanding communication by: (a) verbal means (such as hearing or lip reading) alone; (b) non-verbal means (such as reading 16 point print or Braille) alone; or (c) a combination of (a)&(b) using any aid that is normally, or could reasonably, be used unaided by another person.	Cannot understand a simple message due to sensory impairment, such as the location of a fire escape.
8. Absence or loss of control whilst conscious leading to extensive evacuation of the bowel and/or bladder, other than enuresis (bed-wetting), despite the wearing or use of any aids or adaptations which are normally, or could reasonably be, worn or used.	At least once a week experiences: (a) loss of control leading to extensive evacuation of the bowel and/ or voiding of the bladder; or (b) substantial leakage of the contents of a collecting device, sufficient to require cleaning and a change in clothing.
9. Learning tasks.	(a) Cannot learn how to complete a simple task, such as setting an alarm clock, due to cognitive impairment or mental disorder.
10. Awareness of everyday hazards (such as boiling water or sharp objects).	(a) Reduced awareness of everyday hazards leads to a significant risk of: (i) injury to self or others; or (ii) damage to property or possessions, such that they require supervision for the majority of the time to maintain safety.
11. Initiating and completing personal action (which means planning, organisation, problem solving, prioritising or switching tasks).	Cannot, due to impaired mental function, reliably initiate or complete at least two sequential personal actions.
12. Coping with change.	(a) Cannot cope with any change, due to cognitive impairment or mental disorder, to the extent that day to day life cannot be managed.
13. Coping with social engagement due to cognitive impairment or mental disorder.	Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the individual.
14. Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder.	Has, on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.

15. Conveying food or drink to the mouth.	(a) Cannot convey food or drink to the claimant's own mouth without receiving physical assistance from someone else; (b) Cannot convey food or drink to the claimant's own mouth without repeatedly stopping, experiencing breathlessness or severe discomfort; (c) Cannot convey food or drink to the claimant's own mouth without receiving regular prompting given by someone else in the claimant's physical presence; or (d) Owing to a severe disorder of mood or behaviour, fails to convey food or drink to the claimant's own mouth without receiving — (i) physical assistance from someone else; or (ii) regular prompting given by someone else in the claimant's presence.
16 Chewing or swallowing food or drink	(a) Cannot chew or swallow food or drink; (b)Cannot chew or swallow food or drink without repeatedly stopping, experiencing breathlessness or severe discomfort; (c)Cannot chew or swallow food or drink without repeatedly receiving regular prompting given by someone else in the claimant's presence; or (d)Owing to a severe disorder of mood or behaviour, fails to: (i) chew or swallow food or drink; or (ii) chew or swallow food or drink without regular prompting given by another person in the physical presence of the claimant.

ESA 50 - The Medical Assessment

Do you have to attend the medical assessment?

Do you have to attend a medical assessment? Medical assessments are carried out by independent medical experts rather than the DWP and are an important part of determining whether you qualify for ESA. The final part of application form ESA 50 questions your ability to attend a medical assessment and if you have any special requirements to enable you to attend.

If attending a medical assessment may cause you difficulties or anxiety, you must ensure that you inform the DWP of the circumstances.

If you have a good reason not to attend, you can request that the medical assessment be conducted at your home. If you've asked for special consideration not to attend, the DWP may ask for confirmation from your GP, therapist or someone who knows you well.

What happens at the medical assessment?

We strongly recommend you take someone with you. This could be a family member, support worker or someone who knows you well and is confident to tell a stranger about how your condition affects you. The appointment will usually last from around 40 to 60 minutes.

The person who assesses you should have received a copy of your completed ESA 50 form and supporting documentation. We advise that you ask the assessor what experience of your condition they have and make a note of this in case you need to refer to it later.

They'll ask you a number of questions about how your condition affects you and may also ask you to do some simple and gentle exercises. It's important that you answer honestly and if you feel any discomfort during your exercises, you must tell the assessor.

Please note...

You must attend the medical assessment or inform the assessment centre why you're unable to attend.

If you fail to attend and don't notify the assessment centre, your claim may be turned down.

Are there circumstances where you would be automatically classed as having limited capacity to work without attending a medical?

Although no one is exempt from the medical assessment, there are some circumstances where you may automatically be classed as having limited capacity for work. They are:

- Patients with a terminal illness who are not expected to live more than six months
- Patients receiving chemotherapy (unless it is via oral medication)
- People likely to start chemotherapy within six months
- People who are under notice as a carrier of, or had contact with, certain infectious diseases
- Expectant mothers where there may be serious risk to their or their baby's health if they work
- Expectant mothers entitled to Maternity Allowance and within the Maternity Allowance period
- Expectant mothers or mothers who have recently given birth, not entitled to Statutory Maternity Pay or Maternity Allowance, from six weeks before to two weeks after the birth
- Patients who are hospital inpatients and meet the other criteria
- Patients receiving treatment by way of haemodialysis, plasmapheresis, radiotherapy or total parenteral nutrition, in any week when the person receives treatment or has a day of recovery from treatment. In the first week of any such treatment, they are only treated as having limited capability for work if they have:
- two days of treatment
- two days of recovery
- one day of treatment and one day of recovery
- the days do not have to be consecutive

What happens after the medical assessment?

Following the medical assessment, the assessor will provide the DWP with an assessment report which will make recommendations as to whether you have capacity to work, have limited capacity to work or are unfit for work.

The DWP will use this report along with your application form and any evidence you have sent them to decide whether you should be placed in the Work-Related Activity Group or the Support Group.

Once the decision is made, you'll receive a letter from the DWP advising you of which support group you have been placed in, and which type of ESA benefit you will receive.

What are the main points to remember?

We would advise you to remember the following when attending the medical assessment:

- Unless you have a valid reason for not attending, or you are automatically classed as having limited capacity to work, you must attend the medical assessment.
- You must ensure that you notify the Health Assessment Advisory Service on the number on your appointment letter if you're unable to attend an appointment. If you don't notify them that you can't attend or don't show up, you'll automatically be classed as fit for work.
- You should take someone to the assessment with you.
- You should ask the assessor about their experience of your condition and make a note.

Legacy Benefits

Since the introduction of Universal Credit New Style ESA is the only type of ESA that can now be claimed by new claimants.

Previously, there was Income Related ESA and Contribution-Based ESA as well.
Despite both income related and contribution-based ESA still being in existence to those who were originally claiming them, they are soon to become obsolete as part of the UK Government's welfare reform to migrate those still in receipt of Income Related ESA over to Universal Credit.
New Style ESA is essentially the same as Contribution-based ESA, it works in the same way as contribution-based ESA as well as working hand-in-hand with Universal Credit.

What is Capital to be Disregarded?

If you've sustained a personal injury and your settlement is either controlled by a Deputy or is placed in a Personal Injury Trust, it will be classed as CAPITAL TO BE DISREGARDED and can't be included in any means test for benefits.

Our welfare benefits advisor

Why does Brooks Adroit Financial Planning have a welfare benefits expert?

Having a welfare benefits expert enables Adroit Financial Planning to excel in delivering first class client care. It means we can assist clients with a whole range of issues faced at, what can be, a difficult time.

What does the welfare benefits expert do?

Our welfare benefits expert can provide a range of services, such as:

- Providing condition specific education to clients and their families
- Guiding clients and their families through the medical and rehabilitation process
- Helping clients to access their statutory entitlement to care, therapy and equipment
- Providing guidance on housing accessibility and adaptations
- Signposting to advocacy and support networks
- Providing guidance on continuing healthcare and funding
- Providing welfare advice
- Assistance with eligibility, the application process or appealing welfare benefits
- Providing guidance on grants, charitable organisations and trusts

Why Choose Brooks Adroit?

- We are specialists in what we do
- We act at all times with the best interests of our clients in mind
- We foster long term relationships with our clients and their families
- We take a sympathetic and understanding 'holistic' approach
- We speak and write in plain English avoiding any financial jargon

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If you would like more information or wish to speak to a financial planning or welfare benefits expert, please call us on Freephone **0330 995 6838.**

BRAIN INJURY GROUP
Providing practical answers

Support For Individuals And Families Affected By Brain Injury

Our **in-house advisors** and network of **trusted professionals** have skill and expertise in providing financial, legal and rehabilitation support whilst understanding the complexities of a brain injury and how this affects everyday life.

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To speak with an advisor at the Brain Injury Group

Call: 03300 569 510
Email: enquiries@braininjurygroup.co.uk
Website: braininjurygroup.co.uk

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