

Written evidence submitted by Social Enterprise Scotland [FWD0100]

This submission draws on evidence gathered through an online discussion and surveyed members of Social Enterprise Scotland and the Flexible Working Scotland community, including disabled workers, disabled jobseekers, employers, advisers and people with lived experience of flexible working, reasonable adjustments and Access to Work. The evidence shows that flexible working can be vital for disabled people's access to, retention in and progression through work. However, flexible working is not yet delivering its full potential because implementation remains inconsistent, too dependent on individual managers, is poorly advertised and insufficiently connected to wider systems of reasonable adjustments, enforcement, welfare, recruitment, progression and employer accountability.

Introduction

Social Enterprise Scotland is an independent, membership-led organisation, which has united and represented social enterprises for more than 20 years. As the representative body for social enterprises in Scotland, we are growing a collaborative movement of over 1,100 members so that all social enterprises have a stronger collective voice.

Flexible Working Scotland is a community of individuals and employers looking to work flexibly, recruit flexibly and advocate for greater flexibility and equality at work. Their community of 30,000 people (24k on Facebook and 6k subscribers) represents an extraordinary resource - a self-selected group with direct, lived experience of trying to make work *work*. Their insights inform everything Flexible Working Scotland does and can be made available to organisations and academics working on policy, research, consultation and campaigns in this space.

Executive summary

- Flexible working should be understood as an economic lever to allow access for all people into work, not as an optional benefit or discretionary favour.
- The main barrier is the gap between policy and practice. Formal flexible working policies often exist, but disabled people's experiences depend heavily on line manager attitudes, workplace culture and whether they feel safe to ask.
- Remote and hybrid work can improve health, productivity and retention, but only were supported by trust, autonomy, accessible equipment, clear expectations, inclusive communication and fair progression routes.
- Flexible working options are insufficiently advertised. Research by Timewise and Flexibility Works suggest only 30% of job ads even mention it. (Whereas Flexibility Works reports that 82% of workers in Scotland have or want flexibility and 2 in 5 can't work without it). The UK Government is currently consulting on salary transparency – transparency of flexible working arrangements is also critical to enabling candidates to understand whether a vacancy is accessible to them and empowering them to ask for the flexible working arrangements they need.

- Flexible working alone cannot close the disability employment gap while disabled people continue to face inaccessible recruitment, low pay, insecure work, weak enforcement, poor Access to Work administration and welfare system pressures.
- The Committee should recommend stronger guidance, enforcement, employer accountability, support for small employers, faster Access to Work decisions, and proactive involvement of disabled people in policy design.
- Additionally, the [Social Enterprise Census 2024](#), contains figures that highlight the flexible working options that are offered across Social Enterprise in Scotland. With 80% offering flexible and family-friendly working arrangements and 58% have adopted hybrid working models, we believe social enterprises offer flexible working options in addition to creating supportive employment for disabled people. We'd highlight table 13 in the census for a further breakdown of working hour arrangements within social enterprises.

1. Why has greater acceptance of flexible working not substantially improved disabled people's employment rates or narrowed the disability employment gap?

The evidence suggests that greater acceptance of flexible working has not translated into substantially better employment outcomes because flexible working remains unevenly implemented. Participants repeatedly described a gap between organisational policy and daily practice. In many workplaces, whether flexible working is genuinely available depends on the discretion, confidence and assumptions of individual line managers. Even when it is available, this is not always clear during the attraction and recruitment processes, despite workers having a day one right to request flexibility. This creates uncertainty for disabled workers and jobseekers and can discourage people from asking for arrangements that would enable them to work.

Participants also described flexible working as still being treated too often as exceptional, informal or a favour. This can lead to stigma, assumptions about reduced commitment, and anxiety that asking for flexibility will damage career prospects. For disabled people, the issue is compounded by barriers that flexible working alone cannot solve: inaccessible recruitment, low pay, insecure work, poor employer understanding of disability, delayed/difficult Access to Work support, weak reasonable adjustment processes and welfare-system pressures.

Additionally, from our survey respondents there is a clear understanding that acceptance has not translated into employment gains because flexibility is inconsistent, hard to enforce, and often does not support career progression. 53% of respondents cited workplaces having flexible working policies but not making actual reasonable adjustments and 79% experiencing barriers to career progression. *"Working part-time automatically rules you out for promotion."*

Flexible working can support productivity, health management and retention. However, it must be accompanied by trust, autonomy, accessible equipment, clear outputs, inclusive communication and fair access to progression. Without those conditions, flexible working risks becoming a partial accommodation that helps people remain in work but does not remove the structural barriers that sustain the disability employment gap.

2. What are disabled people's experiences of flexible working across different sectors of the labour market?

Experiences vary significantly by sector, employer size and organisational culture. Third sector and some social enterprise settings were described as more open to flexible working, especially where flexibility is discussed during recruitment, trust is built into management practice and employees are assessed by outputs rather than visibility. However, even in more progressive sectors, good practice is not universal. The third sector in particular is faced with challenges around consistency of funding which impacts the sustainability of roles.

Participants identified hospitality, retail, parts of health, television and film, and some large corporate environments as particularly inconsistent. In shift-based sectors, flexibility can be presented as a benefit while placing the burden on workers to find cover, creating additional stress. In large organisations, strong written policies may exist but application can vary widely by line managers. Several participants described environments where flexible workers were more engaged but less likely to progress.

Our surveyed respondents replied with similar experiences that vary distinctly by sector. When it came to working in the private sector; *"Employers are much less willing to consider new hires with special health needs."*

Whereas in social enterprise sector, remote work was valued; *"I can get more done working remote."*

With an overall agreement that across all sectors; *"Most organisations are very accommodating, depend[ent] on funding and available resources."*

The evidence also highlights the needs of freelancers, self-employed disabled people and people building portfolio careers. Some respondents found the flexibility they need by working for themselves, although they reported challenges in acquiring enough or consistent work. Flexible working support is often designed around conventional employment and does not adequately address accessible co-working, networking, entrepreneurship support, equipment needs or the cost of participating in professional spaces.

- **Participant:** *Line managers are so important in this whole discussion. In every sense, poor managers make people miserable, and often lead to losing valuable staff.*

- **Social Enterprise Scotland:** *And the frustration of flexible working producing more engaged staff, but who conversely are less like to progress....*
- **Participant:** *Co-working spaces don't have flex support. Not part-time friendly. Or affordable. Working in low-wage sectors. Meeting people through coworking spaces. It's the **equipment that is also not friendly**. Events and activities need to be disability-friendly - not just trendy. Access barrier. Networking events do not offer a lot of seating - and they are sidelining disabled people. **Incredibly hard to connect with people.***

3. Are there differences by disability, impairment type or other protected characteristics?

Yes. Participants highlighted that invisible disabilities, fluctuating conditions, neurodivergence, chronic illness and mental health needs can be especially misunderstood. Employers and managers may expect disability to be visible, static or easily evidenced, whereas many disabled people need flexibility precisely because their energy, pain, concentration, sensory needs or symptoms fluctuate.

Participants also raised intersectional barriers. Women may experience additional dismissal or disbelief when seeking diagnosis or support at work. Disabled people from marginalised communities may be less likely to be heard unless engagement is proactive, accessible and properly resourced. Employers should focus less on obtaining detailed medical information and more on identifying accessibility needs, barriers and reasonable adjustments that would enable the person to work. In many cases, a more inclusive approach would have a positive or no benefit for the broadest range of people and would remove the need for self-declaration or bureaucratic processes of “proving” a need or entitlement to reasonable adjustments such as flexible working.

Overwhelmingly, our survey respondents said experiences differ by disability or characteristics, with 79% replying yes. Some of key differences highlighted by respondents were around;

- Hidden disabilities; *“My disability is hidden and there’s often an expectation to carry on as normal.”*
- Neurodivergence and Autism; *“high-masking..the ability to mask may be better or worse depending on stress and energy levels. “*
- Physical disability/pain; *“People have no idea how much pain I am in..it can vary massively depending on the day”.*
- Race/ethnicity and mental health; *“As someone from an ethnic minority background, I have never disclosed my mental health challenges.”*
- Gender; one correspondent emphasised the long-term inflexibility of parttime work and childcare, having a huge impact on their earning potential, career and pension.

4. What evidence is there about the impacts of flexible working on disabled people's progression in work?

Flexible working can improve health, work-life balance, engagement and output, but participants were clear that it does not automatically improve progression. Several described being overlooked for promotion because they were less visible, missed informal networking opportunities, or were assumed to be less committed because they worked different hours or locations.

Some evidence suggested that progression becomes horizontal rather than vertical: disabled people may move between organisations to find better conditions rather than being able to advance within one employer. Participants identified line manager assumptions as a major barrier. Practical mitigations include team-level planning of how flexibility will work, employee-led disability networks, output-based performance measures, transparent promotion criteria and explicit safeguards against penalising people for using flexible arrangements.

- **Participant:** *I had similar 27 years ago after my first maternity leave - requesting part time working was a nightmare as I was the first to do so. They insisted on 20 hours over 5 days a week. Now pharmacists are easily granted 4 days part time as we have early finish on a Friday in our schools. It's far simpler in the NHS these days- even have various grades of staff working 1 day a week as they have to be family friendly.*
- **Flexible Working Scotland:** *I think that demonstrates the point about not needing to ask for flex for a specific reason - does it matter if you need it for family reasons or disability or both? (In my opinion, it doesn't, it's just about helping people to do their work well).*
- **Participant 1:** *I wasn't disabled then, but it was parents in law that had Lara when I was working and they were in their 70's at the time. I worked afternoons so could go to toddlers group then went on to do parent duty at playgroup instead of in laws as they weren't fit to participate.*

From our survey respondents, 79% said it was at least a partly a factor in lack of progression.

- *"I took a drop in pay grade, partly due to my disability"*
- *"I was overlooked for promotions when colleagues with the exact same skillset were promoted."*
- *"It is difficult to get decent jobs beyond entry level or minimum wage if you have to work part time."*
- *"Back to the office mandates are often seen as not being a team player, harming my progression"*

5. Will the Employment Rights Act 2025 benefit disabled workers and jobseekers, and what further steps are needed?

The flexible working provisions in the Employment Rights Act 2025 could benefit disabled workers and jobseekers if they make refusal of reasonable requests harder, require meaningful consultation before refusal, and require employers to explain why any refusal is reasonable. Government guidance indicates that the Act is intended to make reasonable flexible working requests more likely to be accepted, including by requiring consultation and a reasonableness explanation where requests are rejected.

However, participants' evidence suggests that legal reform will have limited impact unless workers know their rights, feel safe using them and can enforce them without disproportionate cost, stress or career risk. Further steps should include clearer public guidance, a central accessible information hub, stronger enforcement/employer accountability, transparency of flexible working arrangements on offer, practical support for small and medium-sized employers, faster reasonable adjustment processes, protection against retaliation or progression penalties, and better links between flexible working, Access to Work, welfare policy and fair pay. This would tackle any issues around knowledge gaps as only 26% of survey respondents felt fully informed about their rights.

6. How clear and well understood is the law around Equality Act duties, flexible working and reasonable adjustments?

The law is not sufficiently clear or well understood in practice. Participants reported that people may know terms such as "reasonable adjustments" but not understand what they mean, how to request them, or how they relate to flexible working. There was particular confusion about the distinction between general flexible working rights and the Equality Act duty to make reasonable adjustments for disability-related disadvantage.

Even where disabled people understand their rights, they may not feel able to use them because of fear of consequences, lack of trust, complex complaints processes, cost, or concern that disclosure will lead to stigma. Employer understanding is also uneven, especially in smaller organisations with limited HR capacity. Guidance should therefore be practical, accessible and aimed at both workers and managers, with clear examples of when flexible working may be a reasonable adjustment.

7. How effective is the Equality and Human Rights Commission in enforcing disabled people's rights to flexible working, and what could improve?

The evidence indicates low confidence in enforcement generally. Participants described a lack of accountability, laws not being respected in practice, and complaint routes that feel inaccessible, unaffordable or too risky. The issue is not the existence of rights but whether

disabled people can realistically use them without harm to their employment, finances or wellbeing.

The Commission could improve understanding, compliance and enforcement by publishing clearer guidance on flexible working as a reasonable adjustment, providing accessible routes for early advice and complaints, undertaking proactive enforcement where systemic problems are evident, communicating directly with employers and disabled workers, and focusing on accessibility needs and outcomes rather than unnecessary medical disclosure.

- **Social Enterprise Scotland:** *This is a really good point, even if you do have some knowledge of your rights, how comfortable, for many reasons, -might you feel using (or trying to use) them*

8. To what extent can disabled people access the aids and equipment they need via Access to Work, and what changes are needed?

Access to Work was described as a potentially vital programme but in reality is poorly understood, slow and difficult to navigate. Some participants were unaware of the scheme entirely, with 42% of survey respondents unaware of the Access to Work scheme. Others described long waiting times, contradictory advice, email-only communication, inaccessible forms, forms timing out, and delays that particularly disadvantage people in probationary, short-term or changing roles. Our survey respondents who had used Access to Work overwhelmingly had a negative or very negative experience with the scheme.

Participants also argued that support should attach to the person rather than each employer or role, especially where disabled people move jobs, work flexibly across settings or are self-employed. Access to Work should reflect hybrid and fluctuating work patterns, provide faster decisions, offer accessible communication options, fund support at realistic rates, help people complete forms, and make clear that employers retain responsibility for reasonable adjustments while applications are pending.

9. What are the impacts on disabled workers of employers' "back to the office" mandates?

Back-to-office mandates can remove arrangements that enable disabled people to manage pain, fatigue, mental health, sensory needs, medication, appointments or fluctuating symptoms, not to mention that many disabled workers would also benefit from remote working because they are also parents or carers. Participants described office attendance as creating additional barriers where workplaces are physically inaccessible, evacuation procedures are unsuitable, equipment is unavailable, commuting is harmful, or the office environment itself creates avoidable health impacts.

At the same time, participants recognised that remote-only work can be isolating and can reduce access to informal networking and progression opportunities. The evidence

therefore supports genuine choice and accessible hybrid working rather than a single default model. Decisions should be based on individual needs, role outcomes and accessibility, not on assumptions about productivity, presence or one size fitting all.

10. Best practice examples and how they can be spread across sectors

Best practice identified by participants included trust and autonomy from managers, output-based management, clear deadlines, blended working, transparency about flexibility at recruitment stage, team-level planning of flexible working arrangements, employee-led disability networks, and direct involvement of disabled people in policy design. Participants also highlighted the value of employers making flexibility culturally encouraged as well as formally available.

To spread good practice across sectors, Government, regulators and sector bodies should fund disability networks, value, pay and support lived-experience involvement, provide practical guidance for small employers, share cross-sector examples, and strengthen accountability for employers that advertise flexibility but do not provide meaningful flexibility in practice. Good practice should also extend beyond employees to freelancers, jobseekers, entrepreneurs and people in low-paid or insecure work.

Recommendations

1. Clarify in guidance that flexible working may be a reasonable adjustment where it removes disability-related disadvantage.
2. Require employers to be more transparent about the flexibility on offer (e.g. in job ads and role descriptions) and to consult meaningfully before refusing flexible working requests and to explain why refusal is reasonable, with practical examples of acceptable and unacceptable reasoning.
3. Strengthen enforcement and accessible complaint routes so disabled people can use their rights without disproportionate cost, stress or career risk.
4. Create a central, accessible information hub covering flexible working, Equality Act duties, reasonable adjustments and Access to Work.
5. Improve Access to Work by reducing delays, making forms and communication accessible, attaching support to the individual where possible, and recognising hybrid, fluctuating and self-employed work patterns.
6. Support small and medium-sized employers with practical guidance, templates, advice and funding where needed to implement flexible working and reasonable adjustments well.
7. Ensure disabled workers using flexible arrangements have equal access to progression, networking, training and promotion.
8. Fund and support disabled people's lived-experience involvement in policy design, including people from marginalised and intersectional communities.

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