

Written evidence from the Trades Union Congress (TUC) (DEG0134)

Introduction

The Trades Union Congress (TUC) is the voice of Britain at work. We represent more than 5.5 million working people in 48 unions across the economy including around 1 million disabled workers.¹ We campaign for more and better jobs and a better working life for everyone, and we support trade unions to grow and thrive.

Unions play a vital role in ensuring that rights under the Equality Act are respected and upheld by way of collective bargaining, raising awareness of rights amongst employers and employees, assisting in resolution of disputes, providing support to members in pursuing claims to the employment tribunal, as well as adopting strategic litigation to clarify legal issues and establish norms to be followed in the workplace.

The TUC's vision is a future where all workplaces are accessible, inclusive and without barriers that prevent equal participation of disabled people.

Ensuring disabled people have equal and fair access to work and equal participation in work is a fundamental part of our remit. Our democratic structures ensure we hear directly from disabled members about their priority issues and that disabled members are represented at the highest levels within our movement.

Our representation is based in the 'Nothing About Us Without Us' approach which says that policy should not be developed without the direct involvement of the people it is being designed for. We ensure disabled workers have a voice in all we do. This is one of the reasons a higher proportion of disabled workers are trade union members.

We welcome the Work and Pensions Committee inquiry into the disability employment gap and see it as an important opportunity to highlight our concerns around the slow pace of change in the proportion of disabled people in employment. We are, however, disappointed the inquiry does not also focus on the disability pay gap. TUC research has found that disabled people face double discrimination. Not only are they less likely to have a paid job, but when they do, disabled people earn substantially less than their non-disabled peers.²

We believe failure to examine these two gaps simultaneously creates an incomplete picture of the barriers disabled workers face in the labour market. This approach risks creating policy solutions based only on a partial examination of the barriers disabled people face.

¹ Government research found that 17.7% of all trade union members are disabled
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/805268/trade-union-membership-2018-statistical-bulletin.pdf

² <https://www.tuc.org.uk/research-analysis/reports/disability-pay-and-employment-gaps>

Employment and Pay Gaps

TUC research has found that disabled people face double discrimination. Not only are they less likely to have a paid job but when they do, disabled people earn substantially less than their non-disabled peers.

Disability Employment Gap

A TUC four quarter analysis of the Labour Force Survey between July–Sept 2019 and April–June 2020 found that that only around half of disabled people of working age are employed (53.7 per cent), while the employment rate for nondisabled people was 82.0 per cent highlighting the current disability employment gap is 28.4 ppt.³ Our analysis of the gap in 2019 revealed it was 29.8 percentage points (ppt)⁴ and in 2018 it was 31.4 ppt's⁵ highlighting that over the last three years the gap has only closed by approximately 3 ppt's.

If this rate of change continues the employment gap will not be eliminated for around three decades.

Variations in the disability employment gap

Our analysis found the employment gap varies by gender, race and impairment.

Disability employment gap by gender: Our 2020 analysis has highlighted the gap between disabled women and non-disabled men is 32.6 per cent which is higher than the overall disability employment gap (28.4 per cent).

Disability employment gap by race: Our 2020 analysis has highlighted the gap between disabled BME workers and non-disabled white workers is 34.7 per cent, which is gain higher than the overall disability employment gap.

Disability employment gap by impairment: Our 2018 report found that disabled people with some impairment types have far lower levels of employment, facing significant barriers in accessing the workplace.⁶ The disabled workers with the lowest employment rates, grouped according to the ONS Labour Force Survey (LFS) classifications, are people with:

- learning difficulties – 14.8 per cent in employment

³ <https://www.tuc.org.uk/sites/default/files/2020-11/Disabled%20workers%20note.pdf>

⁴ https://www.tuc.org.uk/sites/default/files/2019-11/Disability%20doc%20%28003%29%20%28003%29_2.pdf

⁵ <https://www.tuc.org.uk/sites/default/files/Disabilityemploymentandpaygaps.pdf>

⁶ <https://www.tuc.org.uk/sites/default/files/Disabilityemploymentandpaygaps.pdf>

- speech impediments – 20.4 per cent in employment
- epilepsy – 33.6 per cent in employment
- mental illness, phobias or panics – 33.7 per cent in employment
- impairments linked to arms, hands – 38.4 per cent in employment.

A full breakdown of the variations between July 2017 and June 2018 can be found in our 2018 labour force analysis report.

The TUC believes far more needs to be done to ensure that the barriers to employment faced by disabled people are addressed.

Government focus on the disability employment gap

As noted above, the disability employment gap remains high. This is despite the government's 2015 manifesto pledge to halve it. Although no time frame was set for this, at the time of the pledge the employment gap was 34 per cent⁷, meaning that, far from halving, it has only shrunk by around one per cent a year since the government outlined its ambitions.

Perhaps the lack of progress in halving the disability employment gap is what led to this original goal being replaced by a subsequent pledge in 2017 to get one million more disabled people into work within ten years.⁸

We note this was a disappointing reduction in ambition.

Current trends in the employment gap

Our most recent analysis of the disability employment gap found that there was a small but notable expansion in the first two quarters of 2020. This is particularly concerning as the full effects of the pandemic had not yet been felt in this period.

An examination of research on the impact of the 2008-2009 recession shows that disabled employees were more likely than other workers to experience negative changes to terms and conditions and working practices, such as wage freezes, reduced overtime, and the reorganisation of work.

Economic downturns also have a disproportionate negative impact on the employment of disabled people, with research finding that during upturns disabled people are among the last to gain employment, and during downturns they are among the first to lose their jobs.⁹

⁷ <https://publications.parliament.uk/pa/cm201617/cmselect/cmworpen/56/56.pdf>

⁸ <http://www.gov.uk/government/news/strategy-seeks-one-million-more-disabled-people-in-work-by-2027>

⁹ <https://www.disabilityatwork.co.uk/research-areas/in-work-disability-gaps/all-in-it-together-the-impact-of-the-recession-on-disabled-people/>

The TUC believes that any progress made in reducing the employment is at risk of being lost as a direct result of the pandemic and subsequent recession. Urgent action is needed to support disabled workers to stay in work and to locate new jobs through upskilling and training.

The disability pay gap

The disability pay gap is a major employment inequality that disabled people face. While the disability employment gap has slightly narrowed, the disability pay gap has increased significantly compared to last year.

In 2019, non-disabled workers earned £1.65 (15.5 per cent) more per hour than disabled workers. In 2020, this has increased to £2.10 (19.6 per cent).

This means that a disabled worker working 35 hours per week would, on average, earn £3,822 per year less than a non-disabled worker. In 2019 this calculation found disabled worker would, on average, earn £3,000 per year less than a non-disabled worker showing that the pay gap has increased in real terms by, on average, £822.

Variations in the disability pay gap

Our analysis of the disability pay gap has highlighted it varies by gender and impairment.

Disability pay gap by gender: Our 2020 analysis has highlighted the pay gap for disabled women is nearly nine percentage points higher than the pay gap for women overall. Both groups of women are paid less than disabled and non-disabled men, with non-disabled men being paid 36 per cent more than disabled women¹⁰.

Disability pay gaps by impairment: Our analysis found that disabled people with some impairment types have far higher pay gaps. Those with the highest pay gaps, grouped according to the ONS Labour Force Survey (LFS) classifications, are people with:

- learning difficulties (62.6 per cent)
- mental illness, phobia, panics (30.9 per cent)
- depression, bad nerves (24 per cent)
- diabetes (22.8 per cent)
- skin conditions, allergies (21.2 per cent)
- impairments linked to heart, blood, pressure, circulation (20 per cent)¹¹

¹⁰ Gender pay gaps in this analysis are different from the overall gender pay gap published each year based on the Annual Survey of Hours and Earnings (ASHE). The pay gaps in this analysis are based on analysis of the Labour Force Survey as ASHE does not provide data by disability status

¹¹ https://www.tuc.org.uk/sites/default/files/2019-11/Disability%20doc%20%28003%29%20%28003%29_2.pdf

Impact of the pay gap and financial stress

The value of the pay gap: As outlined above in 2020, the pay gap has increased so that disabled workers on average are paid £2.10 less an hour (19.6 per cent) which is equal to being paid £3,822 less a year, based on a 35 work week. £3,822 is the equivalent of:

- 14 months of the average household expenditure on food and non-alcoholic drinks (£61.90 per week) or
- Almost 11 months of the average expenditure on fuel and power (£79.40 per week) or
- Almost 11 months of what the average household spends on transport (£80.20 per week).¹²

Financial stress: financial stress and the impact it has on disabled workers is a result of the pay gap. A poll of 2,700 people¹³ in either full-time or part-time work found disabled workers were more likely than their non-disabled peers to have to go without basic amenities, such as heating on a cold day or food, when they were short on money.

It also found disabled workers were three times as likely to ask for outside assistance from a charity or community organisation compared to non-disabled workers. 15 per cent of disabled workers reported asking for outside assistance compared with 5 per cent of non-disabled workers.

Mandatory Disability Pay Gap Reporting

To address both the disability employment and pay gaps the government must introduce mandatory disability pay gap reporting for all employers with more than 50 employees. The legislation must be accompanied by a duty on employers to produce targeted action plans identifying the steps they will take to address any gaps identified, including ensuring disabled workers with hidden impairments feel confident in completing workplace equality monitoring.

The action plans employers produce must also identify and address intersectional issues, for example how they intend to ensure any pay gaps identified for disabled women are addressed.

These action plans must be produced in consultation with recognised trade unions and when completing them employers should:

- collect and publish disability pay gap data in a similar manner to gender pay gap reporting, including the proportion of disabled people in each pay quarter

¹² Weekly average household expenditure on food and non-alcoholic drinks, fuel and power and transport are taken from ONS report 'Family spending in the UK: financial year ending 2019.' Note that this is a conservative estimate as expenditure in these areas may be higher for disabled people:

<https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/expenditure/bulletins/familyspendingintheuk/april2018tomarch2019#high-level-household-spending>

¹³ GQR, Working Life in Britain: Survey of working people – addendum, August 2019

- collect data from disabled workers and job applicants in areas including:
 - recruitment and promotion
 - pay and remuneration
 - training
 - appraisals
 - grievances and disciplinary action
 - dismissals and other reasons for leaving.
- use this to inform targeted action plans
- set targets for improving disabled workers' representation at all levels of their organisation
- measure and report progress against those targets annually
- work with trade unions to establish targets and develop positive action measures to address inequalities linked to disability within the workforce.

Reasonable Adjustments

Disabled members tell us that they have to wait too long for reasonable adjustments to be put in place, putting them at a huge disadvantage in being able to do their job effectively. This can cause personal stress and anxiety, place pressure on colleagues, and lead to capability and performance issues. This is particularly true for many members who report their reasonable adjustments are only put in place after their probation period has ended.

As a result, members tell us they dread going into work where they believe they are being set up to fail.

A recent Unison survey found;¹⁴

- 50 per cent of respondents said they faced barriers to doing their job that could be removed through adjustments
- Of those who requested reasonable adjustments, 67 per cent had some or all refused
- 23 per cent of those who required adjustments had waited a year or more to receive the adjustments they needed

Disabled members have also told us that even after they've had their adjustments agreed, if they move roles or their line manager changes, they are often forced to re-explain and frequently renegotiate their reasonable adjustments. This is both unnecessary and stressful.

¹⁴ <https://www.unison.org.uk/content/uploads/2019/11/Lets-Be-Reasonable-disability-equality-in-the-workplace.docx>

The government needs to do more to ensure disabled workers' reasonable adjustments are put in place in a timely fashion. We recommend that there is better enforcement of the right to reasonable adjustments.

We believe a practical and fast way of improving employer practice in this area, and thereby ensuring workers' reasonable adjustments are implemented in a more timely manner, is by providing more detailed practical examples of timely implementation within the Equality and Human Rights Commission's statutory code of practice on employment.

The main purpose of the code is to provide a detailed explanation of the Equality Act 2010. The explanation in turn assists courts and tribunals when interpreting the law and helps lawyers, advisers, trade union representatives, human resources departments and others who need to apply the law and understand its technical detail.

Additional guidance in the code will therefore inform these groups' interpretation of the law and therefore their practice.

Poverty

It is well documented that the cumulative impact of the tax and welfare reforms brought in over the last 10 years have disproportionately impacted on disabled people. We will not repeat these findings as undoubtedly the Committee are aware of them. However, we would like to highlight our specific concern in relation to the impact universal credit is having on the labour market participation of disabled people.

EHRC research shows the disproportionate negative impact of benefit sanctions on disabled people.¹⁵ Sanctions do not move disabled people closer to paid work, instead they often exacerbate many disabled people's existing illnesses and conditions, particularly in relation to mental health conditions. The negative impact of the benefits system, including Universal Credit, on disabled people in the UK was highlighted by the UN Rapporteur Philip Alston.¹⁶

Along with the five week wait for the first Universal Credit payment, disabled people experience difficulties in registering a claim online, payment delays, financial hardship and the increased use of foodbanks. There are not only problems in the delivery of Universal Credit but also the design of the policy. This includes the rigidity of the monthly assessment periods not working for all claimants, questions on the notion of 'making work pay', and the lack of detail on how in work conditionality will work in practice.¹⁷ All of these issues adversely impact on disabled workers.

¹⁵ <https://www.equalityhumanrights.com/en/britain-fairer>

¹⁶ <https://undocs.org/A/HRC/41/39/Add.1>

¹⁷ <https://www.tuc.org.uk/sites/default/files/2020-06/select%20committee%20consultation%20on%20universal%20credit%20and%20the%20five%20week%20wait%20-%20FINAL%20PDF.pdf>

The government must stop and scrap Universal Credit and a more suitable system to replace Universal Credit should be designed with Disabled People's Organisations and claimants.

Disabled workers in poverty: As outlined above, disabled workers experience a pay gap which has increased by 4% even though the employment gap has closed by 1.4 pts of the last 12 months. This raises concerns over the pay, conditions and type of employment disabled workers have moved into. This is particularly noteworthy as in addition to being paid less, disabled people have extra costs linked to their impairment to cover. In 2019 these additional costs were valued at £583 per month.¹⁸

Access to Work

Access to Work is the government's flagship programme that funds adjustments for disabled workers. However, disabled trade union members have consistently reported difficulties accessing the programme and the support it offers.

Access to Work grants are crucial for disabled people to overcome the barriers they face in accessing employment, however, the interaction with other benefits and the length of time it takes to process applications is in itself a barrier.

A recent survey by Unison survey of disabled workers' experience at work, carried out in June 2020¹⁹ during the Covid-19 pandemic found:

- Only 5 per cent had help from Access to Work,
- 41 per cent did not know about Access to Work
- 23 per cent did not think Access to Work could help with working from home.

Government must:

- Ensure all employers are made aware of Access to Work so that all disabled workers (and employers) have the opportunity of benefiting from it
- Fund Access to Work appropriately so all eligible people can access their full entitlement
- Engage with Disabled People's Organisations to learn the lessons from the Covid-19 crisis and ensure disabled workers have a quicker and more efficient service

The Government's approach

The evidence shows that working is not enough to ensure disabled people are not in poverty. And it shows that work, in combination with the current benefit regime does not support disabled workers to move out of poverty.

¹⁸ <https://www.scope.org.uk/scope/media/files/campaigns/disability-price-tag-report-2019.pdf>

¹⁹ <https://www.unison.org.uk/content/uploads/2020/07/C19-disability-and-homeworking-reportFINAL.docx>

The government's primary focus is on getting more disabled people into work, using the benefits sanctions regime used to push disabled people into employment. However, this will not ensure disabled people's lives are improved and end the dependence of too many people on charity organisations for everyday needs like food.

The government needs a more joined up, cross-departmental approach. It should develop a strategy designed with unions, disabled people and disabled people's organisations on how best to support disabled people both in and out of work. A focus of this strategy must be on getting disabled people into good work; that is work that offers fair pay, gives workers an element of control over when and how they work, has good terms and conditions, gives workers a voice and is safe, satisfying and dignified.

The government should move away from voluntarism, end ineffective schemes like Disability Confident and take a stronger regulatory approach to ensure disabled people and workers have equal life chances. This should start with the introduction of mandatory disability pay gap reporting which will shine a light on the difficulties disabled people face getting into work and in staying and progressing at work once employed.

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