

Written evidence from Business Disability Forum (DEG0163)

1. About Business Disability Forum and our submission

- 1.1 Business Disability Forum is a not-for-profit membership organisation which exists to transform the life chances of disabled people. As a membership organisation working with over 400 employers across the UK, we are uniquely equipped do this by bringing business leaders, disabled people, and Government together to understand what needs to change to improve the life opportunities and experiences of disabled people in employment, economic growth, and society more widely.
- 1.2 We have highlighted our recommendations within the text in **bold** font.
- 1.3 For more information on our response, please contact Angela Matthews, Head of Policy and Research at angelam@businessdisabilityforum.org.uk

Progress and impact so far

2. What progress has been made, especially since 2015, on closing the disability employment gap? How has this progress been made?

- 2.1 Labour Market Statistics tell us the following:
- (a) In 2015, 45 per cent of working age disabled people were in employment, representing a 34.6 percentage point gap between disabled and non-disabled people.¹
- (b) In 2018 (the year the Work and Pensions Committee carried out a targeted call for evidence on the progression made to the disability employment gap so far, to which Business Disability Forum submitted written evidence), 51.2 per cent of working age disabled people were in employment, representing a 29.9 percentage point gap between disabled and non-disabled people.
- (c) As of November 2020, 53.7 per cent of working age disabled people were in employment, representing a 28.4 percentage point gap between disabled and non-disabled people.
- 2.2 This shows that, although the disability employment gap is decreasing, progress has slowed down significantly.
- 2.3 However, it is important to recognise statistical data gives high level ‘numbers’ data only. There are many ways of measuring progress of closing the employment gap; numerical data is just one way of doing this. It is, however, important to increase the quality of sectional data within the data that is currently collected. This is because quantitative measures can give a very high-level picture of ‘numbers’ of different disabled people, but it (a) does not follow experiences or journeys of people who are falling out (or in and out) of work (or the reasons for this), and (b) it looks at disabled

¹ All statistical references are from the Office for National Statistics’ Labour Market Statistics unless otherwise stated.

people as ‘one group’ instead of recognising that some groups of disabled people experience heightened barriers to employment.

2.4 We must not be satisfied to congratulate a decreasing overall gap for disabled people ‘as a whole’ if barriers and experiences remain for specific disabled groups.

We therefore recommend the Government develops a strategy to enhance the sophistication of disability related employment data, particularly in relation to people with learning disabilities, mental health conditions, and other complex conditions.

2.5 Success so far has been enabled by a number of different factors. What works for individual employers depends on the nature of their organisation and how they work. However, we believe businesses’ ever-advancing inclusion agendas have included increased flexible working, disability-specific initiatives and campaigns, and a renewed interest in employee retention. This has equated in many cases to employers developing inclusion agendas with creativity and innovation to a level so beyond legal compliance that it has given employers a competitive, reputational ‘edge’. The greatest successes have been seen where employers embed disability inclusion in every area of their business, including at senior leadership level. Over past years, the relationship between business leaders and Government has strengthened and this has allowed more collaboration and business practice being considered in policy making.

3. Are some disabled people (for example, young disabled people or people with different health conditions) more at risk of unemployment or economic activity than others?

3.1 We see consistently that people with the following conditions experience the greatest and multiple barriers in accessing employment:

- (a) People with **learning disabilities**. Data about people with learning disabilities remains poor, and we know levels of employment for people with learning disabilities (particularly women with learning disabilities) is the lowest for all groups.²
- (b) People with **speech impairments**. In a labour market where presentation speaking and verbal communication skills are ever more hailed as being ‘essential’, people who have speech impairments experience stigma, discrimination, and tell us they are often not selected for external speaking and or client-facing opportunities.
- (c) People with **deafblindness and complex conditions**. This group is almost entirely absent in employment, business inclusion agendas, and in government data collection.
- (d) People with **severe energy limiting conditions**. While many conditions can impact energy, conditions which are ‘inherently’ and physiologically energy-limiting (such as ME and fibromyalgia as just two examples) are significantly misunderstood. Many cases that our advice team deal with are related to

² Current figures suggest only 5.6% of people with a learning disability are in work (in England 2019-20). This is based on adults known to councils with adult social services responsibilities.

performance and/or attendance management of people with an energy limiting condition that has not been understood or made adjustments for. Some energy limiting conditions can also be acquired later in life, meaning many employers we speak to conflate 'decreased performance' with an employee who was 'well' and has since acquired an energy-limiting condition.

3.2 Data for all the above groups is lacking and **we recommend the Government develops a strategy to improve this**. For example, the data on people with a learning disability is based on those people who are known to services (typically social care) and, particularly as eligibility criteria tighten, even more people will sit outside this group.

3.3 However, although data must mature to address additional cohorts of disabled people, we must also develop data that uncovers barriers. This is because people sometimes experience barriers and discrimination based on the type of adjustments they need, rather than the type of disability or condition they have. We repeatedly hear of three key barrier-types here:

- (a) **People who use human support to work**. People who need support workers, job coaches, PAs, or human communications support (such as British Sign Language interpreters), have experienced significant cuts to funding via Access to Work and continue to be disadvantaged by the Access to Work cap. **We therefore recommend the Access to Work cap is scrapped**.
- (b) **Assistive technology users** continue to experience multiple barriers in a number of ways. Firstly, in getting access to the appropriate solutions that are also compatible with internal IT systems³, secondly, increased digitisation meaning that remote meetings and use of online solutions (from learning platforms to customer service online support and chatbots) can be a regular barrier when trying to undertake tasks of a job due to them being inaccessible or incompatible with assistive technologies. Thirdly, as different schemes that provide funding for technology (for example Disabled Students' Allowance and Access to Work) are not joined up and people therefore experience gaps in provision at critical points in their life (such as the transition from education to employment).
- (c) **People using assistance animals**. Over the last year, calls to our advice team about how to manage situations where an employee has an assistance animal have increased significantly. These often relate to misconceptions about safety, hygiene, and taking care of the animal at a work.

4. What has been the impact of the coronavirus pandemic on disabled peoples' employment rates?

4.1 Disabled people have been impacted by the pandemic in several ways.⁴ Although some research has been done in the third sector on how the pandemic has affected

³ See Business Disability Forum's response to the APPG on Assistive Technology's inquiry on assistive technology in employment (September 2020) where we researched businesses and disabled people's experiences of getting and using assistive technology solutions in education, in work, and when moving from education to work. Available on request or at <https://businessdisabilityforum.org.uk/knowledge-hub/resource/category/policy-and-research/>

disabled people's employment rates,⁵ Government data on the economic activity of disabled people as a direct cause of the pandemic (Labour Market Statistics report numbers, not causes of outcomes) must improve. For example, it is unknown how many disabled people were furloughed UK-wide and if they have returned to work or have left work since.

4.2 We therefore recommend the Government develops data collection methodologies that follow disabled individuals' economic activity, ideally with regular longitudinal based methodologies, to better understand if/which individuals and groups are falling in and out of work repeatedly versus those who find and stay in work.

Providing support

5. Where should lead responsibility for improving disabled peoples' employment rates sit (for example, DWP; Business, Energy and Industrial Strategy; Health and Social Care)?

5.1 It is every policy area, every business, and every citizen's responsibility to change opportunities for disabled people. While policy settings and businesses have a pivotal role in expanding the opportunities available to disabled people, public attitudes to disabled people – including perceptions of what disabled people can and cannot do as well as citizen's response to disabled people in public (such as hate crime and abuse when travelling or parking) – have a huge impact on the daily choices some disabled people have available to them. In the same way that the organisations who are 'best' at disability inclusion have a cross organisational approach, a cross-government and cross-societal approach is needed.

5.2 It is not down to one policy area alone to decrease the disability employment gap:

- (a) Department for Work and Pensions (DWP): the benefits system must ensure a financially stable transition from welfare to employment, and must ensure statutory payments, such as statutory sick pay, keeps up with modern employment practices and the experience of people who need time off work to recover. This is also linked to ever-lengthening NHS referral waiting times; we often hear statutory sick pay can run out before an employee gets to see a specialist or rehabilitation therapist. If the NHS cannot speed up recovery and rehabilitation processes, DWP must amend their policies to support people accordingly.
- (b) Department for Health and Social Care (DHSC): Social care is the difference between employment and unemployment for many. During the pandemic, we have heard of employees who have lost access to daily care as a result of the Care Act 2014 easements earlier this year. This has meant, even when working from home, they

⁴ See Business Disability Forum's response to the Women and Equalities Committee's inquiry on the unequal impact of coronavirus on people with protected characteristics. Available on request or at <https://businessdisabilityforum.org.uk/knowledge-hub/resource/category/policy-and-research/>

⁵ To give one example, research by Leonard Cheshire Disability found 71 per cent of disabled people in employment were impacted by the pandemic and 42 per cent of employers were discouraged from hiring a disabled person due to worries they may not be able to support them during the pandemic.

are not ready to work because of not having basic needs met, such as help with washing, dressing, eating, and taking medication.

- (c) Business, Energy, and Industrial Strategy (BEIS): existing economic strategies should be reviewed to specifically include disability inclusion. These include the Industrial Strategy and the Good Work Plan, neither of which address the barriers that prevent disabled people being full contributors to these strategies. New proposals must reflect current business practices and focus on sustainable solutions for groups.⁶
- (d) Other bodies that have a vital role to play include local authorities (who are responsible for local Special Education Needs and Disabilities (SEND) funding and provision where knowledge about assistive technology particularly is lacking); Department for Education, who must work with DWP to ensure more effective transitions for disabled people when moving between education and employment (for example, in the joining up of Disabled Students Allowance and Access to Work, as highlighted above); and the Equality and Human Rights Commission (EHRC), who have enforcement powers (although more resource is needed for the EHRC to do this more consistently).

6. How can DWP better support employers to take on and retain disabled employees, and to help them progress in work?

6.1 There are two key areas DWP could work on to make this easier for employers.

Firstly, **we recommend Access to Work be reformed to include the following:**

- (a) Access to Work (ATW) is currently deemed by DWP to be “situational” – i.e., the solutions and funding that is put in place is specific to a given job in a given place of work, rather than specific to an individual. Whilst this works in some cases and for people with some conditions, the barriers they face and the support they therefore need will vary massively between different jobs and different sectors; it does not work for those who will need a similar type of support regardless of the job and sector. People with learning disabilities are likely to always need some human support (a job coach or similar, for example) at least at the beginning of a new role. People who are Deaf and have BSL as a first language are likely to need an interpreter all or part of the time. It is no coincidence that these two groups are (a) two of those least likely to be in employment and (b) require the most expensive adjustments. Introducing Access to Work “in principle” for people in these (and potentially other) cohorts would significantly de-risk recruitment for employers who currently have no guarantee that support costs would be met at the point where they would be making a job offer. It

⁶ For example, BEIS’ recent proposal to entitle working carers to one week’s unpaid leave per year comes nowhere near improving lives and inclusion for working carers. It instead only pushes carers further into taking sick leave or annual leave (both which can be for longer than one week and are paid) to carry out caring responsibilities. The consultation showed little understanding of carers lives or current business practices that support carers effectively. See Business Disability Forum’s response to BEIS carer’s leave consultation (August 2020), available on request or at <https://businessdisabilityforum.org.uk/knowledge-hub/resource/category/policy-and-research/>

would mean that a candidate could assure a recruiting panel that, if they are successful, their support costs are already taken care of.

- (b) Once a job has been secured, the assessment process for ATW in a specific role must necessarily involve input from the employees' manager and, if the adjustments and barriers are IT related, the IT team should identify at assessment stage what adjustments may not be reasonable or compatible in the employee's job (too many assessments suggest solutions that are unreasonable and will not work for the employee and/or employer).
- (c) ATW assessments must have a case management approach and include joint conversations with the employee, the manager, the IT team, and other teams relevant to implementing adjustments and workplace solutions (such as the workplace adjustments team). This case management approach must include a named 'case manager' contact at ATW that the employer or employee can be in touch with at any point in the duration of the award.
- (d) The funding model must recognise that – in one employer's words – “people work across multiple IT-ecosystems”. Funding must include updates to the any suggested assistive technology programmes (assistive technologies often have regular updates which are not covered by ATW' funding model).
- (e) As above, the cap must be removed to allow people who need full time human or communications support to work full time if they choose to do so (many people who use support workers or interpreters are having to leave or change their job or reduce their hours because the cost of full-time communications support exceeds the current cap).
- (f) The administration and speed of the ATW process should be troubleshooted and redesigned.

6.2 Secondly, **we recommend DWP invests in improving job centres which are ideally placed to bring together employers, candidates, supported employment partners, and Access to Work all in one setting (see section 7 below) and, crucially, introduce Access to Work much earlier in the application process.**

6.3 Thirdly, there needs to be increased funding and rollout of supported employment programmes that are specifically designed to support those groups furthest from the labour market, such as supported internships and the “place and train” model, both of which have shown excellent outcomes for disabled candidates, particularly people with learning disabilities

6.4 Fourthly, all new mainstream employments need to be designed with disability inclusion at the core. The Kickstart programme, for example, represents a missed opportunity to prioritise disabled candidates or at the very least guidance for employers taking on candidates with a disability.

7. How effective is the Disability Confident scheme?

7.1 We receive a large number of cases and questions to our advice team about the Disability Confident scheme, and we also offer Disability Confident Level 3 (Leader) validations. We therefore have detailed insights into how well this scheme works from employers in practice. We also asked our members for their thoughts on the

scheme to inform our response to this specific inquiry. We asked 51 employers how much they felt the Disability Confident Scheme had helped them increase disability inclusion in their organisation, and only 9 (out of 51) employers said it had helped “a lot”.

- 7.2 Some employers felt Disability Confident had been a somewhat helpful “PR exercise” (to quote two employers) but had not had a huge impact on furthering disability inclusion in their organisations. Disability Confident employers – including employers accredited to Level 3 (Leader) – said they still struggled to attract and recruit disabled people, regardless of having gone through three levels of Disability Confident accreditation.
- 7.3 The ‘offer an interview’ initiative (previously the ‘guaranteed interview scheme’) is little understood by employees and employers and unworkable in many modern recruitment practices (for example, in mass recruitment when hiring at scale). We receive many queries from employers asking how the offering an interview initiative should work with their multi-format recruitment and assessment practices, and the cases we hear of where the scheme has got employers into legal claims with disabled candidates have increased. Many Disability Confident employers are keen to retain their Level 2 or Level 3 accreditation, but their recruitment procedures do not allow for the offer an interview scheme to be operable.
- 7.4 One practical issue with the Disability Confident scheme is that it lacks information, infrastructure, and support to enable organisations to move through the levels. We as part of the Disability Charities Consortium are already in discussions with the DWP about creating an information portal to support employers through the scheme and **we recommend that DWP continues to develop this as a priority.**
- 7.5 Given the above, **we recommend an independent review of Disability Confident and the offer an interview scheme.**

8. What improvements should DWP make to the support it offers to unemployed disabled people via Jobcentre Plus?

- 8.1 Employers told us the following about their experience of working with job centres.
- (a) Local Job Centres work well with local employers. However, many of our members are multi-sited across the country. Some employers commented that it is difficult to identify who the regional engagement officers in job centres are if a central team in a business is trying to connect with them.
- (b) Job centres must take more time to gather information about the employer’s values and what they are looking for in candidates. In some cases, employers told us that this meant they felt candidates had missed out on an opportunity with them. Importantly, we hear of cases where a lack of information gathering from the job centre meant that candidates were turned away if they felt they would not do well in an interview, even when the employer would have been happy to flex the selection process for candidates and offer a work trial instead.
- (c) Many of our members comment that job centres had said they did not know what the Disability Confident scheme is and could not advise on how to use Access to Work.

- (d) One employer mentioned they get a newsletter update once a month, but they felt it would be more effective if job centre advisers would pick up the phone to them when they meet a suitable candidate, so that an initial three-way conversation could potentially happen there and then. In addition, if the candidate felt they wanted to progress applying for that role, an application for Access to Work support could be started there and then to ensure the candidate is interview (and employment) ready. **We recommend DWP addresses this urgently** so that current job retention schemes (such as Kickstart) can benefit from this.

9. The coronavirus pandemic continues to make it difficult to offer in-person support. What evidence is there of “best practice” in supporting disabled people remotely—either in or out of work?

9.1 We carried out research with our members earlier this year on how they had supported disabled employees in their organisations during the onset of the pandemic, as well as uncovering the challenges employers experienced when doing this.⁷ The following practices were identified as being most helpful to disabled employees:

- (a) Considering travel to work, and where possible, allowing employees to stay at home.
- (b) Managing employee’s anxieties about impact Covid-19 on their lives and work.
- (c) Reviewing routine working hours to enable effective working from home.
- (d) Supporting colleagues with assistive technology.
- (e) Ensuring managers were briefed about how to effectively manage staff remotely and answer employee’s questions.
- (f) Helping colleagues install video conferencing applications.
- (g) Informing colleagues about Covid-19 and the likely impact on their job.
- (h) Considering way in which adjustments such as assistive technology, specialist chairs or other equipment could be transported to the homes of employees.

Enforcement and next steps

10. Are “reasonable adjustments” for disabled people consistently applied? How might enforcement be improved?

- 10.1 The test of what is reasonable is little understood by both employers and employees, and reasonableness must necessarily be specific to each individual case.
- 10.2 Enforcement and tribunal procedures and outcomes should be accompanied by a more effective narrative about productivity – i.e., allowing people to work in the way and with the equipment that suits them best allows people to thrive and perform at their best.
- 10.3 While we promote practical guidance and good practices from employers on workplace adjustments, **we recommend the Government promotes better accurate information to help employers understand how to decide if an adjustment is ‘reasonable’.**

⁷ Business Disability Forum (2020), “Business as (un)usual: How employers have supported their workforces during the Covid-19 outbreak and lockdown”. Available on request.

11. What would you hope to see in the Government's National Strategy for Disabled People?

11.1 We have been involved with ongoing discussions about the development of the National Disability Strategy with the Disability Unit and Cabinet Office and we are currently writing up our proposals jointly with the Disability Charities Consortium. Little has been published by the Government on the Strategy at the time of writing; however, we are keen for the Government to:

- (a) Be clear on the name of the strategy. The strategy was initially called the "National Disability Strategy" and is now also being called the "National Strategy for Disabled People" (though not consistently). **We strongly believe and recommend that "National Disability Strategy" should be the title** as this positions disability as being something central to all – to business, to society, to policy and to disabled people at the heart of each. Calling it a "National Strategy for Disabled People" risks side-lining it as a niche issue when, as above, we need a cross government and cross-societal approach to make the step change we so urgently need.
- (b) Be clear on the purpose of the strategy by establishing the questions and barriers it is aiming to resolve or answer; and
- (c) Define how success will be measured, including who will regulate the implementation of the Strategy and monitor its progression.

11.2 We have also asked our members what they want to see in the Strategy. The following themes emerged:

- (a) Improved digital inclusion – including enforcement of accessible websites in all sectors (not just public), as well as programmes to improve digital skills.
- (b) Clearer and improved mandatory building standards – which cannot be solely about wheelchair and physical accessibility but must expand to include the needs of people with a wider range of disabilities and conditions (such as hearing, energy limiting, and neurodivergent conditions).
- (c) Better approach to inclusive communications everywhere – including in work, products and services, media, and Government communications.
- (d) Improve Job Centre support for employers and employees (see section 7 above).
- (e) Improve Access to Work (see section 5 above).

12. How should DWP look to engage disabled people and the organisations that represent them in formulating the Strategy?

12.1 While it is crucial to carry out meaningful consultation with disability organisations, not all disabled people engage with disabled people's organisations. It is therefore imperative consultation with disabled people to design and review the progress of the strategy should include the following:

- (a) Co-production and active listening with direct contact between government and disabled people across the country.
- (b) Communications and information about the strategy and how to be involved in a consultation about its development should be accessible by design. This includes

providing alternative formats of information about the strategy and consultation documents and enabling people to participate by submitting responses in different formats such as submitting opinions in British Sign Language (BSL) or audio.

- (c) An accessible media and public awareness campaign to communicate and raise awareness of both the Strategy and the consultation so that as many people as possible can take part and engage from the outset.

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