



THE LONDON SCHOOL  
OF ECONOMICS AND  
POLITICAL SCIENCE ■

# Switching Focus

Whose responsibility to  
improve disabled people's  
employment and pay

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Liz Sayce



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## Introduction

This report addresses the question of whether there is a set of policy levers that could, together, encourage employers to improve disabled people's employment and pay. It also considers how proposals could be framed and pursued, to enable people to unite to achieve them.

It is based on a Joseph Rowntree Research Fellowship in Practice which I undertook at the London School of Economics (LSE) in 2018. I had the great opportunity to stand back after several decades of working to improve rights in practice, in senior roles with both disability rights and mental health organisations.

The project involved 2 round-tables involving 50 people, the first with Disabled People's Organisations (DPOs), charities and academics; the second also including employer organisations, individual employers, trade unionists, think tanks and policy experts. Disabled people involved had wide-ranging experience, including people with learning disabilities, energy-limiting conditions, sensory impairments, mental health conditions and more; and differing experiences of work and worklessness. I also held structured discussions with over 30 individuals from the same range of backgrounds, in which I posed the following 3 questions:

1. What 'levers' could best influence employers to improve disabled people's employment and pay?
  - Which few demand-side policy levers might best encourage employers to act? Are there examples (from the UK or elsewhere, from other equalities fields) that could help?
2. Why?
  - What is the basis for making particular proposals, in concept and/or evidence?
3. How could we get them put in place?
  - Which approaches to framing the proposals, building alliances and promoting the proposals might best encourage adoption?

From this collaborative process, and from reading theory and evidence, I devised criteria to select those proposals with the greatest potential for genuine improvements in disabled people's employment opportunities, experience and pay. The proposals build on earlier analysis from organisations including (amongst others) Disability Rights UK, Equality and

Human Rights Commission, All-Party Parliamentary Disability Group, Resolution Foundation, IPPR and the House of Lords Select Committee on the Equality Act and Disabled People.

I have also drawn on reflections on what has worked and not worked in my experience in disability rights and mental health campaigning. Like many others I have sometimes focused on the 'supply' side – calling for better support for disabled people – less than the demand side. This is a significant policy imbalance in the UK, explored in Part 1 of this report. As a woman who has experienced mental health challenges and equally had privileges of education and opportunity for fulfilling work, I have endeavoured to reflect the different and sometimes very harsh experiences of people working in different situations, or not working, in the UK economy. I have benefited enormously from discussions with other disabled people in this respect.

I have focused mainly on UK and GB policy, since equality law and much employment policy is reserved, but referenced devolved issues and areas for learning across the UK.

I would like to thank the International Inequalities Institute at the LSE for being such fantastic hosts to me and this work, in particular Liza Ryan, Aaron Reeves and John Hills; and JRF for their support and insights, particularly Louise Woodruff and Chris Goulden. Thank you to the numerous disabled people, employers, academics and allies who contributed thinking to the project including Armine Ishkanian (who co-hosted an event and shared insights on how activists and NGOs may be able to work together), Tracey Lazard, Mik Scarlet, Phil Friend, John Gillman, Kamran Mallick, Philip Connolly, Deborah Williams, Catherine Hale, Gerry Zarb, Jackie Driver, Peter Jackson, Catherine Carter, Miro Griffiths, Mark Brookes, Steph Cutler, Quinn Roache, David Chrimes, Seamus Nevin, Kim Hoque, Nick Bacon, Tania Burchardt, David Soskice, Diane Perrons, Roy Sainsbury, Graeme Cooke, Sue Coe, Stephen Bevan, Cathy Casserley, Diane Lightfoot, Caroline Waters, Janet Hill, Paul Deemer, Kay Allen, Susan Scott-Parker, Anna Bird, Mark Lever, Laura Crandley, Minesh Patel, Tanni Grey-Thompson, Lela Kogbara, Bill Love, Candice Cross, Caroline Archer, Graeme Whippy, Hannah Mason, Kathleen Jameson, Colin Low, Maria Lagos, Mark Russell, Robert Gill, Peter Fletcher, Philipa Bragman, Ross Smith, Rosemary Frazer, Laura Crandley – and many others who fed in through social media, email and discussions. Finally thanks to Rachel for her huge support.

**Liz Sayce. November 2018**

EXECUTIVE SUMMARY

# Switching Focus

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Liz Sayce

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For the full PDF report, go to [lse.ac.uk/switchingfocus](http://lse.ac.uk/switchingfocus), for full Word report, go to [www.lse.ac.uk/International-Inequalities/Assets/Documents/Report-JRF/switching-focus-full-report.docx](http://www.lse.ac.uk/International-Inequalities/Assets/Documents/Report-JRF/switching-focus-full-report.docx) and for an Easyread version, [lse.ac.uk/switchingfocuseasyread](http://lse.ac.uk/switchingfocuseasyread)

Thank you to the numerous disabled people, employers, academics and allies who contributed to this project through round-tables, interviews, discussions and social media, as well as to the London School of Economics International Inequalities Institute and the Joseph Rowntree Foundation for their fantastic support.

This report presents a set of proposals that together could make most difference to disabled people's employment and pay and on which people could unite. It builds on earlier analysis from organisations including (amongst others) Disability Rights UK, the Equality and Human Rights Commission and the All-Party Parliamentary Disability Group.

The full report contains information on this project, the analysis that underpins the proposals and a discussion of how to build different types of alliances to achieve the goals set forth.

Liz Sayce  
November 2018

All quotes are from interviews or round-table participants for this project unless otherwise stated.

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**JRF** JOSEPH ROWNTREE FOUNDATION



The Joseph Rowntree Foundation has supported this project as part of its programme of research and innovative development projects, which it hopes will be of value to policy-makers, practitioners and service users. The facts presented and views expressed in this report are, however, those of the authors and not necessarily those of JRF.

# Switching Focus

Whose responsibility to improve disabled people's employment and pay?

More disabled people could be working in this country, with decent pay and progression. The four-point plan described in this report is designed to kickstart action to make it happen. Some employers already employ disabled people at all levels. Government could expect and support others to do the same.

Having an inclusive approach can help businesses improve decision-making and innovation, recruit and retain customers and employees, improve employee engagement and productivity and build an ethical reputation<sup>1 2</sup>. Different sectors and regions have different drivers for action toward this goal. For instance:

*"There's an opportunity in the NHS because the health sector needs new labour pools—and badly needs to retain people, including people who are ageing and acquire impairments."<sup>3</sup>*

Paul Deemer, Head of Diversity and Inclusion, NHS Employers

## **Employment and disabled people: a contested topic**

Disabled people's policy agendas have changed since the financial crash of 2008. The agenda has shifted from largely positively framed campaigns, i.e., calling for "what we want" (full and equal participation, rights to independent living, accessibility, equality in education and employment) to a larger focus on "what we don't want" (tightened eligibility for social care and social security, as well as benefit sanctions).

There was a broad consensus before 2008 regarding the aim of employment equality. However, this consensus has since fractured. Some have argued for a "right not to work"<sup>4</sup> and have given primary importance to financial security as a response to tightened benefit eligibility and conditionality. Others have argued that disabled people had been "designed out" of employment and should not be expected to move into low-paid, insecure and unsuitable work<sup>5</sup>. The "right to work", for some, came to be seen as a requirement to work. For them, this was to be resisted.

Some Disabled People's Organisations (DPOs) continued to push for the right to inclusive work and were met with the charge that they were colluding with Government's aim to reduce the benefits bill. Meanwhile, newer social security campaigners framed messages in terms of being too sick to work. They were in turn challenged for playing into low expectations, throwing the baby of equality out with the bathwater of restricted benefits and re-introducing the "victim" narrative.<sup>6</sup> In part, this debate was fuelled by differences of impairment experience: someone with a stable spinal injury who can work as long as physical adjustments are in place is in a very different position compared with someone with an energy-limiting condition who can work only sporadically and unpredictably.

In this project, disabled people with different perspectives and impairment experiences, explored—with employers, disability charities and academics—an agenda to move beyond this fractured debate. This was achieved by replacing the goal of "more disabled people in jobs" (any jobs) with the goal of genuine opportunities to reduce the disability employment and pay gaps. The participants wanted more flexible, inclusive work that people can manage alongside their health condition or impairment.

"We need to get rid of this idea that we should be grateful for being offered a job at all."

Round-table participant, LSE 2018

One objection to focusing on employment has been a perception that the responsibility for making it happen falls unfairly on the disabled individual and not the employer or the state. This project set out to recalibrate responsibilities.

## Employment and disabled people: whose responsibility

"Achieving our ambition of seeing at least one million more disabled people in work requires all of us to work together. The Government of course have a role to play, but so too do employers, the health service, local authorities, charities and the voluntary sector.... All have vital roles to play."<sup>7</sup>

Sarah Newton, Minister for Disabled People, Health and Work

Disabled people and academics have argued that, in practice, there is a deeply skewed allocation of responsibility, with much higher demands on disabled individuals than on employers and other organisations.

Disabled people are over 60 times more likely than employers to face sanctions for non-compliance with requirements. In 2015-16, disabled people were sanctioned 69,570 times for missing appointments or infringing work-related conditions of benefit payment, with resulting reductions in benefit.<sup>8</sup> Employers in the same year were in effect "sanctioned" only around 1,100 times when disability discrimination cases were either settled or won by a disabled person at Employment Tribunal.<sup>9 10</sup>

### Sanctions of disabled people 2015-16



### Cases settled or won by disabled people at Employment Tribunal 2015-16

Work-related requirements of disabled people, backed by sanctions, have been widely described as unfair because disabled people are sanctioned more than non-disabled people, resulting in financial hardship. They are also described as unfair because people may be set up to fail if there are no suitable jobs available.

A decade of disability "welfare reform" policies to incentivise individual behaviour, coupled with support programmes targeting the individual, has seen little change in the disability employment gap (running at 30 per cent in 2018<sup>11</sup>), and the pay gap between disabled and non-disabled people, running at 15 per cent<sup>12</sup>, has slightly worsened. Every year, 340,000 people leave work due to an impairment or health condition<sup>13</sup>. Many would prefer to stay, if work was inclusive. A different approach is needed.

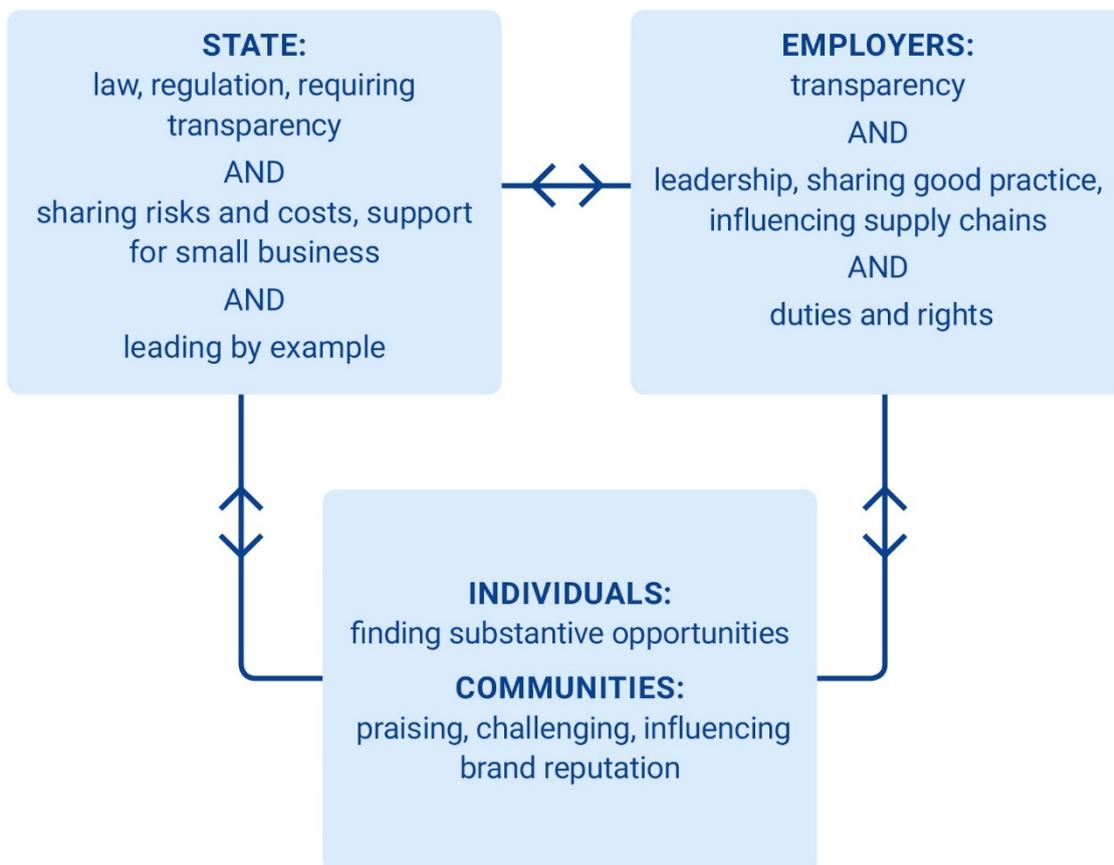
The concept of citizenship offers a framework to recalibrate responsibilities.

After World War 2, a consensus emerged on the respective responsibilities of the state, businesses and citizens. This consensus gave full citizens the right to participate "according to the standards prevailing in the society"<sup>14</sup>. However, with no adjustments or support to participate, disabled people were expected to settle for a safety net of benefits and care; they were not to be "full citizens". Record numbers of disabled people lived in institutions (150,000 in psychiatric institutions alone in the 1950s).

In the 1970s, the post-war consensus on citizenship was "torn up": the commitment to universal rights to income and housing diminished, and some groups were increasingly socially excluded<sup>15</sup>.

However, turning the clock back to the post-war "deal" on citizenship would not meet 21<sup>st</sup> Century disabled people's expectations. A fair set of responsibilities for the future would position disabled people not as vulnerable recipients of welfare with no other options, but as agents who require a wide range of supports in order to participate and realise their capabilities. This requires the state and businesses to take more responsibility and offer genuine, substantive opportunities in line with the social model of disability.

**A new balance of responsibilities**



## The changing world of work

With 40 per cent of the working age population predicted to have a long-term health condition by 2030<sup>16</sup>, business success will increasingly depend on making sure that "good work" truly means inclusive work. It makes no sense to maximise productivity by ensuring "good work" for only 60 per cent of colleagues.

Work over recent years has become more intense, with more multi-tasking expected, less autonomy and continuing occupational segregation, as well as some increase in flexible working. Jobs will continue to change as artificial intelligence and automation develop and grow. Concerted action is needed to put disability at the heart of the debate. Policy on "good work" will be needed to ensure that employees' voices, engagement and inclusion are hard-wired into the future of work, to the benefit of workers in general and disabled workers in particular.

Disabled people are more likely than non-disabled people to work part-time, to be self-employed, to work in the (declining) public sector<sup>17</sup> and to be affected by segregation between cities and the towns around them:

"There are challenges in terms of a Manchester city-centric economy. Outlying towns—Rochdale, Oldham—are suffering and people are either commuting in to Manchester to work or relocating to Manchester. But accessible transport and accessible affordable housing pose particular challenges for disabled people to do this."

DPO

Some disabled people seek zero hours or "app"-based roles; however, "bogus" self-employment can particularly impact disabled people. James Bloodworth's undercover report from the gig economy recounts how supposedly self-employed people were penalised under "a points-based disciplinary system whereby workers accrued points for things like days off with illness, not hitting pick rates or being late": the person was allowed six points before they were "released" (sacked)<sup>18</sup>. Other companies imposed penalties for spending too long in the toilet; additionally, short break times made it difficult for people with diabetes to eat as they needed to<sup>19</sup>.

A new commitment to two-way flexibility must build in the specific flexibilities that disabled people need.

**What could work?**

Policy makers attempting to influence employers have primarily acted through encouragement and by proposing voluntary standards, with relatively light touch, individualised regulation and enforcement. However, there is no evidence that voluntary approaches work<sup>20</sup>. History in the UK suggests that great employment practice exists but has not been spread at any scale.

"I thought after B&Q showed that employment of disabled and older people worked in terms of both the bottom line and Corporate Social Responsibility it would really catch on. Why didn't it catch on with other corporates?"

**Parliamentarian**

One problem with the "encouragement" approach is that it assumes that if employers' attitudes are changed, then behaviour will follow.

Contact theory suggests the opposite. It is the real-life contact between disabled and non-disabled people (and between people of different ethnicities and different faiths), on at least equal terms, that changes attitudes<sup>21</sup>: in other words, the first requirement is to ensure contact through inclusion.

"Targeting employers' attitudes is a dead end. What is important is behaviour."

**Business leader**

The easiest way to scale contact on equal terms is through ordinary, ongoing inclusion in schools, communities and of course workplaces. What better way to reduce bias than for more and more non-disabled people to have openly disabled bosses and colleagues, thereby making it more likely that the organisation will employ further disabled people in the future who in turn will influence attitudes and make inclusion more likely?

This means that the first goal is to influence employers to employ more disabled people at different levels.

In part, this can be achieved through better practical support, particularly for small employers.

"Small businesses have a pretty poor experience of accessing advice and support on diversity issues."

**Business organisation**

However, there is also evidence of—often unintended or unconscious—discrimination by employers, including a disability employment "penalty", after accounting for qualifications, of 23 per cent<sup>22</sup>. Even disabled people with degrees earn on average £2.50 per hour less than non-disabled graduates<sup>23</sup>.

To address discrimination requires the use of power, both the "extrinsic" power of law, regulation or campaigns and the "intrinsic" power of leadership to change culture and practice across an organisation:

"We've set a clear vision, trialled strength-based inclusive recruitment, upskilled our people in understanding neuro-diversity, taken positive action to develop disabled colleagues—and we're beginning to see results in our figures. This stuff isn't easy—you can't just compel people to do it. To really make change happen, and stick, you have to have a leadership team that wants to do this."

**Public sector employer**

Power by social movements can influence government or can influence businesses directly.

In 2018, BBC security correspondent Frank Gardner complained publicly about having to wait on a plane as staff had not brought his wheelchair. The issue spread rapidly through social media. The CEO of Heathrow and other airports publicly committed to improvements, and Frank Gardner then praised the progress made. Similar methods could be used to praise and challenge companies regarding their disability employment and pay gaps.

## **Criteria for effective policies**

"I'm fed up with waiting for the change to happen. We need to identify a few things we should do that would make a difference—otherwise we will have a list of things we have had for ages."

Round-table participant, LSE 2018

- 1 **Valued, substantive opportunities**, seen as such by diverse disabled people and their organisations, with disabled people's voices central to the development of policy and practice.
- 2 **Potential to re-balance citizenship responsibilities**, in line with a refreshed conception of respective citizenship responsibilities of the state, employers and individuals, to achieve greater effectiveness and social justice by enabling disabled people to be full participants in society.
- 3 **Uses power to address discrimination and exclusion**, following the evidence that power is needed to replace a vicious circle of exclusion with a virtuous circle, in which contact on at least equal terms between disabled and non-disabled people changes attitudes and generates opportunities.
- 4 **Mobilises both extrinsic and intrinsic power for change**, filling the need to strengthen law, access to justice and the influence of social movements. This criterion also draws upon evidence from employers that internal leadership is critical and needs to be positively mobilised. This goes beyond using "carrots and sticks" with employers, which risks infantilising, to motivating and mobilising internal power.
- 5 **Feasible to implement in the UK context of a liberal market economy with a changing nature of work**. Accounting for impacts on disabled people of trends (such as increasing self-employed, part-time and insecure work) and experiences (such as intensification and changes in autonomy). Also identifying discrete opportunities, such as reciprocal rights to flexibility.
- 6 **Opportunities for scale of impact** so that energies are channelled into those levers likely to make the most significant difference.

## The proposals

The four proposals listed below meet all the criteria.

Together, they re-align the citizenship responsibilities between Government, businesses and disabled people. They enhance the accountability and responsibility of employers, as well as the support to employers.

They are designed as a set, to work in combination. For instance, strengthening the right to keep your job if you have time off with a health condition could inadvertently discourage employers from hiring people with known health conditions. So, this is balanced by measures to offset costs and provide practical help to employers at the hiring stage.

Some proposals could be implemented in the short term and make a significant difference, such as extending transparent reporting from the gender pay gap to disability employment and pay, new strategic enforcement of existing law and adjustments to Access to Work and Statutory Sick Pay. Others may need more time. Strengthening legislation requires parliamentary time, and the wide-scale adoption of "good work" requires shifts in how the UK economy operates. UK employers tend to invest less in skills than many of their European counterparts, and many people experience precarious work and income. Disability needs to be central to new thinking on these challenges.

## 1 Transparency

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### Proposal 1.1

Government should expect larger employers (over 250 staff) to collect intelligent data to enable them to understand their employment and pay of disabled people, with substantial advice and guidance and a period of voluntary testing to get the details right. Data would include employment, pay, the employment "journey" (hiring, retention, progression) and employee experience<sup>24</sup>, broken down by broad impairment group<sup>25</sup>. They would publish core data with a narrative on proposed actions as a component of a single workforce dashboard as part of their commitment to transparency, accountability and good corporate governance. This would be promoted and enforced by the equality commissions working closely with businesses, Government, the Financial Reporting Council and sector-specific regulators.

"The reputational leverage of gender pay gap reporting has been significant for big employers."  
Employer, round-table participant, LSE 2018

"I very much agree with transparency, because trust is a big issue. I think Government needs to be a bit stricter with us—why are there requirements to report on gender as employers but not on disability?"<sup>26</sup>

Paul Polman, Chief Executive, Unilever

Five years ago, few employers considered using or publishing data on disability; however, a shift appears to be happening. In 2018, the Confederation of British Industry welcomed proposals to collect data on ethnicity and disability pay gaps<sup>27</sup>. Many large employers collect information from their workforce so that they can plan for labour shortages and fill skills gaps, as well as improve staff morale and productivity. Being inclusive means that they can access the best talent.

The Equality and Human Rights Commission asked a sample of employers across sectors about what would encourage them to report on the disability pay gap. Of those (55 per cent) that collected information on pay and progression, but not analysed by disability, 77 per cent said they could be encouraged to do so, 64 per cent said they would if mandatory regulations were in place, 36 per cent if guidance were available, 35 per cent with financial support and 24 per cent if other businesses in their sector collected or analysed the data<sup>28</sup>.

The proposal here is a combination of their top two responses: guidance and mandatory regulation. Support and advice for employers would cover how to build cultures in which colleagues are confident to be open about their experience of disability, as well as how to

frame questions, how to break down data by impairment group and how to use data to plan future action.

"Why do people with learning disabilities get voluntary work or a few days' work a year as "experts" but never get proper paid jobs?"

Round-table participant, LSE 2018

The data set would be aligned with requirements on gender, with the ultimate aim of a single, simple workforce dashboard covering issues such as structure of the workforce, the living wage and protected characteristics.

Transparency would be used to drive improvement primarily by the Board, as well as through accountability to shareholders, competition between employers and opportunities for disabled people to praise and challenge particular employers.

"Companies care more about their brand reputation than about their legal budgets."

Business leader

### Proposal 1.2

Large private and voluntary sector organisations and whole sectors should consider setting and tracking targets based on their data and business needs.

In the public sector, Ministers should consult with leaders of particular sectors and set flexible, achievable targets, tracked by the relevant regulator or industry body working with the equalities commissions.

Targets can work and are already set in some sectors:

- The US Federal Government set a target to increase disabled people's employment by 100,000 from 2011 to 2015. They achieved a 109,000 increase through senior leadership, accountability and outreach support to every department<sup>29</sup>.
- In the broadcasting sector, the Doubling Disability initiative, led by major broadcasters, has set a target to double the proportion of disabled people in the industry's workforce by 2020 across commissioning, production and programme support. The initiative works with and through independent companies in their supply chains<sup>30</sup>.

Public sector targets would demonstrate government and public sector leadership and help fulfil requirements of the Public Sector Equality Duty. Private or voluntary sector organisations delivering contracts for Government or the public sector would be expected to work toward the same targets.

## 2 Risk sharing

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Government should enable large numbers of disabled people to work who need more than an adjustment that is considered "reasonable" by sharing the cost and risk with employers. This includes people with fluctuating stamina-related or mental health conditions, some of whom have a fluctuating work capacity and are viewed as a risk by employers, but who want to work when they can.

The revolutionary increase in the numbers of women working in the 20<sup>th</sup> Century occurred partly through state investment in maternity pay. Investment in sharing risk could have equally far-reaching effects for disabled people's employment.

### Proposal 2.1

**Government to pay Statutory Sick Pay (SSP) if small employers take on someone who is on Employment and Support Allowance (ESA) or its equivalent in Universal Credit<sup>31</sup>.**

The UK is unusual in expecting the employer to bear the full cost of SSP.

This is estimated to cost employers around £1.5 billion per year<sup>32</sup>. Contrast this with maternity pay, where an employer can usually reclaim 92 per cent of statutory maternity, paternity, adoption and shared parental pay<sup>33</sup>. State payment of SSP in the specific case of recruiting people from the ESA would help remove a major disincentive to taking on people with known pre-existing health conditions or impairments.

### Proposal 2.2

**Government should:**

- **Introduce an access to work "pot" that can be accessed by people requiring periodic time off for temporary cover to help remove the disincentive for employers to recruit or retain them<sup>34</sup>.**
- **Give disabled people an indicative award that they can cite when job seeking to build confidence for both the employer and job seeker.**
- **Set targets for Access to Work in line with government plans for a million more disabled people to be working by 2027.**

"Each person with a fluctuating condition could have "in the bank" so to speak an agreed sum that can be mobilised quickly if they become unwell and unable to work for a period—so the employer does not lose out. It's a logical extension of Access to Work because it mitigates cost for the employer and it also has potential multiple benefits, because it would remove anxiety for the individual."

DPO

Access to Work is a successful approach that both enables disabled people to secure or retain work and reduces cost and risk for employers<sup>35</sup>. Investment coupled with reform could expand the numbers helped beyond the current base of around 34,000 people per year<sup>36</sup>.

### Proposal 2.3

Government should introduce a fund linked to Access to Work<sup>37</sup> to help small employers make on-line, customer service, physical infrastructure and internal processes fully inclusive. This would help attract new customers and employees and build brand reputation with all stakeholders.

Small businesses can tap into the talent pool of disabled people if they have the right support. Government should make it easier for them—beyond sharing costs—by offering a fund as an incentive to make the business fully inclusive.

### Proposal 2.4

A portal should be developed that brings together searchable, large amounts of good practice information on disability and employment, as exists in Australia and the USA, that is backed by individual, tailored email and phone advice for employers when needed. In addition, disability should be placed at the heart of more generic sources of advice and information on "good work" and flexibility.

Busy small employers need tailored, timely, practical advice that goes beyond generic information. Current sources of advice are fragmented.

The portal could be developed through a partnership of private, voluntary and Government sectors. Content ideas are included in the full report.

The material should include guidance on creating "good work": for instance, how to maximise autonomy to support creative workplace adjustments and improve retention, as well as how to structure jobs to enable everyone, including disabled people, to thrive by allocating roles in which people can excel. This material should be shared through wider platforms on "good work"<sup>38</sup> to place disability at the heart of everyone's understanding of flexible and good future work.

"Don't just dust off an old job description and go to advert. If employers don't really think about person specifications, they end up with the same as always."

Round-table participant, LSE 2018

### Proposal 2.5

Commissioners of employment support should:

- Consider investing in developing agencies that broker contracts for people able to work intermittently or for a few hours per week to enable more people to work when they can.
- Require all employment support providers to support employers, not just job seekers, in line with evidence of effectiveness<sup>39</sup>; additionally, recognise the holistic support that DPOs can offer, removing barriers across people's lives and enabling people to participate.

### 3 Rights, regulation and enforcement

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#### Proposal 3.1

In the short term, the equality commissions could explore further strategic, smart regulation to support improved substantive employment opportunities for disabled people, particularly in changing areas of the economy, for instance:

- outsourced and online recruitment
- intensification and interchangeability of work
- zero hours work, "bogus" self-employment and flexibility for the disabled worker

This could be pursued through formal inquiries, a test case strategy or good practice partnership initiatives. Shared responsibilities with sector-specific regulators will be important to spread the impact. As recommended above, transparent reporting by large organisations on their employment of disabled people would help identify sectors or issues requiring new strategic action.

#### Proposal 3.2

In the longer term, the legal framework should be improved, in particular to:

- Strengthen strategic legal powers (rather than just offering redress to individuals). This is to include a change to the Public Sector Equality Duty to require "taking all proportionate steps" on identified priorities, rather than just identifying them<sup>40</sup>. It would also include an anticipatory duty on employers (matched by practical support, see above), as well as the re-instatement of the power of Tribunal judges to order an employer to make wider changes where an individual case reveals systemic discrimination.
- Better protect people working in the growing sector of zero hours contracts and temporary roles to achieve two-way flexibility that works for disabled people and tackles bogus self-employment<sup>41</sup>.
- Better protect people from losing their job if they become disabled during working life through a "right to return", with the employer obliged to keep the job open for a year from the start of the sickness-related absence.

#### Proposal 3.3

The equality commissions, Disabled People's Organisations, NGOs and partners should actively promote rights to everyone living with health conditions or impairments and should enable them to share experience of how to assert them.

Platforms such as Disability Rights UK's Right to Participate<sup>42</sup> can help people share knowledge and experience for how to secure rights, backed by legal advice where needed.

## 4 Leadership

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### Proposal 4.1

Employers should support the voices and participation of disabled colleagues by investing in the time and development required by Disability Employee Networks and Trade Union representatives. Employers, and also businesses contracting "app" workers should engage with workers and trade unions to develop practices that reduce disability employment and pay gaps and create inclusive work.

The leadership of disabled people is central to improving inclusive employment opportunities, as well as to morale and engagement, which are linked to productivity. Trade unions are vital to influencing atypical forms of work, for instance in challenging "bogus" self-employment and securing rights to workplace adjustments and sick pay.

### Proposal 4.2

Local and combined authorities, working with local employment partnerships and employer bodies, should bring together employers, educationalists, health and care services, DPOs and others to embed the employment and careers of disabled people into plans for inclusive growth as well as plans to meet labour or skills shortages.

Health, social care, education and the voluntary sector would participate as employers—and as supporters of disabled people's lives, able to help all local employers tap into the talent pool of disabled people. Inclusive growth could include positive action to support businesses led by disabled people.

### Proposal 4.3

Investment by Government in business development for sectors facing skills or labour shortages should be contingent on their recruiting and developing significant proportions of disabled people, as demonstrated through transparent reporting<sup>43</sup> (see above).

Skills academies and growth sectors present major opportunities for disabled people's careers. For instance, the Cisco Networking Academy has trained 7.8 million students in 170 countries in the last 20 years, of whom 92 per cent secured work<sup>44</sup>. Collaboration with those sectors could enable large numbers of disabled people to benefit.

### Proposal 4.4

Government should bend the £240 billion it spends annually, in order to advance disabled people's employment opportunities, by including social impact measures in tender scores. Large private and voluntary sector organisations can also use procurement as leverage. Grant funders should require all applicants to meet diversity standards and disability organisations to employ disabled people at all levels.

Bending funding to prompt action is becoming a more widely accepted practice. The Department for International Development committed to putting disability inclusion "at the heart of our work"<sup>45</sup>. The World Bank has created a charter for disability-inclusive development<sup>46</sup>. This proposal extends this approach.

#### Proposal 4.5

Government should align policy and outcomes across Government Departments to incentivise employment opportunities and lead by example in employing disabled people at all levels. In the longer term, Government should produce a genuinely cross-government disability employment strategy as part of a strategy on rights to full participation in society under the UN Convention on the Rights of Persons with Disabilities (UNCRPD). In the short term, government could seize any opportunity to align new policy or outcome frameworks to this end.

The UNCRPD recognises that disabled people's full participation is achieved through aligned policies and outcomes on inclusive education, skills, transport, social care, accessible housing and more.

The way business success is measured needs to be much more closely aligned to social impacts.

"Long-term we need to change what's measured—  
not just the short-term bottom line."

Round-table participant, LSE 2018

An immediate example of alignment is that Government could change measurements of the performance of Job Centre Plus from how many claimants move off benefits (and into work) to how many disabled (and other) claimants move into sustainable work and secure improved pay over time. This would be in line with Universal Credit ambitions and in the interests of disabled people progressing out of low pay.

## Alliances for action

Employment may have been a contested topic, but "switching focus" creates a platform to form alliances. Switching focus has a positively framed aim, proposes a fair allocation of responsibilities and can be backed by specific proposals and stories to show that change is possible.

"DPOs could comment at every opportunity, using the same messages every time—so with each comment they are putting a brick in a bigger wall."

DPO

Progress made in gender equality demonstrates that wider cultural forces are significant in spurring action: the Me Too campaign morphed into the Pay Me Too campaign, generating wide-scale attention to the gender pay gap. Disabled people could lead campaigns for a changed world of work and could tap into wider concerns about insecure work, assorted corporate scandals and ever-rising executive pay. Well-known disabled champions and like-minded companies could promote the message that change can happen.

"Insecure work, while previously enjoying the odd moment in the media spotlight, is now at the forefront of the political agenda. A Conservative government is committing to extra regulation, not less. The media is talking about dignity and meaning in the workplace, not just pay packets and dole queues."<sup>47</sup>

In this project, differences of view emerged, based partly on different impairment experiences. Hale is developing new opportunities to connect the thinking of people with chronic illness with the thinking of the disabled people's movement<sup>48</sup>. Two further things that could help are:

- More opportunities for people to come together across differences through participative conferences and workshops, which require modest investment in the DPOs best placed to lead them.
- A new language of identification. Many people do not identify as "disabled people" because they have chosen another identity, like "mental health service user" or being "Deaf". An umbrella term similar to LGBTQ+ could help, in which "disabled person" was the central but not the only term of identification.

Differences between DPOs and charities were also evident. These differences stemmed from disagreements on outsider and insider tactics and tensions about power and resources.

"Outsiders often think the insiders are sell-outs who muddy the waters through compromise or hijack their issues, while insiders often view outsiders as politically naïve purists, but recognise that the threat they pose often drives decision makers into their arms"<sup>49</sup>.

However, unity on specifics, without suppressing difference, can increase impact, with disabled people in the lead. Large charities may also be able to share resources and evidence with DPOs.

"Employers are exhausted by the enthusiasm of the sector,  
which isn't joined up."

**Charity director**

Alliances with others who have complementary agendas, such as anti-poverty organisations and those concerned with flexible working, can be powerful. So can "unexpected alliances" with those with power to make things happen, from business organisations to sector regulators.

"Flexibility and inclusivity benefits everyone! It's not just for parents.

This article talks about bringing more disabled people into work.

Thanks @lizsayce "

**WorkYour Way, via Twitter**

Choosing alliances depends on the precise objective and the stage of the influencing strategy.

Large changes in social history, such as overcoming apartheid or securing equal marriage, initially seemed impossible. Creating unity around positive goals helps instil a belief that change is possible. Because it is.

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## Part 1

### A fairer citizenship deal:

### Changing the balance of responsibilities

#### Summary

Employment of disabled people became a contested topic in the context of tightened social security eligibility, conditionality and sanctions. Whilst some argued for the right to work, others prioritised the right not to work. One problem is policy skewed to the supply side.

'Citizenship' provides a framework for a fairer allocation of responsibility between the State, business and individuals. There can be no return to the post war model of citizenship that was modelled on an independent (non-disabled) citizen and made disabled people into passive recipients of 'care', often in institutions. The approach should allocate responsibilities explicitly to employers and the state to enable disabled people to participate fully in society.

In this project, disabled people with different perspectives and impairment experiences, explored - with employers, disability charities and academics - an agenda to move beyond this fractured debate. People did this by replacing a goal of 'more disabled people in jobs' (any jobs) with a goal of genuine opportunities to reduce the disability employment and pay gaps; with more flexible, inclusive work that people can manage alongside their health condition or impairment.

Programmes for change are most likely to succeed when they set a positive goal ('what we want'), framed to build support, and do not adopt or re-inforce unhelpful terms of debate. This means replacing the whole idea that disabled people are either 'vulnerable' or 'undeserving' and instead arguing for equal, substantive opportunities for all.

## **Introduction: an opportunity**

This report is a contribution towards an ambitious aim: to build a society in which all disabled people can participate, contribute and flourish, as citizens equal to all others. When everyone can participate, our whole society benefits.

It focuses on disabled people's employment and pay and proposes a realignment of responsibilities between governments, business and disabled people. It proposes policy measures and ways to build momentum for action.

- In 2018 the Equality and Human Rights Commission recommended that large employers should report on disability and ethnicity - as well as gender - pay gaps<sup>50</sup> and Government consulted on ethnic pay gap reporting<sup>51</sup>.

There is a newly emerging interest in policy initiatives to stimulate demand side action by employers, which may offer opportunities to shape policy based on coproduced ideas from Disabled People's Organisations (DPOs), employers and policy experts.

- In 2017 the UK Government made a commitment to encourage greater transparency by employers on their progress in employing disabled people<sup>52</sup> and in 2018 encouraged large employers to collect data on the disabled people they employ<sup>53</sup>
- The Labour Party made a commitment to requiring employers with over 250 employees to report on progress<sup>54</sup>
- Government explored levers and incentives that could encourage changed employer behaviour<sup>55</sup>

## **Why employment? A contested topic**

The shape of policy relating to disability - from equality law to choice and control in social care - has historically often been influenced by disabled people's agendas, although policy has fallen short of demands.

Since the financial crash of 2008, disabled people's agendas have shifted: from largely positively framed campaigns - calling for 'what we want' - to more protest focused demands, asserting 'what we don't want'.

From the 1980s disabled people campaigned for rights to participate – independent living, freedom from institutions, equality in education, employment and accessibility. We explicitly rejected the older idea of disabled people being passive recipients of 'care'. Support was to

be a springboard for participation – not a safety net<sup>56</sup>. People with physical impairments ‘escaped’ from residential care and set up independent living alternatives; people with mental health challenges or learning difficulties established user-run campaign and support networks like Survivors Speak Out and People First.

Achievements included the first ever disability civil rights law in 1995 – before which it was entirely legal to refuse someone a job or service on grounds of disability - and direct payments legislation that gave disabled people the control to organise personal support around the lives they wanted to lead. This was followed by progressive expansion of rights through the 2000s, covering everything from education to positive public sector duties.

Disabled people’s right to work, as full citizens alongside everyone else, was simply assumed by virtually all DPOs and disability charities.

‘Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment’ (Universal Declaration on Human Rights 1948, Article 23).

From the late 2000s, campaigns largely took the form of protests against tightened eligibility criteria for social security and social care. The consensus on employment started to fracture. Some argued for a ‘right not to work’<sup>57</sup> and pressed above all for financial security as a response to tightened benefit eligibility and conditionality. Some argued that disabled people had been ‘designed out’ of employment and should not be expected to move into low-paid, insecure and unsuitable work<sup>58</sup>. The ‘right to work’, for some, came to be seen as a requirement to work, and one to be resisted. For others, the right remained significant.

Against this background I propose, for (hopefully vigorous) debate, that a renewed focus on improving disabled people’s employment opportunities, quality and pay is important, for 4 main reasons:

- When disabled people come together to formulate demands, the right to contribute - from parenting to community engagement - usually appears, with support as needed to do so. The right to paid work is prominent amongst types of contribution demanded in manifestos and conventions devised or co-produced by disabled people. It appears in the UN Convention on the Rights of Persons with Disabilities (UNCRPD), the 12 pillars of independent living<sup>59</sup> and specific manifestos from Disabled People’s Organisations<sup>60</sup>. Studies suggest significant proportions - but not all - of disabled people out of work want paid work<sup>61</sup>, but need work that fits their requirements for flexibilities and adjustments.

'Why do people with learning disabilities get voluntary work or a few days' work a year as 'experts' but never get proper paid jobs?' (Round-table participant)

- Positively framed agendas are needed to achieve social change. The Frameworks Institute reviewed the framing used by 55 disability rights organisations and found a strong reliance on problems without solutions, facts and numbers without explanation and crisis communications. They proposed new narratives that paint a picture of achievable solutions to thematic problems – not just opposing the status quo or describing the individual crises it throws up<sup>62</sup>. An agenda on employment could be one important example
- An agenda based on goals determined by disabled people may help resolve some differences between disability groups. Objections to the current policy focus on employment include the policy imbalance between pressure on individuals to work (the supply side) and gentle encouragement of employers (the demand side); and employment too often being inflexible, low paid and unsuitable – particularly for people with certain impairments<sup>63</sup>. An agenda shaped by disabled people, by contrast, can include levers with employers to improve opportunities, flexibilities and pay. If DPOs and allies pursue parallel or contradictory agendas, impact is likely to be weakened. The round-tables and interviews underpinning this report focused on employment partly to explore whether there were ways of brokering greater agreement across differences.
- With the main political parties committed to increasing numbers of disabled people in employment<sup>64</sup>, and some employment sectors seeking new labour pools and adopting inclusive practice, Government and employers could gain from disabled people's central involvement in shaping plans. For disabled people, there may be specific opportunities to influence future demand-side policy (see P 30). Policy will be weaker if plans proceed without disabled people's input.

The UNCRPD sets out a holistic framework that includes rights to participation, social protection and employment; and a fundamental principle that all people are of equal value. This is hugely valuable for brokering agreement between different viewpoints: it enables people to rise above the immediate terrain of argument, to draw on fundamental principles and to consider balance between positions. The key question is not whether paid employment is important or whether other forms of contribution are – but whether excessive focus on one or the other carries risk and how they can be held in effective balance.

Some commentators have suggested new forms of contribution instead of paid work. Hall and Wilton<sup>65</sup> argued for alternative spaces where disabled people can contribute through

creative arts or volunteering – not as a route to paid employment but as a direct path to inclusion and belonging. If led by disabled people – along the lines of the disability arts movement – this could be great for some disabled people. There are also risks, which the authors recognise. If people were channelled to the ‘alternative’ this could go against the express wishes of many disabled people for paid employment, could give employers good reason not to bother with becoming inclusive, might even re-segregate people in a modern form of the day centre offering pottery or basket-weaving, and could consign people to a secondary status as long as paid employment carries status in this society. Over years working in DPOs and mental health campaigning, I have met significant numbers of disabled people desperate for paid work who get stuck in ‘volunteering’, which may suit someone else’s view of their abilities and potential, but not theirs. Life is about a lot more than employment – but it is important not to give up on paid employment when many disabled people want it.

At a seminar in Leeds in memory of the late disability equality leader Caroline Gooding, an eloquent speech was made by a campaigner against social security cuts. A young disabled woman in the audience responded: ‘This is very important – but I don’t want to claim out of work benefits. How will this help people like me who want to overcome barriers to getting my working life off the ground’?

### **The significance of a positive aim**

Successful social change initiatives tend to be framed in terms of how things could be better and different<sup>66</sup>. They convey a positive vision and a message that together people can do things to attain it – and then break tasks down into achievable chunks, learning and adapting as they go. Matthew Bolton documents how the living wage campaign identified targets, built relationships with unexpected allies (‘bishops, business and Boris’) and secured small changes from which others flowed, leading to 150,000 people receiving the living wage, with a net benefit of £200 million<sup>67</sup>.

Recent protests against unwanted policy developments, and accompanying legal interventions, have successfully reversed specific policy changes affecting disabled people: for example, tightened Personal Independence Payment (PIP) regulations for people experiencing overwhelming psychological distress were found ‘blatantly discriminatory’ by the High Court in 2017<sup>68</sup>. However, they have not changed the overall policy thrust. To achieve significant change ‘no is not enough’, as Naomi Klein put it; what is also needed is a compelling vision that replaces the dominant narrative<sup>69</sup>. This underpins Joseph Rowntree Foundation’s ground-breaking work to convey a vision of how to solve UK poverty<sup>70</sup>. Earlier campaigns highlighting the extent of poverty simply amplified the public’s sense that

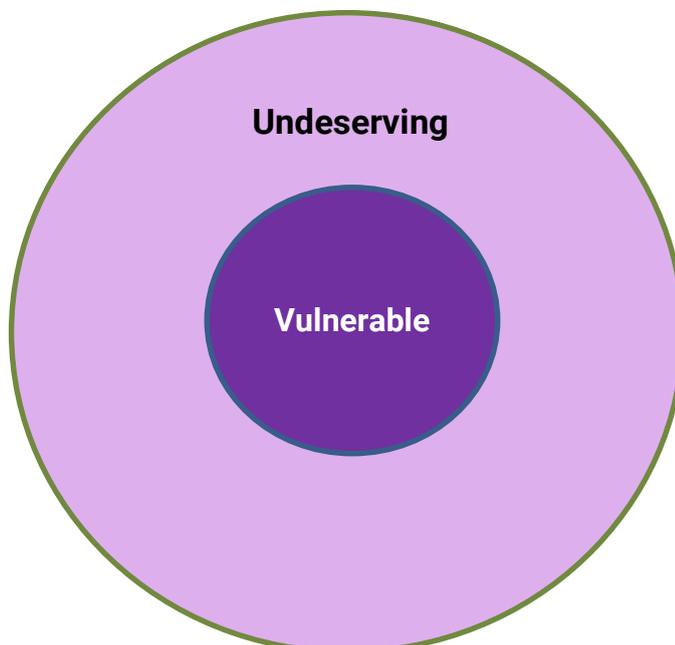
poverty was inevitable.

Experts on framing identify a particular risk in only saying 'no': of adopting - and thus re-inforcing - the very paradigm being opposed. George Lakoff famously pointed out that when President Nixon went on national TV and said 'I am not a crook', everyone thought of him as a crook<sup>71</sup>. By analogy, saying 'I am not a scrounger' to counter media stereotypes<sup>72</sup> may re-inforce the link between disability and scrounging, when it could be more powerful to turn the debate in a completely different direction<sup>73</sup>.



At times disability initiatives have inadvertently reinforced notions of vulnerability in just this way.

From the late 2000s, as budget constraints and increased conditionality for social security took hold, the boundaries between the deserving and undeserving were re-drawn. Roulstone (2015) argues that Government 'shrunk' the category of disabled people as it aimed to focus resources on those with the 'greatest needs': he cites Ministerial expectations that in reassessing 560,000 claimants for PIP, 160,000 would get a reduced award and 170,000 no award<sup>74</sup>.



From the 2000s, and particularly after 2010, Odell (2018) has shown that parliamentarians increasingly used the term 'vulnerability' when discussing disability<sup>75</sup>. It was used as a rationale for targeting resources at those with the 'greatest needs', for example:

'... we protected the most vulnerable in our society and actually increased the amount we were able to give to the most disabled in our country' (George Osbourne, Conservative MP for Tatton and Chancellor, 2015)

It was also used to oppose cuts - indeed the parties who most commonly talked of disability and vulnerability together after 2010 were Labour and the SNP. The charge of cutting vital support to 'vulnerable' people was a key plank of opposition to government policy.

Meanwhile use of the term 'rights' in conjunction with disability declined – after peaks in 1995 and 2005.

This presented a dilemma for disabled people and campaigners: to try to widen the circle of 'vulnerable people', in order to establish oneself and others as deserving (but back to being in need of 'care'); or to push for full participation and risk being seen as not 'really' disabled. I know disabled people for whom a trip to the gym to help reduce muscle pain or spasms seems too risky when activity outside the home might invite suspicion on disability credentials and benefit eligibility.

It seemed like a choice between being vulnerable or undeserving, which felt like no choice at all.

The dilemma spilled over into differences of view on campaigns amongst DPOs. Some of us continued to push for the right to inclusive work; others said we were re-enforcing the pressure to work exerted by Government's conditionality regime and colluding with the aim to reduce the benefits bill. The right to work had come to be seen as the duty to work. Meanwhile newer social security campaigners framed messages in terms of being too sick to work – and were in turn challenged for playing in to low expectations, throwing the baby of equality out with the bathwater of restricted benefits, re-introducing the 'victim' narrative<sup>76</sup>.

In part the debate on employment has been fuelled by differences of impairment experience: someone with a stable spinal injury who can work as long as physical adjustments are in place is in a very different position to someone with an energy-limiting condition who can work only sporadically and unpredictably. There was little face to face debate to resolve these differences, nor to plan promotion of rights to both work and social protection, in line

with the UNCRPD and Article 23 of the original 1948 UN Declaration on Human Rights.

The disability movement of the 1980s and 90s was largely led by people with mobility or sensory impairments. In the 2000s, bridges were built with people living with mental health conditions or learning disabilities: for instance, at the Disability Rights Commission (DRC) we promoted lists of workplace adjustments that always started with the unexpected (like being able to phone a support worker to talk through a mental health employment-related issue) and only ended with the expected references to ramps or accessible toilets.

Conscious that (at the time) only 48% of 'disabled people' as defined by disability rights law considered themselves to be disabled people, the DRC undertook research with those who did not so identify – and then shaped communications to reach out to people who viewed themselves as living with HIV, or mental health service users, or simply having a health condition.

Despite these attempts at brokering relationships across the diversity of disability experience, participants in the round-tables for this project commented extensively on the fragmented - and thus weakened - nature of disabled people's influencing. Notably, the interests of people with energy-limiting conditions were not successfully included in wider disability rights work. They were at the forefront of campaigns against social security cuts that used the concept of being 'sick'. Since 2017 Catherine Hale has explored the history of this lack of unity and is developing new opportunities to connect the thinking of people with chronic illness with that of the disabled people's movement<sup>77</sup>.

Disabled people have also been caught up in a wider public discourse about deserving and undeserving people – if you're not a 'striver' then you must be a 'skiver'. Hills (2015) demonstrates that the idea of a hard pressed majority of tax payers supporting a minority of benefit recipients is a myth: through fluctuating life circumstances and life courses 'most of us get back something at least close to what we pay in over our lives towards the welfare state'. There is no 'them and us'<sup>78</sup>.

Tyler (2013) argues for the importance of people facing shame and exclusion (like benefit claimants, gypsies and travellers, disabled people) coming together to resist being made 'abject'<sup>79</sup>. Protesting together helps create solidarity. However, setting out 'what we do want' is most likely to stimulate the social change that could ultimately reduce the hard lines between insiders and outsiders.

Disabled people are not a 'vulnerable'<sup>80</sup> minority - with all the implications of passivity and powerlessness - who need 'looking after' whilst everyone else can fend for themselves. A new paradigm is needed, that replaces the whole idea of 'vulnerable' or 'undeserving' people with an aim of equal, substantive opportunities for all.

There have been relatively few disability-related examples since the late 2000s of shaping positive future agendas. But since around 2015 Baroness Campbell's work to develop a new basis for domestic rights to independent living, the work of Social Care Future to re-frame the social care debate and build public and political support<sup>81</sup>, and Disability Rights UK's work with parliamentarians to support an inclusive economy<sup>82</sup> seem to signal a revival of campaigns focused on 'what we do want', framed in terms of full participation in society, adapted to a new context. There has also been a targeted campaign to restore funds to enable disabled people to stand for elected office and contribute to shaping policy; Government subsequently allocated a year of funding prior to further review.



Prospective parliamentary candidates from different parties campaigning for better access to elected office, 2018<sup>83</sup>

The aim of this report is to contribute to the debate through an inclusive forward agenda on employment that recognises difference and re-calibrates respective citizenship responsibilities.

## Why recalibrate responsibilities?

'Achieving our ambition of seeing at least 1 million more disabled people in work requires all of us to work together. The Government of course have a role to play, but so too do employers, the health service, local authorities, charities and the voluntary sector.... All have vital roles to play'. (Sarah Newton, Minister for Disabled People, Health and Work, 22 February 2018<sup>84</sup>)

UK disability rights commentators have argued that in practice there is no benign sharing of responsibility between Government, employers, disabled people and other players, but rather a deeply skewed allocation of responsibility, with much higher demands of disabled individuals than of employers and other organisations. For instance:

'At present employers are softly encouraged to change their attitudes whilst disabled people are assessed to distraction and subject to sanctions (and greater poverty) if they don't change their behaviour'<sup>85</sup>

Commentators from different perspectives have argued that this imbalance contravenes principles of social justice, particularly in relation to conditionality applied to individuals. The RSA's Anthony Painter (2018) states:

'Far from an engine of mobility, conditionality creates human misery, insecurity, and locks people in sub-par work or poverty far too much....A stronger social contract is needed'<sup>86</sup>

Baumberg-Geiger (2018) found that disabled people were 26-53% more likely to be sanctioned than non-disabled people, 'which provides some statistical support to the widespread view that this process was unfair'<sup>87</sup>. Reeves and Lopostra (2016) suggest disabled people may be 'set up to fail': they found benefit sanctioning rates were higher in areas with high numbers of disabled JSA claimants and suggest some groups may be 'unable' rather than unwilling to comply with requirements of active citizenship<sup>88</sup>.

In 2015-16 disabled people were sanctioned 69,570 times, with resulting reductions in benefit<sup>89</sup>, over 60 times more frequently than employers, who in the same year were in effect 'sanctioned' only around 1,100 times when disability discrimination cases were either settled or won by a disabled person at Employment Tribunal<sup>90</sup>.

Even proponents of sanctioning are alive to risks of unfairness. A Reform publication by Pickles et al (2016) notes 'it is also important that sanctions are appropriately targeted, proportionate and clearly communicated to ensure that claimants are not unfairly sanctioned or face disproportionate hardship'.<sup>91</sup>

The supply-demand imbalance also risks undermining the effectiveness of policies designed to increase disabled people's employment. Reeves (2017) found that sanctioning

was more strongly associated with economic inactivity than with employment, suggesting that sanctioning disabled job seekers may lead people to claim ESA<sup>92</sup> – the opposite of the effect intended. Reeves and Loopstra (2016) conclude that even where sanctions increase demand for work, if there is no concurrent supply of paid work, ‘sanctions will only lead to financial insecurity’.

The nature (as well as availability) of work can exclude some disabled people. Baumberg (2014) found that lack of job control was a predictor of moving from work to ‘incapacity benefits’ the following year – and suggests a need for a demand-side change in the nature of work to prevent people leaving work for reasons of disability, citing Annie Irvine’s phrase:

‘Perhaps the key question should not be whether an individual is fit for work, but whether the work is fit for the individual.’<sup>93</sup>

A decade of disability ‘welfare reform’ policies to incentivise individual behaviour has involved people going through the Work Capability Assessment at the rate of around 39,000 a month<sup>94</sup>, with subsequent requirements for work related activity or job seeking, depending on assessment outcome. During most of the decade there was no reduction in the disability employment gap<sup>95</sup> and the pay gap between disabled and non-disabled people worsened slightly<sup>96</sup>. Despite some evidence that incentives can prompt some disabled individuals to secure work<sup>97</sup>, there is mounting evidence suggesting lack of overall positive impact. The Behavioural Insights Team note evidence that financial sanctions may cause individuals to take up lower quality jobs and experience wage loss and reduced job duration, which may worsen poverty in the long term<sup>98</sup>.

Large supply side programmes to support disabled people into work, from Pathways to Work (under the Labour Government) to the Work Programme (under the Coalition and Conservative Governments) have, overall, had small or no impacts on employment rates<sup>99</sup>, leading Crowther and Sayce (2013) to dub the Work Programme the ‘non-Work Programme’ and to question the requirement to participate in a programme with low efficacy<sup>100</sup>. Whilst some individuals were assisted into employment, those needing most support were least well-served<sup>101</sup>.

Evaluated employment programmes that have shown consistently more positive results, like Individual Placement with Support for people with mental health conditions and Supported Employment for people with learning disabilities, adhere to specified fidelity criteria, including supporting employers – in other words, addressing the demand side<sup>102</sup>. They are being spread. Nonetheless, NDTI found that only a third of employment support commissioned by local authorities adhered to good practice evidence<sup>103</sup>.

The Behavioural Insights Team has worked on projects to incentivise people to do everything from avoid sugary drinks to succeed in their GCSEs – but as they note:

'A significant portion of behavioural science research focuses on improving the decisions of end-users - in this case people in poverty. But what about the decisions of service providers and policymakers?'<sup>104</sup>

There appears to be a policy gap on the demand side – and not only in relation to disability. The LSE's Commission on Gender Inequality and Power notes that most measures to improve women's employment status have been on the supply side, for instance mentoring and role models<sup>105</sup>; and in the area of skills, John Denham argues that supply side approaches have been pursued, with unsuccessful results, without full understanding of employer demand<sup>106</sup>.

This report focuses on strengthening the demand side to improve disabled people's opportunities for employment and pay.

## **Citizenship**

It is one thing to identify a policy imbalance, quite another to agree what a fair and effective policy might look like.

Citizenship offers a framework to discuss respective responsibilities of government, business and disabled people.

Marshall's classic 1950 text describes citizenship as 'a status bestowed on those who are full members of a community'<sup>107</sup>, backed by a clear allocation of responsibilities, such that citizens are able to 'share to the full in the social heritage and life ...according to the standards prevailing in the society'<sup>108</sup>. This envisages a form of social cohesion and equal worth quite unlike the 19<sup>th</sup> Century conception when 'those who accepted relief must cross the road that separated the community of citizens from the outcast company of the destitute'<sup>109</sup>. Social rights bestowed included universal rights to income, healthcare, housing and more – and not simply income and services proportionate to the person's economic value.

Agreement on this idea was 'torn up' in the 1970s, with some groups coming to be viewed as 'waste', according to Tyler, and increasingly subject to shame and exclusion<sup>110</sup>; disabled people became 'counterfeit citizens' (Hughes 2015<sup>111</sup>). As one disabled person put it at one of the round-tables for this project:

'How did we allow over 2 million disabled people to be put on Incapacity Benefit, and then to be viewed as scroungers? When I was young I was told not to bother about looking for work. We have to change that for young disabled people today'.

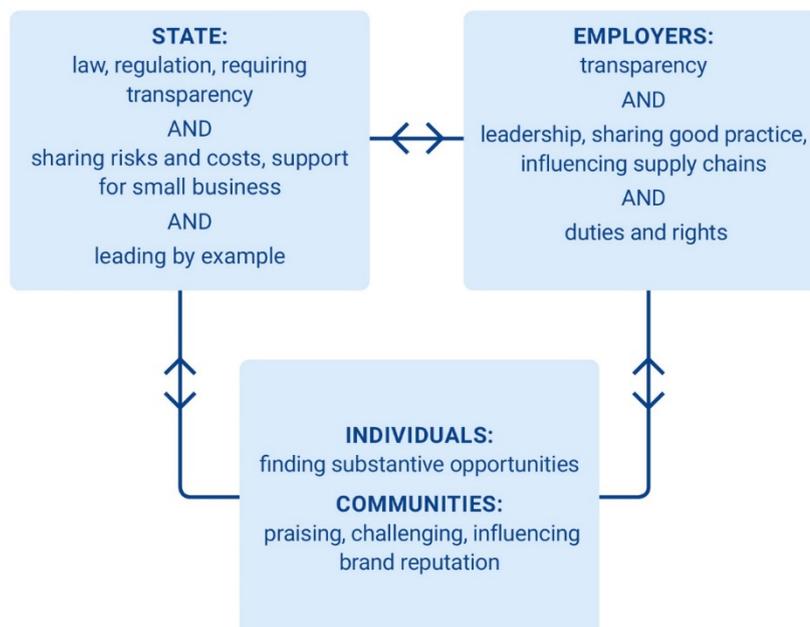
Arguably one reason that there are 2.4 million people in the UK living on ‘incapacity benefits’<sup>112</sup> is that little has been done to offer genuine substantive options for employment that is truly flexible and adapted to the needs of people who want to work.

Despite temptations to turn the clock back 40 years to a time when the respective responsibilities of the state and individual seemed fairer, reverting to the post-war ‘deal’ on citizenship would not meet 21<sup>st</sup> Century disabled people’s expectations. Critiqued for its assumption of an independent, economic (assumed male) ‘citizen’<sup>113</sup>, taking no account of family or caring responsibilities, the ‘deal’ also assumed disabled people would be passive recipients of care – and not aspire to equal citizenship. Record numbers of disabled people lived in institutions (150,000 in psychiatric institutions alone in the 1950s).

It was not until the late 1970s that disabled people rebelled against the oppressive nature of ‘care’ that placed them in nursing homes against their will. Famously a group of disabled people living in a Leonard Cheshire Home wheeled themselves to the pub and started to plan what became the independent living movement. They set up the first centre for independent living in England, which supported disabled people to live the lives they chose, in their own homes, by employing personal assistants. They began to ‘share to the full’ in the life of society. This was about replacing paternalism with a recognition of disabled people’s individual agency, with the state enabling personal freedom and mutual responsibility<sup>114</sup>.

If the power of Government and business opened up substantive opportunities for participation, these could be seized by active individuals and communities. Respective responsibilities could look like this:

#### A new balance of responsibilities



A fair set of responsibilities is one where there is an unbroken line between any expectation that someone will seek employment and the real, substantive opportunities available to them. That requires attention to the demand side – the nature of employment opportunities and of work itself.

The new allocation of responsibilities requires a reconceptualization of the welfare state – not as a safety net (whether relatively generous, as pre-1970s, or more residual as now) but as a set of supports to enable everyone’s capabilities, thereby contributing to an inclusive society. The State and business between them would invest in people’s capabilities and reap rewards, in terms of economic participation, and meeting labour and talent needs. Government could share costs with employers of making work possible for someone with fluctuating work capacity, and businesses might offer radically different forms of flexibility and job design – so that, for instance, someone with a learning disability could excel at a role that previously had been part of several people’s work<sup>115</sup>.

A renewed form of citizenship, with greater emphasis on duties of business and the state to enable full belonging and participation, fits with the social model of disability. It could help remove barriers and de-skew policy on disability and employment.

### **Whose goals on employment?**

The contested debate about disability and employment relates partly to goals: what outcomes do disabled people, their organisations and disability charities want? And do these co-incide with the ambitions of employers, wider publics and elected governments?

In 2017 Government committed to ‘a million more disabled people in work by 2027’. Disabled people involved in this project objected that this absolute measure does not tell us whether the inequality disabled people face relative to non-disabled people is changing; nor whether disabled people are entering high or low paid, secure or temporary, good or poor quality work.

[‘We need to get rid of this idea that we should be grateful for being offered a job at all’ \(Round-table participant\).](#)

Some disability organisations instead want to see the disability employment gap reduced, as a key marker of equality in social and economic participation<sup>116</sup>. This addresses equality but again says nothing on pay or security.

This led others to argue that the main measure should be a reduction in disability-related poverty, because more disabled people in in-work poverty should not count as success. Reducing disability-related poverty is of major importance in its own right.

However, this could in theory be achieved through social protection in the form of benefits whilst affording disabled people no say whatever in their lives; no opportunities to participate equally in society; no opportunity for the status, networks or purpose disabled people seek from good work<sup>117</sup>.

In the 1970s, the disability movement was split between those who set up Disability Alliance, to campaign for disability benefits, and those in UPIAS (Union of Physically Impaired People Against Segregation) who described campaigns for benefits as ‘the same old appeal to pity, the begging bowl in modern form’, which would maintain in perpetuity disabled people’s dependence. ‘What we really need’, they said, ‘is to be helped to make our maximum active contribution to society as full members’. When I was involved in merging 3 organisations to form Disability Rights UK in 2012 they included Disability Alliance and a successor to UPIAS: some of the same themes of disagreement emerged, resolved through a new vision statement ‘equal participation for all’, for which disabled people’s freedom from poverty was a necessary but not sufficient condition<sup>118</sup>.

Amartya Sen<sup>119</sup> argues that income (or command over commodities) does not adequately represent human well-being or deprivation. It is a means to an end. What is important are the real freedoms and opportunities to reach valued ‘beings and doings’ ie the achievements that matter to people

Aiming for reductions in both the disability employment and pay gaps<sup>120</sup> would help mitigate the risk that a reduced disability employment gap was achieved only through disabled people’s concentration in casualised, badly paid roles. On gender, equal pay is the policy goal, whereas for disabled people the assumption is often that any (low-paid) job represents progress, thereby re-inforcing low expectations.

Disabled people have pressed for careers, not just jobs, with opportunities for development and advancement<sup>121</sup>. Participants in this project were also interested in improving the ‘journey’ from application to keeping and progressing in work; and improving the experience of work relative to other employees, including satisfaction, trust in promotion opportunities and freedom from harassment and discrimination.

On all measures participants thought it vital to understand differences between people with different impairment or other relevant experiences, such as ethnicity or gender. The employment gaps between people with learning disabilities or long-term mental health conditions and the wider public are 69% and 68% respectively, more than double the gap between disabled people and the wider public<sup>122</sup>

Finally, disabled people - like others – do not all seek employment as a goal, nor as their main or only goal. For some, paid employment is too challenging, at least as employment is currently organised. Other things matter more: for instance, someone with severe MS might

experience fatigue and pain that are exacerbated by some forms of work – so living with maximum health and being able to participate in family life, without excessive fatigue or pain, might be their major priority.

To formulate goals, the UNCRPD is a vital set of consolidated, agreed priorities of disabled people that helps frame aims on employment. It was co-produced by disabled people and policy makers across the globe and enjoys widespread support, including in the UK<sup>123</sup>. I have also drawn on capability theory<sup>124</sup>, which sets out the case for genuine, valued, substantive opportunities for all people, including disabled people.

The goal proposed here is substantive opportunities for good quality, inclusive employment and pay.

Since this is a goal valued by everyone, disabled people seek equal substantive opportunities to everyone else.

This goal, if effectively pursued, would contribute to Government's priority of increasing the number of disabled people in employment. For employers it could mean filling labour and skills gaps and attracting and retaining talent. Scope calculated that if the employment rate of disabled people rose by 10% it would add £45 billion to the UK GDP by 2030<sup>125</sup>. The Social Market Foundation calculated that bringing the skills levels of disabled people up to the average of the population would add £13 billion<sup>126</sup>.

Capability theory specifies that the 'capabilities' come in sets and cannot be traded against each other. In the UN Convention, rights to employment, education, independent living and more are inter-dependent.

This suggests a need to:

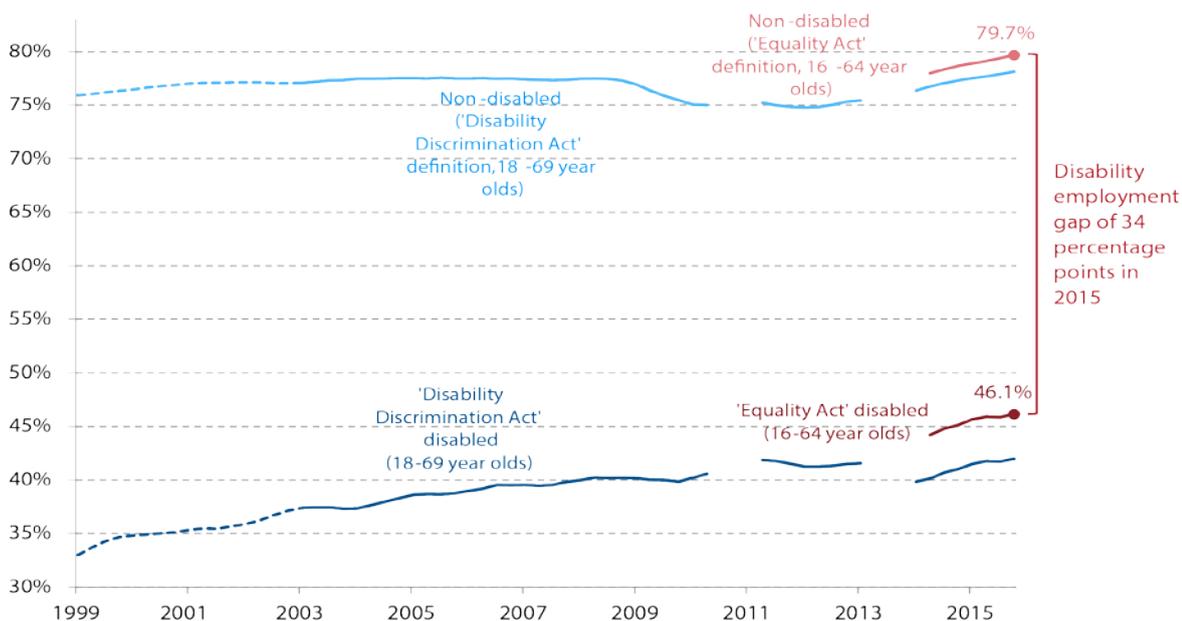
- Set goals for employment within a context of wider goals to implement the UNCRPD
- Set rich or 'thick' goals for employment based on the valued outcomes disabled people seek, integrated with the priorities of employers and government, as follows:
  - Year on year reductions in both the disability employment gap and the disability pay gap – with learning and action plans to ensure pace. It is vital that the two (employment and pay gaps) are linked, to ensure that any progress is not pursued just through low paid work. At this stage, setting an arbitrary figure (like halving the disability employment gap by a specified date) is less helpful than tracking and action plans, as it is unknown how quickly employment can become fully inclusive and learning is essential.

- The journey and experience of employment. This includes success rates in recruitment, retention and promotion. It includes the experience of 'good work': for instance, staff satisfaction, engagement and voice, freedom from bullying and harassment, trust in promotion opportunities and experiences of inclusion<sup>127</sup>. These types of outcome could be measured through confidential employee surveys
- Progress across differences of impairment – breakdowns of all the above data by broad impairment group, given huge disparities in employment, pay and staff satisfaction between people with different impairments; and where feasible by other experiences of disadvantage, for instance, employment and pay of disabled people from BAME communities.

Part 4 considers a proportionate way for large employers to track the most significant indicators at employer level, keeping it simple and aligning the indicators with others already in use or planned. The detail of measurement nationally should be worked out between disabled people, employers and policy makers.

## The scale of the challenge

Current inequalities are stark. The disability employment gap remained static between 2010 and 2015. Since 2015 it appears to have narrowed slightly – in 2018 it was running at 30% - but it is unknown whether this is a positive trend or a blip.



From The Resolution Foundation<sup>128</sup>

The disability pay gap appears to have grown in recent years. EHRC (2017) found a disability pay gap of 13% for men, 7% for women, for the period from 1997-2014<sup>129</sup>. The TUC (2018) calculated in 2018 that this had risen by 2016-17 to a disability pay gap of 15%<sup>130</sup>.

There are huge differences between people with different impairment experiences: for instance, the EHRC found that men with epilepsy had a pay gap close to 40%; men with mental illness, phobia or panics a pay gap of around 40% and men with learning disabilities a gap of around 60%. Gaps for women tended to be lower.

Research and company-level data suggest that it is common for disabled people in work to be more likely than other employees to report lack of trust in promotion opportunities, greater experience of bullying and harassment, and low levels of staff engagement<sup>131</sup>.

There is extensive research evidence of inequality in disabled people's experiences of poverty and employment more widely, for example in the UK:

- Poverty: half of all families living in poverty include at least one disabled member<sup>132</sup> and three quarters of families using food banks include at least one disabled member<sup>133</sup>
- Challenges in securing jobs: research by Opinium found disabled people have to apply for 60% more jobs than non-disabled people before they are successful<sup>134</sup>; and one in 5 employers told researchers they would be less likely to employ a disabled person<sup>135</sup>
- Experience at work: only 49% of disabled people are aware of their employment rights<sup>136</sup>; Scope found almost half of disabled people surveyed had worried about sharing information about their impairment or health condition, for fear of discrimination<sup>137</sup>; and disabled people are more likely than non-disabled people to work in low-skilled and casual jobs with minimal autonomy<sup>138</sup>
- Discrimination: disabled people experience a 23% employment deficit compared to non-disabled people – after accounting for qualifications and other factors<sup>139</sup>. Even when disabled people have degrees they earn on average £2.50 an hour less than non-disabled graduates<sup>140</sup>
- Internationally: 20% of the billion disabled people globally are employed
- Disabled people are under-represented in 16 of the 20 fastest growing occupations and under-represented in the 17 of the 20 fastest declining occupations<sup>141</sup>.

The prize of effective action could be great. It has the potential to increase significantly the well-being of individuals, families and communities, improve social cohesion and widen economic participation, benefiting society as a whole.

## Part 2

### The changing world of work

#### Summary

With 40% of the working age population predicted to have a long-term health condition by 2030, making sure that 'good work' truly means inclusive work will increasingly matter to business success. It makes no sense to maximise productivity by ensuring 'good work' - but only for 60% of colleagues.

Work over recent years has become more intense, with greater expectations of multi-tasking, lessening autonomy, continuing occupational segregation - and some welcome increase in flexible working. Jobs will change further as Artificial Intelligence and automation develop and grow. Concerted action is needed to put disability at the heart of debate and policy on 'good work' – to ensure that voice, engagement, inclusion and flexibility are hard-wired into the future of work, to the benefit of workers in general and disabled workers in particular.

Disabled people are more likely than non-disabled people to work part-time and to be self-employed; these and the rise in 'atypical' (including temporary and zero hours) roles can offer flexibility but also significant challenges, including the difficulty of taking adjustments or Access to Work with you and building skills for a career. 'Bogus' self-employment, where flexibility benefits only the employer, affects disabled people disproportionately because workers cannot manage their work and impairment effectively together yet lack employment rights. Recent legal cases and policy changes in train could stimulate real flexibility for workers. Disabled people's interests should be placed at the centre of such developments.

## Introduction

Changes in the UK labour market have affected, and are set to affect, disabled people, presenting both new barriers and discrete potential opportunities. It is imperative that policy levers with employers address future employment trends.

## Full-time, part-time, employed, self-employed

Being employed full-time is still the most common form of employment – at 63% – although it has declined slightly<sup>142</sup>.

Part-time work (either employed or self-employed) makes up 26% - and has been rising for 20 years. Disabled people are more likely to work part-time than non-disabled people (33% compared to 25%), resulting in lower earnings (EHRC 2013)<sup>143</sup>. Around 70% of part-time workers say they do not want a full-time job.

Self-employment, at 15%, is also rising<sup>144</sup> and disabled people are more likely than non-disabled people to be self employed<sup>145</sup>. Other 'atypical' roles are also rising, including 'gig' roles (see below). Temporary work is increasing. More people are in precarious work

Around 50% of employment is in organisations with 200 or more employees<sup>146</sup>. Disabled people are slightly more likely to work in small businesses – about half of those employed work in small businesses (less than 50 employees), the other half in medium or large organisations<sup>147</sup>. SMEs make up the vast majority of businesses – but not the vast majority of employment. SMEs are increasing, both those with employees and, particularly, those with no employees (just the owner/s)

Growth sectors include accommodation and food services, professional/scientific/technical and transport/storage/postal. Declining sectors include public sector employment and recently retail<sup>148</sup>. Generally private sector employment has recently increased, public sector decreased – particularly in local government<sup>149</sup>. Nonetheless there may be opportunities in public sectors projecting labour shortages, like health, in the context of Brexit.

### Implications for disabled people:

- Growth sectors, which vary regionally, can offer opportunities for 'getting in' to work - and for staying in, because growth sectors are keen to retain talent. However, disabled people are employed in some sectors that are declining<sup>150</sup> and there can be particular barriers to disabled people changing sector. Local and national

government with partners could target growth sectors and those projecting labour or skills shortages, to help them tap new labour pools and retain the disabled talent they already have.

'The labour market here has changed in the last 9 years – in the type of jobs available. On the one hand there are high level jobs requiring qualifications and advanced skills including in IT – but many disabled people have missed out on education and don't qualify; and on the other hand, jobs particularly in the retail sector, and zero hours contracts, which are filled by a glut of over-qualified graduates. Retail is now more and more on-line, with jobs requiring IT skills. It used to be easier for disabled people to get entry level jobs' (DPO involved in supporting disabled people to work)

- With half of all employment in larger organisations, they offer opportunities to disabled people, including for the large numbers who acquire impairments during working life (340,000 people leave work each year due to impairment or health condition<sup>151</sup>) and could 'stay in' with workplace adjustments and support
- Small business growth could offer opportunities if – according to business representatives involved in this project – there were simpler forms of advice and help available:

'Small businesses need some simple messages - for instance on how many people become disabled whilst at work – and clear information on where to go for advice and guidance. Awareness currently is low and there is fear about employing disabled people' (Business organisation).

- Amongst part-time workers who do not want full-time work (see above) are many disabled people, some of whom could not work more hours for reasons such as fatigue, hours of personal assistance or caring responsibilities (disabled people are more likely to have caring responsibilities than non-disabled people<sup>152</sup>). Round-table participants for this project expressed concern that requirements under Universal Credit for in-work progression might lead some disabled people to leave work – or not try it in the first place:

'If someone thinks they can manage their fatigue and pain if they work say 10 hours a week, which leaves them able to look after their family, they may be scared to try work if they think they may be pressured to work more hours' (Round-table participant)

Since 'atypical' roles are growing, it is worth considering the mix of risks and discrete opportunities they offer disabled people.

## The rise of 'atypical' roles.

In 2017 the UK had nearly a million people on zero hours contracts, 1.7 million in temporary work, 4.8 million in self-employment and roughly 1.1 million in the gig economy<sup>153</sup>. Workers, including disabled workers, have been moving in quite significant numbers from full-time, permanent employment to less secure work.

### Implications for disabled people

- Moving between temporary roles or contracts can pose challenges for disabled people. The UK's 14 million disabled people are hugely diverse. Some thrive in varied, changing roles with no need for adjustments. Some welcome the flexibility that some atypical work – like NHS bank work – can offer<sup>154</sup>. For others, it is virtually impossible to make frequent moves between roles: indeed the supposed 'loyalty' of disabled people often stems from the fact that once someone has found an understanding manager, secured the adjustments they need to do the job (technologies, flexible working arrangements) and navigated the lead-in times of the Access to Work programme<sup>155</sup>, it becomes a significant risk to consider going through the whole process again.
- Disabled people often miss out on education and skills and it is hard in temporary roles to develop the skills needed for a portfolio career:

'Casualization of labour has been a particular problem for disabled people because there is no employer investment in the labour force. There is no long-term investment in skills and development' (DPO CEO)

- Disabled people are more likely than non-disabled people to be self-employed<sup>156</sup>, which offers both opportunities and risks. For some, self-employment offers opportunity coupled with the flexibility to combine managing a health condition with employment: working when well, taking time out when unwell; or working at home to preserve energy. However, Jones (2016) found disabled people were motivated to take up self-employment by both pull and push factors: the pull of enterprise, the push of finding no employer who would employ you. The median annual income from self-employment in 2013-14 was £10,800, barely over half the median income from employment<sup>157</sup>. The move from tax credits to universal credit means that some self-employed people receive less than an employed person with the same annual income, because of a minimum income floor and monthly earnings calculations<sup>158</sup>. The Access to Work programme was designed at a time when permanent employment was the norm. Its eligibility criteria for self-employed people require evidence of business viability, which can make it hard for people whose earnings fluctuate due to ill-health to secure the support they need to continue their business.

Its lead-in times for adjustments or technology can make it hard to switch roles frequently<sup>159</sup>.

- 'Bogus' self-employment can disproportionately affect disabled people. For some, zero hours contracts can offer flexibility (see above). However, this assumes they have real choice about when they work. Often the 'gig' economy provides 'one-way' flexibility, to the advantage of the company, not the individual<sup>160</sup>. Frank Field as Chair of the Work and Pensions Committee protested the 'bogus' self-employment where workers have no choice about when or for whom to work<sup>161</sup> – but equally do not have the employment rights of the employee:

'Workers at some companies are made to provide a substitute if they require time off and then threatened with a penalty or loss of work. Some self-employment'<sup>162</sup>.

Lewis and Plomien analysed the impact of atypical roles on women and concluded that the assumed worker is an individual 'independent economic citizen', a concept that takes no account of family or caring responsibilities<sup>163</sup>. Equally, it takes little account of fluctuations in health, inaccessible transport to new places of work, or the lead-in times to get workplace adjustments in place.

James Bloodworth, in his undercover report from the gig economy, recounts how supposedly self-employed people were penalised under 'a points-based disciplinary system whereby workers accrued points for things like days off with illness, not hitting pick rates or being late': you were allowed 6 points before you were 'released' (sacked)<sup>164</sup>. In other companies there were penalties for spending too long in the toilet; and short break times made it difficult for people with diabetes to eat as they needed to<sup>165</sup>. There are obvious negative impacts for people living with some health conditions or impairments.

Bogus self-employment is open to legal challenge, which could significantly help disabled workers:

Gary Smith needed to work reduced hours following a heart attack. He worked for Pimlico Plumbers. They employed over a hundred workers as independent contractors, while requiring them to wear their uniform and drive branded vehicles, giving the impression that they were permanent employees of the company. Gary argued that he was entitled to rights under the Equality Act 2010, for workplace adjustments. In June 2018 he won his case. The CEO of the EHRC stated: 'If you wear the uniform, if you drive the branded vehicle, if you only work for one business, you are employed. That means you are entitled to the appropriate protections and adjustments which go with the job, to enable you to work safely and productively..... This is one of the biggest decisions ever made by the courts on workers' rights. Thousands of workers like Gary Smith could now find themselves with the added security of benefits like sick pay and holiday pay.'

This is a rapidly developing legal and policy area. Matthew Taylor has made policy recommendations to make flexibility more reciprocal, which could potentially make a significant difference to disabled people, enabling individuals to select shifts, easily secure workplace adjustments and manage their work and impairment effectively, in the context of improved rights.

## **Changes in work expectations and environments**

### Multi-tasking: implications for disabled people

Employers increasingly require team members to be interchangeable, to cover for each other, to multi-task<sup>166</sup>. For some disabled people, this presents major challenges. For instance, a Deaf employee may be working successfully in a data analysis role; if asked to switch to telephone customer facing work s/he may be unable to do so. Someone with a learning disability who has learnt a routine, complex task may not be able to switch to another task without time to train and learn the new requirements. Such requests from employers may amount to discrimination under the Equality Act: for instance, relieving someone who is Deaf from 'phone work when it comprises a small percentage of the overall role would be considered a 'reasonable' workplace adjustment. However, if jobs are created to include multi-tasking this can be harder to challenge.

Foster and Wass (2012) identified themes from Employment Appeal Tribunal decisions, suggesting that some employers interpret 'reasonable' adjustments in line with their pre-defined presumptions: for instance, if the employer wants interchangeable roles, where everyone multi-tasks, they will view deviation from that as not 'reasonable'. They also found difficulties for disabled people in seeking adjustments because of power imbalances<sup>167</sup>.

Good managers play to the strengths of their team members and allocate tasks and roles accordingly. There is a case for promoting as good practice the creation of some highly delineated roles – alongside more agile ones – rather than making all roles multi-purpose. At one end of the spectrum this amounts to 'job carving' as advocated by some learning disabled people ie creating a job of distinct tasks that someone can learn and fulfil. At the other end is the basic practice of playing to everyone's strengths to maximise productivity.

Part 5 considers how flexible working can be extended to job design, in an inclusive working environment.

### Intensification of work: implications for disabled people

Work has intensified over the last decade<sup>168</sup>. Whilst some disabled people are as equipped as anyone for intense work, for others it creates barriers. For instance, working unpredictable and long hours may be impossible for someone who is reliant on a Personal Assistant to accompany them home at a certain time, or has to take treatment with rest periods. There is also some evidence that employers are increasingly reluctant to take people back following ill-health if they need adjusted tasks or hours.

'Today we can't adjust any work tasks, it's a tough labour market. We can't make any adjustments like we could 10 years ago. Now workers need to have full work ability when they come back'.<sup>169</sup>

Just as the expectation that everyone is available and on-line 24/7 disadvantages people with caring responsibilities (particularly women), so these expectations can disadvantage disabled people. There may be a case for joining forces to promote good work that works across human difference.

### Occupational segregation: implications for disabled people

Disabled people report lack of choice of types of job, with some groups (especially those with learning disabilities) having choices made for them; and disabled people more widely reporting that employment support agencies make decisions or offer only narrow options<sup>170</sup>. Conversely the best employment programmes support the full range of options in the labour market: Rinaldi et al report supporting people with significant mental health conditions to take up roles from boatyard worker to events manager and accountant<sup>171</sup>.

Disabled people are more likely to occupy low-paid roles than non-disabled people and in the USA there is evidence of clustering in particular low-paid occupations, such as administrative support and food preparation.<sup>172</sup>

Part-time work can be a factor in occupational segregation<sup>173</sup> and precarious work more segregated than permanent: for instance, the EHRC's inquiry into meat processing found that those workers who did not have employment status were given different work than permanent employees and treated worse. This covered every aspect of their work – from allocation of the least desirable jobs to poorer pay and being treated like 'second-class citizens' in the workplace<sup>174</sup>.

Disabled people – being more likely to be in part-time and precarious work – may experience greater occupational segregation than non-disabled people. Blind people may no longer automatically be channelled into piano tuning – but segregation seems to persist.

Disabled people are also affected, alongside others, by the wider geographic, educational and cultural segregation that is growing between cities and the towns around them. This exacerbates the polarisation between skilled work and the lower paid work that disabled people disproportionately occupy.

'There are challenges in terms of a Manchester city-centric economy. Outlying towns – Rochdale, Oldham – are suffering and people are either commuting in to Manchester to work or relocating to Manchester. But accessible transport and accessible affordable housing pose particular challenges for disabled people to do this' (DPO supporting disabled people to work)

#### Lessening autonomy in routine roles: implications for disabled people

Workers in routine and semi-routine work have seen a decline in autonomy. The proportion of such workers who say they have no freedom to decide the organisation of their work increased from 42% in 2005 to 57% in 2015<sup>175</sup>.

Taylor notes that the growing gig economy, far from routinely offering flexibility, may leave workers afraid to ask for things they need for fear of losing work altogether. For disabled people, being able to ask for what you need (a different shift to accommodate a medical appointment, an accessible IT solution...) may make the difference between being able to do the job or not.

In some Amazon warehouses, an electronic wristband tracks each individual's productivity, so management can judge performance. Contrast that real-time, moment to moment surveillance with companies where teams decide their own work patterns and hours: for instance, one team in BaE systems had the power to decide their own hours as long as, as a team, they delivered. They decided to pack all the work into 4 days and improve life outside work.

The Skills and Employment Survey 2012 found that from 2001 to 2012 the proportion of employees who reported a great deal or quite a lot of say over work organisation declined from 36% to 27%. There was however an increase in being part of semi-autonomous teams<sup>176</sup>, with control over work activities.

Disabled people are particular beneficiaries from voice, autonomy and team decision-making, which can enable them to make their own adjustments and flexibilities, or easily secure them from team members or managers.

### Automation and artificial intelligence: implications for disabled people

Successive waves of technology have offered liberation for many disabled people: from text messaging transforming Deaf people's lives to 'Alexa' type systems enabling people with mobility and dexterity to control their homes, their communications and their whole on-line world.

Estimates suggest that the UK is set to lose a wave of both routine and cognitive roles; and new, sometimes higher skilled roles will be created. There may be opportunities in some new roles – although disabled people are disadvantaged in terms of education and skills and may not be winners from these changes.

Arguably, the earlier automation of manual roles and shift to services in our economy meant people with physical impairments had more roles potentially open to them – whilst some (but not all) people with learning disabilities, autism or mental health issues were disadvantaged in a service and knowledge economy, where cognitive and/or emotional skills were paramount. It is notable that people with mental health conditions and learning disabilities have the lowest employment rates of any disabled people<sup>177</sup>.

The next wave of change may impact on disabled people working in the service sector – from supermarket tills to call centres – and the public sector (disabled people are slightly more likely to work in the public than the private sector<sup>178</sup>) – as some of these roles disappear. Coleman-Fountain et al (2018) found that a combination of lower numbers of secure low-skilled jobs and the difficulty of entering higher skilled occupations has already made finding work harder for disabled people<sup>179</sup>. The newer precarious low skilled work was hard for some disabled people to take up because of the need for adjustments.

### Postponing retirement

People are working longer – and there has been a small increase in flexible hours worked<sup>180</sup>. If this trend accelerates it could benefit disabled people significantly, as an older workforce leads to flexible working practices becoming common practice. This is explored further in Part 5.

Overall, the changing world of work poses risks and challenges to disabled people – but also some potential opportunities. To date the debate on the future of work has not majored on disability – for instance, Matthew Taylor's report on the future of work barely mentions it. Action to secure 'good work for all', with voice and engagement of workers, and reciprocal flexibility, is of critical importance to disabled people. Disability needs to be placed at the heart of such debates.

## Part 3

### What could work?

#### Summary

The primary approach by policy makers to influencing employers has been through voluntary standards and encouragement, with relatively light touch and individualised regulation and enforcement. There is no evidence that voluntary approaches work. Great employment practice exists but needs significant scaling.

One problem with the 'encouragement' approach is that it assumes that if first employers' attitudes are changed, then behaviour will follow. Contact theory suggests the opposite. It is the real life contact between disabled and non-disabled people (and between people of different ethnicities, different faiths), on at least equal terms, that changes attitudes: in other words, the first requirement is to ensure contact through inclusion.

The easiest way to scale contact on equal terms is through ordinary, ongoing inclusion in schools, communities – and of course workplaces. What better way to reduce bias than for more and more non-disabled people to have openly disabled bosses and colleagues – thereby making it more likely the organisation will employ further disabled people in the future, who in turn will influence attitudes and make inclusion more likely?

Practical support to employers is part of the solution. There is also evidence of – often unintended – discrimination. Overcoming it requires use of different forms of power - including the 'extrinsic' power of law or regulation and the 'intrinsic' power of leadership that is motivated to change culture and practice across an organisation. Power by social movements can also influence government and businesses directly.

This chapter proposes criteria to select the policy proposals most likely to have impact.

## Introduction

There is no shortage of positive employer practice, but it needs significant scaling. This chapter considers what we know about what works to influence spread of employer practice.

### Disability practice on the demand side – employing disabled people

A number of UK employers have taken a business-wide approach, for example:

- Five broadcasters<sup>181</sup> signed up to Diamond, a system for tracking on- and off-screen diversity in order to take action. Channel 4, for example, has been proactive in recruiting disabled colleagues in front of and behind the camera and practically supporting their supply chain to take on disabled apprentices. They shifted workplace culture by sharing disabled employees' filmed stories – which led to an increase in other colleagues being open about their experiences of disability. Self-reports of disability rose from 3% to 11.5%. In 2018 broadcasters set new targets to double employment of disabled people in the sector by 2020 (see Part 4)
- The banking sector has repeatedly won awards for inclusive workplaces<sup>182</sup>. Lloyds Banking Group established a comprehensive workplace adjustment system and a career progression programme to address the lack of disabled people in senior roles; Barclays has set itself the goal of becoming the UK's most accessible FTSE 100 company, and aims for at least 10% of early career entrants to be disabled people<sup>183</sup>

Employment agencies report that small companies are sometimes more open than larger: for instance, less formal recruitment approaches can mean more flexibility about taking on people with gaps in their CVs. There are also good practice examples in the public sector:

*'Mental health trusts employ more disabled people than other trusts: learning from their experience could be spread. And people with learning disabilities have been employed through Project Search in over 15 Trusts, which has changed cultures in those organisations' (Interviewee working with NHS)*

There are international examples, from a whole IKEA Department run by disabled people to a Spanish advocacy organisation that secured tangible commitments to inclusive workplaces from almost 100 employers<sup>184</sup>

Some employers have introduced disability employee networks to support employees and employers: Purple Space, which brings them together, lists over 60 private, public and voluntary sector members<sup>185</sup>. The Business Disability Forum, which advises and supports

organisations on disability, has about 300 members<sup>186</sup>.

However, at end 2017 the UK had 3,725,610 companies registered by Companies House. Even if all members of the Business Disability Forum were exemplars, they represent around 15% of UK employees.

For disabled people, significant barriers to employment persist. A survey by You Gov for the Centre for Social Justice found that only 45% of employers surveyed knew what making adjustments for disabled people under the Equality Act 2010 meant. The barriers they perceived to employing disabled people included lack of confidence that they could do the job, and the cost and inconvenience of making adjustments. Only 25% had heard of the Access to Work programme, which can help with advice and adjustment costs<sup>187</sup>.

In terms of policy levers to scale up good practice, these are 'patchily available' across Europe. Evidence suggests promise in pursuing them:

'Policy development should focus as much on employers and the demand for labour as on improving the employability of persons with disabilities'<sup>188</sup>

There is no single 'magic bullet': it is difficult to isolate which interventions have been significant in those countries that have narrower disability employment gaps than the UK. Different blends of approaches can be effective in different contexts

'Internationally some interventions have worked a bit – including on the demand side, like tax breaks or targets' (Academic, round-table participant)

Testing new or extended demand side interventions therefore make sense, informed by learning to date.

## **Approaches taken to date: encouragement, regulation/enforcement and practical help**

### Encouragement

Purely voluntary approaches to encouraging good practice – like the UK Government's previous Two Ticks system – have not been shown to be effective<sup>189</sup>. Two tick employers did not have greater adherence to the five principles expected of them than other employers.

'There is no evidence internationally for the effectiveness of voluntary standards. It is time to increase requirements' (Professor Nick Bacon, speaking at round-table for this project).

The voluntary Disability Confident scheme has been criticised for focusing on inclusive processes but not delivering, or even promising, substantial numbers of jobs. 7000 employers promised to provide 4500 new jobs for disabled people – less than one per employer – in addition to a few thousand apprenticeships, traineeships and work experience opportunities. This prompted Labour MP Neil Coyle to say it would take nearly 1000 years to secure jobs for an extra million disabled people by 2027, in line with the Government's commitment<sup>190</sup> and Private Eye to note that if the Disability Confident employers were on 'a journey' as the Minister suggested, they must be travelling on Northern Rail or perhaps Govia Thameslink<sup>191</sup>. The reputation of initiatives such as this could be strengthened if accreditation was linked to published progress towards reducing employment and pay gaps: see Part 4.

Well-meaning attempts by Government and NGOs to create change by 'educating' employers have also not been shown to lead to significant change.

'Targeting employers' attitudes is a dead end. What is important is behaviour' (Business leader)

'From working with local businesses, the headline problem is that the current economic levers don't seem to work. The argument that a diverse workforce will help the business in terms of talent and reaching new customers doesn't resonate. This seems to be because of an overall negative view of disabled people as different and a bit difficult – which washes everything else out' (DPO, south of England)

## Regulation and enforcement

The Equality Act 2010, and the Disability Discrimination Act before it, were hard won by campaigners and there have been some significant cases securing disabled people's employment rights. Examples include:

- In *R v Lord Chancellor* 2017, the Supreme Court ruled that charging fees to applicants to employment tribunals was unlawful because it restricted access to justice<sup>192</sup>. Following the judgement there was an increase in applications to the Tribunal in cases of discrimination
- In *South Warwickshire NHS Foundation Trust v Lee and others* (2018), the Employment Appeal Tribunal (EAT) held that the decision to withdraw a job offer that was at least partially influenced by a reference that focused on the applicant's sickness absence levels was discriminatory. The employer should have considered what reasonable adjustments could be made to enable Mrs Lee to undertake the role, rather than simply withdraw the conditional offer<sup>193</sup>

The Equality and Human Rights Commission (EHRC) also uses pre-enforcement action and has, for instance, successfully challenged a recruitment agency, and an engineering company, for using health questionnaires before job offer. Both agreed to change their practice<sup>194</sup>.

Nonetheless, the UK, as a liberal market economy, is 'lightly regulated' by international standards<sup>195</sup>, with high labour market flexibility, permitting employers to shed or change workforces with relative ease. This model supports radical innovation but leaves employees with less security than their counterparts in co-ordinated market economies<sup>196</sup>. In this context, legislation designed to promote equality of disabled people has not been as vigorously implemented as it might have been. A cross-party House of Lords' review of the Equality Act and disability in 2016 concluded that reducing red tape for business had become a pretext for removing protections from discrimination:

'The Government, instead of concentrating on the burden on businesses, should be looking at the burden on disabled people'<sup>197</sup>

They noted that the Public Sector Duty (PSED)<sup>198</sup> was flawed, because organisations identified equality aims – but had no obligation to work towards achieving them; and because it was not vigorously promoted by Government. In 2012 Prime Minister Cameron described the equality impact assessments required as 'bureaucratic nonsense', adding:

'I can tell you today we are calling time on equality impact assessments'<sup>199</sup>

There are significant barriers to access to justice, including lack of access to legal advice

and representation<sup>200</sup>. The EHRC can support cases but due to budgetary reductions has supported or intervened in an average of only 37.5 cases per year, spanning seven 'protected characteristics' and human rights.<sup>201</sup> The Disability Rights Commission, by contrast, supported an average of 55 cases per year on disability alone from 2000-07<sup>202</sup>.

In any event, to achieve systemic change individual cases are unlikely to be enough. Legal theorists including Fredman, Gooding and O'Brien<sup>203</sup> have long called for systemic legal action, to improve the inclusivity of whole businesses and sectors. Cases, even when successful, may result in redress for the individual but no benefit to disabled workers more broadly. Calls for an anticipatory duty on employers, similar to the duty on service providers, have been made for some years<sup>204</sup>, but not adopted. The option for judges, judging individual cases, to require employers to make wider changes - for instance, changing processes or training staff where discrimination was revealed - was removed by the then Government following consultation in 2012<sup>205</sup>.

Decisions by the Tribunals sometimes fail to get to the heart of a core principle of disability discrimination law: that you sometimes need to treat people differently in order to secure equality. If, for instance, someone starts work later than others because they cannot travel in the rush hour due to pain, this is not 'positive discrimination': it is a reasonable adjustment to ensure equality

*'Sometimes societal prejudices are reflected in judicial thinking' (Interviewee, barrister).*

There is a case for more systemic use of the Equality Act, including promotion and enforcement of the PSED, an anticipatory duty in employment and communications with both employers and tribunals on the importance of treating people differently to achieve equality.

### Practical help for employers

Large employers often have access to HR, occupational health or equalities teams and/or paid membership organisations, like the Business Disability Forum which offers detailed advice, guidance and mutual learning on issues identified by employers themselves. Small employers are generally ill-served:

*'Access to advice and support on disability for SMEs is weak and uncertain' (Business leader)*

Government sources of advice support tend to be very small scale: Access to Work, which supports individuals with costs and thereby indirectly helps employers, serves around 34,000 people per year; the Fit for Work programme, a free occupational health service,

was used only 9000 times by businesses in 18 months<sup>206</sup>. There is significant scope to ramp up advice for business.

The blend of approaches taken to date to encourage, require or help employers to improve their employment of disabled people has been of mixed value: some positive progress, some missed opportunities. The primary emphasis on voluntary standards and encouragement, with relatively light touch and individualised regulation and enforcement, has not driven the changes disabled people want to see. Theory on contact, and on power, can help underpin proposals for a mix of approaches that could be more fully effective.

### **Virtuous circles and social contact**

One of the problems with the 'encouragement' approach to influencing employers is that it assumes that if first employers' attitudes are changed, then behaviour will follow.

Contact theory suggests the opposite. It is the real life contact between disabled and non-disabled people (and between people of different ethnicities, different faiths), on at least equal terms, that changes attitudes<sup>207</sup>: in other words, the first requirement is to ensure contact through inclusion. There have been some attempts to use one-off contact to achieve this – Time to Change used sporting events involving people with mental health conditions and without<sup>208</sup> and:

*'Dining with a Difference, which brought senior business people and disabled people together, had more impact than anything else in the early days' (Business leader)*

However, one off contact limits scale and duration of impact.

The easiest way to scale contact on equal terms is through ordinary, ongoing inclusion in schools, communities – and of course workplaces.

Employers learn that employing disabled people is not so hard by doing it. Frost describes how, in the planning for London 2012, alpha males were challenged by being surrounded, sometimes for the first time in their lives, by talented people very different from themselves. They could no longer rely on nods, winks or implicit understandings but needed to adapt to inclusive ways of working.<sup>209</sup>

This means that the first goal is to influence employers to act.

One way of doing this is through use of power, which can stimulate changes of behaviour, which in turn influence attitudes and further behavioural change. As Martin Luther King put it 50 years ago:

'It may be true that morality cannot be legislated, but behaviour can be regulated. It may be true that the law cannot change the heart, but it can restrain the heartless. ...And so, while the law may not change the hearts of men, it does change the habits of men if it is vigorously enforced, and through changes in habits, pretty soon attitudinal changes will take place and even the heart may be changed'<sup>210</sup>.

### **Where's the power for change?**

'We have had a long period of awards and benchmarking. It is time to hold employers to account' (Round-table participant).

There is a 23% disability employment deficit for disabled people – after accounting for qualifications and other factors. This suggests that discrimination – much of it doubtless not deliberate or even conscious – is one significant factor in disability employment and pay gaps.

Research tells us that where discrimination or social exclusion are involved, power is needed to overturn them. Link and Phelan's seminal work on 'stigma'<sup>211</sup> states that groups of people are stigmatised through a 4-part process:

1. Distinguishing between and labelling human difference
2. Linking the labelled person to the undesirable characteristics
3. Separating 'them' (the labelled persons) from 'us', culminating in
4. Status loss and discrimination that lead to unequal outcomes or life chances.

The whole process is driven by power: 'stigma is entirely dependent on social, economic and political power' (Link and Phelan 2001).

To reverse this process requires mobilisation of power, in particular to disrupt components 3 and 4 <sup>212</sup>. The more that disabled and non-disabled people work, live and learn together, on equal terms, the more the link to undesirable characteristics and ensuing status loss are reduced.

It is worth considering whose power, exercised with or over whom.

### The direct power to act:

- Employers have the power to open up opportunities for disabled people. They may be motivated to do so, for instance, if they need to explore new labour pools to mitigate risks linked to loss of European workers, or if they believe that an inclusive and flexible workplace will increase business success and/or reputation
- Government has the power to invest in support to help businesses and disabled people, through programmes like Access to Work or risk-sharing to encourage employers to employ people who have recurrent ill-health

### Power 'over' employers, to require or incentivise action

- Government could strengthen equalities law, widen access to justice and increase requirements and incentives on business to report on the disability employment and pay gaps

### Power to influence action

- Social movements can influence Government – for instance, campaigning for stronger legislation
- Social movements can influence business

In 2018 BBC security correspondent Frank Gardner complained publicly about having to wait on a plane as staff had not brought his wheelchair; the issue was amplified on social media and the CEO of Heathrow and other airports publicly committed to improvements. Similar methods could be used to praise or challenge companies in relation to their disability employment or pay gaps

- Networks and organised labour within business can influence change. Disability networks are growing and can inform policies on inclusion. Trade union membership is declining, but in some sectors is significant in influencing change. For instance, the Independent Workers' Union of Great Britain supported Gary Smith who won an important case clarifying that he had employee rights to reasonable adjustments (see Part 2).

The 'power to act' by employers and Government exists but has not led to the scale of transformation disabled people expect. This requires leadership.

The 'power over' employers by Government is light touch and needs strengthening. With the main political parties committed to further levers with employers there may be discrete opportunities.

The 'power to influence' by disability organisations has tended to focus particularly on influencing Government – the bread and butter of campaigners. There may be unexplored opportunities to influence companies directly, through praising and challenging; and to build alliances with leading employers to influence other businesses and Government. Business leaders can be 'unexpected allies' in influencing Government.

'I very much agree with transparency, because trust is a big issue. I think Government needs to be a bit stricter with us – why are there requirements to report on gender as employers but not on disability?' (Paul Polman, Chief Executive, Unilever<sup>213</sup>)

## **Power and leadership**

An emphasis on power does not mean that the one way to secure change is through heavy-handed use of legislation.

'We've set a clear vision, trialled strength-based inclusive recruitment, upskilled our people in understanding neuro-diversity, taken positive action to develop disabled colleagues – and we're beginning to see results in our figures. This stuff isn't easy – you can't just compel people to do it. To really make change happen, and stick, you have to have a leadership team that wants to do this' (Public sector employer)

The aim is to mobilise the intrinsic drivers for change that will make change stick through a clear, ambitious and proportionate deployment of the extrinsic levers of legislation and regulation; and through direct voice of social movements. It is about stimulating the 'direct power to act' of the employer.

Frost (2014) argues from his experience leading inclusion for the London Olympics and Paralympics that a purely compliance based approach would never have placed over 2000 disabled people in Games-time roles<sup>214</sup>.

This matters for how any requirements are promoted.

'It's important to talk about using intelligent data to understand your business drivers – and being transparent with your stakeholders. Don't talk about 'mandatory reporting' (Business leader)

The way extrinsic power is used needs positively to galvanise internal leadership, to mobilise – rather than alienate - all the potential allies, at all levels of the organisation, who will use the spur to action to create change through their own powers of influence.

However, if we relied only on intrinsic drivers for change, we would continue to have some great employers and a huge tail who do nothing or discriminate. Scaling good practice simply has not happened on its own:

'I thought after B&Q showed that employment of disabled and older people worked in terms of both the bottom line and corporate social responsibility it would really catch on. Why didn't it catch on with other corporates?' (Parliamentarian)

There need to be clear requirements within which leadership can be exercised.

To get action to 'catch on' requires a blend of approaches: making it easy to employ disabled people (for instance, a 'phone line and website to contact at the point of need for advice); making it advantageous (for instance, funds to make your business fully inclusive); making it highly uncomfortable to do nothing (through the power of praise and challenge, the power of systemic enforcement).

Through a combination of types of power, the number of openly disabled people in employment, at all levels, could increase. This in itself would perpetuate further change, as contact on equal terms reduced prejudice. Fear could dissipate and cultures became more open, leading to yet more openness to recruiting, retaining and promoting disabled colleagues.

## **Framing and the 'business case'**

Leaders within companies, and organisations working to help and influence them, need to promote a clear rationale for why diversity and inclusion are important to corporate and social mission. This re-inforces behaviour change: on its own, a business case is insufficient to drive change.

Learning from practice suggests the 'case' needs to be tailored to specific sectors and/or regions. The tech industry, for instance, has a particular interest in inclusive on-line experience: Microsoft has set out to reach a billion disabled people worldwide<sup>215</sup>. JRF's learning from working with companies to address low pay suggests it is important to position change as core to resolving business needs or reputation, based on fully understanding their specific pressures and context. For the hospitality sector labour shortages linked to Brexit may stimulate interest in novel approaches to hiring or retention; in the South East a critical issue may be turnover, and so forth<sup>216</sup>.

'There's an opportunity in the NHS because the health sector needs new labour pools – and badly needs to retain people, including people who are ageing and acquire impairments. But there are fears about the costs of adjustments – so we promote the evidence that

adjustments cost little. We also use different approaches with Boards – who are convinced by the labour pool point – and managers, who are more concerned about reducing sickness absence and creating good places to work...places where people feel ‘safe’ – are not discarded if they become unwell’ (Paul Deemer, Head of Diversity and Inclusion, NHS Employers)

Such ‘business cases’ are often by their nature short term so require regular review:

‘We started making progress on disability by thinking about corporate responsibility. Later we were driven by a bit of concern about legal risk. Now we are thinking more about how we can’t keep hiring the same people. It’s changed over time’ (Business leader)

Generic ‘business cases’ have more chance of being persuasive if they speak of the advantages of an inclusive organisation, than the qualities of disabled employees. For instance, diverse, inclusive organisations can improve decision-making and create cultures that better reflect changes in the external environment <sup>217</sup> and can contribute to the bottom line:

‘[Disabled people] are customers, employees, suppliers and investors and make up a population segment much too large for businesses to ignore’<sup>218</sup>.

‘Faced with talent shortages and the socioeconomic costs of an ageing population, more governments and public and private sector interests are re-evaluating the contribution disabled people can make....Customers are more likely to buy from companies that reflect their own values. Brands that welcome disabled customers by providing the assistance and facilities they need and that emphasise inclusivity in their branding and advertising can win new, loyal customers’ (KPMG 2018<sup>219</sup>)

Some frequently made ‘business case’ statements focusing on disabled people’s attributes either lack credibility with business and/or give messages that disabled people find problematic:

- Disabled people are more loyal, more likely to stay in a role

‘We may be more likely to stay in a role if we have finally got the adjustments we need or we can’t find another manager who is flexible – but that means no promotions, no development and low morale. Is that really a positive to sell to employers?’ (Disabled person)

Loyalty to a single employer in any event may seem a somewhat 20<sup>th</sup> century concept in industries where careers involve multiple role changes.

- Disabled people have fewer days off sick than non-disabled people. The International Labour Organisation business case for employing disabled people, for instance, says that disabled people have better retention, low absenteeism rates and are loyal, reliable and highly motivated<sup>220</sup>.

This is not correct or credible if the Equality Act definition of disability is used, which includes long-term health conditions. Government figures suggest around 1.8 million employees have a long-term sickness absence each year, a significant proportion of whom may be considered 'disabled people' under the Act.

### Identifying policy levers that could be implemented or tested

'I'm fed up with waiting for the change to happen. We need to identify a few things we should do – otherwise we will have a list of things we have had for ages' (Round-table participant)

The approach in this report is to apply criteria to potential levers for change, as proposed by disabled people, policy experts – or identified in literature. The criteria are derived from analysis in Parts 1-3. Between them they cover acceptability to disabled people as well as effectiveness.

1. **Aiming for valued, substantive opportunities** – seen as such by diverse disabled people and their organisations, with disabled people's voices central to development of policy and practice
2. **Potential to re-balance citizenship responsibilities** – in line with a refreshed conception of respective citizenship responsibilities of the state, employers and individuals, achieving greater effectiveness and social justice by enabling disabled people to be full participants in society
3. **Uses power to address discrimination and exclusion** – in line with the evidence that power is needed to replace a vicious circle of exclusion with a virtuous circle, in which contact on at least equal terms between disabled and non-disabled people changes attitudes and generates opportunities
4. **Mobilises both extrinsic and intrinsic power for change** – in line with the need to strengthen law, access to justice and the influence of social movements; and the evidence from employers that internal leadership is critical and needs to be positively mobilised. This goes beyond using 'carrots and sticks' with employers – which risk infantilising – to motivating and mobilising internal power

5. **Feasible to implement in the UK context of a liberal market economy, with a changing nature of work** – taking account of impacts on disabled people of trends (like increasing self-employed, part-time and insecure work) and experiences (like intensification and changes in autonomy). Identifying discrete opportunities, like reciprocal rights to flexibility
6. **Opportunities for scale of impact** – so that energies are channelled into those levers likely to make the most significant difference.

On these criteria, some proposals dropped out because they did not offer substantive opportunities genuinely valued by disabled people:

- Paying disabled people less than the minimum wage, as proposed by both Philip Davies MP and Frank Field MP to offer a 'way in' to employment to people who might otherwise be rejected. At a packed meeting in Parliament, unusually filled with people with learning disabilities, the comments were unanimous, for instance 'We want to be paid properly, like everyone else', 'I don't want to be made out to be second class'. In the USA there have been successful campaigns to stop pay below the minimum wage in some states: the practice remains legal in the US<sup>221</sup>
- Government paying a wage subsidy to the employer. This was rejected by DPOs as based on a deficit model (why after all would the employer need to be paid to recruit a disabled person?) and as a source of stigma for the individual ('she's the one with the subsidy'). Wage subsidies are used in some countries, for instance Norway, Sweden and the Czech Republic<sup>222</sup>. In Finland it is reported that firms take a person for the period of the subsidy, then dismiss them and take another person to gain a new subsidy<sup>223</sup>. Instead of a subsidy it is possible to invest in stepping up support – for example, a job coach to support someone with a learning disability to deliver the required work.

## The proposals

The proposals in the next sections, 4-7, met the criteria. Between them they re-align the citizenship responsibilities between Government, business and disabled people. They enhance the accountability and responsibility of employers, but also the support to employers.

They are designed as a set, to work in combination. For instance, strengthening the right to keep your job if you have time off with a health condition could inadvertently discourage employers from hiring people with known health conditions – so it is balanced by measures to offset costs and provide practical help to employers at the hiring stage.

Some proposals could be implemented short-term and make a significant difference: extending transparent reporting from the gender pay gap to disability employment and pay; new strategic enforcement of existing law; adjustments to Access to Work. Others may need longer: strengthening legislation requires parliamentary time; widescale changes in 'good work' require major shifts in how the UK economy operates. Employers tend to invest less in skills than many of their European counterparts and productivity requires a shift. Disability needs to be central to new thinking on these challenges.

## Part 4

### Transparency and targets

#### Summary

Large employers should be required to collect intelligent data on their workforce and publish it transparently. This should include the employment, pay, employment 'journey' (hiring, retention, progression) and experience of work, via staff survey results, of disabled people, broken down by broad impairment group, with substantial advice and guidance and a period of voluntary testing to get the detail right. They would publish core data with a narrative on proposed actions, as a component of a single workforce dashboard, part of their commitment to transparency, accountability and good corporate governance. It would be promoted and enforced by the equality commissions working closely with business, government, the Financial Reporting Council and sector-specific regulators.

A tailored approach to targets is recommended, rather than rigid quotas. In the public sector, Ministers should consult with leaders of particular sectors and set stretching but achievable targets, tracked by the relevant regulator or industry body, working with equality commissions to ensure good practice across the economy. Private or voluntary sector organisations delivering contracts from government or public sector should use the same approach. Large private and voluntary organisations and whole sectors should consider setting and tracking targets based on their data and business need.

Transparency would be used to drive improvement primarily by the Board; and also through accountability to shareholders, competition between employers and opportunities for disabled people to praise and challenge particular employers.

'The high profile of gender pay gap reporting offers a window to extend this to disability' (DPO).

'Long-term we need to change what's measured – not just the short-term bottom line' (Round-table participant).

## Transparency

Proposal 1.1 Government should expect larger employers (over 250 staff) to collect intelligent data to enable them to understand their employment and pay of disabled people, with substantial advice and guidance and a period of voluntary testing to get the detail right. Data would include employment, pay, the employment 'journey' (hiring, retention, progression) and employee experience, broken down by broad impairment group. They would publish core data with a narrative on proposed actions, as a component of a single workforce dashboard, part of their commitment to transparency, accountability and good corporate governance. It would be promoted and enforced by the equality commissions, working closely with business, government, the Financial Reporting Council and sector-specific regulators.

This proposal was strongly supported by DPOs involved in this project:

'Yes. It needs pressure from all directions: Government, the top 100 employers' (DPO)

'It would shift culture – and prompt employers to look at their recruitment and retention' (DPO)

'We need measures of outcomes – ie employment gaps, employment experiences – not measures of process' (Round-table participant)

'Compulsory reporting by employers, as for the gender pay gap, would start a debate which can only be a good thing. The trick will be sustaining it, keeping up a constant stream' (DPO)

Round-table participants thought transparency could prompt accountability, stimulate competition to drive progress and enable disabled people to praise and challenge employers, influencing reputation. As one disabled person put it, '*we need a consumer revolution, praising organisations that are disability friendly, boycotting those that are not*'.

Employer views were more mixed. Some completely agreed.

'I do think employers should have to report. Broadcasters are expected to and it has had an effect' (Employer, round-table participant)

'There is an increased appetite for counting, and in some cases targets' (Employer organisation)

A representative from Merck suggested mandatory reporting would stimulate positive change<sup>224</sup>. The CEO of Unilever questioned why there were requirements on gender but not disability (see Part 3).

Five years ago even employers strongly committed to employing disabled people were

opposed to tracking the numbers – for reasons including the reluctance of many colleagues to be open about impairments, hence inaccurate data. I recall one senior equality lead arguing that the only useful measure was employee satisfaction with workplace adjustments, to which an obvious riposte is ‘but we wouldn’t say an employer was doing well on gender if they employed 2% women, who were satisfied’.

By 2018, the debate had shifted to how employers could address the barriers to collecting data. Graeme Whippy, who has led on disability equality for Lloyds and Channel 4, argued:

‘The percentage of your employees sharing their disability status is an important indicator of your organisation’s cultural ‘maturity’, i.e. openness and confidence around disability and whether or not you have an inclusive workplace in which disabled employees can thrive’<sup>225</sup>

He proposed ways to change culture to enable people to be more confident to be open and improve practice so people could see the gains from openness.

In 2018 the Confederation of British Industry welcomed proposals to collect data on ethnicity and disability pay gaps<sup>226</sup>.

Employers emphasised the importance of Board accountability, learning from the experience of increasing the number of women on Boards:

‘Company Boards can play a key role in setting the tone from the top in relation to improving the employment of disabled people. A good precedent is the good progress made stemming from the Davies Review in relation to women on Boards’ (Iain Wylie, Senior Partner, Ernst and Young)<sup>227</sup>.

The shift may be linked to a change in some companies from viewing their role on ‘disability’ in terms of charitable donations, to hiring new labour pools.

‘10 years ago employers mainly wanted to engage with us for charity. Now, a major employer offered us paid work experience placements, and we have over 100; and we are offering training and workplace assessments with large companies, using a campaign around untapped talent’ (National charity CEO)

Not all employers welcomed the idea of transparency. Some were supportive with caveats. A business organisation reported that a new generation of business directors was increasingly alert to their corporate responsibility and local footprint, but thought voluntary reporting in Annual Reports would best build support; and it would only work if accompanied by strong awareness campaigns with simple templates and a one stop shop for advice.

Others simply raised concerns:

'It shouldn't be positioned as a burden' (Employer)

'Employers would just game the figures' (Business leader)

Some, though, acknowledged that mandation could drive change:

'The reputational leverage of gender pay gap reporting has been significant for big employers' (Employer, round-table participant)

The EHRC asked a sample of employers, across sectors, what would encourage them to report on the disability pay gap. Of those (55%) that collected information on pay and progression – but not analysed by disability – 77% said they could be encouraged to do so, 64% if mandatory regulations were in place, 36% if guidance were available<sup>228</sup>.

I suggested the idea of mandatory reporting in a blog in August 2018 and received hundreds of almost universally positive comments on social media, including from employers and disability employee networks as well as disabled people and policy experts.

'Mandatory reporting would help to concentrate people's minds on employment gaps. If there are concerns about employers needing time to gear up for this, the simplest thing would be to have a longer lead time rather than any interim arrangement' (DPO)

The Government's response to Matthew Taylor's review of 'good work' stated that corporate governance reforms require companies to report on the interests of their employees and relationships with suppliers; and that if this does not have impact Government will consider new requirements to publish a People Report. Even in the UK's liberal market economy, where business performance is usually measured by the immediate bottom line, there is political interest in greater business transparency – to provide assurance of the responsibility of business, against a background of public mistrust<sup>229</sup>.

It is commonly argued that new requirements should be introduced 'with the grain' of shifting opinion in the relevant population<sup>230</sup>. A shift seems to be occurring amongst employer opinion formers, fuelled partly by evidence of progress through monitoring disability (in organisations like Channel 4, Lloyds, the civil service), partly by progress on gender pay and women on boards, partly by wider concerns to protect the reputation of business. The argument that tracking progress is not possible is looking less tenable than 5 years ago.

This offers an opportunity to make transparent reporting on disability part of a single Dashboard of information required of employers.

The case for publishing equality data has increasingly been made by politicians, for instance:

“[People wanted equal pay audits] and I said no, no, if you have consultants doing an equal pay audit paid for the management, they will just tell them that it’s all fine. It would have been the worst of all worlds. Businesses would have had to spend money on it and it wouldn’t have moved the needle on equal pay. So I went absolutely bonkers and said no, let’s have pay transparency instead. Because if people can see what’s happening in their workplace, that is going to empower people to say we’ve got to change’ (Harriet Harman)<sup>231</sup>

Ironically, some large disability charities may hesitate on this issue because they themselves do not universally report on how many disabled people they employ. Many are working on doing so. Leonard Cheshire Disability told me:

‘Leonard Cheshire has set itself the target of increasing the percentage of its workforce who are disabled to 10 per cent by the end of its current strategy period in 2022 and then increasing to match the diversity of the UK working age population in the long term. We are determined to take a pioneering lead role in creating a workplace which delivers a first class employment environment for disabled people across the UK’

DPOs employ much larger proportions, as do some rights-based organisations: over 50% of Disability Rights UK’s staff are disabled people; and 16% of the EHRC’s staff<sup>232</sup>.

In November 2018 Government encouraged large employers to collect data on the proportion of their staff declaring a disability – but did not require it and did not expect data on pay or seniority gaps<sup>233</sup>.

In terms of the criteria in Part 3, this proposal has a number of things going for it:

- It has support from key DPOs and aims to stimulate improved employer practice and greater substantive opportunities
- Required transparency on gender pay from 2018 has massively raised the profile of the issue and incentivised companies to act, with results including systematic action plans and high profile BBC presenters taking pay cuts. This has generated huge media and political attention, including interviews with senior representatives to explain their pay gaps, opinion formers urging use of the data to prompt action<sup>234</sup>, calls on government to strengthen requirements on employers to act<sup>235</sup> and a Commons Committee urging extension of the duty to smaller employers<sup>236</sup>. Companies have received guidance on how to do it from the EHRC and ACAS<sup>237</sup> and shared stories with each other. There is opportunity for similar momentum and scale

- If mandatory, it does rebalance responsibilities between disabled people, employers and government
- It uses power to address discrimination and exclusion – and uses it smartly, not positioning reporting in terms of compliance but in terms of intelligent data to improve business
- With sound design, co-produced with employers, it should support internal leaders to understand the journeys of applicants and colleagues, in order to improve their own management of talent
- It goes with the grain of policy development in our economy. Matthew Taylor argues that in relation to ‘good work’ what is needed is not more regulation, but better corporate governance, including transparency. He cites the huge success of naming and challenging employers in relation to low pay; and argues for transparent reporting of headline staff survey results and workforce structure (including employees and ‘gig’ workers)<sup>238</sup>. Government committed in 2018 to working with the Financial Reporting Council, which produces guidance for company annual reports, to increase transparency on ‘good work’<sup>239</sup>. The gender pay gap reporting requirement has been welcomed by organisations committed to tracking impact, for instance the Institute for Fiscal Studies<sup>240</sup>. Disability pay gaps – rather than gender gaps alone – are beginning to get some traction in the media and this could be built on<sup>241</sup>

This is not to say there are no challenges. Below are issues and questions raised during this project, with suggestions to address them.

### *1. Employers would be reluctant to collect data*

There would be a period of voluntary reporting to ‘test and learn’ the best approach to developing the core data set – not on the assumption that voluntary reporting may be sufficient (as that would not mobilise power, in line with the criteria above); but rather to test the specifics.

Employers would be supported through guidance, simple templates and links to others already using data to improve their approach to talent. Guidance would cover issues like how to build cultures in which colleagues are confident to be open about their experience of disability; how to assure people of confidentiality of survey data and convince people of its usefulness; how to frame questions about disability; how to ask about different impairments and health conditions; and how to use data to plan future action. Some commentators have suggested just asking a ‘yes/no’ question on disability – to avoid complexity, at least initially – but this would neglect important inequalities and, since the majority of people who meet

the definition of disability in the Equality Act do not identify as disabled people, it would introduce significant distortions. Instead questions can be framed in language that people relate to – to ensure acceptability of any confidential survey. Businesses would be signposted to good practice in employing disabled people, and to DPOs and disabled consultants who can help, to ensure their action plans are well founded

A different suggestion at a round-table for this project was for Government rather than employers to collect the data, linking disability status to people's National Insurance number, to achieve a fuller data set, including people's movements in and out of temporary work. This is worth exploring for purposes of national tracking – but it does not mobilise internal leadership or enable employers to use data to underpin action plans.

*'It would be much more useful for employers to collect the information so they can use it for action planning – which is really the main purpose for collecting the data'* (DPO)

2. *The figures would be meaningless. For instance, under the social model of disability, you are 'disabled' if you have an impairment or long-term health condition and face disadvantage. Therefore if the disadvantage is removed, you are no longer disabled – and the good employer's figures deteriorate*

This could be addressed by separating a question (to be asked of staff) on impairment/health condition from questions on disadvantages faced. Guidance would be prepared for employers

3. *Employers would game the figures*

This could happen – indeed the Japanese Government admitted to inflating the numbers of disabled people they employed<sup>242</sup>. However, they were caught out. As with any dishonest reporting, it is often uncovered by whistleblowers – and is not a sufficient reason to have no system of reporting, in this or any other field.

4. *Should employers be asked to report on disability separately – or to create one Dashboard on their workforce to present in their Annual Report, aligning questions on disability with those on gender, ethnicity and other issues?*

To keep things simple, the aim should be a single Dashboard to include employment and pay data on gender, disability, ethnicity; progress on the living wage; workforce structure; overall pay differentials (between highest and lowest paid), as advocated by the TUC<sup>243</sup>. Flexible working requests and responses could also be considered, as proposed by Ageing Better<sup>244</sup>. This Dashboard could become a significant indicator for shareholders, members, employees and the public of the employer's approach to equality and inclusion in the context of their business goals.

Business leaders have suggested this could be overwhelming if introduced all at once. Components could be introduced sequentially, aligned with the long-term aim of a single Dashboard.

5. *What data should employers collect on disability and why?*

Gender pay gap reporting has suffered from a lack of required narrative, which means analysis of comparisons may be ill-informed: for instance, a pay gap may be small only because an employer pays almost everyone on a low wage. Narrative is important and a template would be provided to analyse data and outline planned action

Data would include employment and pay of disabled people, the 'journey' (recruitment, retention, progression) and the experience of work via staff survey results broken down by disability. In the 'test and learn' phase the design could include a core data set that is required, with optional add-ons.

Understanding the 'journey' is crucial in managing talent - pinpointing exactly where in recruitment disabled people may be deterred from applying, or screened out; who is leaving the organisation and why; how diverse talent is being developed.

Understanding staff experience is vital because voice and autonomy matter to whether disabled people can work effectively; and engagement is correlated with productivity.

In one organisation, identifying a lack of trust amongst BAME and disabled people in promotion opportunities led to a recognition that there was a 'talent pool' of people deemed ready for promotion, based on an informal process, not formal appraisals. This process seemed to let in a range of biases in favour of people similar to the existing senior management; and part-time and flexible workers did not fit readily into this pool. Recognising the problem meant action was taken to identify potential senior talent through fairer approaches.

Progression is important for the UK because of the productivity lag. To improve, it needs more people to develop skills and new career paths. Disabled talent cannot be overlooked. Nonetheless, the UK has an 'hour glass' economy: it is hard to 'jump' across the thin neck between low wage and higher skilled roles. This may be exacerbated as more knowledge roles are automated. Employers can use intelligent data to track who is securing development and promotion, who is coming in at senior levels – to ensure diverse people with potential can succeed.

6. *But would reporting make any difference?*

We have had some reporting in education, but has it been transformational? (Social media comment)

Public sector employees involved in this project noted that when the Public Sector Duty was more vigorously promoted, the reporting requirement did drive improvements. The key is how the data is used.

Firstly by the employer, specifically the Board, using real time information as a basis for planning: senior accountability to the Board is known to be more effective than (for instance) having someone in the outer reaches of the organisation responsible for inclusion. KPMG have published evidence from practice of the importance of Board level champions, positioning disability as a core business issue<sup>245</sup>.

Secondly by shareholders and members: Matthew Bolton describes how shareholder pressure was instrumental in influencing particular employers to pay the living wage, starting with cleaners becoming shareholders and making public statements at Annual General Meetings, for instance:

'Sir John, we work in the same office but we live in different worlds. Let me tell you what it's like to live on £4.50 an hour and bring up children'<sup>246</sup>.

The company started to pay the living wage, which led to a ripple effect with other employers.

There is also learning from Shareaction, which works with shareholders and investors to ensure safe, sustainable communities and environment<sup>247</sup>.

Thirdly, amongst employers, as peer sharing and competition. When business leaders and Government set expectations to increase the representation of women on boards, one FTSE Chair said:

'I think nobody wants to be left out, so once it becomes a direction of travel then people climb on board because they don't want to appear to be the odd ones out. The more people that did it, the more people saw that actually the boardroom dynamics improved, they became advocates because of the improvement not because of the adoption, and then these things start to become embedded as, well why wouldn't you'<sup>248</sup>.

Fourthly, by the disabled community, allies and the public – including potential customers and employees. In the field of transport, prominent disabled people like Baroness Tanni Grey-Thompson, with large social media followings, have publicly challenged specific train operators, resulting in positive changes, which they have then publicly praised. Mainstream

media have picked the examples up – ultimately offering a positive story to the company. The same approach of fair challenge, dialogue and praise where it is due could be adopted with employment, led by DPOs and well-known disabled people. Companies are motivated to act to protect and promote their brands:

‘Companies care more about their brand reputation than about their legal budgets’  
(Business leader).

DPOs could also tap into the business awareness of the risk of not reflecting wider society:

‘I profoundly feel that companies have to be grounded in society in a way that they sometimes forget...Where companies and society part company you have got a very perilous state for business, and capitalism if you like, so that maybe you’ve just got to stand up and say more diverse boards is the right thing to do, so we will just do it’. (FTSE Chairman)<sup>249</sup>

Voluntary schemes – like being ‘disability confident’ – could gain rigour and credibility, and benefit reputation, if based on data on performance.

#### *7. How would this transparency be promoted and enforced?*

The EHRC already has this role in relation to gender pay gap reporting so could help prepare the proposed ‘Dashboard’ and promote and enforce the requirement, working closely with business, government and the Financial Reporting Council.

## **Targets**

**Proposal 1.2 Large private and voluntary sector organisations and whole sectors should consider setting and tracking targets, based on their data and business need**

**In the public sector, Ministers should consult with leaders of particular sectors and set stretching, achievable targets, tracked by the relevant regulator or industry body, working with the equalities commissions**

Transparency is all very well, some argue – but don’t we need to require employers to achieve targets or quotas?

‘There need to be statistics available of how many staff health, social care and the voluntary sector each employ and how many of these employed staff are Disabled People, including the percentage of those employed staff who have a learning disability. Each sector should then develop a plan with targets that are monitored, evaluated and reviewed regularly as to how they intend to address this inequality and what they need to change in their strategic plans if they are not working’ (Round-table participant)

Targets can be effective:

The US Federal Government set a target to increase disabled people's employment by 100,000 from 2011-15. They achieved 109,000, through senior leadership, accountability and outreach support to every department<sup>250</sup>.

In the broadcasting sector, the Doubling Disability initiative led by major broadcasters has set a target to double the proportion of the industry's workforce who are disabled people by 2020, across commissioning, production and programme support, working with independent companies in their supply chains<sup>251</sup>.

In some sectors, specific regulators help enforce data collection and shape targets. For instance, Ofcom (2018) states that there is an urgent need to improve data collection and:

'We expect broadcasters to set diversity targets....Broadcasters should lead from the top. We want chief executives to be accountable for delivery against their diversity targets. Comprehensive diversity policies need to be embedded from the top down, with senior diversity champions leading the agenda; appraisals of senior employees against diversity objectives'<sup>252</sup>

In the English health sector, a 'Workplace Disability Employment Standard' was launched in 2018 and will be tracked by NHS England. Its overall rationale is tailored to key drivers in the health sector:

'The WDES is important, because research shows that a motivated, included and valued workforce helps to deliver high quality patient care, increased patient satisfaction and improved patient safety'<sup>253</sup>.

The Scottish Government consulted in 2018 on approaches to targets for the public sector as a whole: for instance, to set a target to reduce the disability employment gap by a set date, or to ask employers to set their own targets related to their baselines.

The public sector has a particular responsibility to lead by example. Sector by sector targets should be set by Government working with the leadership of each sector, tracked by the relevant regulator, as a key strand of implementing the Public Sector Equality Duty. These targets should apply to private and voluntary organisations delivering public sector contracts as well as to public bodies. The more disabled teachers, health professionals, police officers, voluntary and private sector support staff we have, the more the perspectives of disabled people will be baked into public services and how they operate.

In the course of this project discussions also took place on setting national quotas for the proportion of employees that employers overall must employ (as applied in the UK before 1995). Views were mixed:

'They're rigid, a deficit model – you'd only employ disabled people because you have to, not because you understand your own workforce and set your own objectives' (Employer)

'They trap people in low paid jobs, if any job' (Disabled person)

'International evidence suggest they could make a bit of difference, alongside other action' (Academic)

'In Germany, they've had quotas for 100 years and they've made no difference. How long do you need to show they don't work?' (Disability employment expert)

International evidence itself is mixed. The Zero Project, which collates examples of policies that reflect good practice under the UNCRPD from across the globe, includes the following:

- in Austria, 75% of employers pay the fine rather than actually employ disabled people
- in Egypt, employers tend to pay the fine or employ a low wage disabled person and give them no work
- in Russia, despite quotas disabled people are often in sheltered workplaces or out of work
- 'Experts from many countries state no impact at all' from quotas in the public sector<sup>254</sup>

An LSE commission on gender equality recommends employment quotas for women, given slow progress with voluntary approaches. It notes that the UK Government had been influential in stopping this at EU level<sup>255</sup>. Quotas do involve power.

However, the Resolution Foundation suggests quotas are not suitable for the UK's flexible labour market so they do not clearly meet the 'feasibility' criterion<sup>256</sup>. Learning from JRF's work with employers to address low pay suggests that it is critical to tailor approaches to different sectors and regions (see Part 3). Quotas are a blunt tool, not tailored at all. They are not strongly welcomed by DPOs. They are not aiming for substantive, valued options, seen as such by diverse disabled people and DPOs; and they are not well attuned to the intrinsic drivers for change within companies (they rely just on extrinsic).

Targets are far more tailored and flexible: generated by particular organisations or sectors in relation to their own data and subject to regular review, for instance:

'To address gender pay gaps due to within-occupation segregation, Accenture, Barclays, Credit Suisse UK and KPMG have set gender targets, broken down by business lines and

functions. Interim milestones and deadlines are clearly defined, because what does not get measured does not count. These employers also hold managers accountable for meeting the targets' (Iris Bohnet, 2018<sup>257</sup>)

Targets like these are 'owned' by the organisation, with accountability built in to drive action. This is very different from a purely externally imposed quota.

## Part 5

### Risk sharing

#### Summary

Government should enable large numbers of disabled people to work who need more than an adjustment considered 'reasonable', by sharing the cost and risk with employers. This includes people with fluctuating stamina-related or mental health conditions, some of whom are seen as a risk by employers but want to work when well.

The revolutionary increase in numbers of women working occurred partly through state investment in maternity pay. Investment in sharing risk could be equally effective in enabling disabled people to work.

Small businesses can tap into the talent pool of disabled people, if they have the right support. Government should make it easier for them – providing on-line and phone advice when they need it and sharing the cost if someone DOES need some extra time off.

Proposals are for Government to pay Statutory Sick Pay if employers take on someone who is on Employment and Support Allowance<sup>258</sup>; to invest in an Access to Work fluctuating work fund, to cover temporary absences of people with fluctuating conditions; expansion and transformation of Access to Work, including targets to match ambitions for employment increases and an indicative award that people can cite when job seeking; a Fund to support small businesses to be fully inclusive; and a portal, backed by tailored individual advice, so employers can get advice at the point they need it. Commissioners of employment support should require providers to support employers, not just job seekers, and could offer business development support to agencies linking people with health conditions to contract opportunities.

The UK lags behind other countries on productivity. Improving the quality and inclusivity of work is critical. Business leaders, think tanks and government should put disability at the heart of policy on the future of work and 'two-way flexibility'.

## Introduction

Government and employers can share risks in new ways to enable far more disabled people to work.

### **Proposal 2.1 Government to pay Statutory Sick Pay (SSP) if small employers take on someone who is on Employment and Support Allowance or its equivalent in Universal Credit<sup>259</sup>**

Over 40% of people on Employment and Support Allowance (ESA) have a mental health condition as their primary impairment<sup>260</sup>. In addition, Hale (2018) draws on family resources survey data to suggest that 'stamina/breathing/fatigue' is an under-recognised category of disability': 34% of people of working age reporting disability state an impairment fitting this category<sup>261</sup>.

The Equality Act prevents pre-job offer health questions and employers should not assume that people on ESA will require time off for impairment-related reasons. Nonetheless, some people will need time off – and businesses are likely to fear that they will.

The UK is unusual in expecting the employer to bear the full cost of SSP: employers have to pay SSP for up to 28 weeks from the onset of sickness absence (except for employees falling below a low earnings limit). This is estimated to cost employers around £1.5 billion per year<sup>262</sup> at a flat rate of £92.05 per week.

Contrast this with maternity pay, where an employer can usually reclaim 92% of statutory maternity, paternity, adoption and shared parental pay<sup>263</sup>. In 2018 the EU Committee on Social Rights found the UK's statutory sick pay to be 'inadequate'<sup>264</sup>. The goal here, based on work by Lawton, Cooke and Pearce (2014)<sup>265</sup>, would be to put SSP - just for people on ESA - on a par with maternity pay.

The revolutionary increase in numbers of women working in the 20<sup>th</sup> Century occurred partly through state investment in maternity pay. Investment in sharing risk could have equally far-reaching effects for disabled people's employment.

It may be argued that group insurance policies<sup>266</sup> could address the risk for employers, rather than Government sharing the risk. However, small business is often not covered, and policies often limit cover for people with pre-existing conditions or require additional premiums, creating a potential disincentive to taking people on who have been on out of work disability benefits. The proposal here complements group insurance policies by offering the employer payment of SSP in specified circumstances, and offering it to employers who DO take on employees with known pre-existing health conditions.

Through statutory maternity pay, government shares risk, enabling employers to hire

women who may become pregnant, knowing they will not be left to cover maternity pay. The same principle should apply to people who may need time off for impairment-related reasons.

The first priority is to reduce the disincentive for small employers, who are least able to bear risk. Longer term, risk sharing arrangements could be explored in relation to employers of all sizes, by government, insurance companies and employers.

The proposal could also be helpful to the so-called 'bogus self-employed'. Some currently on zero hours contracts may, in the wake of legal cases, come to have employee status. Matthew Taylor recommended that Government should make SSP a basic employment right paid by the employer, comparable to the National Minimum Wage, for which all workers are eligible from Day 1. This could clearly benefit employees with health conditions. However, it could also have the unintended consequence of making the employer see the person with a health condition as more of a risk, thus deterring hiring. Unless, that is, the State shares the risk through paying SSP as proposed here.

Partial sickness benefit, whereby people can return to work part-time for a period with proportionately reduced workload, might help people who are able to work for a few hours a day. This has been trialled in Finland, found to improve retention rates<sup>267</sup> and represents a move away from the traditional HR message that 'you are either sick or you are not sick' <sup>268</sup>.

#### Proposal 2.2 Government should:

Introduce an Access to Work<sup>269</sup> 'pot' that people requiring periodic time off work can access, for temporary cover to help remove the disincentive for employers to recruit or retain them<sup>270</sup>

Give disabled people an indicative award that they can cite when job seeking, to build confidence in employer and job seeker

Set targets for Access to Work in line with government plans for a million more disabled people to be working by 2027

'Each person with a fluctuating condition could have 'in the bank' so to speak an agreed sum that can be mobilised quickly if they become unwell and unable to work for a period – so the employer does not lose out. It's a logical extension of Access to Work because it mitigates cost for the employer and it also has potential multiple benefits, because it would remove anxiety for the individual' (DPO).

For an employer, taking on - or welcoming back to work - someone who has a known fluctuating condition looks like a risk – not only of cost, but of extra hassle in finding cover for absences, and imposition on colleagues.

Yet for the individual and for Government, it makes sense that people should have the option of working when they are able to, rather than not work at all.

The types of adjustment needed in such cases often go beyond what would be considered 'reasonable' for the employer. Therefore there is a strong case for Government to share risk and cost with the employer, to enable people to work when well.

Removing anxiety for the individual could enhance well-being and performance at work.

Locating this investment with Access to Work has the advantage that it could offer personalised advice to the individual and employer, to remove the hassle factor. It can also fund cover for skilled roles where costs are higher than the rate of SSP.

The roots of Access to Work are in technical adjustments of the 'do it once and it's fixed' variety, or predictable routine costs like travel to work. But it has been extended to improve mental health support – and this would be one further logical extension.

The principle of attaching funding to individuals who require adjustments beyond the 'reasonable' is already at the heart of Access to Work and Government in 2018 extended this again. They decided to offer funding through Access to Work of up to £5K per person to people working in 57 supported businesses, enabling these social enterprises to make more fundamental adjustments than would normally be made by a business<sup>271</sup> - for instance, changing a business process or changing the ways jobs are 'carved' so disabled people can contribute fully. Ethically, this should be extended to other employers – and £5K is well within the individual cap for Access to Work. Disabled people should not have to feel that substantial adjustments can only be made in social businesses or enterprises. A sharing of cost and risk between Government and business should make it possible for disabled people to work in whatever sector of the economy they choose, according to their potential; otherwise disabled people are expected to accept occupational segregation<sup>272</sup>.

This precedent shows the feasibility of adding new strands of funding to Access to Work. A fund for fluctuating work capacity should be added.

Fluctuating capacity would be determined by drawing on data - with the individual's permission - from the individual her/himself, backed up as needed by evidence from their health professional or Work Capability Assessment.

The offer should be co-designed with employers and people with fluctuating conditions. It must be well known and simple for employers to access:

'We need to learn from parental leave- it seems too complicated for employers and not accessible enough, hence low take-up' (Employer organisation).

'If a million more disabled people are going to be in work by 2027, we need annual targets for increasing Access to Work awards for everyone amongst the million who will need them' (Business leader)

Access to Work should also be scaled up, which would support both hiring and retention of disabled people. It should be modernised to better serve people moving roles or contracts frequently. Disabled people should be able to secure an indicative Access to Work award before job interview. It should be available for school age work experience

Access to Work is a successful approach that both enables disabled people to gain and retain employment and reduces cost and risk for employers. It could be further transformed and expanded from its current base of serving around 34,000 people per year.

The Resolution Foundation recommends the expansion of the successful Access to Work Programme 'to maximise its role in supporting people to remain in work, including greater publicity and accessibility for employers'<sup>273</sup>. This is particularly important for small business who are least able to afford significant adjustments: what is 'reasonable' for them is rightly judged differently from what is 'reasonable' for a large corporation.

With scaling, Government could actively promote Access to Work through growth areas of the economy, particularly to SMEs who need it most; and to groups of disabled people currently under-using it.

The modernisation of Access to Work needs to continue, particularly to better serve people who change roles frequently:

'Access to Work was designed at a time of traditional, stable employment and works much less well for people who are self-employed or moving between contracts and roles' (Employer)

'Delays leave people unable to do the job for the first days or weeks, which can impact on their and their employer's confidence' (Disability charity)

Welcome steps have been taken, for instance to increase opportunities to claim on-line. However, round-table participants stated that contracts were sometimes more or less over before adjustments were in place. The option of taking Access to Work as a personal budget could be much more actively promoted, so individuals can use it as a 'passport' that they can take with them from one role to the next.

To overcome employer fears about recruiting disabled people, two independent reviews have recommended that disabled people should be able to secure an indicative Access to Work award before job interview, so they could assure the prospective employer that their travel costs/support worker/communications support had in principle been agreed<sup>274</sup>. This would still allow the final award to be agreed in relation to the specific job; but it would reduce anxiety of both employer and job seeker. Successive governments have accepted this recommendation but simply provided a generic downloadable form, which does not meet the requirement as it is not specific to the individual.

Access to Work is very important for people's first experiences of work; it can give lasting confidence. It is available for apprenticeships. It needs to be available for school work experience

**Proposal 2.3 Government should introduce a Fund linked to Access to Work to help small employers make on-line, customer service, physical infrastructure and internal processes fully inclusive. This would help attract new customers and employees and build brand reputation with all stakeholders**

Beyond sharing risks and costs, some have argued for incentives to business to employ more disabled people, notably through tax or national insurance breaks, especially for small businesses.

'To move the dial with SMEs, you need to remove fear. And need to move them from giving money to charity – which they will do – to employing disabled people. An HMRC tax incentive could move the dial and since tax digital comes in in 2019 there is a window of opportunity, if support from the key business organisations and Treasury can be secured' (Business leader)

There is evidence from other policy areas that tax breaks based on clear policy goals can work, for instance where they correct a market failure:

'R&D tax credits are a good example of a well justified policy. The market under invests in R&D because some of the benefits from investigating a new technology 'spill over' to other firms. R&D tax credits are an attempt to correct this 'market failure'. They are directly targeted at the activity that we think is under provided – R&D investment – and evaluations show that the policy is cost effective; every £1 of tax credit leads to more than £1 of R&D investment and to an increase in the number of new innovations'<sup>275</sup>

In the US, tax incentives to enable veterans to work appear to have had an impact<sup>276</sup>. The Behavioural Insights Team notes some success in Australia in incentivising employers to

employ disadvantaged workers<sup>277</sup>.

APPDG (2016) argues for reductions in corporation tax relative to the number of disabled people employed<sup>278</sup>. The Resolution Foundation argued for tax rebates if an employer makes adjustments<sup>279</sup>.

However, during this project the argument was made repeatedly that incentivising employing a disabled person was not the right approach:

'Tax breaks don't work for employment because companies want the best person for the job. A tax break to make the whole business inclusive might work better as long as it's simple' (Business organisation)

'A tax incentive is a deficit model – it suggests employers have to be paid to take on disabled people, rather than positioning disabled people clearly as assets to the organisation. What would be much better would be a fund as part of Access to Work to enable SMEs to be more inclusive: for instance it could help them with the tools for job carving, for how to maximise flexi-hours across the year' (DPO).

Both disabled people and businesses favoured financial incentives to support small businesses to be fully inclusive. This does not lend itself to a tax incentive because being 'fully inclusive' is multi-dimensional. A Fund linked to Access to Work could help employers attract new customers and employees and build brand reputation with all stakeholders, through making on-line, customer service, internal processes, employment and physical infrastructure fully inclusive.

Payment from the Fund would be triggered when a small business meets straightforward, but high standards of inclusion, beyond basic legal requirements: evidence of numbers of disabled people employed or plans for increases, disabled people in training and apprenticeships (as relevant), inclusive internal processes and technology, on-line and structural accessibility.

'Make real apprenticeships available to disabled people – ie apprenticeships where there is genuine willingness to train people who are not yet fully skilled in the role' (DPO).

If Government prefers to use tax or national insurance incentives, these would need careful design – but would be preferable to no action:

'Although tax breaks could make it appear that disabled people will only be employed if there is some kind of subsidy, a more pragmatic view is that if it works, the presence of disabled people in the workplace will dispel some of the negative views and over time myths will be punctured. We need to make something happen' (DPO)

Proposal 2.4 A portal should be developed that brings together searchable, large amounts of good practice information on disability and employment, as exists in Australia and the USA, backed by individual, tailored email and phone advice for employers when needed. In addition, disability should be placed at the heart of more generic sources of advice and information on 'good work' and flexibility

'Small businesses have a pretty poor experience of accessing advice and support on diversity issues' (Business organisation)

In Australia and the USA, Job Access and the Job Accommodation Network (respectively) are sites with thousands of pages of free, practical information on everything from directories of examples of workplace adjustments to good practice in retention and performance management.

Importantly, they are backed by advice lines offering tailored individual advice. Busy managers in SMEs, usually with no in-house disability expertise, want to understand disability at the point they have someone in their team, or applying, who has a health condition or impairment – and they are not sure what to do next. They are too busy to attend courses or read Codes of Practice on the off-chance that they might in future employ a disabled person. What they want is an answer to their specific question.

In the UK there is no single place employers can get free information and tailored advice unless they become paid members of a specific organisation. Information exists across different websites, from the EHRC to ACAS and voluntary organisations.

Heads Together, the Institute of Directors, Mind, Federation of Small Business and others joined forces to develop a one stop portal for everything employers need to know about mental health and employment. There is widespread interest in a similar portal on employment and disability.

The UK could stimulate development of such a portal and linked advice service, learning from other countries. It could be delivered by the private sector with DPOs, supported by Government. A business leader during this project noted that employers would have higher trust in information that was clearly apolitical and informed by business.

Sharing of stories and experience between employers can be powerful and is currently facilitated by organisations including the Business Disability Forum and EHRC<sup>280</sup>. Awards and accreditations - whilst not enough on their own to change practice (see Part 3) – can help 'bend' what businesses see as their responsibility to communities: for instance, Trading for Good enables businesses to state on their website which responsible activities they are engaged in, with a stronger focus on offering local employment than the more traditional donations to charity

In this project, examples of 'what works' in hiring, retention, promotion and business accountability emerged, listed below for interest. The portal could signpost employers to good practice evidence<sup>281</sup> on these and other issues, stimulate sharing and offer tailored advice.

### *Accountability*

- A senior person accountable to the Board for progress on disabled people's employment, experience and pay. This is far more effective than employing a worker or team responsible for diversity and inclusion. The senior person needs to have the power to bring together different functions (IT, procurement, HR, operations....) to ensure a seamless experience for disabled people entering and working in the organisation<sup>282</sup>.
- Disability equality built into middle managers' performance measurement
- Guidance for employers on creating cultures where disabled people feel comfortable to be open

'I've always hated secrets. The canker that destroys' (Derek Jarman, writing about his decision to be open about his HIV diagnosis<sup>283</sup>).

### *Hiring*

- Job design. Considering how tasks are clustered in roles, to enable people with different impairment experiences to focus - rather than expecting everyone to do a bit of everything.

'Don't just dust off an old job description and go to advert. If employers don't really think about person specifications, they end up with the same as always' (Round-table participant)

Some roles could be advertised as genuine apprenticeships, open to people with the potential to gain the necessary skills:

'In the NHS locally, we reviewed about 50 vacancies and judged that 10-20% of jobs, non-clinical ones, could have been recruited to via genuine apprenticeships or working interviews' (DPO)

- Advertising jobs as open to flexible working. Taylor notes this happens too infrequently. Employers could signal their commitment, with an invitation to discuss which flexibilities are possible, using language likely to resonate with disabled people. For instance, Channel 4's Guide has strong analysis of why it is better to talk about workplace adjustments than 'reasonable' adjustments: 'we don't talk about

reasonable maternity leave'<sup>284</sup>.

- Positive action, for instance looking outside the usual networks and labour pools. Stephen Frost describes how, in the lead-up to 2012, positions as games-makers were advertised first to disabled people, to ensure a strong response. There was no positive discrimination – but concerted action to ensure large numbers of disabled people applied
- Using atypical interview approaches, for instance working interviews in which people have the chance over 1-2 weeks to show their capabilities; and meetings in advance of formal interviews. In the USA, Schedule A hiring provisions permit employers to take a disabled person on probation for 2 years. If successful, they can move straight into a permanent role<sup>285</sup>

'Someone with a speech impairment, for instance, may do better with a working interview' (DPO)

'The Post Office had roles going and we were working with someone with Aspergers who had always wanted to be a postman. He was terrified of being interviewed. We asked if he could meet the interviewer in advance. They met in a canteen and got talking about football. The interview went well and although he didn't get that job he got a postman job with them the next time there was a vacancy' (Breakthrough UK, DPO)

- Specifying equality requirements to recruitment companies, to ensure roles are widely advertised, no one screened out in ways that amount to indirect discrimination (for instance, requiring a driving license when it is unnecessary, or using algorithms that screen out CV gaps) and clarity that there are alternative ways to apply (not on-line only).
- Taking the bias out of hiring. The Behavioural Insights Team found that interviewing for several posts at once makes it more likely that an employer will employ someone who does not fit the mould of the current workforce: it may seem like a 'risk' to employ one disabled person, less so to employ one out of 3<sup>286</sup>. Some on-line platforms aim for approaches rooted in equality, for instance randomising the order in which the sifter sees the applications and lining up different applicants' answers to the same questions side by side, to make objective comparison easier<sup>287</sup>

### *Experience at work*

- Guidance on inclusive practice in relation to different impairment experiences – from Easyread recruitment materials to considering ‘chunked’ jobs to enable people to work very part-time hours on specific tasks. Foster and Wass (2012) found limits on the adjustments employers were prepared to make and proposed chunking tasks up differently when needed, to do more than ‘try to fit the disabled person into a job designed for a non-disabled person’<sup>288</sup>.
- Guidance and examples on staff engagement, staff surveying and action planning (see Part 4).
- Encouraging Disability Employee Networks and wider networking, so disabled colleagues can share stories about when and how to be open, which adjustments have made a difference, how they have secured them. The employer may not know what adjustments are possible. If the disabled person tells them, it may simplify the situation. Disability Rights UK set up the Right to Participate, a platform to enable disabled people to share stories in just this way<sup>289</sup>.

### *Retention*

- Guidance on the specific steps that should be completed with a disabled person at work before considering ill-health retirement or dismissal. There is international research on the factors enabling retention<sup>290</sup> and international learning: for instance, in Sweden and Holland there are clear requirements on employers to retain or redeploy; in Norway, employers first undergo compulsory dialogue sessions before dismissing someone on health grounds, which proved effective; in Chile, following an injury, all the stakeholders come together – the insurer, the family, the health service – to agree a plan<sup>291</sup>.
- Support available for retention. Some programmes that serve disabled people also support employers, for instance Individual Placement with Support (in mental health), vocational rehabilitation for people with musculo-skeletal difficulties and partnerships between the voluntary sector and NHS to enable people with cancer or sight loss to preserve their employment.

Wendy Mitchell expected NHS occupational health would know exactly what to put in place to help her to continue working when she told them of her diagnosis of early dementia. Instead they said she was incapable because of her diagnosis and jumped straight to ill-health retirement<sup>292</sup>

Conversely, Mrs Salomon’s family expected her diagnosis would mean the end of her job.

When her dementia became a 'real problem and Sainsbury's realised she couldn't do the job particularly effectively, they stepped in and found other jobs for her to do'. Eventually, they created a new role for Mrs Salomon dedicated to cleaning tote boxes. It gave her a sense of pride and self-worth. Beyond making a small adjustment, they re-structured the role<sup>293</sup>

### *Progression*

- Examples of development programmes enabling disabled people to progress in their careers – both in-house<sup>294</sup> and cross-sector<sup>295</sup>; both tailored to disabled people and inclusive of disabled people. Some organisations, like the Civil Service, have a blend of tailored and inclusive opportunities.
- Evidence on the factors that enable disabled people to progress. DR UK (2010) departed from the usual study of barriers disabled people face, and identified a pool of over 900 disabled people who had succeeded in their careers, in all sectors. DR UK found that the success factors most commonly reported by this group were mentoring and career long senior support; yet senior disabled people were significantly less likely to secure these than non-disabled colleagues<sup>296</sup>. Employers can embed these factors. Work like this also generates networks of people who can demonstrate to less senior colleagues – across sectors – that there are disabled people who are neither 'vulnerable' nor celebrities, but managers, college principals and the like.

Disability needs to be at the heart of policy on the future of work.

The UK is lagging behind competitors on productivity. This is a major driver for policy and practice interest in 'good work' – in improving staff engagement, morale and two-way flexibility (for the worker not just the business, see Part 2).

Taylor's independent review of 'good work' argued Government should pay as much attention to the quality of work as to its quantity – and should measure quality in terms of overall worker satisfaction, good pay, participation and progression, wellbeing, safety and security and voice and autonomy. Government accepted this measurement framework.

The disability sector could sit back and hope that if 'good work' grows, this will in itself support disabled people's employment prospects. 'Voice' could mean more people being confident to ask for an adjustment. 'Autonomy' is a predictor of keeping your job for people who may be at risk of moving on to incapacity benefits<sup>297</sup>.

However, good work needs to be designed explicitly to be inclusive of everyone. This requires disabled people to be centrally involved alongside others in the design.

Take flexibility. Flexibility about when people work, where they work (the coffee shop, the

kitchen table) - within business requirements - can enable everyone to work to their best. Flexible division of tasks within a team can benefit productivity in the person with a learning disability who thrives when they can learn one set of complex tasks and stick to them; and equally in the person who has greater strengths in analysis than customer service. In this sense 'job carving', often listed as an adjustment for disabled people, means playing to everyone's strengths and is simply part of good management. Flexibility can promote morale and productivity by reducing distracting anxiety – whether for the busy parent or the person with a mental health condition.

However, there is a proviso: disabled people often require adjustments in order to function at all; it is not a matter of choice. For instance, if shift patterns mean some colleagues must travel in the rush hour, the person whose painful arthritis makes this literally impossible should have priority for flexible hours. Treating people differently can be necessary to achieve substantive equality.

Disabled people also specifically need cultures in which it feels - and is - safe to be open at work: where people known to have a health condition are not passed over for promotion out of misguided concern that 'the job might be too stressful'; where individuals waste no energy on keeping a big 'secret'.

Being able to be open at work if you choose to has positive impacts on productivity<sup>298</sup>.

With 40% of the working age population predicted to have a long-term health condition by 2030<sup>299</sup>, making sure that 'good work' truly means inclusive work will increasingly matter to business success.

It is not possible to maximise productivity by ensuring 'good work' - but only for 60% of colleagues. Good, fully inclusive work would enable disabled people to contribute to improved productivity alongside everyone else.

There is extensive good practice internationally on making workplaces inclusive for everyone, including addressing the needs of older people working longer, and the 'unretired' – those returning to work after retirement. Awards are given across Europe for such practices - but with conspicuously low or no results from the UK<sup>300</sup>

Significant work is done on the future of work by organisations such as the Royal Society of Arts (RSA) and CIPD<sup>301</sup> as well as government and civil society organisations. It needs to place disability centre stage.

There are opportunities for the disability sector to build bridges with the flexible working movement. When I published a blog outlining proposed demand-side approaches, I received messages on twitter, widely re-tweeted amongst people interested in flexible working rather than disability:

[‘Flexibility and inclusivity benefits everyone! It’s not just for parents. This article talks about bringing more disabled people into work. Thanks @lizsayce’ \(WorkYour Way, via twitter\).](#)

Disabled people stand to benefit from wider proposals on the future of work but also have much to offer. Timewise campaigns for promotion opportunities for people working part-time: this is important to disabled people, who are more likely to work part-time. Taylor recommends training and apprenticeships for people working atypically, with a new form of ‘learner account’<sup>302</sup>. Disabled people have already shaped ideas for flexible apprenticeships – for instance, completing them part-time over a longer period – and this learning could inform flexible careers for everyone<sup>303</sup>.

Disabled people sometimes take the brunt of employers’ anxieties about flexible working, for instance:

[‘Some employers see home workers as skiving off and if it’s disabled people doing it, that’s who they think are skiving’ \(Round-table participant\).](#)

Conversely, if disabled people demonstrate that home working is effective, the learning may be generalised to all.

[‘We need an end to end approach to flexible working – separating out place, process and people, and thinking about issues in local communities, like cost of a full-time season ticket versus part-time travel to a workplace’ \(Round-table participant\)](#)

There are dilemmas for disabled people stemming from certain developments. If we are increasingly paid for our outputs – never mind whether we did them at 3am in bed or in an office 9-5 – that is clearly useful for someone whose impairment makes 9-5 impossible. On the other hand, if you are blind and do not have the adjustments you need, you may take longer to achieve outputs and be paid less than colleagues. A return, in effect, to piecework may be liberating or exploitative. It needs rigorous checks for equality. Taylor notes the importance of ensuring ‘gig’ workers are paid at least the national minimum wage<sup>304</sup>.

It is vital that disabled people can help define what ‘good work’ is, help shape the future of work and ensure opportunities are seized and risks mitigated.

Proposal 2.5 Commissioners of employment support should:

Consider investing in the development of agencies that broker contracts for people able to work intermittently or for a few hours per week – to enable more people to work when they can

Require all employment support providers to support employers, not just job seekers, in line with evidence of effectiveness; and recognise the holistic support that DPOs can offer, removing barriers across people's lives and enabling people to participate

This means bending supply side interventions to be more sensitive to the demand side.

For employment programmes, supporting employers, from recruitment through to sustaining good work, is one of the fidelity criteria for Individual Placement with Support (see Part 1), extensively evaluated, effective in enabling people with mental health conditions to work. The principle applies across disabled people's employment. It is simply not effective to support the individual to work but take no account of the employer's needs. NDTI found in reality much commissioned employment support work departed from this evidence<sup>305</sup>.

However, the need to move away from 'fixing the individual' is increasingly recognised. The Australian High Growth High Talent project worked deliberately with employers to improve disabled people's employment<sup>306</sup>; one UK employment support provider set up an out of hours employment line for employers to meet their need; and Lawton and colleagues challenged the entire notion of helping individuals move closer to the labour market:

'The notion of 'distance from the labour market' sets up a binary distinction between whether someone can or cannot work, rather than asking what kind of employment might be possible and what it would take for that to be enabled....[our approach] seeks to directly confront the so-called 'demand-side' problem, by working with specific employers to make a successful job match possible'<sup>307</sup>

Government contracts for employment programmes need to specify a holistic approach. Guidance on how personal budgets in health and social care can be used by individuals to buy good employment support would also be useful.

DPOs are well placed to offer support that addresses social barriers and opportunities – in line with the social model of disability. The peer support, role models and holistic approach enable individuals to take control of their lives, know their rights, negotiate for workplace adjustments and Access to Work, organise travel, childcare and other requirements (all often more complex when managing the impacts of disability). Several DPOs have a track record in working with employers. A group of DPOs in London funded by City Bridge Trust

are scaling and evaluating this approach. There may be scope for similar scaling and learning nationally.

Improved support for retention is needed, supporting employer and employee. Government has tried a number of stand-alone measures, including the Fit for Work Service (which was under-used) and various pilots. The Resolution Foundation found that despite the Fit Note, practice was patchy, with little training for GPs<sup>308</sup>, emphasising the need for investment. It would be useful to invest in and evaluate integrating job retention into wider services for people living with long-term conditions, building on existing partnerships between NHS, charities and employment support providers.

Social security design is beyond the scope of this report, but it is worth noting that when individuals are left worried about money, they lose the mental bandwidth to make good decisions on issues like employment<sup>309</sup>. A review to generate recommendations for social security policy to remove barriers to employment would be useful.

Some people can only work for limited hours per week, not necessarily the same hours each week.

*'I've found a way of working with others with chronic health conditions – a few hours a week, working collaboratively on a funded project. This is a unique opportunity – it's rarely possible to work like that'* (Round-table participant)

Employers can be encouraged to do significant 'job carving' – for instance, employing someone to do one regular task, like copy editing or data entry, that can be done at any time during the week, if necessary from home.

Government could also support the development of agencies to offer such services to employers on a contracted basis. Disabled people have sometimes established consultancy partnerships within which they cover for each other when unwell. There is also a charity that some companies contract with for services, that matches them to people with fluctuating health and specific skills<sup>310</sup>. Testimonials include:

*'It would be a great shame for companies to miss out on the valuable skills and expertise offered by this "Invisible talent pool"'* (Marketing and Communication Manager, Altran).

Government could support the scaling of such disabled-led consultancies and charities.

## Part 6

### Rights, regulation and enforcement

#### Summary

In the short term, the equality commissions could explore further strategic, smart regulation to support improved substantive employment opportunities for disabled people, particularly in changing areas of the economy, for instance:

- outsourced and on-line recruitment
- intensification and interchangeability of work
- zero hours work, 'bogus' self-employment and flexibility for the disabled worker

If large organisations were, as recommended in Part 4, reporting transparently on their employment of disabled people, this would help identify new sectors or issues requiring strategic action.

In the longer term, the legal framework should be improved, in particular to:

- Strengthen strategic legal powers (rather than just offering redress to individuals). To include a change to the Public Sector Equality Duty to require 'taking all proportionate steps' on identified priorities, rather than just identifying them; an anticipatory duty on employers (matched by practical support, see Part 5); and re-instatement of the power of Tribunal judges to order an employer to make wider changes where an individual case reveals systemic discrimination
- Better protect people working in the growing sector of zero hours contracts and temporary roles, to achieve two-way flexibility that works for disabled people and tackle bogus self-employment
- Better protect people from losing their job if they become disabled during working life, through a 'right to return', with the employer obliged to keep the job open for a year from the start of sickness absence

## Introduction

Part 3 makes the case for mobilising power, including legal power, through both systemic use of existing legislation and strengthening of rights. Specific proposals flow from that analysis.

**Proposal 3.1** In the short term, the equality commissions could explore further strategic, smart regulation to support improved substantive employment opportunities for disabled people, particularly in changing areas of the economy, for instance:

- outsourced and on-line recruitment
- intensification and interchangeability of work
- zero hours work, 'bogus' self employment and flexibility for the disabled worker

Models of 21<sup>st</sup> century regulation place as much emphasis on setting direction and taking anticipatory action as they do on rooting out problems and enforcing change<sup>311</sup>. Part 1 of this report documents the failure of policies designed to change individual disabled people's behaviour through benefit sanctions following non-compliance. There is little point in applying similarly heavy-handed, retrospective approaches to employers. Employers do need to know that egregious, repeated discrimination will have serious consequences. They equally need clear codes of practice and frameworks so they can easily put in place fair policies for all; and system-wide analysis and recommendations to put the policies into practice.

This is about understanding how employers behave and what influences it<sup>312</sup>.

In the course of this project a number of issues have been identified that would benefit from strategic guidance and/or strategic enforcement: that is, formal inquiries or strategic selection of legal cases that could clarify requirements and be promoted across sectors to demonstrate what employers need to do.

- On-line recruitment. Increasingly, employers require applications to be made on-line, yet on-line platforms are still not always accessible to disabled people, for instance those using screen readers. Strategic action to remove this unnecessary barrier – building on existing good practice<sup>313</sup> - could assist more disabled people in applying for jobs
- Outsourced recruitment. Increasingly employers outsource recruitment to vacancies of all kinds, in the interests of efficiency. Practices vary but at worst this may mean no external advertising (so DPOs, for instance, are unaware of opportunities), recruitment from known pools of people often already in work, no chance to explore

directly with employers the potential for flexible working arrangements, and rapid screening out by algorithm of applications that, for instance, have gaps on the CV or spelling errors. In the US, 72% of CVs are rejected without being reviewed by any human. One recruitment company, 'Hire View', claims their algorithm can select successful candidate by examining facial movement and voice, a practice that discriminates against Deaf people, those with speech impairments, visual impairments and stroke amongst others<sup>314</sup>. The latter practices requires investigation in the UK. If they are widespread there are significant implications for equality: someone with dyslexia, or who has had time off for health treatment, might never get past the first sift

- Growth areas of the economy: their track record and potential in employing disabled people
- Changes in the world of work: for instance, how can disabled people benefit from developments of 'good work' and how can the impacts on disabled people of work intensity and team interchangeability be mitigated?
- Disabled people, zero hours contracts and temporary work: what could bring real flexibility for the worker? This would fill the 'disability gap' in the Taylor report, whose recommendations barely mention disability
- Professionals in employment, health and inclusion: for instance, are there gaps in HR professional training and accreditation, since HR professionals often require subsequent training from disability experts in making effective workplace adjustments? Is occupational health practice consistently based on good practice under the Equality Act 2010?

The ideas above are designed to start a debate. To date the EHRC has focused its strategic work particularly on independent living, housing, transport and social protection; though there have been some important individual cases involving employment, for instance the successful challenge to Employment Tribunal fees<sup>315</sup>. There is scope for further employment-focused strategic work. Many of the ideas above could be implemented using a broader equalities lens: for instance, outsourced recruitment may pose barriers for people out of the labour market for reasons of parenting, caring or a desire to 'unretire' amongst older people. .

This strategic work can often be most effectively achieved through partnerships between regulators. On-line recruitment could be addressed by the new website accessibility regulator; and sectoral regulators (in education, prisons, police, health and social care, broadcasting.....) have a reach into their sectors that an equalities regulator never will. They are well placed to track progress in employing disabled people sector by sector.

Part 4 proposed that all large employers should be required to publish transparent data on their employment of disabled people. This public data could be mined to identify new areas requiring strategic investigation or action, in particular sectors or stages of the employee journey, from getting a job to keeping it and progressing.

Proposal 3.2 In the longer term, the legal framework should be improved, in particular to:

- Strengthen strategic legal powers (rather than just offering redress to individuals). To include a change to the Public Sector Equality Duty to require 'taking all proportionate steps' on identified priorities, rather than just identifying them<sup>316</sup>; an anticipatory duty on employers (matched by practical support, see above); and re-instatement of the power of Tribunal judges to order an employer to make wider changes where an individual case reveals systemic discrimination
- Better protect people working in the growing sector of zero hours contracts and temporary roles, to achieve two-way flexibility that works for disabled people and tackle bogus self-employment<sup>317</sup>
- Better protect people from losing their job if they become disabled during working life, through a 'right to return', with the employer obliged to keep the job open for a year from the start of sickness absence

Having a well-targeted framework of rights, backed by smart regulation, should give organisations clarity about their duties, help stimulate the growth of good practice and enable disabled people to know and assert their rights, usually without the need to go anywhere near a Tribunal.

The employment provisions of the Equality Act 2010 rely primarily on individuals taking cases to employment tribunals, for example where an employer has failed to make workplace adjustments or discriminated in hiring, promotion or redundancy.

Wider strategic provisions exist but have been found to need strengthening<sup>318</sup>. They include the Public Sector Equality Duty, designed to ensure public sector organisations take a proactive approach and 'consider how they can work to tackle systemic discrimination and disadvantage'<sup>319</sup>, rather than only offering individual redress after discrimination has occurred. In addition, the EHRC has powers to undertake formal inquiries into organisations or sectors and make strategic recommendations.

Further measures that would support systemic change rather than just individual redress are as follows:

- Introduce an anticipatory duty on employers, as already placed on service providers, to help scale up inclusive working environments for all – as proposed by the Disability Rights Commission<sup>320</sup>. Currently, there is no obligation on employers to take any anticipatory action so that they can employ disabled people. For instance, the processes and IT systems could be completely inaccessible to people using screen reader technologies
- Re-instate the power of Employment Tribunal judges to make orders requiring organisations to take wider action when systemic discrimination is uncovered in the context of judging an individual case– for instance, requirements to change internal processes or train staff<sup>321</sup>. This gap is a missed opportunity to enable the law to have strategic rather than just individual impact
- Change the requirement in the Public Sector Equality Duty from just setting equality objectives to ‘taking all proportionate steps’ towards the achievement of the matter identified’, as recommended by the House of Lords cross-party committee.<sup>322</sup> They judged the duty ‘flawed’ because organisations can quite legally select an equality objective, ‘make no progress towards the aims of the general duty and yet be judged compliant with it by the courts’. Authorities can be seen to comply simply by going through a process – with no effect on outcomes.

Measures to plug gaps and strengthen specific requirements:

- Clearer, stronger rights to keep your job. A ‘right to return’, with the employer obliged to keep the job open for a year from the start of sickness absence; and any risk of this leading to reluctance to hire people with health conditions mitigated, through the financial support to cover absences proposed in Part 5.

Every year, 340,000 people leave work due to an impairment or health condition. To meet the criteria of effectiveness and scale (see Part 3), it is necessary to reduce that number substantially. Otherwise, even with the most inclusive hiring possible, improving disabled people’s employment and pay will be tough.

The right to return has been recommended by both the Resolution Foundation and Matthew Taylor.

This right would build on the success of maternity leave policy in the UK, which has heralded a step change in women’s and particularly mothers’ potential for return to work. UK employers’ obligations with regard to the incidence of sickness and disability within the

workforce have been described by the OECD as 'light'. They found from experience in other countries that it is vital to achieve 'a balance in the inevitable tension between obligations to support existing staff and the risk of health-selectivity at recruitment as a result of these'<sup>323</sup>. The trick is to put in mitigation, as there is for parental leave – so that employers know at the hiring point that they will not be left with all costs of potential absences. This can be achieved through the proposals in Part 5 for state payment of SSP in specified circumstances and a fluctuating work Fund through Access to Work.

'Those individuals with the relevant qualifying period are already entitled to have their job protected for a period of time when they are away from work for perfectly reasonable reasons, for instance, having a child. A similar approach should be adopted for sick leave with individuals having the right to return to the same or a similar job after a period of prolonged ill health'<sup>324</sup>

- Adopt and develop the following legislative changes proposed by Matthew Taylor to create genuine two-way flexibility, benefiting the worker:
- a presumption that a worker is an employee unless the employer can prove they are not (ie changing the burden of proof)
- a new right for workers on zero hours contracts to request guaranteed hours – and, to add to Taylor, an obligation on employers to comply where feasible and to respond, giving reasons. There are good practices to build on: for instance, Adnams guarantees a set number of hours per week<sup>325</sup>.
- increasing the bridge between periods of work that count as continuous service in relation to having rights (eg to protection from unfair dismissal) from a week to a month

All these could benefit disabled people: for instance, with no guaranteed hours or knowledge of likely income, it can be harder for disabled people to take the risk of leaving benefits<sup>326</sup>; and being viewed in law as an 'employee' means better rights, including for sick pay

'Choice is good both for individuals and businesses. However, those employers who decide to demand more insecure forms of work from large sections of their workforce should consider the impact this may be having. Individuals deserve the opportunity to plan for the future and where they commit to regular work, employers who can, should be obliged to reciprocate'<sup>327</sup>.

- Enable workers to request flexible working at the point of hire, as recommended by Ageing Better<sup>328</sup>. At present, to request flexible working, you have to wait 26 weeks. As a disabled person, you have rights to reasonable workplace adjustments at the outset. However, for many disabled people, the universal right to request flexible working may be sufficient – and some people may not want to be open about their impairment on day 1, or may not realise that their health condition means they would be viewed as a ‘disabled person’ with adjustment rights. Enabling workers to make a statutory request for flexible working at the point of hire would benefit disabled people amongst others

Finally, employers need to know that where breaches are serious, there will be real consequences – not to frighten regular employers, but to show that persistent discrimination will not be tolerated. This can help the businesses that play by the rules.

#### ‘We need a law with teeth’ (Business leader)

- Tougher penalties, as recommended by Matthew Taylor, in cases where the same employer repeatedly breaches employees’ rights. Otherwise there is a risk that some employers may simply set a legal budget to cover any fines but continue to breach people’s rights.

There is no need to jump straight to assuming all these proposals would need new primary legislation. Some could be achieved through regulations, including under the Equality Act 2010; or even through better promotion and enforcement of existing law (for instance, the case of Archibald v Fife did set a precedent for requirements to redeploy). Employers should be involved with DPOs and policy experts in designing changes.

Awareness of duties also needs to be improved. Business leaders interviewed for this project thought it would be useful to do strong awareness campaigns, using stories and tested straightforward messages. Extensive support and awareness raising was done when the different provisions of the Disability Discrimination Act came into force in the 1990s and 2000s, awareness was tracked and did rise; but there has been no recent tracking. Some business people told me that it would be useful if messages could help replace the idea held by some businesses that disabled people were likely to be a tribunal risk. Directly dispelling such an idea could inadvertently re-inforce it, but replacing it could be powerful.

**Proposal 3.3** The equality commissions, Disabled People’s Organisations, NGOs and partners should actively promote rights to everyone living with health conditions or impairments, and enable them to share experience of how to assert them

Disabled people's knowledge of rights also needs to be increased – through investment in DPOs that spread knowledge, through on-line platforms like Right to Participate<sup>329</sup>, through improved access to advice and to justice<sup>330</sup> and through routinely letting workers know their rights from Day 1 at work.

## Part 7

### Leadership

#### Summary

The voice and leadership of disabled people are central to improving disabled people's employment and pay. Employers should support them by investing in the time and development required by Disability Employee Networks and Trade Union representatives. Employers, and businesses contracting 'app' workers, should engage with workers and trade unions to develop practices that reduce disability employment and pay gaps and create inclusive work

Government and public sector leadership should be exercised in the following ways:

- Local and combined authority leaders, with Local Employment Partnerships (LEPs), bringing together employers, educationalists, health services, DPOs and others to embed the employment and careers of disabled people into plans for inclusive growth and meeting labour or skills shortages
- Investment by Government in business development for sectors facing skills or labour shortages made contingent on their recruiting and developing significant numbers of disabled people. Skills academies and growth sectors present major opportunities for disabled people's employment opportunities
- Government bending the £240 billion it spends annually, to advance disabled people's employment opportunities, by including social impact measures in tender scores. Large private and voluntary sector organisations can also use procurement as leverage. Grant funders should require all applicants to meet diversity standards and disability organisations to employ disabled people at all levels
- Government to align policy and outcomes across government to incentivise employment opportunities – and to lead by example in employing disabled people. In the longer term Government should produce a genuinely cross-government disability employment strategy, as part of a strategy on rights to full participation in society under the UNCRPD. In the short term, Government could seize any opportunity to align new policy or outcome frameworks to this end.

## Proposals

Proposal 4.1 Employers should support voice and participation of disabled colleagues by investing in the time and development required by Disability Employee Networks and Trade Union representatives. Employers, and businesses contracting 'app' workers, should engage with workers and trade unions to develop practices that reduce disability employment and pay gaps and create inclusive work

The leadership of disabled people is central to improving disabled people's employment and pay.

Disability employee networks - designed to support disabled employees and advise the employer - are growing and employers report benefits of having them<sup>331</sup>. They appear able to encourage voice of disabled employees, which can lead to improvements in quality of work and improved morale and engagement<sup>332</sup>. Good quality work is characterised by (amongst other things) voice and participation of workers which impact positively on productivity (see Part 5).

*'It's important that employers consult with disabled staff and their trade unions on the best and practical way to remove barriers and address the disability employment and pay gaps' (Trade unionist, round-table participant)*

Trade unions can contribute to work quality: Hoque et al found that where there were union representatives present in the finance sector, employee perceptions of job quality were better<sup>333</sup>.

Where trade unions and employers are able to work collaboratively this can reap rewards in terms of inclusive working practices. The TUC has documented examples of trade union work relating to disability<sup>334</sup>. Where unions supported disability-related individual cases, in 37% of cases the union was successful<sup>335</sup>. Nonetheless, trade unionists are more likely to say they lack guidance on disability than on other equalities issues. Without guidance, they may - for instance - encourage employees to take early retirement if they are not aware of the type of adjustments that might enable the person to keep their job.

The All-party Parliamentary Disability Group (2016) proposed strengthening the role of trade unions through government funded training of specialised union representatives in disability equality and providing rights to facility time<sup>336</sup>.

Trade unions are significant in representing the interests of workers in relation to changes in the world of work, like intensification and interchangeability (see Part 2). Newly reshaped union activism representing the interests of independent workers is influencing the changing boundary between employee and contractor, in the context of 'bogus self-

employment'. The Independent Workers' Union of Great Britain was involved in the important Pimlico Plumbers case (see Part 2) and in 2018 challenged Deliveroo in the High Court<sup>337</sup>. If businesses employing contractors in the so-called gig economy engaged with newly reshaped unions it might be possible to develop policies and practices that better promote good work and pay for workers living with impairments or health conditions.

There are also on-line opportunities for app workers to come together. Workable Futures published proposals for platform workers to have collective voice and develop new ways to progress in their careers, quite different from career progression within hierarchies<sup>338</sup>. Businesses employing app workers could engage with these networks to improve practice.

**Proposal 4.2 Local and combined authorities, working with Local Employment Partnerships and employer bodies, should bring together employers, educationalists, health and care services, DPOs and others to embed the employment and careers of disabled people into plans for inclusive growth and meeting labour or skills shortages.**

'There is the potential to bring agencies together in new ways to overcome a range of barriers, from transport to housing and skills, identifying workforce gaps, working with community and business partners to fill them, ensuring they have disabled people's employment on the agenda' (DPO)

'Southampton and Portsmouth City Deal are creating new jobs and Spectrum - the local DPO - has supported people into jobs through that' (DPO)

At regional - and more local – level, public sector leadership could be instrumental in bringing organisations together to plan how to tap into the labour pool of disabled people as part of the economic planning for future workforce and skills. In some devolved areas in England – like Greater Manchester and London - increasing the employment of disabled people is already an explicit goal. The London Mayor's strategic objectives include:

'To work with employers and their organisations, unions, and the voluntary sector to help ensure London's employers have fair and inclusive employment practices to retain and help their employees progress. There will be a focus on those groups that experience major barriers at work'<sup>339</sup>

There is also a London commitment to leading by example, aiming for pay gaps that are not statistically significant, including on disability. The Social Market Foundation has called for a Task Force to boost disabled people's employment given evidence of a particularly large disability employment gap in some London Boroughs<sup>340</sup>.

The devolved nations have adopted strategic approaches. Scotland is investing in disabled people's employment and progression, including placing disabled graduates in every health board in Scotland and paid disabled interns in the Scottish Government, Scottish Parliament, MSPs' constituencies and third sector organisations<sup>341</sup>.

There is also learning from other countries, including the US where cities and states such as Chicago, Texas and New York have introduced strategic approaches, currently being mapped<sup>342</sup>.

These approaches could feed into wider work taking place in some local authorities to create more inclusive communities, with social investment for inclusive growth. Some, like Chester, are interested in creating a fully accessible city or region, linking with cities in other parts of the world<sup>343</sup>.

In some areas the LEP is key to bringing employers and the public sector together<sup>344</sup>.

The proposal here is that local authorities or combined authorities should take a lead, working with LEPs or the most useful bodies locally, bringing together employers (large and small), chambers of commerce, schools, colleges, health services, DPOs, Job Centre Plus and voluntary sector – to plan creatively for how to tap into and develop the skills and employment potential of disabled people as a future labour pool. Health and education would be there as employers – sharing thinking on how to fill their own future labour or skills shortages – AND as the responsible organisations most in touch with disabled people and best positioned to ensure they are equipped and supported to take up opportunities.

Disabled-led businesses can be encouraged and supported through this approach. The key point is to join up the employers in all sectors and the services, networks and educationalists that can advise and support disabled people to secure them.

**Proposal 4.3 Investment by Government in business development for sectors facing skills or labour shortages should be contingent on their recruiting and developing significant proportions of disabled people, demonstrated through transparent reporting (see Proposal 1.1).**

*'In World War 2 the employment rate of disabled people was at its highest, because of labour shortages. As we leave the EU, some sectors are very anxious about recruitment. Those sectors – like food production, hospitality, leisure, maybe care – could be targeted, perhaps combined with a tax or NI break. The big selling point is offering a talent pool' (DPO)*

The proposal is for Government to invest in business development support in target sectors, working collaboratively with sector leaders to enable them to reach, include and train (as

needed) disabled people within their talent pools. This would be part of support to employer-led sectoral bodies, as recommended by the All-party Parliamentary Disability Group (2016)<sup>345</sup>: they would have to demonstrate action to recruit and develop disabled people to receive investment support. Particular approaches could be tested using innovation funding in the first instance, prior to roll-out to further growth sectors.

Some sectors – like on-line retail, food production, facilities management (cleaning, catering), health, care – have significant future labour challenges, pockets of good disability practice and present possibilities for greater scale. So do some of the large skills academies. To take one example, the Cisco Networking Academy has trained 7.8 million students in 170 countries in the last 20 years, of whom 92% secured work<sup>346</sup>. If a few large academies recruited a significant proportion of disabled students, the impact on employment could be significant – particularly because this type of academy by definition is preparing people for real upcoming jobs, often with good development prospects.

Growth sectors are looking for ways to attract recruits. One way is to publicise flexible working as a differentiator – not just in terms of flexible hours of work, but flexibility of place, of how work is carried out and adjusted. The wording of such promotion could be tested with potential disabled applicants, to explore whether advertising ‘flexibility’ is as effective in increasing applications from disabled people as it is in increasing applications from women<sup>347</sup> (see also Part 5).

Drivers, cultures and ways of working of different sectors and sub-sectors vary enormously<sup>348</sup>. New approaches to recruitment and development need to be led by the sectors, with co-ordinated support.

**Proposal 4.4** Government should bend the £240 billion it spends annually, to advance disabled people’s employment opportunities, by including social impact measures in tender scores. Large private and voluntary sector organisations can also use procurement as leverage. Grant funders should require all applicants to meet diversity standards and disability organisations to employ disabled people at all levels.

[Procurement] is significantly under-rated as a mechanism for creating change. If the UK Government, with their £236 billion supply chain<sup>349</sup>, were to adopt some of the measures we took (which cost almost nothing or saved us money) then a seismic shift could occur in the economy, in terms of its ability to help all sections of society more than it does at present’ (Stephen Frost, reflecting on the use of procurement to promote inclusion in London 2012<sup>350</sup>)

In the USA, contractors bidding for public sector contracts need to state how many disabled people they employ against an expectation of at least 7%. If they lie, they are banned from contracts<sup>351</sup>. Tony Coelho estimates that if enforced this could cover 450,000 jobs<sup>352</sup>.

The All Party Parliamentary Disability Group (2016) set out clear proposals to use public commissioning and procurement as a lever to drive up employment and pay of disabled people. Disability Rights UK has successfully encouraged a number of local authorities to include a legally drafted clause in the contracts they let, expecting employers to commit to employing disabled people. Industrial Strategy and National Infrastructure Development Plans provide opportunities to 'bend' expenditure on big developments by specifying diversity outcomes<sup>353</sup>.

At round-tables for this project a significant barrier to this was discussed: the prevalent view, including in procurement departments, that positive action of this kind is not permitted. Government leadership is needed to overcome beliefs and cultures in parts of the procurement industry that social value is always trumped by price, or even the (erroneous) belief that positive action in relation to fairness and equality is illegal.

Another simple thing Government could do would be to require all contractors in receipt of public money to publish the same Dashboard of information expected of large employers, with action plans to address inequalities (see Part 4). Without evidence of employing disabled people and/or having strong plans to do so, organisations would not win contracts.

This requires inclusion to be scored in tender exercises.

There are precedents. A £330 million procurement for renovation of Manchester Town Hall used a social impact framework. Contractors had to demonstrate provision of jobs for local people and other measures of social impact. This accounted for around 20% of the score at tender evaluations: it made a difference to who won the tender. Similarly, HS2 procurement scored diversity at 14% of tender scores<sup>354</sup>.

There is political interest in greater requirements of social value from companies providing public services. Minister David Liddington said in June 2018:

'If we are to build a fairer society, in which the public has greater trust in businesses, we must use the power of the public sector to lead the way. We will therefore develop proposals for government's biggest suppliers to publish data and action plans for how they plan to address key social disparities, such as gender pay and ethnic minority representation in their workforces'.<sup>355</sup>

It would be a small step to add the 'social disparity' of disability employment and pay gaps.

Large companies are also big procurers. Some, like Barclays and Channel 4, have brought their suppliers and independent production companies into their own work to enhance inclusion, offering practical help and advice as they set about taking on disabled apprentices and employees. Channel 4, for instance, works with 250 independent companies, employing 16,000 people. Others – like John Lewis – have set standards required of all their suppliers. JRF found a number of companies using procurement as a lever to address low pay. Companies such as these, if they cover inclusion of disabled employees in their metrics, can act as vanguards, gradually creating the expectation in smaller companies that inclusion of disabled people is a required aspect of good business practice. They can also contract disabled-run businesses for goods and services.

Large companies – and charities – are also well placed to support small businesses on disability equality by offering advice, free places on training courses, access to disability employee networks and shared policies and procedures.

There is a growing trend for grant funders to require evidence of good disability employment practice – from the Department for International Development to the World Bank and Big Lottery. Currently some disability organisations have few or no disabled people in senior roles, yet some advise employers on good practice. Funders should only fund disability organisations that demonstrate in their published data that they employ disabled people at all levels.

**Proposal 4.5 Government should align policy and outcomes across government to incentivise employment opportunities – and lead by example in employing disabled people at all levels. In the longer term Government should produce a genuinely cross-government disability employment strategy, as part of a strategy on rights to full participation in society under the UN Convention on the Rights of Persons with Disabilities (UNCPRD). In the short term, government could seize any opportunity to align new policy or outcome frameworks to this end**

Other policy areas impinge significantly on disabled people's employment and participants in this project discussed requirements from inclusive education to specific issues in social security design. For instance, the disability employment gap for people with no qualifications is 35%; for those with a degree, 15%. Education protects against inequality<sup>356</sup>. In social security, the conditionality in Universal Credit that expects people in part-time work to seek to extend their hours or pay could act as a disincentive to work for some disabled people, who are anxious they may be expected to increase hours beyond the level they find manageable given their energy or pain. Other relevant policy areas include transport, social care, skills, health.....

This report is not designed to address this breadth of issues. Suffice it to say that it would be useful, as in Ireland, to produce a genuinely cross-government disability employment strategy – building on the links that the UK Government has already created with its Work and Health Unit. This should be part of a cross Government strategy on rights to full and equal participation in society. Government responses on progress in fulfilling obligations under the UNCRPD have tended to scoop up a number of sometimes disjointed activities from different departments - rather than analyse which policy drivers would have greatest impact and select strategic policy measures accordingly. Inter-Ministerial groups on disability, which have existed in different forms, need to focus on that prize.

One short and one longer-term development that would make a significant difference are:

- Not just any old job. Under the in-work progression expectations of people claiming Universal Credit, Job Centre Plus has an important role in enabling people to take up jobs that are likely to be sustainable and offer development opportunities: a good job with potential, not just the first – or any – job. Government should measure the performance of Job Centre Plus in exactly those terms – and move from the success measure of how many people move off benefits (and into work); to measuring how many people move into sustainable work and how many secure improved pay over specified periods<sup>357</sup>.
- A more rounded way of measuring business success. In the UK, business success is largely measured in terms of quarterly and annual financial results but there is scope to move UK policy further towards a mixed portfolio of reporting including accountability for social impact, taking steps towards a fundamental shift (see Part 4).

Governments (national, devolved and local) should lead by example in being good employers of disabled people.

The civil service has set itself the goal of becoming the most inclusive employer by 2020<sup>358</sup>. After a period when large corporates stretched ahead in awards for best practice on disability, the civil service seeks to re-emerge as a leader<sup>359</sup>. They have set hard targets to improve rates of disabled people's employment particularly at senior levels<sup>360</sup>, created positive action pathways to support disabled people's development and promotion and introduced job carving guidance and paid work experience for people with autism. There is more to do, for instance in equalising staff experiences in areas like trust in promotion opportunities, and reports of harassment and bullying<sup>361</sup>. Setting objectives and publishing progress reports is a positive step.

The NHS in England introduced a Workforce Disability Equality Standard in 2018 (see Part 4).

Next, Government should work with public sector leaders to set targets sector by sector, as proposed in Part 4. This work could help address labour shortage concerns in many parts of the public sector, setting objectives to recruit, retain and develop disabled colleagues. This would be one part of fulfilling requirements under the Public Sector Equality Duty.

### Business development, self-employment and social enterprise

Disabled people are employers and entrepreneurs, not just employees.

This project did not major on self-employment or disabled-run businesses as its focus was levers to encourage any employer to increase employment and pay of disabled people. The All Party Parliamentary Disability Group made extensive recommendations including bending business development and research grants to disabled people in business; better supporting disabled entrepreneurs; and linking business networks with DPOs for mutual benefit<sup>362</sup>.

Disabled people are more likely to be self-employed than non-disabled people, for reasons of both 'push' and 'pull' (see Part 2). Government could make it easier for disabled people to succeed in self-employment, by aligning Access to Work and the tax and benefit systems more effectively, so that the definition of a 'viable' business is consistent and takes full account of the time it can take to build a business whilst managing a fluctuating health condition.

There is a strong case for positive action by national and local government to support businesses and social enterprises run by disabled people – using procurement processes and business development.

Some commentators have set a major priority on developing social enterprises, to offer either an intermediate labour market, helping people move towards regular employment – or an alternative labour market, providing long-term employment in a space that is more inclusive and sensitive to the impact of impairment<sup>363</sup>. Not being driven by profit, social enterprises, it is argued, may be able to make more far-reaching adjustments than would be considered 'reasonable' by a private sector employer (see Part 5).

Social enterprise is an important sector, but is not free of downsides:

- New businesses – and new social enterprises – are vulnerable. Many do not make it past their first year. Whilst they are not driven by profit, they have to cover costs. To do so, they may recruit disabled people able most easily to be highly productive, just like any other business - leaving those most excluded out of employment once again. Some may still be tempted to engage 'trainees' who are unpaid (a practice that was once widespread, now recognised to be unacceptable)
- If it were thought that adjustments beyond the 'reasonable' can only be made in special disability-friendly employment spaces, there is a risk of letting Government and employers off the hook from finding ways to employ people requiring substantial adjustments. A private sector employer said to me '[I've realised I don't have to employ someone who can count in order to get these boxes packed – I just have to give them a box that only fits exactly 10 of the items](#)'. It is important, whilst supporting social enterprise, to guard against a pessimism about inclusive employment across the economy. By analogy, growing special schools is no answer to a failure to accommodate disabled students in mainstream schools. Disabled people should be able to choose social enterprises, as an important part of the mix - but not as the only option. The substantive options disabled people value include the opportunity to work in any sector, any type of organisation, with support for them and the employer to make substantial adjustments where needed (for instance, through expansion and transformation of the Access to Work programme, see Part 5).

## Part 8

### Alliances and action

#### Summary

Employment of disabled people has been a contested topic, but 'switching focus' creates a platform to form alliances. It has a positively framed aim, proposes a fair allocation of responsibilities and can be backed by specific proposals and stories to show change is possible.

To make progress requires united, concerted action from a number of players. The approach is one of systemic change, learning and reflecting all the way.

In gender equality, wider cultural forces were significant in spurring action. There may be opportunities for disabled people to lead campaigns for a changed world of work, tapping into wider concerns.

In this project, differences of view emerged on the basis of different impairment experiences. Two things that could help are more opportunities for face to face discussion and new umbrella language, similar to LGBTQ+, so everyone feels included.

Differences between DPOs and charities were also in evidence, based on disagreements on outsider and insider tactics and tensions about power and resources. Unity on specifics – without suppressing difference – can however increase impact, with disabled people in the lead.

Alliances with others with complementary agendas – anti-poverty organisations, organisations concerned with flexible working – can be powerful; as can 'unexpected alliances' with those with power to make things happen, from business organisations to sector regulators. Choosing alliances depends on the precise objective and the stage of the influencing strategy.

Big shifts in history – like overcoming apartheid or securing equal marriage – seemed impossible at some stage. One over-riding reason for creating unity around positive goals is that it is possible to create a belief that this change is possible. It is.

## Introduction

Parts 4-7 provide a 4-point agenda for change: Transparency, Risk sharing, Rights and Leadership. A common theme from round-tables and interviews for this project was the need for greater unity in the disability sector, to take the agenda forward and reduce entrenched inequalities. Fragmentation was viewed as weakening impact. People also thought it important to reach out to wider allies to scale up influence; and to be clearer on strategies for achieving change. This chapter outlines, for debate, potential ways to take the 4-point agenda forward, building on learning from social change outside the disability arena as well as within it.

## A positive goal

In Part 1, I analysed why a positive goal was important to motivate people to achieve social change. Objecting to existing or planned policies is at times vital, but is not a strategy for social change. It risks re-inforcing the 'frame' of those policies rather than replacing it with a new frame; and misses the opportunity to mobilise hope for something different and possible.

A positive aim helps people go 'somewhere we have never been before' – a 'rebirth not a resurrection'<sup>364</sup>.

'Politics hates a vacuum. If it isn't filled with hope someone will fill it with fear'<sup>365</sup>.

To pursue the 4-point Agenda or something like it requires a critical mass of people and organisations to influence and make it happen. The process of this project suggests there is an appetite amongst a number of DPOs, disability charities, think tanks, employers and others.

However, building alliances to make things happen is hard. A positive aim, convincingly framed for success, can act as a magnet to bring people together.

## Agreeing and framing a positive agenda

The 4 point agenda is based on a selection of priorities that - together - could make a sustained difference.

Evidence on 'framing' - that is, setting out agendas that appeal to the deep 'frames' that people hold to make sense of the world - suggests it is important to:

- Understand and tap into people's deep beliefs. For instance, JRF found that stating how many people live in poverty did nothing to make people interested in seeking change. What did gain real interest was to tap into people's sense that it 'wasn't right' that people were locked in poverty, and that there was a shared responsibility to do something about it<sup>366</sup>
- Show that change is possible. A constant flood of communications conveying crisis or despair can leave everyone feeling powerless in the face of problems that seem overwhelming. JRF describes itself as an organisation working 'to solve UK poverty', showing clearly that something can be done.

The 4-point agenda contains practical, feasible actions that could enable more disabled people to have substantive employment opportunities. The specifics in that Agenda can be debated – but the important point is that it is not simply aspirational ('everyone should have the right to work'). It is a set of specifics which together could generate change.

Practicality does not, however, mean only 'early wins': parts of the agenda are by design long-term, because systemic change is needed. Duncan Green describes the common problem of NGOs setting only short-term goals, driven by the short-term impact requirements of some funders<sup>367</sup>. Dorling notes the importance of a '*slow turn of the wheel*' – avoiding the trap of academics or campaigners wanting to show only immediate personal or organisational impact<sup>368</sup>.

To decide on framing requires research into the 'frames' people already hold on disabled people's employment, followed by testing of frames to tune into them. Frames worth testing include:

- More disabled people could be working in this country. It needs some joint action from employers and government. Our 4 point plan could make it happen
- Some companies are already making sensible changes so more disabled people can work successfully. Government could expect and help others to do the same

'Case studies' would not involve individuals facing barriers (emphasising 'the problem') – but examples of employers that have already made significant changes to enable disabled people to work in different roles, with a clear 'story' about how they did it and how to generalise it. Disabled people could speak about what has worked for them to progress at work, modelling an asset based approach to disabled people's employment.

Messages could be devised on the specifics of the 4-point Agenda, for instance:

- Small businesses can tap into the talent pool of disabled people, if they have the right support. Government should make it easier for them – providing on-line and phone advice when they need it and sharing the cost if someone DOES need some extra time off.
- Many big employers collect information from their workforce so they can plan to fill skills and labour shortages, and improve staff morale and productivity. Being inclusive means they can access the best talents. Others could do the same. Government could ask employers to report regularly on how they are doing – just as they do on gender pay.

'DPOs could comment at every opportunity, using the same messages every time – so with each comment they are putting a brick in a bigger wall' (DPO)

It is worth considering messages that tap into current employer and public concerns, for instance:

- Anxieties about future labour shortages in the context of Brexit. Ministers have proposed tapping into the labour pool of prisoners<sup>369</sup>. Businesses have developed strategies to attract lone parents back to work<sup>370</sup>. Equally they could promote flexible working to attract disabled people<sup>371</sup>. Of course, Brexit labour shortages may be short-term, there are also likely to be job losses, and different approaches will be needed at different times. Nonetheless, if shortages lead to more disabled people being recruited, that could generate a virtuous circle in which the experience of employing disabled people makes employers more likely to do so again in future<sup>372</sup>.

'That this House has recognised the potential talent pool within the disabled community; notes that there will be an employment gap after the United Kingdom leave the European Union and that there is ample opportunity to include disabled workers in economic growth; this motion therefore calls on the Government to act immediately....'<sup>373</sup>.

'We are mugs if we don't use the skills and enthusiasm of everyone out there' (Jamie Stone MP, Liberal Democrat)<sup>374</sup>

- High profile debates about the value of diversity, especially since the 'perfect storm' of the Me Too campaign and the requirement to report on gender pay gaps. Business leader Sir Peter Parker argued that a gender mix breaks up groupthink<sup>375</sup>. The Telegraph covered McKinsey's research showing that the most successful companies have women on their Boards<sup>376</sup>. Companies draw on such research to underpin their strategies to be diverse and inclusive, as in this example from

Fujitsu:

'Diversity is about ensuring we as an organisation can attract talent from every aspect of society. Inclusion is about creating a culture where every employee can be completely themselves'<sup>377</sup>

- Public and political concern about the behaviour of companies following the scandal of Sports Direct, the collapse of BHS and behaviour of its CEO, the Work and Pensions Committee inquiry into 'bogus' self-employment, the general concerns about ever-rising executive pay and payment of some people below the national living wage<sup>378</sup>. The Washington Post carried the memorable headline 'Davos Man is Nervous: he should be'<sup>379</sup> in the context of public fears of the future and discontent at executive pay and corporate behaviour. These concerns have led to increased interest in business responsibility. All main political parties have expressed commitment to using levers (of different kinds) to incentivise business responsibility<sup>380 381</sup>.

'Insecure work, while previously enjoying the odd moment in the media spotlight, is now at the forefront of the political agenda. A Conservative government is committing to extra regulation, not less. The media is talking about dignity and meaning in the workplace, not just pay packets and dole queues' (Dellott 2018).<sup>382</sup>

'To deliver transformational change we want to consider how to achieve the appropriate balance of incentives and expectations on employers of all sizes to create healthy, inclusive workplaces where people can thrive' (Sarah Newton, Minister for Disabled People<sup>383</sup>)

- Government concerns about the ageing society. A 2018 'Ageing Better' report responded saying 'the older workforce is part of the answer to the fiscal pressures of an ageing society'<sup>384</sup>
- Recognition by some businesses of the value of organisation-wide inclusion in relation to disabled people specifically. An article in the Harvard Business Review finds that disabled employees have high levels of innovative ideas – which are often ignored – but that with inclusive leadership businesses can benefit from them<sup>385</sup>. DR UK (2010) found disabled people identified strengths linked to their experience of managing impairment including problem solving, creativity and empathy. Some businesses have made high profile commitments to disability inclusion: the civil service to be the most inclusive employer, Barclays to be the most accessible FTSE 100 company. Microsoft, in setting out to reach a billion disabled people worldwide, comments that 'all marketing should be inclusive marketing'<sup>386</sup>

- Wider cultural shifts relating to disability: for instance, the Last Leg has placed the equality of disabled people at the heart of a humorous Friday night programme; its question 'is it OK to...' takes fear out of talking about disability.

In terms of how to tap into these business and government motivations and the wider zeitgeist there is material to draw on, for instance:

- Stephen Frost lays out in compelling terms the value to business of inclusion in terms of recruiting and retaining customers and employees, achieving growth through productivity, improving group decision-making and mobilising an emotional appeal through ethics.<sup>387</sup>
- June Sarpong's Diversify lays out the value of diversity to society as a whole<sup>388</sup>.

There is learning on creative communications. For instance, stark data showed there were almost no women orchestral conductors. At the WOW (Women of the World) festival 2017 an event hosted by Sandi Toksvig turned this into a positive ambition. A 'relay' musical conducting took place, with a succession of young women student conductors parading on to the stage, conducting a few bars before handing on the baton (literally) to the women who followed. This showed the scale of future female talent coming through to rectify the imbalance.

## Voice

'Nothing about us without us'

Disabled people leading influencing and campaigning work is the most effective, as well as the right thing to happen.

Bolton argues that the most successful influencing has people who personally stand to lose or gain at the centre. The dramatic moment at which a low-paid cleaner confronts a Chairman (see Part 4)<sup>389</sup> was instrumental in the company's decision to start paying its cleaners the living wage.

The disability sector is not the only one where the voice of experience gets displaced by professional or voluntary sector spokespeople. Chouliaraki et al showed how migrant voices are not heard in media debate - they are placed in a hierarchy, not as central voices<sup>390</sup>. In the world of disability it still happens that disabled people are pinned into position as 'case studies' to tell their personal story, whilst non-disabled people analyse and comment on the wider issues. There has, however, been a welcome shift by some broadcasters, including Channel 4 and the BBC, to interview people with dementia, people with learning disabilities –

rather than relatives or non-disabled voluntary organisation representatives.

One factor that prompted rapid attention to gender pay was wider campaigning by women on rights. In 2017 the Me Too movement was ever present, from the Oscars to social media. Campaigners morphed that campaign into 'Pay Me Too', and gender pay gap reporting gained a huge profile in the media and social media.

DPOs could consider whether a similar campaign would be feasible, designed to break through the common stereotypes of either 'vulnerable' or Paralympic super-hero. Campaigns led by disabled people who want better paid and fairer employment opportunities might secure traction.

Sometimes a powerful voice may be a business leader or other player in the system: wider alliances are discussed further below.

## Methods

There is no magic method for how to influence social change successfully. Green<sup>391</sup> writes from deep experience of influencing in the field of international development. He proposes a systemic approach that is iterative, governed by curiosity and reflection, learning as you go – rather than a linear, cause and effect project plan. He suggests mapping sources of power in order to navigate them.

In relation to the 4-point agenda it is useful to map the players likely to influence each point. For Government to require large employers to report transparently, a map might include Ministers in different Departments, business umbrella organisations, officials, think tanks, media..... Whose power is most relevant depends partly on the stage of development of the issue: from working with think tanks to get an issue on the agenda, to working with officials to help shape policy or working in Parliament to build pressure. Power comes in different forms – highly visible or behind the scenes.

Campaigners on disability have often targeted Government. But for some goals, it may be more important to influence business directly: see Part 3 for discussion of how prominent disabled people have challenged and praised businesses directly through social media, resulting in quick responses from train companies and airports. Not everything requires a change in government policy.

Bolton proposes breaking down goals into manageable chunks, in order to have early gains to celebrate and build on. The living wage campaign started with influencing particular companies to start paying the living wage and building momentum from there. It is important, he argues, not to choose principled loss over pragmatic gain – not to settle for

the solace of losing whilst keeping the moral high ground. He argues that some big initiatives<sup>392</sup> are too woolly, so are less likely to result in tangible gains<sup>393</sup>. For the disability sector, where gains have been relatively few in recent years, breaking down objectives into manageable chunks would be a useful strategy to build momentum and engagement. On the 4-point agenda, there are items, like transparent reporting, that could become early wins.

Once power has been mapped, the question arises as to how best to influence. In the disability sector – and many others – there are differences of view about whether it is better to campaign loudly outside the tent – or to influence behind closed doors. The groups engaging in each tend to distrust the other:

*'Outsiders often think the insiders are sell-outs who muddy the waters through compromise or hijack their issues, while insiders often view outsiders as politically naïve purists, but recognise that the threat they pose often drives decision makers into their arms'*<sup>394</sup>.

A more helpful question than 'is an outside or an inside approach more effective?' is which circumstances demand which approach and how they might be used together. There are times when conflict is needed; other times when it is vital to identify allies in organisations that can help secure change.

To influence effectively requires understanding the objectives and pressures of the person you set out to influence. Green argues for empathy:

*'I have seen Government Ministers visibly turn off when preached at by finger-wagging activists more interested in 'speaking truth to power' than building a relationship'*<sup>395</sup>

Within a respectful relationship, decision-makers may listen and change what they plan to do. This is how some disability rights gains have happened. For instance, I was involved with others in influencing the Equality Bill (as it was). There was resistance from Government to any bar on employers asking pre-employment health questions, which we knew were being used to screen out people living with HIV, mental health conditions, cancer and other conditions. It was only by building a relationship, finding out the root of Government's objection (it turned out to be something very specific to the prison service), coming up with alternatives and finding allies amongst officials that this objection was dropped and the draft legislation improved. This all happened behind closed doors.

Relationships are built on trust. Praising decision-makers when they do something right helps. Sticking to commitments helps: for instance, Bolton promised at a hustings that whoever won the London Mayoral election, he would bring breakfast the next day. Sadiq Khan won, got the breakfast – and Khan agreed similarly to keep the promises he had made. A relationship was strengthened<sup>396</sup>.

Green documents how, in a trusting relationship, it is possible to make business feel they can be on the right side of history if they make a change, bringing in the influence of investors and shareholders.<sup>397</sup>

Addressing power is also about understanding the power base you hold. There is power in groups of people coming together to pursue a common goal. Together people can praise or challenge particular organisations, which - long-term - can influence norms of society. Anger needs to be channelled into something constructive – bringing people together to exercise united power towards a common goal.

Where decision-makers do not agree to changes advocated, people have used a plethora of creative ways to escalate the issue. The disability movement has been adept at creativity – from chaining themselves to buses, to slogans like Piss on Pity and protest songs, all wonderfully documented in an archive of disability arts<sup>398</sup>. Across topics and across the world, people have used creativity to press for change. Crawshaw documents examples such as:

- Ai Wei Wei, when his studio was destroyed, holding a party to eat river crabs. The term 'river crab' in Chinese is similar to the word for censorship
- Irony. A demonstration involving applauding the regime – difficult to put down
- Deciding that for every mile a neo-Nazi march walked, local people would donate ten dollars to an anti-fascist cause<sup>399</sup>.

It could be powerful to turn this kind of creativity to the goals of inclusive employment.

If mandatory transparent reporting of data on employing disabled people is implemented, there is huge potential to praise some employers, challenge others. On gender pay, there was day after day of saturation media coverage at the reporting deadline in 2018. Specific companies (eg Easyjet, HSBC, Google, BBC) and sectors (eg technology) were challenged repeatedly in the media and social media for their high gender pay gaps. Executives were asked to explain their plans to reduce the gaps. High paid BBC presenters took pay cuts. The challenge was issued from across the media, from the Daily Mail to the Guardian<sup>400</sup>. Celebrities like actor Emma Thompson spoke out about how they had always been paid less than men. Coupled with scandals about sexual harassment, companies were 'scrambling' to sign up to gender equality charters<sup>401</sup>.

For disabled people, working with champions with large social media followings, praising and challenging employers could be hugely powerful. As one business person put it:

*'Companies have people whose job is to protect and promote the brand. They will be on it'*

Often the disability sector has aimed for legal rights. Influencing and using the law are vital tools in social change, as a recent Baring Foundation report shows, with helpful examples from practice<sup>402</sup>. See also Part 6 for strategic legal interventions on disability. But sometimes something that looks like formal power, like an international convention, is useful only in the context of how domestic decision-makers do or do not implement it. Other forms of influence – like influencing reputation – are useful additions to the repertoire.

Disabled people are positioned to influence business reputations. Companies already compete – with lists of the best and worst places to work as a woman, the best companies on disability etc. But transparency could bring much wider knowledge of progress and stimulate competition and action to protect brands. Surveys suggest companies already have concerns that gender pay gap requirements could harm their reputations<sup>403</sup>: this creates an opportunity, in their motivation to promote positive value.

Politicians also come under fire if they make comments that are discriminatory, as in the case of Jared O'Mara MP, suspended from the Labour Party for making sexist and anti-gay comments. This may create an appetite amongst some politicians to take positive steps on issues of equality.

## **Alliances - within the disability sector**

In Part 1, I discussed the fragmentation amongst disability groups and organisations on the basis of different experiences of impairment, and how this had become linked to very different perspectives on whether it was better to press for social protection (and risk being positioned as passively 'needing care') or better to push for inclusive employment and risk inadvertently re-enforcing the duty to work under unpopular welfare to work policies.

The dynamics between groups show a need for mutual understanding and respect, to avoid working at cross-purposes in influencing work. Strong civil society organisations, united where necessary, are an important source of power in a society: for instance, where women's community organisations are strong, more progress tends to be made on women's rights<sup>404</sup>.

There are two things that might help, in addition to a strong positive agenda and effective voice and methods.

Firstly, more opportunities for people to come together across difference – which could be helped by participative conferences and workshops, which require modest investment in the DPOs best placed to lead them.

Secondly, re-consideration of the language of identification. Many people do not identify as ‘disabled people’ because they have chosen another identity – like mental health service user or being Deaf. An umbrella term that people felt respected and included them might support greater unity. Once there was a ‘gay liberation’ movement, then a lesbian and gay movement, then we talked of LGB, LGBT and more recently LGBTQI+. The trans or queer person can feel themselves included. The term enables people to come together in solidarity without needing to subsume their chosen identity in a single identity that they did not choose. Similar ‘umbrella’ disability language could both unite people for common campaigns and recognise different identities<sup>405</sup>. ‘Disabled people’ would remain a central, but not the only, identification. This could help unite a fragmented set of groups and organisations and raise the game in terms of influencing. It could enable employers and government more easily to understand the full picture of the 14 million people in the UK for whom inclusion is so important.

It would be useful to start a serious debate on what such an umbrella concept might be – perhaps starting with DP (for disabled people) and initials to signal the preferred language of people with energy-sapping conditions, learning difficulties, mental health challenges, Deaf, visually impaired, neuro-diverse..... The objective is to connect – not collapse – different issues and experiences.

The agendas could then be more inclusive and compelling and their results more far-reaching.

The ‘coming together’ of organisations can be a movement of movements. It does not need to operate in unity at all times, but to come together for maximum influence when it matters; and to promote big agendas that ‘make sense’ to employers and others, who otherwise are approached by an endless stream of impairment-specific organisations, with no way of gaining an overview of how to be inclusive overall:

[‘Employers are exhausted by the enthusiasm of the sector, which isn’t joined up’ \(Charity director\).](#)

But the divisions on the fault-line of different impairments are not the only divisions. There are tensions between DPOs and larger charities – partly driven by the outsider versus insider styles of influencing (see discussion above) and by resentments over who has influence and resources.

These tensions came out in the round-tables for this project, where some called for the large charities to stop speaking as though they represented disabled people. The UN Committee on the Rights of Persons with Disabilities stated in 2018 that only organisations led, directed and governed by disabled people can be representative organisations<sup>406</sup>.

Armine Ishkanian shared findings on the 'surreptitious symbiosis' that can occur between activists and large NGOs – alongside disagreement and conflict. Whilst grassroots organisations view NGOs as 'dulling the fire' of the issue, they may also use resources, office space or evidence from NGOs and find NGOs useful for access to State attention. Some staff in NGOs, feeling aligned to the activists, may actively support them. Meanwhile NGOs find activists useful for making a noise<sup>407</sup>. Her conclusion was that coming together was hard but worth it in terms of potential influence on the issues<sup>408</sup>.

Participants in this project generally thought it would be more effective if the different players DID come together more, for particular campaigns and to re-inforce each other's messages. Governments do listen to large organisations with scale; so in theory it could be very powerful if DPOs and large charities joined forces from time to time to press for changes they want to see. There is no need for constant unity or suppression of disagreement – just unity for particular purposes.

'For Government to listen, they need to see the activists and organisations united on the issue. If they are just going to get kicked by some of them, Government won't do anything'  
(Round-table participant)

The organisations did come together – amidst conflict – in the 1990s to campaign for disability rights law. They could do so again. A number of things might help:

- Coming together on one or more specifics – since unity is more likely to emerge from working on a common goal than from generic discussions about how to be more unified
- A commitment to disabled people being at the front of any campaign, speaking on the issues – which anyway fits evidence of effectiveness (see above)
- Practical support from the larger organisations to DPOs – building up the 'symbiosis' (surreptitious or otherwise). For instance, larger organisations could share practical resources and meeting rooms, if DPOs wanted to use them
- Financial or practical support from large charities to enable disabled people to come together
- Discussion of when 'outsider' and 'insider' tactics are needed so both can be

deployed. Green argues that outsider tactics are useful to get an issue on the table, insider to influence actual policy – with outsider tactics available again if there is backsliding<sup>409</sup>

- Transparency. One person noted that if you google Disability Charities Consortium, little comes up. Large charities conveying more fully to DPOs what they are doing together, with what results, would be helpful
- On employment in particular, large disability charities need to be clearly working towards being exemplars in employing disabled people. This means employing significant proportions of disabled people, at all levels, reporting publicly on progress, understanding barriers at different points of the employment journey and removing them, understanding employee experience and creating inclusive work for all. This would give the charities credibility and a platform to talk with employers and Government: saying not what others should do, but telling the story of what they have done, their learning and how others can draw from it.
- Funders should not fund disability organisations that are not themselves leaders in, and transparently reporting on, their own employment of disabled people at all levels.

DPOs have called on charities to do more to protest against cuts<sup>410</sup>. They could also do more jointly with DPOs on positive agendas like substantive employment opportunities and rights to independent living. Some have endeavoured to bring people together to do this, for instance Lord Low's initiative to bring DPOs and charities together to campaign against regression in disability policy; and DR UK's work with the Disability Charities Commission to press for an inclusive economy.

Greater coherence in the disability sector would also enable young or newly disabled people to find their 'home' if interested in mutual support or policy or campaigning. Griffiths' research with young disabled people found an appetite for involvement in policy and campaigning, but barriers to actual involvement, which included disjointed and separate 'movements' with no clear routes into campaigning for inclusive opportunities locally or nationally; being 'boxed in' to giving a youth perspective, with no opportunity to shape wider policy thinking; and an assumption from some existing campaigns that left-wing political allegiance was a pre-requisite, which did not fit all young disabled people's perspectives. Young people wanted to disrupt the status quo in relation to employment, but not necessarily in relation to politics<sup>411</sup>.

## Alliances – beyond the disability sector

Unexpected allies can help secure influence. When I was involved in a formal investigation in 2006 to put the early, avoidable death of people with mental health conditions or learning disabilities on the map, we achieved more by bringing in medical and nursing leaders to shape ways forward than we could have done through alliances in the disability sector alone. We presented our data on inequalities to them and asked them to come up with effective approaches to change things<sup>412</sup>.

In the USA, the alliance between military veterans and the disability movement was critical in securing disability rights. Similar alliances, given high profile policy interest in veterans, could be influential in the UK.

A particularly powerful influencing strategy is to demonstrate that addressing your priority will advance the issues that a decision-maker cares about. At the Disability Rights Commission our call was to 'put disability at the heart of public policy': for instance, by showing that a third of children living in poverty had at least one disabled parent, we influenced government to state that 'child poverty is a disability issue'; by joining forces with organisations concerned with older people, gender equality, caring and race equality, we promoted a comprehensive agenda on social care that was of more interest to policy makers than an agenda based on disability alone.

Alliances - including unexpected alliances – can be powerful. But amongst all the plethora of organisations, and given the very limited capacity of DPOs and even charities, how on earth to select them?

In the 4-point agenda, there are some issues that are clearly shared with groups of people who are not (or not necessarily) disabled.

To address low pay and precarious employment, there is a case for joining forces with anti-poverty organisations – like JRF, who are leading work on influencing low pay; and trade unions, like the newly structured unions representing the interests of independent workers; and think tanks, like the Resolution Foundation<sup>413</sup> which has recommended collective voice through platforms of support for people working in the 'gig' economy. Learning from the Living Wage Foundation might suggest ways to broaden commitments to the living wage to other practices, like genuine flexibility for workers.

To influence the agenda on flexible working, DPOs could reach out to organisations like Timewise, which is campaigning for progression for people who work part-time, and to parenting, women's and older people's organisations, all committed to flexible working. Interestingly Government made a commitment to a million more older people working (one wonders whether this is the same million as the million more disabled people working by

2027<sup>414</sup>) and many will require flexibility. Disabled people are already working within the networks of the RSA <sup>415</sup> to extend alliances.

This would add strength and depth to disability initiatives. It would mean the disability requirements were part of much bigger agendas – on the whole of the future of work. Research on successful bridge building of this kind cites many examples of mutual co-operation and approaches to building trust amongst people who do not always agree – for instance, Muslim people raising money to repair Jewish cemeteries after attacks<sup>416</sup>.

Those examples are mainly about alliances with others facing disadvantage – and these are powerful. It can also be important to build alliances with people who are in a position to make things happen. For instance, Business in the Community, made up of employers, has a major initiative on 'good work' <sup>417</sup>; the Institute of Directors with Heads Together and other partners has developed a portal to help businesses with all aspects of mental health at work, which could be extended to disability. If business organisations carried DPOs' messages out to Government and to businesses across the land, that could hugely amplify the voice of DPOs.

Sometimes it is the very unexpected nature of the alliance that makes people sit up and take notice. Bolton writes that to achieve success with the Living Wage campaign took 'bishops, business and Boris'<sup>418</sup>.

Sometimes it is regulators or industry bodies that can exert influence: see Part 4. For instance, in the broadcasting sector, Ofcom required broadcasters to report on the diversity of their workforces<sup>419</sup>. Where DPOs and allies can influence or work with regulators, there is potential to spread impact far more widely than DPOs alone could do. The equality commissions work closely with other regulators to spread impact, so if EHRC and the Northern Ireland Equality Commission take up the agendas of disabled people this can effectively spread influence.

Some writers offer guidance on when it is useful to ally with other people facing disadvantage (at conflict stage when strong voices are needed) and when with people able to make things happen (at co-operation stage) <sup>420</sup>

There are platforms that can help bring people together on common agendas: for instance Open Democracy, and Citizens UK<sup>421</sup>.

DPO capacity is very stretched. The trick for proactive influencing is to identify allies that can amplify the voice of DPOs, add influence and apply leverage on specific issues, at particular stages.

There are allies in the business world who agree there should be transparent reporting of progress in employing disabled people. There are allies in universities and think tanks. There are allies amongst people who may not be disabled but share an ambition to move away from precarious, low paid work into more sustainable careers.

There are also times when concerted action by DPOs, or DPOs with disability charities, would be a formidable influencing approach to achieve an objective.

None of this requires forming permanent close alliances between organisations that on other issues have different goals. The point is to mobilise influence – in order to increase levers with employers, to get genuine, substantive opportunities for disabled people. It is about forging alliances for particular purposes, building trust through joint action, and allying with others when needed.

Big shifts in history – like overcoming apartheid or securing equal marriage – seemed impossible at some stage. One over-riding reason for creating unity around positive goals is that it is possible to create a belief that this change is possible. Because it is

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<sup>87</sup> [https://www.demos.co.uk/wp-content/uploads/2018/02/2018\\_A\\_Better\\_WCA\\_is\\_possible\\_FULL-4.pdf](https://www.demos.co.uk/wp-content/uploads/2018/02/2018_A_Better_WCA_is_possible_FULL-4.pdf) P 17. Accessed 20-10-2018

<sup>88</sup> Reeves A and Loopstra R (2016) Set up to fail: how welfare conditionality undermines citizenship for vulnerable groups. Social Policy and Society ISSN 1475-7464

<sup>89</sup> Baumberg-Geiger (2018) personal communication. In previous years sanctioning rates were even higher: in 2014-15 there were 154,783 sanctions of disabled people and in 2013-14 255,834.

<sup>90</sup> EHRC (2017) One Year On: an update on discrimination claims in the employment tribunal. EHRC. This shows there were 3423 disability claims to the ET. Ministry of Justice Tribunal and Gender Recognition Certificate Quarterly 2016 statistics show 31% of all ET claims are settled; and 72 disability cases were successfully pled, see <https://www.harpermacleod.co.uk/hm-insights/2016/october/employment-tribunal-statistics-update-what-do-the-new-figures-tell-employers-about-claims-and-awards/> Accessed 20-10-2018

<sup>91</sup> <http://www.reform.uk/wp-content/uploads/2016/02/ESA-2-report.pdf> P 42 Accessed 20-10-2018

<sup>92</sup> Or in some cases leave benefits altogether. Reeves A (2017) [Does sanctioning disabled claimants of unemployment insurance increase labour market inactivity? An analysis of 346 British local authorities between 2009 and 2014.](https://www.journalofpovertyandjustice.com/2017/02/does-sanctioning-disabled-claimants-of-unemployment-insurance-increase-labour-market-inactivity-an-analysis-of-346-british-local-authorities-between-2009-and-2014/) Journal of Poverty and Social Justice 25 (2), 129-146

<sup>93</sup> Baumberg B (2014) Fit for work – or work fit for disabled people? Journal of Social Policy 43(2), 289-310

<sup>94</sup> 2017 figures

<sup>95</sup> From 2010 to 2015 the disability employment gap did not move. From 2015 there has been a slight reduction, but it is too soon to know whether this represents a trend.

<https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7540#fullreport> Accessed 20-10-2018

<sup>96</sup> <https://www.tuc.org.uk/sites/default/files/Disabilityemploymentandpaygaps.pdf> Accessed 20-10-2018

<sup>97</sup> Discussed in Gardiner L and Gaffney D (2016) The Retention Deficit. Resolution Foundation. P 44

<https://www.resolutionfoundation.org/app/uploads/2016/06/Retention-deficit.pdf> Accessed 20-10-2018

<sup>98</sup> <http://38r8om2xjhh125mw24492dir-wpengine.netdna-ssl.com/wp-content/uploads/2017/02/JRF-poverty-and-decision-making.pdf> P. 45 Accessed 20-10-2018

<sup>99</sup> National Audit Office (2012) <https://www.nao.org.uk/wp-content/uploads/2012/01/10121701.pdf> Accessed 20-10-2018; Stafford B (2015) Why are policies and organisations seeking to help disabled people access work failing? In Grover and Piggott (Eds) op cit

<sup>100</sup> <https://www.disabilityrightsuk.org/sites/default/files/pdf/takingcontrolofemploymentsupport.pdf> Accessed 20-10-2018

<sup>101</sup> Stafford 2015 op cit

<sup>102</sup> Centre for Mental Health (2009) Briefing 37 Doing What Works: individual placement and support into employment

<sup>103</sup> <https://www.ndti.org.uk/our-work/our-projects/employment1/employment-support-for-disabled-people/>

Accessed 20-10-2018

<sup>104</sup> <http://38r8om2xjhh125mw24492dir-wpengine.netdna-cdn.com/wp-content/uploads/2017/02/JRF-poverty-and-decision-making.pdf> Accessed 20-10-2018

<sup>105</sup> <http://www.lse.ac.uk/gender/assets/documents/research/gender-inequality-and-power-commission/Confronting-Gender-Inequality-in-Uncertain-Times.pdf> Accessed 20-10-2018

<sup>106</sup> [http://blogs.lse.ac.uk/ipa/2016/08/03/john-denhams-reflections-on-the-employer-support-for-higher-level-skills-report/?from\\_serp=1](http://blogs.lse.ac.uk/ipa/2016/08/03/john-denhams-reflections-on-the-employer-support-for-higher-level-skills-report/?from_serp=1) Accessed 20-10-2018

<sup>107</sup> Marshall T (1950) Citizenship and Social Class and Other Essays. Cambridge University Press P 28

<sup>108</sup> Ibid P 11

<sup>109</sup> Ibid P 24

<sup>110</sup> Tyler I (2013) Op cit P 6

<sup>111</sup> Hughes B (2015) Disabled people as counterfeit citizens. Disability and Society 30, 7, 991-1004

<sup>112</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/607552/dwp-stats-summary-april-2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/607552/dwp-stats-summary-april-2017.pdf). Accessed 31-08-2018

<sup>113</sup> Lewis J (2002) Gender and welfare state change. European Societies 4 (4), 331-357

<sup>114</sup> See Lawton, Cooke and Pearce (2014) [https://www.ippr.org/files/publications/pdf/the-condition-of-britain\\_June2014.pdf](https://www.ippr.org/files/publications/pdf/the-condition-of-britain_June2014.pdf) P 15 Accessed 20-10-2018

<sup>115</sup> From disabled people's point of view it may not matter too much whether business or the state takes particular

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responsibilities - what matters is that for individuals to be able to take opportunities, government and employers between them need to offer a seamless response to expectations of inclusion. This requires greater equality in social relations in which 'people relate to each other as free and equal citizens, and in which unjust social hierarchies of power, esteem and standing are progressively overcome' as Lawton et al put it (ibid)

<sup>116</sup> for instance, the Disability Charities Consortium supported the Government's (then) goal to halve the disability employment gap in 2015

<sup>117</sup> Sayce L (2011) Getting In, Staying In and Getting On. Disability Employment Support Fit for the Future. DWP

<sup>118</sup> See Sayce L (2016) From Psychiatric Patient to Citizen Revisited. Palgrave P 63-4; and Crowther N (2014)

<https://makingrightsmakesense.wordpress.com/2014/08/31/its-like-de-ja-vu-all-over-again/> Accessed 20-10-2018

<sup>119</sup> Sen A (1990) Development as Capability Expansion in Griffin K and Knight J (Eds) Human Development and the International Development Strategy for the 1990s. Macmillan p 41-58

<sup>120</sup> Disability Rights UK, the EHRC and others have called for reductions in the disability pay gap

<sup>121</sup> Sayce L (2010) Doing Seniority Differently. Disability Rights UK

<sup>122</sup> Public Health England (2018) Work, Health and Worklessness: Infographic tool

<https://www.gov.uk/government/publications/work-worklessness-and-health-local-infographic-tool>

<sup>123</sup> Inclusion Scotland, Disability Wales and Disability Rights UK (2017)

<https://www.disabilityrightsuk.org/sites/default/files/pdf/CRPD%20shadow%20report%20-%20England%20Wales%2026%20January%202017.pdf> Accessed 20-10-2018

<sup>124</sup> Clark D A (2005) The Capability Approach: Its development, critiques and recent advances. Global Poverty Research Group

<sup>125</sup> <https://www.scope.org.uk/get-involved/campaigns/employment/enabling-work/key-findings> Accessed 20-10-2018

<sup>126</sup> <http://www.smf.co.uk/wp-content/uploads/2007/06/Publication-Disability-Skills-and-Work-Raising-our-ambitions.pdf> Accessed 20-10-2018

<sup>127</sup> Frost is developing measures of inclusion, touching on issues like whether people have voice in meetings

<sup>128</sup> From Gardiner L and Gaffney D (2016) op cit P.18

<sup>129</sup> See note 4 above

<sup>130</sup> See note 45 above

<sup>131</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/416858/Disability\\_Rights\\_UK\\_final\\_report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/416858/Disability_Rights_UK_final_report.pdf) Accessed 20-10-2018; and <https://www.equalityhumanrights.com/en/publication-download/being-disabled-britain-journey-less-equal> Accessed 20-10-2018

<sup>132</sup> <https://www.jrf.org.uk/report/monitoring-poverty-and-social-exclusion-2016> Accessed 20-10-2018

<sup>133</sup> Cited in Papworth Trust (2018) These findings are taken from Papworth Trust's helpful 2018 compendium of facts about disability – see <http://online.flipbuilder.com/afjd/uvad/mobile/index.html#p=32>

<sup>134</sup> Cited in Papworth Trust ibid

<sup>135</sup> Ibid

<sup>136</sup> Ibid

<sup>137</sup> <https://www.scope.org.uk/Scope/media/Documents/Publication%20Directory/SC0125-Let-27s-talk-Leigh-Day-Report-Rebrandnew.pdf> Accessed 2-9-2018

<sup>138</sup> Barnes C and Mercer G (2005) Disability, work and welfare: challenging the social exclusion of disabled people. Work, Employment and Society 19, 527-45

<sup>139</sup> Office for Disability Issues (2013) Fulfilling Potential: building a deeper understanding of disability in the UK today. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/320515/building-understanding-main-slide-deck.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/320515/building-understanding-main-slide-deck.pdf) Slide 57. Downloaded October 2018

<sup>140</sup> See note 45 above

<sup>141</sup> Harkin Institute (2017) Fast Facts

<https://www.harkinsummit.org/sites/default/files/resources/EPD%20Part%205%20%281%29.jpg> Accessed 20-10-2018

<sup>142</sup> Taylor M (2017) Good Work

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/627671/good-work-taylor-review-modern-working-practices-rg.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627671/good-work-taylor-review-modern-working-practices-rg.pdf) P 22 Accessed 20-10-2018

<sup>143</sup> <https://www.equalityhumanrights.com/sites/default/files/research-report-88-barriers-to-employment-and-unfair-treatment-at-work-disabled-peoples-experiences.pdf> Accessed 20-10-2018

<sup>144</sup> Taylor (2017) op cit

<sup>145</sup> Disabled workers have a self-employment rate of 16% compared to 13% for non-disabled workers (Professor Melanie Jones), cited in All Party Parliamentary Disability Group (2016)

<https://www.disabilityrightsuk.org/sites/default/files/pdf/AheadoftheArc110518.pdf> P

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<sup>146</sup> See BEIS (2017) Business population estimates for the UK and regions 2017, detailed tables, table 2 <https://www.gov.uk/government/statistics/business-population-estimates-2017>. Accessed 18-09-2018

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/644090/work-health-and-disability-green-paper-data-pack.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/644090/work-health-and-disability-green-paper-data-pack.pdf) slide 13 Accessed September 2 2018

<sup>148</sup> Between 2015 and 2016, the largest increase in employees has been in the professional, scientific and technical industry (up 115,000, 4.7%), closely followed by accommodation and food services (up 99,000, 4.7%); the largest percentage increase between 2015 and 2016 was for transport and storage including postal (up 6.7%). In Great Britain in the year to September 2016, the professional, scientific and technical industry has shown particularly strong growth in the total number of employees (up 113,000), accounting for 21% of the total Great Britain increase in employees. Between 2015 and 2016, in Great Britain, the total number of employees decreased for the following industries: retail (down 62,000, 2.2%), agriculture, forestry and fishing (down 3,000, 1.4%), education (down 10,000, 0.4%), property (down 3,000, 0.6%) and public administration (down 3,000, 0.2%). (BEIS 2017 op cit)

<sup>149</sup> <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/publicsectorpersonnel/bulletins/publicsectoremployment/june2018> Accessed 20-10-2018

<sup>150</sup> See Part 1

<sup>151</sup> DWP and DH (2017) Improving Lives.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/663399/improving-lives-the-future-of-work-health-and-disability.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/663399/improving-lives-the-future-of-work-health-and-disability.PDF) P 82. Accessed 20-10-2018

<sup>152</sup> Life Opportunities Survey (2015)

<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/compendium/lifeopportunitiesurvey/2015-09-10> Accessed 20-10-2018

<sup>153</sup> Taylor (2017) op cit

<sup>154</sup> Woodin S (2015) Supply and Demand Side Policies and the Employment of Learning Disabled People in Britain. In Grover and Piggott Eds) op cit P 186; Adams L and Oldfield K (2011) Opening Up Work

[https://www.equalityhumanrights.com/sites/default/files/research\\_report\\_77\\_opening\\_up\\_work.pdf](https://www.equalityhumanrights.com/sites/default/files/research_report_77_opening_up_work.pdf) Accessed 20-10-2018

<sup>155</sup> Access to Work can fund travel, support and equipment to enable disabled people to work, within agreed rules and budget constraints

<sup>156</sup> See above

<sup>157</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/500317/self-employed-income.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/500317/self-employed-income.pdf) Accessed 15-08-2018

<sup>158</sup> <http://policyinpractice.co.uk/what-choices-will-self-employed-people-have-under-universal-credit/> Accessed 10-10-2018

<sup>159</sup> All Party Parliamentary Disability Group (2016) op cit

<sup>160</sup> Taylor (2017) op cit

<sup>161</sup> <https://www.theguardian.com/inequality/2017/aug/24/inside-gig-economy-vulnerable-human-underbelly-of-uk-labour-market> Accessed 20-10-2018

<sup>162</sup> Frank Field, letter to the Guardian 18 May 2018

<sup>163</sup> Lewis J and Plomien A (2009) Flexicurity as a policy strategy: the implications for gender equality. *Economy and Society*, 38, 3 433-459

<sup>164</sup> Bloodworth J (2018) *Hired*. Atlantic Books. P 39

<sup>165</sup> *Ibid* P 184

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<sup>168</sup> Baumberg B (2014) Fit for work – or work fit for disabled people? *Journal of Social Policy* 43(2), 289-310

<sup>169</sup> Seing I, MacEachen E, Stahl C and Ekberg K (2015) Early-return-to-work in the context of an intensification of working life and changing employment relationships. *Journal of Occupational Rehabilitation* 25, 74-85

<sup>170</sup> Coleman-Fountain E, Sainsbury R, Trezzini B and Káňová S (2018) Diversity and Change in the Labour Market Careers of Persons with Disabilities in Halvorsen R, Hvinden B, Beadle-Brown J, Biggeri M, Tøssebro J and Waldschmidt A (Eds) *Understanding the Lived Experiences of Persons with Disabilities in Nine Countries. Active citizenship and disability in Europe Volume 2*. Routledge

<sup>171</sup> Rinaldi M, Perkins R, Hardisty J, Glynn E and Souza T (2006) Not just stacking shelves. *A Life in the Day* 10, 1, 8-14

<sup>172</sup> <http://www.openpop.org/?p=913> Accessed 10-10-2018

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- <sup>175</sup> Taylor (2017) op cit P 51
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- <sup>181</sup> BBC, ITV, Channel 4, Channel 5 and Sky
- <sup>182</sup> <https://businessdisabilityforum.org.uk/media-centre/news/press-release-lloyds-banking-group-named-one-of-the-most-inclusive-companies-for-disabled-people-and-retains-gold-rating/> Accessed 10-09-2018
- <sup>183</sup> <https://www.home.barclays/about-barclays/diversity-and-inclusion/disability.html> Accessed 30-08-2018
- <sup>184</sup> Zero Project (2017) Employment [https://s3.amazonaws.com/zeroproject-uploads/zeroproject/wp-content/uploads/2017/02/Zero+Project+Report+2017+on+Employment\\_Vocational+Education+and+Training\\_English\\_6MB.pdf](https://s3.amazonaws.com/zeroproject-uploads/zeroproject/wp-content/uploads/2017/02/Zero+Project+Report+2017+on+Employment_Vocational+Education+and+Training_English_6MB.pdf) Accessed 20-10-2018
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- <sup>190</sup> Disability confident employers promise less than one job each on average, *Disabled Go* 27 August 2018
- <sup>191</sup> *Private Eye* 10 August 2018 P 9
- <sup>192</sup> <https://www.supremecourt.uk/cases/uksc-2015-0233.html> Accessed 20-09-2018
- <sup>193</sup> [https://assets.publishing.service.gov.uk/media/5b45e6e8e5274a37613f797c/South\\_Warwickshire\\_NHS\\_Foundation\\_Trust\\_v\\_Mrs\\_S\\_Lee\\_Others\\_UKEAT\\_0287\\_17\\_DA.pdf](https://assets.publishing.service.gov.uk/media/5b45e6e8e5274a37613f797c/South_Warwickshire_NHS_Foundation_Trust_v_Mrs_S_Lee_Others_UKEAT_0287_17_DA.pdf) Accessed 25-09-2018
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- <sup>197</sup> House of Lords Select Committee on the Equality Act 2010 and Disability (2016) *The Equality Act 2010: the impact on disabled people*
- <sup>198</sup> Devised to require public bodies proactively to promote equality rather than simply offer redress after discrimination had occurred
- <sup>199</sup> Speech to CBI 2012 <https://www.bbc.co.uk/news/uk-politics-20400747> Accessed 25-09-2018
- <sup>200</sup> House of Lords Select Committee (2016) op cit. The most common employment claims under the Equality Act concern failure to make reasonable adjustments at work. If the person is in work, the maximum compensation they could win is a small sum for injury to feelings. Whilst this may be wholly acceptable to the person if they get the adjustments, the problem is securing legal representation to take the case: under no win no fee, many solicitors would not see this as a case worth taking on.
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