



Disability Agenda Scotland (DAS)'s response to the Health and Work Green Paper: Improving Lives

February 2017

Disability Agenda Scotland (DAS) is an alliance of Scotland's major disability organisations. Together our experience, expertise and interests cover physical disability, sensory impairment, learning disability, communication support needs and mental health. Working closely with the thousands of disabled children, young people and adults, families and carers involved with the member organisations, DAS aims to: influence public policy and legislation to help disabled people and the people around them; provide a forum for decision makers and influencers to obtain advice and information; and promote a better understanding of the diverse experiences, needs and aspirations of disabled people.

The members of DAS are: Action on Hearing Loss Scotland, Capability Scotland, ENABLE Scotland, RNIB Scotland, SAMH (Scottish Association for Mental Health) and Sense Scotland. DAS focuses on the issues that will have the most impact for disabled people in Scotland. Our current priorities are employment, social security, and stigma and discrimination. DAS is likely to undertake more research as part of our work in the near future, in order to support the evidence base for informing our calls on these issues.

This response reflects input from the DAS members; the draft responses from RNIB, the Mental Health Sector and the Disability Benefits Consortium (DBC); as well as other discussions.

If you would like to discuss our response or have any queries, please contact Layla Theiner at Disability Agenda Scotland (Layla@disabilityagenda.scot, 07876 865342).



Overarching comments

DAS is pleased to respond to the Green Paper and very much supports its overarching objective to halve the disability employment gap.

'A Fairer Scotland for Disabled People', which was published by the Scottish Government in December 2016 also included a clear aim to 'at least halve' the disability employment gap¹. Particularly in the context of enhanced devolution, DAS believes that government at all levels have a responsibility to ensure employment opportunities for disabled people.

Following the Scotland Act (2016), there is a process of devolving powers around disability benefits to Scotland. The Scottish Government's intent, included in their consultation document on social security², includes very different language and intentions, such as stated principles of dignity, fairness and respect. A Scottish Social Security Agency is being created to administer disability and other benefits that are being devolved. Employment programmes for disabled people in Scotland are also being devolved and will be voluntary and sanction free. However, Jobcentre Plus and Access to Work will continue to be administered by the Department for Work and Pension (DWP). There will be challenges for the different systems, and crucially a lot of confusion for service users, unless clear systems and communications are set up, and the cultural approach moves towards one that supports people with disabilities instead of harassing and penalising them. And this green paper is a joint project between the Department of Health and DWP and the Scottish health and social care systems are pretty much absent from the consultation paper. Health and work need to work across borders and boundaries and take the new powers into consideration.

Recommendation: We would strongly urge the UK and Scottish Government, local authorities and other partners to work closely together to ensure joined up and effective employment support for disabled people and the best use of the resources available.

We strongly support the principle of a health and welfare system that 'offers work for all those who can, help for those who could and care for those who can't' as set out in the Ministerial foreword. However, as the paper also

¹ ['A Fairer Scotland for Disabled People'](#), December 2016

² <https://beta.gov.scot/news/social-security-consultation/>

outlines, despite discussion of halving the disability employment gap, there has been little change in figures over recent years; and cuts to benefits and other support have “disproportionately affected” disabled people’s ability to live independent lives and contribute to society.³

Disabled people being in work, where possible, can have economic and social benefits for individuals, the people around them and beyond.⁴ This includes reducing social isolation, increased income and wider benefits for integrating society and economic benefits from reduced spend on health and social care and increased participation in the economy.

Often, people with disabilities want to work but find that there is either inadequate support available to help them achieve this, or that employment is difficult to obtain when they are work ready. It is also important to recognise, however, that for some disabled people, employment may not be possible in the short or longer term. It is equally important that those individuals and their families continue to receive appropriate support and recognition.

Five of the six members of DAS provide support to disabled people looking to get into employment. For everyone, work is more than just a job. It is also a route to social inclusion, contributing to society and maximising independent living. Yet, despite the employment rate improving and the advent of the Disability Discrimination and Equality Acts, there is still a significant difference in the number of disabled people in employment compared to those who are not disabled.⁵ Statistics show only 43.8% of individuals with disabilities in Scotland are employed.⁶ Employment rates have actually fallen in recent years among some disabled groups, such as those living with sight loss.⁷ 79% of people with severe and enduring mental health conditions are not in employment, and this statistic has been static for decades.⁸

³ <http://www.bbc.co.uk/news/uk-37899305>

⁴ Report for DWP (2006): Economic and social costs and benefits to employers of retaining, recruiting and employing disabled people and/or people with health conditions.

⁵ Scottish Parliament Information Centre (SPICe) briefing on employment support, September 2015.

⁶ <http://www.gov.scot/Resource/0048/00484492.pdf>

⁷ RNIB, My Voice, 2015.

⁸ <http://www.gov.scot/Resource/0048/00484492.pdf>

DAS undertook focus group research with a range of people supported by the member charities in 2016. Employment was one of several topics discussed. Work was seen to be important as a source of income, something to do and as a way of feeling that they were contributing to society.⁹ For example:

“I want to move forward and get a job.” (Action on Hearing Loss Scotland focus group)

“I’ve always thought my work is the important thing, it’s how I was brought up, get out and work.” (SAMH focus Group)

“I used to work but not any more so I don’t have anything like that anymore. I wish I could do something.” (ENABLE focus group)

“I do want to work. I don’t want to be on sick benefit, I want to contribute.” (Capability Scotland Focus group)

But not everyone can work in full-time, paid employment all the time. And similarly, not all disabled people receive social security/welfare but disabled people have been disproportionately affected by many of the changes to welfare in recent years.^{10, 11}

“Lots of us have concerns that our benefits have been cut.” (Sense Scotland ‘Our Voice’ group)

“I am going to be losing £300 a month. I don’t know what I am going to do.” (ENABLE Scotland focus group)

“Things need to be clearer. The package that I was given needed to be fought for.” (RNIB Scotland focus group)

⁹ DAS report ‘Equal? Still not, why not?’, November 2016, <http://www.disabilityagenda.scot/2-uncategorised/48-equal-still-not-why-not-2>

¹⁰ Financial Impact of Welfare Reforms on People in Scotland, Scottish Government, Aug 2014.

¹¹ <http://www.bbc.co.uk/news/uk-37899305>

Chapter 1: Tackling a significant inequality

DAS supports measures to reduce the disability employment gap. Although the Green Paper sets out comprehensive proposals for fundamental reform of the way disabled people are supported to remain in work and helped back into work, we are concerned that the availability of funding will be insufficient to meet these ambitions.

We note, for example, that the funding for the Work and Health Programme stands at only £130m.¹² This is a fraction of the £2.2 billion that had been paid to Work Programme and Work Choice providers until December 2015.¹³ However, people with disabilities will make up the majority of participants in the future programmes, wherever they are delivered in Great Britain, so a focus on the most effective ways to support people with disabilities into work is required. Amalgamating the programmes also risks losing the more effective, personalised, specialist approach of Work Choice, where participation by disabled people was voluntary but restricted to smaller numbers. That approach needs to be scaled up but more funding will be required to successfully do so, in order to ensure well-trained advisors and small case-loads, allowing for good support for both employers and disabled jobseekers.

Recommendation: The Department for Work and Pensions (DWP) provides clarity on the availability of funding for the Green Paper's proposals and ensures sufficient resourcing to realise the stated aims in the Green Paper.

¹²<http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7845#fullreport>

¹³<http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06340#fullreport>

Targets for halving the disability employment gap

DAS and its members believe that no one with a disability should ever be disadvantaged while seeking work, or in the workplace, due to the fact that they have a disability and the aim to halve the disability employment gap is an aim we strongly support.

While targets and quotas are not ideal, targets can be helpful in setting a clear ambition and then interim targets would help measure outcomes and progress towards that ambition and the ultimate aim of policy interventions in this area. Halving the disability employment gap is a noble, but large task, and is likely to take years. As we have outlined, this is also a stated goal of the Scottish Government, and it would be practicable for the two Government to work together on this and look at what could be learnt from each other's activities.

Recommendation: Targets should be set as this will encourage activity and progress. Interim targets would be useful for measuring progress and success in reducing the disability employment gap but they need to be meaningful and with proportionate intervention and funding, achievable. Performance targets should be transparent, including category of disability as well as how jobs have been created. There should also be additional targets on people moving towards employment, such as into training.

Accessible information

A recurring challenge is that information such as job adverts, information on training schemes and forms is rarely in an accessible format, whether that be large print, easy read or British Sign Language (BSL). Whilst some disabled people can readily access the internet, the system should not be 'digital by default' otherwise it becomes inaccessible to some users.

Recommendation: Ensure that different formats are available and information is accessible to different audiences, and that the system is not 'digital by default'.

Train Jobcentre staff in disability awareness

A common frustration¹⁴ arises around the attitude of employers and DWP work coaches towards disabled people's abilities. People feel that work coaches would benefit from more disability training and that more people with disabilities should be employed as work coaches to both change the attitudes of their colleagues towards what disabled people are capable of and to better provide a service that supports the needs of people with a disability.

The groups were also keen to stress that there are many facets to 'disability' and different disabilities that work coaches need specific training in if they are to be expected to find work that matches people's skills.¹⁵

Recommendation: Ensure all Jobcentre staff are trained in disability awareness.

Work Capability Assessments

We support calls for improvements to the Work Capability Assessment and note, for example, recent statistics which show that the successful appeal rate for Employment and Support Allowance (ESA) claims now stands at 62%.¹⁶ We are therefore disappointed that the Green Paper offers no suggestions for reform of the assessment itself and instead proposes significant structural changes to the way ESA operates in future, with a much greater role for Work Coaches on assessing disabled people for support.

DAS is also very concerned about the removal of the work related activity component. People with disabilities are far more likely than the average population to be reliant on out of work benefits such as ESA and going forward increasing numbers will fall under the remit of Universal Credit (UC). It is our view that the removal of this component will neither help people seek nor incentivise employment, but may in fact reduce the chances of employment for a potentially vulnerable group in society.

¹⁴ Focus groups facilitated by RNIB for the purpose of responding to this consultation.

¹⁵ Ibid.

¹⁶ <https://www.gov.uk/government/statistics/tribunals-and-gender-recognition-certificate-statistics-quarterly-july-to-september-2016>

We find that a lot of disabled people want to work. The reasons that so few do is certainly not the result of an overly generous benefit system but a complex mix of employment market barriers, societal attitudes and a lack of opportunity and support to build on the skills needed to obtain and sustain employment. Many people with a disability are also unable to work in the short or longer term.¹⁷

Many disabled people who currently enter the paid employment market do so via 'permitted work'. They either do this for a short period of time or for a longer period if their disability means that such employment is the most suitable.

The removal of the work related activity component is likely to slash the already limited incomes of people, making daily living even more difficult which often leads to social, medical and psychological issues. This makes gaining and sustaining employment even more difficult, and impacts on other services and is therefore a false economy.

There is no evidence that significantly cutting the Work Related Activity Group (WRAG) of ESA will promote positive behavioural change. However, there is considerable evidence that these cuts will have a significant, harmful impact on disabled people and push them further from the workplace¹⁸.

DAS continues to oppose the forthcoming 30% reduction to the Work Related Activity Group (ESA-WRAG) rate and the equivalent 'Limited Capability for Work' group within Universal Credit from 1st April 2017.

Recommendation: The DWP does not proceed with the cut to the ESA-WRAG rate from 1st April.

¹⁷ Response from Disability Benefits Consortium (DBC) to this consultation.

¹⁸ Review undertaken by Lord Low, Baroness Meacher and Baroness Grey-Thompson: Review into the Government's proposed reduction to Employment and Support Allowance and its impact on halving the disability employment gap (December 2015).

<https://www.mencap.org.uk/sites/default/files/documents/ESA%20WRAG%20Review%20December%202015.pdf>

Chapter 2: Supporting people into work

DAS welcomes the principle of a personalised approach to employment support for disabled people. However, we do not believe that the proposed package, which includes support from Work Coaches and the introduction of a mandatory 'health and work conversation' reflects true personalisation. We are also concerned that it will not provide appropriate support for many disabled people who may be able to return to work in future.

Appropriateness of Health and Work Conversations

One size does not fit all. There needs to be specialised support for individuals with disabilities, providing personalised and intensive support based on individual need. DAS does not agree that the proposed 'Health and Work Conversation' is an appropriate form of personalised support for Work Coaches to help disabled people return to work. We are concerned at the mandatory nature of the proposals and their timing immediately following an application for ESA.

DAS opposes the introduction and escalation of conditionality for disabled people within the benefits system in any form. There is no evidence that compelling people to engage with back-to-work support will improve their chances of returning to work. We are extremely concerned that forcing disabled people to participate in back-to-work activity against their will, undermines the principle of a 'person-centred' approach proposed by the Green Paper and may cause stress and anxiety that could exacerbate their condition. We also view it as contradictory to require an individual to attend a Health and Work Conversation while making the activity they 'agree' to undertake 'entirely voluntary'.

Requiring sick and disabled people to attend a mandatory conversation about their work prospects before they receive an assessment seriously risks further damaging very fragile and limited trust on the part of disabled people and increasing the suspicion with which they view the Jobcentre. Not only should any conversation be voluntary but the Department must also be sure that it is appropriately designed and carried out. So far no detail about the Health and Work Conversation has been made available.

Recommendation: The DWP makes the Health and Work Conversation optional for new ESA claimants. The DWP does not introduce any further conditionality into the out of work sickness benefits system, and reviews the effectiveness of current back-to-work conditionality on return-to-work rates for disabled people.

Work Coaches' knowledge and understanding

DAS is concerned that Work Coaches themselves lack the requisite specialist knowledge to effectively work with disabled people with health conditions. We are concerned that Work Coaches implementing the Claimant Commitment will not have the requisite knowledge and understanding of most long-term conditions and disabilities to fully recognise their potential impact on a person's ability to work; nor the time to fully support the person in a holistic way. The Work and Pensions Select Committee found¹⁹ work coaches having 10-20 client interviews a day, not enough time to provide personalised support, caseload is much too high as well. This is of particular concern given that many conditions fluctuate and can include 'hidden' symptoms that may not be recognised by someone unfamiliar with them or how this can change between appointments.

For people who are too unwell to work, an approach which focuses on 'mentoring and coaching' is not appropriate, and may cause increased stress and anxiety which pushes them further from the workplace.

For people who are too unwell to work, an approach which focuses on 'mentoring and coaching' would not be appropriate, and may cause increased stress and anxiety which pushes them further from the workplace.

Under Universal Credit, Work Coaches will also have a significant amount of autonomy to decide on appropriate conditionality and sanctions. We are therefore concerned that, without a clear knowledge and understanding of challenges facing disabled people, Work Coaches may fail to recognise the claimants who have been incorrectly assessed and apply conditionality which is inappropriate or unmanageable for claimants. This may lead to inappropriate sanctions, or back-to-work conditionality being applied to people who should have been placed into the WRAG Support group in the

¹⁹ <https://www.publications.parliament.uk/pa/cm201516/cmselect/cmworpen/549/54907.htm>

first place, and result in a poor quality service. Also, it will be less of a clear and documented system to challenge these decisions, it's one person's word against another vs the current reconsideration, tribunal system.

However, DAS and other organisations continue to receive examples of qualified health professionals undertaking PIP and ESA assessments, who lack a basic knowledge and understanding of many long-term conditions and disabilities, their impact on the person and the attendant challenges, whether these are or not related to their disability, of fulfilling their employment conditions. We are concerned at the prospect of Work Coaches conducting assessments for additional financial support/employment support in future, instead of qualified health professionals.

Recommendations: The DWP should not apply conditionality in these situations.

We have found²⁰ that due to the relatively high turnover of work coaches it is near impossible to have the same work coach for the whole time that the claimant is job searching. However, it is important that work coaches understand each particular case. This means more than having a copy of your CV and a list of the jobs you've applied for. Personal support suggests a level of understanding of the client's specific personal situation.

Effectiveness and appropriateness of Jobcentre provided back-to-work support

DAS is also concerned that Jobcentres may not be the most effective forum for providing personal support to disabled people and that the support being provided is inappropriate. We are also concerned that the role of Disability Employment Advisers is only advisory, and that it is possible for Work Coaches to override the greater insight of DEAs.

Recommendations: The DWP must ensure that all back-to-work support is supportive and activity is undertaken with the consent of the individual in question. The DWP must do more to address the stigma attached to Jobcentres by making it easy for disabled people report Work Coaches that force them to undertake unsuitable back-to-work activity.

²⁰ RNIB focus groups.

Personalised support

Personalised support is key. We are concerned that Jobcentres will not be able to effectively provide ‘the right personal support at the right time for individuals’ given the recent announcement that the DWP intends to close around 10% of Jobcentres and cut 750 staff²¹ including several in Scotland.²² For disabled people living in deprived communities, or in remote and rural areas of Scotland, this presents severe additional barriers. This is likely to have consequences for the Department’s efforts to halve the disability employment gap, and may result in higher numbers of people with disabilities receiving sanctions through no fault of their own.

Although we welcome the announcement that the DWP will be ‘recruiting up to 300 more Disability Employment Advisers (DEA), taking the total to over 500’ we are unclear as to how this will be impacted by plans to cut staff across the Jobcentre network. We note with concern a recent reduction in the number of DEAs to only 90 in recent years.²³ This falls far short of the 900 DEAs employed by the DWP in 2011. It is therefore crucial that the DWP invests in DEAs, ideally to the previous capacity, to ensure Work Coaches are well supported in helping disabled people into work.

We are also concerned that each DEA will have a responsibility for ‘supporting and upskilling a cohort of up to 30 work coaches via one to one sessions and monthly group case conferences’.²⁴ We fear that will place too much demand on DEAs and will mean they are unable to support Work Coaches or job seekers effectively.

Recommendation: The DWP commits to protecting the number of DEAs in future and ensuring they receive continuous training in order to help them effectively support Work Coaches.

²¹ <https://www.theguardian.com/business/2017/jan/26/jobcentres-to-close-government-benefits>

²² <https://stv.tv/news/politics/1379133-more-scottish-jobcentre-closures-announced-by-uk-government/>

²³ <http://www.independent.co.uk/news/uk/politics/dwp-cuts-specialist-disability-employment-advisors-in-jobcentres-by-over-60-per-cent-a6728881.html>

²⁴ ‘The Revised DEA role’; DWP presentation to Operational Stakeholder Forum.

There also need to be a more co-ordinated approach between the DWP and health service. This will need coordination between DWP and the Scottish Government, and the NHS in Scotland should be supported to have employment as a health outcome.

Recommendation: Greater coordination between the DWP and health services across the UK, where appropriate, so the person receives greater information at appointments and diagnosis, in some instances, of the support they can receive to stay in their current job, retrain or seek a new job. Data sharing should be allowed but privacy must be protected and all due care taken. DWP must work with the Scottish Government to facilitate this.

Supporting people into work

DAS believes that some of the most useful support for disabled people in work is already available through Access to Work and the provisions of the Equality Act 2010 and other resources. However, significant improvements are required to ensure disabled people and people with long-term conditions can receive fair access to them.

Access to Work

The Access to Work scheme is crucial in helping disabled people remain in work. We welcome the announcement of additional funding, which will enable 60,000 people to receive additional support by the end of the Parliament. However, DAS is concerned that the scheme is not well publicised enough and that many employers are unaware of the potential support available.

We are concerned there can be long delays between applying for support and receiving equipment or services. This could mean that disabled people are unable to start a new role until this support is in place. This may dissuade employers from hiring disabled people, if they feel that accessing this support is difficult. People with disabilities should be able to receive a specific guarantee to provide to employers that they will qualify for Access to Work support, and the level support will be then provided depending on the employer's decision.

Recommendations: DAS calls for additional funding for Access to Work. The DWP should examine how it can speed-up Access to Work claims to ensure there are no perverse incentives for employers not to hire disabled people.

DAS members have found Access to Work is a crucial service to aligning the needs of businesses with employment programme outcomes. The Sayce Review²⁵ described Access to Work as the Government's 'best kept secret' and DWP have acknowledged that many employers are still unaware of the programme, particularly in small and medium enterprises. We are aware of plans to ensure greater awareness of the scheme²⁶ and this marketing campaign should be evaluated to ensure it is targeting the right audiences effectively. Data should also be gathered and published to determine the outcomes of applications to awards, broken down by condition.

Access to Work should also be available for work placements. Employers are nervous about taking people on who have a disability; but you can't get access to Work unless you have a job so it's a 'chicken and egg' situation. Non-disabled people have work placement but we are not being equal to disabled people as if they need ATW they won't get it for a placement. If this were in place, it would enable employers to create placements for disabled people, and treat them the equally as non-disabled people and support a greater number of disabled people into work.

Recommendations: The DWP promotes Access to Work more widely among employers and disabled people who are in work; and measures the effectiveness of the marketing campaign. Access to Work should also be available for work placements. Data should also be gathered and published to determine the outcomes of applications to awards, broken down by condition.

²⁵ L. Sayce: Getting in, staying in and getting on disability employment support fit for the future, June 2011.

²⁶ Recent stakeholder meeting, January 2017, Atlantic Quay, Glasgow.

The Equality Act

Provisions in the Equality Act (2010) are another useful way of helping disabled people remain in work for as long as possible. DAS strongly supports the legal obligation on employers to offer reasonable adjustments and to consider flexible working arrangements.

It is therefore crucial that disabled people and people with long-term conditions are aware of their rights to request these adjustments and that employers meet their responsibilities under this legislation.

Recommendation: The DWP undertakes research to examine the extent to which employers are receiving and accepting requests for reasonable adjustments and flexible working under the Equality Act and what could be done to ensure greater awareness and understanding among employers and employees.

Improving access to employment support

The DAS disagrees with proposals to offer ‘targeted health and employment support’ to individuals in the Support Group. The Support Group is for people who have been assessed as being too unwell to undertake any form of back-to-work activity and are acknowledged to be much further from the workplace. On this basis, we do not believe it is ever appropriate to offer any form of ‘targeted support’ on a ‘mandatory basis’.

We reject the notion that people who are placed in the Support Group are being ‘written off’ by not being required to undertake back-to-work activity. It is already possible to undertake up to 16 hours of work a week under the permitted work rules, without it impacting an individual’s ESA claim. This provides disabled people with the support and reassurance that they can undertake small amounts of work without risking losing all of their benefits.

DAS notes that the DWP research used to justify proposals to increase conditionality on Support Group claimants found that ‘the majority of claimants agreed that they wanted to work’. However, this same research found that only 15% of claimants agreed they were currently able to work and

that only 23% felt that having a job would be beneficial for their health.²⁷ Much of the focus by JCP is also on full time, paid work. There are problems with under employment amongst disabled people; but it may not be feasible for some people in the support group in the immediate term to be employed.

We view it as self-evident that the vast majority of disabled people and people with long-term conditions want to work. However, in many cases the impact of a person's condition means this will not be possible and further, it does not take account of the structural discrimination still experienced by people with disabilities, and the onus which should also be on employers and the state to address this. DAS is extremely concerned that this research is being used selectively to justify the introduction of inappropriate and harmful conditionality to vulnerable people in the Support Group.

We therefore strongly support the House of Commons Work and Pensions Committee's recommendation that 'The Department does not immediately proceed with the idea of mandating contact between Support Group claimants and JCP.'

The DAS entirely agrees with the Work and Pensions Committee that there is 'limited evidence to support this being a helpful approach, and some evidence that it is counter-productive'.

Recommendation: The DWP does not introduce targeted support to Support Group claimants.

Recommendations: To give the Work and Health Programme the best chance of supporting people with mental health problems the Government should:

- **Require prime providers to specify how they will make sure that people with disabilities or long term health conditions, will receive a tailored and personalised service, and play an active role in monitoring how they deliver on those commitments at a local level. This should include publishing regular data and qualitative evaluations throughout the lifetime of the programme.**

²⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/224543/ihr_16_v2.pdf

- **Recognise in their commissioning arrangements that a 'job outcome' that involves working at least 16 hours a week may not be an appropriate measure of success for some people with disabilities or long term health conditions. The Government should develop performance indicators that include customer satisfaction, improvements to wellbeing, and distance travelled towards work.**
- **Compare and evaluate providers' services to further develop the evidence-base around supporting people to return to work.**
- **Provide Work Coaches with extensive training around referrals. They should be equipped to understand what the Work and Health Programme looks like in their area and have sensitive conversations with people with disabilities and long term health conditions about whether it is the right approach for them.**

Chapter 3: Assessments for benefits for people with health conditions

Reform of the Work Capability Assessment (WCA)

DAS believes that any assessment of disabled people for financial and employment support must be able to accurately identify and consider the range of barriers to employment faced by people with disabilities and health conditions and provide the necessary support to help overcome these, where possible.

Since its introduction, the Work Capability Assessment (WCA) has been inconsistent and continued to provide an inaccurate and incomplete picture of the barriers to employment faced by disabled people. The inaccuracy of the decisions resulting from the WCA is clear from the on-going high number of successful appeals. In the latest quarter for which tribunal stats are available – July to September 2016 – ESA appeals accounted for 39% of total receipts.²⁸ Almost two-thirds (62%) of ESA appeals disposed were revised in the claimant's favour.²⁹ In addition, the number of ESA appeals has been increasing over time.³⁰

Any assessment for support must be able to capture an accurate picture of the barriers disabled people face.

Recommendation: The Government should undertake fundamental root and branch reform of the WCA, including the content of descriptors and underlying principles. Design of a new assessment should be carried out with the involvement of disabled people's organisations and disability charities.

In addition to the need for comprehensive reform of the content and principles of the WCA as a priority, the training and knowledge of assessment providers and those conducting interviews needs urgent improvement.

²⁸ Ministry of Justice (MoJ), Tribunals and Gender Recognition Certificate Statistics Quarterly July to September 2016 Statistics bulletin, 8 December 2016.

²⁹ Ibid.

³⁰ Ibid.

As we have already set out in this submission, we have deep reservations about the expanded role the Green Paper describes for Work Coaches in deciding the support offered to and actions required of disabled people. DAS feels strongly that Work Coaches would not have the knowledge or time to make informed decisions about the capability of disabled people or the support they could benefit from. Extensive training programmes must be designed for all assessors deciding on support disabled people will receive with input from disability charities and patient organisations.

While we acknowledge that the Government suggests that if given this role, Work Coaches could seek additional advice, including from DEAs and Community Partners and specialist advice for more complex health conditions – we remain concerned that decision-making power will lie with the less qualified Work Coach leaving vulnerable people open to inappropriate requirements and conditionality, and these decisions may be subject to less scrutiny and be less open to challenge than at present. This is exacerbated by the limited capacity available in the system: in 2014 the ratio of DEAs to ESA WRAG claimants was 600 to 1, and standard Jobcentre support just for ESA WRAG claimants often amounted to no more than two interviews per year.³¹ As of February 2016, each Work Coach was responsible for a caseload of around 100 claimants.³²

Recommendation: Assessors must be provided with comprehensive knowledge of the needs of disabled people, including condition-specific training which is overseen and quality assured by the Department.

Information sharing and evidence collection

Subject to sufficient safeguards, DAS is not opposed to improved information sharing across benefit systems and Government departments since it should help evidence collection and put less of an onus on individuals. DAS notes that the assessments for PIP have different aims and assess different functional restrictions and are pleased the Green Paper acknowledges this. The PIP assessment examines the ability of a claimant to complete a series of everyday living activities that act as a proxy for the extra costs disabled

³¹ Work and Pensions Select Committee, The role of Jobcentre Plus in the reformed welfare system, January 2014, p. 22.

³² Work and Pensions Select Committee, In-work progression in Universal Credit: Tenth report of the Session 2015-16, p. 15.

people face while the current Work Capability Assessment focuses more narrowly on capability to undertake 'activities and functional capability that a reasonable employer would expect of his workforce'.³³ We also note that additional communication and cooperation will be required with devolved administrations, and note this could lengthen the waiting times for benefit decisions..

Reassessments

DAS welcomed the Secretary of State's announcement of plans to not undertake reassessments for ESA for those with severe, life-long conditions in the Support Group.

For many people with the most severe conditions, as for many other disabled people, adequate financial support is crucial. We are pleased the Government have no plans to reduce the rate of support provided to those in the Support Group and hope this will be maintained.

Recommendation: The Support Group, or equivalent in terms of financial support and conditionality, should be maintained.

The assessment for financial support an individual receives should be separate from the discussion a claimant has about employment or health support.

³³ Department for Work and Pensions, Transformation of the Personal Capability Assessment: Technical Working Group's Phase 2 Evaluation Report, p. 4.

Chapter 4: Supporting employers to recruit with confidence and create healthy workplaces

Disability Confident

DAS welcomes any initiatives which genuinely seek to reduce barriers into employment for people with disabilities but we are not aware that the Disability Confident campaign has led to significant change for disabled people. Whilst the Disability Confident campaign has produced useful information and resources which seek to tackle this, there is still a need for additional support to get disabled job seekers to the stage where they are ready for employment and then to help employers access and use these resources.

Recommendation: We call for an independent evaluation of the effectiveness of the Disability Confident campaign.

What more could be done to support employers?

Recommendation: If employment programmes are to really succeed, work must be done to engage and support employers to recruit and support employees.

In particular, there should be greater efforts to connect employers with local, specialist support. This is predominantly delivered by the voluntary sector with little resource to promote and develop relationships to enhance their effective services. Government campaigns should facilitate access to existing resources like this.

In the case of mental health, research by Heriot Watt University³⁴ has highlighted the need for employers to take flexible, individualised approaches to supporting people with mental health problems at work; to recognise the importance of Fit Notes and the value of liaison between GPs, employers and employees; and provide training and understand the need for both informal and formal support. Programmes such as Individual Placement and Support place an emphasis on on-the-job training for the employee and working with the employer before and following recruitment to make reasonable

³⁴ SAMH, [What Works? Supporting Mental Health in the Work Place](#), 2011.

adjustments in order to successfully sustain the person in work. Many aspects of this are applicable to other disabilities.

We have found that businesses can be unaware of the benefits of employing a disabled person and see that these need to be promoted across Scotland.

Recommendation: Employment of disabled people could be more closely linked to community benefit clauses (CBC), where businesses that can prove they are supportive of a diverse workforce, benefit from public sector contracts. The principle being that public money should go to businesses that are supporting people who are furthest away from employment, for economic as well as social reasons.

It should be incumbent upon procuring agents to seek out and build capacity in local CBC partners rather than incumbent upon the tendering bodies. At the moment, CBC can be a resource intensive process which is limited to large organisations with resources available to them to commit to developing these relationships.

Businesses also need to ensure that jobs are progressive and that individuals who are moving into the workplace are supported and developed. It can be daunting to move into work, after a period of illness, or indeed if that individual has not been in work. Believing that there is scope to advance from an entry-level job, both in terms of a developmental and financial basis, will provide purpose and incentive to join or rejoin the workforce.

Recommendation: Related to employment support, we call for additional measures to support preparatory work in education and skills.

What should support for people with health conditions and disabilities look like?

Disabled people require specialist employment services that promote disabled people's right to work, as enshrined in the UN Convention on the Rights of Persons with Disabilities (UNCPRD). For that right to be realised, support needs to be focused on the person, be portable across different jobs

or contracts, and offer choice and control in how it is used to achieve agreed outcomes.³⁵

All models of employment support need to meet disabled people's aspirations, be evidence based, voluntary, fit for the future and serve more disabled people than they do at present. This requires investment in disability employment support that disabled people can control if they wish (e.g., employment programmes, peer support and mentoring, support to gain and maintain employment) and a commitment to providing outcome-focussed person-centred support, which makes a measurable difference to disabled people's lives.

Employment programmes should have a humane and supportive approach to assist people's health and well-being but also tackle the root causes of their unemployment; and this could lead to reduced pressure on health and public service spending, increased tax income for the state through employment, and reduced spend on welfare budgets. It is in all of our interests to help disabled people into appropriate, sustainable jobs, when they are ready to take this step.

Recommendation: One size does not fit all. There needs to be specialised support for individuals with disabilities, providing personalised and intensive support based on individual need.

Recommendation: Providers and Jobcentre Plus staff should also be required to be trained in disability awareness to prevent underlying stigma and discrimination.

³⁵ Fairer Scotland: Employability Consultation Response, Capability Scotland, Oct 2015.

Chapter 5: Supporting employment through health and high quality care for all

It was widely suggested that the current system focused on what a person can't do rather than what they can do, and that these conversations should be focussed on the skills that the individual has, their interests, and job and training opportunities rather than their disability. It was felt that it is important to engage in conversation with employers before someone with a disability applies for a job with them to remove any misconceptions they may have about their abilities.³⁶

Recommendation: More could be done to encourage take up of 'Fit for Work' in Scotland, and elsewhere.

Chapter 6: Building a movement for change: taking action together

There is a self-perpetuating cycle in that as long as disabled people aren't being widely employed in every large workplace people would remain unaware of the capabilities of disabled people and be less likely to hire them.³⁷ And as the Green Paper notes, the longer a disabled person is out of the workplace, the more difficult it is to get back into employment.

The main suggestion was that there should be a sustained public awareness campaign ran by the government which put a positive emphasis on disabled people in employment. It was felt that this was also needed to counteract the 'scrounger' label that is perpetuated by some sections of the media in regards to claimants. It was also suggested that there needed to be more visible 'ordinary' disabled role models, and that whilst the Paralympic Games went some way to challenging misconceptions, it didn't translate to changing perceptions of what 'ordinary' disabled people are capable of.

A sustained marketing campaign across a variety of mediums including role models and examples of disabled people in work would help break down what the discussion groups felt was the biggest hurdle between them and gaining employment - misconceptions about their abilities. This could be in tandem with the marketing activity around Access to Work.

³⁶ RNIB focus groups, 2016/7.

³⁷ Ibid.

Annex: Summary of recommendations

Over-arching

Recommendation: Particularly in the context of enhanced devolution, we would strongly urge the UK and Scottish Government, local authorities and other partners to work closely together to ensure joined up and effective employment support for disabled people and the best use of the resources available.

Chapter 1: Tackling a significant inequality

Recommendation: The Department for Work and Pensions (DWP) provides clarity on the availability of funding for the Green Paper's proposals and ensures sufficient resourcing to realise the stated aims in the Green Paper.

Recommendation: Targets should be set as this will encourage activity and progress. Interim targets would be useful for measuring progress and success in reducing the disability employment gap but they need to be meaningful and with proportionate intervention and funding, achievable. Performance targets should be transparent, including category of disability as well as how jobs have been created. There should also be additional targets on people moving towards employment, such as into training.

Recommendation: Ensure that different formats are available and information is accessible to different audiences, and that the system is not 'digital by default'.

Recommendation: Ensure all Jobcentre staff are trained in disability awareness.

Recommendation: The DWP does not proceed with the cut to the ESA-WRAG rate from 1st April.

Chapter 2: Supporting people into work

Recommendation: The DWP makes the Health and Work Conversation optional for new ESA claimants. The DWP does not introduce any further conditionality into the out of work sickness benefits system, and reviews the effectiveness of current back-to-work conditionality on return-to-work rates for disabled people.

Recommendations: The DWP should not apply conditionality in these situations.

Recommendations: The DWP must ensure that all back-to-work support is supportive and activity is undertaken with the consent of the individual in question. The DWP must do more to address the stigma attached to Jobcentres by making it easy for disabled people report Work Coaches that force them to undertake unsuitable back-to-work activity.

Recommendation: The DWP commits to protecting the number of DEAs in future and ensuring they receive continuous training in order to help them effectively support Work Coaches.

Recommendation: Greater coordination between the DWP and health services across the UK, where appropriate, so the person receives greater information at appointments and diagnosis, in some instances, of the support they can receive to stay in their current job, retrain or seek a new job. Data sharing should be allowed but privacy must be protected and all due care taken. DWP must work with the Scottish Government to facilitate this.

Recommendations: DAS calls for additional funding for Access to Work. The DWP should examine how it can speed-up Access to Work claims to ensure there are no perverse incentives for employers not to hire disabled people.

Recommendation: The DWP promotes Access to Work more widely among employers and disabled people who are in work; and measures the effectiveness of the marketing campaign. Access to Work should also be available for work placements. Data should also be gathered

and published to determine the outcomes of applications to awards, broken down by condition.

Recommendation: The DWP undertakes research to examine the extent to which employers are receiving and accepting requests for reasonable adjustments and flexible working under the Equality Act and what could be done to ensure greater awareness and understanding among employers and employees.

Recommendation: The DWP does not introduce targeted support to Support Group claimants.

To give the Work and Health Programme the best chance of supporting people with mental health problems the Government should:

- Require prime providers to specify how they will make sure that people with disabilities or long term health conditions, will receive a tailored and personalised service, and play an active role in monitoring how they deliver on those commitments at a local level. This should include publishing regular data and qualitative evaluations throughout the lifetime of the programme.**
- Recognise in their commissioning arrangements that a 'job outcome' that involves working at least 16 hours a week may not be an appropriate measure of success for some people with disabilities or long term health conditions. The Government should develop performance indicators that include customer satisfaction, improvements to wellbeing, and distance travelled towards work.**
- Compare and evaluate providers' services to further develop the evidence-base around supporting people to return to work.**
- Provide Work Coaches with extensive training around referrals. They should be equipped to understand what the Work and Health Programme looks like in their area and have sensitive conversations with people with disabilities and long term health conditions about whether it is the right approach for them.**

Chapter 3: Assessments for benefits for people with health conditions

Recommendation: The Government should undertake fundamental root and branch reform of the WCA, including the content of descriptors and underlying principles. Design of a new assessment should be carried out with the involvement of disabled people's organisations and disability charities.

Recommendation: The Support Group, or equivalent in terms of financial support and conditionality, should be maintained.

Recommendation: We call for an independent evaluation of the effectiveness of the Disability Confident campaign.

Recommendation: If employment programmes are to really succeed, work must be done to engage and support employers to recruit and support employees.

Recommendation: Employment of disabled people could be more closely linked to community benefit clauses (CBC), where businesses that can prove they are supportive of a diverse workforce, benefit from public sector contracts. The principle being that public money should go to businesses that are supporting people who are furthest away from employment, for economic as well as social reasons.

Recommendation: Related to employment support, we call for additional measures to support preparatory work in education and skills.

Recommendation: One size does not fit all. There needs to be specialised support for individuals with disabilities, providing personalised and intensive support based on individual need.

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Recommendation: More could be done to encourage take up of 'Fit for Work' in Scotland, and elsewhere.

