

# Inclusion London's response to Improving Lives: work, health and disability

February 2017

Information about the inquiry/consultation is available at:

<https://www.gov.uk/government/consultations/work-health-and-disability-improving-lives>

## **Inclusion London**

Inclusion London is a London-wide user-led organisation which promotes equality for London's Deaf and Disabled people and provides capacity-building support for over 70 Deaf and Disabled people's organisations in London and through these organisations our reach extends to over 70,000 Disabled Londoners.

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# 1. Summary of main points

- We are disappointed that the green paper misses the opportunity to move away from the discredited biopsychosocial (BPS) model of disability and instead set welfare policy based upon a social model approach which has the potential to more effectively improve lives.
- We are concerned that the green paper proposes little in the way of new solutions within a context of significantly reduced funding than was available for the Work Programme.
- We are concerned that misinterpretation of data is repeated within the green paper as a central justification for proposals concerning the Support Group.
- We would urge the Government to address substantive barriers to work overlooked by the proposals in the green paper including lack of independent living support, mental health service cuts, changes to Access to Work and adverse trends in the labour market including growth of insecure employment, labour intensification and workplace discrimination.
- A conversation between health and work that leaves out social care will unquestionably fail to deliver the Government's vision.
- We recommend expanding the Access to Work programme to include support to take part in voluntary work and reverse damaging changes that have recently undermined effectiveness of the programme.
- The public sector must lead the way on building inclusive and accessible workplaces that embrace diversity and eliminate disability discrimination.
- The integration of Work and Health must be about streamlining and tailoring services to meet the needs of Deaf and Disabled people to get into, stay in and get on in work in ways that are ethically sound.
- Deaf and Disabled people must be listened to and our views taken on board to shape policy that works not only in our best interests but also for the wider socio-economic benefits.
- We are extremely concerned about the damaging effects of linking therapeutic interventions and treatment to employment outcomes.
- We urge the Government to end conditionality within the benefits system.
- We call on the Government to scrap the deeply flawed and inaccurate assessment processes for ESA and PIP and replaced them with in-house assessments based on a social model approach that understands the barriers that Deaf and Disabled people face.

- There must be proper support for people who cannot work. We are concerned that the green paper offers nothing to reform failing assessment systems or reverse the decision to cut ESA WRAG and as a result Deaf and Disabled people will be moved further from employment.

## 2. Inclusion London's response

### Introduction

Inclusion London welcomes the opportunity to respond to the open consultation for “Improving Lives: The Work, Health and Disability Green Paper”. We are strongly in favour of measures that can uphold the rights of Deaf and Disabled people to work and employment in accordance with Article 27 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD)<sup>1</sup>.

Deaf and Disabled People's Organisations (DPPOs) have a track record in successfully employing Deaf and Disabled people at all levels within our organisations. We are happy to share our experiences of what works best, how we support our employees and ways to overcome the challenges that we encounter as employers.

We have a number of concerns that proposals in the green paper are either misplaced and will fail to tackle the root issues central to Deaf and Disabled people's exclusion from employment opportunities, or have the potential for adverse impacts through contributing to avoidable harm. These are set out below.

We also have a number of suggestions for how Deaf and Disabled people's employment opportunities can be concretely improved including addressing areas of retrogression that have occurred over the past few years. Section 4 provides a summary of our recommendations.

We welcome further engagement on this subject.

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<sup>1</sup> <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-27-work-and-employment.html>

## 2.1 General comments

### 2.1.1 Misinterpretation of data

Central to proposals in the green paper to develop employment support for Disabled people in the Support Group is the idea that “At the time Employment and Support Allowance was implemented in 2008 it was assumed that less than 10% of those having a Work Capability Assessment would go into the Support Group.” This is inaccurate. A study of the data by Disabled People Against Cuts<sup>2</sup> a number of years ago showed that the 10% figure (actually 10.74% - has sometimes in the past been rounded up to 11% by the DWP) was given to Atos in order to help them plan for the number of assessments they would need to carry out and related in fact to the percentage **that it was assumed would go straight through to the Support Group without needing a WCA**. That this misinterpretation is not only still being repeated but is central to policy-making at the DWP is extremely concerning.

### 2.1.2 Underpinning model of disability

We are disappointed that the green paper misses a fundamentally important opportunity to move away from the discredited Waddell and Aylward biopsychosocial (BPS) model underpinning the government’s programme of welfare reforms<sup>3</sup>. As Shakespeare writes:

“Rather than bringing together biological, psychological and social factors in a holistic account of disability, the Waddell-Aylward BPS is in actuality a causal explanation of sickness absence, with advocacy for a particular approach to disability management, that has been used to justify restriction of welfare entitlements.”<sup>4</sup>

The BPS approach is not a robust, coherent theory capable of successfully addressing the challenges of supporting more Deaf and Disabled people into

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<sup>2</sup> <http://dpac.uk.net/2013/02/11-was-never-intended-to-be-the-number-of-people-in-the-support-group-dwp-big-blunder-annie-howard/>

<sup>3</sup> On 17th January 2012 Hansard records that Lord Freud explained to the House of Lords that the Government’s approach to welfare reform was based upon “the biopsychosocial model”. He references a “Models of Sickness and Disability” document distributed to selected members of the House of Lords explaining how the BPS is different to both the medical and social models of disability: <http://www.publications.parliament.uk/pa/ld201212/ldhansrd/text/120117-0001.htm>

<sup>4</sup> For a critique of Waddell and Aylward’s model, examining its origins, its claims and the evidence it employs: Blaming the victim, all over again: Waddell and Aylward’s biopsychosocial (BPS) model of disability (May 2016) [https://ueaeprints.uea.ac.uk/58235/1/1351\\_Shakespeare.pdf](https://ueaeprints.uea.ac.uk/58235/1/1351_Shakespeare.pdf)

employment. It has also been linked to manipulation of data and violation of the declaration of Helsinki through the controversial PACE trial.<sup>5</sup>

The DWP data pack accompanying the green paper is explicit in its adoption of a BPS model, making the claim that people with a disabling long term health condition have worse employment rates than people with non-disabling long term health conditions due to “perceptions” of being less able. The implication is that if people are encouraged to think more positively about work and nudged to change their behaviour they will be able to successfully find and stay in employment, regardless of the effects of living with their impairment.

By locating the ‘problem’ in the individual, the BPS fails to sufficiently acknowledge the impact of structural and material barriers. By overplaying the effectiveness of coercive approaches, it advocates spending taxpayers’ money on approaches that will not only fail to deliver on targets and move Deaf and Disabled people further from the labour market, but at the same time cause considerable and unnecessary suffering among the most disadvantaged members of our communities.

Welfare reform has failed to deliver on its targets. In January 2016 the National Audit Office found that the DWP had not achieved value for money in contracting out assessments. In terms of failure to meet spending targets, the Office for Budgetary responsibility records:

“Between 2010-11 and 2015-16, welfare spending... increased by £24.4 billion to £216.6 billion, despite the substantial cuts announced by the Coalition Government in that period.”<sup>6</sup>

At the same time and despite a number of high profile initiative such as Disability Confident, the employment gap has barely changed over the past few years with a narrowing of less than 2%.<sup>7</sup>

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<sup>5</sup> In August 2016 a tribunal ordered Queen Mary University of London to release full data from the trial.

[http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i1854/Queen%20Mary%20University%20of%20London%20EA-2015-0269%20\(12-8-16\).PDF](http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i1854/Queen%20Mary%20University%20of%20London%20EA-2015-0269%20(12-8-16).PDF)

New analysis reveals no recovery rates of statistical significance compared to the 22% claimed by the authors. <http://www.virology.ws/2016/09/21/no-recovery-in-pace-trial-new-analysis-finds/>

<sup>6</sup> [http://budgetresponsibility.org.uk/docs/dlm\\_uploads/Welfare-Trends-Report.pdf](http://budgetresponsibility.org.uk/docs/dlm_uploads/Welfare-Trends-Report.pdf)

<sup>7</sup> [https://www.publications.parliament.uk/pa/cm201617/cmselect/cmworpen/56/5604.htm#\\_idTextAnchor006](https://www.publications.parliament.uk/pa/cm201617/cmselect/cmworpen/56/5604.htm#_idTextAnchor006) (paragraph 1)

The adverse impacts of welfare reform across this same period are well documented<sup>8</sup>. These led to the UK becoming the first state in the world to be investigated for and found guilty of grave and systematic violations of Disabled people's rights<sup>9</sup>.

Policy that is targeted at reducing welfare spend and sickness absence regardless of the actual needs of Deaf and Disabled people will not succeed and will ultimately waste resources while retrogressing our rights.

An approach based on the social model that acknowledges the realistic cost of meeting holistic support needs and overcoming barriers would enable more accurate budget forecasts, produce more successful outcomes and uphold the rights of Deaf and Disabled people.

At meeting in June 2016<sup>10</sup>, then Minister for Disabled people, Justin Tomlinson, was unable to respond to a question about what he called the "really impressive" sounding biopsychosocial model and said it would need someone "much greater than me decide what's the right thing", adding "I'm afraid I don't even know what it is." This was extremely concerning, suggesting that important information central to the nature and performance of welfare reform is being withheld from Government ministers in key posts.

"I live with colitis. On days where I am excreting blood and mucus I am too weak to work. What I need then is rest – from experience if I push myself I then end up in intensive care. I don't have negative ideas about what I can achieve. I know I am talented and always want to be as active as possible and get back to work as soon as I can. I regulate my diet, gave up smoking and rarely drink alcohol, exercise when I am well and go to sometimes weekly appointments at the clinic. None of that changes the fact that there will always be days when I am ill. I left the industry I am

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<sup>8</sup> A peer-reviewed, methodologically robust study published in 2015 by researchers at Liverpool and Oxford Universities showed that each additional 10 000 people reassessed in each area was associated with an additional 6 suicides, 2700 cases of reported mental health problems, and the prescribing of an additional 7020 antidepressant items.

<http://jech.bmj.com/content/early/2015/10/26/jech-2015-206209.full>

In 2016 the DWP finally released redacted versions of 49 peer reviews into claimant deaths linked to benefit changes. They show that the DWP repeatedly failed to act on warnings that claimants at risk of harm were not being identified or supported.

<https://www.gov.uk/government/publications/dwp-foi-releases-for-may-2016>

<sup>9</sup> The UN inquiry report can be found here:

<http://www.ohchr.org/EN/HRBodies/CRPD/Pages/InquiryProcedure.aspx>

<sup>10</sup> All Party Parliamentary Group on Disability, 27.06.2016.

trained in because the long work days and stress from bosses pushing more and more work on you were bad for my health. There was no sick pay because they knew they could just replace us and bully the other workers to take on the extra work while they recruited. I had a period on JSA but the stress from the Job Centre made me more ill. I also tried freelancing but the stress of that also aggravated my condition worse and I ended up in hospital. Now I have a job with a Deaf and Disabled People's Organisation with flexible working hours and a supportive environment. Opportunities like that are very rare." South London

**Recommendation 1: All decision makers to have independently reviewed information on the background to the development of the Waddell and Aylward BPS model.**

**Recommendation 2: Welfare policy to start from a realistic assessment of need and research into the business case for investment in independent living including adequate social care and Access to Work support that is based on need rather than financial targets.**

### 2.1.3 Lack of innovation and funding

We agree with the Ministerial foreword where it states that "Change will come, not by tinkering at the margin, but through real, innovative action". Sadly, the content of the green paper itself offers nothing substantially new by way of addressing the disability employment gap and with much less funding than the Work Programme was given. IPPR North found that the Work Programme suffered from "inadequate funding"<sup>11</sup>, yet the funding for that was around five times that set aside for the new Work and Health Programme. The Prime and sub-contractors who will be delivering the new Work and Health Programme are largely the same as were involved in the Work Programme.

Local employment support projects, particularly those adopting a peer led approach, have the potential to provide more effective support for Deaf and Disabled people. The DWP have recently launched two new initiatives aimed at supporting Disabled people into employment: Journey to Employment Job Clubs and Community Partners. Whilst we welcome the DWP's direct engagement with Deaf and Disabled People's Organisations (DDPOs) in relation to these initiatives, we have written to the DWP to raise a number of concerns. The task of reducing the

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<sup>11</sup> [http://www.ippr.org/files/publications/pdf/alright-for-some\\_June2014.pdf?noredirect=1](http://www.ippr.org/files/publications/pdf/alright-for-some_June2014.pdf?noredirect=1)

employment gap is not an easy one and initiatives need to be carefully thought through and informed by grassroots, lived experience.

We feel that the following flaws in the design of these initiatives are likely to jeopardise their success:

### **Journey 2 Employment:**

DDPOs bring particular value to employment support. They are rooted in their communities and already engaged with local Disabled people. Staff and trustees have lived experience of the barriers facing Disabled people including in gaining and sustaining employment. Within the DDPOs we support, 71% of paid staff and 84% of trustees are Disabled people.

Yet we are aware of a number of DDPOs, including some with extensive experience of providing employment support and with impressive outcomes in this area, who have decided not to apply for this funding.

Some of the problems raised are:

- Short application timeframe: given that these are opportunities targeted at particular Jobcentre areas, bidding requires partnership working amongst DDPOs based in various boroughs but application timeframes leave little opportunity for this.
- Single year funding: does not allow enough time to recruit to the post and develop the project effectively. Furthermore, barriers faced by Disabled people in achieving employment are complex and extensive and support needs to take place over a realistic length of time to achieve real outcomes. In addition, a year does not give sufficient time to gather evidence of impact and identify whether interventions are effective.
- Unrealistic range of elements: feedback from experienced employment support providers is that the different elements of the specification are all useful but could not all be delivered to good standards within the timeframe and budget for the project.
- Insufficient budget: again feedback from experienced employment support providers would indicate that the £70K budget is not sufficient to cover the range of expected outputs along with set up costs.
- Inappropriate budget exclusions: the specification excludes travel, childcare costs and refreshments. These will make a big difference to the ability of providers to get the participant numbers needed given that participation is voluntary. The



reality is that Disabled people face multiple barriers in addition to unemployment, including falling incomes and cuts in social care packages and extensive transport barriers. This list of exclusions fails to recognise the context of wider barriers and potentially sets the projects up to fail.

- Concern over status of the job clubs: it is valued that initiatives like these (which are voluntary, not linked to sanctions, and aimed at increasing understanding of barriers) are being developed. The specification includes a clear statement that participation in these job clubs will not be mandatory or linked to sanctions, but there remains some concern about what steps have been taken to ensure that Jobcentre advisors understand that participation cannot be included within claimant commitments.

### **Community Partners**

We welcome the principle of employing people with lived experience of disability within Jobcentres to enhance understanding. However, we have the following concerns:

- Broad ranging tasks and responsibilities: the role includes a very wide mixture of 1:1 coaching and group training; expert advice within complex cases; identifying mapping and developing local services; setting up networks and advice hub; awareness raising and engagement with employers. We are concerned that this is an unrealistic breadth of responsibilities and are interested in what mechanisms you will use within recruitment to ensure that applicants have the right skills and experience to be able to manage this range of tasks.
- Assessment of applicants: we are interested to know how you will ensure that applicants really do have an understanding of the social model of disability, awareness of the complex systemic barriers to employment (not just individual ones), existing awareness of local need and employment market, and existing understanding of local support needs, all of which would seem to be vitally essential to this post.
- Single year post: doesn't allow enough time to meet targets, particularly relating to building networks and raising awareness and engagement. Network building takes time and it is unrealistic to make inroads into the kind of attitudinal changes needed in this field in one year.
- Medical Model approach: the description of tasks and responsibilities seems to focus on individuals rather than addressing systemic barriers to employment eg, "delivering regular, one to one, coaching on specific disabilities and the impact living with impairment or health conditions can have on employability and employment outcomes". To achieve positive employment outcomes jobcentre

staff need to develop an understanding of systemic barriers to employment. Of particular concern is that the only expectation to work on employer practices is to encourage them to sign up to Disability Confident and raise awareness of Access to Work. What we know from DDPO experience in employment support is that the most entrenched barriers to sustained employment are about employer practices and attitudes, both at recruitment stages and in work.

- Requirement to be involved in complex case work and “case conferencing”. This is very concerning and suggests that Community Partners will be involved in advice on individual cases. Casework requires a specific set of skills and experience and understanding of professional and ethical boundaries. This raises further questions about how you would ensure at recruitment stage that candidates have the appropriate skills set and knowledge base.
- Development of third sector services: the brief includes “development of local third sector services to enhance range of support available”. This doesn’t appear to come with any new resources-it seems to be just about networking and mapping existing services so Jobcentre staff are more aware of them. Whilst this is obviously beneficial, it suggests an unrealistic expectation on the third sector filling gaps in support.

**Recommendation 3: Specifications for peer led employment support initiatives to be developed in co-production with DDPOs with realistic funding and delivery targets.**

#### **2.1.4 Addressing substantive barriers**

We are concerned that the green paper does not seek to address a number of core barriers that are increasingly undermining the employment opportunities of Deaf and Disabled people. Although funding for the Work and Health Programme is only around a fifth of what was allocated to the Work Programme, £115 million is nevertheless a substantial amount of money, particularly at a time of austerity. It is important that this money is targeted in a way that will produce the best outcomes for “improving lives”. Unless the substantive issues below are addressed, there is a very real danger that investment in the initiatives proposed in the green paper will change little.

### 2.1.4.1 Crisis in independent living support: social care, Personal Independence Payments and mental health support

Deaf and Disabled people require adequate support in key areas of our lives in order for us to successfully find, stay in and get on in employment.

#### Social care

The Care Act 2014 set national criteria which removed eligibility from some 340,000 Disabled people<sup>12</sup> while Local Authorities continue to make cuts to social care packages in order to make budget savings<sup>13</sup>. This has reduced Disabled people's choice and control and restricted the amount of support individuals receive for anything other than basic personal care<sup>14</sup>. The situation is likely to worsen still further under current proposals after LA grants from central government cease and are replaced with 100% retention of business rates.

There is a considerable gap between the life opportunities current social care provision supports Disabled people to enjoy and what is required to support Disabled people to get into and stay in employment. Access to Work will only provide support "from the front door" and with increasing restrictions on what this will cover (as discussed below), levels of unmet need are increasing.

#### Personal Independence Payments (PIP)

The Government's decision to tighten a key eligibility criterion for enhanced mobility rate from being able to walk less than 50 metres under DLA to 20 metres under PIP has removed access to the enhanced mobility component and to the Motability scheme.

Motability reported disabled people are being forced to hand back their Motability vehicles at a rate of up to 700 a week and expected 35,000 vehicles to be handed back during 2016 as a direct result of the reassessment of DLA claimants for PIP<sup>15</sup>.

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<sup>12</sup> [https://www.parliament.uk/documents/lords-committees/Secondary-Legislation-Scrutiny-Committee/CSA\\_SL\\_Committee\\_briefing.pdf](https://www.parliament.uk/documents/lords-committees/Secondary-Legislation-Scrutiny-Committee/CSA_SL_Committee_briefing.pdf)

<sup>13</sup> A survey of councils 2015/16 found that that £228 million (28%) of reported "efficiencies" were met by reducing levels of care packages

<http://www.publications.parliament.uk/pa/cm201617/cmselect/cmhealth/139/13902.htm>

<sup>14</sup> A third of respondents (33%) to the Independent Living Survey run by In Control in 2016 said that the level of choice and control they enjoyed over their support had reduced or reduced significantly. <http://www.in-control.org.uk/news/in-control-news/report-on-the-independent-living-survey-2016.aspx>

<sup>15</sup> <http://www.disabilitynewsservice.com/pip-reassessments-mean-35000-will-lose-motability-vehicles-in-2016/>

Figures show that, of Motability customers reassessed for PIP so far, 44 per cent of them have lost their entitlement to the scheme and have had to hand their vehicle back.

The extra barriers to independent travel that this creates negatively impact on Disabled people's employment opportunities.

### **Mental Health Support**

In mental health, a focus on funding for short-term interventions following the IAPT model alongside funding cuts to mental health trusts has resulted in a decrease in support for more complex mental health problems. Incidences of mental health support needs, detentions under the Mental Health Act and the suicide rate are all rising.<sup>16</sup> Effective services that provide holistic support able to support long-term well-being outcomes are being closed and replaced with extra wards in acute hospitals to deal with the crisis.

Theresa May's recent announcement of mental health proposals<sup>17</sup> similarly focuses on interventions suitable for low level rather than complex incidences without addressing key issues at the root of increasing anxiety and mental health support needs among young people which include a regime of constant testing and increased "parental strife" due to economic factors. Waiting times for children and young people remain unacceptably high with services too often commissioned for nothing more than short-term interventions able to do little more than signpost. We welcome the long-awaited a review into Children and Adolescent Mental Health Services (CAMHS).

There is a strong danger that investment in disability employment support without measures to address inadequate funding for social care and mental health support will fail to improve employment rates for Deaf and Disabled people.

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<sup>16</sup> Figures from the Health and Social Care Information Centre show a 10% rise in detentions between 2013/2014 and 2014/15. This is the fastest on record.

<http://content.digital.nhs.uk/catalogue/PUB18803/inp-det-m-h-a-1983-sup-com-eng-14-15-rep.pdf>

The number of suicides among women in the UK has increased to its highest level since 2005. Figures from the Office for National Statistics released at the end of 2016 show that 6,188 people in the UK intentionally took their own lives in 2015, up from 6,122 in 2014.

<sup>17</sup> <http://www.independent.co.uk/voices/mental-health-camhs-theresa-may-jeremy-hunt-cuts-community-care-a7533421.html>

“I would welcome the opportunity to be a productive part of the workforce, however the simple fact is that I am not provided with enough social care or support to carry out productive tasks in the workplace. I am an author, poet, blogger and activist who is full of creative ideas, but these visions lie dormant in an active mind that is imprisoned in my body. At the moment I do not receive enough social care to carry out menial daily tasks such as writing emails and making telephone calls when I want to.”

Former ILF recipient, North Wales

“Before I was referred for funding from the Independent Living Fund I lived without having my most basic needs met, spending hours unable to have a drink or go the toilet, without dignity and without any quality of life, existing between TV and hospital. Through support from the Independent Living Fund I have been enabled to go back to University and to enter employment, firstly through casual work as an “expert by experience” for the Care Quality Commission and to then go on to get my first full-time job in 20 years (as a Personal Budget Coordinator – the job of my dreams and my hobby to boot!). I am paying into the system in 2 ways – as a Trustee of a charity – and as an economically active tax payer, thanks to my paid work. Additionally, 7 other people are economically active through their employment as my Personal Assistants. I can't bear to think of a return to life without these opportunities. Unfortunately, in my job I see many people who are suffering the dreary lifestyle that I had once had as they have missed the chance to apply for ILF funding. One client says that she feels she is treated "worse than a dog - at least dogs get taken for a walk every day" - as she spends all but a couple of hours a week in bed. She doesn't have a package flexible enough to have someone around to help her back to bed when her muscles no longer allow her to maintain her position in her wheelchair. The hour that she can spend in her chair, while the care worker is doing housework, she drives from room.”

Former ILF recipient, West London

“I am a mother of two children and I hold a responsible job as Head of Institutional Strategy. When I was treated at Foxley Lane [women’s mental health service] it was not tenable for me to remain in my home and receive treatment from a community team yet based on previous experiences, staying on a psychiatric ward can be very difficult and distressing for someone in an already vulnerable state. I am very concerned that if (when) I fall ill again in the future, the Foxley Lane service will not be available to me, and my recovery will take longer, at much greater cost to my family and to the NHS.”

Reacting to MH service closure, Croydon

**Recommendation 4: Refresh the 2008 Independent Living Strategy.<sup>18</sup>**

**Recommendation 5: Set up an independent living taskforce with Disabled social care users and DDPOs to develop proposals for a national system of independent living support independent of LAs informed by learning from the success of the ILF model.**

**Recommendation 6: Reverse tightening of PIP eligibility criteria for enhanced mobility component from 20 back to 50 metres.**

**Recommendation 7: Review of CAMHS to assess how well mental health services are providing effective interventions that will give children and young people the best chances of long-term reduced mental distress.**

#### **2.1.4.2 Barriers in the health system**

Waiting times for treatment in the NHS are recognised as presenting a major barrier to employment for Disabled people. A survey by EEF of employers in the manufacturing industry found that the NHS is not meeting the needs of 40% of manufacturers to get employees back to work<sup>19</sup>. From the perspective of Deaf and Disabled people, barriers presented by the health system are increasingly impacting on our ability to manage/sustain employment. Appointments within both primary healthcare and secondary care mental health provision are restricted to times within working hours. Even where employers allow flexibility to attend frequent appointments, the intensification of labour (see below) makes it increasingly difficult to manage absences during working hours. Plans to reduce the numbers of hospitals will have an adverse impact on Disabled workers having to travel further for regular appointments, for example people on warfarin might need weekly clinic appointments to check blood levels.

We are concerned that the integration of health and work with a focus on employment as a health outcome will lead to increased pressure and coercion on Disabled people and negate the effectiveness of health interventions and treatment

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<sup>18</sup> Office for Disability Issues, 2008. Independent Living Strategy, Office for Disability Issues. <http://webarchive.nationalarchives.gov.uk/20130703133823/http://odi.dwp.gov.uk/docs/wor/ind/ilr-executive-report.pdf>. In 2014 Jenny Morris authored a review of progress: <https://www.disabilityrightsuk.org/sites/default/files/pdf/IndependentLivingStrategy-A%20review%20of%20progress.pdf>

<sup>19</sup> <https://www.eef.org.uk/about-eef/media-news-and-insights/media-releases/2016/jun/eef-sickness-absence-survey-2016>

but without changing the structural barriers that we experience as service users that make managing employment more difficult.

“Baskets of health indicators” and letters to GPs telling them that work is good for their patients will just be a waste of time if structural barriers presented by the health system are not addressed.

There are practical solutions that could streamline the health system to better meet the needs of Disabled people in employment, for example:

- Availability of physical and mental health appointments outside of working hours (including for example GP, nurse, blood clinic, psychiatrist, Community Mental Health Team, Community Psychiatric Nurse, group or individual therapy). [NB This must not replace a duty on employer’s to allow paid time off for appointments].
- Restore the ability of psychiatrists to issue prescriptions. The new system under CCGS whereby psychiatrists cannot directly prescribe medication creates a burden of additional appointments. For people who are just managing extra barriers can push people over the edge.
- Direct access to secondary mental health care. It is now common for people with mental health support needs to be discharged as soon as possible once they are judged to be in a “stable position”. If that changes and a secondary care is again needed a referral has to be made by a GP which involves a lengthy wait often of many months. More immediate support needs to be available in order to support people to stay employment.

“My mental health social worker referred me for a specialist therapy programme especially for someone with my diagnosis. I waited over a year on the waiting list but when I got to the top and realised how much work I would miss I had to turn it down. Due to my impairment I can’t work full days so in order to earn enough for the rent and bills I need to work part-time across five days a week. The programme needed me to commit to three days a fortnight for a number of months. I simply couldn’t afford to cut my hours by that much. There was no point doing less intensive therapy because it was the really complex and deeper issues that needed to be worked on.”

South London

“About eight weeks ago I had a crisis with my mental health medication. The side effects were too much. I am currently discharged from the mental health team so I went to the GP. He said he couldn’t do anything as I would have to talk to a psychiatrist about the medication. He noted I had been referred back to the CMHT more than three months before but had heard nothing and said he could only refer me again but it would be at least a month before we heard anything. I asked what I

was supposed to do – the side effects were stopping me from being able to work but I knew if I stopped the medication it would likely lead to a mental health crisis and so also having to miss work. He said he didn't know.” South London

**Recommendation 8: Deaf and Disabled people in employment who regularly access NHS and MH services to be consulted about practical ways services can better support**

**2.1.4.4 Changes to Access to Work (AtW)**

At its best, AtW has been proven to enable Deaf and Disabled people to fulfil the “high hopes and expectations” referred to in the green paper. Sadly, changes to AtW over the past few years have reduced its effectiveness while undermining employment opportunities for Deaf and Disabled people.

A forthcoming report from Inclusion London evidences the positive impacts of support through AtW:

“I can hold down a job. It's changed my life. Simple as”.

“Access to Work is good because I would not be able to have a paid job without the scheme.”

Despite an announcement in the November 2015 Autumn Statement of a real terms increase in funding for AtW, the strategic direction of travel for AtW has consistently been to reduce the value of individual packages. This is an enormous shame given the potential of the scheme to transform lives. In terms of wider economic benefits, AtW has been proven to produce a surplus on investment for the Treasury before taking into account savings to health and social care<sup>20</sup>.

Deaf and Disabled people report that the approach of AtW has changed over the past few years to a focus on reducing support regardless of negative impacts on the customer's employment accompanied by hostility from advisors including accusations of for example “Deaf fraud” and being “a burden on the taxpayer”. Rule changes such as the introduction of the cap discriminate against Deaf and Disabled people with high support needs and limit career progression, literally placing a cap

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<sup>20</sup> Getting in, staying in, and getting on. Disability employment support. fit for the future. June 2011. A review to Government by Liz Sayce.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/49779/sayce-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/49779/sayce-report.pdf)



on the ambitions and aspirations of Deaf and Disabled people to, in the words of the green paper “go as far as their talents can take them.”

Meanwhile, everyday administrative and financial problems are creating considerable barriers for customers. A 2017 online survey received 280 responses:

- 65.7% of respondents had experienced payment problems over the past twelve months
- 60.3% were not satisfied with how quickly the problems were resolved.
- 66.5% experienced difficulties in contacting Access to Work
- Respondents encountered problems contacting Access to Work 68% of the time.<sup>21</sup>

Individuals have lost jobs, sometimes after many years of building up a successful career, as a result of rule changes such as imposing non-communication days on BSL users. Many individuals, including Deaf and Disabled people as well as BSL interpreters and Personal Assistants employed through AtW funding, have been financially harmed due to administrative changes and errors.

We call on the government to put AtW at the heart of its strategy to reduce the disability employment gap. Deaf and Disabled people are clear about the changes that are needed to restore the benefits of AtW as an effective source of support and to expand the scheme to support our equal rights to suitable employment. We support all recommendations in the StopChanges2AtW response to this consultation.

**Recommendation 9: Work in co-production with Deaf and Disabled people to implement recommendations at Annex A, including expansion of the scheme to provision of support for voluntary work.**

#### **2.1.4.3 Adverse trends in the labour market**

Current trends in the labour market are increasing barriers for Deaf and Disabled workers. The credibility of the green paper is undermined by its deliberate failure to

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<sup>21</sup> See Inclusion London’s forthcoming report: Barriers to Work: A survey of Deaf and Disabled people’s experiences of the Access to Work programme.

adequately acknowledge the negative impacts of unsuitable employment and of a culture that measures worth in terms of employment status.

Lucas\* has complex mental health support needs. He found paid employment in a cafe. Not long after starting work his employer moved him onto the morning shift. Lucas found it difficult to get into work on time due to the side effects of his medication and after being late every day was threatened with the sack. As a result, he stopped taking his medication so he could get to work on time. The outcome was that Lucas ended up sectioned for a period of three months.

Ross\* has dyspraxia and Asperger's syndrome. He wants to work but the barriers to finding and sustaining employment have seriously damaged his confidence. He finds the continual knock backs of being turned down for jobs very difficult to manage. On the couple of occasions he has been given work he has lost the employment after only a few months and this has led to depression.

\*Not their real names

### Growth of insecure employment

The growth of insecure employment means an increase in the proportion of jobs that may be unsuitable for the needs of Disabled people. In September 2016, figures from the Office for National Statistics showed that the number of workers on zero-hours contracts has exceeded 900,000 with a jump of 21% from a year earlier. In addition to the difficulties of uncertain hours and pay, many zero-hours contracts do not offer sick pay. According to figures from a recent TUC publication there are nearly four million workers in the UK not eligible for sick pay due to either being self-employed or working below the weekly eligibility threshold<sup>22</sup>. Workers in insecure employment also miss out on key workplace rights and protections including the right to request flexible working hours and protection from unfair dismissal.

Employers who use insecure contracts have no interest in developing their workforce or retaining workers. Industries like call centres rely on pressurised environments where workers are restricted from meeting their basic needs such as using the toilet during working hours in order to meet targets. Workers are kept in check through fear of instant dismissal.

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<sup>22</sup> <https://www.tuc.org.uk/economic-issues/labour-market/living-edge>

Employee rights must be restored and protected to ensure healthy workplaces that are suitable for Deaf and Disabled workers.

“Within the past twelve months I have needed four major operations to replace joints affected by osteo-arthritis in addition to sickness absence prompted by the lowering of my immune system caused by the regular treatment I undergo for my condition. For periods when I am recovering I am either in too much pain or knocked out by pain killers to be able to work. This has required extensive time off work within a relatively short time period. Another issue are hospital appointments that I have no control over sometimes communicated to me with very little notice. It’s not that I want to be off work – I really enjoy my job but without the operations I will lose mobility, my pain levels will increase and my ability to stay in employment will drop. I can’t think my way out of needing the operations. Luckily I work for a DDPO and have a very understanding employer who tries to keep me on full pay for as long as possible and works with me on phased returns but it is a small organisation with funding that is all target related and the financial pressures add to the strain on the organisation.”

South London

**Recommendation 10: Implement recommendations in the TUC’s [‘Living on the Edge: The rise of job insecurity in modern Britain’](#) report for addressing access to employment rights and protections.**

**Recommendation 11: Restore the right for employers to reclaim statutory sick pay as a short-term measure; as a long-term measure, explore options for allowing employers to reclaim the costs of keeping Disabled employees on full pay during periods of disability-related absence.**

### Intensification of labour

Intensification of labour is another feature of the modern workplace that reduces accessibility to Deaf and Disabled workers, especially when coupled with a restriction on AtW awards. Just as the right employment can have wide-ranging benefits for individuals, unsuitable employment can also lead to negative outcomes. Figures from Work-related Stress, Anxiety and Depression Statistics in Great Britain 2016 show a rise in prevalence up from last year with the highest number of days taken off since 2008/9<sup>23</sup>. In 2015/16 stress accounted for 37% of all work related ill health cases and 45% of all working days lost due to ill health.

The Mental Wealth Foundation, a coalition of mental health professionals and service users, writes:

“While for some clients improving employment prospects may be an objective, for many others this is not the case and may be profoundly damaging. Indeed, for some people, their mental health problems may have begun because of work e.g. through experiences of bullying in the workplace. This one size fits all approach is simplistic. Premature return to work can result in loss of confidence and relapses affecting future ability to get back to work. This can also lead to prolonged periods without benefits and no income.”<sup>24</sup>

The breadth of responsibilities listed in the specification for Community Partners being recruited by the DWP exemplifies the kinds of unrealistic expectations that are making workplaces less inclusive.

**Recommendation 12: Full protection for everyone provided by the social security net for times when they cannot work or cannot find suitable employment.**

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<sup>23</sup> The total number of cases of work related stress, depression or anxiety in 2015/16 was 488,000 cases, a prevalence rate of 1510 per 100,000 workers. This is up from 440,000 cases in 2014/5, a prevalence rate of 1380 per 100,000 workers. The total number of working days lost due to this condition in 2015/16 was 11.7 million days.

<http://www.hse.gov.uk/statistics/causdis/stress/stress.pdf?pdf=stress>

<sup>24</sup> [https://allianceblogs.wordpress.com/2016/03/21/mwf\\_jobcentrerecovery\\_letter/](https://allianceblogs.wordpress.com/2016/03/21/mwf_jobcentrerecovery_letter/)

## Disability discrimination

Research indicates that disability discrimination in the workplace is increasing at the same time as the introduction of tribunal fees for employment cases has restricted access to redress for Disabled employees. While the Government should be leading the way in modelling inclusive employment practices, evidence from the public sector shows higher levels of work-related stress, anxiety and depression compared to other industries, disproportionate representation of Disabled staff among compulsory redundancies and a rise in staff reporting experiences of disability discrimination up from 7% in 2010 to 10% in 2016<sup>25</sup>. The 2015 Civil Service People survey showed rocketing disability discrimination experienced by staff within the DWP, the supposed home of Disability Confident<sup>26</sup>. Research has also shown that the introduction of performance management systems within the civil service discriminates among certain groups of workers including Disabled people<sup>27</sup>. Since the introduction of employment tribunal fees in 2013, disability discrimination claims having fallen by 54%<sup>28</sup>.

**Recommendation 13: Government to urgently address public sector employment practices to eliminate discrimination and ensure equality of opportunity, including the development of fair and inclusive sickness absence policies and performance management systems.**

**Recommendation 14: Reverse the introduction of tribunal fees for employment cases.**

## Research by the Public Interest Research Unit (PIRU)

A study by the Public Interest Research Unit published in May 2015 indicates that since 2011 there has been a deterioration in the workplace experiences and long-term job prospects of Disabled workers<sup>29</sup>. The study collected information from 137

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<sup>25</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/568870/Civil\\_Service\\_People\\_Survey\\_2016\\_-\\_Benchmark\\_Report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/568870/Civil_Service_People_Survey_2016_-_Benchmark_Report.pdf)

<sup>26</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/495907/dwp-people-survey-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/495907/dwp-people-survey-2015.pdf)

<sup>27</sup> Civil Service Performance Management Diversity & Inclusion outcomes data 2014-5 – an analysis: Steve French, Keele University.

[http://www.pcs.org.uk/en/news\\_and\\_events/pcs\\_comment/pcs\\_comment.cfm/pcs-report-highlights-dangers-of-civil-service-performance-management](http://www.pcs.org.uk/en/news_and_events/pcs_comment/pcs_comment.cfm/pcs-report-highlights-dangers-of-civil-service-performance-management)

<sup>28</sup> House of Commons Library, Employment Tribunal Fees, 22 June 2016.

<sup>29</sup> <http://www.piru.org.uk/press-releases/impact-of-the-coalition-government-on-disabled-workers>

disabled workers and 141 organisations covers the private, public and voluntary sectors.

Principal findings include:

- Employer attitudes. Employer attitudes towards Disabled workers appear to have become more negative. One worker, for example, reported that there was – “Much less compassion for staff who are unwell ...”
- Zero hours contracts. The unpredictability of the working hours, and the higher levels of ill-treatment associated with zero-hours contracts, had damaging effects on the health of Disabled workers. For example, a woman who worked in retail wrote – “I had a zero hours contract ... I had to be on call any and every day for a shift ... no adjustments made despite quoting the Disability Act till I’m pink in the face. Zero hours are not good for ADHD or OCD, it turns you into a complete wreck. If it’s not the money, it’s the mental health and constant worry that does”.
- Unlawful discrimination. Unlawful discrimination against Disabled workers, including harassment and unlawful dismissal, appears to have been increasing. For example, one worker stated – “when my boss thought I had terminal cancer she stopped speaking to me”.
- Benefit cheat narratives. Contributing to the increase in negative attitudes, government rhetoric about disability benefit cheats seems to have spilled over into the workplace. A particular problem was that some line managers were said to have started regarding impairments and health conditions (especially mental health) as exaggerated or “faked”.
- Redundancies and dismissals. Being Disabled appears to have put some workers at particular risk of being made redundant. In some cases, for example, it appears that employers would not make the adjustments (such as allowing time off for medical treatment) which would have enabled a worker selected for redundancy to be redeployed to an alternative post.
- Reduction in proportion of Disabled staff. In the majority of organisations, looked at for these purposes, the proportion of Disabled workers in their workforce had gone down since 2012 (albeit to a small degree in most cases). The proportion had gone down in 15 organisations looked at and up in 7.
- Cuts to legal protections. The report sets out 24 of the major cuts to equality and employment law protections. These include, for example, doubling the normal qualification period for protection from unfair dismissal and abolishing employer

liability for failure to take reasonably practicable steps to prevent third parties (such as customers or clients) repeatedly harassing an employee.

- Cuts damaging organisational performance. The study suggests that cuts to basic employment protections could be damaging individual and organisational performance. This is in part because some legal cuts make it easier to fire workers, and so reduces an organisation's incentive to develop employee skills and knowledge through training and development.
- The impact of the cuts on Disabled workers. It appeared that the cuts to legal protections are having adverse impacts on Disabled workers. One respondent, for example, indicated that, as a result of the weakening of the Public Sector Equality Duty, – “disability equality training is now all but non-existent and recruitment of Disabled people is now even lower than it was before 2010”.
- Legal protections no longer carrying the same weight. There were indications that the government's disparagement of legal protections, including framing them as “unnecessary red tape”, could be leading some employers to take their legal obligations less seriously. For example, according to one respondent, – “DDA (Disability Discrimination Act) afforded some protection, but they became less wary of it after 2010.”
- Becoming harder to enforce the rights which remain. Disabled workers seemed to feel that enforcing their rights was becoming more difficult or had become impossible. The problem which appeared to be standing in the way of legal action in the most cases was the newly introduced tribunal fee. For example, referring to legal action, one respondent stated – “I haven't taken any, and know I could never afford it now huge fees are involved”.
- Impact of the public sector spending cuts. The cuts appear to have contributed to a reduced willingness to make adjustments in the public sector; and, in some cases, to disability equality being regarded as “a luxury” that it was now difficult to afford.

**Recommendation 15: Reduce the normal qualification period for protection from unfair dismissal back down to 6 months.**

**Recommendation 16: Reintroduce employer liability for failure to take reasonably practicable steps to prevent third parties (such as customers or clients) repeatedly harassing an employee.**

**Recommendation 17: Review the Equality Act 2010 with a view to legislative changes to increase protection and widen equalities protections for Disabled workers.**

#### 2.1.4.4 Climate of anxiety, fear and uncertainty

Disabled people are facing reassessments, cuts and changes in every area of our lives and the future has never been more uncertain. Where people's ability to survive and have our most basic needs met are at risk, fears for the future have a significant detrimental impact which act as yet another barrier to being able to actively participate. The process of going through reassessments and applying for support, sometimes repeatedly due to the short term nature of measures such as Discretionary Housing Payments, takes a considerable amount of time and energy not only for the individual but for family and friends as well. During Mandatory Reconsideration ESA payments are stopped and although during MR individuals can apply for JSA and hardship payments and move onto nil income housing benefit these are all additional processes that require levels of knowledge and energy that many people by the nature of their impairment may very well not have. The impact is to move Disabled people and our families yet further away from "an ordinary life" where employment is a realistic option.

Eileen\* worker for her local Council. Her daughter has severe mental health support needs, was put in the WRAG and sent on an unsuitable work placement where the employer ignored what they had been told about her support needs, triggering an incident at the workplace and leading the daughter to a prolonged and very serious mental health crisis. At the same time the daughter became subject to the spare room subsidy removal which threatened her ability to continue living in an environment where she felt safe and stable. Eileen's brother was also placed in the WRAG following a stroke. The stress of trying to fulfil his claimant commitment lead to a further stroke and following this he was placed in the Support Group. The stress this caused Eileen and time she had to give up to supporting both her brother and daughter led to her going off work with stress. She tried to go back but her workplace was not suitable with mounting pressure as colleagues were made redundant and with no pay-rise for a number of years.

Dione\* has been diagnosed with lung cancer for over a year but is refusing the operation recommended by her doctors for fear of losing her benefits while she is hospital. She has a disabled daughter and is worried that if she is not able to respond to benefit letters they will lose their income and be made homeless.

Steven\* has Asperger's syndrome. He experienced a period of depression requiring time off work due to a change in personal circumstances that he found very difficult. He was about to begin a phased return to work when he received a letter calling him for a PIP assessment. At the same time Access to Work telephoned him despite



having been told repeatedly that his access needs require communication in writing. The stress of both of these incidents led to a complete breakdown leaving him unable to leave the house or communicate even with close family members.

June\* has MS. Her son, who does not live with her, has mental health support needs. He was called for a Work Capability Assessment but did not attend so his ESA was stopped as was his housing benefit. June had some small savings which she kept for disability-related emergencies. She has nearly used them all making sure her son has money for food and rent and has no idea what to do next. She cannot persuade him to go to the GP or to contact the JobCentre and he seems to her to have no understanding the consequences of not having an income. She is very frightened.

\*Not their real names

**Recommendation 18: Assess the cumulative impact of the package of policy and legislative changes under welfare reform.**

#### **2.1.4.4 Commissioning decisions that do not take account of DDPO added value**

DDPOs have a track record of providing meaningful employment opportunities for Deaf and Disabled people and bring particular value to employment support. They are rooted in their communities and already engaged with local Disabled people. Staff and trustees have lived experience of the barriers facing Disabled people including in gaining and sustaining employment. Within the DDPOs supported by Inclusion London, 71% of paid staff and 84% of trustees are Disabled people.

Increasingly as a result of funding cuts and the competitive environment of contract culture, the survival of DDPOs is at risk. Commissioners are making finance-driven decisions to the exclusion of considerations of added social value or the effectiveness of peer led approaches. Article 19 of Directive 2004/18/EC on Public Procurement allows public sector bodies to ring-fence contracts for user led organisations yet we are aware of very examples of its use. We would welcome greater recognition of the value of the DDPO sector within commissioning.

**Recommendation 19: Bring Article 19 into domestic rules for public procurement when the UK exits the EU and promote its use to commissioners.**

### 2.1.5 Need to listen to Deaf and Disabled people

As experts in our experience, effective policy-making must reflect the views of Deaf and Disabled people. Where our concerns are ignored, avoidable policy misdirections occur. These are in no one's best interest. One example of this is how the post of Disability Employment Advisor was taken away despite opposition from Disabled people and our organisations. The green paper outlines how an extra 300 Disability Employment Advisors are now being recruited.

There are a number of key issues relating to Health and Work where current Government proposals are contrary to the advice, evidence and feedback presented by Deaf and Disabled people and our organisations and on which we would urge the government to think again.

#### Cut to ESA WRAG

The green paper presents an opportunity for the Government to rethink and reverse its proposal to cut ESA for those in the WRAG by nearly £30 in order to level down to the rate of JSA.

The justification for this cut is that this will remove the "incentives" that "discourage claimants with potential to work from making the most of opportunities to help them move closer to the labour market"<sup>30</sup>. This assertion is supported by a startling lack of any evidence base. On the contrary, available evidence points to the negative impact that this measure will have on people who are Disabled.

The February 2016 report 'Working Welfare: a radically new approach to sickness and disability benefits' by REFORM finds there is a "scarcity of robust UK studies on the role of economic incentives for people with a health condition" while admitting that "For some people with severely limiting health conditions the financial rate is unlikely to have any impact on their chances of moving into work". International studies showing a correlation between the removal of financial incentives and increased return to employment show a greater response rate in cases associated with unemployment insurance and workers' compensation benefits than disability insurance and social security<sup>31</sup>. The ten year old OECD report cited by the Government does not mention disability<sup>32</sup>.

There is by contrast a weight of evidence that a reduction in income for people in

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<sup>30</sup> [www.parliament.uk/documents/impact-assessments/IA15-006B.pdf](http://www.parliament.uk/documents/impact-assessments/IA15-006B.pdf)

<sup>31</sup> [www.reform.uk/wp-content/uploads/2016/02/ESA-2-report.pdf](http://www.reform.uk/wp-content/uploads/2016/02/ESA-2-report.pdf)

<sup>32</sup> [www.mencap.org.uk/sites/default/files/documents/ESA%20WRAG%20Review%20December%202015.pdf](http://www.mencap.org.uk/sites/default/files/documents/ESA%20WRAG%20Review%20December%202015.pdf)

the WRAG will have negative impacts, potentially moving them further away from the labour market while lowering the standard of living for a group who already face multiple barriers. Mortality statistics published by the DWP in August 2015 showed that people in the WRAG are more than twice as likely to die as the general population<sup>33</sup>. Disabled people are also statistically much more likely to live in poverty than non-Disabled people: 31% of Disabled working age adults live in poverty compared to 20% of non-Disabled working age adults while 33% of households with a member who is Disabled live in poverty.<sup>34</sup> Once account is taken of the higher costs faced by those who are disabled, half of people living in poverty are either themselves disabled or are living with a disabled person in their household.<sup>35</sup>

Before the proposed reduction has taken place, research has shown that 28% of claimants in the WRAG cannot afford to eat on the current rate of benefit they receive.<sup>36</sup> Being able to maintain a standard of living is essential to taking part in work related activity regardless of the level of job search support available.

Brian\* is a 50 year old man with bipolar. He has no decent clothes and on his current level of benefits in the WRAG is unable to replace them or even to afford to wash the ones he does have. He is not confident to go to interviews because he knows his appearance puts off potential employers.

Simon\* is a 42 year old who suffers from depression. He has no access to a computer at home and often cannot afford phone credit. The nearest place where he can access the internet is an eight mile round trip from his house. This severely limits his ability to search for work.

\*Not their real names

The Equality and Human Rights Commission has stated its concerns that the proposed reduction will "cause unnecessary hardship and anxiety to people who have been independently assessed and found unfit for work"<sup>37</sup>.

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<sup>33</sup> [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/456240/mortality-statistics-out-of-work-benefit-claimants-summary.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/456240/mortality-statistics-out-of-work-benefit-claimants-summary.pdf)

<sup>34</sup> [www.mencap.org.uk/sites/default/files/documents/ESA%20WRAG%20Review%20December%202015.pdf](http://www.mencap.org.uk/sites/default/files/documents/ESA%20WRAG%20Review%20December%202015.pdf)

<sup>35</sup> <https://www.irf.org.uk/report/monitoring-poverty-and-social-exclusion-2016>

<sup>36</sup> [disabilitybenefitsconsortium.wordpress.com/2015/10/27/almost-70-of-disabled-people-say-cuts-to-esa-will-cause-their-health-to-suffer-and-half-may-return-to-work-later/](http://disabilitybenefitsconsortium.wordpress.com/2015/10/27/almost-70-of-disabled-people-say-cuts-to-esa-will-cause-their-health-to-suffer-and-half-may-return-to-work-later/)

<sup>37</sup> [http://www.equalityhumanrights.com/sites/default/files/uploads/documents/Parli\\_Briefings/Welfare%20Reform%20and%20Work%20Bill%20Lords%20Report%20Stage%20Briefing%20Clauses%202011%20to%202014%20FINAL.pdf](http://www.equalityhumanrights.com/sites/default/files/uploads/documents/Parli_Briefings/Welfare%20Reform%20and%20Work%20Bill%20Lords%20Report%20Stage%20Briefing%20Clauses%202011%20to%202014%20FINAL.pdf)

Before implementing a proposal that is driven by a seemingly dogmatic commitment to the BPS model and that evidence suggests will have a harmful impact on so many of the most disadvantaged members of society - estimates suggest there will be 537,000 people in the WRAG by 2019-20 – the Government must stop and think again. Before any further decisions are taken there needs to be an independent review to thoroughly assess the evidence base and carry out a robust equality analysis to ensure the government is not in breach of its statutory duties.

A review is needed which will:

- provide a more comprehensive analysis of the numbers of claimants moving through the WRAG. The 1% figure cited by the government is misleading. It only covers a single quarter and does not reflect the different reasons why claimants have left the group, for example moved into employment or into the support group.
- consider the particular barriers faced by the impairment groups represented within the WRAG. Nearly half are people with mental health support needs, learning disabilities and autism. Disabled people with these impairments are the least likely to be in employment. Just 7% of people with learning disabilities and 10% of people with mental health support needs known to social services are in employment.<sup>38</sup> Of those Disabled people accessing the government disability employment support programme Access to Work for 2014 - 2015 5% were recorded as having a primary condition of learning disabilities and 4% for mental health.<sup>39</sup> It is much more difficult for employers to understand what reasonable adjustments can be made in order to employ people with these impairments and some workplaces may never put in the flexibility required to accommodate unpredictable conditions and behavioural diversity.
- assess the impact of removing income from people with deteriorating conditions. 48,000 of WRAG claimants have progressive illnesses. The National Audit Office has found that numbers of completed Work Capability Assessments are still below target with an average time of 23 weeks<sup>40</sup>. The wait for someone to be re-assessed for the support group following a deterioration is unacceptably long.
- examine the gap between capacity for work-related activity and capacity to secure and sustain employment in a competitive labour market<sup>41</sup>.

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<sup>38</sup> [www.mencap.org.uk/sites/default/files/documents/ESA%20WRAG%20Review%20December%202015.pdf](http://www.mencap.org.uk/sites/default/files/documents/ESA%20WRAG%20Review%20December%202015.pdf)

<sup>39</sup> [www.gov.uk/government/statistics/access-to-work-individuals-helped-up-to-march-2015](http://www.gov.uk/government/statistics/access-to-work-individuals-helped-up-to-march-2015)

<sup>40</sup> [www.nao.org.uk/report/contracted-out-health-and-disability-assessments/](http://www.nao.org.uk/report/contracted-out-health-and-disability-assessments/)

<sup>41</sup> [www.mind.org.uk/media/933438/2014-support-not-sanctions-report.pdf](http://www.mind.org.uk/media/933438/2014-support-not-sanctions-report.pdf)

- consider the wider environment of disability discrimination and workplace barriers which research shows is increasing<sup>42</sup>. A survey by the Cabinet Office found rocketing numbers of staff working in the DWP reporting disability discrimination with an increase of 23.5% between 2014 and 2015<sup>43</sup>.
- calculate the additional costs to the NHS and social care which will result from reducing the incomes of sick and Disabled people and the impact on other public services and benefits<sup>44</sup>.
- assess detrimental impacts on the physical and mental well-being of claimants through negative employment and work-related activity experiences and the knock on impact on children of claimants. Employment can have many positive benefits for health and well-being, however unsuitable employment or taking up employment before you are ready can also have lasting negative consequences.

If a review is not carried out and the proposal goes ahead there is a strong danger that serious harm could be done to Disabled people and their families, and that taxpayers' money could be wasted unnecessarily through increased costs in other public service areas as well as the potential for costly legal challenges.

**Recommendation 20: The proposed cut to ESA WRAG should be stopped and a review covering above areas carried out.**

### Conditionality is counter-productive

The adverse impacts of sanctions on Disabled people are well evidenced. Of the 49 peer reviews into deaths linked to benefit cuts published by the DWP, 1 in 5 was associated with a sanction.<sup>45</sup> Figures published by the DWP show that 71,366 sanctions were applied against Disabled Employment and Support Allowance claimants between 3 December 2012 and 30 December 2016. The most common reason for sanction referrals seems to be 'failure to participate in work related activity', which may include attending work-focused interviews and other work-related activities the DWP believe will improve a disabled person's future job prospects. Disabled Jobseeker's Allowance claimants are also being hit hard by

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<sup>42</sup> [www.piru.org.uk/research](http://www.piru.org.uk/research)

<sup>43</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/495907/dwp-people-survey-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/495907/dwp-people-survey-2015.pdf)

<sup>44</sup> [www.mencap.org.uk/sites/default/files/documents/ESA%20WRAG%20Review%20December%202015.pdf](http://www.mencap.org.uk/sites/default/files/documents/ESA%20WRAG%20Review%20December%202015.pdf)

<sup>45</sup> <http://www.disabilitynewsservice.com/one-in-five-benefit-related-deaths-involved-sanctions-admits-dwp/>

sanctions, with over 260,000 receiving an adverse sanction decision between 22 October 2012 and 30 September 2016.

In November 2016 the NAO concluded that the government had failed to provide any discernable evidence that benefit sanctions actually work<sup>46</sup>. The report said the DWP is failing to monitor those who have had their benefits stopped or reduced, whilst warning many are being pushed outside of the benefits system entirely, and questioned whether the sanctions regime offered value for money to taxpayers. NAO estimates found the DWP had withheld £132m from claimants through the use of sanctions in 2015, and paid them £35m in hardship payments. The costs of administering sanctions increased to £50m in 2015, but the wider impact on public spending through additional support or savings had not been calculated by the DWP, auditors said.

In November 2016 the British Psychological Society and four other organisations signed a statement, expressing their concern that ‘the sanctions process is undermining mental health and wellbeing – there is no clear evidence of pay-off in terms of increased employment.....’<sup>47</sup>

Evidence collated by Inclusion London from our member organisations suggests that discriminatory sanctions are endemic.<sup>48</sup>

The below are case studies sent from us from just one of our member organisations on the very specific issue of sanctioning linked to Universal Jobmatch:

Ms A: Member has a learning disability. Reason for sanctioning was failure to attend an advisor interview. She stated that this appointment was not written down for her on her green card, therefore she was unaware that she had to attend the job centre on this day. It was her understanding that anything that is written on her green card she must attend, as this was not the case she did not attend. Due to her learning difficulties, communication must be completely clear with added written confirmation. She was very upset as she did not know what she had done wrong.

Ms B: This client suffers from bi-polar disorder. Reason for sanctioning - not uploading her CV to Universal Job Match, she made it clear that she has no

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<sup>46</sup> <https://www.nao.org.uk/report/benefit-sanctions/>

<sup>47</sup> <http://beta.bps.org.uk/news-and-policy/british-psychological-society-signs-statement-opposing-welfare-sanctions>

<sup>48</sup> <https://www.inclusionlondon.org.uk/campaigns-and-policy/facts-and-information/welfare-reform/benefit-sanctions-inquiry-inclusion-londons-evidence/>

computer skills at all and although the job centre made provisions for her to initially set up her universal Jobmatch account with JCP staff and create a CV he did not upload it to the site for her. She explained that it was not possible for her to do this herself as she did not know how to. This caused her deep upset and she felt demoralised as well as causing her financial difficulties where she had to borrow money from family members and is still struggling to pay back. This has had a negative affect on her mental health.

Ms C: Client has a learning disability and suffers from epilepsy and anxiety. Reason for sanctioning failure to log into Universal Jobmatch. The system would not let her log in I tried myself but with no success. This caused client to become very tearful and distressed and was talking about ending her life as she could not cope with the demands of the job centre coupled with the strains of her daily life where she cares for her elderly, infirm mother who suffers from dementia and is currently trying to manage her mental health.

Mr D: Has a learning disability and suffers from depression. Reason for threat of sanctioning failure to log into Universal Jobmatch, he has explained many times that he struggles to use computers and has no confidence in this area. The Job Centre sent him on a basic computer course but he is still unable to use it. This is making him very agitated; he feels intimidated by the staff and is causing his depression to deteriorate.

Mr E suffers from depression and PTSD (has very poor English). Was sanctioned for not using UJM – cannot use computer at all. Has to get teenage son to help him.

Ms F suffers from paranoid schizophrenia and has been quite unwell recently. She was sanctioned as she was not mentally well enough to cope with UJM.

G – As he was on JSA he was told numerous of times what would happen if he didn't upload he CV and apply to 5 jobs a day using the UJM. This created stress, anxiety and he started to feel quite low and a little paranoid because he was always worrying that they'll stop his benefits. Both another worker and I spoke to his advisor. A colleague went to the jobcentre with him to discuss his physical health issues, his learning difficulties and the fact that he was doing a literacy course to help him to read. It seems his advisor ignored everything my colleague had to say as weeks later he continued to harass RT to the point that I had to phone the advisor and re-iterate what my colleague had told him previously. However, the advisor tried to deny that he'd been harassing him and blatantly told me that RT was lying! He was very rude and abrupt but thankfully G is now off JSA and is claiming ESA.

H – Was also on JSA and was told to create an UJM and start applying to jobs. He was told that if he doesn't show that he is using UJM to apply to jobs regularly there would be a possibility of a sanction. This compounded ON's stress levels and made him become overly anxious fearful that his benefits would be stopped. His moods became low and started feeling quite depressed and stressed over the whole thing. I rang his advisor to explain ON's situation to stress that we do job search together and I was his employability support worker. They were fine with it but of course every time ON went to sign on the threat was still there. Fortunately, now he is off JSA and is back on ESA.

J – Was also told that he must create an account on UJM and upload his CV. He was told what the repercussions would be if he didn't do so and show evidence of applying to vacancies. They didn't apply pressure but they did stress the importance of using UJM and reminded him of the sanction rules. PM was quite stressed with this and his anxiety shot through the roof! He had suicidal ideations already from his mental health issues and the jobcentre just compounded it. He is now claiming ESA

K – Was told that he had to register an account with UJM and that he must upload his CV with a covering letter otherwise he may get sanctioned. He too found it very difficult to cope with the demands of the jobcentre continually stressing him about using the UJM. What makes it worse is that he was assessed and is diagnosed with dyslexia. He showed me the assessment outcome letter which he showed the jobcentre.....you'd think they'd take that into consideration, but of course they didn't. He finally got back on ESA. Unfortunately, he has had to re-claim JSA as whilst he was waiting for DWP to make a decision on his ESA claim, he was receiving any money and his HB and CT had stopped and the bills were piling up around him. He fears that now back on JSA the whole UJM issue will come back and his stress levels will rise again.

L – Has been extremely stressed out and anxious with being told that he must use UJM and that if he didn't comply with the rules he too would face a possible sanction. This man is a recovering alcoholic where some days are harder than others. The stress of the threat that his benefits could be stopped if he didn't actively show that he was using UJM every week, broke him down and he started to drink again (or was having serious thoughts about drinking). However, with our support he has stayed sober for months now and has a part time job as a cleaner but because it's not full time he still has to use UJM or they'll sanction him and that poses a risk to his ongoing health.



M - Again, this is a man who hasn't been in paid employment for over 10yrs, has chronic depression, stress and anxiety due to a lot of issues from the past. Although not directly by JCP he was told by Maximus (he was referred to the work programme whilst still claiming ESA) that he had to create a UJM account, upload his CV and covering letter as if he didn't he would face possibly being sanctioned. This raised his stress levels, lowered his mood and increased his anxiety. He had discussed how Maximus was stressing him out with his clinical psychologist and myself. His therapist and I discussed contacting Maximus to help them understand that although he presents well, inside his head and how he feels is a totally different matter. Thankfully though, Maximus are working with him and have backed off so that has helped a lot with de-creasing his anxiety!

Instead of rethinking its approach, the Government is instead through the green paper exploring the extension of conditionality still further to include Disabled people in the Support Group. It says ministers "could consider implementing a 'keep-in-touch' discussion with work coaches" for all people in the ESA support group, which "could provide an opportunity for work coaches to offer appropriate support tailored to the individual's current circumstances" and "could be explored as a voluntary or mandatory requirement". Paragraph 114 goes on to say that such contact could use "digital and telephone channels in addition to face-to-face contact, depending on which was more appropriate for the individual and their circumstances".

While we agree that disability employment support should be available for all Deaf and Disabled people who want it, we strongly disagree with conditionality as an approach and are opposed to this being extended to Disabled people in the support group.

**Recommendation 21: Sanctions should be abolished or at the very least an exemption made for Disabled people whether on JSA or ESA.**

**Recommendation 22: Any participation in work-focused activity offered to claimants in the ESA Support Group must be strictly voluntary.**

## Need to overhaul the benefit assessments for ESA and PIP

Deaf and Disabled people and our organisations are disappointed that the green paper does not propose a radical overhaul of benefits assessment processes that are not fit for purpose and linked to serious adverse impacts including worsening mental health and loss of life. It suggests separating out the financial assessment from the work capability aspect but fails to address the deep failings of the assessment process itself.

Recent DWP statistics show the majority of FFW appeals are successful (58%),<sup>49</sup> which indicates that the assessment and decision-making process is faulty. Disabled people have raised many times that decision makers ignore medical reports as well as their own accounts and that this evidence is given proper attention only at appeal stage.

The Public Accounts Select Committee's report highlighted that assessors have "an incomplete understanding of particular conditions, especially fluctuating and mental health conditions" and recommended the DWP ensure it has "well-trained, knowledgeable assessors sensitive to the complex issues that claimants are dealing with, particularly those with mental health conditions."<sup>50</sup> In May 2016 the government accepted the Committee's recommendation to make significant progress with a target date of spring 2017.<sup>51</sup> To date there is no evidence indicating improvement.

An increasing number of people are disagreeing with the assessment decision as demonstrated by a continuing rise in the numbers of Mandatory Reconsiderations. 16,600 MRs were registered in October 2016 compared to 13,200 for a year earlier in October 2015.<sup>52</sup> As 69% of these MRs concerned FFW decisions<sup>53</sup> a fall in the number MRs from the previous year would be expected if the quality of assessment had improved.

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<sup>49</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/575604/esa-wca-summary-december-2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/575604/esa-wca-summary-december-2016.pdf)

<sup>50</sup> <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmpubacc/727/727.pdf>  
(Published April 2016)

<sup>51</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/525714/treasury\\_minutes\\_web.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/525714/treasury_minutes_web.pdf)

<sup>52</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/575604/esa-wca-summary-december-2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/575604/esa-wca-summary-december-2016.pdf)

<sup>53</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/575604/esa-wca-summary-december-2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/575604/esa-wca-summary-december-2016.pdf)

The high success rate of PIP appeals indicates a similarly faulty assessment and decision-making process at considerable extra cost to the taxpayer meanwhile causing distress and anxiety to the individuals affected. Figures from the Tribunal Service for the last quarter of 2015 – 16 show a success rate for PIP appeals of 63%. Disabled people and our organisations have repeatedly explained how the assessment process is not accessible to many people due to the nature of their impairment, for example placing a burden on the individual to collect and present medical evidence. The High Court ruling concerning the WCA supports this concern with its finding that the process disadvantages people with cognitive impairments because they have greater difficulty than others in collecting evidence and explaining to the assessor how their condition affects them.<sup>54</sup>

Increasingly we are seeing another barrier resulting from the pressures on the mental health system as people with mental health support needs are now routinely discharged removing direct access to secondary care mental health professionals and therefore unable to obtain evidence of their impairment.

The UK Government's response to the UN inquiry report explains how "Recognising that attending the WCA can be a stressful experience, particularly for people with mental health conditions, everyone is encouraged to bring a companion"<sup>55</sup>. This fails to recognise the fact that many people simply have no one able to support them through the process or to come with them and these are often the people who are most at risk if their benefits are stopped. If the Government acknowledges that having someone with you is needed, then that should be resourced.

"My wife and I both have learning difficulties. We live in supported housing but when my wife's PIP form came through the support workers told us it isn't in their job description to help with forms. We went to the local CAB and they said they weren't equipped to support people with learning difficulties who need the level of support we do to collect the information together and go through the form. We were stuck."  
Hertfordshire

"I have mental health support needs and my friend has learning difficulties. He got called up for his WCA and his PIP assessment really close together. His Mum is in her eighties and really frail and he gets no support from social services at all now. He sent in the forms himself but I said I would try and come with him to the face to face

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<sup>54</sup> <http://www.publiclawproject.org.uk/news/7/press-release-work-capability-assessment-discriminates-against-claimants-with-a-mental-health-disabi>

<sup>55</sup> <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/InquiryProcedure.aspx> (paragraph 56)

assessments because they always say not to go on your own. When we met for the first one he said it was for PIP but it turned out it was for ESA. The second assessment that was for PIP was in the morning and I really, really struggle with mornings due to mental health. We got there two minutes late even though I phoned in advance to say we were on our way and they said they couldn't see us because they had too many people booked in and we were late. I was so upset I cried. I'd taken the day off work especially to come and was in a difficult period anyway. They rebooked us and we went again over the Christmas holidays. He hadn't managed to collect all the evidence they needed. The nurse also gave an inaccurate report that missed out a lot of key information we told her and lied in other parts. He needs to ask for a Mandatory Reconsideration but I can't miss work to take him to the GP and help him collect it and he has no one who can."

South London

**Recommendation 23: In co-production with Disabled people, a benefit assessment process to be developed based upon a social model understanding of disability that measures the barriers not functionality.**

### Co-location of job coaches in therapeutic settings

Mental health professionals and service users have been vocal in their concerns about the dangers of co-locating job/work coaches in health or mental health treatment settings. A coercive context (or a physical location and referral process that directly links therapy with coercive practices nearby) will negatively influence what is going on in the therapy relationally. The Mental Wealth Foundation writes: "Attempts to coerce people into work are detrimental not only to their health but to their safety and, in many cases, present a risk to life... Therapy alongside this coercive system breaches the ethical principle of non-maleficence."<sup>56</sup>

Such is the climate of fear and anxiety described above caused by assessments and conditionality that discriminate against Disabled people that even where engagement is voluntary, the association with a punitive regime and perception of coercion will have negative impacts. There is a concern that Disabled people will avoid seeking necessary treatment through fear of benefit cuts. People with mental health support needs have worse health outcomes and lower life expectancy than the general population<sup>57</sup> and efforts should be made to improve rather than discourage access to healthcare for this group.

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<sup>56</sup> [https://allianceblogs.wordpress.com/2016/03/21/mwf\\_jobcentrerehapy\\_letter/](https://allianceblogs.wordpress.com/2016/03/21/mwf_jobcentrerehapy_letter/)

<sup>57</sup> <http://www.bmj.com/press-releases/2013/05/21/life-expectancy-gap-widens-between-those-mental-illness-and-general-popula>

There are ways that accessible information and advice for those wanting to voluntarily engage in work related activities can be made available without the need to physically co-locate health and work services.

The dominance of a work focus is undermining mental health support for those with complex needs. 'Psy' professional networks have spoken out against the damaging effects of linking therapeutic interventions to employment outcomes. This has manifested in therapeutic jobs with set targets for moving people off benefits<sup>58</sup>, and funding for IAPT programmes to the exclusion of other forms of therapy. There is also criticism that many IAPT workers lack in-depth training and experience of severe mental health issues.

**Recommendation 24: Consultation is urgently needed with grassroots networks of professionals and people with mental health support needs to ensure approaches to integrating work and health are ethically sound and aim to improve lives rather than cause harm.**

## 2.2 Our views – response to specific proposals in the green paper

### Ensuring all Disabled people have access to employment support

We disagree with the premise that Disabled people in the ESA Support Group (SG) as a whole have the “perception they do not have any capability for work” as a result of being placed in the SG. Most Disabled people have too little respect for the WCA system to let it affect how they perceive their capabilities. They are however fully aware of workplace barriers and discrimination and of their own unmet support needs.

While suggesting that employment support should be extended to Disabled people in the ESA SG, the green paper also says that the Work and Health programme will not be appropriate for Disabled people with more complex needs. This is however the definition of being in the Support Group.

In order to extend equal opportunities to gain employment to Deaf and Disabled people in the SG, appropriate support must be available that responds to the complex inter-related barriers that Disabled people face, for example fewer and

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<sup>58</sup> For example, G4S advertise jobs for BABCP accredited CBT practitioners with job roles including: “Targeted on the level, number and effectiveness of interventions in re-engaging Customers and Customer progression into work” [http://careers.g4s.com/jobs/Cognitive-Behavioural-Therapist\\_58526/6%20crisis](http://careers.g4s.com/jobs/Cognitive-Behavioural-Therapist_58526/6%20crisis).

fewer Disabled people have independent living support to leave the house, fill in forms or make phone calls, go on the internet or travel to job clubs or face-to-face appointments. Sufficient resources will need to be invested to provide individualised and appropriate support otherwise many Disabled people will be unable to follow their Claimant Commitment and realise their potential.

We would add that any initiatives to extend work coach support to claimants in the ESA Support Group must be voluntary and not associated with any lowering of the benefit rate down to JSA levels. Equally work coaches must never be given powers to prescribe treatment. There must be a separation for medical professionals to remain responsible for prescribing treatment.

### **Incentivising employers**

We are opposed to the idea of incentivising employers through payments to take on Deaf and Disabled workers. This approach will contribute to negative perceptions of our worth and the “othering” of Deaf and Disabled people while failing to address existing barriers that employers report, such as a lack of awareness about the employability of disabled people, lack of awareness of the Access to Work scheme, and concerns about what is required of them by the Equality Act. Building positive relationships with employers to raise their awareness, capability and confidence is the path to more job outcomes.

The solution is to build more accessible and inclusive workplaces where diverse skills and approaches are valued. In the short-term, Access to Work has the potential to level the playing field for Deaf and Disabled workers so that we can bring our skills and talents to the labour market instead of being seen as a burden that employers need to be incentivised to take on. To work in this way Access to Work must be adequately resourced with support packages agreed on the basis of need, including recognition of ongoing need across all impairment groups, rather than a drive to cut to individual awards.

### **Income Protection Insurance**

We are deeply concerned by suggestions that income protection insurance has a role to play in moving more Disabled people into employment. Insurance is no replacement for proper investment in the NHS and in a social security system that acts as a safety net when people cannot work. Insurance companies such as Unum have been found guilty in the US and banned from several States for operating

“factories of disability denial”<sup>59</sup>, deliberately and systematically turning down claims from people with IPP no longer able to work. Disabled people in the UK do not want to be left similarly at the mercy of unscrupulous companies.

### Apprenticeships

We welcome the Government’s proposals to develop apprenticeship opportunities for Disabled people. However, we want Disabled people to have the same opportunities as their non-disabled peers to apply for apprenticeship opportunities across all industries. We also welcome Paul Maynard’s report’s recommendations on improving access to apprenticeships for young people with learning disabilities and learning difficulties, nevertheless it does not cover all the barriers that Disabled people with different impairments and health conditions may experience.

## 3. Conclusion

The green paper expresses the intention of ensuring proper support for those not in work. We know through lived experience, backed up by countless inquiries, reports and academically robust research, that this is sadly not the case as a result of welfare reforms that have occurred since 2010. The reality is thousands of people left without essential support.

Proposals in the green paper contain nothing on changes that need to be made to ensure that support is restored, for example how assessment decision-making will be improved or how inappropriate or discriminatory sanctions will be reduced. Instead the proposals threaten the opposite, with the suggestion of extending conditionality, failure to revise the decision to cut ESA WRAG, and strong focus on work as an ideology divorced from an evidence-base of Disabled people’s actual needs and the material barriers that need to be challenged in order to provide equal access to employment opportunities.

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<sup>59</sup> <https://schwartzlawpc.com/news/schwartz-law-press/read/unumprovident-accused-of-running-denial-factories/>

## 4. Summary of Recommendations

**Recommendation 1:** All decision makers to have independently reviewed information on the background to the development of the Waddell and Aylward BPS model.

**Recommendation 2:** Welfare policy to start from a realistic assessment of need and research into the business case for investment in independent living including adequate social care and Access to Work support that is based on need rather than financial targets.

**Recommendation 3:** Specifications for peer led employment support initiatives to be developed in co-production with DDPOs with realistic funding and delivery targets.

**Recommendation 4:** Refresh the 2008 Independent Living Strategy.

**Recommendation 5:** Set up an independent living taskforce with Disabled social care users and DDPOs to develop proposals for a national system of independent living support independent of LAs informed by learning from the success of the ILF model.

**Recommendation 6:** Reverse tightening of PIP eligibility criteria for enhanced mobility component from 20 back to 50 metres.

**Recommendation 7:** Review of CAMHS to assess how well mental health services are providing effective interventions that will give children and young people the best chances of long-term reduced mental distress.

**Recommendation 8:** Deaf and Disabled people in employment who regularly access NHS and MH services to be consulted about practical ways services can better support.

**Recommendation 9:** Work in co-production with Deaf and Disabled people to implement recommendations at Annex A funded via the AME/DEL Switch, including expansion of the scheme to provision of support for voluntary work.

**Recommendation 10:** Implement recommendations in the TUC's ['Living on the Edge: The rise of job insecurity in modern Britain'](#) report for addressing access to employment rights and protections.



**Recommendation 11:** Restore the right for employers to reclaim statutory sick pay as a short-term measure; as a long-term measure, explore options for allowing employers to reclaim the costs of keeping Disabled employees on full pay during periods of disability-related absence.

**Recommendation 12:** Full protection for everyone provided by the social security net for times when they cannot work or cannot find suitable employment.

**Recommendation 13:** Government to urgently address public sector employment practices to eliminate discrimination and ensure equality of opportunity, including the development of fair and inclusive sickness absence policies and performance management systems.

**Recommendation 14:** Reverse the introduction of tribunal fees for employment cases.

**Recommendation 15:** Reduce the normal qualification period for protection from unfair dismissal back down to 6 months.

**Recommendation 16:** Reintroduce employer liability for failure to take reasonably practicable steps to prevent third parties (such as customers or clients) repeatedly harassing an employee.

**Recommendation 17:** Review the Equality Act 2010 with a view to legislative changes to increase protection and widen equalities protections for Disabled workers.

**Recommendation 18:** Assess the cumulative impact of the package of policy and legislative changes under welfare reform.

**Recommendation 19:** Bring Article 19 into domestic rules for public procurement when the UK exits the EU and promote its use to commissioners.

**Recommendation 20:** The proposed cut to ESA WRAG should be stopped and a review covering above areas carried out.

**Recommendation 21:** Sanctions should be abolished or at the very least an exemption made for Disabled people whether on JSA or ESA.

**Recommendation 22:** Any participation in work-focused activity offered to claimants in the ESA Support Group must be strictly voluntary.

**Recommendation 23:** In co-production with Disabled people, a benefit assessment process to be developed based upon a social model understanding of disability that measures the barriers not functionality.

**Recommendation 24:** Consultation is urgently needed with grassroots networks of professionals and people with mental health support needs to ensure approaches to integrating work and health are ethically sound and aim to improve lives rather than cause harm.

## 5. Annex A:

# Access to Work recommendations in full

### 1. Commit to an Access to Work programme that embodies the following principles and values:

The aim of AtW must be to level the playing field for Deaf and Disabled people to obtain, maintain and progress in the labour market.

Support through AtW should focus on our abilities and enable us to fulfil our potential.

It should not:

- Place Deaf and Disabled people at financial risk
- Disadvantage Deaf and Disabled people in the work-place
- Impose inappropriate support
- Normalise inequality
- Subject Deaf and Disabled people to hostility and discriminatory attitudes
- Deaf and Disabled people should not be provided with inadequate support - needs should be fully met and the budget should not be capped.

## **2. Place AtW at the heart of the government's strategy to increase the numbers of disabled people in work.**

“Improving Lives: the work, health and disability green paper” contains few mentions of Access to Work and yet its effectiveness at supporting Deaf and Disabled people to get into, stay in and get on in employment is well evidenced, while investment in the programme produces a return for the Treasury. Improvement and expansion of the Access to Work programme must be a central part of proposals to reduce the disability employment gap.

- 2.1** A full cost analysis of the benefits and costs of the AtW scheme to the Treasury is undertaken.
- 2.2** The option of the AME/DEL Switch is fully considered.

## **3. Equip AtW to enable Deaf and Disabled jobseekers to move into work**

- 3.1** Give an indicative support package to new customers at job application stage so they can reassure prospective employers of their ability to meet job requirements.
- 3.2** Revise rules which limit support to 52 weeks for Higher Level Permitted Work customers. There are no longer time limits for Higher Level Permitted Work under current ESA and Universal Credit regulations.
- 3.3** Expand the availability of AtW to Deaf and Disabled people gaining experience through volunteering and other forms of work experience beyond the current regulations which limit support to specific internships, trainee and placement initiatives. This could also benefit Deaf and Disabled people in self-employment who are prevented from opportunities to work to build their businesses by the viability model currently operated by AtW.

#### **4. Improve job security and stability for Deaf and Disabled people in work through:**

- 4.1** Reduce target waiting times for agreement of new packages to four weeks.
- 4.2** Reduce frequency of reassessments for those with lifelong or chronic conditions and stable employment. To avoid insecurity and instability, reassessments should only be triggered by a change in support needs or for conditions expected to change over time. Cuts in support are never to be done retrospectively. 3 months' notice must be given of any cut in support. If there are costs outstanding such as BSLI costs because of retrospective cuts or lack of notice of support cuts AtW should be liable for the costs not the Deaf person.
- 4.3** Currently as Deaf and disabled people are awarded AtW as a discretionary financial grant they are the legal contractors of services. This creates problems when any issues arise, for example delayed payments or lost paperwork which results in the service provider charging statutory late payment fees. We would like to see the contractual relationship and financial risk to be placed with AtW.
- 4.4** Increase the length of AtW awards, especially for self-employed workers, to allow stability in work and minimise the loss of productivity caused by reassessments and incorrect awards.
- 4.5** Advisers should not reduce AtW awards when people under-use their budget the previous year for a reason unrelated to changing needs, for example sickness absence or hospital leave.
- 4.6** AtW should bear full financial responsibility for repair or replacing of equipment it provides for as long as the customer is eligible for support.
- 4.7** Increased the portability of AtW packages, especially for the self-employed, to allow them to take up employment opportunities without delay.
- 4.8** Review the system for providing and maintaining wheelchair equipment so that wheelchair users are not disadvantaged at work by unnecessarily lengthy and frustrating processes.

## **5 Introduce digital systems to improve delays, reduce inefficiencies and tackle fraud**

- 5.1** An online claims system for AtW would protect both customers and support staff from fraudulent activity and reduce the rate of delays due to missing forms. Facilities with online claims such as 'Save and return' would improve the claiming process.
- 5.2** Online payment processing would reduce delays and incidences of payments missing in the post.

## **6 Improve communication with new and existing customers and employers**

- 6.1** Notify customers three months before their award ends, and again one month before, to allow sufficient time for reapplying without interrupting their employment.
- 6.2** Respond to all call centre inquiries within 48 hours.
- 6.3** Inform customers in writing about any changes to AtW awards, giving clear reasons for any changes.
- 6.4** Provide clear information on how to contest decisions and make complaints.
- 6.5** Bring back the named caseworker system and allow AtW customers to have direct contact with their caseworker at all stages of their award.
- 6.6** Systems to be established so that customers can communicate directly with AtW in ways that meet their access requirements including BSL, electronically, easy read format and face to face visits.
- 6.7** Increase the awareness of AtW amongst Deaf and Disabled people, JobCentre Plus staff and employers.

- 6.8** Improve signposting, information and guidance to new customers and employers.
- 6.9** Expand on the other sources of information (“Elsewhere on gov.uk”) at <https://www.gov.uk/access-to-work/overview> such as providing links to the customer and employer fact sheets and a link to the complaints process.
- 6.10** Customer service standards for AtW staff to ensure positive communications and reverse the trend of treating customers as burdens on the taxpayer.

## **7 Improve decision making in AtW through:**

- 7.1** Disability awareness training for AtW staff should be delivered by Deaf and Disabled people’s organisations and based upon the social model of disability<sup>60</sup> and the cultural model of Deafness.<sup>61</sup> The training must be provided by independent organisations not by providers of AtW support services such as Appa, AoHL.
- 7.2** Improve staff guidance on Minimum Needs to ensure that AtW packages fully meet all Deaf and Disabled people’s employment support needs. Deaf and Disabled people should have choice and control over the support they need and should not have inadequate or unqualified support imposed on them.
- 7.3** Support needs of customers to be taken into account above arbitrary targets for time-limiting awards. There needs to be recognition of the value of ongoing support in enabling Deaf and Disabled people to stay in and get on in employment across all impairment groups including mental health support needs and neuro-diversity.

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<sup>60</sup> <https://www.gov.uk/government/organisations/office-for-disability-issues/about>

<sup>61</sup> <https://www.inclusionlondon.org.uk/disability-in-london/cultural-model-of-deafness/the-cultural-model-of-deafness/>

[https://en.wikipedia.org/wiki/Models\\_of\\_deafness#Cultural\\_deafness\\_and\\_the\\_medical\\_model](https://en.wikipedia.org/wiki/Models_of_deafness#Cultural_deafness_and_the_medical_model)

- 7.4** Advisors to be open to customer choice in meeting support needs rather than imposing a one size fits all approach through contracted services.
  - 7.5** Review to be carried out into the interpretation of the 80/20% ratio with specific relation to the support needs of people with learning difficulties/disabilities in different job roles.
  - 7.6** Improve transparency in decision making by consulting with Deaf and Disabled People's Organisations on all changes to staff guidance and communicating it with customers.
  - 7.7** Improve staff training in decision making and interpretation of guidance to ensure consistency and reduce the need for complaints.
- 8 Remove the cap which discriminates against Deaf and Disabled people with high support needs and in senior job roles.**

If the cap remains in place then its impact should be mitigated by:

- 8.1** Writing to customers in good time before they reach the cap to avoid using assistance/support that they cannot then pay for.
  - 8.2** Not counting one-off costs towards the cap – for example the cost for purchase of a wheelchair will significantly reduce the amount of support costs that are available within that year to the point of making employment unviable.
- 9 Put Deaf and Disabled people back at the centre of the AtW process.**

Consult with StopChanges2AtW, and other user-led organisations of Deaf and Disabled people on any further revisions to AtW policies or operational changes to AtW processes.

## **10 Address the disproportionate impact of changes to AtW on Deaf/deaf, deafened and hard of hearing customers**

- 10.1** Ensure that where interpreting support is required, Deaf AtW customers are always supplied with fully qualified Registered Sign Language Interpreters<sup>62</sup> (RSLI) unless the customer agrees that a trainee SLI is fully able to meet their communication support needs.
- 10.2** Consult with and seek feedback from Deaf/deaf, deafened and hard of hearing customers on developments with specialist teams and the planned video relay service for BSL to ensure it is fully meeting their access requirements.
- 10.3** Do not introduce a Framework Agreement for interpreting services in AtW as this will undermine customers' choice and control and risk the sustainability of the interpreting profession.
- 10.4** End hourly rates for support – instead give Deaf customers a monthly budget to help guide them on their annual spend, or provide information which show how much of the budget is left to spend.

Recent responses to FOI requests stated that there are no fixed rates for BSL/English interpreting and CSW support for Deaf and deafblind people. Despite this we are aware that Deaf people are being given hourly rates for support. Should they invoice over this set rate their support workers invoices do not get paid.

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<sup>62</sup> <http://www.nrcpd.org.uk/>



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