CIPD
Championing better work and working lives

CSJ Disability Commission

Submission

Chartered Institute of Personnel and Development (CIPD)

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Background

The CIPD is the professional body for HR and people development. The not-for-profit organisation champions better work and working lives and has been setting the benchmark for excellence in people and organisation development for more than 100 years. It has 155,000 members across the world, provides thought leadership through independent research on the world of work, and offers professional training and accreditation for those working in HR and learning and development.

Public policy at the CIPD draws on our extensive research and thought leadership, practical advice and guidance, along with the experience and expertise of our diverse membership, to inform and shape debate, government policy and legislation for the benefit of employees and employers, to improve best practice in the workplace, to promote high standards of work and to represent the interests of our members at the highest level.

Executive summary

There is a strong need for change in employment practices if the UK is to make significant progress in closing the disability gap – particularly with the impact of COIVD-19, which will have adverse impacts on those with long-term health conditions and/or disability now and in the future.

The CIPD is fully supportive of closing the disability employment gap and encouraging organisations to proactively recruit, develop and retain employees with disabilities and long-term health conditions.

Whilst in principle we support a move towards introducing a mandatory approach to disability data reporting, we are concerned that it could encourage organisations to adopt a superficial tick box attitude. For real progress to be made, employers need greater awareness and understanding of disability and how to manage and support people with a disability and/or long-term health condition. There are a number of organisational measures that employers need to implement to create a healthy and disability inclusive culture such as supportive frameworks and guidance, training for line managers and commitment to inclusive cultures from senior leaders.

In this response we have addressed question 2 relating to employment measures. Whilst we are aware that our response exceeds the requested word limit, this is an area of work that the CIPD has heavily invested in and continues to develop. We would be very happy to discuss any of the points raised with the Commission in further detail.

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Our response

Employment: what changes need to be made to ensure that disabled people have an equal opportunity to realise their potential at work?

1. We believe that we need a considerable step change in employment practice relating to the management of people with a disability and/or health condition if the UK is to make significant progress in closing the disability employment gap.

2. We are also concerned about the potential adverse impact of Covid-19 on people with long-term health conditions and/or disability, now and in the future. The pandemic is having an unequal effect on many employee groups and individuals at work, including those with a disability. With shielding now paused and those classed as clinically extremely vulnerable aligned with 'clinically vulnerable', and Government messaging and guidance more focused on encouraging a (safe) return to a workplace, this could have significant implications for people who are more vulnerable to infection and serious illness from the virus, as well as employees who are caring for a vulnerable person. Responsibility has now shifted to employers using their discretion about whether or not people should return to a workplace and this could cause confusion for how organisations should best support people with long-term health conditions and/or a disability. The pause to shielding will increase the concern of many in this situation, as highlighted in recent CIPD research showing that employees with existing health conditions are understandably more concerned about returning to work – 57% of those with a mental health condition, and 48% of those with a physical health condition, were anxious about this compared with 34% of those with no health condition

3. A recent Acas policy paper says that many employers are currently making decisions in haste that may potentially be discriminatory under the Equality Act 2010; Acas helpline advisers have been taking calls on a wide range of scenarios including disabled workers not being provided with reasonable adjustments, such as homeworking, or adjustments to enable them to work effectively from home.

4. The looming economic crisis and accompanying large-scale job loss are also likely to exacerbate this disproportionate impact on people with a disability and/or chronic health condition. A survey of 6,000 people by Citizens Advice, found more than a quarter (27%) of people with a disability were facing redundancy (compared with 17% of the overall working population) – increasing to 37% among those who said their disability had a large impact on their day-to-day life. Action is needed now to

ensure this already disadvantaged group do not suffer increased disadvantage in the labour market going forward. It will be much harder for those with a long-term health condition/disability to re-access the workforce if they do fall out of work.

National and organisational disability data reporting (e.g. pay gap reporting)

5. The CIPD is fully supportive of closing the disability employment gap and encouraging organisations to proactively recruit, develop and retain employees with disabilities and long-term health conditions. We are a Disability Confident Leader and have worked with Disability Confident on important guidance for line managers: Recruiting, managing and developing people with a long-term health condition.

- We know that progress on closing the DEG is far too slow, and in principle we are supportive of moving towards introducing a mandatory approach, but we are mindful of the need to make sure enough employers are ready to implement such an approach effectively. We're concerned that otherwise a mandatory approach could encourage organisations to adopt a superficial tick box attitude rather than developing practices that lead to positive and sustainable change. Many organisations currently lack the systems and infrastructure to collect data effectively on disability and long-term health conditions. Data is only meaningful if it is understood and acted on to inform real, sustainable change, and to this end we are developing a holistic reporting framework. You may be interested in our 2019 report 'Diversity management that works: an evidence-based view', that looks at the question of people data and diversity, as well as issues around disclosure that our practitioners have identified as a particular barrier in relation to developing meaningful disability-related workforce reporting.
- For real progress to be made, employers need to take a systemic approach to ensuring their organisation is inclusive to disabled people and those with long term health conditions, which involves looking critically at how they operate, from their processes and procedures to their culture and people management practice.
- We think Government and employers, and business/professional bodies need to do much more to publicise, educate and engage with employers around the existing voluntary reporting framework, with the aim of building on this to introduce a mandatory approach. Our survey of 700-plus HR professionals shows just 3 in 10 are aware of the voluntary framework and over half of *senior* HR professionals are not aware of it (of those aware, 10% had adopted it in full, 7% had adopted it in part and a further 7% were working towards adopting it). Our survey research suggests a number of existing barriers to effective disability reporting, including: a lack of reported disclosure from employees (34%), a lack of guidance or support regarding good practice for disability (30%) and a lack of systems and infrastructure to collect data (24%) are the top three.

- Government would need to introduce strong guidance and support, including a high-profile awareness campaign, to help ensure the effective take up of any new mandatory requirements given the large capability and practice gap in this area. It's disappointing that only 31% of CIPD respondents agreed there was a business case for disability, mental health and wellbeing reporting (50% agreed the moral case was clear) – showing a lot more work is needed to build the business case and engage employers on the value of reporting. There would need to be a thorough consultation with employers to ensure that reporting was being done in a meaningful way to lead to positive and lasting change.

Culture change within the workplace, particularly among leadership staff, and reframing the conversation around talent

6. Crucially, employers need **greater awareness and understanding of disability** and how to manage/support people with a disability and/or long-term health condition – the disability employment gap will only close when employers and managers are confident in this area. In particular, this needs more effective dissemination of clear guidance on how employers can make reasonable adjustments, including supportive workplace changes that go beyond their statutory responsibility. We need to shift the negative misconception about adjustments being onerous and costly – many can be simple and low-cost, and can make an enormous difference to enabling people to perform to their full potential. We also need effective voice channels in organisations to encourage genuine consultation and feedback on disability issues. We set out some of our key thinking and research in our response to the Government's Green Paper, Improving Lives as well as our response the more recent 'Health is everyone's business' consultation.

7. The CIPD Health and well-being at work 2018 survey report surveyed more than 1,000 organisations specifically about their approach to managing people with disabilities and long-term health conditions, and found that three-fifths have a supportive framework in place to recruit (59%) and retain (60%) people with a disability or long-term health condition and over two-thirds (69%) said they had a framework in place to manage people with such conditions.

8. However, around three-quarters of respondents said their organisation experienced challenges in managing people with a disability and/or long-term health condition, the main ones being:

- Developing line manager knowledge and confidence (reported by 56% of employers)
- Developing an understanding about making adjustments (50%)

- Developing clear policies, training and guidance (22%)
- Developing leadership on disability-elated and/or health issues (20%)
- Developing an inclusive culture in the organisation (19%)
- Identifying how to access external advice on health/disability-related issues (16%)

9. There are a number of organisational measures that employers need to implement to create **a healthy and disability inclusive culture** such as:

- **Commitment from senior leaders and managers**: employers need to develop a working environment that fosters diversity and does not tolerate bias towards people with a disability and/or health condition, even if it is unconscious. Leaders to speak publicly, both internally and externally, about the importance of inclusion. A senior level sponsor for disability inclusion who doesn't need to have a certain protected characteristic, but needs to commit to self-educating about the issues people face at work and dedicate time and resources to addressing them.Training, education and awareness-raising for managers and employees can help, and employers need to identify who in the organisation has influence and can act as a change agent, ie individuals who understand the issues, are good communicators, can connect with colleagues and make them sit up and take notice. These people can help drive cultural change that shifts the narrative to one of opportunity that embraces the social model of disability.
- **Supporting a climate of disclosure:** Creating an open culture around health and disability issues is a key step in fostering an environment where people feel comfortable to disclose: if individuals don't disclose their condition, they will not receive any organisational support. Many employers are aware of their need to act on health and disability issues, but many feel ill-equipped to do so, with disclosure often seen as the biggest barrier, creating a vicious circle for both employees and employers.
- **A robust organisational framework of health and disability related policies and support:** this will provide the bedrock for encouraging a positive and open culture; employers should understand their legal obligations under the Equality Act in managing disability and making reasonable adjustments when necessary. This needs to include a proactive and supportive approach to managing absence including a disability leave policy that differentiates between sickness and disability absence. A **condition management plan** or 'wellbeing action plan' can empower the individual to manage their health and/or disability in partnership with their manager.
- **Flexible sickness absence procedures** that are consistent but flexible enough not to penalise people with a long-term, possibly fluctuating, health condition or illness, for example where a trigger system is used that does not take into account the spells of sickness absence that someone may need to take because they have an

ongoing illness or condition. This could include a 'health passport' system for employees with a disability and/or long-term health condition, to communicate the individual's health and attendance issues over time

- **Training and guidance for line managers:** managers need to be equipped with the confidence and competence to manage people with a health condition and/or disability. Line managers are not medical experts but can develop an understanding of someone's condition and how it impacts on them and ability to perform role at certain times. Training is vital to ensure that managers have the knowledge and interpersonal skills required to implement relevant policies and support and have sensitive and supportive conversations with individuals where appropriate. They need a greater understanding of how to effectively respond to disclosure, for example to ask what support an individual may need to support to their best, and then work across the organisation to ensure effective implementation of any changes.
- **Tailoring solutions to suit individual need:** while it is important that employers' policies to support people's health are implemented fairly and consistently across the organisation, it's also important to remember that different individuals can experience the same health condition and/or disability in very different ways. Therefore, employers should develop a strong case management approach to managing people's health and/or disability and base their support on individual need. This should include application of a proactive flexible working policy enabling individuals with a health condition and/or disability to flex their hours and responsibilities to suit any fluctuating health needs.

Adaptations to existing - or introducing new - routes into employment (e.g. support internships; apprenticeships; traineeships)

Careers advice and guidance

10. Cultural and societal attitudes around health and disability do not begin with employment and attitudinal change needs to start at the earliest opportunity to have an impact on the expectations of young people entering the labour market as well as those of their peers. We believe much more should be done to make sure that, from a young age, those with disabilities and long-term health conditions are aware of the opportunities available to them and the steps they need to take to access these. While employers certainly have a key role to play in ensuring that their recruitment practices are designed in such a way that they are accessible to all, we believe that there is also the need for better quality and more targeted careers advice and guidance in schools in this area. Careers advice and guidance – as well as the broader educational culture - should not only highlight the opportunities

available but equip *all* young people with the tools and confidence they need to enter the labour market.

The comparative effectiveness and taxpayer value-for-money of past and current government and non-governmental programmes to improve the employment of disabled people (e.g. Access to Work and Disability Confident)

11. Government schemes such as Access to Work and Disability Confident have the potential to improve the capability and knowledge of employers in creating inclusive workplaces and improving the employment of disabled people. As a Disability Confident Leader, we welcome the feedback from our practitioners that, in principle, it covers the right issues and offers a simple and accessible framework for employers of all shapes and sizes to improve their confidence and competence in recruiting and developing people with a disability. It can be a useful first step for employers and we welcome improvements to it such as its extension to retention as well as recruitment practices. However, there needs to be much greater promotion of it, as well as Access to Work, by Government as part of a well-funded national campaign, in collaboration with employers, and relevant special interest group and stakeholders.

12. We believe Access to Work is an important scheme, a view broadly supported in the consultation we carried out to support our response to the Government's Green Paper, Improving Lives, as well as by the APPG MS report on *Employment that works: Supporting people with MS in the workplace* to which we contributed. Our Health and well-being at work 2018 survey report showed that 60% had heard of Access to Work and 32% had used it, with three-fifths of these reporting it was very helpful. A lack of awareness of the scheme among jobseekers, employees and employers alike is seen as a major barrier to fulfilling its potential, however, a view supported by the APPG MS report. Barriers identified at the time to its use (2018) also reflect some of the findings of the APPG MS report, including having to pay upfront for adjustments and wait for reimbursement (a particular problem for SMEs), a complicated application process and eligibility requirements on the part of the employer.

13. Some previous users of the scheme said that they had not been able to access the specialist knowledge of particular types of disability through advisers at Access to Work, forcing them to find other sources of expert advice. CIPD is of the view that Access to Work as a concept has tremendous value and potential, but it could be made more high-profile, flexible and responsive, with much greater promotion of its potential benefits for employers. Our practitioner feedback also indicates there is

more scope for the service to more effectively support people with a disability who are already in employment.

Employer pecuniary and non-pecuniary incentives, such as targets or tax incentives

14. Providing and promoting a financial incentive for employers to introduce health and disability related interventions could potentially encourage more employers to take a preventative and positive approach. When we asked employers in 2018 which three government-led changes would make the greatest difference to improving how their organisation manages people with a disability and/or long-term health condition, the 2nd and 3rd most highly rated changes were '*more financial support for making adjustments*' (57%) and '*wider tax relief to help employers introduce health interventions'* (49%).

15. However, there needs to be careful thought about the design and impact of financial incentives which could be a blunt tool if not thoroughly researched, piloted and evaluated – particularly in relation to how they moderate employer behaviour and succeed in sustaining an appropriate culture and good practice over time. Great care would be needed to ensure that there were not unintended consequences, for example if employers were paid for the employment of disabled individuals, this could encourage the wrong behaviour if people are recruited into 'non-jobs'. Paying employers to recruit or retain people with health conditions and disabilities could undermine the (correct) view that all people with health conditions and disabilities are just as trained and capable as anyone else.

16. There could be more effective ways of providing support – for example, the funding of adjustments for small businesses or providing access to free training. There could also be scope for scaling up the financial incentives available to employers who provide ongoing mentoring and support accessed via schemes such as Access to Work. This could be a more sustainable way of incentivising and supporting employers to recruit and retain people with a disability and/or health condition.

Employee opportunities in employment (e.g. training, promotion, and continuous professional development)

17. Many UK workers believe disability is still a barrier to career progression (eg, see PMI Health Group research), despite anti-discrimination legislation. So it's crucial that Government (working with businesses) should consider the *progression*, as well as the recruitment and retention, of disabled people and people with health conditions at work. There is no single public policy initiative that will accomplish this

aim, and as well as building effective national and localised networks across employment, we need appropriate and adequately resourced Government services to support employers, backed up by high-profile national campaigns. The support and services available need to be tailored to meet the needs of different employers, widely promoted, joined up and responsive. This will require clear signposting and the availability of accessible tools, advice and guidance showing how employers can facilitate the career progression of people with a health condition and/or disability. They will need to share good practice and understand the practical employment strategies they need to put in place, such as:

- high-quality training for line managers so that they are confident and competent to manage people with a disability/health condition and make effective reasonable adjustments
- a proactive and innovative approach to flexibility that enables all roles, including senior-level ones, to be available for varied flexible working arrangements, which we know can benefit many different employee groups, including disabled employees
- regular career reviews to discuss career development and potential adjustments as part of a lifelong learning approach that is responsive to fluctuating health/disability conditions.

18. Personal and professional development is a key area to support the employment and progression of all workers in the labour market, including those with a disability and/or health condition. One recommendation of Baroness Altmann, former Business Champion for Older Workers, was for Government to introduce a 'mid-life career review' to help retain and retrain older workers. The CIPD has recommended that this career development tool be introduced for *all* workers, as part of a life-long learning approach. This framework would provide the opportunity for an individualised and supportive discussion that could include health and disability related issues as they may develop over time.

The role of unions working with employers to improve disability equality practices and outcomes

19. Recognised trade unions and employee representatives can play a very important role in improving disability equality practices and outcomes. Most trade unions would view equality and diversity issues, fair treatment and the development of anti-discrimination practices as a key priority. As well as acting as important role models for equality and diversity, union representatives also play a key role in representing members who raise complaints about unfair treatment and/or discrimination or

harassment in relation to equality issues such as disability. Wherever possible, employers should communicate and consult with union and non-union employee representatives in the development of their equality and diversity policies, procedures and action plans. Where recognised for collective bargaining, unions can also raise awareness of disability issues as part of the collective bargaining agenda and, where applicable, help ensure an employer fulfils its Public Sector Equality Duty in this area.

20. Many unions have dedicated equality representatives who focus on working with their membership and representing their views and experiences to management to help shape the diversity agenda. As the Acas advisory booklet on trade union representation makes clear, they can help raise awareness of issues related to equality and diversity and raise the profile of equal treatment of workers including on disability. However, equality representatives have no statutory rights to time off, training or facilities and Acas makes the important point that it's good practice for these to be provided by employers to enable them to perform effectively, and that other specialist union representatives such as 'disability champions' may develop on a non-statutory basis.

The role of business advisory networks (e.g. CBI, Chambers of Commerce) in disseminating best practice and supporting businesses to improve disability equality practices

21. The collective view from our practitioners is that it can be confusing to navigate the many sources of disability and health related information, advice and guidance (IAG) already available – and this applies to all employers. When we asked which three government-led changes would make the greatest difference to improving how their organisation manages people with a disability and/or long-term health condition, the most highly rated change was an online 'one-stop shop' providing information and practical tools, cited by 58%. Provision of IAG should meet the needs of employers with very different needs and starting points in this area, particularly SMEs. Therefore, it's important that online sources of IAG are supported by the provision of local sources of support and services. Feedback from practitioners and expert disability organisations indicated that a range of practical help and guidance categorised into clear topic headings based on the employee journey including case studies, toolkits, simple flow charts and signposting links to other sources of advice and support on specific health conditions/disabilities would be most helpful.

22. Business advisory networks could play a vital role in disseminating best practice and supporting businesses to improve disability equality practices. Networks will be particularly useful in supporting SMEs to take an active role; this is a group that is often harder to reach for policy-makers but given their majority share of the labour market, they are vital to achieving a significant increase in the employment of people with a disability and/or health condition.

23. The UK Commission for Employment and Skills invested in a number of pilots in 2015, demonstrating how successfully sector-based (eg, supply chains) or location-based networks (eg, chambers of commerce) can be used to improve the quality of leadership and management skills. The issue may be different but useful lessons from those trials can still be relevant here and may offer some useful insights on the role of networks. At the national level, Government as an enabler can convene prime organisations and encourage them to work together, particularly along industry lines. Prime organisations sit in a position of power with respect to their supply chain and can use those relationships to influence employer behaviour, share best practice and encourage action among the traditionally harder-to-reach SMEs which tend to be more connected to local institutions. Government should work with local authorities, Local Enterprise Partnerships, chambers of commerce and large employers to carry out targeted campaigns and provide support at a much more local level.

24. However, there is a need to recognise that providing good quality IAG in itself will not lead more small employers to improve how they manage and support people with disabilities and long-term health problems. A CIPD live research project into building HR capability in small firms (*Building HR capability and ambition in small firms*, 2017) involved the developing a funded model for SME people management support delivered at a local level called People Skills. Working with existing business support networks, such as Chambers of Commerce, people management consultants provided invaluable practical support and guidance to SMEs. It found many small firm owner managers need support to enable them to get the very basics of people management in place such as written employment contracts, terms and conditions and job descriptions. It found that until these foundations are in place owner managers are unlikely to invest in higher value-added activities like training or developing flexible working. Owner managers who are struggling to comply with employment regulation are unlikely to engage with IAG resources on worker health and wellbeing, and active commitment to disability-related employment initiatives. Consequently, there is a need to improve the quality of business support to small firms on HR/people management at a local level

delivered via key stakeholders such as Local Enterprise Partnerships and Growth Hubs and through providing additional resources to Acas.