Pathways to work: Reforming Benefits and Support to Get Britain Working Green Paper

Submission to the Department for Work & Pensions

Chartered Institute of Personnel and Development (CIPD)
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About CIPD

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 160,000 members across all sectors and sizes of organisation and 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. It also seeks to promote and improve best practice in people management and development and to represent the interests of our members.

Background

The CIPD is a Disability Confident Leader and serves on the Department for Work and Pensions Disability Confident Professional Advisers' Group. We work with the DWP and the Disability Confident team on important guidance for line managers: Employing disabled people: Disability Confident and CIPD managers' guide. We also sit on the new Advisory Group to support the Menopause Employment Ambassador.

We have worked with health professionals, practitioners and experts to publish a wide suite of practical guidance to advise people professionals, line managers and employers on how to support people's health at work, including:

- Managing and supporting employees with long-term health conditions
- Managing a return to work after long-term sickness absence
- Working with long COVID: guidance to provide support
- Joint mental health guide with Mind for people managers
- Responding to suicide risk in the workplace
- Menopause at work
- Menstruation and menstrual health in the workplace
- Fertility challenges, investigations and treatment
- Pregnancy or baby loss: Guide for people professionals on providing workplace support

Introduction

As the UK's professional body for people professionals, we have wide reach in workplaces through the HR work of our 160,000 members, including through their influence on people management practice more broadly in organisations. We therefore restrict our feedback on this welcome consultation to the role of employers in supporting better employment outcomes for disabled people and those with health conditions. We also very much welcome the 'Keep Britain Working Review' and a copy of our full response, much of which is very relevant to the focus of Chapter 4 of this consultation, is here.

Chapter 4: Supporting employers and making work accessible

13. How can we support and ensure employers, including Small and Medium Sized Enterprises, to know what workplace adjustments they can make to help employees with a disability or health condition?

Many employers, particularly small ones (SMEs), lack the knowledge, capability and confidence to build inclusive environments where people can talk about disability and health issues. Declaration levels about disability issues are still very low in many organisations.

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 disabled people being able to access employment and remain in work. There's a range of good guidance and advice available on making workplace adjustments, including Acas' guidance on making and handling requests, including for mental health-related adjustments and for neurodiversity, that is very accessible for SMEs. However, many organisations are still unclear about which resources to access, and where to find them.

Regulatory change will not necessarily achieve the cultural shift needed in organisations to embrace more diverse talent pools and put supportive policies and practices in place – crucially, flexibility (functional and informal flexibility as well as a wide range of flexible working options), job design (including job crafting that builds on people's strengths and skills), and inclusive recruitment. There needs to be more proactive and high-profile communications and signposting of credible sources of information, advice and guidance (IAG). Government is a key enabler, and should work with employment and professional bodies, such as the CIPD, as well as regional and local networks that are linked into small employers, as well as digital channels, to build awareness and education. The role of the EHRC and Acas are critical (see below).

As well as practical resources to upskill organisations and managers, this should cover clear promotion of the business case for recruiting and progressing disabled people and those with health conditions – the evidence cited in the Green Paper, that employers could save between £5,000 and £11,000 for each employee they prevent from 'falling' out of work is a compelling rationale for all employers to act. Information and guidance should also include good practice case studies that are relevant to a wide range of sectors, industries and size of organisation. These should include practical examples of reasonable adjustments (that go beyond the law for all that need them for health reasons) that can be implemented for a range of needs and circumstances.

Key barriers that prevent employers from effective adjustments and opening up employment opportunities for disabled people

According to CIPD research only a minority of employers (28%) say they *don't* experience any challenges in managing disabled people and those with long-term health conditions. The most common challenges are developing:

- line manager knowledge and confidence (50% of organisations experiencing challenges)
- an understanding about making reasonable adjustments (38%)
- an inclusive culture in the organisation (29%)
- leadership on disability-related and/or health issues (25%).

Despite *'developing line manager knowledge and confidence'* being the top challenge, just a third (32%) provide training and guidance for line managers in this area, while less than half (42%) report they have a supportive line management style that treats people as individuals.

CIPD research shows clear links between line manager quality and employee health; for example, half (50%) of employees with bottom-quartile managers thought work had a negative (or very negative) impact on their mental health, compared to one-seventh (14%) of employees with a top-quartile manager. Managers play a crucial role, including by acting as a 'gateway' for employees to access expert health services and HR policies that can help individuals to manage the impact of symptoms on work, as well as implementing reasonable adjustments where needed.

Further, many small companies in particular lack access to expert HR and occupational health advice and very often don't have the resources and capability to confidently manage health and disability, and discuss and implement reasonable adjustments.

Good practice: encouraging employers to make adjustments for all that need them

Making reasonable adjustments is a statutory duty under the Equality Act 2010, but there is a high bar for an individual to be protected by the law given the definition of disability. Many employees will benefit from early and supportive work adjustments if they have a health condition, whether or not they fall into the disabled category. This is very important given that many people are increasingly now living and working with multiple chronic conditions. Therefore, employers should offer supportive adjustments for any employee with a health condition or wellbeing challenge where possible, as it could help an individual to access or stay in work. The alternative could be someone failing to access employment, or falling into long-term sickness absence where it becomes harder and harder to return to work.

To achieve this, as the consultation document notes, employers need to achieve wider and deeper cultural change, including:

- **Commitment from senior leaders and managers**: employers need to develop a working environment that fosters diversity; leaders need to speak publicly and authentically about the importance of inclusion, and drive cultural change that shifts the narrative to one of opportunity that embraces the social model of disability.
- **Supporting a climate where people can share their experience of disability:** many employers lack confidence in this area, with disclosure often seen as the biggest barrier, creating a vicious circle for both individuals and employers.
- **A robust organisational framework of health and disability related**

policies and support: this needs to include a proactive approach, including a disability leave policy that differentiates between sickness and disability absence.
    - **Flexibility in working practices and policies:** a proactive flexible working policy should enable individuals with a health condition and/or disability to flex their hours and responsibilities to remove or mitigate any barriers to work.

- **Boost people management capability in small firms:** with 15,000 of our CIPD members providing HR consultancy to small firms, we are well aware of the people management challenges many experience. Many HR interventions are key to effective occupational health support for workers such as basic absence management policies, return to work interviews and reasonable adjustments. 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.

Key recommendations

Given the barriers many employers experience in recruiting, supporting and managing disabled people and those with health conditions, and the lack of a wider, well-developed health and work infrastructure, we need bold and systemic change to have a real impact on closing the disability employment gap. Therefore, our key recommendations include:

- **Better signposting to credible information, advice and guidance:** providing employers with reliable and accessible information, advice and guidance (e.g. Acas resources and Gov.uk services such as SEHD), on recruiting and managing disabled people and making effective reasonable adjustments, should be more proactive; for example, via a high-profile campaign with employment and membership/professional bodies, building on Disability Confident networks, and/or by using third parties who have trusted and regular communications with SMEs, such as accountancy professional bodies like ACCA.

- **Widen access to occupational advice, particularly for SMEs:** CIPD's response to the Occupational Health: working better consultation points out that small firms typically have no HR or OH in-house expertise and require access to trusted advice and guidance in this area. A key reform would be to develop locally delivered access to occupational health (OH) provision, which is free or subsidised for SMEs.

- **Improve people management support/capability in small firms:** Many HR interventions are key to effective occupational health support for workers, such as basic absence management policies, return to work interviews and reasonable adjustments. However, CIPD pilots which explored how to improve HR and people management in small firms in three different parts of the UK show the typically low level of capability in these areas of management in such businesses. Evaluation of the programme showed that the provision of this type of support can have positive benefits for participating firms, such as reported improvements in workplace relations,

labour productivity and financial outcomes. Research also shows that there is very little focus within publicly funded business support services in England on improving HR/people management capability and workplace practices. To address this, CIPD believes there is a strong case for a review of publicly funded management qualifications and existing business support programmes designed to improve management capability. This should inform the development of an accessible, high-quality business support service that can, over time, help a large number of SMEs improve their HR and people management capability and support efforts to create healthier and more productive jobs.

- **Review the Equality Act 2010 regarding disability:** the current law defining disability, as having a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on someone's ability to do normal daily activities, sets a high bar to be considered disabled. Much has changed in terms of the workplace and people's health and disability issues over the past 15 years, including the longer-term health impacts of a pandemic. A review could help to establish whether the definition is supportive enough of disabled people and those individuals with fluctuating health conditions, such as mental ill health.

- **Promote access to a wider range of flexible working opportunities:** flexible working can help support people into employment and employees are increasingly looking for workplace flexibility for a range of reasons including for disability and health reasons. Flexibility in terms of job tasks and working arrangements can act as a powerful attraction and retention tool, enabling many people to balance the impact of their symptoms on work and remain economically active. We are therefore pleased to see a focus on flexible working in the Employment Rights Bill, building on the day-one right to request flexible working. **In particular, there should also be more targeted support to help workers aged 50-plus access and remain in productive and fulfilling work by making flexibility a priority,** eg: by taking up the recommendations outlined in the Flexible After Fifty report (2024).

- **Optimise Government schemes such as Disability Confident and Access to Work: eg Access to work** is underfunded and has narrow reach, and there is more scope for the service to more effectively support people with a disability who are already in employment to improve staff retention (see below).

Reforming Access to Work - ie what do you think the future role and design of Access to Work should be?

Access to work has tremendous value and potential, but it is underfunded and has narrow reach as the green paper notes. To maximise its impact, it shouuld be better resourced (waiting times are far too long) and more flexible and responsive, with much greater promotion of its potential benefits for employers.

Although its reach is currently narrow, CIPD members have been positive about the support provided through the Access to Work scheme. For example, as part of a survey of more than 1,000 organisations we carried out to inform a previous Government consultation on 'preventing ill health-related job loss, 60% had heard

of Access to Work, 32% had used it and 57% of those who had used it found it very helpful. Therefore, we very much welcome the focus in the consultation on examining its future role and purpose.

Feedback from our HR community and in focus groups with members and experts, as well as those with lived experience, has emphasised the need for the scheme to be simpler and more responsive. We agree that available resources need to have wider reach, for example by supporting employers to develop more disability-inclusive workplaces that attract and retain more disabled people. There could be much better communication with employers, including HR professionals and line managers, as the scheme's design means that many individuals may not even inform their employer that they have applied for support. Given that the scheme is often an integral part of an employer's approach to making suitable reasonable adjustments for an individual, there would be benefits to including employers in the scheme. Employers also need to be kept up to date on any changes to the scheme.

Could the scheme also be reformed to include advice for employers on making effective adjustments for disabled employees?

We welcome the proposal in the Green Paper on providing funds to individuals to pay for workplace adaptations beyond what could be considered reasonable adjustments – there is currently a high bar to meet for disability under equalities law and making adjustments where needed could help to keep more people with health conditions in work.

As we outlined above, there is a strong case for employers to be encouraged to implement adjustments for all who need them to balance health or disability-related symptoms with work, rather than on a rigid interpretation of the law and definition of disability. Therefore, we fully support the proposal of providing targeted funds to individuals to pay for workplace adaptations, beyond what could be considered reasonable adjustments for employers to make.

Could the scheme be broadened to enable employers, including occupational health professionals, to apply for personalised support in collaboration with employers and employees already in work, to aid retention?

Personalised support is important, but if occupational health and employers are more involved in determining with Access to Work and the individual what support is needed, this could help to alleviate the pressure on the scheme's resources.

We therefore agree with the options of:

- **Supporting employers directly to make workplaces accessible and inclusive, consistent with their legal responsibilities and**
- **Providing targeted funds to individuals to pay for workplace adaptations, beyond what could be considered reasonable adjustments for employers to make.**

It's therefore essential that the Access to Work Scheme is adequately funded, which will require a significant budget increase. The increase in applications to it is a mark of how much the scheme is needed.

16. How can we better define and utilise the various roles of Access to Work, the Health and Safety Executive, Advisory, Conciliation and Arbitration Service and the Equalities and Human Rights Commission to achieve a cultural shift in employer awareness and action on workplace adjustments?

Providing employers with reliable and accessible information, advice and guidance on managing disabled people and those with health conditions is also part of an effective enforcement regime to nudge better compliance and good practice behaviour among employers. Both the HSE and EHRC perform a very important role in this respect, but have received significant funding constraints in recent years.

Acas plays a crucial advisory role and has a wealth of advice and guidance that are very accessible for employers of all sizes, particularly SMEs. The more employers that can benefit from its advice and guidance at an early stage, the greater likelihood there will be of more employers avoiding non-compliance. Given that the desired outcome is to achieve a significant cultural shift in employers' willingness and readiness to make adjustments – beyond what is considered 'reasonable' by law – the advisory, guidance and good practice role of Acasassumes even greater importance. . However Acas's employment advisory services are already under significant pressure and struggle to meet existing demand for support from employers. This demand is only likely to increase as new employment rights arising from the Employment Rights Bill are implemented. Consequently, it's crucial Acas is allocated more resources to enable them to be more proactive in reaching and supporting harder-to-reach smaller organisations in particular to improve their HR/people management capability.

We welcome the planned establishment of the Fair Work Agency (FWA), including the new remit to enforce the payment of SSP. It has the capability, working closely with an adequately resourced Acas, to provide better support to help businesses, particularly smaller firms, meet their legal obligations and improve their people management practices.

However, the FWA will not include the HSE and EHRC, which play a major role in protecting people's rights relating to health and disability. Both bodies need more adequate resources to fulfill their regulatory duties and carry out more proactive advisory and enforcement activities.