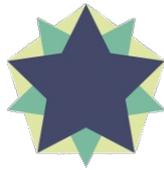


NADSN



National Association of Disabled Staff Networks

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Work and Health Unit
Department for Work and Pensions
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17th February 2017

Dear Sirs,

1. We submit this response to the consultation on the **Government's "Improving Lives: Work, Health and Disability" Green Paper**, on behalf of the National Association of Disabled Staff Networks (NADSN, <http://nadsn-uk.org>).
2. NADSN is an independent, self-determining, non-governmental organisation.
3. NADSN is a super-network that connects and represents disabled staff networks across the UK and beyond. NADSN provides a collective platform to share experiences and good practice and to examine challenges and opportunities. Focussed on the tertiary education sector, NADSN is open to any individual and organisation (public, private, social or voluntary) interested in the equality of disabled staff.
4. This consultation response focuses primarily on chapter 4 of the green paper. It reflects comments that were collected from NADSN members in regards to the consultation held in 2016 by the All Party Parliamentary Group on Disability, 'Ahead of the Arc', which aims to reduce the disability employment gap.

Executive summary

- Data collection and monitoring of disabled staff in Higher education is low leading to difficulties in measuring the impact of equality and diversity policies.
- Effective equality and diversity training is essential for line managers.
- Cohesion is required between internal and external support for disabled staff.
- Flexible working policies are an enabler to disabled staff but misunderstanding by line managers can negate its effectiveness as a reasonable adjustment.
- Reasonable adjustments and support are not a one off, but are subject to change.
- Sickness absence policies disproportionately affect disabled staff. This can be remedied through provision of disability-related leave.

What are the key barriers preventing employers of all sizes and sectors recruiting and retaining the talent of disabled people and people with health conditions?

5. Data collection and monitoring about disabled staff is low in higher education institutions (HEI's) and the accuracy of data about staff falls far behind that collected about students. The development of services for students has greatly exceeded that for staff.
6. Inconsistent data gathering leads to an unreliable picture and persistent difficulties in measuring progress. It is in the interests of disabled staff that an accurate picture is built through secure data which will add to the case for resources to support employees in the workplace. HEI's should make it easier for staff to share information with line managers to enable them to fully participate in the workplace.
7. Workplaces could illustrate recognition of the reciprocal nature of the relationship in sharing information and receiving support between employer and disabled employee. Equality Challenge Unit, the equality body for higher education, have made a number of recommendations towards this e.g. 'demonstration of a clear commitment to disabled people through electronic and advertising materials', 'a sign up to employment standards and charters', 'clear statements from the University stressing the benefits of disclosure/declaration' and the 'embedding of opportunities for declaration at all stages of employment' (2011). These importantly recognise impairment and disability as presenting a fluid and changing experience and not fixed and static, as is reflected in the experiences of employees in disabled staff networks.
8. Reasonable adjustments are an area in which disabled staff have had mixed experiences. Adjustments can be successful when employees feel they have been listened to, continuity is offered and recommendations are followed-up. Unfortunately experiences reported vary, there was often confusion about roles and responsibilities and times when disabled employees found themselves caught in the middle of operational disagreements between different departments. This caused delays in the implementation of reasonable adjustments.
9. It is important that policies are clear in stating that line managers need only to be informed of the impact of impairments and not diagnoses, so confidentiality is maintained. Employees also welcome being given opportunities to review and correct for factual accuracy any reports made by occupational health (OH) prior to these being sent to line managers. This is of particular value where OH services are outsourced.

What expectation should there be on employers to recruit or retain disabled people and people with health conditions?

10. While disclosure/declaration of a disability/impairment/chronic health condition can strengthen working relationships and empower staff to work flexibly in partnership with their managers, the obverse can occur (ECU 2011). Fevre et

al., (2011, 2013) offers compelling evidence that people with physical or mental impairments or long-term conditions are more likely to experience ill-treatment than other employees and identifies managers as being responsible for 45% of the more serious occurrences reported. They also demonstrated that managers can apply policies arbitrarily, unfairly and inconsistently, make moral judgements concerning the veracity of employees' conditions and lack practical understanding of what reasonable adjustments might mean. Predictably, conflict with managers over sickness absence and the interpretation of equality legislation, as well as stigma and perceived discrimination, are in themselves disabling.

11. Therefore, there should be an expectation that employers must ensure that all staff, particularly managers, have an appropriate level of understanding of equality legislation, have developed inclusive sickness absence management policies (that do not discriminate people on the grounds of disability – whether that be an existing or acquired condition, or need to take time out of the workplace to attend medical appointments), which managers are aware of and support, and that appropriate procedures are in place to manage any cases of discrimination that may arise.

Which measures would best support employers to recruit and retain the talent of disabled people and people with health conditions?

12. Disabled Staff Network (DSN) contributors have found that a central Equality and Diversity team ensures equality and diversity remains on the agenda in strategic planning and allows an institution wide approach. Investment in training line managers promotes awareness of diversity issues and good practice is found at some HEI's where central support is also provided to local E and D committees. This encourages creative work to take place locally within schools and departments complimenting centralised initiatives. A disadvantage of this approach is that positive changes in some departments can be very slow and lag behind the institutions legal responsibilities.
13. Effective equality and diversity training is essential for line managers to understand their responsibilities and accountability in governance and compliance re: Equality Act 2010. In this there is great value in taking a collaborative approach with disabled employees to maximise all contributions. Line managers can learn through training the variability across impairments and the diversity of disabled employees. Training presents an opportunity to explain the social model. This focuses line managers on inclusive practices in seeking to reduce workplace barriers that disadvantage disabled staff. Role modelling, attention to dignity in the workplace and effective handling of bullying and harassment are all important responsibilities line managers have that effective training can prepare them for.
14. Employers should proactively develop interventions to support disabled staff (current and potential) achieve their career aspirations. Opportunities, such as step up programmes, staff networks, coaching and mentoring should be made accessible to disabled staff.

15. Access to training is a key element of career development, there were reports of good support in attending training relevant to their role. Of those who said they had not experienced this a number said they had difficulties in physical access and/ or auxiliary aids provision e.g. induction loop. A number of people found building accessibility and a lack of suitable auxiliary aids such as seating and assistive technology impacted negatively on their access to training relevant to their role.
16. Disabled Staff Networks have a supportive role but it is as important that employers engage with these meaningfully, such that they are not just listening but acting on concerns and consultations. This promotes confidence and trust in the employers. It also lessens the risk of inclusivity being reduced to a tick box exercise where words and good intent do not translate into practice.
17. Equality Challenge Unit has argued for the importance of workplaces to harness the valuable experiences of disabled employees, reports have advocated for workplace policies that promote the involvement of disabled staff in providing feedback about the institution's strengths and weaknesses (2011).
18. Disabled staff Networks can support this but often rely on the goodwill, time and energy of members and receive no funding for these activities. Providing funding for networks to allow members access to training and to attend conferences/events will promote the increased confidence of disabled employees. It will also provide opportunities for network members to develop additional skills and through attendance at events encourage opportunities for the wider sharing of ideas.
19. Induction processes and annual appraisals can be more supportive where disabled employees are encouraged to discuss which adjustments and solutions work for them and the expectations line manager and employee have of each other. An employee resuming work with an acquired disability found it helpful to schedule short weekly 'checking-in' meetings with their manager during the first month to allow problems, solutions and successes to be shared.
20. Sickness absence policies identify accumulated sickness triggering disciplinary processes. Network members have been affected disproportionately by these due to the impact of impairment-related fluctuations and treatment. NADSN would like to see more widespread provision of disability-related leave as recommended as good practice by the Equality Challenge Unit (2011), and distinct from sickness absence.
21. Specialist trade union representation is considered an important source of support in providing disabled employees with information on employment rights and in sharing experience of practical strategies for managing impairments in the workplace, as well as advocacy in negotiating with managers around reasonable adjustments. This can provide an important source of support to a disabled employee who may feel isolated and alone. However, its contribution extends beyond this and can support retention following long-term sickness absence, benefitting both employer and employee. Voluntary trade union representatives can find themselves very busy and assistance from full time

Trade Union Equality and Diversity Officers can provide valuable knowledge and experience and a valuable perspective from across a number of member's organisations.

Should there be a different approach for different sized organisations and different sectors?

22. Disability legislation has always been developed to take into account the context of the size of organisations, and the sectors in which they operate. For example, legislation sets out a number of factors that must be considered when identifying the reasonableness of adjustments to support disabled staff (current and potential). And it is also important to recognise that public sector organisations also need to pay due regard to the public sector equality duty. Although the goals are the same (getting disabled people into employment), the approach must reflect the size and nature of organisations within different sectors.
23. With NADSN being primarily based in higher education, there is a particular concern that HEIs do not see themselves as public sector and subject to the general equality duty. The Government should remind HEIs of their obligations and the role they can play in supporting disabled people into employment.

How can we best strengthen the business case for employer action?

24. With the imminent departure of the UK from the EU, the business case for employer action must be reviewed. NADSN would request of the Government that in taking forward negotiations on leaving the EU, that the experiences, needs and views of disabled people (and carers) are continually listened to. We note that there was no reference to disability in the white paper on Brexit.
25. The Government should emphasise that employers have an important role to play, not only in offering employment, but also in supporting disabled people to have meaningful careers. Employers should do more to engage with younger disabled people, and (with the Government) support an integrated journey from school, through to higher education and on to employment. There can be barriers for disabled people at each stage of life, so a more holistic overview will help individuals to maximise the most from their careers.
26. The Government should note the work that is underway in the NHS to support young people with learning disabilities onto apprenticeships across the health and social care sectors. The Government can learn from this programme and look at how it can be replicated in other sectors.
27. The Government could also do more to promote role models in a wider variety of professions. Paralympians are rightly recognised for their achievements, however only a very small percentage of people will go on to elite sport.
28. A new business case should also highlight the importance of metrics as a way in which progress on increasing the number, and experiences, of disabled people in employment can be measured. NADSN note that a Workforce

Disability Equality Standard will be introduced in the NHS in 2018. This standard could be mirrored and introduced into other sectors.

How can existing government support be reformed to better support the recruitment and retention of disabled people and people with health conditions?

29. The first point we would like to make is that the Equality Act covers both physical as well as mental health conditions and impairments. Regardless of whether someone has a physical or mental health condition/impairment, there should be parity of experience within recruitment and retention. Government support and policies should help achieve this parity.
30. From the experience of NADSN members, a good starting point for the Government would be to better promote Disability Confident to employers as well as disabled people. Employers need to know that this programme has replaced Two Ticks and that it can support them in employing more disabled people. Whilst disabled people need to know that the programme is available to support them get into employment.
31. Government should look to make it easier for employers to offer flexible working opportunities to disabled staff. Flexible working policies can be a key enabler for disabled employees, with examples such as:
 - a. Adjusting start/finish times, starting work earlier in the day, leave before energy levels fell while meeting working hours and achieving outcomes.
 - b. Adjusting start/finish times in line with other factors e.g. an employee's need to use the most practical means of public transport and where peak commuter traffic would have been problematic for them, or to allow medication to take effect before commencing the day's work.
 - c. Adjusting break times e.g. scheduling breaks such that disabled employees can continue self-management strategies important in maintaining wellbeing: taking longer lunch breaks for swimming/walking.
 - d. Home working – with the advances in technology, disabled staff should not feel that they be penalised should they wish to choose to work at home on a day when they feel that their health condition or impairment may make it difficult to commute or work in the office. And such occasions should not be treated as sickness absence.
32. NADSN members have found the responses of line managers to applications for flexible working hours mixed. There was experience of helpful approaches that enabled employees with fluctuating conditions to work from home and as illustrated above examples of good practice. However, as the implementation of these policies is discretionary success is often due to the knowledge and understanding of the line manager. It was the experience of some employees that line managers do not always understand the use of flexible working hours as a reasonable adjustment. The network has examples of line managers

agreeing to flexible working then expecting disabled staff to provide evidence of improved performance. This added additional pressure and stress removing any benefit flexible working hours were aimed at bringing.

33. Policies that support disability leave should be more consistent across organisations and sectors. Disability leave enables disabled employees to take time off for appointments (regarding their conditions and impairments), however NADSN are of the view that those employers that have policies, do not ensure that are consistently applied, so the experiences of disabled employees can vary greatly. NADSN would encourage the Government to introduce legislation that puts disability leave on the same parity as maternity leave.
34. ONS data has shown that largest workforces report highest sickness levels. So in regards to the public sector, with increasing demands on employees, there is a need to ensure that employers are doing the best that they can to create workplace environments which support the health and wellbeing of staff. With pre-existing health conditions, the health and wellbeing of disabled staff must be effectively supported.
35. The Government should also do more to ensure that employers (and non-disabled staff) understand the purpose and benefit of reasonable adjustments. NADSN members have expressed concern that non-disabled employees might perceive flexibility in terms of favouritism, rather than a reasonable adjustment. This can be avoided where managers understand the social model and promote a culture of accepting difference among people. In ensuring policies are implemented in a sensitive way it is important that disabled employees do not feel pressured/obliged to make personal information public in explaining why the situation is different for them as individuals.
36. Increased workforce casualisation can act as a barrier to employment for disabled employees. Demonstrating a case for the provision of reasonable adjustments or specialist equipment can be difficult where there is no substantive contract, or guaranteed hours of employment. Disabled employees feel vulnerable, choose not to disclose/declare and therefore not access support. Even when a substantive contract exists it can be exhausting for a disabled employee to collect the evidence they require to put forward the case.
37. There were reports of disabled staff being required to 'fight' for 'reasonable adjustments' they thought had been agreed but which have not been implemented. In some areas staff are left with the impression that line managers did not understand their responsibilities. There can be a significant health and wellbeing cost for disabled staff when the additional stress caused through misunderstandings leads to 'flare ups' of conditions and resulting ill health and absence.
38. There is a need for more of a focus on the "transactional relationship" (Nash 2014) between a disabled employee's disclosure/declaration and employers responsibility to implement reasonable adjustments and provide support. Part of this 'transactional relationship' is the understanding for line managers that "reasonable adjustments" and support are not to a one off, but are subject to

change as the condition varies or building/environment/role changes affecting the employee in the workplace. Asking about requirements for adjustments and support is important at recruitment but also over the careers of disabled staff and at points of workplace changes e.g. departmental relocation. '83 % of employees acquire disability during their working lives,' (Nash, 2014) therefore a significant number of employees are more likely to need assistance during employment to navigate often complex sources of internal and external support.

39. The onus on having discussions, and implementing, adjustments should be on the employers. There are too many occasions where employers are not proactive and do not investigate what support is available to them. There is often an expectation that disabled employees will investigate what auxiliary aids they require and have to put their own adjustments in place. Equally, staff should not be discriminated or harassed because they have a requested an adjustment.
40. Some network members would like large organisations to centralise their budget for purchasing disabled staff equipment. This provides equity for all disabled employees and avoids situations where financial restrictions are imposed due to the location of the disabled employee. This enables the organisation to monitor purchases and loans globally, evaluate effectiveness, share expertise/solutions and facilitate movement of employees between departments e.g. a disabled employee might otherwise find it difficult to seek a promotion opportunity with another department, having negotiated for equipment expenditure with their current one.
41. Network members who were aware of the Access to Work scheme and had used it did find the Government's scheme very helpful. But in some cases there was little information available from employers about it.
42. Positively in some HEI's, a Staff Disability Advisor has been appointed. This post as a function of Equality and Diversity teams has provided a central point for key information about Access to Work to disabled employees and line managers, providing expertise, support and guidance. However, in institutions without this post engagement with the scheme can be dependent on whether a line manager has worked with disabled staff previously and, so, serendipitous. Engagement was found in some cases to rely on initiation by disabled employees, however, even when employees have experience of using the scheme they can find their knowledge limited. This can have a financial cost if the full entitlements package is not understood.
43. Concern was expressed by some network members regarding the scheme's revised contribution cap e.g. employees might be obliged to accept equipment their department can afford/chooses to spend on, rather than that which is actually needed. In addition, accessing the scheme after changing employment has been found to be problematic. Even when a new assessment is not required the employee does require to go through the hurdles again, often at a time (if they have moved home) when they are faced with meeting new medical professionals and transferring medical notes between practices.

44. Network members would like to see cohesion between the various departments likely to be involved with disabled employees such as Human Resources (HR) and Occupational Health (OH) to enable clear information is provided to line managers. Having knowledge of the Access to Work scheme is a helpful starting point but it is important for key staff to develop links to Access to Work staff who can more fully explain entitlements based upon an individual assessment of an employee. These relationships when working well provide disabled employees with a greater sense of joined up, cohesive support.
45. The final comment NADSN would like to make is about the resilience of disabled people. Having faced a multitude of challenges and barriers disabled people have had much to overcome. As such they can develop a wider range of skills and a stronger character compared to non-disabled. Disabled employees can also become very loyal to employers who are inclusive and have worked to promote and advance disability equality. The Government should recognise that by working to support more disabled people into employment, they can have a more productive workforce.
46. We hope the responses above will contribute constructively to this consultation and look forward to a positive outcome for all disabled people.

Many thanks in anticipation.

Yours faithfully,

Mr Stuart Moore Mrs Jacqueie Nicholson Dr Hamied Haroon
 (Vice Chair) (Vice Chair) (Chair)
 National Association of Disabled Staff Networks (<http://nadsn-uk.org/>)

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