

Disability Alliance Response R47: Response to the Work and Pensions Committee Inquiry into the reform of incapacity benefits and Pathways to Work

Summary

Reform of incapacity benefits: We are opposed to any further conditionality or sanctions being applied to sick or disabled people. We believe making interviews, work-related activity and action plans compulsory is unnecessary, potentially unworkable and likely to lead to hardship.

We are concerned about the proposed removal of choice from disabled people; the apparent level of discretion to be given to personal advisers; the criteria to be used for the medical test (PCA), and the absence of any mention of appeal rights.

Pathways to Work (PTW): We believe the Government should build on the success of the PTW pilots by rolling out PTW nationally. We have some concerns about the resourcing of the programme given the proposed reduction in DWP staffing levels.

Poverty: We are concerned at the low level of benefit support for sick and disabled people not in work. It is shocking that the average weekly amount of IB in payment is as little as £84.01¹, just 53p a week higher than when IB was introduced in May 1995. It is our view that a proper level of financial support is essential if people are to remain socially included and to provide a suitable platform from which people can engage in jobsearch and training activities.

Job retention: people who have been out of the labour market for any length of time face enormous difficulties getting back into work. More effort needs to go into assisting people to remain in work when they become disabled or begin to suffer health problems

Combining work and benefits: part-time work is the best option for many disabled people – either as stepping-stone to full-time employment or as a long-term arrangement. The benefits and tax credit systems should support this. Earnings disregards need to be increased to at least £40pw and then uprated in line with the minimum wage.

Employers: we believe Government needs to engage more with employers to improve their willingness to take former IB customers. This needs to include reducing their perception of risk and publicising the support available for disabled employees – such as Access to Work and tax credits.

¹ DWP quarterly statistics for period May 1995 to May 2005

Response to the Work and Pensions Committee Inquiry into the reform of incapacity benefits and Pathways to Work

1. Introduction

1.1. Disability Alliance is a national registered charity with the principal aim of relieving the poverty and improving the living standards of disabled people. Our eventual aim is to break the link between poverty and disability.

1.2. We are a membership organisation with over 340 members which range from small self-help groups to major national disability charities. We are controlled by disabled people who form a majority of our Board of Trustees.

1.3. We provide information on social security benefits and tax credits to disabled people, their families, carers and professional advisers; undertake research into the needs of disabled people - with a particular emphasis on income needs, and promote a wider understanding of the views and circumstances of all people with disabilities.

1.4. We are best known as the authors of the Disability Rights Handbook, an annual publication with a print-run of 30,000, but also have a range of other guides, provide a telephone helpline, a popular website and have an extensive programme of training courses aimed at professionals working in both the statutory and voluntary sectors. Of particular relevance to this consultation are our publications *Moving into Work* and *Self employment - Why Not?* both guides to the social security and other help available to disabled people interested in employment options. In addition, our guide, *The Way to Work* is specifically aimed at mental health professionals to assist them in helping their clients into employment.

1.5. Our policy work is informed by our daily contact with disabled people and those who provide services for them. We undertake research into the needs of disabled people - with a particular emphasis on income needs. We have recently completed a major piece of work, together with the Centre for Research in Social Policy at Loughborough University, into the extra costs faced by disabled people – *Disabled people's cost of living – more than you would think*. Other recent work

has covered disabled parents (*Family values*) and families with more than one disabled child (*Hard working families*).

1.6. We welcome the opportunity to submit evidence to this Inquiry. We have not addressed all the questions and have concentrated on those areas where we feel we have the most knowledge and experience.

2. Reforms to incapacity benefits

2.1. Pathways to Work Pilots: we initially gave a cautious welcome to the Pathways initiative. We were concerned about the compulsory nature of the work-focused interviews but were positive about the range of help available to incapacity benefit (IB) customers. All the evidence now emerging from the Pathways pilots is that people claiming IB in Pathways areas are more successful at finding employment than in other areas. Up to March 2005 there were 110,000 starts on Pathways, mostly new customers. An unexpected and very positive factor is that some 10% are existing IB customers who are joining the programme voluntarily. This appears to support our view that many IB customers do want to work and welcome help and support when it is offered. It throws a question mark over the need for any further compulsion or sanctions.

2.2. One of the likely reasons for the success of the scheme so far is the role of the Incapacity Benefit Personal Advisers (IBPAs). Recent research² carried out for the DWP found that IBPAs regarded themselves as enablers rather than enforcers; *‘they felt that allowing customers to move forwards at their own pace, and emphasising the voluntary nature of participation, were critical to gaining customer commitment and co-operation’*. The researchers go on to note that *‘if further elements of compulsion are introduced, care [is] needed that it is not detrimental to the enabler role of IBPAs’*.

2.3. IBPAs reported that pre-work focused interview (WFI) contact with customers was important in overcoming customer fears and anxiety. This is interesting because Government introduced the compulsory element of WFIs in the belief that it was necessary to get people to cooperate. In practice it appears that IBPAs are having to counteract that message in order to encourage people into the programme. IBPAs reported using early WFIs to build trust, give information and provide reassurance to customers.

² *Incapacity Benefit Reforms: Personal Adviser roles and practices* - qualitative research by Tim Knight, Sarah Dickens, Martin Mitchell and Kandy Woodfield for the DWP 2005

2.4. There may be some difficulty in getting IBPAs to apply further sanctions. The research³ referred to above found that IBPAs differed in their approach to applying sanctions to those who failed to attend their WFI. Some strictly enforced the regime. Others '*went to great lengths to avoid*' doing so. The researchers noted that a number of individual IBPAs were uncomfortable about '*the morality of imposing a sanctions regime on IB customers*'.

2.5. We believe that one of the clear messages emerging from the Pathways pilots is that compulsion is unnecessary and unhelpful and may well run into operational difficulties.

2.6. **Reform proposals:** we agree with the Government that the term 'incapacity' is particularly unhelpful. What really matters is not whether someone is 'incapable' but that disabled people and those with serious health problems **are given a choice** about whether or not to work. We believe that what Government policy should be about is making that choice a real one – both for those who want to work and those who do not.

2.7. Loss of choice is the fundamental difference between the current system and the proposed one. Under the current provisions sick and disabled people who successfully pass the personal capability assessment (PCA) can then choose whether or not to get involved in work-related activity. They can choose to do voluntary work, they can choose to do permitted work, they can choose to look for part or full-time paid work and they can choose not to do any of these. Under the new proposals a 63 year old man recovering from a heart attack will have to engage in work-related activity, whereas now he could choose to spend time with his grandchildren and tending his allotment. Similarly, a disabled lone parent will no longer be able to decide that caring for children, managing an impairment and travelling to an unrewarding job is too much. She will no longer be able to go onto IB but will be required, under threat of benefit sanction, to engage with work activity.

2.8. We remain unconvinced that compulsion is the best way of encouraging those on incapacity benefits to take up help with returning to the labour market. All the evidence shows that the vast majority of disabled people want to work but face considerable barriers, huge risks, discrimination, prejudice and a hostile press and media environment.

³ ibid

Making interviews and the adherence to action plans and work-related activity compulsory gives entirely the wrong message to people who already feel they are under constant surveillance and at risk of losing their benefits.

- 2.9.** It is likely to mean that people will attend interviews and sign up to work-related activity action plans for the negative reason that they fear the loss of their benefit. They are likely to remain suspicious of offers of help.
- 2.10.** We have a very real concern about the level of discretion that it is proposed to give to personal advisers. It appears personal advisers will be deciding on what type and level of work-related activity is appropriate for an individual, and whether or not an individual has *fully engaged* with the process. These are very difficult judgements to make. The same medical condition or impairment can affect different people in very different ways. People's reactions to drugs and other forms of treatment also vary. We would be worried that people may be sanctioned because the personal adviser did not fully appreciate the full impact of the person's condition, or the side effects of the medication they were taking. This is likely to be of particular concern for those people with mental health conditions – is the person *failing to engage* or is their apparent lack of co-operation a manifestation of their mental ill health condition?
- 2.11. Appeal rights:** we have not seen any mention in the Government's proposals about what mechanism there might be for appealing against a decision made by a personal adviser.
- 2.12.** There is a positive role for work-related activities and action plans where this is what the disabled person wants. We believe arrangements will work best where the disabled person and the personal adviser are working together in partnership. We fear that there could be widespread misunderstanding of where compulsion begins and ends. It is our view that disabled people themselves are the best judge of what work-related activity, if any, is appropriate for them.
- 2.13. Exemptions:** one of the difficulties inherent in a system where there is compulsion is that it brings with it the need to exempt some groups of severely disabled or seriously ill people. Yet the reasoning behind the existing exempt criteria for the PCA is that these groups of people have a condition which is unlikely to change, making re-testing unnecessary. Having a condition which is unlikely to change is not necessarily a good indicator of who might be interested in employment.

Blind people, for example, are quite rightly exempt from the PCA, but that does not mean they would not welcome the opportunity to engage with the labour market.

2.14. The Government's initial proposals were to replace IB with two distinct benefits. We would prefer that IB were replaced by one single benefit – possibly with two elements to it. One difficulty with the proposal to have two separate benefits is that people will be moving between the two as their health improves or deteriorates. Having to stop a claim for one benefit, and start a claim for a new one, will add an unnecessary level of complexity to a system the Government (and ourselves) wish to simplify.

3. The future rollout of Pathways to Work and Jobcentre Plus resources

3.1. It is our view that the full national roll-out of Pathways is an essential precondition for any reform of IB. This was also the view expressed by Alan Johnson MP, when he was Secretary of State for Work and Pensions (Hansard HC 2 Feb 2005: Col 842). If there were to be any compulsion or sanctions then it would be grossly unfair for disabled people in one part of the country not to have access to the same range of help and support that was available to those in other areas.

3.2. Given the difficulties and costs associated with the application of compulsion and sanctions (additional staff training, appeal systems, etc) we would argue that it makes sense to rollout Pathways nationally and then examine the evidence. If it is as successful as initial results suggest then there would be no need for 'stick' elements within the proposed reforms.

3.3. We do have a concern that any rollout is properly resourced. It is not unknown for pilots to be successful because they are high profile, well resourced and staffed by the sort of people who volunteer to work on new projects. This isn't easy to replicate when rolling out to all offices. We have particular concerns about staffing levels. To do the IBPA job properly requires a level of skill and there is already evidence of stress amongst staff working in the Pathways pilots. The researchers⁴ felt that an individual IBPA should not do more than five or six work focused interviews per day. Given the scale of the proposed job cuts within DWP it is hard to remain confident about the standard of service likely to be provided to disabled people.

⁴ ibid

4. The experience of sick and disabled people

- 4.1. **Background information:** it would be useful to have more details of what people had been doing before making a claim for incapacity benefits. Obviously those on IB would have been in employment within the recent past but those moving onto income support with a disability premium may have been long-term unemployed; or raising children as a lone parent; or a long-term carer. Evidence from the New Deal for Lone Parents would suggest that a significant proportion of lone parents have health problems or a disability. Similarly, there is much evidence to indicate a close association between poor health/disability and the long-term effects of being a carer. More information is needed if appropriate help is to be provided.
- 4.2. **Pathways:** findings from recent DWP commissioned research⁵ amongst people on IB in Pathways areas showed that although the scheme was generally popular there was a need to improve the range and quality of services. It was also necessary to counteract the effect of having a compulsory WFI regime. Amongst IB recipients the first WFI was found to be important in dispelling negative views about the purpose of the interview. This mirrors the views of IB personal advisers (see 2.3 above).
- 4.3. The research⁶ found that people's views about the value of Jobcentre Plus services did not necessarily depend on how much they were helped to move closer to work. For some people more value was attached to how they were dealt with or made to feel about themselves. This is important in designing future services and in ensuring that the crucial role of personal advisors is properly resourced.
- 4.4. Another major policy issue emerging from the research is how to engage with people who do not want (or are not able) to pursue a path back to paid employment. We have a very real concern that this group are being forgotten in the focus on employment outcomes.
- 4.5. If the services provided by Jobcentre Plus are to be properly inclusive for people on the 'exempt' part of new benefit(s), and if they are to feel that they are valued and included, then the services on offer need to be of use to them. Services should, for example, encompass provision of individually tailored advice on benefit entitlement. The group of people on this part of the benefit will include many who are likely to be

⁵ *DWP – Incapacity benefit reforms pilot: findings from a longitudinal panel of clients* (Research report 259) by Anne Corden, Katharine Nice and Roy Sainsbury, 2005

⁶ *ibid*

eligible for disability living allowance, but not claiming it. In addition information about other services like local authority Blue Badges and community care assessments should be provided. Provision of information that is of use to this group of disabled people will help get across the message that they are still valued, despite not being able to engage in paid work.

4.6. Disabled people in receipt of the 'exempt' part of the new benefit need to be made aware of their right to access the same range of help that is available to other disabled people.

4.7. However the real danger is that this group of people will feel 'written off' and of no value because they are not able to work. Disabled people need a decent income (so comprehensive benefits advice is crucial), good social and health care, as well as access to education, and training, in order to play their full part in society according to their abilities. Non-workers should not be written off as non-citizens.

5. Job retention

5.1. It is always extremely difficult for people to get back into work when they have been out of the labour market for any length of time. We would like to see more effort put into assisting people to remain in work when they become disabled or begin to experience health problems.

5.2. **Working Tax Credit (WTC)** is available for people in employment on a low income who work at least 30 hours a week. Disabled people can access WTC at 16 hours a week and get an additional disability element. However, to qualify as disabled the person needs to either be getting disability living allowance or to have moved into work from incapacity benefit. This doesn't help those people who become disabled or develop a chronic health condition while in employment. For many people the onset of disability or ill-health means they have to reduce their hours and suffer a consequent fall in income. They may find they lose their WTC altogether because they can no longer do 30 hours a week.

5.3. The only way this group can access WTC is via the Fast Track but this has strict eligibility criteria – for example they would need to be off work sick for a total of 20 weeks. We have been involved in an HMRC (Inland Revenue) working group examining how the tax credit system could be altered to promote job retention by allowing people who become disabled while in employment to access WTC. While we

believe we have agreement on the aim we have some concerns at the slow rate of progress with this issue.

5.4. **Employer responsibilities:** given that a significant proportion of those on incapacity benefits are former manual workers we feel it is important that Government engage with employers, particularly large employers, to plan re-training strategies for manual workers. It is not realistic to expect more than a small number of people to continue heavy manual work into their late 50s and 60s. Yet at present this group are forced out of the labour market, despite good attachment records, because they have few other skills or experience and are likely to have some health problems. This group are made redundant or pushed into early retirement and then find themselves on low levels of benefit and low, if any, occupational pensions. Yet, if employers were to plan ahead and begin offering re-training and re-skilling from mid 40s onwards it is likely that many more of this group could have a real choice about alternative jobs if failing health means that manual work is no longer possible.

5.5. We very much welcome the joint announcement made by the DWP and Department of Health, on 26 September, that a National Director for Occupational Health is to be appointed. We look forward to a higher profile for occupational health which we believe is key to job retention.

6. Support for sick and disabled people moving back into work

6.1. **Poverty:** It is important to acknowledge the adverse effects of living on IB for any length of time. These adverse effects include social exclusion, declining mental and physical health and being trapped on low incomes. It is shocking that the average weekly amount of IB in payment is as little as £84.01⁷, a mere 53p a week higher than when IB was introduced in May 1995.

6.2. It is our view that a proper level of financial support for those out of work is essential if people are to remain socially included and to provide a suitable platform from which people can engage in jobsearch and training activities. When the Government first outlined their plans for IB reform the proposed replacement benefits were to be paid at a higher rate than the current long-term rate for IB. This aspect of the reforms was very much welcomed by ourselves and other disability organisations. We are unclear whether this is still part of the Government's intentions.

⁷ DWP quarterly statistics for period May 1995 to May 2005

- 6.3. Financial concerns are often a major obstacle for disabled people finding work. Evidence from interviews with IBPAs⁸ found that they saw the Return to Work Credit and Adviser Discretion Fund as important in removing major barriers to work, especially for customers with debts and those moving into part-time low paid work. These findings mirrored those from the research which looked at the views of IB customers⁹.
- 6.4. **Risks:** moving into work involves enormous risks for someone who has been out of the labour market for any length of time. Emotional risks, health risks and financial risks all loom large and can become major barriers. The Government has begun to recognise this but more needs to be done to remove or reduce risk.
- 6.5. Moving from one benefit regime to another presents a financially risky period for anyone on a low income. Good and comprehensive better-off calculations and advice are essential. We are aware of people who were led to believe that they would be significantly better off with a tax credit, only to find much of the increase clawed back through the housing benefit taper. Others were not told they would lose eligibility to free prescriptions. In the examples we came across people would probably still have taken the job on offer but would have been clear about their financial position and better able to plan ahead.
- 6.6. People also fear that taking a job will prompt an automatic review of their Disability Living Allowance (DLA) award. This fear is particularly severe amongst people who have fluctuating conditions, such as ME, or are getting benefit on grounds of mental ill-health. In fact the first few months in a new job are often more stressful than being on benefit. People have to cope with many new and stressful situations: travelling on crowded public transport; travelling for long periods; interacting with large numbers of other people; the need for increased stamina; coping with conflicting demands; learning a new job, a new workplace, new people and a new culture.
- 6.7. We would argue strongly that that people moving into a job after a period on an incapacity benefit should be given a ‘settling-in guarantee’ that their DLA will not be reviewed for at least six months.

⁸ *Incapacity Benefit Reforms: Personal Adviser roles and practices* - qualitative research by Tim Knight, Sarah Dickens, Martin Mitchell and Kandy Woodfield for the DWP 2005

⁹ *DWP – Incapacity benefit reforms pilot: findings from a longitudinal panel of clients* (Research report 259) by Anne Corden, Katharine Nice and Roy Sainsbury, 2005

- 6.8. **Part-time work:** disabled people and those with health problems who have been out of work for some time need the opportunity to build up confidence and stamina as well as updating, and learning, new skills. For many people the most realistic way of doing this is to start with a few hours work a week. Unfortunately, the current incapacity benefit system has been poor at supporting people who want to try out work while on benefit. A recent, very positive development has been the extension of eligibility for 'permitted work' but it is still generally the case that the system does little to support people who cannot work as much as 16 hours a week (the threshold for eligibility for tax credits as a disabled person).
- 6.9. **Earnings disregards:** For people on means-tested benefits, like income support, there is a maximum weekly earnings disregard of £20. With the (very welcome) increase in the minimum wage this equates to less than four hours a week. Yet there is much evidence to show that maintaining a link with the world of work is an important factor in both facilitating an eventual return to the labour market and in promoting social inclusion. When earnings disregards were first introduced they were worth a great deal more and did play a role in allowing people to keep in touch with work. Had it maintained its value over the years the disregard would now be worth about £40pw.
- 6.10. It is incongruous if one year someone can do a certain number of hours a week and keep a certain level of earnings but be unable to do the same the following year. This is exactly the position disabled people have found themselves in with the recent increase in the minimum wage. Up until October a disabled person could have done four hours work a week at the minimum wage (£19.40) and kept their wages. From October, when the minimum wage goes up, they either have to drop their hours to three a week or lose benefit.
- 6.11. We would like to see the earnings disregard increased at least to £40pw and then updated annually in line with the minimum wage.
- 6.12. **Information:** there is general confusion amongst benefit recipients, the media and the general public about the fact that it is possible to undertake paid work while on benefit. If Government is to be successful in persuading people on incapacity benefits to undertake more work-related activities we would suggest there is scope for a booklet '*Why we allow you to work and claim benefit at the same time*' explaining the various rules. This would help reassure IB recipients and educate the media and public.

- 6.13. **Return to work activity and action plans:** we believe that the new system will need to recognise the importance of a wide range of return to work activities, tailored to meet the needs of individuals. It specifically needs to cater for those for whom full-time work would never be a realistic option, and those with diminishing or fluctuating work capacity. It should also recognise the needs of those disabled people who have never worked before. Full-time work, part-time work, voluntary work, starting work and work retention activities all need to be included in the scope of the system.
- 6.14. A return to work framework should cover the traditional work-related activities such as CV writing, interview preparation, work-focused training and education. It will also need to encompass developmental skills training such as motivation and confidence building, and less obvious training such as assisting people with learning disabilities in using public transport independently.
- 6.15. We believe it is important that disabled people have the choice to develop their own return to work activity programme - not necessarily using a DWP approved provider agency. There needs to be scope for self-help, with progress being monitored by the personal adviser.
- 6.16. Importantly we believe that citizenship activities other than paid work need to be valued and we are concerned that this has been insufficiently recognised so far.
- 6.17. **Staffing:** we believe that the system needs to be based on effective staff training which recognises that there will be many people who will have a combination of conditions – both physical and mental.
- 6.18. A number of people will find it difficult to be consistent in their approach to work-related activities. This is most likely to include those with mental health conditions but the difficulties are shared to an extent by other groups of disabled people. The side effects of medication or treatment, adjusting to changes in dosage levels, or fluctuating/deteriorating physical health, will all affect an individual's ability to be consistent in their approach to work-related activities. There needs to be flexibility around targets and an understanding of reasons for non-compliance by people in these groups.
- 6.19. **Transport:** We know that transport inaccessibility is a barrier for a great many disabled people. Indeed, the DWP's own research¹⁰

¹⁰ Short-term effects of Voluntary Participation in ONE, DWP Research report 126

highlighted the number of people who saw transport costs and difficulties as barriers to their taking up employment. It is all the more important therefore that the '*fares to work*' element of the Access to Work scheme is highlighted within any promotional campaigns. We would suggest that personal advisers are encouraged to use the Advisers Discretion fund to pay for transport related costs such as monthly travel cards or driving lessons.

6.20. We would also support the creation of an **interest-free transport loan service** which enabled people to buy a car. Many disabled people cannot use public transport and a car would be an essential element of a back-to-work package. There are also people living in rural areas where public transport is extremely limited. Whereas non-disabled people might have the option of walking or cycling, many incapacity benefits recipients would need a car in order to take up employment.

6.21. As well as transport any system needs to recognise that support to help people back into work needs to consider restrictions such as the need for childcare and care for elderly or disabled relatives.

7. Involvement of healthcare professionals

7.1. This is not an area we have much knowledge about. However, initial evidence from the Pathways¹¹ indicates that the Condition Management Programme was well received by IB recipients, particularly the one-to-one sessions. Disabled people tell us that they often feel their conditions are not taken seriously. Because their disabling condition is 'invisible' they feel the pain and difficulties they face are not understood or appreciated. Rather than undermine people by appearing not to believe them the advantage of the Condition Management programme is that it starts from the point of taking the disabled person seriously. They are believed, and are then helped to cope. We believe that it is this different approach that is effective.

7.2. We would be happy to see non-medical health care professionals such as osteopaths/chiropractors, primary care nurses, A&E nurses, physiotherapists, clinical psychologists and occupational health nurses involved in providing employment assessments and advice on fitness for work. It is our view that these professionals often have a closer relationship with the disabled person and a better, more holistic,

¹¹ *DWP – Incapacity benefit reforms pilot: findings from a longitudinal panel of clients* (Research report 259) by Anne Corden, Katharine Nice and Roy Sainsbury, 2005

understanding of how a person's impairment might affect their employment capabilities.

8. The employer's perspective

- 8.1. We believe Government needs to adopt a comprehensive strategy to tackle the employer side of the equation.
- 8.2. One of the findings of the research¹² done with IB Personal Advisers was that they identified the need for more work to be done with employers to improve their willingness to take former IB customers.
- 8.3. It is our view that employers feel they are taking a risk when employing someone who has previously been on an incapacity benefit. The perceived risk will be greater if the person has been off work for mental health reasons. In addition, employers' limited knowledge of impairments and of disabled people's abilities lead them to be particularly resistant to employing those with impairments such as blindness. There is also a widely held view that taking on a disabled person will be expensive in terms of adaptations to the workplace.
- 8.4. For an employer taking on someone new there need to be mechanisms in place to reduce the risk they feel they are taking. Publicity about the availability of the Access to Work scheme would help in reducing the fear employers have about the potential additional costs of employing a disabled person. In practice the average cost of a reasonable adjustment, adaptation or specialised equipment is relatively low so it is unlikely that further advertising of ATW would put too much financial pressure on the system.

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Chief Executive

¹² *Incapacity Benefit Reforms: Personal Adviser roles and practices* - qualitative research by Tim Knight, Sarah Dickens, Martin Mitchell and Kandy Woodfield for the DWP 2005

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