

Disability Alliance

R49: Response to the Green Paper - A new Deal for Welfare: Empowering people to work

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1. Introduction – Disability Alliance

1.1 We are 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 ranging 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 and provide a telephone helpline and a popular website. Of particular relevance to this consultation are our publications *Moving into Work?* and *The Way to Work*. Both are guides to the social security and other help available to disabled people interested in employment options. 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. For example, together with the Centre for Research in Social Policy at Loughborough University, we undertook a major piece of work, into the extra costs faced by disabled people – ‘*Disabled people’s cost of living – more than you would think*’. Other work has covered disabled parents, and families with more than one disabled child.

1.6 We welcome the opportunity to contribute to this consultation. We have not addressed all the questions but have concentrated on those areas where we feel we have knowledge and experience. We have also

added additional comments which fall outside the specific area covered by the formal questions.

2. Occupational health and job retention

2.1 We welcome the emphasis on occupational health in the Green Paper and are pleased to see the various initiatives in this area. We agree that early intervention is crucial and that many more people could be assisted to remain in work if support were provided soon enough. In addition to the proposals in the Green Paper we have a number of additional suggestions to make.

2.2. **GPs** - we share Government's desire to change the culture of GPs and make them more aware of the importance of work in people's lives. A programme of education for GPs and other relevant healthcare staff about the provisions of the Disability Discrimination Act would therefore be very helpful.

2.3. **Advice provision in GP practices** - the Green Paper proposes trialling the placement of employment advisers in GP practices. We support this but also recognise that people who are on incapacity benefits, or who are at risk of losing their job as a result of ill-health or disability, will have concerns about their financial situation as well as employment prospects. We believe employment advice needs to be complemented by the provision of advice on benefits, particularly the availability of a range of in-work financial support (for example, tax credits, housing and council tax benefit, disability living allowance).

2.4. **Access to Work** – this scheme is very popular with those disabled people who use it but is little known amongst employers or disabled people more generally. We would like to see better promotion of Access to Work– to ensure that both employers and employees know that financial help is available to help with additional costs.

2.5. **'Keeping in Touch' days** - promotion of '*Keeping in Touch*' days for staff on long-term sick leave. Employees would be encouraged to return to work for general update sessions, training days or staff meetings without their benefit entitlement being affected. The '*Keeping in touch*' idea is already successfully used by employers for women on maternity leave. It would help both in encouraging

employers to keep in contact with employees who are on long-term sick leave and in ensuring that they did not become isolated from the world of work or miss the opportunity to improve their skills.

2.6. Rehabilitation/disability leave – although it is currently possible for employers to provide this, it is not a statutory requirement that they do so. We would welcome consideration of financial assistance being made available to small and medium sized employers to help support newly disabled people through a period of rehabilitation/disability leave. This leave could be statutory, subsidised by Government and possibly insurers, and could work in the same way as maternity and paternity leave. This would enable employees and employers, through a period of vocational rehabilitation, to assess an individual's condition and how this affects their role, and consider how best to facilitate a return to work.

2.7. Working tax credit (WTC) eligibility – we would like to see changes to the eligibility criteria for WTC so as to support employees who develop a disability or health condition while in employment. WTC has an additional payment (the disability element) and a threshold of 16 hours a week for those who qualify as disabled workers. However, because the original tax credit was designed to assist people moving from an incapacity benefit into work it does not work well for those who become disabled while in employment. Yet being able to work reduced hours, with some additional financial support through the tax credit system, may be exactly what is necessary to enable employees who become disabled to remain in work. We have had meetings with HMRC officials on this issue and some initial work has been done in developing new eligibility criteria. We are keen to see this work given a higher priority and see it as of particular benefit in improving job retention.

3. Pathways to Work

3.1 We are very pleased that the Pathways to Work programme is being expanded but worried about whether the funding to do this is adequate. The rollout needs to be 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. 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.

3.2 If the services provided by Jobcentre Plus are to be properly inclusive for people on the 'exempt' part of new benefit, 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 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.

3.3 We have concerns about the proposals to contract out large parts of the programme to the voluntary and private sectors. We believe such providers can add value and provide choice for disabled people, especially those aimed at people with specific impairments. However, we would be opposed to the idea of contracting out the 'policing' of the compulsory parts of the new regime and fear that this would undermine the independence of voluntary organisations. We also have a concern about private companies being able to tell disabled people they have to apply for a job or lose their benefit, particularly if the private company has an incentive to do this.

4. Reform of the gateway into, and structure of, incapacity benefits

4.1 We are unhappy with the proposed structure of the new benefit. We do not believe it will be possible to distinguish in a fair way between people for whom 'work-related activity' is appropriate and those for whom it would be an unreasonable requirement. Many people with severe impairments want to work and could do so and we would not want to see them 'parked' on benefit and ignored. Other people, with what are often considered less severe conditions, like mental ill-health or ME, or those

undergoing exhausting treatment (like chemotherapy), may well not be in a position to get involved in work-related activities. We are very worried that this group could find themselves facing sanctions for not co-operating.

4.2 We believe disabled people are the best judges of whether work-related activities are appropriate for themselves or not.

4.3 Compulsion: we are not convinced 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. 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.

4.4 We fear it will 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.

4.5 We believe that one of the reasons for the success of Pathways so far has been the role of the Incapacity Benefit Personal Advisers (IBPAs). DWP research¹ 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 research goes 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'*.

4.6 IBPAs reported that pre-work focused interview (WFI) contact with customers was important in overcoming customer fears and anxiety. This is interesting because the compulsory element of WFIs was originally introduced in the belief that it was necessary to get people to co-operate. In practice it appears that IBPAs are having to counteract that

¹ *Incapacity Benefit Reforms: Personal Adviser roles and practices* - qualitative research by Tim Knight, Sarah Dickens, Martin Mitchell and Kandy Woodfield for the DWP 2005

message in order to encourage people into the programme. IBPAs reported using early WFIs to build trust, give information and provide reassurance to customers.

4.7 There may also be some difficulty in getting IBPAs to apply sanctions. The research 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*'.

4.8 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. This division would be unnecessary if there were no compulsion.

4.9 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 will be no need for the 'stick' element of the proposed reform.

4.10 On area we feel has been given insufficient attention in the Green Paper 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. 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. 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.

4.11 Benefit levels: 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. We are disappointed that so little information has been made available about the proposed levels of the new benefit (see also 6 below).

5: Do the types of 'suitable activity' we have set out provide a sensible range of activities that could be undertaken in order to fulfil an acceptable action plan?

5.1 We believe there is a positive role for work-related activities and action plans where this is what the disabled person wants. It is our view that arrangements will work best where the disabled person and the personal adviser are working together in partnership. We believe that the system needs 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.

5.2 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.

5.3 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.

5.4 Importantly we believe that citizenship activities other than paid work need to be valued. Although voluntary work is mentioned in the Green Paper we are disappointed that there are no proposals to extend Access to Work support to people doing voluntary work.

5.5 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?

5.6A number of the problems experienced by people with mental health conditions 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: Is the combination of Disability Living Allowance plus the Enhanced Disability Premium/Severe Disability Premium for those on low incomes, the right way to target support towards disabled people with the greatest needs?

- 6.1 We do not agree. Without an indication of the levels of the new benefit it is difficult to comment in detail but we are very concerned that the proposals fail to recognise the very real additional costs faced by disabled people.
- 6.2 Disability living allowance (DLA) is a contribution towards the additional costs faced by disabled people with care and/or mobility needs. Many disabled people have other needs which result in additional costs but do not qualify for DLA – incontinence would be one example. Even those who do get DLA will have costs over and above the level of DLA they receive. Our Joseph Rowntree Foundation report '*Disabled people's cost of living – more than you would think*' found that for '*disabled people solely dependent on benefits, irrespective of the type or level of their need, levels of benefits fall approximately £200 or more short of the weekly amount*

required for them to ensure a minimum standard of living. These figures suggest that benefits meet only 28% of the costs of those with low-medium needs; 30% of the costs of those with intermittent/fluctuating needs; 35% of the costs of those with hearing and visual impairments, respectively; and 50% of the costs of those with high support needs’.

- 6.3 The **disability premium** was originally designed as a replacement for the additional requirements payments available with Supplementary Benefit. These were awarded for things such as extra heating costs, special diets and laundry costs. These are not items covered by DLA. We believe the abolition of the premium could potentially cause hardship – depending on the level at which the new benefit is set. It will certainly disadvantage young disabled people – see below.

7: Do you agree that these proposed simplifications more accurately reflect the principles underpinning our modern society?

7.1 We are pleased to see the very clear recognition in the Green Paper of disabled people’s desire to work. This is extremely important, particularly for those groups, like visually impaired people and those with learning disabilities, too many of whom have hitherto been excluded from the world of paid work.

7.2 However, the Green Paper states that ‘*paying more the longer people claim*’ is a ‘*perverse benefit incentive*’. Yet no evidence has been put forward to support this assertion. We know that people who have to live on benefits quickly exhaust their savings and face financial hardship. Providing a slightly higher level of benefit after a period of time recognises this. Provided people have passed the test for the benefit, and are complying with the appropriate rules, we would argue that it is right that they get a higher level of benefit after a period of time.

7.3 **Young disabled people:** although there is no mention in the Green Paper itself we discovered through meetings with officials that it is proposed that young disabled people get a lower level of benefit. **We oppose this.** Young people, disabled since childhood, who are not able to work, are arguably most in need of financial support. Many will be living at home with their parent(s) and it is likely that the demands of caring will have meant the whole family will have been on a low level of income for many years. Up until the young person transfers to adult benefits their

parent(s) will have received an additional disabled child element in their Child Tax Credit. This is the child equivalent to the adult disability premium. The proposed new benefit structure removes the disability premium and does not provide any compensation for the first 12 weeks. The proposed lower levels of benefit for under 17s and under 25s will mean that families will have much lower levels of household income than currently.

7.4 Families with a disabled child transferring to adult benefits will face an enormous immediate drop in household income – possibly up to £70pw – under the new proposals. This would seem to run completely counter to Government’s objectives in relation to child poverty and support for families with disabled children in particular.

7.5 Incapacity benefits (IB, severe disablement allowance, invalidity benefit) have always recognized the greater level of disadvantage and financial hardship facing those who are disabled whilst young and are unable to enter the labour market, as against those who have to leave work in their late 50s or early 60s having had time to build up some savings and make some pension provision. This greater level of disadvantage was compensated through age additions – with higher level of benefits payable to younger people. We understand Government’s desire to simply the system and can see the immediate attractiveness of aligning the new benefit with Jobseekers Allowance. However, we believe this would be wrong and the argument that young disabled people suffer a greater disadvantage still holds good for incapacity benefits. We strongly urge Government to reconsider this proposal.

8: How do you think that we can best improve work incentives within the new Employment and Support Allowance so that individuals have the opportunity to try out periods of work and progress to full-time work where possible?

8.1 Financial security: disabled people tell us that one of their biggest fears is that trying out work will result in their Disability Living allowance (DLA) being reviewed. DLA is payable to people in paid employment but for some groups of people (particularly those with mental ill-health or ME) a move into work can be taken by the DWP as a signal that their condition has improved, and prompt a review of their DLA. For some people this may be true but for many others the

first few weeks or so in a new job can be more stressful than remaining on benefit. The potential loss of DLA, during a period fraught with financial uncertainty, can be a huge disincentive, especially if people are worried about their ability to cope with paid employment. We would recommend a 6 month 'settling-in guarantee' under which disabled people are guaranteed that their DLA will not be reviewed. This allows time to settle into a new job, and to ensure that it is going to be sustainable.

- 8.2 Earnings disregards:** 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, because the existing incapacity benefit system is based on a very inflexible fit/unfit division it 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).
- 8.3** 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. It would be enormously helpful if these were raised to a realistic level (say £40pw), set at a multiple of the minimum wage and updated on a regular basis. It is difficult otherwise to persuade disabled people that Government is serious about wanting them to try out work and valuing the work they do.
- 8.4** 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 2005 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 went up, they either had to drop their hours to three a week or lose benefit.

- 8.5 Employers:** employers also feel they are taking a risk in employing someone who has been on an incapacity benefit. All too often they feel they are taking on someone without recent or relevant experience, whose skills are out of date and whose commitment to work is questionable. The latter perception is fed by media, and some politicians', portrayal of people on incapacity benefits as fraudsters and idlers who would rather watch daytime TV than do an honest day's work. Government needs to do more to combat this erroneous and stereotyped perception.
- 8.6** To help with the practical costs of re-training we would recommend that the Department undertake a pilot scheme whereby a **Training Fund**, administered by Jobcentre Plus, is available to SMEs if they take on a former incapacity benefit recipient who has been with them undertaking permitted work. The Training Fund would reimburse the costs incurred by the employer in providing training and would serve to encourage employers to provide opportunities to disabled people.
- 8.7 Information provision:** to assist disabled people to understand how their financial situation is likely to change as they move into work we have proposed a '**back to work**' diary. This would be administered by Jobcentre Plus, would be individually tailored and would aim to illustrate to the returning individual, and their employer, the financial implications of moving into work. It would indicate when the individual needed to notify various agencies (DWP, local authority) that their circumstances had changed, when particular benefits would stop, when tax credits would commence and who to contact in each agency if there was a query. The diary would help disabled employees cope with the transitional period and would ensure they received the financial help they were entitled to. In earlier discussions with DWP we did get a modified version of the diary piloted in some Jobcentre Plus areas but this was as a checklist for staff, rather than something aimed at the individual client. We have not had any feedback on how useful or otherwise the checklist has been.

- 8.8** To help people understand what work they are allowed to do when on benefit and what is not permissible we suggest the publication of a **DWP booklet** with a clear title like '**How to work while still on incapacity benefits**'. The booklet would explain how it is possible to do voluntary work or permitted work and how earnings disregards are applied. Most importantly it would get across the message that work is viewed positively for people on benefit - not as a fraudulent activity.
- 8.9 Other responsibilities:** support to help people back into work should not just focus on rehabilitation, but should also consider other restrictions such as the need for childcare, care for elderly or disabled relatives.
- 8.10 Transport** - we know that transport inaccessibility is a barrier for a great many disabled people. Indeed, the DWP's own research² highlighted the number of people who see 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 properly advertised. 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.
- 8.11** 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.
- 9. People currently getting incapacity benefit**
- 9.1** The Green Paper says that existing claimants will remain on their current benefits but will be encouraged to volunteer for the various programmes available through Pathways to Work. Existing claimants will experience a more proactive and intense approach with work-focused interviews (some compulsory), more frequent Personal Capability re-assessments and more regular checking of entitlement

² Short-term effects of Voluntary Participation in ONE, DWP Research report 126

generally. We believe it is unfair to make existing claimants face further scrutiny and compulsion while not providing automatic additional support or higher levels of benefit.

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