Scottish Government consultation: Increasing the Employment of Disabled People in the Public Sector

August 2018

Response from the Educational Institute of Scotland

Thank you for the opportunity to comment on the matter of the employment of disabled people in the public sector. The Educational Institute of Scotland (EIS) is Scotland's largest and longest-established teaching union with over 50,000 members in all sectors of education. We have a very active member-led Equality Committee and a growing national network of Equality Representatives; we are deeply committed to promoting a more diverse teaching workforce and more inclusive learning and working environments.

Our response is informed by research undertaken with EIS members to inform the development of EIS guidance on reasonable adjustments, and on issues raised by our delegations at successive STUC Disabled Workers' conferences.

Our June 2018 AGM unanimously passed a resolution on disability equality which committed the EIS to raising the profile of issues affecting teachers, lecturers and associated professionals with disabilities, and so we welcome this opportunity.

Comments on specific questions

Q1. Self-reporting is hindered by a culture of fear of discrimination, but also by people not seeing themselves as disabled despite having a condition that would be considered a disability under the Equality Act 2010. More needs to be done to promote public understanding of what is meant by the term 'disability', and of the wide range of conditions, including less visible mental health and neurological conditions, which come under its scope, to challenge myths and misinformation.

Public sector bodies could better support self-reporting by clearly explaining why they are seeking the information and how it will be used; and by demonstrating that it really is used to promote positive change, and not gathered for its own sake. Public bodies could demonstrate genuine commitment to equality for disabled employees by running positive action schemes, setting up Disabled Staff Networks, adjusting absence management policies, etc. People will not give out what they consider to be sensitive personal data unless they can see some advantage to doing so, in the short, medium and long term. A good disclosure policy could set out these benefits, both to the individual and to the collective.

People may also be concerned about the security of the data collected about them and would benefit from information being publicly available about how confidential, sensitive data is managed, in keeping with the GDPR.

Self-reporting could also be enhanced by promoting wider understanding of the fact that disability can be acquired and can be temporary, and of treating employment records as fluid and not fixed in time. For example, some of the

health complaints caused by menopause can be so substantial and limiting as to be classified as disabilities under the Equality Act, but most menopausal women would not be aware of that, and would not seek to disclose this temporary disability at the point of being affected. Similarly, cancer-related disability may not be disclosed if the person affected does not have cancer when they take up employment. Employees should be given regular opportunities to update their data and should be encouraged to think of disability using the social model and the Equality Act definition.

Q2. We have no particular view on the specifics of the time scale for implementing new measures, but suggest that this should be treated as an important priority and acted upon soon (i.e. within the next two years), as disabled people have been under-represented in the workforce for too long, and the current disability employment gap of 37% is completely unacceptable. People from minority groups who face oppression and discrimination are often (rightly) cynical about initiatives to promote equality, as so many seem ineffective and to effect little change; swift action would perhaps alleviate some of that cynicism and demonstrate the Scottish Government's commitment to disability equality.

Q3. Public sector bodies would need support to implement measures. For example, centrally developed guidance on improving data collection would be helpful, although the development of such should ideally not be deferred to a large and potentially unwieldy working group which could take many months to conclude, as is common practice. Means of expediting this should be explored. A coordinated approach to supporting more open dialogue about disability might be helpful.

Q4. Yes, we believe that setting targets would improve disability employment in the public sector. The status quo is clearly not working.

Disabled people's under-representation in public sector employment has serious consequences for policy-making and for services; it is vital that disabled people's many diverse lived experiences of, for example, encountering discrimination and barriers to success, are reflected in the solutions we seek to current challenges. There is no substitute for first-hand knowledge of the issues and challenges faced by individuals who belong to disadvantaged groups, and it is imperative that the public sector, which employs around a fifth of the total workforce in Scotland, is enriched by employing disabled people in greater numbers.

It is also arguable that target-setting will eventually create a 'new normal' in Scottish society. By encouraging equality in employment, and involving more disabled people in the public sector, organisations will create role models for others. The observation that "you can't be what you can't see" (made by Marie Wilson from the White House project) is relevant here. As more disabled people see their peers securing and retaining public sector jobs, others will be encouraged to apply, and cultures of embedding reasonable adjustments and adapting workplace practices to suit more diverse teams will grow and spread.

Without the will to increase disability/neuro-diversity within public sector organisations, voluntary measures are unlikely to be applied. The will to shift

employment patterns onto a more equitable footing within an organisation is unlikely to emerge without raising awareness of diversity issues, and without highlighting the negative impact of disability discrimination/exclusion, versus the benefits that increased diversity will bring. We would expect the setting of targets to fast-track this awareness raising and consciousness of the benefits of diversity, as it will become an obligation rather than an option. We need to get to a point where it is the normal expectation that disabled people will be present in a wide range of roles in public sector bodies that make decisions which affect us all, particularly in a time of austerity when spending and policy decisions can have considerable impacts on the life chances of the most disadvantaged people, including disabled people, who are much more likely than others to live in poverty, for example.

Another important reason for public services to have more diverse workforces is to enable them to better serve the population of Scotland. For example, disabled people can bring valuable insight and experience to educational establishments, which is always useful, but particularly at a time when a growing number of learners are being identified as having additional support needs, some of which arise from disability.

Q5. Options from favourite to least favourite:

Favourite – Option C: most flexible, allows public bodies to take action but tailor it to their current circumstances.

Option B: still flexible, good to have the ability to tweak targets with the benefit of experience.

Option A: not flexible but would ensure action by all public bodies.

Least favourite: Option D: Encouraging voluntary action won't work in our opinion. Voluntary initiatives have not been sufficient to achieve equality in employment thus far.

Q6. Regarding how long it would take to achieve our preferred option (requiring Scottish public sector bodies to set targets for their organisation, taking into account their starting point in terms of the level of disabled people in their workforce, their size and differing core functions), we imagine that public sector bodies would be able to develop their own targets within a relatively short timeframe, i.e. within two years of being required to do so.

Organisations which spend public money and are covered by the Public Sector Equality Duty should already be reflecting on the diversity (or not) of their workforces and have strategies to widen access to employment. Many already take part in specific inclusion schemes such as those which guarantee job interviews to disabled people who meet the minimum requirements. No organisation should be overly disadvantaged by now having to move quickly towards setting targets. However, targets will be more meaningful if there is scope for these to be considered during an organisation's usual planning cycle, so a degree of discretion will be needed.

Q7. N/A.

Q8. There are many other measures that could be put in place to employ more disabled people in the public sector and support disabled people to remain in employment in the public sector.

A major barrier to work is access to support, across a number of areas, including education, transport and finances.

Access to tertiary education is a requirement for securing qualifications needed for many posts in the public sector, but is very difficult for disabled students to access FE and HE (cost, accessibility of accommodation, accessibility of learning spaces and activities, etc).

To get to an interview or work once you have been offered a job, access to transport is essential. Some disabled people are barred from any job requiring a car because they can't drive. Wheelchair users often can't get access to space on buses (peak time is exceptionally difficult) and trains' lack of accessibility is a cause for concern, especially as some operators are moving towards driver operated services with no other on-board staff to offer assistance. Some operators' booking systems don't allow for special assistance to be requested.

The work place must be genuinely accessible – sometimes there is a disabled toilet but with a step or used as storage (our disabled members have seen this), sometimes there's no lift, or the fire alarm can't be heard (a serious concern for hearing impaired or deaf people), and so on.

Also, the financial impact of disability is significant. Social security payments such as DLA, PIP, and Access to Work are all getting harder to get, and some employers are reported as saying that reasonable adjustments are too expensive.

There needs to be integration of support: home, education, travel, work, etc. all need to be dovetailed sufficiently that the disabled person's life can run relatively smoothly. It takes a lot of time to put together all of those pieces of the jigsaw and get to the point where a disabled person can take part in employment reliably, but the investment of time and effort is more than outweighed by the benefits both to the individual and to society.

Q9. We regard monitoring and reporting of the actions needed to increase disability employment rates as important.

Case study: Disabled science teacher

"For me as a teacher, I was able to access the necessary university level education, but it was a struggle and I needed significant money spent on equipment and assistance. All schools are supposed to be accessible, since we must be able to teach any pupil so that's mostly fine, except for the fact that I can't hear the fire alarm in my school, and the flashing lights for deaf people don't work for me either, so I have about 5 fire buddies. The main barrier I've encountered is the attitudes of others towards me: either they forget I'm disabled, think I'm not as disabled as I say I am, or treat me like an idiot because being deafblind obviously affects my brain. There tends to be a reluctance to put in place reasonable adjustments, and over-enthusiastic help

(opposite sides of the same coin!), which I've heard from a lot of other disabled people."

General comments

In 2017, the EIS undertook research with members about reasonable adjustments for disabled teachers, that might be requested under the Equality Act 2010, and the issues faced specifically by disabled teachers as opposed to workers in other sectors with disabilities.

Our members were clear that, while working in educational establishments presents some clear challenges for disabled people, as there is sometimes less flexibility than in other sectors due to the hours of the school day, for example, that there are many reasonable adjustments that can be made to enable disabled people to stay in teaching.

These would include:

- Transferring the employee to another job that involves lighter work, provided the employee consents
- Modifying instructions/reference manuals, e.g. providing them in Braille or large print
- Providing a modified chair or workstation
- Providing a car parking space near to the place of work or with sufficient space for manoeuvring mobility equipment
- Adjusting lighting levels in the workspace
- Flexibility about start times to take account of the extra time a person with a disability may need to get ready for work
- Providing software for reading
- Sharing classes with another teacher to allow unsuitable tasks to be
- reallocated, e.g. a blind teacher may share a class so s/he can teach the theory aspects of a science course whereas a colleague would teach the practical aspects of the course
- Providing a tablet to make website and smartboard use easier
- Providing hearing assistance equipment for deaf teachers, e.g. a loop system
- Timetabling extra non-contact time to allow time for planning, marking and reporting
- Adjusting the timetable to allow for rest breaks; and providing facilities for rest
- Making physical changes e.g. installing a ramp for a wheelchair, installing a lift, or relocating the employee to a different classroom
- Providing a special keyboard for a teacher with arthritis
- Allowing a phased return to work after a period of disability related absence
- Offering flexible working arrangements including part-time working
- Facilitating the provision of Access to Work including transport or the provision of Personal Support Assistants
- Adjusting sickness absence management policies to be sensitive to conditions caused by or arising from disability, e.g. migraines exacerbated

by visual impairment, which could be monitored separately but not included as a 'trigger' for an absence management meeting.

Some of these would apply specifically to teaching/lecturing, but many are common sense approaches to adapting employment for disabled people, which would apply equally in a wide range of settings.

Other issues

Issues routinely raised by our disabled members as concerns/barriers to their entry into the workforce or continued presence there include:

- discrimination in access to training/professional learning/professional development, with assumptions made that disabled staff will not be interested in or be capable of progressing
- being overlooked for promotion
- being assumed to have limitations based on one's impairment without creative thought being applied to how to overcome any practical difficulties in taking on a particular role (e.g. a visually impaired teacher working in a practical subject)
- struggling to access reasonable adjustments, or having these put in place but then withdrawn at short notice for no apparent reason
- misunderstanding of different conditions, for example sometimes people with certain conditions that cause slurred speech have been assumed to be drunk and subject to harassment
- assumptions made that everyone in the workplace is 'neurotypical' and can cope with the same stressors, and limited public (employer/colleague) understanding and valuing of neurodiversity. For example, a disabled teacher with dyslexia and dyspraxia may need order and routine (e.g. a tidy classroom, orderly classrooms, advance notice of events) to cope with these conditions, but may be perceived as being uptight
- being inappropriately drawn into competency processes when absence results from disability or medical treatments e.g. chemotherapy
- being excluded from workplace social activities/networks
- being inappropriately highlighted or spotlighted in a meeting or workplace setting where you wish to blend in, e.g. people asking if you want to leave because you can't hear, rather than asking colleagues to adjust their volume and make themselves accessible for lip-reading
- struggling to access suitable transport, either to the normal place of work or to events such as conferences, especially for disabled people living in rural or Island communities
- being unfairly treated by insensitive absence management policies and the poor implementation of these, especially where there is no provision for separate (paid) disability leave
- employers' lack of preparedness for the predicted huge escalation in numbers of people with cancer over the coming decades, and poor workplace practices for people currently living with cancer and seeking to maintain careers, including insensitive absence management processes which make employees with cancer feel guilty for taking leave

- poor public (and hence, employer/colleague) understanding of 'hidden' or unseen/less visible disabilities, such as those caused by chronic illness, and the discrimination and harassment people with unseen disabilities can face, for example when accessing disabled toilets or priority seating
- continuing low levels of awareness of the social model of disability and its importance over an impairment-driven medical model
- being treated by colleagues as a hindrance rather than as a useful member of the team
- changes in policies that are not disability-friendly, often caused by a lack of equality impact assessments (either not conducted or conducted poorly) and a lack of disabled people in the decision-making bodies which develop policies
- the increasing prevalence of dementia, and a lack of clarity about how employers can respond to this condition
- mental health issues not being widely understood and predictable, preventable relapses occurring due to poor employment practices
- financial stresses, caused by targeted cuts to social security and funds designed for supporting access to work
- disability related hate crime.

Investment

We welcome the ambition to make transformational change in this area, as inequality for disabled people has persisted for many years, but we would stress that achieving large-scale changes in culture, systems and practices takes a considerable investment of time and resources (e.g. in training, guidance etc) and so we trust that the Government's ambition will be underpinned by the investment required. We await the publication of the Disability Employment Action Plan with interest.

More information

For more information on this response please contact National Officer Jenny Kemp, jkemp@eis.org.uk / 0131 225 6244.