



House of Commons
Work and Pensions Committee

**Disability employment
gap: Government
Response to the
Committee's Seventh
Report of Session
2016–17**

**Third Special Report of Session
2017–19**

*Report, together with formal minutes relating
to the report*

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Work and Pensions Committee

The Work and Pensions Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Work and Pensions and its associated public bodies.

Current membership

[Rt Hon Frank Field MP](#) (*Labour, Birkenhead*) (Chair)

[Heidi Allen MP](#) (*Conservative, South Cambridgeshire*)

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The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

Committee reports are published on the [publications page](#) of the Committee's website and in print by Order of the House.

Evidence relating to this report is published on the [inquiry page](#) of the Committee's website.

Committee staff

The current staff of the Committee are Adam Mellows-Facer (Clerk), Katy Stout (Second Clerk), Libby McEnhill (Committee Specialist), Rod McInnes (Committee Specialist), Tom Tyson (Committee Specialist), Jessica Bridges-Palmer (Senior Media and Policy Officer), Alison Pickard (Senior Committee Assistant), Michelle Garratty (Committee Assistant) and Ellen Watson (Assistant Policy Analyst).

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Third Special Report

The Work and Pensions Committee published its Seventh Report of Session 2016–17, [Disability employment gap](#) (HC 56) on 3 February 2017. The Government’s response was received on 30 November 2017 and is appended to this report.

In the Government response, the Committee’s recommendations appear in ***bold italicized text*** and the Government’s responses appear in plain text.

Appendix: Government Response

Introduction

As the new Minister for Disability, Health and Work I welcome and value the work that the Work and Pensions Select Committee does in examining policy relating to disability issues.

I would like to thank you and members of the Work and Pensions Select Committee for your report on the Disability Employment Gap. I am happy to inform you that we are now in a position to best respond to the Committee’s recommendations and I am pleased to now update you on the progress we have made since the report’s publication in February.

As you know, we published our Work, Health and Disability Green Paper ‘*Improving Lives*’ in October 2016 and subsequently held a 15-week consultation, receiving around 6,000 responses. These responses provided us with a breadth of views on the issues raised in the Green Paper – largely supporting the case for change and the general principles outlined in the Green Paper.

We have today published our response to the consultation and our next steps for reform in *Improving Lives: the Future of Work, Health and Disability*. Our publication sets out the Government’s plan to get one million more disabled people in work over the next ten years. This replaces the pledge to halve the disability employment gap outlined in the Green Paper. Both commitments are ambitious and far-reaching, but the new one is specific and time-bound and shows our serious commitment to help disabled people enter, remain and progress in work.

The committee has set 14 recommendations on how to increase disability employment. The Government has provided a response to these recommendations in this letter, but many are also covered more fully in the publication *Future of Work, Health and Disability*.

Our strategy is to focus on improving and joining up across three key settings - the welfare system, the workplace and the healthcare system. In welfare we want a system which offers disabled people and people with long-term health conditions personalised and tailored support adapted to their needs, and which links them to healthcare and other services for support. In the workplace we want employers who have the support and confidence to recruit and retain disabled people and people with long-term health conditions, and to create healthy workplaces where people can thrive and progress. In health we want occupational health services which offer individuals timely access, and healthcare professionals who include employment issues in their conversations with patients.

Committee Recommendations

Recommendation 1

The Select Committee recommend the Department commit to gather data and report on a range of measures, including, but not limited to, those using the Labour Force Survey

Agree. The goal of getting one million more disabled people in work over the next ten years will only be achieved by increasing the proportion of out of work disabled people finding work and reducing the proportion falling out of work. We will track the number of disabled people in employment using the Labour Force Survey and publish a statistical update annually. Alongside monitoring the number of disabled people in work, we will also consider other useful statistical indicators which give more information about how disability and employment change over this time period, and inform our actions.

Recommendation 2

As the Labour Force Survey is likely to remain the most widely-used measure of disability and the clearest means of tracking the Government's progress, we recommend the ONS and DWP commit together to not making further changes to the Labour Force Survey question on disability for the next ten years, to enable consistent tracking over time.

Agree in principle. We understand that the Labour Force Survey may evolve over time for a variety of reasons. We will continue to work closely with the Office for National Statistics to ensure that disability is measured as consistently as possible so that we are able to robustly monitor progress on seeing one million more disabled people in work over the next ten years.

Recommendation 3

We recommend that the Government publish a Disability Employment Strategy, building on the outcome of the green paper consultation...it should then commission an annual report on progress

Agree. *Improving Lives: the Future of Work, Health and Disability* responds to the Green Paper consultation. It outlines our strategy to improve employment outcomes among disabled people and explores how we can better integrate health and employment support. Within this publication we have committed to track the number of disabled people in employment and publish an annual statistical update. The executive summary in particular describes how we are measuring our goal.

Recommendation 4

Exception of severely disabled claimants from reassessment – We invite the Department to set out in response to this report both when it intends to introduce this change, and the criteria it will use to identify claimants that will be exempt.

In line with the Select Committee recommendations, our publication states that we have ended reassessments for severe conditions **from 29th September 2017**. This change applies to UC customers with Limited Capability for Work and Work-Related Activity (LCWRA)

and ESA customers in the Support Group. Further information is set out in Chapter 1 of our publication, covering ‘Employment and Financial Support in the welfare system’. Please also see the full criteria in the attached annex.

We have engaged extensively with stakeholders through a representative group of charities, as well as inviting them to share written comments on the draft criteria. We have also committed to continue working with the representative group, inviting them to take an active role in the evaluation of the criteria.

Recommendation 5

We reiterate the recommendation from our Future of Jobcentre Plus report concerning developing a front-line, senior disability specialist role for Work Coaches

Our vision is for *all* our work coaches to develop the skills and capabilities to support claimants with a health condition or disability rather than to have senior specialist roles. To support this, we are recruiting 200 Community Partners, and have recruited 300 extra Disability Employment Advisors (as outlined in the Employment and Financial Support Chapter and the commitment 14 in Annex B on the Personal Support Package) to provide specialist support to work coaches. Each Disability Employment Advisor will work with a cohort of up to 30 work coaches to offer coaching, whether one-to-one with the work coach, or with the work coach and the claimant. The DEA will also hold regular monthly case conferences with work coaches. Work coaches are also supported by Work Psychologists who are able to support Work Coaches, claimants and employers with specialist expertise to help overcome barriers to gaining employment.

Furthermore, work coaches undergo training on health conditions and disabilities, and how to tailor service-delivery according to needs (commitments 9 and 10). We have also rolled out the Health and Work Conversation to change further the interaction between work coach and claimant from process-based to coaching. Comprehensive new training for work coaches, builds their skills of empathy and active listening and equips them to help people respond resiliently to challenges and overcome fixed beliefs about their abilities (commitment 13). We have also commenced the Specialist Advice Proof of Concept which tests the use of advice from healthcare professionals to support work coaches (commitment 12).

Recommendation 6

We recommend that the Department does not immediately proceed with the idea of mandating contact between Support Group claimants and JCP. We recommend that any steps to engage the Support Group are introduced on a voluntary basis, and are led by the needs of individual claimants.

Agree. The Government agrees with an approach to engage with the Support Group on a voluntary basis. Chapter 1: ‘Employment and Financial Support in the welfare system’ discusses our approach for building the evidence base to establish what works to engage with and support individuals placed in this group. We will undertake a proof of concept to test different voluntary engagement methods. Findings from the proof of concept, and the claimant research that was announced in the Green Paper will then be used to design a large-scale trial.

Recommendation 7

We recommend the Department develop a Code of Conduct for Work Coaches on applying sanctions to disabled people.

We agree it is important that work coaches take each claimant's individual circumstances into account, including any health conditions or disabilities, when setting conditionality requirements.

When a work coach takes up the role, they go through a tailored learning journey to build their skills and knowledge to support the range of claimants that they work with. This learning covers conditionality and setting appropriate commitments for the specific circumstances of the claimant.

Jobcentre Leaders also carry out regular quality framework observations and provide quality coaching feedback to their work coaches on an on-going basis.

When a Jobcentre goes live with Universal Credit Full Service, work coaches there go through three weeks of classroom learning. This includes how to apply conditionality and agreeing reasonable commitments. The classroom-based elements of their training include case studies and practising tailoring commitments and having coaching conversations that mimic real-life scenarios. We have extensive guidance on how to support claimants with disabilities and complex needs that work coaches are able to refer to after their classroom learning. This guidance has recently been launched with all sites in line with developing their complex needs toolkits.

We therefore do not agree with the recommendation to develop an additional code of conduct, as comprehensive training and on-going monitoring of work coach performance is already in place.

Recommendation 8

We recommend that the Department clarify in response to this report whether and how transitional protection will apply to current ESA claimants who experience a change of circumstances

In her letter to you dated 27 March 2017, my predecessor outlined that the changes to WRAC would come into effect on 3rd April 2017. She also stated that no existing ESA claimants would be affected, with similar safeguards in UC. Neither would the change affect anyone whose ability to work is significantly limited by their health condition or disability (those in the ESA Support Group or UC equivalent). In addition, we have protected existing ESA claimants:

- Those who are waiting for a WCA or are reassessed (have a repeat WCA) after April 2017 will not be affected. This includes anyone who is currently in the Support Group who is subsequently placed in the WRAG and anyone in the WRAG who remains in that group;
- Those who temporarily leave the benefit to try out work and then return to ESA – this is known as the 12 week linking rule. Provided the break in the customer's claim is no more than 12 weeks, and their previous claim was not closed because

they were found fit for work, their claim will be treated as continuous and their entitlement will not need to be re-assessed (unless there is a change in circumstances);

- Those who claim within 3 months of the commencement date but wish to backdate their claim under existing rules;
- Incapacity Benefit Reassessment (IBR) cases; and,
- Claimants who claimed ESA before 3 April 2017 and the ESA claim was closed due to the claimant getting Maternity Allowance, and who then make a new claim to ESA within 12 weeks of their Maternity Allowance ending.

My predecessor also set out the other support offers we have introduced to help those affected, including a Personal Support Package which is set out in the annex accompanying the publication, including the progress that has been made.

Recommendation 9

...the Department must ensure that it spends its money wisely, effectively targeting support towards those in need. We recommend the Government set out its approach in response to this report, prior to implementing the new, lower rate.

Agree in principle. Government has committed to introducing more personalised and tailored employment support to help disabled claimants and those with health conditions return to work where appropriate. From April 2017, we rolled out a Personal Support Package (PSP) which includes a £330m package of employment support for new claimants with limited capability for work, over the course of four years. This additional funding means that from April 2017 we are offering people newly placed in the Work Related Activity Group, and its Universal Credit equivalent, more assistance to move closer to the labour market and, when they are ready, into work. This also includes investment in a range of Proofs of Concept to test new ways of engaging claimants with support. The package will be evaluated to build a more robust understanding of the type of support which have positive outcomes in terms of health and work and to target future investment.

Recommendation 10

We recommend that the Department launch a publicity campaign for Access to Work, targeting disabled people, employers, and its own front-line staff.

Agree. The Government agrees with the need to publicise the Access to Work scheme and we will work with schools and colleges to ensure that young disabled people are aware of Access to Work and can use supported internships and other first steps into work, including work experience where this may lead to work. We will seek to improve the advice and choices and tools offered to support people into work, in particular new assistive technology. We will promote government support for employers such as Access to Work and Disability Confident as part of our initiative to bring together advice and information.

We further recommend that potential beneficiaries should be permitted to complete pre-eligibility checks in Jobcentre Plus without the requirement to have obtained an offer of employment, and that claimants should be allowed to take their awards, or pending awards, with them if they move jobs.

Partially agree. We will create a new expectation that equipment will be portable and move with the individual when they change jobs and allow people to apply earlier so that support is in place for job starts. Frontline staff would not be able to determine pre-eligibility for Access to Work support prior to a job offer, as the scheme only provides support beyond the reasonable adjustments that an employer may have a statutory duty to provide. Therefore, without knowing the circumstances and resources of the employer, we would not be in a position to assess pre-eligibility for support.

Recommendation 11

We recommend that the Department carry out research into the costs versus benefits of Access to Work, to ensure that any further decisions on funding are made from a strong evidence base.

Agree in principle. The Department welcomes the opportunity to conduct research into Access to Work and is currently examining the research and analysis options that are available. We will be doing a feasibility study to assess the scope for delivering a robust set of results.

The full range of measures implemented for Access to Work is set out in Chapter 2: 'Supporting employers to create healthy, inclusive workplaces' and in commitment 46 of Annex B.

Recommendation 12

To assess whether Disability Confident is meeting its objective of increasing disability employment, and to learn lessons for future employer engagement strategies, we recommend that the Department commission an evaluation of the campaign before 2020. This should take into account what changes members display in their hiring and employee retention behaviour, as well as establishing whether it is attracting a broad spectrum of employers.

Agree. Disability Confident is both a campaign and a scheme that employers can follow to develop the skills they need to recruit, retain and develop disabled staff. Chapter 2 of our publication, headed: 'Supporting employers to create healthy, inclusive workplaces' also sets out progress made on Disability Confident, and our commitment to increase the reach and effectiveness of DC including how we have created a Disability Confident Business Leaders Group to drive the process. We are tracking sign-ups to the scheme, including breakdowns by company size, industrial sector and geographical location to ensure it is reaching the broadest spectrum of employers, and have surveyed employers to determine the effect it has on their attitudes and practices. The public sector is leading the way, with all main Government departments now signed up as Disability Confident Leaders - the highest level of the Disability Confident scheme, and with efforts underway to also get Local Authorities and NHS Trusts also to that level.

Recommendation 13

We recommend that the Department proceed with implementing a “one-stop shop” for employers, which should be linked to Disability Confident. A central feature of this should be signposting towards local, specialist services (including those that deal with specific impairment types) that offer support on making adjustments and on other aspects of employment retention.

Agree. The Government agrees that we need to better structure information so that employers of all sizes and sectors are able to easily access improved advice and support. In Chapter 2: ‘Supporting employers to create healthy, inclusive workplaces’, we have set out how we will act on improving access to information and guidance at both at a national and local level, by researching and identifying potential solutions with employers this year. This will explore how we can most effectively bring together information for employers to meet their needs, and what information they most need access to.

Recommendation 14

Agree in principle. The Government agrees that there is a varied landscape of employers with different needs and incentives to act and that we need to ensure that the right incentives and expectations are in place for all employers to create healthy, inclusive workplaces where people can thrive. We also agree that we need to explore a range of measures that have been proposed.

We are supporting local partners where they are already taking action to explore new approaches to incentivising, encouraging and supporting action. For example, we are working with the West Midlands Combined Authority to support the development and design of the West Midlands Wellbeing Premium to test whether financial incentives for businesses can encourage investment in workplace wellbeing.

In Chapter 2: ‘Supporting employers to create healthy, inclusive workplaces’, we have committed to a comprehensive cross-Government programme of analysis and research on incentives and expectations for employers, and will report back on our preliminary work next year. The outcome of this work will inform our next steps, including whether and where trialling would be appropriate.

I look forward to continuing to work with you in future.

With thanks and best wishes,

Sarah Newton

Minister for Disabled People, Work and Health

Annex – Criteria for exemption for reassessment

1. ONE of the following Functional Support Group (LCWRA) criteria must be met:

- Mobilising 50m
- Transfer independently
- Reaching
- Picking up and/or moving
- Manual dexterity
- Making yourself understood
- Understanding communication
- Weekly incontinence
- Learning tasks
- Awareness of hazards
- Personal actions
- Coping with change
- Engaging socially
- Appropriateness of behaviour
- Unable to eat / drink / chew / swallow / convey food or drink

2. If ONE of the above criteria is met, ALL FOUR of the following criteria must also be met:

Criterion	Description	Examples of conditions that might meet the criteria	Examples of conditions that might not meet the criteria
The level of function would always meet LCWRA	The level of function would always meet LCWRA criteria	Motor Neurone Disease (MND), severe and progressive forms of MS, Parkinson's, All dementias, All chromosomal conditions, Huntington's, severe irreversible cardiorespiratory failure, severe acquired brain injury ...this list is not exhaustive	Conditions which might be severe at times but recovery of function might be present for substantial periods, such as recently diagnosed relapsing non-progressive forms of MS or some people with less severe mental health conditions with periods of reasonable function

Criterion	Description	Examples of conditions that might meet the criteria	Examples of conditions that might not meet the criteria
Lifelong condition, once diagnosed	The condition will always be present. Some lifelong conditions are present from birth, but others will develop or be acquired later in life		Conditions which might be cured by transplant / surgery / treatments or conditions which might resolve. This should be based on currently available treatment on the NHS and not on the prospect of scientists discovering a cure in the future
No realistic prospect of recovery of function	Advice on this should be based on currently available treatment and not on the prospect of scientists discovering a cure in the future	As per criterion 1	A person within the first 12 months following a significant stroke who may recover function during rehabilitation , so whilst the condition is lifelong, function might improve
Unambiguous condition	They have been through relevant clinical investigation and a recognised medical diagnosis has been made		Non-specific symptoms not formally diagnosed or still undergoing investigation

3. If all of the above and any of the LCWRA criteria are met, advise the decision maker that the claimant has a Severe Condition and has LCWRA.

4. As per filework guidelines request further evidence if it is possible that one or more of the LCWRA criteria might be met but the information has not been provided.

5. Any request for further evidence should be based on indicators in the clinical information available to you.

6. Where further evidence is considered necessary to enable advice regarding review or no review for a longer term prognosis further medical evidence review should always be chosen. As per current process only one request for written medical evidence should normally be made and at review only one telephone attempt to chase the evidence is required. If the claimant or their representative needs to be contacted for further evidence then a maximum of two telephone calls should be made. These should be documented on an FRR4. If the evidence is not available, you cannot advise that the claimant has a Severe Condition and normal filework case control action applies.

7. Filework HCPs should not default to calling a claimant to an assessment if the evidence required to meet the criteria is not available. If at filework a HCP feels that enough evidence is available on which a LCWRA 'in the longer term' recommendation can be made, but is unable to make a recommendation based on the Severe Conditions criteria, the advice is that they do not seek to call for exam but instead make a paper-based recommendation that change is not expected 'in the longer-term'. The reason being that DWP believes that to increase the burden on this group of claimants would be unnecessary and go against the spirit of the policy announcement.

8. If none of the criteria are met, continue with normal case action.

9. An HCP's default position should be that a future review is required. If you are certain that the evidence indicates that a claimant meets the Severe Conditions criteria, and a future review is therefore not required, this should be fully justified.