



DEBATE PACK

Number 2018/0001, 8 January 2018

Disability Confident scheme

Summary

A Westminster Hall debate on the [Disability Confident employer scheme](#) is scheduled for Wednesday 10 January at 2:30pm. The Member leading the debate is Luke Graham MP.

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1. Background

1.1 Introduction

The purpose of this debate is to discuss the Disability Confident scheme.

The Disability Confident scheme was introduced in July 2013 under the Coalition Government. As of 16 November there were 5,359 employers signed up to the scheme.

The Disability Confident scheme aims to get more disabled people into employment, and reduce the employment gap between disabled and non-disabled people. In April-June 2017, the employment rate for people with disabilities was 49.2%. This compared to an employment rate of 80.6% for people without disabilities.

The background of the scheme is provided below, as well as key statistics on disabled people in employment, information on the Equality Act 2010, and a summary of the policies that were included in the Work, Health and Disability White Paper.

1.2 The Disability Confident scheme

The [Disability Confident](#) scheme was introduced in July 2013 under the Coalition Government. As of 16 November there were 5,359 employers signed up to the scheme.

The aim of the scheme is to “support employers to make the most of the talents disabled people can bring to their workplace.”

The policy drivers of the scheme are to get more disabled people and those with longer-term health conditions into work, and reduce the large disability employment gap between the numbers of disabled people employed compared with non-disabled.

The aims of the scheme, as detailed within the DWP [Disability Confident aims and objectives](#) policy paper were as follows:

- engage and encourage employers to become more confident so they employ and retain disabled people
- increase understanding of disability and the benefits of employing or retaining disabled people
- increase the number of employers taking action to be Disability Confident
- make a substantial contribution towards halving the disability employment gap

When the Disability Confident scheme was introduced the Government was working towards a commitment to halve the disability employment gap.

In the 2017 Conservative Manifesto, this commitment was revised to an increase of 1 million disabled people in employment.

How an employer can become Disability Confident

Firstly an employer can become **Disability Confident Committed**. To do so, an employer needs to agree to the Disability Confident commitments (see box to the right), which they should be carrying out within 12 months of becoming Disability Confident.¹

They also need to commit to offer a disabled person an opportunity within their organisation, and again this should be in place within 12 months of them becoming Disability Confident.

If an employer commits to both of these then they will be sent a certificate and Disability Confident badge that they will be able to use for 12 months.

After this an employer can become a **Disability Confident Employer**. To do so, the employer needs to show they are actively looking to attract and recruit disabled people, that they support disabled staff within their organisation and that they are making reasonable adjustments as required. They also need to commit to various actions to both encourage disabled people to join their organisation, and to develop the disabled people within their organisation.²

If an employer does both of these, then they will be provided with a Disability Confident Employer badge that they will be able to use for 2 years.

Finally an employer can become a **Disability Confident Leader**. To do so, they will be independently validated in whether they are meeting the criteria for a Disability Confident Leader, and show that they are encouraging and supporting other employers to become Disability Confident.³

If they meet both of these, then they will be provided with a Disability Confident Leader badge that they will be able to use for 3 years.

Of the 5,359 employers signed up the scheme in November 2017,⁴

- 2,400 were Disability Confident Committed
- 2,871 were Disability Confident Employers
- 88 were Disability Confident Leaders

1.3 Disability employment gap inquiry

As part of its report on the [Disability employment gap](#), the Work and Pensions committee made two recommendations on the Disability Confident scheme:

- 1 The Department for Work and Pensions commission an evaluation of the campaign before 2020 to assess whether the scheme is

Disability Confident commitments:

1. Inclusive and accessible recruitment
2. Communicating vacancies
3. Offering an interview to disabled people
4. Providing reasonable adjustments
5. Supporting existing employees who develop a disability to stay in work

All main government departments are Disability Confident Leaders

¹ DWP, [Level 1: Disability Confident Committed guidance](#), July 2017

² DWP, [Level 2: Disability Confident Employer guidance](#), July 2017

³ DWP, [Level 3: Disability Confident Leader guidance](#), July 2017

⁴ DWP, [Disability Confident: employers that have signed up](#), 16 November 2017

meeting its objective of increasing disability employment, and to learn lessons for future employer engagement strategies.⁵

- 2 The Department for Work and Pensions proceed with implementing a “one-stop” shop for employers which should be linked with Disability Confident. This would signpost local, specialised services that offer support on making adjustments and on other aspects of employment retention.⁶

The Government has agreed with both of the recommendations.⁷

In response to recommendation 1, the Government has provided the following:⁸

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.

In response to recommendation 2, the Government has provided the following:

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.

1.4 Employment of disabled people

Headline Figures

There were 3.5 million people of working age (16-64) with disabilities in employment in April-June 2017, an employment rate of 49.2%. The employment rate for people without disabilities was 80.6%.

⁵ HoC Work and Pensions Committee, [Disability employment gap](#), 23 January 2017, p33

⁶ Ibid, p35

⁷ HoC Work and Pensions Committee, [Disability employment gap: Government Response](#), 15 December 2017

⁸ In its response, the Government makes reference to the Work, Health and Disability White Paper. This is covered in section 1.6 of this pack.

The employment rate for people with disabilities was 1.3 percentage points higher in April-June 2017 than in the same period in 2016. In this period the number of people with disabilities in employment has risen by 104,000.

346,000 people with disabilities of working age were unemployed. People with disabilities have an unemployment rate of 9.0%. The unemployment rate for people without disabilities was 3.8%.

3.8 million people with disabilities of working age were economically inactive. The economic inactivity rate for those with disabilities is 45.9%. The economic inactivity rate for people without disabilities was 16.2%.

The employment rate for men with disabilities is 50.0%, for women with disabilities the rate is 48.6%.

Employment Gap

What is commonly referred to as the 'disability employment gap' is the difference in the employment rate of people with disabilities and people without disabilities. People with disabilities had an employment rate 31.3 percentage points lower than people without disabilities between April and July 2017.

1.5 Equality Act 2010

The *Equality Act 2010* prohibits both direct and indirect disability discrimination in employment and recruitment.

Direct disability discrimination occurs where an employer treats a disabled person less favourably because they are disabled.

Indirect disability discrimination occurs where an employer applies a policy, criterion or practice which has the effect of putting a disabled person at a particular disadvantage as compared with non-disabled persons. Indirect discrimination may be lawful if it can be shown to be a proportionate means of achieving a legitimate aim.

The Act also prohibits employers from harassing or victimising disabled people.

Aside from these protections – which apply to all other protected characteristics (e.g. race and sex) – the Act contains certain provisions that apply only to disabled persons, as set out below.

Discrimination arising from disability

[Section 15](#) prohibits treating a disabled worker unfavourably because of something arising in consequence of his disability (rather than his disability *per se*). For example, dismissing a worker with multiple sclerosis for taking extended disability-related sick leave.

An employer does not contravene this prohibition if it can show that it did not know, and could not reasonably have been expected to know, that the employee had the disability. Nor does it contravene the provision if it can show that the treatment was a proportionate means of achieving a legitimate aim.

The key statistics available on disabled people in employment in the UK is summarised in the Library Briefing Paper [People with disabilities in employment](#)

Reasonable adjustments

Broadly, an employer is under a statutory duty to take such steps as are reasonable in the circumstances to:

- avoid putting disabled persons at a substantial disadvantage where a provision, criterion or practice would put them at that disadvantage compared with non-disabled persons;
- remove, alter or provide means of avoiding physical features (e.g. stairs) where that feature puts a disabled person at a substantial disadvantage compared with non-disabled persons; or
- provide an auxiliary aid where a disabled person would, but for the provision of that aid, be put at a substantial disadvantage in comparison with persons who are not disabled.⁹

A “substantial” disadvantage is one that is “more than minor or trivial”.¹⁰

1.6 The Work, Health and Disability White Paper

In November 2017, the Government set out its strategy on how it intends to get a million more disabled people into employment in the [Improving lives: the future of work, health and disability](#) White Paper. The strategy is partly based on supporting disabled people and people with long-term health conditions to find work, but also to provide investment to support these people to stay in work.

The White Paper states that the Government will “increase the reach and effectiveness of **Disability Confident**”. The Disability Confident Business Leaders Group has been established to provide leadership and peer-to-peer support.¹¹

In addition, the White Paper included the following policies and proposals:

- The rollout of the **Personal Support Package**. This includes the recruitment of 200 Community Partners, 300 Disability Employment Advisers and around 100 Small Employer Advisers. New mandatory training will be introduced for work coaches. There will also be an extra 1,000 Mental Health Support Service places.
- Implementation of the **Work and Health Programme** started at the end of November 2017. The Programme provides support to help people find and keep a job. It is available, on a voluntary basis, to those with health conditions or disabilities, and to various groups of vulnerable people.
- The Government will explore the best options to provide support to those with **more complex needs**, and those who are furthest from the labour market.
- Proposals specifically targeted at **young people** with disabilities include a voluntary supported work experience programme, an

A full description of the policies and proposals that are included in the White Paper are included in the Library Briefing Paper [People with disabilities in employment](#).

⁹ *Equality Act 2010*, sections 20-21 & Schedule 8

¹⁰ *Equality Act 2010*, [section 212](#)

¹¹ DWP/DoH, [Improving lives: the future of work, health and disability](#), pp 16-18

increase in the number of supported internships and a cross-government approach to improve mental health support.

- The Government will look to improve the **Access to Work** scheme.
- The Government will explore how it can make **apprenticeships** more accessible to people with a disability, and also research the barriers that disabled people may experience when trying to become **self-employed**.

2. Government Material

2.1 Disability Confident scheme documents

[Disability Confident: how to sign up to the employer scheme](#)

Government guidance for employers seeking to become Disability Confident.

[Disability Confident: employers that have signed up](#)

This document lists the employers that have signed up to the Disability Confident scheme, and their status (committed, employer or leader).

[Disability Confident case studies](#)

Government promotional material showing examples of how employers are being Disability Confident

2.2 Government policy documents on disabled people and work

[Improving lives: the future of work, health and disability](#)

30 November | Department of Work & Pensions and the Department of Health

This paper sets out plans to transform employment prospects for disabled people and those with long term health conditions over the next 10 years.

[Work, health and disability: improving lives consultation](#)

30 November | Department of Work & Pensions and the Department of Health

This consultation was concluded on 17th February 2017. The Improving lives white paper (above) is the government response to this consultation.

Responses to the Improving lives White Paper

The Labour Party, [If Government really cared about disabled people they would end austerity now](#), 30 November 2017

Scope, [What does the Government's plan to tackle disability employment mean for disabled people?](#), 30 November 2017

Mind, [Mind responds to Government plans for work, health and disability](#), 30, November 2017

Mencap, [Mencap response to DWP roadmap to get 1 million more disabled people into work- mild and moderate learning disabilities overlooked](#), 30 November 2017

Disability Rights UK, [Our view on Govt plans to see more disabled people in work](#), 30 November 2017

TUC, [Improving lives or a damp squib?](#) 30 November 2017

CBI, [The opportunity to get into and get on in work should be accessible for everyone](#), 30 November 2017

Citizens Advice, [Citizens Advice responds to government plans to close the disability employment gap](#), 30 November 2017

3. Parliamentary Material

3.1 Papers

Work and Pensions Select Committee inquiry into the Disability Employment Gap

During the 2016-17 session of Parliament the Work and Pensions Select Committee conducted an inquiry on the Disability employment gap. The committees recommendations concerning the Disability Confident Scheme are outlined in Section 1.3 of this note.

Work and Pensions Select Committee, [Disability employment gap. Seventh Report of Session 2016-17](#), 23 January 2017

Department of Work and Pensions, [Disability employment gap: Government response to the Committee's Seventh Report of Session 2016-17](#), 30 November 2017

Open Work and Pensions Select Committee inquiries concerning disabled people

[PIP and ESA Assessments inquiry](#)

An inquiry into the effectiveness of assessment processes used to determine eligibility for Personal Independence Payments (PIP) and Employment and Support Allowance (ESA).

[Access to work cap on support grants inquiry](#)

The Parliamentary and Health Service and Ombudsman recently published a report on complaints about Access to Work. In its conclusion, the report raised concern about the impact of the cap set on Access to Work support.

This means funding for support workers is provided on the basis of an annual salary only, and is limited to 1.5x of national earnings. The Committee is examining the effects of the cap on the employment of disabled people.

Deposited Papers

[Deposited Paper DEP2016-0776](#)

Letter dated 26/10/2016 from Lord Freud to Lord Morris of Handsworth and others regarding the provision of assistance to disabled people to take advantage of flexible working in order to become self-sufficient and independent. 2p.26 Oct 2016 | Deposited papers | House of Lords

[Deposited Paper DEP2017-0165](#)

Letter dated 20/02/2017 from Lord Henley to Baroness Scott of Needham Market and others regarding points raised during the debate on the impact of Brexit on disabled people on 2 Feb 2017.

3.2 Questions

During Oral Questions to the Department of Work and Pensions on the 18th December 2017 there was a [series of questions](#) to the department regarding the Disability Confident scheme.

Questions taken during this oral session ranged from seeking an outline of the progress of the scheme's implementation, to questions regarding the Chancellor of the Exchequer's comments to the Treasury Committee concerning disabled people in employment.

Written Questions

Recent written questions to the Department of Work and Pensions regarding the Disability Confident scheme have asked how many employers, Government Departments and Local Authorities have signed up to the scheme:

- In answer to written question [106605](#) Sarah Newton (Minister of State for Disabled People, Health and Work) stated that as of September 2017 there were 5,162 employers signed up to the Disability Confident scheme.
- Sarah Newton's response to question [119916](#) stated that all Government Departments are subscribed to the scheme at that the DWP is working closely with departments to ensure that all agencies and arms-length bodies are also signed up.
- In answer to question [3821](#) then Minister in the Department of Work and Pensions Penny Mordaunt stated that 268 Local Authorities had signed up to the Disability Confident scheme (as of July 2017).

Written question [11942](#) asked the Government whether the Department of Work and Pensions had put in place a formal complaints system for Disability Confident employers who do not confirm to guidance set out by the department. In response, Sarah Newton provided the Disability Confident scheme policy team email to be used to lodge complaints that cannot be resolved directly with employers.

3.3 Debates

[Leaving the EU: Disabled People's Services](#)

11 Jul 2017 | Debates | House of Commons | 627 cc71-84WH

Lead member: Cameron, Lisa | **Answering member:** Mordaunt, Penny · Pennycook, Matthew

Department: Department for Work and Pensions

[Long-term Health Problems and Work Outcomes](#)

Motion that this House has considered the role of employers in improving work outcomes for people with long-term health problems. Agreed to on question.

18 Apr 2017 | Debates | House of Commons | 624 cc333-352WH

Lead member: Tracey, Craig | **Answering member:** Mordaunt, Penny

Department: Department for Work and Pensions

4. Policy Documents

4.1 Think Tanks and academia

Resolution Foundation, [Retention deficit: a new approach to boosting employment for people with health problems and disabilities](#), 7 June 2016

The main contention of this report is that while there are things to be celebrated and continued, the policy focus around employment for people with health problems and disabilities has been too narrow, in three respects.

- First, it is too benefits-focused, both in terms of the motivation and the preferred method of delivery. Many workless disabled people are not in receipt of benefits, and benefit off-flows do not always equate to sustained employment.
- Secondly the policy agenda is insufficiently focused on supporting people in work. Stemming from the getting-people-off-benefits rhetoric, the tendency has been to focus on supporting people with health problems or a disability to enter employment. There has been less recognition that supporting people to remain in work can play at least as much of a role in overall outcomes.
- Building on this employment retention focus, the final criticism of the current policy agenda is that it is too late to engage. A typical trajectory from employment, to sickness absence to worklessness and benefit receipt involves six months in receipt of Statutory Sick Pay, followed by at least three months waiting to be assessed for Employment and Support Allowance and then directed towards back-to-work services. This is a problem because, as is well known, time away from work is a key determinant of the chances of re-entering employment.

The Centre for Social Justice, [Rethinking disability at work: recommendations, polling data and key statistics](#), March 2017

This report seeks to explore the underlying issues behind the employment rate gap between disabled and non-disabled people and suggests a number of ways to narrow the gap.

One of the key findings of the report is that the disability employment gap is partly driven by the large number of disabled people who fall out of employment.

IPPR, [Working well: A plan to reduce long term sickness absence](#), February 2017

This report makes the case for a new 'Fit Pay' policy that would give employers the incentive to work with staff to keep them healthy and in work.

University of Birmingham, [Britain's disabled workers continue to miss out on jobs due to a lack of tax breaks and incentives for employers](#), July 2017

4.2 Scope reports

Scope, [Working for all? Experiences of employment support amongst disabled people with high support needs](#), March 2017

This research looks at experiences of employment support amongst disabled people with high support needs. It explores how employment support services and employer attitudes impact on securing and retaining employment as well as progressing in a career.

Scope, [A million futures](#), April 2014

This report is the third in a series that looks in depth at the challenges with disabled people's living standards. It argues that with the right interventions, a million more disabled people could be in work, and sets out steps towards making this vision a reality.

Press Articles

The Independent, [Nothing will change until bosses reveal how many disabled people they employ](#) , September 29 2017, James Moore

The Guardian, ['I don't think employers see what disabled people can do'](#), October 3 2017, Rebecca Ratcliffe

The Guardian, [Why is the government waging a war against disabled people?](#) November 23 2017, Peter Beresford

The Independent, [Theresa May reveals plan to get one million more disabled people into work; A person's work life 'should not be dictated by their disability', says the Prime Minister](#) November 30, 2017, Jon Vale and Georgina Stubbs

The Telegraph, [Work can liberate the disabled. But my daughter has shown me the fight for dignity is not over](#), By Ian Birrell

The Independent, [The Government's new plan to help disabled people is a PR stunt and nothing more](#), December 1 2017 Friday, James Moore

The Daily Telegraph, [Our neglect of the disabled is a shameful waste of talent and resources](#), Ian Birrell

The Guardian, [Disabled people should be seen as individuals, not as a drain on the taxpayer](#), December 12 2017, Frances Ryan

The Independent, [Some bosses won't even lie to pollsters about not wanting to hire disabled people](#), December 15 2017, James Moore

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