

## Response to the Work and Pensions Committee's inquiry on the cap on Access to Work support grants

### 1. About Business Disability Forum

We are a non-profit membership organisation which exists to improve business performance by increasing confidence, accessibility, productivity and profitability. We do this by bringing business leaders, disabled people, and Government together to understand what needs to change to increase the life chances for disabled people in employment, economic growth, and society in general in a way that also benefits business. We provide practical, evidence-based solutions for businesses to recruit, retain and provide inclusive products and services to disabled people.

**2. Question: Given that many high value awards purchase the wages of support workers, the Government thinks that a cap at 1.5 times the national average salary is reasonable. Do you concur? If so, why?**

#### 2.1 We should not focus on 'reasonableness'

Many of our Members commented on the term "reasonable" here. Asking whether a cap is "reasonable" misses the point of a cap at all. Instead of thinking through whether support capped at 1.5 times the average national salary is "reasonable", we should instead be asking for evidence of where the cap works successfully. Measures of success may include an individual getting everything they need within the cap; being able to perform *at least* the full requirements of their role (i.e. leaving room to perform 'exceptionally' and take part in other areas of work life, such as social or employee network activities, for example); not be impacted by their disability in work when all support is in place; *and* the individual progresses or develops in the ways that they wish.

#### 2.2 Increasing the diversity of the UK workforce

Many of our Members are concerned with what a cap says in response to a wider commitment to maintain and extend a 'diverse' workforce. For many, the impact of a cap on their Small and Medium Sized Enterprise (SMEs) suppliers was a significant concern. For some employers, the cap can direct them into thinking that, in the words of one of our Partners, "The question becomes, not 'Who is the best person for the job?' but rather 'Who is the best person for the job *whose adjustments I can afford*'". Joanna Wootten (Solutions Included and Business Disability Forum Associate) reinforced this by saying, "The mark of a civilised society is being able to enable disabled people to contribute at all levels – not

just “cheap” disabled people... That means accepting that enabling some disabled people, particularly those who require human support, to contribute in a work environment will cost more”.

## **2.3 Physical versus ‘human’ support**

In addition to ‘reasonableness’ and furthering diversity, there was concern that the cap is lending itself to a ‘one size fits all’ approach which, as one of our Partners KPMG suggests, is a “dangerous” position to start from. Our Partners and Members agreed that for people who needed physical adjustment, such as assistive technology or ergonomic equipment, the costs may not reach anywhere near a £43,100 cap; however, for people needing communication or more personal ‘human’ support, the cap was seen to be literally “disabling”. One employer said that the British Sign Language (BSL) interpretation costs for a much-valued employee had reached to around £72,000 in a year.

## **2.4 One-off versus ongoing support**

Our Members and Partners are interested in how a cap can be differently applied depending on whether someone needs one-off or on-going support. Some of our Members have employees who need both, whereby the on-going ‘human’ support takes up most of the budget before the one-off funding for equipment has been considered. Some of our Members questioned whether a cap should even be applied to payments for one-off support at all.

## **2.5 Considering regional differences in salary**

The 1.5 times the average salary also caused some concerns to employers in terms of how this is a ‘fixed’ cap regardless of regional differences in salaries.

## **3. Question: Which groups of people are most likely affected by the cap? Does it particularly affect people working certain hours or in particular sectors?**

### **3.1 Those who use ‘human’ support**

As above, each Member we spoke to concurred that the cap is unlikely to significantly adversely impact someone who only needs physical equipment, but can be overwhelmingly discriminatory to someone who needs a support worker or interpreter. Although, as above, there was an overall concern to consider the impact of individual circumstances rather than looking at ‘groups’, our Members are also concerned about the impact the cap particularly has on the following groups:

- People who are Deaf and using BSL interpreters.
- People using support workers. Our Members said this included their employees who have learning disabilities, visual impairments, cognitive impairments, and mobility impairments. In this context, it’s important to remember that latest estimates are that only 5.8% of people with learning disabilities (known to services) are in paid employment; it is also well documented that “place and train” models for

which an onsite job coach is a fundamental element are by far the most effective method of supporting this cohort into work.

- People with progressive conditions who may need more support at a 'later' time than they were previously awarded.
- People who, because of inaccessible transport, struggle to travel to work and have previously relied on Access to Work to fund alternative travel arrangements.

### 3.2 People who are Deaf and use BSL interpreters

Every employer we spoke to was very concerned about the impact of the cap has on BSL users. We heard some people affected by this were having to reduce their hours at work because they could not get communication support each day. Four employers we spoke to said that they knew of an occasion where an employee had to reduce their hours and went into the welfare system because their support was not funded, which creates something of a "false economy" (Simon Minty, Sminty Ltd and Business Disability Forum Associate). Joanna Wootten's words speak to the same concern: "No one would hire a person [as a full time worker] who could only speak to colleagues or at meetings three days a week, but effectively that is what the cap does". Business Disability Forum is concerned about the impact the cap has on people who use BSL interpreters, particularly at a time where the business sector is increasingly reporting the marginalisation of people in the UK workforce who are D/deaf. A cap on support workers reinforces this exclusion; we call on the Government to pay closer attention to this chasm which exists between the inclusion of disabled people in the labour market and capping communication support which enables disabled people to remain valuable and productive contributors to the UK workforce. The Government therefore needs to consider the continuation of a cap alongside its commitment to moving Deaf and disabled people away from the welfare system to reduce the employment gap between disabled and non-disabled people.

### 3.3 The SME 'sector'

As above, many of our Members were concerned what the cap does to their SME suppliers, whose workforce diversity is also a factor for the diversity and inclusion elements of contract procurement. Our Partners and Members agreed that, while bigger employers are likely to be more able contribute to the shortfall experienced by a cap, SME and microbusinesses, who are significant employers of disabled people in the UK, are unlikely to be able to do the same. Business Disability Forum would point the Government toward the report, *A qualitative study exploring employers' recruitment behaviour and decisions: Small and medium enterprises*<sup>1</sup>, written for the Department for Work and Pensions (DWP) back in 2011 which showed the difficulties SME employers have in

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<sup>1</sup> Davidson, J. (2011) *A Qualitative Study Exploring Employers' Recruitment Behaviour and Decisions: Small and Medium Enterprises*<sup>1</sup> (Social Policy Research Unit, University of York).

funding adaptations for disabled employees and how this made it less likely that a SME would employ a disabled person.<sup>2</sup> Business Disability Forum is concerned that similar anxieties are being raised by our Membership some seven years after the writing of this report. Around 99% of all UK businesses are defined as SMEs and this sector has been identified by Government's own 'Disability Confident' scheme as priority target audience. Access to Work was cited in this report as being one of the key ways in which the Government could support SMEs to employ disabled people and funded adjustments and adaptations,<sup>3</sup> but a cap speaks at cross purposes to this commitment. Options to support SMEs should be considered, such as implementing a cap depending on the size of the employer; for example, no cap for SME employers, but caps for organisations who could reasonably make up the shortfall.

#### **4. Question: Does the cap reduce the number of hours that Access to Work customers can access support? If so, how do employers respond to the expectation to make up the shortfall?**

##### **4.1 Reduced "hours" of support**

The main two 'groups' who are affected in terms of "number of hours" are people who are assisted by support workers and people who use BSL interpreters. As above, the cap has meant for many of our Members that employees have had to reduce the number of hours they work as a direct impact of having the number of hours of support reduced.

##### **4.2 Employers meeting the "shortfall"**

Whether or not an employer can make up the shortfall is down to a number of factors, including the financial resources available to the employer (and therefore potentially impacting SMEs further), but it also depends on what a "shortfall" means in some circumstances. For example, in the case mentioned above, with BSL interpretation costing £72,000 and an Access to Work cap of £43,100, contributing the full amount of the "shortfall" means an employer contributing almost £30,000. While we know some larger organisations may be able to discuss potentially contributing this in full, for many organisations, this will not be doable. One Civil Service Department said, in such situations, they would be happy to make a case to make the extra money available, but they suggested the Government needs to make a definitive policy on this for the Civil Service: they said, "It is up to the Government to say whether this is how they want us to use public money". This comment was indicative of how some of our private sector employers generally felt more 'freedom' to make such decisions about how much of a "shortfall" to make up than our public sector Members. Business Disability Forum's Advice Service is frequently contacted by employers who ask us how much they should contribute to an individual's support where Access to Work has left a significant "shortfall".

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<sup>2</sup> Davidson, 2011: 39 (section 5.2.2).

<sup>3</sup> Davidson, 2011: 63 (section 6.3.6).

## **5. Question: What impact is the cap having on the prospects of individuals who rely on one-to-one support getting into, staying in, and progressing in work?**

### **5.1 Impact on SMEs when recruiting**

Our Members are concerned about the Access to Work process for new recruits and, again, particularly the significance this would have on SME employer. One of our Partners said, “In order to encourage more employers, particularly SMEs, to recruit, retain and promote people with disabilities, it is crucial for them to know that their employer can rely on Access to Work support and funding even before making an offer. We know that disability charities have consistently lobbied for ‘agreements in principle’ being available to disabled people, to ‘de-risk’ a job offer to the employer but this is still not available. We know that the response to this from Access to Work officials is that adjustments are situational and therefore cannot be agreed unless a specific job has been offered; however, similar practices are demonstrated in the public and private sector; for example, many of our Members have instigated a ‘passporting’ process to ensure that, when an employee moves roles within the organisation, their adjustments move with them. This shows that this need not be insurmountable. Nasser Siabi (Microlink) and Jane Hatton (Evenbreak), who both provide services to disabled people as well as employing disabled people, highlighted the “cashflow” issue created by the Access to Work process by which an employer pays that money and it then takes a substantial period for Access to Work to reimburse the money. Once again, SMEs are particularly impacted by this process.

### **5.2 ‘Reinforcing a glass ceiling’**

Many of our Members said they have employees who are having to work fewer hours because they cannot get full time one to one support. Crown Prosecution Service (CPS), a high performer in Business Disability Forum’s Disability Standard and a member of our Central Government Network, said that this has an impact on “both horizontal and vertical progression” for disabled employees. CPS’ concerns were shared by other Members who also said that not every role was reducible to part time hours. The same Members also aired concerns for the engagement, wellbeing, and personal confidence of an employee having to leave full time work because of a lack of funding for the support they need. Business Disability Forum shares CPS’ concern that this, in effect, “reinforces a glass ceiling” for disabled people in the workplace.

## **6. Question: In light of concerns that customer support hours are being cut, what mitigations have the DWP put in place and how well are these working?**

### **6.1 Communication with the business needs improvement**

Many of our Members did not feel they could respond to this question as they felt the Access to Work team did not adequately communicate with employers, even though Access to Work forms a substantial part of many employers’ workplace adjustments process. They were not aware of the mitigations DWP had put in place. Our Members agreed that, if the Government want Access to Work to work successfully, it has to communicate with line managers and human resources teams as well; not just with the

employee. There were two elements of communication that Members wanted more of: firstly, more information and the process itself, which is often ‘hidden’ from the employer (an employee might be going through the Access to Work process without the employer knowing about it); and secondly, changes to Access to Work policy and practice. The latter is crucial, as many of our Members have internal information and guidance on Access to Work which they cannot amend or update unless they contact us to ask for information whether there have been any changes. Many Members expressed frustration that the lack of communication from DWP to the businesses means that employers often learn of changes to Access to Work policy or process only when employees have tried to get support through Access to Work and have been refused or advice has altered from what they had previously been told. One Member said Access to Work’s lack of communication with the business needs to change as it risks Access to Work being “an obscure external body” that many employers nevertheless rely on to fund adjustments for employees.

## **6.2 Access to Work needs to be more ‘employer friendly’**

Business Disability Forum greatly advocates Access to Work as a source of support for employers implementing and funding adjustments for employees, but we would urge that the process becomes more employer friendly. We receive calls from Members who say that Access to Work advisers have refused to speak to line managers or human resources teams. One Member said, as they (as an employer) are prevented from having any input into employees’ Access to Work process as an “equal stakeholder”, they cannot be sure that they are fulfilling their duty to make adjustments and supporting their employees in an effective and timely manner. For this reason, this employer has a policy to *not* use Access to Work, since the duty to make adjustments is an employer’s duty and Access to Work does not involve the employer in the process.

## **7. Question: What changes, if any, do you think should be made to this system, and why?**

### **7.1 Extend funding for Access to Work support to Civil Service departments**

Our Civil Service Partners and Members feel a cap works in direct conflict to the Civil Service’s efforts to become a diverse and disability confident employer. Each Civil Service Member we spoke to felt passionately that the Civil Service should be leading by example in terms of making adjustments and valuing the contributions of disabled people in their workplace. Business Disability Forum would refer the Government back to the Civil Service’s diversity and inclusion strategy<sup>4</sup> which is subtitled “becoming the UK’s most inclusive employer”. This strategy outlines a vision to increase the representation of disabled people at senior level and to create a culture where “everyone can thrive”. We question why Civil Service Departments are exempt from Access to Work funding for employees in a workforce which has publicly declared its vision to increase the number of

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<sup>4</sup> “A Brilliant Civil Service: becoming the UK’s most inclusive employer”. Published: October 2017.

disabled employees at all levels; we question how these two policies are consistent with one another. Our Advice Service receives a high proportion of queries from Civil Service departments asking what ‘reasonable’ means in terms of paying for adjustments, and we can point to cases in the Civil Service whereby, due to lack of funding available for adjustments, employees have had to be redeployed to different roles elsewhere against their own wishes. The prevalence of Advice Service cases we advise on where employees are redeployed to other roles due to lack of funding for adjustments is higher in the Civil Service than any other sector. We have also seen in our Civil Service Members a huge number of employees ‘waiting’ for redeployment opportunities; again, a number greater than anywhere else in the public or private sector. Business Disability Forum therefore urges the Government to consider how it can offer financial support to Civil Service Departments to give stronger validation to its commitment to becoming “the UK’s most inclusive employer”.

## **7.2 Investment in updating the knowledge of Access to Work advisers**

We support our Members’ concerns about how effectively Access to Work advisers are kept up to date with the latest options and updates to equipment and services available, from the latest models of ergonomic equipment to the range of technology available to provide solutions for disabled employees. This was also reflected in Members’ wish for a more ‘proactive’ service whereby Access to Work could provide ‘roadshows’ or forums to show employees the range of options that are newly available. Nasser Siabi (Microlink) suggests that the flexibility to discuss and try different options (and sometimes options that employees did not know existed) can often effectively save money. For example, Siabi has offered projects to ‘showcase’ alternative options to ‘human’ BSL interpretation through the use of various different technological options. While Siabi understands that BSL is a ‘first’ and preferred language for many people who are Deaf, his pilot sessions with employees showed that there were individuals who wanted to try alternative options other than ‘human’ BSL support that they did not know were available, particularly given that reduced funding for interpreters is a continuous anxious ‘threat’ hanging over them; for such employees alternative technological options provided a ‘surer’ sense of independence without the need to rely on whether or not they have sufficient funding for full time BSL interpreters.

## **7.3 Upfront payments**

The current system of employers paying substantial amounts for adjustments and then is taking often months for the reimbursement to arrive from Access to Work, we and our Member urge DWP to provide payments upfront. This is particularly important for SME employers and microbusinesses, and can often be the difference between being able to *afford* employing a disabled person or not.

## **7.3 Bespoke, fit for purpose adjustments**

Many Civil Service Departments use Access to Work assessments, even though they cannot currently access funding to implement the suggested adjustments. Almost all of our Civil Service and financial services Members said that remote assessments and

'catalogue' restricted suggestions of equipment are not working effectively. Our Members gave us examples of where, because Access to Work advisers do not often visit an individual's place of work or ask about how the organisation works, Access to Work reports often make many suggestions that will immediately not work in that organisation. The most common example of this was when assistive software or other IT packages were suggested even though there had been no questions asked about the overall IT infrastructure or security restrictions which prevent compatibility. For Access to Work to be effective, assessments need to include time to understand any such restrictions that an organisation has. This necessarily means involving other relevant staff in the business, particularly the line managers and often colleagues in strategic IT roles, in the assessment process.

#### **7.4 An 'all or nothing' approach**

There is much evidence from among our Membership that, for organisations who do not use Access to Work, the process of getting adjustments is more seamless and quicker and employees are more engaged than in organisations who have processes that rely partly on an internal process and partly on Access to Work. A senior civil servant told us that her adjustments were made and funded entirely by her employer (as the Civil Service cannot currently access funding through Access to Work). She described how her adjustments are not purely about fulfilling each component of her job description, but they have been provided to the extent that she exceeds expectations of her role, can contribute proactively and creatively to discussions at her senior level in a critical role, and it liberates her to volunteer as a senior member of a Civil Service disability board. Another Government Department also told us that not relying on Access to Work support makes providing adjustments more straightforward.<sup>5</sup> Similarly, the smaller organisations we work with whose adjustments process is *entirely* through Access to Work also report a consistent experience for getting adjustments in place for employees. It therefore appears that the difficulties are encountered when employers combine their own internal process with Access to Work, and this appears to be mainly because the internal part of the process is driven by the business, but the Access to Work part of the process has to be driven by the employee; the employer then has to take over again when (and if<sup>6</sup>) the employee passes the Access to Work report over to the line manager.

#### **7.5 Agreement 'in principle'**

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<sup>5</sup> It must be noted that each of these cases were from larger Government Departments where budget for the specific adjustments these individuals needed could be met; we know that smaller Civil Service Departments struggle more.

<sup>6</sup> Our Advice Service receive a high volume of calls from employers who say an employee has gone through the Access to Work process but, for a range of reasons, does not give the report to the line manager for the employer to implement adjustments.

Introduce an ‘agreement in principle’, particularly for the most disadvantaged groups and who are furthest from the labour market (noting the stubborn and woeful employment statistics for people with learning disabilities) to ‘de-risk’ the recruitment and job offer process for employers.

## **8. Organisations, groups, and individuals who contributed to our response**

Atos

Business Disability Forum Central Government Network

Business Disability Forum disabled employees

Business Disability Forum Technology Taskforce

Crown Prosecution Service

Environment Agency

HM Passport Office

HM Prison and Probation Service

Home Office

Home Office Dyslexia and Dyspraxia Network

HSBC

Joanna Wootten (Solutions Included, Business Disability Forum Associate)

KPMG

Land Registry

Land Registry Disabled Employee Network

Lexxic

Microlink

Microsoft

National Crime Agency

Royal Mail

Simon Minty (Sminty Ltd, Business Disability Forum Associate)

Texthelp

UK Immigration and Visas

United Response

Working with Dyslexia

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