Disability Confident Scheme Review

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## Are the criteria at Levels 2 and 3 sufficiently challenging?

There are three key elements of our response to this question. Firstly, the criteria in itself can be as basic or as challenging as organisations interpret it. For example, “accessible recruitment”, “providing reasonable adjustments”, and “supporting disabled employees” should not be a ‘commitment’ employers ‘choose’ to sign up to because, at bare minimum level, these are legal requirements under the Equality Act 2010. If employers are not doing these things, they are probably acting unlawfully and discriminating against disabled people. Employers should not be ‘rewarded’ with an accreditation for complying with the law on disabled people’s ‘basic’ employment and equality rights.

However, when employers consider the **experience of disabled people** using their recruitment process, getting adjustments, and being supported in work, there is much room for employers to do lots of good work which can be rewarded via accreditation. For example:

Accessible recruitment can include carrying out an inclusion review of the end-to-end recruitment process with the input of disabled people (current candidates as well as recently onboarded employees) to identify and then remove the barriers that are highlighted by disabled people.

Providing reasonable adjustments can include making sure suppliers are not contracted without the input of disabled people. Many of our members regularly use disabled employee networks to review the performance of current adjustments contracts (including occupational health and other workplace support advice services).

Supporting disabled employees can mean investing in a disabled employee network, equipping every manager to be able to listen to and advise anyone with a disability or condition on where to get further help, or it can mean providing disability related coaching and access to a programme which increases confidence or improves skills after the onset or development of a pre-existing condition.

Secondly, the size and, consequently, the structure and resources of an organisation means that the Level 1 criteria is nowhere near enough for large multi-nationals, and companies with high financial turnovers, yet hugely unrealistic for small and medium organisations. We have carried out validations for large organisations where we have felt they have resources and capacity to be doing more than the ‘bare minimum’ required by law even though they have met the Disability Confident (DC) criteria, and we have carried out validations for microbusinesses where most of the criteria is not applicable. Yet both of those organisations are assessed by the same criteria. Ultimately, it is disabled people who lose out, and a huge organisation who is not doing much gets the same accreditation as an entrepreneur who is doing as much as they possibly can.

Thirdly, through our years’ of doing validations for business of all sizes every week, our conclusion remains the same: the effectiveness of the scheme and level of challenge relies less on the questions themselves and more about **the approach an organisation takes** to achieve it. The issue with the Disability Confident framework is that it lists competencies to be fulfilled, and not methods for doing these. For example, the principles of co-production and inclusive design are key to ensuring every competency in the framework works for disabled people; yet there is no award, recognition, or accreditation for using these methodologies. In practice, this means that lone HR or diversity managers can get through Levels 1-3 in a matter of days working by themselves and involving no one else in the organisation. They result in the same accreditation as an organisation who will not hold a disability inclusion meeting without the disabled staff network in the room yet the experience of disabled people in those two organisations is likely to be very different. Completing Disability Confident (or any scheme) in silo is the very opposite of what is needed to embed good practice in a “whole business” approach to improving experiences for disabled candidates and employees.

There needs to be a separation of what is expected from multinational businesses, UK based large businesses, medium sized businesses, small businesses (the needs and resources of small and medium sized businesses are hugely different to one another), micro-businesses, and entrepreneurs.

## What are the challenges when moving from Level 2 to Level 3?

There are two key obstacles for employers:

It is unclear what type of **evidence** and how much evidence is needed. We are asked this question by every employer who speaks to us about accreditation as it is unclear to them how much resource and internal sign off (in terms of data sharing) is needed. Some validations have been submitted with no evidence at all; and others have been submitted with hundreds of pages of evidence. A typical validation for our team ranges from between 70 and 800 pages of evidence submitted for a Level 3 validation. This amount of evidence is not practical for an assessor, and it should be possible to demonstrate whether an organisation meets the standard in less than this. It does, however, depend on the evidence that is requested. Many employers send as much evidence as possible in the absence of guidance on the type and depth of evidence that it expected. The type and depth of evidence should also depend on the size of the business.

Understanding what a **‘good quality’ validation** should include and ‘who’ a good validator is. Many employers call us to say they are “calling around” organisations to compare what is included in organisations’ validation offer. We are very clear: we do not validate anyone’s assessment unless they commit to speaking with an adviser in an hour’s validation meeting after we have assessed their submission, and they agree to work on the recommendations we make. There is no standardisation of what a validation should include.

## What do we think about the Offering an Interview (OAI) scheme?

The Offer an Interview (OAI) scheme is the biggest ‘complaint’ our members have about the scheme. Even when the OAI scheme was called the “Guaranteed Interview Scheme”, our members were already being advised by their legal teams not to use it in their recruitment processes. We continue to get many calls from our members to say disabled candidates have raised discrimination complaints, which are usually based on (a) a misunderstanding of the scheme from the disabled candidate, and (b) a lack of robustly considering how the scheme must be embedded within job descriptions and advertising procedures, training for recruiting and selection staff, and information for candidates. Information about the scheme among employers is poor, and our members are increasingly not using it because it feels ‘high risk’.

There are two reasons why our members try to use the OAI scheme: firstly, because they feel they have to if they want to ‘keep’ their Level 2 or 3 accreditation; and secondly, because they want to increase the number of disabled people applying for jobs with them. However, many employers who have stopped using the OAI scheme have said the OAI scheme itself did not help them attract and recruit more disabled people. The two key actions that did help were to (a) revise the recruitment process and remove disability related barriers; and (b) change the way they talk about disability and inclusion and where they talk about this. We are also seeing a move away from using disability related job boards, and instead a renewed interest in ensuring the community local to the location of the job knows about vacancies (as one example).

In addition to how employers feel about the OAI scheme, we regularly hear from employers that candidates have told them that, although they have a disability, they do not want to be considered under the OAI scheme; they do not want to get an interview ‘because they have a disability’; they only want interview **based on merit** and if they have a genuine chance of getting the job. For this reason, many of our members operate a ‘voluntary’ OAI scheme – i.e., where a candidate can say they have a disability and request adjustments, but ‘opt out’ of being considered under the OAI scheme. This adds another layer of complexity for employers when using (or considering using) the DC scheme.

## What additional support would help employers move through the Levels?

As above, the main issue for employers is the various different levels of **quality among validators.** There is also the issue of **who** qualifies as a validator. As long as the validator criteria includes anyone who already has Level 3 Leader status, this allows businesses to ask organisations in their own supply chain or networks to validate – ‘sign off’ – their work. An **additional, regulated accreditation for validators** should be considered to help ensure quality and integrity of the validation process.

As above, there also needs to be guidance on the amount of evidence should be submitted and what organisations should be looking for in a validator.

## When should an accreditation be revoked?

If considering removing an employer’s accreditation, circumstances should be reviewed by a panel independent of the employer or the DC team. There is an argument that, if an organisation loses an employment tribunal for, for example, disability-related harassment or failure to make reasonable adjustments, they should lose their accreditation. However, there are two considerations here:

Firstly, many poor practices and discriminations do not reach tribunals and this practice would therefore be fuelled by removing accreditation from any businesses whose poor practices are ‘in the public eye’. This is slightly disingenuous because it is led by ‘optics’ rather than disabled people’s experiences.

Secondly, an employer could have ideal policies and procedures but their impact ‘lives or dies’ on how they are interpreted and ultimately implemented, which is usually down to the manager. Therefore, there could be a brilliantly inclusive organisation with a manager who makes a poor decision on one occasion, and – although this must be addressed within the organisation – it would be unfair to remove an accreditation from an employer on that basis.

It would be fairer to consider removing accreditation if consistent poor practices or discrimination have been identified. What constitutes “consistent” and ‘who’ (or how) this should be identified must be clearly defined (i.e., only relying on cases that go through tribunals may be restrictive).

There are also repercussions of removing someone’s accreditation. For example, they would need to be removed from the Government DC providers lists. The actions the Government would take if the business whose accreditation is being revoked is a supplier or undergoing a tender process with the Government would also need consideration, especially where DC status is a criterion for delivery or points scored in a tender.

Instead, it could be better to assign a date to when the accreditations are awarded. For example, “Business Disability Forum, Disability Confident Leader in October 2021. This makes clear that the accreditation is for practices assessed at a point in time. It is, in effect, a ‘snapshot’ of practice as things were at the time the employer collected their evidence. The **date for the next reassessment** could also be added to the public accreditation image or logo.

To this end, we would also question if the accreditation review periods are appropriate. It is not clear why Level 2 employers should have an accreditation duration shorter than Leaders. Leaders should be reviewing at least as much as than Level 1 and 2 employers, because Leaders should be practicing regular and ongoing reviews of their policies, procedures, and the impact of their organisation’s practices with disabled employees.

## What success criteria should be used to measure the impact of the Disability Confident scheme (collected through an annual survey)?

The answer to this depends on who wants to measure its success. Employers should be using schemes and initiatives that help them advance disability inclusion in their organisation. If they are using a scheme and their metrics show inclusion is not improving, they need to change what they are doing (or using). In this case, as we advise members anyway, employers need ways of measuring and ongoingly reviewing success. A non-negotiable way to do this is to regularly ask how disabled people in that organisation feel and what they think about various different process, practices or initiatives. Organisations measure this in very different ways, so it is hard to unify this for centralised reporting.

If, however, the Government want to monitor the impact of the scheme at UK level (as opposed to at individual organisation level), it can develop a short, non-burdensome criteria of success outcomes which employers with accreditations (at any level) can complete. Survey questions could include the following areas:

If the employer feels the scheme is improving the number of people with a disability or long-term condition being recruited and retained in their organisation.

If disabled people are reporting higher levels of job satisfaction and engagement in their organisation.

How pivotal they feel the DC scheme is to the overall impact of their inclusion outcomes.

It is hard to determine the causation of these scores away from correlation as most employers are undertaking other diversity and disability inclusion initiatives alongside the DC scheme. In many cases, we often see a combination of factors and initiatives contribution to improved levels of inclusion. In addition, this would only work for larger organisations.

Ultimately, the key success criterion for the Government measuring the impact of the DC scheme is **whether the disability employment is closing**.

## Any other comments

### The resource on small disability organisations

The DC validation process has overwhelmed small organisations we speak to, and these organisations are often the ones doing the most ‘grassroots’ work with businesses and disabled people and therefore best placed to ‘validate’ current disability inclusion practice and development.

A previously mentioned, DC self-assessments and evidence can range from 70 to 800 pages long. The shortest submission we have received to be validated so far, including evidence, is 38 pages. We have therefore had to make a decision: we either invest in more resource to help us continuing to support businesses with their DC validations and to support the scheme itself, or we no longer continue to carry out validations for anyone. The sheer **burden and intensity of resource** the scheme requires has meant that we have had to recruit another person whose only job will be Disability Confident related questions and validations. We have had to absorb this cost which has stretched us considerably since the Disability Confident accreditation scheme was introduced.

Clearer guidance for employers about the amount of evidence required for a Level 3 validation as well as guidance for validators would help with this.

### How our members feel about the DC scheme

Our members have given the following additional feedback:

The OAI scheme has **not kept up with modern recruitment practices** and is therefore increasingly becoming a legal risk to employers. An increasing number of our members therefore continue using the DC scheme but no longer use the OAI scheme. Some use the OAI scheme only for some roles, but not high volume or multi-stage recruitment methods. We also increasingly hear that the OAI scheme puts employers off signing up to the Disability Confident scheme altogether.

Members repeatedly call us with frustration that they have contacted the generic DC email address, but they have not heard back from anyone. Our members increasingly say that they would value a **named contacted** in the DC team so they can ask questions. Often, these questions are relatively urgent. An email which is fed into a generic email inbox where it could take up to five days to hear back is way too slow a pace for how our members work.

Similarly, to the above, members are often frustrated that, although they are signed up to the scheme, they are not kept up to date with changes to the scheme. Members have asked for a **mailing list to inform them of changes to the scheme** straightaway. The latest frustration among our members was when the DC complaints process was published but they did not know about it – particularly as the process initially said employees could raise a complaint directly to the DC team. Our members worried about this, and they felt it was unhelpful.

Members wanted more **transparency about the Business Leaders Group** – for example, how its members are chosen, its terms of reference, and a regular communication to the wider DC community (i.e., all businesses who have signed up to the scheme). This would create greater trust and confidence, and also act as an additional driver of good practice. One of our members asked why all employers signed up to the scheme cannot be involved in giving regular feedback and thoughts on the scheme.

Many employers question why there is a question on customers in the assessment. While customer experience is of course important, DC is positioned as being about recruitment and retention. Therefore, the roles involved in completing DC are rarely customer focussed.

### Additional thoughts from us

The question on procurement and suppliers is poor and needs to be improved. It focuses on employers getting their suppliers to sign up to the scheme, and there is nothing about ensuring suppliers provide **accessible and inclusive products and service experiences** to disabled people. Inaccessible contracts that disabled employees cannot access or easily use is one of the biggest ‘disengagers’ among disabled employees in organisations. There is therefore a missed opportunity in this question, which seems to focus on getting ‘sign ups’ to the scheme rather than improving disabled people’s experiences at work.

There must be better metrics to measure the success of the scheme other than just the number of employers who are signed up to it. It does not matter how many employers are signed up if only a minority of them are actually improving work related experiences for disabled people.

## --Ends--