Workplace passports, return to work, and sickness absence

Evidence given to the National Institute of Health and Care Excellence (NICE) by Business Disability Forum, February 2019

A brief history of Workplace Adjustment Passports (WPA Passports)

WPA passports emerged in the 1990s when Business Disability Forum (then called Employers Forum on Disability) worked with the MS Society to produce a document for managers and employees to each have a record of agreed workplace adjustments support. This was designed particularly with fluctuating conditions (such as MS) in mind, where different support might be needed at times when an employee's symptoms are more pronounced than at other times. This document was then called a "Tailored Adjustments Agreement".

Very soon after this, BT quickly adopted its use and named it "Disability Passport". They also developed a similar document for employees with caring responsibilities (called a "Carer's Passport").

In 2013, many Civil Service Department's started using what they also called a "Disability Passport" and, in 2015, Cabinet Office published their Talent Action Plan which announced a move to one single and unified disability passport across all Civil Service Departments.

As adjustments management became a more embedded feature of workplace inclusion, organisations started to record details of adjustments in central management systems. As organisations became more sophisticated with their diversity practices and moved away from disability inclusion as 'legal duty' and instead towards wanting to engage and recruitment more diversely, the language of "agreement" became a term that felt 'at tension' with trying to adopt collaborative and supportive discussions. We then therefore changed the language, meaning the "Tailored Adjustments Agreement" became the "Tailored Adjustments Plan".[1]

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[1] We are currently reviewing our TAA document (see Appendix 2 below) and are likely to change the name (to be confirmed).

The Tailored Adjustments Plan (or WPA passport) is now the document most requested by our Advice Service, alongside our resource to help employers decide what is 'reasonable'.

The purpose of WPA passports

There are three main purposes of the WPA passport:

1. To facilitate the portability of adjustments – i.e. when an employee move teams or when line managers change, a passport would mean the employees does not have to go through discussing adjustments or how their disability impact them at work again. Employers find this increasingly unhelpful, though; as resources increasingly reduce, not every team can work in the same way, even within the same organisation, meaning we increasingly hear adjustments are now less portable between teams. Many employers therefore tell us portability is increasingly less of an option to them.

2. To structure a conversation about adjustments and support between the employee and people manager.

3. To plan for when an employee is unwell or needs additional support because of their disability or condition. Sections of the passport are designed to inform the people manager what to do when the employee has (for example) becomes mentally unwell or has a seizure, and how to keep in touch in the employee needs to go off sick.

Use of WPA passports

WPA passports are used across many sectors, but the most prominent use across a whole sector is in the Civil Service. Although, as above, the passport is the resource our Advice Service send out to employers the most, we know employers do not always use it consistently or in its entirety. For example, we know employees sometimes extract some of its content into their own people management guidance and procedures, or they will use it only in cases where communication has broken down between the employee and people manager, or where the manager is 'new' to managing disabled employees.

The passport is often voluntary; as above, not all employees like passports or like having a specific document that focusses on their condition in addition to their HR record. For this reason, some employers operate a 'voluntary' passport practice, whereby employees can 'opt' to use a passport if they want to.[2] There are, however, management difficulties with

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The passport was originally created to be a 'live' document, 'owned' by the employee. However, this does not always work in practice. Our Advice Service hear of many cases which indicate it is more common for managers to introduce the passport to employees, and where employees are often reluctant to participate in completing a passport. We also hear of cases where employees want to have a conversation with their manager which uses the passport structure, but they do not want their passport shared beyond them and their manager or being kept on their HR file.[3]

The WPA passport necessarily sits outside of the workplace adjustments *process*. There can be an assumption that the WPA passport is the basis of a workplace adjustments process, but this is inaccurate. Although passports can be a helpful *feature* of a fit for purpose, centralised WPA process, passports cannot fulfil the duty of employers to make adjustments alone. Some employees who have good retention rates and an effective WPA process do not use passports, and some organisations who use passports do not have an effective WPA process. **The difference between extended periods of sickness absence and good employee retention is the WPA *process*, not the passport.**

Return to work and conclusions

- Return to work practices need much improvement across all sectors. This essentially affects the likeliness of the employee returning to work. Some of the most common adjustments-related 'sore spots' in return to work processes are:

- The WPA process is generally practiced as support for employees when they are 'at work'. WPA conversations and support needs significant improvement during periods of an employee's long-term sickness period. All too often, the WPA process 'wakes up' again on Day One of the employee coming back to work, or if a phased return is suggested (because then occupational health generally tend to get involved and the 'prompting' of adjustments is therefore introduced to the people manager or HR by them).

- Communication often breaks down when an employee is signed off sick. A huge number of calls to our Advice Service are from HR teams or people managers asking us how they should get *back* in touch with an employee who has been on long-term sick leave. We often see an employee declines to communicate with the employer during sickness absence (particularly when absence is due to work-

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[3] This is, however, often the case when workplace support for a disabled employee has started 'too late' and by the time the passport is introduced, trust and communication between the employee and people manager or HR is already compromised.

related stress, which very many are) – even when arrangements for communicating during absence have been previously agreed in a WPA passport.

- Passports and the WPA process generally work for people who *already have* a condition or disability (and who have shared this information with their people manager). In many organisations, the WPA process and WPA passport work less well when an employee is off sick because they are 'newly' disabled or have recently acquired a condition (particularly as it is common or an employee not share information about a new condition until they have a confirmed diagnosis or prognosis). Often, employees are off work while waiting for a diagnostic assessment or waiting for a diagnosis from a NHS specialist; a phase which WPA processes do not always adequately address, and which is also often 'too soon' for a WPA passport to be agreed (because impact of the condition at work, or what would help, is not yet known).

Appendix 1: Additional questions from the Committee

1. **Committee were interested to know whether you have any data on organisations who have a higher proportion of employees with a disability and/or long-term condition i.e. size/characteristics/sector?**

Civil Service Departments tend to have the highest levels of employees who share information about a disability or long-term condition. This is for two reasons:

(i)   Workplace culture and sharing information about a disability has been high on the Civil Service's diversity agenda for some time now. This has meant senior disability champions, personnel at Director General level, and Civil Service Employee Policy (CSEP) have delivered a strategic focus on improving disability 'disclosure'[4] rates.

(ii)   Within Business Disability Forum's Central Government Network, advice and consultancy services, we have worked alongside Civil Service departments to review and improve data sharing and monitoring processes in individual Civil Service Departments. After working with us, Departments have seen the number of employees telling them about a disability increase into double figures.

It is important to recognise that the number of employees who *tell their employer* they have disability or health condition is not the same as the number of employees who have a disability or long-term condition in that organisation. This is for many reasons, the most common being:

- The employee is in the process of being diagnosed (which can often be a complex process and can take a long time for many conditions), and therefore does not yet know they have a condition. Although many organisations have the option for employees to 'self-declare' on an central HR system, we also hear that employees who experience difficulties which may later be established as a disability or specific condition have rarely have received a confirmed diagnosis within the twelve-month period in between annual employee surveys (these surveys are often relied on to measure how many employees in the organisation have a disability or long-term condition).

- Cultural and religious nuances must not be underestimated. Not all employees think about 'having a disability' in the same way as UK workplace diversity agendas are currently positioning. In some cultures and belief systems, disability and health is not a topic that is readily discussed in public or at work, and employees from such social groups are therefore unlikely to readily share this information at work.

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[4] Although "disclosure" is the recognised term, we see an increasing move away from use of the term. "Sharing information" or "telling us [the employer] about a disability" is more commonly used phrasing now. We can expand on this if helpful.

- If an organisation does not have inclusive practices, disability is not a 'business as usually and embedded narrative within regular communications and people strategies, or employees can see harassment and discriminatory behaviours in the workplace remaining unchallenged, 'disclosure' levels are more likely to be low in these organisations.
- Not all employees with disabilities and long-term conditions need adjustments at work. Research shows that employees are more likely to share information about their disability or condition at work only if they need adjustments or support to help manage that condition at work.

Levels of disabled employee prevalence are typically lower in the private sector. This is predominantly because equalities data monitoring is generally a relatively recent practice in the corporate sector, whereas the public sector has had equality duties frameworks requiring the publishing of equalities data for some decades now, which was enhanced in the Specific Duties of the Public Sector Equality Duty (2011).

2. **Do you have more information on the types of organisations using WPA passports, what they think of them and how long they use it for?**

Passports are used sporadically across all sectors we work with. There generally appears to be less uptake in the private sector, although some have adopted similar frameworks within their productivity strategies.

The Civil Service use WPA passports; it was a strategic direction given in the Civil Service's Talent Action Plan in 2015 to use one passport across the Civil Service.

British Telecom (BT) was the first non-public sector organisation to use WPA passports, having a separate passport for employees with disabilities or long-term conditions and employees who have caring responsibilities.

3. **Are WPA passports transferrable from organisation to organisation?**

They are transferable within Civil Service Departments, but not across organisations. This is appropriate; passports should not be transferable across organisations. This is because adjustments must be specific to an individual's barriers in a specific job role.

There are two key risks if passports were to become transferable across organisations:
(i)   The employer might not fulfil their duty to make reasonable adjustments. This is because adjustments need to remove barriers presented by a specific situation, and this therefore needs to be assessed based on what the role

and duties are, and therefore re-assessed when someone changes role. This is because new barriers may be presented, and the employer needs to ensure they have removed them all.

(ii)   What is 'reasonable' for one organisation is not necessarily reasonable for another. For example, adjustments made for an employee working in a large private bank are unlikely to be transferable if an employee moves into the third sector or a small business. The reasonable adjustments duty is there ensure businesses can assess their own level of reasonableness and not impact negatively on their resources as well as removing barriers for employees. The 'situational specific' element of assessing reasonableness as outlined in the Equality Act 2010 and employment case law is exists to support both employers *and* employees. If passports are automatically transferrable between organisations, the risk is that this is compromised. This is why our Advice Service always sends our resource on "Making decisions about what is 'reasonable'" alongside our passport document, as the two processes should be considered alongside one another.

There are some current discussions about 'minimum' adjustments being transferable with a passport while other adjustments will need to be re-assessed; for example, an employee may need to use assistive technology in any role and any organisation they work in, even if they might not be able to transfer adjusted hours to a different role. However, we regularly see issues even with this; for example, assistive technology is not always transferable across organisations' internal IT infrastructure, and some technologies cannot be used in some areas of high level security (such as central Government settings). Such adjustments could not be transferable. If passports were transferable across organisations, it would therefore effectively mean one organisation is agreeing adjustments for another employer (i.e. when the employee gets a new job with another employer).

There are some interesting exceptions that have been discussed within specific industries. For example, around five years ago, the media industry worked with the Government's Access to Work team and us with the aim of implementing a 'media passport' which would allow freelancers to take their adjustments with them when they move projects. The reason this would be beneficial for this particular industry is because freelancing is prevalent within media and contracts can be relatively short (we are commonly quoted five to six weeks). This meant freelancers were using Access to Work to get adjustments in place but, in an industry where a worker could get a new contract at two-three days' notice, adjustments were not getting in place in time for a disabled person to accept the contract. This meant there were a proportion of disabled freelancers who were consistently missing out on contracts because adjustments were not getting in place in time for when the contract needed to start.

A passport in this industry is more realistic, because the nature of the work is often relatively similar; freelancers work in similar environments and with similar takes for each project, meaning adjustments are more transferable from contract to contract. The decision was however taken by the industry not to forward the initiative.

4. **What components of WPA passports work and what doesn't? Is it the passport itself that is important or more how it is used/interpreted?**

(i) What works well:
   a. The most helpful element of passports we hear from people managers are that the passport document itself gives a manager a 'structure' and wording to have a conversation with an employee about how a disability or condition impacts them at work and how the manager can support them. Passports have helped managers 'start conversations' on a topic where a lack of confidence is still relatively prevalent in organisations.
   b. The passport itself is less important that the conversation between employee and manager that it generates. Business Disability Forum developed the passport to help employers document adjustments that were agreed; but recording systems have developed massively and become more sophisticated since we wrote the passport. The passport is now valued as a framework for a conversations about workplace support.

(ii) What works less well
   a. We hear from employees that they like the passport because they have a role in creating the content; completing a passport is a collaboration between employee and people manager. What works less well is the passport being a documentation/recording of adjustments and their review. Many passports in their current form do not adequately account for the regularly review of adjustments that people managers should be undertaking with employees. The duty to make adjustments as per the Equality Act 2010 is an 'on going' one, meaning as well as putting adjustments in place, employers also need to make sure adjustments are regularly reviewed to ensure they continue to remove barriers for the individual. Most employers therefore use the passport to talk to employees about support in the workplace, but then record agreed adjustments and document review meetings on an 'official' central management system. A small number of employers have integrated elements of the passport into their central management recording, but this is not yet a common, prevalent practice.
   b. Passports are not yet a suitably embedded part of the return to work process, particularly when an employee is on long-term sickness lave. Return to work processes and practices remain relatively poor and lacking disability inclusion across a many workforces.

(iii)The conversation is more important than the document. The passport itself is less important that the conversation between employee and manager that it generates. Business Disability Forum developed the passport to help document adjustments that were agreed; but recording systems have developed massively and become more sophisticated since we wrote the passport; the passport is now appreciated as a framework for a conversations about workplace support.

5. **How is a WPA passport generated and who is involved?**

   We supply the passport document template to hundreds of organisations and they will then alter and rebrand the template to suit their own procedures and tone. Our Advice Service support many businesses to embed the passport as part of their people management policies. When organisations have developed their own passport document, they will usually upload it onto their intranet for employees and managers to download for their use.

   Who is involved depends on the individual employee and case. For employees with more complex or 'higher risk' adjustments (for example, when proposed adjustments need to be risk assessed from a health and safety perspective), a case management approach will be taken to completing a passport. We hear from organisations that this sometimes includes: the employee and their immediate people manager, health and safety, workplace adjustments team representative, human resources, and occupational health. For others who do not need additional referrals to establish what adjustments are needed, passports can be completed with only the employee and people manager involved.

   Many of our Members will send completed passports to our Advice Service for us to check everything has been covered in the conversation that led to the completion of the passport document.

6. **Do you have any data on retention and success rates of WPA passports? Who uses them in reality? What do employees think of them?**

   a. **Data on retention.** We do not have any collated data on retention rates in organisations who use WPA passports, but we are currently undertaking research to find this out (see Appendix 2). Retention depends on a very wide range of factors; we do not see any evidence that passports are a significant factor in retaining employees with disabilities or long-term conditions. We see high rates of disabled employee retention in organisations with inclusive process review and redesign (such as ensuring disabled employees input into improving people policies), and where there is a centralised workplace adjustments process. A fit for purpose and inclusive occupational health service and investment in peer support (such as disability and health related employee networks) also feature in organisations where retention is high; but many of these organisations do not use

passports. In organisations where retention is highest, diversity and inclusion is centred on the workplace adjustments *process*, not the other way around. Although the passport can be a helpful feature of workplace adjustments practice, it is ineffective when used in isolation of the features mentioned above.

b. **What employees think of them?** Opinion is divided, which is why many organisations commonly make having a passport 'voluntary'. Not all employees like passports or having a specific and spate document that focusses on their conditions in an addition to their HR record. On the other hand, some employees like that they have a document which they can consider and think about the answers to before they have the conversation with their manager.

c. **What employers think of them?** Again, opinion is divided. Most of our Members have welcomed the passport offering a structure for conversations about disability and adjustments. However, we have heard from some employers that the document is not helpful to record formal decisions about, for example, how an employer decided adjustments was or was not reasonable. Employers often tell us different recording and level of detail is needed for HR records, and they therefore feel the passport is an unnecessary 'addition' to the process of putting support in place. We know some employers have used the passport when disability inclusion was relatively 'new' to their workplace culture, but now the structure of adjustments related conversations has been included in guidance and training for people managers instead of using a passport.

Appendix 2: Current work on workplace adjustment and passports at Business Disability Forum

At the time of writing this submission (February 2019), Business Disability Forum is undertaking three projects related to workplace adjustments and passports:

- We are updating our workplace adjustments passport and updating our guidance.
- We are about to release a survey to capture the experiences of both employers and employees of workplace adjustments support and using passports (this will include being able to report a number of organisations using passports across sectors and levels of satisfaction). This is a UK wide cross-sector survey.
- Updating a people manager guide on workplace adjustments support.

All of the above will be launched at our conference on 25th April 2019.