

**Department for Work and Pensions**

**Research Report No 400**

# **Economic and social costs and benefits to employers of retaining, recruiting and employing disabled people and/or people with health conditions or an injury: A review of the evidence**

**Edited by Karen Needels and Robert Schmitz**

A report of research carried out by Mathematica Policy Research, Inc. on behalf of the Department for Work and Pensions

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# Abbreviations and acronyms

ADA	Americans with Disabilities Act
ATW	Access to Work
CBI	Confederation of British Industry
CIPD	Chartered Institute of Personnel Development
CMP	Condition Management Programme
CPAG	Child Poverty Action Group
DDA	Disability Discrimination Act 1995
DEAs	Disability Employment Advisers
DRC	Disability Rights Commission
DWP	Department for Work and Pensions
EFD	Employers' Forum on Disability
EOR	Equal Opportunities Review
GPs	General practitioners
HIV	Human Immunodeficiency Virus
HR	Human Resources
HSE	Health and Safety Executive
IB	Incapacity Benefit
IBPA	Incapacity Benefit Personal Adviser
IR	Inland Revenue
JAN	Job Accommodation Network

<b>JB</b>	Job Broker
<b>JIS</b>	Job Introduction Scheme
<b>JRRP</b>	Job Retention and Rehabilitation Pilot
<b>LFS</b>	Labour Force Survey
<b>MS</b>	Multiple sclerosis
<b>NAO</b>	National Audit Office
<b>NDDP</b>	New Deal for Disabled People
<b>NHS</b>	National Health Service
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>PAS</b>	Personal Adviser Service
<b>PCA</b>	Personal Capability Assessment
<b>PTW</b>	Pathways to Work
<b>PVS</b>	Private and voluntary sector
<b>PWHL</b>	Permitted Work Rules Higher Limit
<b>PWLL</b>	Permitted Work Lower Limit
<b>PWR</b>	Permitted Work Rules
<b>RTWC</b>	Return to Work Credit
<b>SPW</b>	Supported Permitted Work
<b>TUC</b>	Trades Union Congress
<b>WFIs</b>	Work-Focused Interviews
<b>WHO</b>	World Health Organisation
<b>WP</b>	Work Preparation Scheme
<b>WTC</b>	Working Tax Credit

# Summary

Over the past 20 years, the UK has striven, with increasing vigour, to promote fuller inclusion of disabled people into all aspects of public life, with special emphasis on the workplace. Long-standing policies, such as Statutory Sick Pay and Incapacity Benefit (IB), that support sick and disabled people who cannot work have been supplemented by newer programmes, including Pathways to Work and the New Deal for Disabled People, that encourage and support employment of disabled people. An important component of this effort has been the Disability Discrimination Act 1995 (DDA), which aims to end discrimination not just in employment, but also in other areas, such as access to goods, facilities and services.

The chapters in this report address critical issues in the effort to expand employment opportunities for disabled people. The primary issues under study are (1) employers' understanding of disability and the DDA, (2) the costs and benefits associated with employing disabled people, and (3) the extent to which public policy can alter the labour market outcomes of disabled people. Three of the chapters are accompanied by comments from other researchers.

In *Chapter 1, Overview of the legislative and labour market context for disabled workers*, Debra Brucker and Robert Schmitz provide context for these issues. They first summarise the DDA, emphasising the elements of its definition of *disability*. They then describe the responsibilities of employers under the DDA: to offer employment to disabled applicants and employees on the same terms as offered to non-disabled people and to make 'reasonable adjustments' so that disabled people are not at a substantial disadvantage.

Brucker and Schmitz note that 6.9 million people of working age in the UK were disabled under the DDA definition in 2005. Fifty per cent of the population of disabled people worked in 2005, compared with 78 per cent of the population of non-disabled people. Moreover, a slightly greater fraction of non-employed disabled people than non-employed, non-disabled people expressed a desire to work. Ageing of the population can be expected to increase the proportion of the working-age population that is disabled. Therefore, policies that encourage employment of disabled people are of special importance in sustaining economic growth.

Dr. Karen Needels provides a theoretical context for categorising the economic forces that determine the recruiting and retention of both disabled and non-disabled workers in *2. Framework for Employer Decision-Making*. Her conceptual model of employer behaviour makes three important points: (1) since recruiting is costly, employers want to find the 'right' workers and retain them as long as possible; (2) employers can never predict the productivity of job candidates with certainty; and (3) while some worker traits related to productivity, such as education and workforce experience, are easy to assess, employers might rely on a variety of other traits (self-assurance, appearance, demeanour) as indicators or signals of productivity; this reliance could put disabled candidates at a disadvantage. In this environment, the DDA, might alter the employer's evaluation and decision-making process, at least to some degree. Requiring employers to make reasonable adjustments to accommodate disabled applicants and employees introduces a new consideration into their judgment—whether a disabled person's impairment is so severe that it cannot be overcome by minor modifications to the workplace or work routine.

In *Chapter 3. The influence of definitions of disabilities on the workplace*, Dr. Bruce Stafford discusses the various terms used to define *disability* in legislation to limit discrimination, such as the DDA, and in programmes aimed at supporting people who as a result of illness or injury, cannot work, such as Statutory Sick Pay and IB. Dr. Stafford notes a crucial distinction. *Disability*, as defined by the DDA, says nothing about the ability to work. Rather, a disability adversely affects a person's ability to carry out normal day-to-day activities. The definition of *incapacity*, by contrast, requires that an employee be incapable of work 'by reason of a specific disease or mental disablement'. Disabled people are not necessarily incapable of work; indeed over 3.4 million people who are disabled under the DDA definition were employed in 2005. To avoid violating the DDA, employers must understand its definition of *disability* and its coverage of impairments. Research shows, however, that many employers continue to rely on informal and intuitive notions of disability and are more likely to regard as disabled those with visible physical impairments rather than those with mental or progressive illness.

Ms. Marilyn Howard's commentary on Dr. Stafford's chapter adopts an advocacy position that focuses on some of the social considerations related to the discussion of disability definitions and policy. First, she points out that different models of disability differentially focus on the individual and the environment as sources of disability. She notes that some policy spheres have begun promoting proactive steps to break down institutional barriers that are discriminatory. Although these types of policies are not currently incumbent upon employers, authorities in the public sector will soon have an increased duty to take active steps to encourage equality between disabled and non-disabled people. Second, she speculates that adjusting workplaces so as not to place disabled workers at a disadvantage could shift the burden from individuals to employers, which she argues may foster a greater willingness of workers to disclose their needs. Third, she contends that employers may need to focus on different issues for current workers compared with job applicants, and that policy-makers could design approaches to encourage disabled jobseekers to

develop and demonstrate attributes that are appealing to employers.

Policies designed to encourage employment of disabled people might fail unless employers perceive a benefit in recruiting them. In *Chapter 4. The costs and benefits to employers of recruiting and retaining disabled workers*, Mr. Chris Hasluck confronts this problem by assessing evidence on costs and benefits to employers of recruiting and retaining disabled persons, though he emphasises that hard evidence of specific values is nearly impossible to find. The paucity of evidence results from the wide variation in costs and benefits found within a single workplace, and even greater variation across employers. Moreover, this variation itself exists against a backdrop of varying motivation, competence, and effort among non-disabled employees, which makes calculation of costs incurred by employing disabled workers difficult at best. Many employers appear to believe that disabled people are less productive than non-disabled ones, an attitude that likely puts disabled people at a disadvantage in the labour market. Mr. Hasluck cites research showing that nearly two-thirds of employers who would not recruit a disabled person believe that someone with a disability would be unable to perform all aspects of the job.

While the concentration of disabled people in low-pay and low-skill jobs is well known, the reason is unclear. It is tempting to attribute this situation to health impairments. There is also evidence, however, that people who are disabled from an early age may miss schooling and so may reach adulthood with less education and fewer skills. Furthermore, research suggests that productivity differences alone cannot account for the discrepancy in average earnings between disabled and non-disabled workers. This result is consistent with – though not proof of – discrimination against disabled workers.

Despite employers' concerns about the cost of recruiting disabled workers, surveys of employers suggest that the cost of adjustments for disabled workers actually recruited were quite small—in many cases zero. However, there is some evidence that requiring such adjustments leads to reduced, rather than increased, employment of disabled persons. Mr. Hasluck argues that the employment of disabled people might be increased most through a number of other measures, including those that:

- 1 reduce the gap between perceived and actual productivity;
- 2 reduce the direct cost of employment;
- 3 provide placement assistance to reduce the cost of recruiting disabled people;  
and
- 4 increase the cost of non-compliance with the DDA.

Dr. Steve Bell's commentary, *4a Commentary: Challenges and opportunities for moving benefits to employers of recruiting and retaining disabled workers above costs*, stresses the role of market clearing in the employment of disabled people. If impairments reduce productivity, then wages of disabled people could be expected to be lower than those of non-disabled people, as indeed they are. Bell notes, though, that institutional arrangements might prevent wages from adjusting fully to a worker's expected productivity, a situation that can create involuntary

unemployment. None-theless, he believes that the combination of technological advance and innovative policy can markedly improve the labour market outcomes of disabled people.

Mr. Nigel Meager's commentary on Mr. Hasluck's chapter, *4b Commentary: Costs and benefits: making the most of limited evidence*, concentrates specifically on non-monetary costs and benefits. Mr. Meager examines the sharp difference in the way employers who do and do not employ disabled workers assess their expected productivity. This could be the result of employers' lack of accurate information if they have not recruited disabled workers (and so have no direct experience of their capabilities); it could also be that employers for whom disabled people can be as productive as non-disabled ones in fact do employ them). But the two alternatives have quite different implications for policy. If employers lack accurate information, then policies that promote learning could be extremely effective. If, on the other hand, assessments are the result of selection, then such policies might have little effect.

In her paper, *5. The influence of government programmes and pilots on the employment of disabled people*, Dr. Clare Bamba examines government strategies aimed at improving the employment outcomes of disabled workers, emphasising the largest and most important, including Pathways to Work, the New Deal for Disabled People, and Access to Work. These interventions and many smaller ones attempt to enhance either the supply of disabled workers (by enhancing skills, providing support in locating work, assisting with rehabilitation, or providing financial support) or the demand for them (by defining specific legal rights, furnishing employers with incentives to recruit disabled workers, or subsidising modifications to the workplace). She notes that the question 'Which programmes work best?' is difficult to answer. While studies that randomise applicants into treatment and control groups provide the most credible estimates of programme impacts, such studies are difficult to do and are infrequently employed. Many studies therefore are qualitative and lack direct estimates of impacts. Available data nonetheless suggests that vocational advice, training, and work placement interventions are often associated with positive outcomes. In contrast, evidence on the effects of rehabilitation and in-work benefits is not inconclusive. Disabled workers appear reluctant to participate in supply-side interventions such as vocational advice, a possible barrier to wide implementation of these programmes. A fuller picture is likely to emerge soon, as results from large-scale evaluations of programmes, such as Pathways to Work, become available.

Dr. Roy Sainsbury's commentary provides two valuable complements to Dr. Bamba's chapter on government programmes. First, it highlights how programme reform in recent years has focused on moving disabled people towards work, but it also notes that some of the incentives of the IB programme might undermine these efforts. Dr. Sainsbury explains that the January 2006 announcement of reforms to the IB programme offer an opportunity to align it with work-focused reforms. Second, the commentary introduces new research that was not available when Dr. Bamba conducted her search. Dr. Sainsbury explains, however, that none of the

new evidence changes Dr. Bamba's overall conclusion of 'cautious optimism' about government efforts to increase the employment of disabled people, although important studies are ongoing.

In the final chapter, *6. Evidence-based recommendations for policy and research*, Dr. Karen Needels synthesises the arguments and evidence from each of the authors and discussants. Although the papers in the volume did not find strong evidence to support specific recommendations for changes to policies, several themes emerged. First, policies should treat employers as important customers: laws and regulations that are attuned to employers' goals will have a far greater chance for success than those that ignore them. Second, programmes should support existing employer-employee relationships as much as possible. Many workers who become injured while on the job are familiar with and skilled in their current assignment and hence likely to benefit far more from returning to their former jobs than from searching for new ones. Employers typically benefit as well by retaining workers who possess job-specific skills. Third, efforts designed to reduce employer uncertainty about disabled applicants should be explored, since employers might otherwise forgo recruiting potentially valuable disabled applicants. Fourth, training programmes, particularly those providing customised training, should be expanded. Such programmes may ameliorate, at least in part, the lower average skill level of disabled people. Moreover, some early evidence suggests that training programmes have been successful in placing disabled persons into jobs.

Dr. Needels notes that policies must be developed with an eye to key distinctions among employers and disabled people, in particular, differences between small and large employers, between public and voluntary entities, and between people with mental versus physical impairments. She notes that policy aimed at applicants and disabled workers will inevitably affect non-disabled workers as well and points out that laws such as the DDA may be unknown to many employers and a source of anxiety to others. The paper closes by describing five areas in which future research might usefully inform policy:

- 1 understanding the sensitivity of the decision-making of employers to changes in their familiarity with disabled people as workers and the perceived risk of employing them;
- 2 the effectiveness of training programmes in placing disabled workers in jobs,
- 3 the conditions surrounding the exit of disabled workers from the labour market,
- 4 the range of costs incurred in making workplace adjustments for disabled people, and
- 5 increased research on which programmes are most likely to be cost-effective in increasing employment of disabled people.



# 1 Introduction: Overview of the legislative and labour market context for disabled workers

**Debra Brucker and Robert Schmitz**

## 1.1 Introduction

During the past 20 years, national governments and advocates for disabled people have attempted with increasing vigor to integrate disabled people into the broad social and economic life of society. These attempts have included efforts to both raise awareness of the contributions and skills of disabled people and reduce barriers to participation in public activities. An important component of these efforts, embodied in the Disability Discrimination Act (DDA) in the UK, is ensuring that disabled people have access to the same opportunities to seek and remain in employment as non-disabled people.

The papers in this volume are the result of a project initiated by the Department for Work and Pensions (DWP) in late 2004. The Department contracted with Mathematica Policy Research to assemble an integrated volume of papers, authored by experts from the UK and the US and by researchers from Mathematica, summarizing the current state of knowledge and evidence regarding employment of disabled and chronically ill people. The papers attempt to:

- 1 specify the mechanisms by which disability affects labour market outcomes;
- 2 clarify the separate definitions used by distinct programmes and statutes to designate people as disabled;
- 3 quantify costs and benefits incurred by employers when they hire disabled people, and
- 4 summarise the research results on programmes designed to improve the employment prospects of disabled people.

Chapters 3 through 5 are accompanied by commentaries by other researchers who evaluate the chapters and suggest alternative interpretations and directions for future work. (Commentaries are designated with an 'A' or 'B' after the number of the chapter to which they pertain.)

In the following chapters, we will outline a framework of employer decision making regarding the competitive employment of disabled people, discuss how different regulatory and policy definitions of disability influence the workplace, review the evidence on the monetary and non-monetary costs and benefits that accrue to employers who employ disabled people, and summarise the influence of government programmes on the employment of disabled people. Evidence will be drawn primarily from UK research, but also will include key international experience when applicable. We will draw policy conclusions and suggest ways to address gaps in the current evidence to help inform future policymaking.

Before delving into these issues, we must first thoroughly understand the environment within which employers function. This chapter will therefore briefly describe the normative changes, recent disability-related legislation, demographic trends, and labour market trends that shape the world within which employers recruit, retain, and dismiss both disabled and non-disabled workers. Because the focus of this compendium is on the perspective of employers that operate in competitive employment, we exclude from the discussion the large body of literature that focuses on the benefits to disabled people of working and any literature that discusses employment relationships in which workers' earnings are heavily subsidised.

The DDA provides a strong impetus for employers to address the needs of disabled people. Demographic and labour market changes within the UK, outlined in Section 1.4, also are placing pressure on employers to accommodate the needs of disabled people in the workplace. In 2004, the employment rate for disabled adults was 50 per cent, far lower than the 78 per cent rate of non-disabled adults. Such results are consistent with historical trends, even though the UK has a strong economy, an educated workforce (CIA, 2005, [4,8]), and, as evidenced by the passage of the recent disability-related legislation, the legislative will to foster the inclusion of disabled people in the labour market.

## 1.2 Normative changes

During the past 25 years a view has emerged that no person with a disability or chronic illness should be denied the right to participate fully in society, including the workforce, because of external barriers that can reasonably be removed. This new emphasis on participation has important consequences for employers, as social and political forces converge towards attempting to increase rates of employment for disabled people. The UK, like other developed countries, has recently experienced a major shift in the structure of its safety net programmes, from programmes that award benefits based solely on need to those that emphasise reciprocal responsibilities between individuals and government agencies. Many forms of government assistance now require recipients to participate in the labour market. Legislation, such as the

1995 DDA and its related amendments, further encourages the integration of disabled people into the labour force. These changes reflect a growing sense that employment can both benefit the individual and reduce future government expenditures. Government and taxpayers can expect to benefit from reduced expenditures on public assistance as low-income disabled people enter employment, as well as from increased tax revenue from new earnings. Employers, as gatekeepers to employment, will play an important role in determining whether or not these societal expectations are transformed into reality for disabled people.

The DDA is not, of course, the only stimulus to enhancing the employment of disabled people. Nearly ten years before passage of the DDA, a group of companies created the Employers' Forum on Disability to develop and promote best practices for employing disabled people. The Forum has worked to incorporate disability policies into the standards of corporate social responsibility and to assist employers in becoming 'disability confident'.

## 1.3 Disability Discrimination Act

### 1.3.1 Purpose of the legislation

The 1995 DDA embodied a commitment by the Government of the UK to promote the full inclusion of disabled people within society. The DDA prohibits discrimination against disabled people in a range of circumstances, covering employment, education, transport, and the provision of goods, facilities, services, and public functions. Only those people who are defined as disabled in accordance with Section 1 of the Act and its associated schedules and regulations are entitled to the protection of the Act. Parts I and II of the Act are most pertinent to a discussion of disability and employment. Part I defines disability and Part II describes the types of employment discrimination that are covered under the Act (DDA, 1995, [1]).

For many years, the UK had followed the practices of other European nations in establishing quota systems to promote the employment of disabled people (Goss *et al.*, 2000, [811]). The 1944 Disabled Persons (Employment) Act required employers with 20 or more employees to ensure that at least three per cent of their workforce were people registered as disabled (Woodhams and Corby, 2003, [160]), although enforcement of the Act was not consistent. The DDA is a broad departure from the quota system, replacing the system of state intervention with a new system that places responsibility on the actors within the economic system to ensure fair treatment. Individual job applicants and employees are now responsible for pursuing compensation from employers who have not followed the law, while employers can provide economic justifications for failures to comply if some conditions are met (Woodhams and Corby, 2003, [161]).

The DDA was phased in gradually, beginning in December 1996. Employers with fewer than 20 employees were initially excluded from the provisions of the Act. The exclusion thresholds were reduced (from employers with fewer than 20 employees to those with fewer than 15 employees) with the passage of The Disability Discrimination Act (Amendment) Regulations of 2003. The employer size exclusions were removed altogether in late 2004 (Roberts *et al.*, 2004). The 2003 Amendment

also provided new protection for disabled fire-fighters, police, office holders, barristers, partners in partnerships, and people seeking vocational qualifications. These new provisions took effect in October 2004 (DWP, 2005, [17]). The Disability Discrimination Act 2005 further amended the Act, broadening the definition of disability to include more people with cancer, HIV infection, multiple sclerosis, and mental illness. DDA 2005 placed new responsibilities on public authorities to promote disability equality in all levels and aspects of their operation. They are specifically required to develop a Disability Equality Scheme for their organisation, to engage disabled people in implementing the scheme, and to monitor the organisation's progress in improving the outcomes of disabled people.

Employees or applicants who are unable to resolve a complaint with their employer may file a case with an employment tribunal, which evaluates the claims of the employer and petitioner. The tribunal may award compensation to a petitioner if his or her claim is upheld. Between April 2005 and March 2006, 4,072 cases alleging disability discrimination were disposed by employment tribunals. Of these, 33 per cent were later withdrawn and 45 per cent eventually reached settlements conciliated by the Advisory, Conciliation, and Arbitration Service (ACAS). Though only 76 cases with disability discrimination jurisdictions were awarded compensation, the awards can be substantial. The average award was £9,021 and the maximum award was £138,650 (Employment Tribunals Service, 2006, [31]).

### 1.3.2 DDA – Part I

Part I of the Act defines disability as:

*a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities (DDA, Part I, s1(1)).*

The Secretary of State's legislative guidance notes that this definition imposes four distinct requirements in order to consider a person disabled:

**1 The person must have a physical or mental impairment.** Prior to 2005, a mental illness only qualified if it was a '*clinically well recognised illness*' (DDA, schedule 1, para 1). The DDA 2005 ended this requirement (DWP, 2005, [3]). Most psychiatric and psychological conditions are and always have been potentially covered by the DDA, but it should now be easier for people with a mental illness to prove that they are covered under the Act's definition of disability. Certain addictions (e.g., tobacco consumption, alcoholism) and certain other conditions remain excluded, however (DDA 1995 Guidance, [10]).

**2 The impairment must have adverse effects which are substantial.** 'Substantial' is an assessment of severity, measured in relation to activity completion. A substantial adverse effect is one that goes beyond the normal differences that are found among non-disabled people. In most cases, any treatment or correction of an impairment is not considered in deciding whether a person is disabled under the DDA.

Progressive conditions that are more likely than not to result in impairment can be considered disabilities. If a person with a progressive condition (e.g., muscular dystrophy) begins to experience symptoms which have an effect, however slight, on a person's normal day-to-day activities, then the person will fall within the Act's definition of a disabled person, even if the person goes into remission (Gooding, 2000, [534]).

**3 The substantial effects must be long-term.** A long-term effect is defined as one that lasts at least 12 months or, for people with fluctuating and recurring conditions who have individual episodes that are shorter than 12 months, and is likely to recur within a 12-month period (DDA 1995 Guidance, [17]).

**4 The long-term substantial effects must be adverse effects on normal day-to-day activities.** An impairment has to affect normal day-to-day activities to qualify as a disability. Normal day-to-day activities are not defined, but must affect one or more of the following capacities: mobility, manual dexterity, physical co-ordination, continence, ability to lift, hearing or eyesight, memory, ability to concentrate, or ability to perceive the risk of danger. Day-to-day activities are things most people do on a daily or regular basis such as eating, washing, reading, talking, travelling on various forms of transport, shopping, or taking part in social activities.

The vast majority of employer actions complying with the DDA are most likely to be arranged privately with disabled employees and applicants and so no statistics on their number are available. It is quite unlikely that very many of these actions hinge on a precise definition of disability under Part I of the Act; that is, determining whether or not someone meets the DDA definition of being disabled is likely to be straightforward in most instances. Applicants filing cases before employment tribunals, however, must first prove that their conditions satisfy the statutory definition of disability (Leverton, 2002, [13]). This burden of proof has proved to be a substantial hurdle. A portion of employment cases fail on the question of whether a person can be considered to be disabled (and thus entitled to protection) rather than on the nature of the discrimination (Goss *et al.*, 2000, [812]). An estimated 18 per cent of cases heard by employment tribunals in the first 18 months of the Act's operation failed on the definition of disability (Woodhams and Corby, 2003, [162]). More recently, approximately 26 per cent of the employment-related cases reviewed by Leverton (2002, [foreword]) were rejected because the applicants did not meet the statutory definition of disability.

Success at tribunal is complicated by the need to prove both the existence of an impairment and the effects of the impairment on day-to-day activities. About 50 per cent of applicants present medical evidence at tribunals (Leverton, 2002, [81]). Heart, blood pressure, or circulation problems, and depression and anxiety conditions have been most difficult to prove at the tribunal level, with around half of these cases failing on the disability definition issue (Gooding, 2000, [535]). Cases alleging discrimination on the basis of a physical impairment are more likely to be judged by a tribunal to meet the definition of disability than are cases based either on mental impairments or a combination of physical and mental impairments (Leverton, 2002, [14]).

Defining disability is indeed complex. Some employers have been found not to understand whether job applicants or employees should be categorised as disabled, a few expressing surprise that DDA cases had been brought against them because they had not considered the applicant or employee to be disabled (Woodhams and Corby, 2003, [162]). However, an employer's knowledge of a person's disability has been found *not* to be relevant to the definition of whether or not a person is disabled under the DDA (Woodhams and Corby, 2003, [173]). Meeting the criteria for disability under the DDA generally does not depend upon the type of work to be conducted, whether the disability is invisible or visible, and how the disability impacts performance (Woodhams and Corby, 2003, [165-168]). An impairment that precludes participation in a preferred field of work while still not compromising the ability to perform normal day-to-day activities may not be considered a disability under the DDA. A concert pianist who is unable to play the piano or a surgeon who is unable to operate would not be considered to be disabled under the DDA if they were able to continue day-to-day activities. Yet such people might consider themselves disabled, as they are no longer able to pursue their life's ambitions (Woodhams and Corby, 2003, [168]).

### 1.3.3 DDA – Part II

Part II of the DDA prohibits employers from treating a job applicant or employee with a disability less favourably than other job applicants or employees, and requires that employers make reasonable adjustments for disabled employees and applicants. Employers potentially face a different set of problems when dealing with applicants than they do when dealing with current employees. Since no prior relationship has been established between applicants and employers, employers may face more difficulty in identifying a disability and estimating its probable impact on productivity. While employers are allowed to ask questions of applicants, to ensure that reasonable adjustments are provided during the job selection process, the responses can hardly provide the same degree of information as the employer possesses about current employees. With employees, employers may already have a solid grasp on the extent of productivity and adaptability of a particular employee and thus may be more able to determine what types of adjustments, if any, would be most useful at the onset of a disabling condition.

The Disability Rights Commission (DRC) (2004) points out in its Code of Practice that four types of discrimination are prohibited under Part II of the Act.

- 1 Direct discrimination, that is, treating a disabled person less favourably than a non-disabled person on the grounds of his or her disability;
- 2 Failure to make reasonable adjustments to arrangements or physical features of the workplace so that disabled employees are not placed at a substantial disadvantage in comparison to those who are not disabled;
- 3 Disability-related discrimination, that is, treating a disabled person less favourably than a non-disabled person for reasons related to his or her disability, where the employer is unable to justify such treatment; and

4 Victimization of a person, that is, treating a person (disabled or not) less favourably than another because he or she has brought proceedings under the Act, has provided evidence or information at a proceeding, or has alleged that someone has contravened the Act.

In determining the outcome of cases brought under Part II of the law, as in all employment cases, employment tribunals are faced with the difficult balancing act of weighing the interests of the job applicant or employee and the interests of the employer (Gooding, 2000, [536]). As the Act recognises that discrimination in employment can occur in selection and recruitment, terms of employment, opportunities for training and promotion, and dismissal, types of discrimination are described separately for applicants and employees (Leverton, 2002, [2]). Employers must make reasonable adjustments to accommodate job applicants, including making changes to physical premises, providing adaptations to systems or technologies, or ensuring that, for example, a visually impaired job applicant receives documents in Braille or large print. Reasonable adjustments do not need to be made unless the disabled person is placed at a 'substantial disadvantage' by their absence. On the other hand, discrimination can be legally justified within the Act if it can be shown that reasonable adjustments clearly would have been futile and that the person would have been treated the same without them (Goss *et al.*, 2000, [811]).

The 2003 amendments to the DDA further extended employment provisions of the law. The amendments removed the 'small employer's exemption', which had previously excluded employers with fewer than 15 employees. They also prohibited 'disability-related' discrimination, in which the effective reason for discrimination is not a disability itself, but is related to a disability. The amendments further widened responsibility for making reasonable adjustments to 'any provision, criterion, or practice, or any physical feature of the employer's premises', to benefit a disabled person in employment.

**Applicants.** Part II of DDA requires that employers make 'reasonable adjustments' to their recruitment arrangements and/or premises so that disabled people are not at a substantial disadvantage compared to other people (Roberts *et al.*, 2004, [3]). Specifically, the Act states that it is unlawful for an employer to discriminate against a disabled job applicant (DDA, Part II, s4 (1)):

- a. *in the arrangements which he makes for the purpose of determining to whom he should offer employment;*
- b. *in the terms on which he offers that person employment;*
- c. *by refusing to offer, or deliberately not offering, him employment.*

Employers who are recruiting staff often are uncertain as to whether or not they can ask questions about disability or health prior to making a job offer. Even though an employer's lack of knowledge about a person's disability does not affect whether someone meets the DDA definition of being disabled, employers must have knowledge that an applicant's disability places him or her at a substantial disadvantage

before the employer needs to consider providing a reasonable adjustment. In *Ridout v. T.C. Group* (1998), the Employment Appeals Tribunal (EAT) denied a claim from an applicant who argued that interview conditions placed her at a disadvantage because no reasonable employer could be expected to know her particular circumstances. The tribunal asserted that a balance must be struck. People with evident disabilities should not be expected to give detailed explanations about their disability in circumstances where the remedy is obvious. At the same time, employers should not be expected to ask a number of questions of every applicant to determine if he or she might have a hidden disability (Gooding, 2000, [540]). Because employers do not have an 'anticipatory duty' to provide adjustments in the absence of a specific need in the way that service providers do, disabled applicants must alert potential employers to any special requirements in advance of a job interview.

Recruitment issues have proved to be only a small portion of DDA employment cases, with estimates ranging from nine per cent (Prime Minister's Strategy Unit, 2005, [160]) to 12 per cent of disability discrimination claims (Meager *et al*, 1999, [22]). Similar to the US experience with its Disability Discrimination act (e.g., Acemoglu and Angrist, 2001, [915]), some discussion has arisen in the UK as to whether the DDA offers sufficient protection to job applicants. The law may in fact have unintended negative consequences on people seeking employment rather than fostering the intended protections. For example, employers may be less likely to employ someone who has a disability, fearing that once they do, they will be unable to terminate the employment relationship because of the protections offered for employed disabled people under the DDA, even if productivity levels are low.

**Employees.** The Act also states that it is unlawful for an employer to discriminate against a disabled employee (DDA, Part II, s4 (2)):

- a. in the terms of employment which he affords him;*
- b. in the opportunities which he affords him for promotion, a transfer, training or receiving any other benefit;*
- c. by refusing to afford him, or deliberately not affording him, any such opportunity;*  
*or*
- d. by dismissing him, or subjecting him to any other detriment (Leverson, 2002, [30]).*

Employers have a duty to make reasonable adjustments to arrangements at work or to the physical features of the workplace so that disabled employees are not placed 'at a substantial disadvantage in comparison with persons who are not disabled' (DDA, Part II, s4). The requirement for reasonable adjustments extends only to job-related matters, however. A 1998 EAT case, *Kenny v. Hampshire Constabulary*, upheld an employment tribunal decision that employers could be required to make physical adjustments to accommodate the presence of a personal caregiver, but could not be required to provide caregivers to attend to their employees' personal needs (Gooding, 2000, [541]). The DDA itself does not attempt to specify what is

'reasonable', leaving this to be determined by the special circumstances of each case. The Code of Practice developed by the DRC provides a list of factors to consider when determining whether an action is reasonable, but does not assert that the list is exhaustive. These factors include effectiveness of the adjustment in ameliorating disadvantage, the practicability of the adjustment, its financial cost, the extent of disruption caused by the adjustment, the employer's financial and other resources, and the nature of the employer's activities and the scale of its undertaking.

The majority of disability cases brought to the EAT have alleged unfair dismissal or failure to make reasonable adjustments (Leverton, 2002, [foreword, 77]). Most cases regarding adjustments have alleged a failure to transfer a person to an existing vacancy, failure to reallocate duties, or failure to acquire or modify equipment (Leverton, 2002, [foreword, 49]).

### **1.3.4 Employer response to the DDA**

The DDA has been in effect for nearly nine years, yet recent evidence suggests that it has not improved the employment rate of disabled people (Bell and Heitmueller, 2005, [4]). Bell and Heitmueller suggest several possible reasons for the lack of improvement attributed to the Act. Less than one-half of one per cent of the 6.9 million working-age DDA disabled people participate in schemes such as Access to Work that provide financial support to offset the costs of adjustments that exceed those reasonably expected of employers. Moreover, they claim, general awareness about the Act among disabled people and employers appears to be low and knowledge of the true costs of required adjustments is limited.

Awareness among employers is mixed regarding the provisions of the DDA, with larger firms having better knowledge. A recent survey shows that, although around three-fifths of employers (62 per cent) were aware of DDA provisions, larger organisations, public and voluntary sector organisations, and workplaces that already had employed disabled employees had a greater knowledge of provisions than employers who had fewer than 15 employees (Roberts *et al.*, 2004, [1]). Of course, employers with fewer than 15 employees are less likely to have dedicated Human Resource (HR) Departments and were, until recently, exempt from DDA provisions.

Employers have reported making some adjustments in response to the DDA, but they also have made most adjustments for other reasons. According to results from a survey conducted by Roberts *et al.*, the DDA was more influential in changes made to accommodate customers than employees, and most changes were made for people with physical impairments rather than for those with less observable types of impairments. Thirty-five per cent of employers who had made changes to their workplaces for disabled employees said they did so partly as a result of the legislation. Among the other reasons cited for making changes were non-monetary benefits (i.e., '*the right thing to do for the disabled employee*' (98 per cent)) and monetary benefits (i.e., '*the benefits would outweigh the costs*' (78 per cent)). In addition, business incentives, an awareness of positive public relations, and the need to be seen as including disabled people often were viewed as key factors for changes in customer provision (Roberts *et al.*, 2004, [2]).

A substantial portion of employers continue to have concerns about the difficulty and associated costs of adjustments. The cost of making certain adjustments (e.g., installing wheel-chair lifts, ramps, and accessible toilets) was of particular concern to some employers, although as noted earlier, many disabilities are invisible and thus require adjustments that are not of a physical nature. Even large employers who had reserved funding specifically for DDA adjustments considered themselves to be facing financial constraints. Of those employers who had made adjustments, 72 per cent said that it had been easy to make the adjustments, while only 14 per cent said that it had been difficult (Roberts *et al.*, 2004, [6]).<sup>1</sup>

## 1.4 Demographic trends

### 1.4.1 Current labour force

Some 6.9 million adult UK residents—17 per cent of the working age population (aged 16-64)—are disabled, as Table 1.1 shows (UK Office for National Statistics, 2005, [1]). The number of people estimated to be disabled naturally depends on the particular way in which disability is defined. The number of disabled working-age adults is defined by the Office for National Statistics as the number who are either DDA-disabled (those whose impairments affect day-to-day activities) or are work-limiting disabled (those whose impairments affect the kind or amount of work they can do). In 2001, about 62 per cent of working-aged disabled people were both DDA-disabled and work-limiting disabled; under ‘the widest definition’ of disability, about 11 million adults and children in the UK are considered disabled (UK Office for National Statistics, 2005, [5]). Chapter 3 discusses differences in commonly used definitions of disability in greater depth.

**Table 1.1 UK labour market data**

Total population (2005)	60.4 million
Working age (2005)	40.5 million
Disabled adults (2005)	6.9 million
Disabled children (2005)	0.8 million
Persons receiving disability benefits (2005)	3.0 million
<b>Labour force (2004)</b>	<b>29.8 million</b>
Agriculture	0.4 million
Industry	5.7 million
Services	23.7 million
<b>Employment rate (2004)</b>	
Non-disabled	78 per cent
Disabled	50 per cent

Sources: (CIA, 2005, [5]; DWP, 2005a, [5,30]); UK Office for National Statistics, 2005, [1]).

<sup>1</sup> Easy and inexpensive adjustments are, of course, more likely to be carried out than difficult and expensive ones. The experience of those employers who did make adjustments therefore cannot be extended to conclude that adjustments not yet carried out will also be easy to make.

The employment rate of disabled workers has grown in a slow but steady fashion in recent years, from 43.4 per cent in 1998 to 50.1 per cent in 2005 (DWP, 2006a). This has lowered the gap between the employment rate of disabled people and that of the working age population as a whole from 29.8 to 24.5 percentage points. Nonetheless, the employment gap for disabled people is greater than for lone parents (18.0 percentage points) or ethnic minorities (15.6 percentage points (DWP, 2006). While a portion of the gap is surely accounted for by profoundly impaired people who cannot work under any circumstances, disabled people remain a largely untapped portion of the available labour pool. Smith and Twomey (2002, [424]) found that a higher percentage of disabled people in the UK who were not working (32 per cent) reported in the Labour Force Survey (LFS) that they wanted to work, compared to non-disabled non-working people (26 per cent).<sup>2</sup> Employers may be able to take advantage of the opportunity to draw on this willing and available portion of the labour pool by more actively targeting recruitment strategies towards disabled people. The pool of candidates could increase as a result of policies outlined in a recent DWP Green Paper, *A New Deal for Welfare: Empowering People to Work (2006)*. In the paper, DWP sets out a specific set of goals and reforms aimed, among other things, at reducing Incapacity Benefit (IB) claimants by one million. The proposal replaces IB with a new Employment Support Allowance in 2008 that provides financial support for those with health problems while also rewarding those who make an effort to return to work in instances where that is feasible. It will also, by 2008, extend provision of services under Pathways to Work to the entire country.

Disability can take a variety of forms and can include a range of functional capabilities. As shown in Table 1.2, the most common types of disability among working-aged people are back or neck problems; heart, blood pressure, and circulation problems; problems with legs or feet; and mental illness. Regional variations in the prevalence of disability exist. In Great Britain, for example, the North East of England and Wales have the highest proportions of disabled people (26 per cent and 24 per cent). London and the South East have lower than average proportions of disabled people at 17 per cent (Twomey, 2005, [10]).

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<sup>2</sup> Despite these findings, the economic inactivity rate – the proportion of the population neither employed nor looking for work is much greater for disabled than non-disabled people: 46 per cent vs 15 per cent (Office for National Statistics, 2005).

**Table 1.2** Types of disabilities among working-aged people in the UK (2004)

Main impairment	Per cent of working-aged disabled	Employment rate
Back or neck	16	48
Heart, blood pressure/circulation	12	57
Chest/breathing problems	11	64
Legs or feet	11	48
Mental illness	10	20
Other health problems	8	55
Arms or hands	6	54
Diabetes	6	67
Stomach, liver, kidney, or digestive problems	5	56
Progressive illness	5	44
Learning disabilities	3	25
Epilepsy	2	53
Skin conditions/allergies	2	65
Difficulty in hearing	1	62
Difficulty in seeing	2	54
Speech impediment	<1	<1

Source: DRC (2006) analysis of LFS data.

In the UK as a whole, increasing numbers of adults are reporting mental illness and behavioural disorders, while the number of adults reporting physical impairments is decreasing. Mental disorders, and many other types of disabilities, are often invisible to employers. While employers most often are aware of the need for workplace adjustments relating to physical impairments, employers are required to take into account that other types of disabilities will require more subtle forms of adjustments (e.g., flexibility in work schedules).

Rates of employment typically vary with gender, age, and type of disability. Evidence has shown that rates of disability increase with age (Jarvis and Tinker, 1999, [609-610]; Smith and Twomey, 2002, [415]). Although medical advances have caused the overall prevalence of disability to decline among older populations in high-income countries, rates of disability still are substantially higher for those in the higher age ranges (Freedman, Martin, and Schoeni, 2002, [3137]; OECD, 1998, [1]). Employment rates are lower for older disabled men than disabled women of similar ages (Prime Minister's Strategy Unit, 2005, [33]). People with either diabetes, difficulty in hearing, chest/breathing problems, or skin conditions/allergies have the highest rates of employment among disabled people, as Table 1.2 shows. Employers are thus most likely to encounter either job applicants or current employees with these types of conditions. Among those with the lowest rates of employment are those with learning difficulties (26 per cent) and mental illness (21 per cent).

## 1.4.2 Future labour force

The availability of workers is expected to change in future years as population growth slows in the UK. Some areas of the UK will experience more dramatic changes in their overall population size than other areas (Brown and Dawson, 2003, [292]). Demographic trends also suggest that, in future years, employers will need to recruit and retain more employees who are disabled. The population in developed countries like the UK is ageing and as this occurs, the age of the labour force will increase concomitantly (Dixon, 2003, [67]). In fact, many countries are experiencing a growth in the number and proportion of older people within their populations. Anderson and Hussey (2000, [1,3]) have attributed this change in demographics primarily to increasing life expectancy, and declining fertility rates. Population ageing may provide some benefits to employers in terms of an older workforce that has greater work experience and levels of maturity, but an ageing labour force also can raise additional concerns for employers, as such workers are more likely to be disabled.

In completing a review and analysis of population trends, Jarvis and Tinker (1999, [604]) found evidence of either stable or improving trends in the health of older people in the late 1980s and 1990s. Their own analysis, using data from the annual cross-sectional General Household Survey from 1979 to 1994, noted a steep rise in rates of functional disability<sup>3</sup> for individuals aged 65 and over as they age, but no significant population level changes in rates of disability from year to year (Jarvis and Tinker, 1999, [604, 616]). As the labour force ages, employers will be faced with an available labour pool that is older and has higher rates of disability than the current labour pool. Employers both large and small will need to take steps to ensure that their workplace recruitment, training, and management policies address these shifts.

## 1.5 Labour market trends

### 1.5.1 Current labour market

The UK has a strong economy with low inflation, low interest rates and low unemployment compared to the rest of Europe. As Table 1.1 shows, most people are employed in the services industry. Services such as banking, insurance, and business services account for the largest proportion of gross domestic product, while industry continues to decline in relative importance (CIA, 2005, [8]).

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<sup>3</sup> Jarvis and Tinker define people to have either a severe, moderate, or no disability based on the ability to perform on each of five tasks either on their own with no difficulty, on their own with some difficulty, only with help, not at all. The tasks include: manage steps and stairs; get around the house (apart from stairs and steps); get in and out of bed; bathe, shower, or wash all over; and go out of doors and walk down the road (Jarvis and Tinker, 1999, [607-610]).

While the labour market has included a certain number of disabled people in employment, the types and wages of the jobs typically are not on par with those offered to non-disabled people. In an examination of labour force participation within Great Britain, Tworney (2005, [11-14]) found that employed disabled people are somewhat more likely to work in manual and lower occupations, are somewhat less likely to work in managerial and professional occupations, and earn an average gross hourly wage ten per cent less than that of non-disabled employees – £9.88 per hour compared to £10.85 per hour (DRC, 2006).

Probably contributing to this discrepancy in the jobs and earnings of disabled and non-disabled people is the fact that disabled people on average lack the educational credentials of non-disabled people. Moreover, their work history is typically shorter than that of non-disabled people (DWP, 2002, [16]). Disabled people in Great Britain are only half as likely as non-disabled people to be qualified to degree level and are twice as likely as non-disabled people to have no qualifications at all (29 per cent compared to 11 per cent). For disabled people who have a degree or equivalent, the employment rate improves substantially, rising to 75 per cent, although non-disabled people with similar levels of education still have higher rates of employment (89 per cent) (Twomey, 2005, Table 1, Table 4). Employers do appear to be more willing to employ educated disabled people, providing support for the idea that employers are most interested in employing people who have the combination of skills and experience most suitable for a particular opening.

Although 94 per cent of both disabled and non-disabled employees are in permanent jobs (Twomey, 2005, [5]), the nature of working arrangements for these two groups differ. Disabled people in Great Britain have been found to be slightly more likely to be self-employed (14 per cent compared to 12 per cent) or working part-time (29 per cent compared to 23 per cent) than non-disabled people, and have been found slightly more likely to have flexible work schedules (Twomey, 2005, [5]; Smith and Twomey, 2002, [423]). Kruse and Schur (2003), in their examination of non-standard work arrangements and disability income in the United States, note that participation in contingent, flexible, and part-time work can benefit disabled people who have a need to accommodate health or transportation challenges. Using data from two nationally representative surveys, they find that disabled workers are much more likely to participate in non-standard work arrangements than non-disabled workers, and that this tenet holds true even when the labour market tightens (Kruse and Schur, 2003, [2]).

Further evidence from the United States has found that rates of employment for disabled people are tied to fluctuations in the economy. Periods of recession have been found to cause nearly equal rates of employment exit for disabled and non-disabled people and, particularly for men, have resulted in significantly slower rates of re-entry of disabled people to employment during periods of economic recovery (Stapleton *et al.*, 2004, [2]). Whether or not these low rates of re-entry are due to employer choices, the disincentive effects of the public disability benefit system, or some combination of the two, is a point of debate. However, low rates of job re-entry by disabled workers, combined with the dramatic increase in disability with

age (Berthoud, 2006, [23]), may underlie Beveridge's (1944, [70]) observation that older workers, though no more likely than younger workers to lose their jobs, become re-employed at a much slower rate.

Of course, not all employer hesitation to employ disabled people is unfounded. Using data from the 2004 LFS, Barham and Begum (2005, [153]) found that 5.9 per cent of employees who were DDA disabled were absent in a given week. Disabled employees were found to be more than twice as likely to take sickness absence in the reference week as employees who were not disabled (5.5 per cent compared with 2.5 per cent). Rates of sickness absence also varied according to employment sector, with the proportion of employees who had taken sickness absence higher in the public sector (3.1 per cent) than in the private sector (2.8 per cent) (Barham and Begum, 2005, [154]). The amount of hours worked also was found to affect the probability of sickness absence. Employees who worked between 16 and 45 hours a week were more likely to take sickness absence than employees working either less than 16 hours a week or more than 45 hours a week (Barham and Begum, 2005, [155]). Barham and Begum found that certain employee and job characteristics had a significant effect on sickness absence: whether the respondent was disabled, occupation, workplace size, age of youngest dependent child, and age of respondent (Barham and Begum, 2005, [156]).

### 1.5.2 Future labour market

Labour market projections published in 2001 note a decline in employment in industries and a growth in employment in the service sector, especially business and miscellaneous services, and health and education (Institute for Employment Research, 2001a, 2003; Green, 2003 [306]). The growth in the service sector has favoured those who are most skilled (professional and associate professional occupations, caring and personal service occupations, and sales and customer care occupations). As Brown and Dawson (2003, [298]) state, *'The apprentice-based abilities and experiences generated within the old industrial structure have become redundant as the context changes to one dependent on soft skills.'* Between 1992 and 2002, the number of people in employment with no qualifications declined, while the number of people with NVQ<sup>4</sup> level three and above increased. The decline in employment in the manufacturing field has resulted in dramatic decreases in the numbers of jobs in manual occupations, including skilled trades, operatives, and unskilled elementary occupations (Green, 2003, [308]).

Helping workers gain and maintain the necessary work skills will be important as job demands shift to more highly skilled positions. Currently, older workers are less likely to be offered or participate in job-related training (Brown and Dawson, 2003, [299]). Employers will need to foster increased opportunities for training to maintain an educated and efficient workforce of employees, disabled or non-disabled.

Another significant shift in the labour market concerns types of work arrangements. Green (2003, [306]) notes a growing trend towards more part-time employment, as well as a growth in flexible working arrangements, temporary working arrangements,

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<sup>4</sup> NVQ = national vocational qualification levels 1-5, 5 is highest.

and fixed-term contracts (Green, 2003, [308]). Such policies benefit both employers and employees. Shepard *et al.*, (1996, [123]) found that flexible work hours, for example, can increase productivity by ten per cent within the pharmaceutical industry. As employment shifts towards more part-time, highly skilled contingent labour, and as the labour force shifts towards older workers who are more likely to have some form of disability, employers will have to employ and accommodate more disabled people within these new work arrangements.

## 1.6 Critical issues in disability policy

Success in understanding the likely effects of the DDA and similar legislation hinges on our ability to answer three critical questions regarding the skills of disabled people and the behaviour of employers:

**1 To what extent can public policy alter the labour market outcomes of disabled people?** Policy changes will have a greater effect on labour market outcomes of disabled people if those outcomes are themselves markedly affected by discrimination or systematic misperception by employers. However, the effects of policy on employer behaviour are not well known. At present, the employment environments and types of workers most and least likely to be affected by policy are not well known.

**2 What costs does the DDA impose on employers?** The DDA imposes two types of cost on employers: costs associated with 'reasonable adjustments' to the needs of disabled employees and job applicants and the potential cost of justifying certain recruitment and adjustment decisions to the EAT. Because of the diverse nature of employee disabilities and the limited experience of most employers with the EAT, the magnitude of these costs will be difficult for most employers to assess. To date, employers have received little guidance on the practical distinction between actions that are and are not considered to be 'reasonable adjustments' under the DDA.

**3 How do employers respond to requirements of the DDA?** Provisions of the DDA certainly increase the likelihood that employers will modify work routines and environments in ways that accommodate the needs of disabled workers. Whether the DDA actually leads to growth in employment of disabled people is difficult to determine. Motivated by the threat of awards to job applicants by the EAT, employers may be more likely to recruit disabled people, particularly if they are aware of egregious differences in treatment of disabled and non-disabled applicants. If, however, employers fear that the EAT may eventually define 'reasonable adjustments' to include even relatively costly modifications, then they may tend to avoid recruiting disabled applicants. In consequence, the DDA could turn out to have little effect on the employment of disabled people.

Each of the subsequent chapters and accompanying commentary in this volume treats some aspect of these issues as they relate to the employment of disabled people. The aim of all authors is to provide a fresh perspective and interpretation of existing evidence and to suggest fruitful directions for research and policy.

# 2 Framework for employer decision-making

**Karen Needels**

## 2.1 Introduction

The goal of this chapter is to explore the ways in which employers make decisions about recruiting and retaining workers with particular regard to the employment of disabled people. The framework presented in this chapter abstracts from the numerous logistical and operational details of how employers make decisions on a day-to-day basis. By doing so, it provides a very general structure for understanding how employers take into account the costs of employing a worker, the workers' potential contribution to a workplace as a result of his or her technical and non-technical skills, and other factors when the employer decides how many, and which, workers to employ. We also document potential advantages and disadvantages to employers of increased employment of disabled people; doing so is intended to provide broad insights to factors that employers might consider when making recruitment and retention decisions in specific situations.

In this discussion, we use the term 'disabled people' to represent people with health limitations and chronic illnesses, as well as other people who are considered disabled under the terms of the Disability Discrimination Act (DDA), which regulates the ways in which employers can legally take into account the disability status of workers and job applicants. (Section 2.3.1 describes the DDA briefly, while Chapter 1 covers it in greater detail.) Disabled people are diverse in terms of their health statuses and other skills that might influence their ability to work and the types of work they might be able to do. In addition, the types of jobs and working arrangements for which disabled people seek employment are quite diverse. In providing this framework, we therefore recognise that it cannot capture all the nuances of unique employment situations and unique ways in which a specific disability might affect a worker or employer. In addition to being dependent on the unique skills of a worker and the specific job requirements, the relationship also might be influenced by the nature of the worker's health limitation and the strength

of the economy and industry in which the employer operates. Nevertheless, the framework that we present here can serve as a lens through which to view the different factors likely to be involved in employer decision-making.

Several key tenets can be drawn from this framework:

- The productivity of a worker and the value of that worker to an employer are determined by many different worker characteristics. Only some of these may be influenced by a disabled person's specific health condition. As described in Section 2.2.1, an employer considers the overall mix and levels of these characteristics when deciding whether or not to employ a job applicant and when setting the wage or salary package for the job. The employer also takes these characteristics into account when periodically deciding whether or not to keep employing a worker and when determining any adjustments to the salary package, which is discussed in Section 2.2.2. The characteristics include the skills of a technical nature, skills that help the worker in interpersonal relationships in the work environment, and experience that pertains both to a specific job and an occupation more generally. The value of these skills and experience also depend on the capital and other resources that the employer has and on external influences, such as the strength of the economy, on the employer (Section 2.2.3).
- An employer makes decisions about whom to employ after considering alternatives. If there are other workers who could be equally productive at a job but who will do so for less money or who will require fewer resources to employ, such as supervision, then an employer is likely to prefer to employ the worker who is less expensive or who requires fewer expenditures by the employer. Regardless of whether an employer operates in the public, private, or non-profit sector of the economy, almost all employers face considerable pressure as they try to sell their products or provide their services. Therefore, they generally would like to keep their own costs low and productivity high as they conduct their business. As explained in Sections 2.2.1 and 2.3, therefore, they will consider alternatives as they make a decision about recruiting or retaining a specific person.
- Companies must operate in the face of uncertainty about the future. Determining how well a job applicant, and even a current worker, will be able to fit into the workplace and perform the many tasks for a job is challenging. Employers do not know all the details of a job applicant when they decide to employ them, and they do not know what circumstances will arise to affect a current worker's job performance. In addition, the work environment is likely to change over time, as an employer innovates and responds to changes in technology and the demands for its products. As described in Section 2.3, employers cannot be very sure in their predictions about how a worker will, or will not, be able to perform in a job over time. Since it takes time and resources to gather more information to reduce this uncertainty, and the results will be inherently imprecise, employers are likely to rely on a subset of easily determined characteristics that job applicants or current workers have when making employment decisions. Employers perceive these characteristics, often called 'signals', as correlated with the traits that the

employer is most interested in, but the signals are easier to observe. In practice, therefore, employers may use much simpler and more straight-forward approaches to their recruiting and worker retention decisions than what the framework suggest.

- Long-term employment relationships are valuable. Employers would like to pay a worker according to his or her individual productivity, but employers can only approximate this figure. They will probably have to pay a newly employed worker more than he or she produces in value for the employer while the worker is being trained. But, the employer will hope to benefit later on from the up-front costs expended as the worker learns the details of the job. As explained in Section 2.2.2, an employer benefits financially from being able to maintain employment relationships with workers who are already employed. Non-financial factors, such as a sense of what is ethical or a loyalty to a worker also may influence the retention of the worker.
- Changes may influence these long-term relationships. Numerous changes can occur over time as a worker is employed by an employer. Some changes, such as pregnancy, the development of a chronic health condition, or the progression of a pre-existing health condition, have the potential to negatively affect a worker's job performance if adjustments are not made to the workplace. Other changes, such as the acquisition of new skills by the worker, have the potential to lead to improvements in job performance. These changes may influence whether it is financially advantageous to the employer to retain the worker. As discussed in Section 2.3.3, the value of doing so will depend on whether and how the worker's productivity is affected, the cost of adjustments that might be required, the costs of recruiting and retaining a replacement, and other factors. The DDA, which is described in Section 2.3.1, dictates how employers may legally respond to changes that arise due to the onset or progression of a worker's health problems.

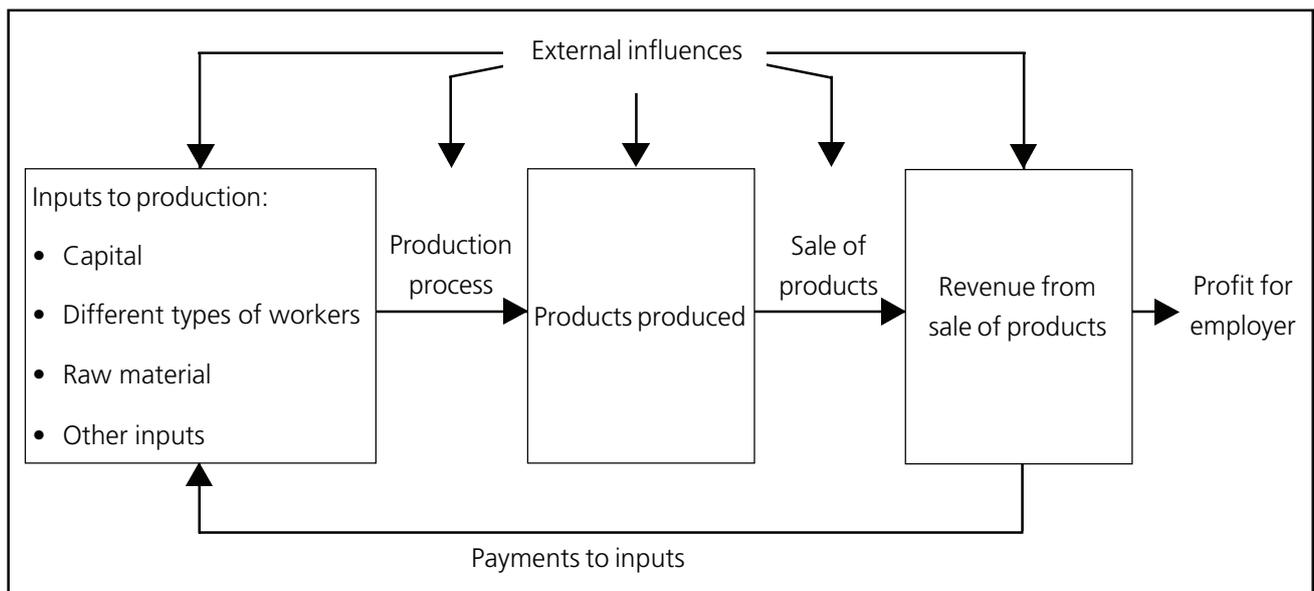
In Section 2.2, we begin the discussion with a general framework of employment. As is frequently done, we assume the primary objective of any employer is to maximise profit, or efficiency and effectiveness in the case of the public and not-for-profit sectors of the economy. We describe an employer's decision to employ a worker and then explain how such decision-making will differ with regard to retaining a current worker. In Section 2.3, we focus on how the presence of a disability for a job applicant or currently employed worker will influence the decision-making process. As part of this discussion, we give examples of possible ways how an employer might reap benefits or incur costs from employing a disabled worker compared to a non-disabled worker. Although it is unlikely that all, or even many, of the possible potential costs and benefits will materialise in a specific employment situation, or even that employers take all of these possibilities into account when making decisions, the goal of the section is to highlight a wide range of the costs and benefits that might be important to employers. In Section 2.4, we provide a brief review of the key findings in the chapter, and we mention limitations that arise from the analysis.

## 2.2 A framework for employer decision-making

### 2.2.1 A basic model

Economists have developed comprehensive models about the processes by which employers make decisions about how to produce their goods and services (Ashenfelter and Layard, 1986; Ashenfelter and Card, 1999).<sup>5</sup> In a basic economic model, employers use specific combinations of the inputs, such as capital and workers, to produce their goods, with the ultimate goal of obtaining as much profit or achieving as much efficiency as is possible (Hamermesh, 1986, [430]; Schwochau and Blanck, 2000, [286]). (Clearly, many employers care about issues besides achieving the most profit or efficiency, but we use monetary terms to simplify the discussion. The issue of non-monetary considerations is discussed in Section 2.3.) This basic model can be represented pictorially by Figure 2.1.

**Figure 2.1 Pictorial view of companies' production processes**



<sup>5</sup> This chapter does not focus on a worker's perspective, although it also is important. Economic models typically assume that people consider all the potential monetary and non-monetary costs and benefits of working before they decide whether or not they want to work. Examples of potential monetary costs and benefits include their salary package, the loss of government benefits, and transportation and child care costs. Examples of potential non-monetary costs and benefits are enjoyment or distaste of the work tasks, the sense of being productive and contributing to society, and social interactions with co-workers.

The inputs to production represent all of the things, such as workers, buildings, equipment, tools, and raw materials, that employers use to produce their products or deliver their services (Hamermesh, 1986, [430]). Each of these inputs costs the employer a certain amount for its use. The salary package of each employee includes all payments the employer makes to the employee or makes as a result of employing the worker. These include wages provided to the worker; fringe benefits, such as retirement benefits, that the employer pays to a worker; and taxes, such as for statutory sick pay, that the employer pays as a result of employing the worker.

Under this model, the employer determines the best way to produce its goods and services on the basis of how much each input costs and how much each input contributes to the employer's revenue.<sup>6</sup> As a general rule, companies pay workers an amount equal to the additional revenue the worker produces for the employer, holding constant the number and types of other inputs that are used. (This amount of pay is often called the 'value of marginal product.')

The employer would like to pay workers less, and the workers would like to be paid more, but it is at this value that the model suggests that a perfect balance between these competing desires is achieved. In subsequent sections, we present several reasons why this basic model is an oversimplification of what is likely to occur in practice. Possible reasons are numerous, but they include the use of collective bargaining through unions, employer wage-setting practices that treat workers in similar situations in a standardised way, government legislation that restricts wage policies, and the difficulty and expense that would be required to measure a worker's productivity.

### *Different types of employers*

The way that an employer weighs these costs and benefits when making decisions will depend on a variety of characteristics of the employer. One important factor that employers may need to take into account is whether they have rigid constraints that will influence their employment decisions. For example, a small employer who runs a shop that is staffed by a single employee may need to get a worker in place very quickly so that the shop can be open for business. A large employer with many employees who perform the same task, in contrast, may be able to use strategies relatively easily, such as overtime or limitations on unnecessary leave, to mitigate problems that could arise if the employer is understaffed. This type of employer may be able to take more time to search for a new employee when the need arises. Of course, employment decisions that are governed by union contracts or other similar restrictions (such as regulations about worker certification or minimum wage laws) also are important in many industries and occupations and will affect how an employer makes decisions.

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<sup>6</sup> This decision-making process to determine whom to employ can be represented mathematically as:

Decision = F[expected net value] = F[productivity(general human capital; specific human capital); wages; adjustments; costs of hiring an alternative worker; legal costs]. The expected net value is the combined value the employer places on revenue and costs that are accrued over time.

A second factor that influences employer decision-making is the employer's preference for risk-taking. For example, one employer may want to find an employee who is expected to be the most highly productive among all the job applicants. (An environment in which the work is inherently of a high risk but also of high potential gain might be an example of an industry with many employers who prefer a high-risk-high-gain approach to employment. Risks frequently may be taken, with the recognition that not all activities are likely to lead to a big payoff.) Another employer may prefer to avoid risks whenever possible, which would lead the employer to choose an employee who will be able to perform the work tasks but who poses few risks. For example, an employer may prefer this strategy when safety considerations are extremely important. It is possible that industries that use heavy equipment or dangerous chemicals, or ones that include very expensive transactions (such as banks, museums, or the security business), are likely to contain employers who prefer the low-risk strategy.

#### *Different external factors*

An important consideration for understanding employer behaviour is that companies operate in an environment which may strongly influence them. This is almost certainly the case for small employers that have many competitors, but it also may be true for larger employers or government agencies. Companies are subject to the overall strength of the economy and the overall demand for the goods and services that they produce; they may be unable to retain workers during a recessionary period if demand for their goods or services drops. Government regulations or legislation also restrict an employer's ability to act in certain ways. The DDA, which is discussed more fully in Chapters 1 and 3, is intended to limit an employer's ability to legally use the disability status of job applicants or workers as a factor in employment decisions; employers are required to make reasonable adjustments to the workplace or job to facilitate the successful performance of work by someone who is disabled or, if necessary, to move the disabled person to another, suitable job (Leverton, 2002, [2]; Prime Minister's Strategy Unit, 2005, [24]).

Another factor that could affect how an employer weighs costs and benefits when making employment decisions is the strength of the economy, and even the employer's own prospects for profitability. If the employer is making a lot of profit because business is quite brisk and appears likely to remain that way for the foreseeable future, then the employer may be willing to take additional risks on employing a risky worker because the employer can afford to absorb some losses if necessary. However, the same employer may be less willing to take a risk when he or she is operating on a very tight margin of profitability because of a weak economy or slow demand for the employer's products; even a relatively small loss because of a bad employment decision could push the employer close to bankruptcy.

### *Different types of employees*

Although this simple model of employer decision-making treats all employees as if they are identical to each other, the model can be adapted to include more than one type of employee, based on skills, job classifications, or other characteristics (Hamermesh, 1986, [455]). For example, one group of employees might be highly educated, another less educated; workers could also be grouped on the basis of the types of jobs that they perform at the workplace. When the relative costs of different types of workers change, employers will examine whether changes can be made in the way that the goods and services are produced to ensure that the employer still operates profitably and efficiently. This may mean that an employer purchases new capital or shifts job tasks from one type of worker to another type, so that the workers in the group that has become more expensive are not needed as much.

In reality, unique attributes of each employee will affect how productive that person is in a particular work environment or in performing a particular job. Relevant attributes include technical skills and soft skills, which are the communication skills, teamwork skills, problem-solving skills, attitude towards work, and other traits that allow workers to perform their jobs effectively. Some examples of questions that an employer might ask are:

- **Technical skills.** Can the worker understand and do what is listed in the job description? Can the worker perform the essential and non-essential tasks that are typically part of the job? Can he or she do the work accurately and adapt to changes in its technical circumstances?
- **Soft skills.** Can the worker communicate constructively and effectively with co-workers, customers, and staff from other organisations? Can the worker present himself or herself in a professional manner, show up on time for the job, and be dependable?

Of course, these examples of necessary skills are not comprehensive, but they do indicate that employers may consider a wide range of employee traits as they decide whom to employ or retain as an employee. Whether or not a potential worker has these attributes for a specific job will depend on his or her innate ability, training and education, experience gained through similar jobs or other situations, and other characteristics. In addition, adjustments that an employer provides for a worker in a specific job can be important, both for disabled and non-disabled job applicants, as they are designed to make it easier for a worker to perform the tasks for the job. Ultimately, the factors that affect the costs and benefits to an employer of employing a specific worker include (1) environmental influences external to the employer, such as the price of its goods; (2) the other inputs to production that the employer uses; (3) the technical skills a worker brings to the job; and (4) the unique soft skills and interpersonal dynamics between that worker and co-workers, supervisors, and customers with whom the worker needs to interact.

### 2.2.2 The importance of job-specific skills to workers' productivity and salaries

Although the basic model in Section 2.2.1 indicates that an employee will be paid a salary package that equals the amount of additional revenue that the employee generates for the employer, there are several reasons that an employee's salary package may deviate from this rule. One very important reason, which is the sole focus of this section, pertains to a worker's knowledge and experience regarding the specific requirements of the job. Although new employees may begin employment with a general understanding of the job and the work tasks, over time they develop knowledge very specific to and valuable for the job. For example, an employee who has had a job for a long time is likely to know the employer's policies and procedures, the best ways to communicate with supervisors and co-workers, and the most efficient ways to use the employer's equipment. In contrast, someone who only recently began working for an employer is not likely to know this information and must go through a learning period to become as productive as employees with more experience at an employer, even if he or she has general technical or soft skills that are valuable for the job. This learning period can include formal training, informal ('on-the-job') training, or both. (The information and skills that are unique to the job are frequently called 'specific human capital', whereas the information and skills required more generally for jobs of a similar nature are called 'general human capital'.)

#### *Differences across jobs and over time*

In practice, the way in which a worker's productivity grows with the length of time that the worker has been working for an employer will vary across jobs. If all job-specific requirements are extremely easy and quick to learn, then it is unlikely that workers who have been in the job for a long period of time are much more productive than are workers who have been in the job for a short period of time. In contrast, a worker who holds a job that requires extensive job-specific knowledge and skills, such as many highly skilled jobs, probably will increase his or her productivity over a period of many years. It is likely that most, but not all, jobs in today's economy have periods in which workers greatly improve their productivity because they develop specific human capital.

In situations where recently-employed workers do not have as much knowledge and skills as do more experienced workers, typical models of employment show that companies generally lose money on a worker in the short run but make money in the long run. Because workers who are new to an employer must be trained so they know the specific details of how to perform the job, they typically cost the employer more than the revenue they generate. As workers' develop job-specific skills through training or on-the-job experience, however, their productivity rises faster than their wages, which grow relatively slowly over time as companies reward additional experience on the job. So companies make up for the short-term loss in employing the worker by paying the person less in later years than the value of what he or she produces for the employer.

After a worker has been in the same job position for a very long time, however, economists often model the increase in his or her productivity to be less than the increase in the wages. This may be because the employee is as efficient as possible, but he or she still expects salary increases. Alternatively, it might be that the employee becomes less productive because the worker is less likely than other (younger) workers to be willing to adapt to changes in the work environment or needs of the employer. A final possible explanation is that a worker's actual productivity, or an employer's perception of it, goes down. Thus, an employer may offer workers early retirement packages, once the income they produce for the employer falls below the cost of employing them (Lazear, 1986, [306]; Lumsdaine and Mitchell, 1999, [3281]).

### *Employers want to retain employees*

All else equal, both the employer and the employee benefit from maintaining the employment relationship once an employee has developed job-specific skills (Lazear, 1986, [348]; Becker, 1962, [19]). Companies like to retain experienced workers in order to benefit during the period when productivity is higher than the employee's salary package. If an employee leaves the employer after it has invested in training the employee, the employer will lose the benefit of the investment. In addition, the employer will incur the costs of recruiting the new employee and, if the worker was terminated, the cost of terminating the employee. The size of the cost to recruit a new employee will vary based on the unique aspects of a job and/or the economic environment in which the employer operates, but it generally will be higher when the job requires very specialised skills and when workers of these types of skills are in short supply because of a low unemployment rate for workers in the occupation (Nickell, 1986, [475]). The size of the cost to terminate an employee generally depends on the worker's pay rate at the employer. The employee also benefits from maintaining a long-standing employment relationship because the employer will be willing to pay him or her more than he or she can earn elsewhere: the job-specific skills that the employee possesses are valuable assets to the employer but are not transferable to another employer. However, the employer does not need to pay the full value of these assets to the employee, because the employee cannot earn as much in wages or salary in another job if he or she were to quit the one he or she already has.

### **2.2.3 Other factors that influence workers' pay**

There are several other reasons, besides the presence of job-specific skills, that an employer might pay a worker an amount in wages and fringe benefits different from the value of what the worker produces. Some reasons pertain to difficulties measuring the worker's productivity in monetary terms, and some arise from other causes.

Measuring and valuing a worker's productivity, and the revenue that the worker generates for an employer, can be very difficult. Workers in many types of jobs are not directly and individually responsible for the production of goods or services sold

by the employer. For example, an employer might have an accountant to prepare invoices and process employee paychecks and a caretaker to clean the office building. These activities are important to the operations of the employer but do not directly translate into the production of goods or services. In addition, an employer might have difficulty determining the monetary benefit even of a worker who directly produces goods or services, because that worker's effort is hard to isolate from the efforts of other employees. This can be true when different people produce different components of a product, or when a team meets to brainstorm. In such situations, calculating the individual contribution of a worker can be problematic. Finally, the effort required to determine the productivity of an individual worker can be costly even when it is feasible. Therefore, an employer might choose not to monitor employees at the level of detail that would be required to collect the necessary information about the additional revenue that an employee generates.

In addition, it is usually inefficient or impractical for an employer to try to recoup small monetary differences between a worker's productivity and his or her salary when those differences arise, even if productivity could be monitored perfectly. In some instances, and as mentioned in Section 2.2.1, statutorily set restrictions on wages, or negotiated contracts between employers and employees (such as unions), limit the flexibility that employers have to change wages or to pay different wages to different workers in the same job classification. More generally, all workers—regardless of whether they are disabled or non-disabled – naturally have different levels of productivity over time, even on a day-to-day basis. (The degree to which a worker performs productively, such as on a daily basis compared with an average level, is often called 'presenteeism'.) For example, common life circumstances such as minor health problems (a cold or a sprained wrist), family events (marital strain or a child's misbehaviour), or even a bad night of sleep will affect the productivity of any worker. Even if an employer could set an employee's wage to equal his or her average productivity, it is generally unproductive to take into account daily fluctuations.

### 2.3 How disabilities might affect recruitment decisions

This model of employer decision-making can very easily take into account if a job applicant or current worker is disabled. The disabled person's condition simply represents one more characteristic of the attributes that may influence a worker's productivity in a job – one characteristic among many. In the decision whether or not to employ a worker, for example, the model indicates that employers select among the various options available to them – such as employing a worker who is disabled, employing a worker who is not disabled, or employing no one – so that the option they choose is the most profitable (or most efficient).

In this section, we give examples of potential costs and benefits that an employer might encounter by employing a disabled worker rather than a non-disabled worker in a specific job. But, it is important to remember that the empirical evidence about these potential differences is discussed in other chapters, and both the theory and

the empirical evidence may not be relevant in each and every instance. In this section, we also explain how an employer's decision-making can be affected by the presence of a disability in a job applicant and in a current worker.

### **2.3.1 Potential differences between disabled and non-disabled workers**

According to the framework for an employer's decision-making that is presented in Section 2.2.1, an employer will choose the most profitable or efficient approach to producing goods or services regardless of whether or not a specific job applicant or worker is disabled. In the absence of civil rights legislation that prohibits discrimination against disabled people, an employer's decision to employ a disabled job applicant or a similar non-disabled applicant, for example, might depend on whether that disability affects job performance and what the costs and benefits to the employer are likely to be. The costs and benefits of recruiting or retaining a disabled worker, relative to those for a non-disabled worker, could be incurred at any point in time, such as during the recruitment process, shortly after a worker begins working for an employer and is being trained, when the worker has held the job position for a while, and as the worker approaches retirement.

However, the DDA governs both the recruitment process and all stages of when a worker is employed; it limits an employer's options for responding to the disability status of an individual. It is important to recognise up front that, generally speaking, the DDA does not require employers to make adjustments in the absence of a specific worker or job applicant who needs the adjustment (Leverton, 2002, [47]). For example, an employer is not required to convert a standard paper application form to Braille if no one has come forth needing a Braille application. Likewise, employers are not required to incorporate flexible work schedules into the workplace if no workers express a need for (or can plausibly be inferred to need) a flexible work schedule because of a disability. But, if a disabled person comes forward to apply for a job or if a current worker's disability status changes, employers are mandated to provide reasonable adjustments to accommodate their disability-related needs. Examples of the types of adjustments that might be required at different points in time in the employment relationship are the use of special forms or procedures for interviewing applicants, adapting training and work schedules, or reallocating duties among staff. If reasonable adjustments are feasible, then – in essence – an employer should treat a disabled person in the same way as a non-disabled person, when the two workers have basically the same skills and other characteristics; but, the employer is required to make the adjustments to the work environment. Furthermore, starting in December 2006, public authorities will have a duty to promote disability equality in all aspects of their operations, including employment. This duty extends responsibility from a more passive role of avoiding discrimination to a more active one in which efforts must be undertaken to promote the equality of opportunity between disabled and non-disabled people and to eliminate discrimination and harassment of people related to their disability. Some of the specific steps that must be taken by public authorities are the development of a

comprehensive Disability Equality Scheme, engagement of disabled people in the planning of the response to the duty, training of staff in the duties, and the monitoring of progress in improving outcomes of disabled people.

If the costs of making an adjustment for a disabled worker are too high, the employer legally may decline to make the adjustment. It is possible that the worker would need to find another job or employer for which the cost of the adjustments is lower (or the willingness of the employer to bear them is higher). If the worker is unwilling or unable to do so, then the worker might drop out of the labour market, especially if they are older and nearing retirement age. Although whether adjustments are reasonable or not depends on the specific facts of a situation, factors that are likely to be important are the extent to which the adjustment will mitigate the disadvantage in which a disabled worker is placed, the cost of the adjustments, and the effects of the adjustment on the employer's operations (Leverton, 2002, [44]).

### *Potential costs and benefits of employing disabled people*

There are numerous theories about how an increase in the employment of disabled workers will affect different stakeholders (Goldstone and Meager, 2002, [58]; Unger, 2002, [9]). In this section, we provide some examples of possible costs and benefits that an employer might receive by employing a disabled person compared to a non-disabled person. We begin by discussing potential benefits to employers; we next discuss potential costs. These examples are not intended to be exhaustive; rather, they are intended to illuminate ways in which these potential costs and benefits will vary across the specific circumstances of an employment relationship.

By employing a specific person, an employer may incur both monetary and non-monetary costs and benefits. Monetary effects, such as the cost of workplace adjustments or the benefits or costs that arise due to different productivity levels for disabled and non-disabled workers, initially may be more obvious to employers and other stakeholders. However, hard-to-measure non-monetary effects also may be important to employers and employees, even though they are non-pecuniary. As with monetary considerations, the size of the non-monetary costs and benefits is likely to depend heavily on the detailed characteristics of the employer and the worker. Some employers may care very much about shareholder value, with the view that non-monetary factors either do not matter or are already reflected in the stock price. Other companies (possibly smaller ones, or family-run businesses) may care greatly whether or not the work environment is a pleasant one for the employees. And, as discussed in Section 2.2.1, an employer may weigh costs and benefits differently depending on the financial health of the employer; if an employer is struggling financially because of a downturn in the economy or the demand for the employer's product, then an employer may think that it is less likely to be able to absorb potential financial costs. Chapter 4 addresses, head-on, the complex issue of empirically assessing these monetary and non-monetary costs and benefits.

Even though this compendium is focused on employers' perspectives, we occasionally mention in our examples of costs and benefits the perspectives of disabled people and non-disabled people to demonstrate interrelationships between the groups of people and organisations. Since stakeholders might gain or lose in different ways from changes in employment relationships: a benefit or cost to one group may lead to a benefit or cost for another group. However, we do not explicitly examine the potential costs and benefits that disabled workers, non-disabled workers, and society incur as a result of employment of a disabled worker in a specific job. Examples of the potential costs and benefits that disabled workers may incur include increased work-related income and costs; changes in receipt of public benefits, since some benefits are provided to encourage work, and some are provided on the basis of non-employment or low income status; and emotional and health benefits, or costs, that may arise from working. For some people, the benefits may outweigh the costs; for other people, the opposite may be true.

*Examples of potential benefits, to employers, of employing disabled people*

Numerous potential benefits may accrue to employers who employ a disabled worker in lieu of a non-disabled worker. As discussed earlier, they can be monetary or non-monetary, and they can be one-time or ongoing. Examples include:

- A financial benefit if the worker produces more in revenue than he or she is paid. This potential benefit is likely to be one of the largest, and possibly one of the easiest to observe. Of course, both disabled and non-disabled workers may produce more, or less, than what they are paid. However, it is possible that a greater benefit from employing disabled workers could arise because of a difference in the hourly productivity of disabled and non-disabled workers or because disabled and non-disabled people differ in other ways. For example, disabled workers may be more productive if they are more likely to come to work on time and to have fewer absences. Of course, this potential benefit of employing a disabled worker, compared to a non-disabled one, would be a cost if disabled workers are less productive than are non-disabled workers.
- The preservation of job-specific skills from the retention of a current disabled worker. An additional potential benefit could arise when an employer retains a worker who either becomes disabled or whose disability progresses. By retaining the worker, the employer is able to preserve his or her job-specific skills, thereby avoiding costs that arise with new workers, such as training costs and the costs of additional communication, or miscommunication, among workers who do not know each other's habits and strengths. (The importance of job-specific skills is discussed in detail in Section 2.2.2.) The employer also will be able to avoid the costs of recruiting a new worker. These costs might include expenses to advertise the job opening, the time that the employer spends interviewing job applicants, and the costs that arise when a job is vacant for a while.

- Increased staff morale. Benefits that affect the workplace environment and co-workers also may arise if a disabled person becomes employed or if a disabled worker is retained in a job. For example, staff morale may improve. By observing that currently disabled workers are retained, co-workers may be more confident that they could retain their job if they develop health limitations. In addition, they may have a greater sense that the employer cares about the workers and is willing to show flexibility when accommodating a worker's needs, regardless of whether it arises due to health issues or other reasons. Changes in staff cohesiveness and the cooperative tone of the workplace environment may beneficially affect the employer. (However, there is the potential for a decrease in staff morale, which is discussed in the next section.)
- Increased innovation due to a more diverse workforce. When more disabled people are employed, an additional potential effect may be increased innovation due to the diversification of staff in the workplace. The extent of innovation that arises is likely to depend on whether and how the unique experiences and perspectives of a disabled person can be brought to bear in the production of the employer's product and in provision of the product to customers. For example, a disabled employee may use his or her challenges in completing a work task to think of a better way for all employees to produce the product; similarly, having a different set of experiences may allow a disabled person to identify better ways to meet the needs and desires of customers, regardless of whether or not the customers are disabled. If the employment of a disabled person, compared to a non-disabled person, leads to increased innovation in practice, for example, the additional innovation may or may not lead to a financial gain for employers or workers.
- Improved public image of the employer. Other potential benefits that may accrue to an employer stem from the effects of an improved public image. More customer demand may result from an enhanced company reputation when the employer is seen as willing to respond to a perceived social responsibility of employing disabled workers.

#### *Examples of potential costs, to employers, of employing disabled people*

The potential costs to an employer of employing a disabled worker are as numerous as are potential benefits. Examples include:

- A financial cost if the worker produces less in revenue than he or she is paid. This potential cost is, of course, the opposite of the first potential benefit listed earlier. In many instances, we would expect the revenue that the worker generates for the employer would be less than the wage for only a short period of time, regardless of whether or not the worker is disabled. Both non-disabled employees and disabled employees are likely to make progress toward greater productivity over time. But, if this does not occur to the employer's satisfaction, the employer may still feel pressure to retain the worker, especially a disabled one, because of fear of a potential lawsuit.

- The costs of workplace adjustments. The most obvious category of costs that might arise is the cost of adjusting the workplace to meet the special needs of the disabled worker. Under some circumstances, the DDA may require the employer to incur these costs. These costs may be one-time costs, such as the purchase of new equipment or modifications to the facilities. Depending on the disabled worker's needs for an adjustment to perform a specific job, this type of investment by an employer or other organisation could be made relatively quickly when the need arises; for example, when a new employee begins work or when a current employee develops a need for an adjustment (because of the development of a new disability or the progression of a previously-existing one). Other workplace adjustments may be ongoing costs. Examples include payments to mentors or other support workers or the need for a special work schedule that allows a disabled person to have fewer work hours in a day or more frequent breaks during the day. Some adjustments, such as the installation of a wheelchair ramp, the purchase of special equipment, or the development of flexible work schedules, may benefit other employees or customers as well as the one to whom the adjustment was originally targeted. Thus, an employer might perceive, for example, that the impetus for an adjustment is to accommodate a specific employee; in some circumstances, however, the adjustment might more appropriately be viewed as leading to benefits for a wider group of people.
- Decreased staff cohesiveness. Although a potential benefit listed earlier is that staff cohesiveness may increase, staff cohesiveness may actually decrease if perceptions of unfairness arise or if the diversity in the workplace is not welcomed. For example, if non-disabled workers experience decreased morale because they have the perception that disabled workers' are receiving 'special treatment', then employers are also likely to suffer as a result. It is possible that morale problems are more likely to arise when duties are reassigned from disabled to non-disabled workers or when employers make other adjustments for disabled workers, especially those whose health conditions are not apparent to other workers. Alternatively, a decrease in staff cohesiveness may arise if non-disabled workers have negative stereotypes of disabled people. Although the DDA legislation is intended to prevent the discriminatory treatment of workers in the workplace, the legislation cannot, realistically, completely change the attitudes of co-workers and prevent all discriminatory treatment that is subtle in nature.
- A cost due to uncertainty in output and potential for more sick leave. A more subtle type of cost that an employer may incur is costs due to uncertainty in the amount of output that the worker will produce. Employer financial risk may increase if the productivity of disabled workers is more difficult for employers to forecast than is the productivity of non-disabled workers. For example, an employer may be uncertain about whether or not company products can be delivered to a customer within a certain time frame if a worker cannot maintain a consistent, predictable schedule. Related to this is that employing a disabled worker may lead the employer to make additional sick leave or statutory sick payments if an employee is unable to come to work.

### *Challenges in predicting costs and benefits*

Potential monetary costs and benefits may vary in how easy or hard they are to predict accurately. For example, the cost of a one-time purchase of equipment may be easy to predict. In contrast, other costs also might be hard to predict. This is especially likely to be the case when a worker's health limitation has the potential over time to become worse or better in an unpredictable way or when the effects of the health condition are episodic. For example, a disabled worker's need to be out of the office may be hard to predict. But, even when the effects of a health limitation are expected to be stable over time, predicting its effects will possibly be challenging when the onset of the disability is recent or the disabled person is in a new job. This is because there is great variability across individuals who have the same health diagnosis and across jobs that officially are in the same occupation and industry.

In some instances, it may be hard to determine whether the net effect of greater employment of disabled workers on a certain aspect of the workplace is positive or negative. As discussed earlier, for example, this may be the case for staff cohesiveness. Some co-workers may react positively while other co-workers might react negatively. The reaction may depend on many factors, such as the personalities of the individual staff; the level and quality of the prior interactions among staff; what, if any, adjustments (such as a reallocation of work duties) are made; how information about the disabled worker and the adjustments is communicated to the co-workers; and the potential for rehabilitation or the expected progression of the disability. In addition, the type of disability is especially likely to be important. If a disability is not clearly visible to the co-workers, as in the case of many mental health conditions, co-workers may be more likely to react negatively. Similarly, if the co-workers perceive that the disabled person is responsible for causing the disability, as might be the case with some diseases that are strongly correlated with behaviour, co-workers might be more likely to react negatively. Ultimately, the implications of an employee's disability on staff cohesiveness might be positive if it leads to increased collaboration among co-workers or a sense among employees that the employer cares more about them; it might be negative if other staff think the disabled worker is receiving privileged treatment or that the disabled person is held to a lower standard of performance.

### *Empirical issues*

Ultimately, whether these potential costs and benefits occur either generally or in a specific employment situation is an empirical matter. Chapter 4 of this compendium provides both fuller lists of potential costs and benefits and evidence on whether they occur. The evidence is strongest when it pertains to the costs of making adjustments for disabled workers. Evidence about workers' productivity or the effects of employing a disabled worker, compared to a non-disabled worker, on the workplace environment and on an employer's reputation in the community, generally is harder to find, since many of these potential costs and benefits are likely to be difficult to examine empirically.

Even when general patterns about costs and benefits have been measured, however, their sizes are likely to vary dramatically across numerous dimensions, such as workers' individual characteristics; companies' size and industries; job-specific characteristics, such as the occupation and degree of substitutability of the workers; and general local or business cycle economic conditions. It is extremely unlikely that all potential costs and benefits materialise either in most employment situations or in a specific situation.

### **2.3.2 Employer expectations about disabled and non-disabled job applicants**

If the framework presented in Section 2.2 is taken literally, one might assume both that employers collect an extensive amount of information on job applicants and workers and that they conduct complex calculations that weigh numerous potential costs and benefits mentioned in Section 2.2.1 prior to their deciding whether to employ or retain a worker. Thus, although the framework is useful for thinking about the factors that employers may take into account when they make employment decisions, it is likely to be very different from how employers operate in practice. The ability of the employer to add a new staff member to the company will depend on many logistical and operational issues. Logistical issues include how much advance notice there was of the need for a new worker, how specialised the job requirements are and how common it is for workers to have the necessary skills, the opportunities that the employer has to advertise the job opening, the salary package that the employer can offer, and many other considerations. When a small business owner needs to add a worker to expand the staff, or replace a worker who has left, he or she may need to squeeze in the time to recruit a worker among many other tasks that compete for his or her time. In contrast, larger employers are more likely to have Human Resources Staff (HR) who have a portion of their time dedicated to recruitment. Nevertheless, even in the best of circumstances in which these staff have ample time and resources to recruit a worker, the actual decision-making process is likely to differ dramatically from what is posited in the framework.

#### *Signaling in recruitment decisions*

Operational issues also are likely to mean that an employer will use a simpler recruitment process than is specified in the framework. Most notably, employers are likely to be uncertain about a job applicant's productivity and have difficulty predicting future costs and benefits accurately (Spence, 1973, [356]). In practice, the employer develops expectations based both on information it gathers during a potential worker's application process and on its experience with workers with similar characteristics. It uses these expectations to predict the benefits or costs under different possible employment situations and to decide whether to employ one worker or another worker.

A substantial body of literature is devoted to how employers use easily observable workers' characteristics and other sources of information to develop expectations about a job applicant's likely productivity in a job and the length of time that the

applicant would stay with the job if employed (Schwochau and Blanck, 2000, [274-279]). These characteristics, often called 'signals' in the economics literature, are viewed as predictors of less easily observable characteristics that the employer would like to know about (Spence, 1973, [357]). For example, the completion of a post-secondary education by a job applicant may not be relevant to whether or not the applicant can perform a job satisfactorily, but the employer might view completion of education as an indicator of the applicant's innate intelligence or an ability to complete a long-term project. Likewise, an applicant's having held a job for a long time may be viewed as indicative of loyalty to an employer or of perseverance, even if the prior job is very different from the one the employer wants to fill. The presence of a signal does not inherently or directly mean that the worker possesses the trait in which the employer is interested; rather, the employer perceives the signal as being correlated with the trait and uses it in the decision-making process.

### *Disability and signaling*

Researchers have often speculated that employers interpret the signals of potential workers to the benefit of some groups and to the detriment of others. For example, employers may be more likely to employ workers with traits similar to those possessed by the employer or others with whom the employer is familiar. Some models of behaviour specify that employers who are well acquainted with people with the same characteristics (such as age range, race/ethnicity, or disability status) as a potential worker, or who themselves have those characteristics, are able to measure the signal more precisely than are employers who have little contact with similar people (Cain, 1986, [728]; Lundberg and Startz, 1983, [344]).

Under this theory, employers who are unfamiliar with a specific disability and who have not had much contact with disabled people (through the work environment or social experience) are less likely to employ disabled than non-disabled applicants, because such employers may have assessed inaccurately the costs of employing someone with that health condition (Unger, 2002, [9]). Since disabled people are underrepresented among the employed, and especially among senior staff involved in employment decisions (Smith and Twomey, 2002, [423]), the use of signaling by employers probably works to the disadvantage of disabled persons. Although the DDA prohibits this type of behaviour, monitoring compliance with the legislation poses operational challenges (Gooding, 2000, [536]; Prime Minister's Strategy Unit, 2005, [186]).

### *Disability and other worker traits*

Disabled job applicants can face additional challenges in obtaining jobs if they have had time out of the workforce or if they have been physically and socially isolated as a result of their disability (DWP, 2002, [13-14]). The need to train or retrain a disabled worker who has recently been out of the labour force may be a particularly important consideration for employers, even if the worker has a long work history prior to the onset of the disability. In addition, disabled people are less likely to have strong educational background and credentials or have a good work history (Grewal

*et al.*, 2002, [106, 140, 142]). Some of these characteristics, which may be negatively perceived by employers, may have arisen because of the worker's health condition, even if employers do not recognise the connection between the health problem and the other characteristic. This is especially likely to be the case if the health condition is congenital or if it developed when the worker was much younger, since the health condition could affect the worker's ability to do well in school or to have maintained employment in the past. Other characteristics of job applicants also may be related to the health condition; for example, an applicant's difficulty communicating clearly and succinctly may be the result of a non-visible (hidden) disability that the applicant is reluctant to disclose to the employer, for fear that it might affect his or her likelihood of getting a job offer.

The social isolation of many disabled people also may make them less likely to enjoy the personal connections that help many people secure jobs. Research suggests that disabled people are less likely to have networks of friends and family, which can be useful or obtaining job interviews and getting job offers (Grewal *et al.*, 2002, [99-102]; Smith and Twomey, 2002, [426-427]). An employer's use of personal connections in the employing process can serve as an informal screening process. Both the employer and the job applicant are likely to have more comprehensive and higher-quality information about each other; the employer is better able to assess whether the applicant is a suitable worker, and the job applicant is better able to assess the suitability of the job to his or her interests and needs. Although employers' use of personal connections may be an appealing approach, therefore, it can serve as an unintentional barrier to disabled people and others who do not have those connections. It is likely that the barrier exists more frequently with small employers who are more likely to have informal policies and procedures for recruiting staff.

### *Employer preferences*

All these factors that lead to uncertainty in an employer's decision-making may play out differently for different types of employers. Some employers may prefer less risk and a less beneficial outcome (on average) to more risk and a more beneficial outcome (on average), while other companies may prefer the opposite. The way in which an employer values non-monetary factors, such as its public reputation or its concept of fairness, may also be important in determining how it approaches the risk in employing a disabled or non-disabled worker. Finally, the overall strength and volatility of the labour market (and therefore the demand for an employer's product, the number of workers needed, and the job applications that an employer receives) will influence the decision-making.

### **2.3.3 Employer expectations about retaining disabled and non-disabled employees**

Although the same general framework can apply in assessing the costs and benefits to an employer of retaining a worker (compared with recruiting a worker), the importance of these factors may differ. When an employee has already been working for the employer, the employer has had the opportunity to assess that

worker's productivity and costs. Over time, the employer gains more accurate information about how productive a worker is, but it still cannot easily calculate the loss in productivity due to the effects of a disability or the predicted value of retaining the worker in the future (Berger *et al.*, 2001, [18-24]).

The onset of a disability or illness for a worker already employed by an employer can change the employer's calculus regarding the value of retaining that worker. The effects of the disability may or may not affect the quality and quantity of work the employee performs or the costs the employer incurs. As with the employing of a job applicant, the presence of a disability by a worker who is currently employed can make predictions about the future profitability of retaining a disabled worker especially uncertain, particularly since some conditions may lead to repeated episodes in which the worker is temporarily not working (Baldwin and Johnson, 2001, [13]). Challenges the worker will face, and the special adjustments that will be required to help the worker become or remain productive, may vary based on the need of the worker and the work environment (Goldstone and Meager, 2002, [49-50]). This may be the case especially if the effects of the disability vary widely across people who have that specific type of condition or if compliance or non-compliance with a treatment regimen greatly affects health outcomes.

While it may have been advantageous to the employer to retain the employee prior to the onset or progression of a disability, this may or may not still be the case. As discussed in Section 2.2.2, a worker who is already on the job is likely to have job-specific skills that will make it more desirable for an employer to incur costs to retain that person. The financial importance of retaining a worker with job-specific skills will depend on how much revenue the worker is expected to produce compared to the wages that he or she will be paid. In addition, non-monetary considerations, such as loyalty to an employee who has become disabled, may influence how an employer responds to the situation. It may be that small employers are more likely to value the non-monetary interpersonal considerations more than are decision-makers at large corporations (or, at least to have the flexibility to take non-monetary considerations into account). However, it also may be that small employers are less able to absorb the financial costs of any adjustments that may be required.

### *The DDA's influence on retention decisions*

Depending on the type of disability and the nature of the work that needs to be done, legal and regulatory considerations may affect an employer's responsibilities towards a worker and limit its ability to discharge him or her. The DDA definition of disability does not hinge on whether or not the disability affects the employee's ability to perform a job. For example, an employee may have a non-visible (hidden) disability, which an employer is not even aware of. In some instances, it is possible that the effect of the change in health status has no or only a very small effect on a worker's ability to perform a job; in this case, an employer might still change the employment relationship because of discriminatory preferences, and in violation of the DDA. In other cases, the change in health status may have a more significant effect on the worker's ability to perform one or more of the job tasks. In these

instances, the DDA regulates the way in which employers may respond. As explained in Section 2.3.1, an employer is required to provide reasonable adjustments so that the worker is not at substantial disadvantage compared to non-disabled workers.

### *Other factors affect retention decisions*

However, other factors can reduce an employer's desire to keep employing a disabled worker. A worker approaching retirement may have to be replaced within a few years anyway, so the employer's decision could be to replace the worker now rather than later. In addition, a cyclical downturn in business might encourage an employer, as part of a broader workforce reduction strategy, to shed this worker along with other workers, particularly those whom the employer is paying more in wages than the amount of revenue or value that the worker produces for the employer. The relationship between having a disability and having relatively little work experience also comes into play during economic downturns, because employers frequently operate in a 'last in, first out' approach to layoffs. Since disabled people, as a group, are less likely to have lengthy prior work experience, they are more likely to be laid off when an employer needs to reduce its workforce (Grewal *et al.*, 2002, [142]).

Although workers' pay does not always equal the revenue that the workers produce for the employer, employers will try to ensure that employing a worker will lead to financial and non-financial benefits to the employer over time.

## 2.4 Summary

This chapter is intended to provide a framework for thinking conceptually about the employment of disabled people. Given the complexity of the issue, the framework is inherently, and intentionally, general in nature. Regardless of whether or not workers are disabled, they can bring to the workplace a wide range of skills, which are based on the unique aspects of their knowledge and prior experiences. The skills necessary to perform a job also vary quite considerably; some skills are of a technical nature while others are not. The necessary skills are likely to depend on the occupation of the job, the industry of the employer, and the unique environment in which the employee would work. Because specific workers are matched to specific jobs, the potential costs and benefits of employing a disabled worker, compared to a non-disabled one, are numerous as well. The empirical evidence on the issues raised in this chapter is discussed in Chapter 4.

The discussion presented in this chapter suggests that it is likely to be hard to identify whom the best person is for a job, even when employers want to recruit that person (Roberts *et al.*, 2004, [2]). Employers probably cannot take the time and effort to measure precisely all of a worker's skills. Nor can they predict future events that will affect how a worker will perform in a job or how the broader workplace will be affected by the presence of a specific employee. Even though employers are likely to

consider a range of alternatives as they make a decision about recruiting a specific person, their options may be limited if they face a pressing need to quickly employ a worker or if few candidates apply for the job. The uncertainty about retaining a current worker is likely to be less: generally, employers like to retain current workers, who possess job-specific skills that are valuable to the employer. However, changes in a worker's health status or changes due to other reasons may affect an employer's preference for retaining a worker. The DDA, as well as the employers' unique preferences, will influence how an employer responds to changes when they arise.

# 3 The influence of definitions of disabilities on the workplace

**Bruce Stafford**

## 3.1 Introduction

There are many different definitions of disability. Indeed, definitions are contested, they change over time, and they vary from country to country (Mabbett, 2005). Employers, employees, policy-makers, and the judicial system often differentiate between disability, incapacity and impairment, and these differences can be non-trivial. This chapter seeks to explore definitions of disability and incapacity for work as they are used by, and affect, employers. There are, in particular, two definitions highly pertinent to employers: the Disability Discrimination Act (DDA) definition of disability and the Statutory Sick Pay definition of incapacity.

Although employers and employees could, if asked, say what they understand disability to mean, at the conceptual level the term is very difficult to define. There are different theoretical models of disability, and conceptually it can be distinguished from incapacity, impairment, illness, disease, and sickness. In addition, there are administrative and legal definitions of disability and of incapacity that draw upon these models and concepts. The plethora of definitions is due to the fact that the terms are used in different contexts and serve dissimilar purposes. For example, administrative definitions of incapacity are concerned with entitlement to certain benefits and tax credits, whilst legal definitions of disability are focused on the civil rights of disabled people. It follows that employers encounter more than one definition of these terms.

However, in practice, there are two definitions that have important implications for employers: the DDA definition of disability and the Statutory Sick Pay definition of incapacity. Employers' legal responsibilities towards employees with disabilities and

health conditions are built upon these legal and administrative definitions, and the consequences to employers of not knowing them can be significant. For example, employers unaware of how the DDA defines disability and thus ignorant of their duties under the Act risk legal action for discriminating against a (potential) employee. Yet research shows that some employers are indeed unaware, and instead adopt for disability a rather narrow definition that emphasises physical and sensory impairments. Employers also need to understand the requirement to make reasonable adjustments under the Act. Furthermore, there are employees who do not describe themselves as 'disabled' but who nevertheless have rights under the Act, and employers need to be aware of their obligations in this situation. More generally, people's understandings of disability are critical, because they can shape responses to it; in particular, they can affect how employers and non-disabled employees react to disabled employees. Thus the way disability and incapacity are defined can most certainly have non-trivial implications for employers.

Definitions of these terms are also critical to researchers. The problematic nature of the definitions means that researchers must be clear about how they are defining disability and related terms. Precisely defining and operationalising disability and related concepts in research can be very challenging. Because employers tend to define disability rather narrowly, researchers must, when reporting on disability in the workplace, ensure that readers are aware of the meaning of the terminology used if the research is to have an impact on policy and practice. Moreover, a review of the costs and benefits of employing 'disabled people' will be sensitive to the definition of disability used, because it will affect the size of the population that could be considered in-scope for any cost and benefit estimates (see, for instance, Bajekal *et al.*, 2004, for how different definitions of disability can influence population estimates).

Conceptually, the terms disability and incapacity can be distinguished from impairment. But because both disability and impairment are often used interchangeably in practice, there is a risk that all impairments will be thought of as disabling, irrespective of a person's environment and circumstances. In a workplace setting, however, employers can implement aids and adaptations that eliminate disabling barriers so that people with impairments can work productively. Moreover, the confusion over disability and impairment may well underpin the narrow definition of disability noted earlier, with only visible impairments being considered disabilities. Where the two terms are used interchangeably, people with unseen impairments may erroneously be thought not to be disabled as defined in the DDA.

This chapter begins by briefly considering the main models of disability and selected key concepts (Section 3.2). The principal definitions of disability and incapacity that employers might encounter are covered in Section 3.3. Given employers' concerns about productivity, we cover both sickness absence and sickness presenteeism in Section 3.4. The evidence on employers' understanding of disability and awareness of the DDA (Section 3.5) is then highlighted. The issues around the disclosure of disability by employers and employees are also briefly discussed (Section 3.6).

Finally, some conclusions are drawn in Section 3.7.

## 3.2 Models of disability and some key terms

### 3.2.1 Main models of disability influencing social policy

There are several theoretical perspectives on disability, and each implies a different definition. The five best-established models follow (described also Oliver, 1996):

- The **medical model** defines disability in terms of a person's impairment. Disability (that is, the limitations and restrictions on disabled people's everyday lives) is seen to reside within the individual (that is, their impairment) rather than within society. Medical treatment, care or support provided by professionals is seen as the solution to the 'condition'. Thus the inclusion of disabled people in society is achieved by 'curing' or 'adjusting' the individual, rather than by adjusting society to accommodate the disabled person. Often disability and impairment are regarded as the same thing in the medical model.
- The **charity model** is paternalistic and depicts disability as a 'tragedy' for the individuals concerned. However, under this model, non-disabled people can and should help disabled people 'cope' with their situation.
- The **social model** has developed through the writings of disabled people and sees disability as a social construct. It is the way in which society is organised that disables people with impairments and health conditions and excludes them from life in the mainstream (Barnes, 2000; Oliver and Barnes, 1998). Unlike the medical model, disability is not an attribute of a person's functional abilities. Disability refers to the 'disabling barriers' that arise from the *'attitudinal, economic, and/or environmental factors that prevent disabled people from experiencing equality of opportunity with non-disabled people'* (Joint Committee, 2004 [20-21]). Collective social action is required so that disabled people can participate fully in all aspects of life. Hence disability becomes a question of human rights and thus a political issue. Unlike the medical model, disability is not seen to arise from a person's impairment. However, like the medical model, there is recognition that the disabled person has a body structure or function (an impairment) that acts differently from that for non-disabled people.
- The **bio-psychosocial model** is to some extent an integration of the medical and social models. In the bio-psychosocial model, disability is a process, and the model deals with the complexity of disability by incorporating the physical, psychological, and social factors of other models. The model also gives people some scope for agency through their own effort, behaviour, and motivation. A literature review by Peters *et al.* (2003 [10]) concluded that the *'old medical model of disability assessment does not work as well as the bio-psychosocial approach'*. Howard (2003 [6]) points out that the Government's Green Paper,

*Pathways to Work* (DWP, 2002) was influenced by the bio-psycho-social model. The bio-psycho-social model also underpins the revised taxonomy of disability, the *International Classification of Functioning, Disability and Health* (ICF) (WHO, n.d.), issued by World Health Organisation in May 2001 (WHO, 2002 [10]). This classification system is designed to ensure that people's experiences are described positively, using a standard language and framework (WHO, n.d.).

- **Civil rights model of disability** sees social institutions as failing to adapt to the needs of disabled people, because people have '*both conscious and unconscious aversions to people with disabilities*' (Waddington and Diller, 2000). The aim of disability policy is to tackle discrimination against disabled people by reforming (or mainstreaming) social institutions so that disabled people are included. In the UK, the introduction of the DDA 1995 shifted the emphasis away from a medical approach toward a societal or social approach that seeks to adapt social and economic institutions so that everyone's abilities are accommodated (Priestley, 2000). However, for employers and employees, there can be difficulties in using anti-discrimination legislation for disabled people (in comparison with race and sex rights legislation) because the definition of disability under the Act is not widely known, and (potential) employees may not perceive themselves as disabled. These issues are discussed further in subsequent sections.

### 3.2.2 Some key concepts

*The legal and administrative definitions of disability and incapacity for work are discussed in Section 3.3. This sub-section outlines some other key concepts, namely, impairment, disease, illness, and sickness.*

#### *Impairment*

An impairment, according to the WHO, is defined as a significant deviation, anomaly, defect, or loss in body function or structures (WHO, n.d. [12]). The WHO definition of impairment is based on the biological sciences. As such, it represents a recognised deviation from a biomedical standard in the population. The Disability Rights Commission (DRC) has a similar definition; an impairment is '*a limitation arising from a loss or abnormality in the function of structure of the body*' (DRC, 2005a [4-5]). The WHO also point out that:

*'Impairments can be temporary or permanent; progressive, regressive or static; intermittent or continuous. The deviation from the population norm may be slight or severe and may fluctuate over time.'*

(WHO, n.d. [12])

Impairments can be congenital; they can also arise during child development or result from accidents or diseases that may or may not be work related. For some people, one impairment may lead to others.

In the social model, but not in the medical model, impairment and disability are separate concepts. Nonetheless, the notion that a disability arises from an impairment imposing a limitation on someone's ability to carry out normal day-to-day activities is found in the Disability Discrimination Act 1995 (see Section 3.3.1 and Annex A). It follows that such a definition is also depicting disability as a departure from some population norm or standard (Woodhams and Corby, 2003 [174]).

### *Illness, disease, and sickness*

Illness refers to the symptoms that people experience, whilst a disease is a medical condition that medical science can diagnose (Alexanderson and Norlund, 2004 [16]). Whilst they may overlap, they are not necessarily the same. A person may have an illness that a doctor is unable to diagnose as a disease. Similarly, someone may have a disease but not feel ill. Both these concepts can be distinguished from 'sickness', which is the social role adopted by someone with an illness or disease. In most (but not necessarily all) cases, people taking on a sick role have an illness and/or a disease. (Reasons that people might take on a sick role without having an underlying illness or disease include being misdiagnosed by a doctor or claiming to be sick when they know they are not.)

At any one point in time, a sub-set of those who are 'sick' will be absent from paid work (sickness absence), and a further sub-set will continue to work notwithstanding their illness or disease (sickness presenteeism). Sickness absence and presenteeism are discussed further in Section 3.4.

## 3.3 Definitions of disability and incapacity encountered by employers

Employers can potentially encounter a number of definitions of disability and of incapacity to work. The main definitions that employers can encounter are:

- The Disability Discrimination Act 1995 definition of disability
- The Statutory Sick Pay definition of incapacity to work
- The Industrial Injuries Disablement Benefit definition of incapacity to work
- The Incapacity Benefit (IB) definition of incapacity to work

The salience of these definitions to employers will vary. The definitions of disability outlined in the DDA and of incapacity to work in Statutory Sick Pay regulations are likely to be the most relevant to employers. This section examines definitions of disability and incapacity that may affect businesses to varying degrees. However, it is acknowledged that there are other schemes and programmes (for example, Blue Badge parking) that are not directly employment-related and other disability benefits, such as Disability Living Allowance, that employers may not know an employee is receiving.

### 3.3.1 The Disability Discrimination Act 1995 definition of disability

*The Disability Discrimination Act 1995 came into force on 2 December 1996. Part 2 makes it unlawful for an employer to discriminate against current or prospective disabled employees. Discrimination is unlawful in all areas of employment, including recruitment, terms and conditions of service, opportunities for promotion, training or any other benefits, and dismissal (for further details see Chapter 1).<sup>7</sup>*

Since its enactment, the Act has evolved through judicial interpretation and changes to the legislation. Employment Tribunals enforce claims under Part 2 of the Act, with a right of appeal on a point of law to the Employment Appeal Tribunal and then the Court of Appeal.

The DDA draws upon both the medical and social models of disability. Its definition of disability stems from the medical model:

*'The DDA uses the term disability to mean impairment. The legislation only offers protection from discrimination to those who can prove they have an impairment and that it has significantly adverse effects on certain "normal day-to-day activities". It is not therefore the experience of disabling barriers which brings someone within the remit of the legislation but the nature and level of impairment.'*

(Joint Committee, 2004 [21])

However, the duty under the Act to make reasonable adjustments is based on the social model and recognises that employers have a responsibility to address 'disabling barriers' (Joint Committee, 2004 [23]) (see also Woodhams and Corby, 2003 [164-165, 168]).

The Act defines as disabled a person who has:

*'a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.'*

(DDA 1995 S1(1))

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<sup>7</sup> The definition of employer is broad. For example, it includes contract workers, apprenticeships, office holders, partners in firms, barristers and advocates, qualification bodies, trade organisations, police officers, fire fighters, prison officers, and people providing work experience. Certain employment on board ships, hovercraft, and aircraft is also covered. Since 1 October 2004 the duties imposed by the Act apply to all employers, except the Armed Forces, irrespective of their size. The Act covers temporary and permanent workers, whether working part- or full-time. Employers are also liable for the unlawful actions of agents, such as health advisers or recruitment agencies.

This means that for a person to be covered by the Act:

- The person must have an impairment that is a mental or physical condition
- The impairment must have adverse effects that are substantial
- The substantial effects must be long-term
- The long-term substantial effects must adversely affect the person's ability to carry out normal day-to-day activities

These four aspects of the definition of disability in the Disability Discrimination Act 1995 are discussed further in Annex A. The implication of the last three of these dimensions to the legal definition is that merely having an impairment is not sufficient to confer the status of disabled upon a person; rather, the impairment must impart a significant disadvantage on the person compared with a non-disabled person. Moreover, some conditions, such as hayfever, are not regarded as impairments under the Act, and special provisions apply to progressive conditions and severe disfigurement that modify how the 'substantial effect' criterion is applied to some people with these conditions (see Annex A for details).

#### *Scope of the Disability Discrimination Act definition of disability*

The legal definition of disability in the Disability Discrimination Act 1995 is intentionally relatively broad, and in Autumn 2004 about 5.7 million people of working age in Great Britain (16 per cent) were likely to fall within it (DRC, 2005b [5]). As 2.7 million people in work are disabled according to the DDA definition:

*'It is likely that in most workplaces there are people who already meet the definition of disability within the Disability Discrimination Act and that most employers will encounter people who develop a disability or health condition while in work.'*

(DRC, 2005a [1])

However, whether the Act's definition of disability applies in particular cases can be contested at employment (appeal) tribunal hearings. Leverton (2002), in updating a previous study by Meager *et al.*, (1999), monitored all known Part 2 tribunal cases in the UK between 10 July 1998 and 1 September 2000 (8,908 cases). This revealed that of the 938 unsuccessful cases the most common reason (26 per cent) for a case being unsuccessful was that the tribunal found that the applicant was not disabled (Leverton, 2002 [v]). Of the 244 claims rejected because the tribunal did not find the applicant disabled (Leverton, 2002 [15])<sup>8</sup>:

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<sup>8</sup> Percentages sum to more than 100 because cases can be rejected for not satisfying more than one aspect of the Act's definition of disability.

- 54 per cent were because the effects of the impairment were not substantial
- 45 per cent were because there was no effect on day-to-day activities
- 26 per cent were because the impairment was judged not to be long-term
- 26 per cent were in cases where no reason was specified

The monitoring study by Hurstfield *et al.*, (2004) included a legal analysis based on a review of key cases decided by the Employment Appeal Tribunal and Court of Appeal between April 2001 and March 2003. Hurstfield *et al.*, (2004 [14]) found that the burden of proof on applicants at employment tribunal cases to establish that they were disabled under the Act was a major barrier. Indeed, it appears that in tribunal cases, employers' legal representatives were increasingly challenging applicants' status as disabled (Hurstfield *et al.*, 2004 [15]). Unsurprisingly, there was '*widespread reliance on medical evidence by tribunals*' (Hurstfield *et al.* 2004 [331]). Moreover, the legal analysis showed that '*the burden on claimants to show mental impairment by reason of mental illness is heavy in comparison with that needed to show physical or other mental impairment*' (Hurstfield *et al.*, 2004 [57]). This was because of the need to establish that the mental illness is '*clinically well recognised*', which requires a detailed diagnosis of the mental illness (Hurstfield *et al.*, 2004 [313]). However, since December 2005, people no longer have to demonstrate that their mental illness is '*clinically well-recognised*' (see Annex A for further details).

The use of medical evidence in employment tribunal cases can be problematic for appellants. For example, when the presence of a disability is disputed and where both the employer and employee provide medical evidence, there is uncertainty about which source the tribunal will believe to be the more accurate (Hurstfield *et al.* 2004 [197]). Hurstfield *et al.* (2004 [331]) emphasize the importance of appellants' securing of medical evidence that is informed by the Act's definition of *disability*. Meager *et al.* (1999 [3]) have also highlighted that the cost and stress of providing medical evidence are barriers that often prevent potential appellants from seeking legal redress (see also Hurstfield *et al.* 2004 [195-196]).

### 3.3.2 Defining incapacity to work

Most employers will at some point have employees who are incapable of work as a result of a disease or injury. The employees affected may have an entitlement to one of the following incapacity-related benefits: Statutory Sick Pay, Industrial Injuries Disablement Benefit, and IB.<sup>9</sup> (Details about these benefits can be found in Child Poverty Action Group (CPAG) [2005], Greaves [2005], and Department for Work and Pensions (DWP) [2005].) Employers pay Statutory Sick Pay to employees for up to a maximum of 28 weeks of incapacity for work. An employee who continues to be sick after this period may be entitled to claim IB, although there are other routes to

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<sup>9</sup> Severe Disablement Allowance was abolished on 6 April 2001 and is not considered in this chapter.

claiming such a benefit, for instance, via the 52-week linking rule for former claimants. Industrial Injuries Disablement Benefit is payable to claimants who have suffered an industrial injury or have a 'prescribed disease'. Of these benefits, employers are likely to know most about Statutory Sick Pay, as they administer the benefit along with HM Revenue and Customs. Employees claim the other benefits from the DWP, and employers have no direct involvement in assessing a person's eligibility.

As defined by HM Revenue and Customs and DWP, 'incapacity for work' is an administrative categorisation based on medical criteria to determine a person's entitlement to benefits. Different tests of incapacity for work or assessments of loss of faculty apply for Statutory Sick Pay, industrial injuries benefits, and IB:

- Statutory Sick Pay. An employee must be 'incapable of work' that s/he could be reasonably expected to do because of a '*specific disease or bodily or mental disablement*'. Advice to stop working from a medical practitioner set out on a medical statement is normally taken as evidence of such incapacity for work. This test is, however, similar to the Own Occupation Test (described in the context of IB).
- Industrial injuries benefit scheme (Industrial Injuries Disablement Benefit). As a result of an industrial accident or prescribed disease, the person suffers a '*loss of faculty*', which in turn causes a disability. A loss of faculty is the damage or '*an impairment of the proper functioning of part of the body or mind*' but is not in itself a disability. Rather, it is an actual or potential cause of a disability (Greaves, 2005 [210]). Disability, in this context, is defined as the inability to perform a mental or physical process because of the impairment. A decision maker for the DWP can determine that someone has suffered a personal injury but requires medical advice to determine the 'loss of faculty'; there is no test of incapacity for work.
- IB. A person must be partially or fully incapable of work during a period of incapacity. A person's incapacity to work must be '*by reason of some specific disease or bodily or mental disablement*' and is assessed by two tests:
  - The Own Occupation Test applies to those recently in work with a regular occupation and is a test of a person's ability to do their usual work and consequently is similar to that for Statutory Sick Pay. The test is usually satisfied by having a certificate from a medical practitioner, usually the individual's GP.
  - The Personal Capability Assessment (PCA) applies after the first 28 weeks or from the commencement of a claim if a person does not have a regular occupation. It is a medical test of the extent to which someone with a '*specific disease or bodily or mental disablement is capable or incapable of performing activities as may be prescribed*'. The assessment is based on the person's normal ability to perform everyday physical and/or mental activities over a period of time (for example, sitting in an upright chair with a back but no arms, or coping with pressure). The activities are not specific to paid work or the workplace. Each activity has a list of 'descriptors' that are used to determine

the level of difficulty (or ability) a claimant has in performing the activity. (For example, the activity 'walking' has seven descriptors that range from 'cannot walk at all' to 'no walking problem'.) Issues such as the severity of the condition, and any limitations imposed by pain and fatigue, are also considered. The test sets a threshold (expressed as a number of points) above which *'the effects of a person's medical condition on their functional capacities is such that'* it is held unreasonable to expect someone to work, for social security purposes (DWP, 2005 [5]). Whether someone has passed the threshold is calculated from the points assigned to each of the activities' descriptors.

Being assessed as incapable of one's usual work does not prohibit all forms of work, however. Claimants may undertake certain tasks, such as caring for a relative, domestic work, voluntary work, and Permitted Work (described later in this section, without losing their benefit entitlement.

The test does not cover basic skills or educational qualifications, nor does it refer to any job. Nonetheless, a person with an impairment can be classed as incapacitated, even if the person had recently been in work and so demonstrated an ability to work (Rowlingson and Berthoud, 1996). Whilst someone with an impairment or an illness might encounter difficulties in the labour market, their condition is not necessarily a barrier to work.

The ability of someone to perform work will also be affected by other personal characteristics (for example, their age, qualifications and experience) and their environment (such as provision of aids and adaptations, employer discrimination, and opportunities for re-training) (Rowlingson and Berthoud, 1996). These other factors are not, however, included in the Personal Capability Assessment, which is restricted to considering specific and relatively simple physical and mental tasks.

In addition, doctors produce a separate Capability Report alongside the PCA in Pathways to Work Pilot areas, which were introduced in October 2003 and currently cover 14 districts (see DWP, 2002; Greaves, 2005 [69, 95]; and Laggard *et al.*, 2002). The Capability Report is designed to help Personal Advisers plan a claimant's return to employment. It highlights what a person can do and the help the person might require.

The Government have recently published a Green Paper (DWP, 2006) that proposes replacing IB with an Employment and Support Allowance, simplifying Statutory Sick Pay, transforming the PCA to increase the focus on determining people's capability for work, and developing healthy workplaces.

Whilst these definitions of incapacity can refer to disablement and impairment, the concepts of disability and capacity/incapacity for work are conceptually different and serve different purposes. Critically, disabled people are not necessarily incapable of work, as evidenced by the 2.7 million disabled people (according to the DDA

definition) in employment in Autumn 2004 (DRC, 2005a [5]). In summary, people can:

	Have a disability	Not have a disability
Be capable of work	✓	✓
Be incapable of work	✓	✓ e.g., claiming Statutory Sick Pay due to a broken leg

### *Permitted Work*

As already mentioned, recipients of IB may engage in Permitted Work. Accordingly, the associated definition of incapacity applies to Permitted Work. Recipients are allowed to undertake some work because of the associated therapeutic and 'human capital' advantages that can accrue. In summary, Permitted Work is done:

- Up to 26 weeks, provided the recipient is not working on average for more than 16 hours per week and not earning more than £78 per week. This period can be extended for another 26 weeks. In the 2004 Pre-Budget report, the Government announced that the initial period was to be extended to 52 weeks and that further support and help will be provided to recipients.
- For an unlimited period for earnings up to and under £20 per week (the effect of the National Minimum Wage means that this amounts to working for less than four hours per week).
- In a supported work scheme for an unlimited period and provided the recipient is not earning more than £78 per week.

Only employers offering relatively low-paid work and/or part-time work are likely to have employees benefiting from Permitted Work.

### **3.3.3 Working Tax Credit and disability**

Some employers will pay Working Tax Credit to their employees through the wage packet. Working Tax Credit is a means-tested wage supplement for people in low-paid work, and it comprises several elements, including additional amounts for people with a disability. However, HM Revenue and Customs tells employers only the amount of tax credit to pay per day, so they may not know whether a given employee is in receipt of the disability element. Moreover, between 7 November 2005 and 31 March 2006, payment through the employer was phased out in favour of direct payments to employees.<sup>10</sup> Hence employers may be unaware of the definitions and concepts that underpin the disability element of Working Tax Credit.

To qualify for the disability element, the claimant (or partner) must:

<sup>10</sup> Working Tax Credit is paid direct to the self-employed.

- usually work for at least 16 hours per week; and
- have a mental or physical disability that puts the person at a disadvantage in getting a job;
- have been in receipt of certain benefits (see HMRC 2005a and 2005b).

A Working Tax Credit claimant has a mental or physical disability that puts them at a disadvantage in getting a job if they satisfy at least one of 21 criteria. (Details about Working Tax Credit can be found in CPAG [2005] and HMRC [2005a and 2005b].) There are some similarities between some of the Working Tax Credit disability criteria and the activities/descriptors used in the PCA test of incapacity for work. For example, for the PCA activity, 'manual dexterity' one of the descriptors is '*Cannot pick up a coin which is 2.5 centimetres or less in diameter with either hand*', which is mirrored in the Working Tax Credit criterion: '*Due to lack of manual dexterity you cannot, with one hand, pick up a coin which is not more than 2.5 centimetres in diameter*'. Some overlap is to be expected, as both tests were based upon the methods used in the Office for National Statistics disability survey of 1985. Some of those leaving IB will move into low-paid work and claim Working Tax Credit.

### 3.3.4 Employment programmes

*Employers may also encounter employment programmes aimed at people with disabilities or health conditions. There are a relatively large number of employment-focused services that assist disabled people in moving into, or staying in, work (see Arksey et al., 2002, for a review of provision). Table 3.1 summarises the main programmes delivered by Jobcentre Plus and the definition of disability or incapacity that applies. In general the definitions of disability and incapacity underpinning these employment programmes are those already discussed earlier, namely, the DDA and IB.*

## 3.4 Sickness absence and sickness presence

There is conclusive evidence that worklessness is associated with poor physical and mental health (Coats and Max, 2005 [11]). However, paid work, especially so-called 'bad jobs', can on occasion lead to disease or injury, which may result in sickness absence (*ibid.*). Moreover, productivity can be adversely affected by sickness absence and presence. These are concepts separate from disability, with which most sickness absence or presence is unconnected. Most disabled people are as healthy as non-disabled people, and their absences from work due to sickness are for similar reasons, such as flu or chicken pox (DRC, 2005a).

Sickness presenteeism occurs when workers attend their place of work despite having a disease or injury, and as a consequence work less effectively and possibly spread disease to other workers (see Aronsson et al, 2000; Kivimäki et al., 2003; Stewart et al., 2003; TUC, 2005; Vingård et al., 2004).<sup>11</sup> Sickness presenteeism is widespread. A survey conducted for the TUC in January 2004 showed that 75 per cent of working adults said they had been to work even though they thought they were too ill to be productive (TUC, 2005 [3]). The medical conditions that these attendees can have include allergies, arthritis, asthma, depression, headaches, and hypertension. Such conditions are likely to reduce employees' productivity. To the extent that employers have a general view on what ought to be 'normal' productivity levels (the 'benchmark') for jobs, there will be some variation around these levels due to illness amongst employees at work. For the economy as a whole, the losses in productivity arising from sickness presenteeism may exceed those due to sickness absence (Goetzel et al., 2004).

The factors associated with sickness presence are complex (Vingård et al., 2004 [216]) and include the person's health but also the nature and content of the work and the scope for making adjustments to work demands. Vingård et al (2004) give the example of a neonatal department, where it would be difficult to justify being at work with an ordinary cold, although this would happen in many other jobs. Furthermore, there may be an association between sickness absence and sickness presence. A Swedish labour force survey conducted in 1997 showed that employees with high sickness presence also tend to have high sickness absence (reviewed in Vingård et al., 2004 [216-217]).

Although there are some (international) studies on presenteeism, there would appear to be a gap in research in the UK on its causes and costs to employers (see also Alexanderson and Norlund, 2004 [9]).

Employers expect employees to honour their contracts of employment and attend work. However, employees may be absent from work because a disease or injury would make it unreasonable to require them to carry out their usual activities.

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<sup>11</sup> Vingård et al. (2004 [216]) argue that the concept of 'sickness presence' is problematic because it is diffuse and '*most people of working age with various disorders continue to work since the problem does not affect their work ability. They do not think of themselves as being "sickness present".*' Nevertheless, many of the measures of sickness presence used in research studies rely upon self-reported assessments of illness.

**Table 3.1 Jobcentre Plus employment programmes and associated definitions of disability and incapacity**

Name	Programme/Description	Definition of disability or incapacity
<b>Access to Work</b>	Provides grants towards the costs of the practical support people in, or about to start, employment need to help overcome work-related obstacles stemming from their disability.	Applicant must be disabled as defined by the Disability Discrimination Act 1995 and need extra practical support to apply for and/or do a job
<b>New Deal for Disabled People</b>	The major employment programme available to people claiming incapacity-related benefits. It is a voluntary programme delivered by providers from the public, private, and voluntary sectors that aims to move people with health conditions and disabilities into sustained employment.	<ul style="list-style-type: none"> <li>a) Incapacity-related benefits</li> <li>b) Industrial injuries benefits</li> </ul>
<b>Pathways to Work Pilots</b>	Introduced a package of support within Jobcentre Plus aimed at helping IB recipients enter employment via a series of up to six mandatory work-focused interviews for new IB claimants, plus voluntary participation from IB claimants who have already enrolled for benefits. (In some areas, participation is mandatory for some existing IB claimants.)	Incapacity-related benefits

Continued

Table 3.1 Continued

Name	Programme/Description	Definition of disability or incapacity
<b>Work Preparation</b>	Provides an individually tailored programme to help people to achieve their chosen job goal by overcoming barriers posed by their health condition or disability in the workplace, and to gain skills, experience, and confidence.	Participants must: <ul style="list-style-type: none"> <li>– be disabled as defined by the Disability Discrimination Act 1995</li> <li>– have a defined job goal prior to starting the programme</li> <li>– be on a Disability Employment Adviser caseload. Benefit and employment status is not relevant to eligibility.</li> </ul>
<b>WORKSTEP/supported employment</b>	A supported-employment programme administered by Jobcentre Plus and delivered by about 250 local authorities and voluntary sector organisation providers. The programme emphasises development and movement into open employment though there is also recognition that this would not be suitable for everyone. The Disability Discrimination Act also applies to WORKSTEP placements.	Applicant must be disabled as defined by the Disability Discrimination Act 1995 and must be: <ul style="list-style-type: none"> <li>– in receipt of an incapacity benefit; or</li> <li>– in receipt of Jobseeker's Allowance or National Insurance credits only for six or more months; or</li> <li>– in receipt of Jobseeker's Allowance or National Insurance credits only for less than six months but have been in receipt of IB immediately before this; or</li> <li>– a former supported employee who has progressed but needs to return to the programme within two years or has left for other reasons and returns within one year; or</li> <li>– currently in work but at serious risk of losing their job due to a disability; or</li> <li>– ineligible to claim IB as a non-claimant returner to the labour market or a recent/prospective full-time education/training leaver.</li> </ul>

The Health and Safety Executive (HSE) estimate that in 2003-2004 the number of full-time equivalent working days lost due to work-related sickness absence and injuries in Great Britain was 38.6 million (or 1.7 days per worker) (HSE, 2005 [12]). This estimate comprises:

- 29.8 million working days (or 1.3 days per worker) lost due to work-related or occupational ill-health (Jones *et al.*, 2005; HSE, 2005 [12]).<sup>12</sup> On average, each person with a work-related illness took 22.2 days sick leave in 2003-2004. The most common types of work-related illness were musculoskeletal disorders (1.1 million people taking 11.8 million days) and stress, depression, or anxiety (0.6 million people taking 12.8 million days). These days were lost by an estimated 2.2 million people, with 609,000 (27 per cent) first becoming aware of their illness during the past 12 months. Men took more time off than women, 17.1 million and 12.7 million working days, respectively. The majority of the lost working days were taken by employees (21.8 million) rather than by the self-employed (2.8 million). (These estimates are based on a self-reported household survey, which is a module in the winter 2003-2004 Labour Force Survey (LFS) [Jones *et al.*, 2005].) That 2.2 million people were suffering from an illness that they believed was caused or made worse by their current or past work implies that employers need to address workplace factors as well as policies aimed at managing individual workers.
- 8.8 million working days (or 0.4 days per worker) lost, according to the LFS, were due to workplace injuries (HSE, 2005 [12]).

Public and private sector employers have expressed concerns about levels of sickness absence (Confederation of British Industry (CBI), 2005; Ministerial Task Force for Health, Safety and Productivity and the Cabinet Office, 2004). Although it is often suggested that the public sector has a higher level of sickness absence, on a comparable basis, it has similar rates of sickness absence to larger private organisations (see Ministerial Task Force for Health, Safety and Productivity and the Cabinet Office, 2004).<sup>13</sup> The public sector has lower levels of absence from short-term sickness, but higher rates of absence from long-term sickness, than the private sector. Moreover, sickness absence rates in the UK are not high by European standards (TUC, 2005).

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<sup>12</sup> By implication, these estimates exclude days lost due to non-work-related illness. The HSE acknowledge that *'individual cases of ill-health cannot be defined as work-related in a single, straightforward way, and this will be done differently by different people'* (HSE, 2005 [36]). Accordingly, the HSE uses a variety of sources to derive its estimates. For a summary of these data sources, see HSE (2005 [36-37]). Nevertheless, the HSE estimates may under-estimate the number of working days lost through not counting days where the illness is not attributed to occupational factors and by the under-reporting of (short) absences due to infections (see HSE, 2005 [27]).

<sup>13</sup> It is not the purpose of this chapter to identify the risk factors associated with sickness absences, for a systematic review see Allebeck and Mastekaasa, 2004.

The CBI has expressed concern that some people take unwarranted sick leave (*'staff "pulling sickies"'*), with around 14 per cent of lost days to have been taken unnecessarily (CBI, 2005). However, this CBI estimate is based on a survey of only 528 organisations. Qualitative research by Nice and Thornton (2004 [17-18]) with 53 managers in 22 organisations on attitudes towards short-term sickness absence revealed some lack of sympathy towards employees taking time off for perceived 'minor' complaints such as stomach upsets. Managers could suspect that short-term absences were not always 'genuine', and there was a concern that the seven-day self-certification process encouraged illegitimate and longer spells off work.

However, Nice and Thornton (2004 [30-31]) found that managers' approach to managing short-term sickness absences was in general fairly passive, with more active interventions only beginning at around weeks three to four. Monitoring systems for long-term sickness absence were not always robust (Nice and Thornton, 2004 [35]). Those returning to work often had an interview or discussion with a manager, and whilst some interviews were taken 'seriously', some were cursory (Nice and Thornton, 2004 [32]). Furthermore, some employers and managers can 'misuse' sickness absences by encouraging employees to take time off work when they are in fact capable of working. Mowlam and Lewis (2005), who conducted 24 in-depth interviews with General Practitioners in 2004, reported that some employers were reluctant to follow the doctors' suggestions to make adaptations to help some of their patients return to work. Indeed, employers could use sickness absence as an alternative to dealing with performance matters and so avoid disciplinary procedures (Mowlam and Lewis, 2005 [34-35]).

Moreover, employers have responsibility for employees' working conditions, and there is some evidence that there is an association between some working conditions and sickness absence (Allebeck and Mastekaasa, 2004 [56-61]). Allebeck and Mastekaasa (2004 [60-61]), in their systemic review of the physical workplace risk factors for sickness absence, conclude that ergonomic factors (such as uncomfortable working positions) can lead to higher sickness absence. But other physical environmental factors, such as dust or temperature, are not associated with levels of sickness absence. Furthermore, workers with less control over their work situation are likely to have higher levels of sickness absence (*Op cit.*; see also Coats and Max, 2005). However, the evidence on whether higher demand/levels of stress lead to higher sickness absence is inconclusive (Allebeck and Mastekaasa, 2004 [61]) mainly because existing studies tend to fail to address selection effects (for example, those with the most robust health might be more attracted to risky, stressful jobs) or to control adequately for confounding variables (Allebeck and Mastekaasa, 2004:60).

## 3.5 Employers' understanding of disability

The nature and extent of disabled people's impairments vary widely, and if employers are to avoid discrimination under the DDA, they need to understand this variation (DRC, 2004 [18]). Employers can contravene the Act even if they do not know of a person's disability (DRC, 2004; Leverton, 2002); however the duty to make reasonable adjustments does not apply (see Chapter 1) if it is reasonable to expect that the employer could not have known that a person was disabled. Nevertheless, employers' understanding of the definition of disability and the related the issue of disclosure (see Section 3.6) are critical to meeting their obligations under the Act.

### 3.5.1 Definitions of disability

Research shows that employers adopt a narrower definition of disability than is found in the DDA (Roberts et al, 2004; Goldstone with Meager, 2002; Hurstfield et al., 2004). This narrow definition can mean that employers are surprised when a disability action is initiated, especially if they were unaware that the employee was 'disabled' (Meager et al., 1999 [2]).

Goldstone with Meager (2002 [31-32]), drawing upon a nationally representative telephone survey of workplaces in spring 2001, show that many employers do not know the definition of disability used in the DDA. Respondents were initially asked whether or not disabled people were employed at the workplace. The question was repeated using a definition of disability closer to that in the DDA. The proportions identifying the presence of disabled employees increased from 34 per cent to 65 per cent. The difference between the spontaneous and the prompted definitions of disability was greatest for workplaces with fewer than 100 employees (Goldstone with Meager, 2002 [33]).

Underpinning many employers' spontaneous responses is a definition of disability based on the 'visibility' of a disability; disabled employees were those using wheelchairs and those with impaired vision (Goldstone with Meager, 2002 [32]). This definition ignores, for example, people with diabetes, heart disease, dyslexia, or back problems. The finding that managers' 'spontaneous' definition of disability is based on difficulties with mobility, severe sensory impairments, and sometimes learning difficulties is confirmed by several other studies (see Stuart et al., 2002 [37]; Roberts et al., 2004 [31-32]; Kelly et al., 2005 [30-31]; Aston et al., 2003 [11] and 2005 [32]). For instance, in the qualitative research with employers conducted by Aston et al., (2005 [32]):

*'The key to understanding disability seemed to be experience. Those with little experience used a narrow definition based largely upon physical disability. The more experienced an organisation was at working with disabled people and people with health conditions (whether they were employees or customers of the organisation), the broader their definition.'*

However, when Blunt et al. (2001 [38]) asked employers in a telephone survey whether they agreed or disagreed with the following statement: *'When I think of people with disabilities, I think of wheelchairs, not people with less severe physical disabilities or mental health'*, most (85 per cent) disagreed. The survey was of 1,201 employers with five or more employees operating in establishments in eight of the then ONE pilot areas.<sup>14</sup> Fieldwork was conducted in November and December of 2000, and quotas were set for the sample based on size of workplace, type of employer, and whether the employer had recruited from a Jobcentre within the past three years.

Roberts et al. (2004) explored employers' (and service providers') responses to the DDA 1995. The research was based on a representative telephone survey and face-to-face in-depth interviews with employers (and service providers) conducted in 2003. The survey interviews were conducted with the person responsible for recruiting and managing employees; in multi-site organisations the in-depth interviews were also conducted with head office and local workplace staff involved in recruiting and training. The authors found that there was *'a marked lack of knowledge about disability on the part of employers and staff'* (Roberts et al., 2004 [34]). (Similarly, in the case studies examined by Hurstfield et al. (2004 [17]), employers were unclear about how to apply the DDA definition of disability to people in their own organisations.)

In the Roberts et al. (2004) study, employers were read a list of nine conditions that would qualify as disabilities under the DDA and asked whether they considered somebody with that condition to be disabled. None of the impairments was universally recognised as a disability, with the proportion of employers saying a condition was a disability ranging from only eight per cent for 'facial or skin disfigurement' to 76 per cent for 'mobility problems' (Table 3.2). It is possible that some respondents made assumptions about the severity of the conditions listed in Table 3.2, so that they would have considered a person disabled only if the condition was very severe.

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<sup>14</sup> ONE was a precursor to Jobcentre Plus and provided a 'one-stop' benefit and employment service for claimants of working age.

**Table 3.2 Proportion of employers considering impairments to be a disability**

	<i>Column per cent</i>
<b>Impairment</b>	
Mobility problems: difficulty getting around or moving from place to place	76
Lifting/dexterity problems: difficulties using their hands to lift or carry everyday objects	69
Facial or skin disfigurement	8
Hearing impairment: which affects their ability to take part in everyday speech	63
Visual impairment: not corrected by glasses	69
A mental illness	62
A learning difficulty: used to be called a mental handicap	57
A speech impairment: which affects their ability to take part in spoken conversation	41
A progressive illness such as cancer or Parkinson's disease	33
<i>Base: All employers</i>	<i>2,022</i>

Source: Roberts *et al.*, 2004, Table 2.3.

The qualitative research also highlights some of the respondents' difficulties in understanding the meaning of disability (Roberts *et al.*, 2004 [31-32]):

- Some impairments such as multiple sclerosis caused some confusion because of their variable and intermittent nature. Few respondents were aware of the '12 months or more' aspect of the Act's definition of disability. Some were unclear as to how this time threshold could be applied to symptoms that occurred erratically.
- Some felt that defining an impairment as a disability could be problematic if the condition itself was difficult to define or identify. For example, psychological impairments were considered problematic to define, largely due to the perceived variability of individual cases. Similarly, back problems were reported to be common amongst employees, but there was some doubt as to whether back pain was a disability. Often respondents left it to the employee to define how their back pain was affecting them and to cite any limitations in their performance. However, where employees had rare conditions that staff had little knowledge about, employers either referred cases on to an occupational health specialist or sought more detail about the condition from the employee or a specialist organisation.

- Staff tended to exclude conditions from their definition of disability if they believed an impairment would not adversely affect someone's ability to function in the workplace, for example:
  - Aesthetic impairments, such as facial scarring.
  - Impairments, such as diabetes or epilepsy, that could be controlled by prescribed drugs.
  - Impairments that had in the past caused people to be disabled but were not currently present, although employers of staff who had recently had an operation or been severely injured in an accident were more likely to understand why these employees were covered by the Act.

The research also suggests some of the factors that influence employers' definitions of disability. Some employers in the study were themselves disabled, and their understanding of the meaning of disability was greater where, for their own purposes, they had read the DDA 1995. Moreover, recognition of the impairments in Table 3.4 was higher in larger workplaces (more than 100 employees), amongst those with better-than-average awareness of the DDA, and in voluntary-sector organisations (Roberts *et al.*, 2004 [33]). However, and somewhat surprisingly, past or current employment of a disabled person did not make a major difference in the recognition of the specified impairments as disabilities.

The follow-up survey by Kelly *et al.* (2005 [30-31]) of small employers only, which repeated the question used in Roberts *et al.* (2004), shows a slight improvement in the employers' understanding of disability.

Employers' narrow definition of disability has implications for their assessment of the productivity of their disabled and non-disabled employees. As mentioned in Section 3.4, sickness presenteeism can result in productivity levels that do not match employers' perceived 'benchmark' for jobs. However, to the extent that employers do not address sickness presenteeism, they are, at least implicitly, accepting that actual productivity rates can be lower than what they established as the 'desired' level. Moreover, it follows that benchmark productivity is a standard that employees (who are perceived as 'non-disabled') cannot reasonably attain all the time. Indeed, in some businesses actual productivity rates include the work of people who are perceived by employers as 'non-disabled' employees but who are, in fact, disabled according to the Act.

The employers' more limited perception of disability is not usual; indeed, it can be shared by people covered by the Act (Hurstfield *et al.*, 2004 [77]).<sup>15</sup>

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<sup>15</sup> The Hurstfield *et al.* (2004 [48-51]) monitoring study of the DDA included in-depth case studies of 98 employment tribunal cases and potential cases. These case studies involved 139 interviews with people involved with the cases. Cases were selected to cover a range of circumstances.

### 3.5.2 Employers' reactions to types of disability

The research by Roberts et al. (2004) shows that employers' perceptions of disabled people affect their attitudes towards recruitment and selection. In general, the employers in the study felt it was difficult to employ disabled people. In the telephone survey, employers were asked how easy they believed it would be to employ people with certain impairments in their workplace (Table 3.3).

**Table 3.3 How easy it would be to employ someone with a disability**

Impairment	Column per cent			
	Easy	Difficult	Impossible	Don't know
Wheelchair user	31	39	29	1
Arthritis	42	48	9	2
Facial scarring	90	9	1	1
Profound deafness	24	62	13	1
Impaired vision	8	62	30	1
Learning difficulties	38	51	8	3
Clinical depression	47	44	4	4
Schizophrenia	18	58	15	9
Severe stammer	52	43	3	2
Parkinson's disease	29	53	8	10
Epilepsy	52	36	9	4

Base – All respondents

Weighted base – 2,022

Source: Roberts *et al.*, 2004., Table 2.8.

Except for severe facial scarring, significant proportions of employers, especially those with fewer than 100 employees, said it would be difficult or impossible to employ someone with the impairments listed in Table 3.3. Employers were more likely to say it would be impossible to employ someone with an impairment that directly affected their physical ability. For example, 29 per cent said it would be impossible to employ somebody who needs to use a wheelchair, compared with just one per cent for someone with severe facial scarring.

Those more likely to say it was easy to employ a disabled person were:

- Larger employers (with workplaces of over 100 employees), because their size gave them more flexibility and more jobs compared with smaller companies.
- Employers who had experience employing disabled people (see also Kelly *et al.*, 2005).
- Employers from the voluntary sector, possibly because that sector comprises a high proportion of employers working with disabled people.<sup>16</sup>

<sup>16</sup> The analysis reported in Roberts et al. (2004 [54-55]) does not reveal whether employers' level of knowledge of the DDA affected their perception of the ease of employing disabled people.

In the qualitative research, some staff believed that their organisations made more effort to accommodate existing employees who became disabled than to embrace disabled applicants. The reasons for this included:

- The value placed on current employees in terms of their skills and abilities
- A fear of the implications of current employees taking legal action
- The high cost of replacing an employee

### **3.5.3 Employers' awareness of the Disability Discrimination Act 1995**

Several surveys have investigated employers' awareness of the DDA and knowledge of Part 2 (see Table 3.4). Unfortunately, comparisons between studies and over time are problematic because of differences in samples, and survey and/or questionnaire designs. In general:

- Awareness of the DDA is higher:
  - Amongst personnel specialists (Goldstone with Meager, 2002 [71]; Hurstfield *et al.*, 2004 [83])
  - In larger organisations (Goldstone with Meager., 2002 [72]; Roberts *et al.*, 2004 [23]; Stuart *et al.*, 2002 [22]) or workplaces (Roberts *et al.*, 2004 [23]; Kelly *et al.*, 2005 [22])
  - In the public (Goldstone with Meager, 2002 [72]; Meager *et al.*, 2001 [54]; Stuart *et al.*, 2002 [22]; Hurstfield *et al.*, 2004 [82]), voluntary (Roberts *et al.*, 2004 [23]) and mining (Stuart *et al.*, 2002 [22]) sectors
  - Amongst those currently employing a disabled person (Goldstone with Meager, 2002 [72]; Roberts *et al.*, 2004 [23]; Meager *et al.*, 2001 [54]; Kelly *et al.*, 2005 [23])
  - Amongst those who encourage applications from disabled people (Meager *et al.*, 2001 [55])
- Awareness of the DDA is lower:
  - Amongst line managers (Goldstone with Meager, 2002 [71])
  - In smaller organisations (Goldstone with Meager, 2002 [72]; Roberts *et al.*, 2004 [23]) or workplaces (Roberts *et al.*, 2004 [23])
  - In construction and manufacturing sectors (Goldstone with Meager, 2002 [72]) and in wholesale/retailing (Stuart *et al.*, 2002 [22])

Table 3.4 Surveys of employers' awareness and knowledge of the Disability Discrimination Act 1995<sup>17</sup>

Characteristic	Meager <i>et al.</i> , 2001	Stuart <i>et al.</i> , 2002	Goldstone with Meager, 2002	Roberts <i>et al.</i> , 2004	Kelly <i>et al.</i> , 2005
<b>Sample design</b>	Nationally representative (UK) survey of businesses with fewer than 50 employees	Nationally representative (UK) sample of organisations that were single-site organisations or head offices of multi-site organisations with one or more employees.	Nationally representative (GB) sample of workplaces. The entire organisation had to employ ten or more people; and reported results are for workplaces with five or more employees. More than one workplace within the same organisation could be surveyed.	Nationally representative (UK) sample of workplaces with three or more employees.	Nationally representative (GB) sample of workplaces with three to 14 employees.
<b>Survey design</b>	Quota sample, based on size of organization	Stratified sample, based on establishment size, industrial sector and country	Quota sample, based on workplace size, industrial sector and respondent type.	Stratified sample, based on country and workplace size; Wales, Scotland, Northern Ireland and larger workplaces over-sampled.	Quota sample, based on size of organisation and industrial sector.
<b>Survey design</b>	Telephone survey	Telephone survey with senior people with personnel responsibilities	Telephone survey with line managers at selected locations and individuals involved with personnel issues	Telephone survey with person responsible for recruitment and management of employees	Telephone survey with person responsible for recruitment and management of employees
<b>Completed interviews</b>	1,005	1,693	2,008	2,022	1,002
<b>Workplaces surveyed</b>		1,812			
<b>Fieldwork</b>	Autumn 2000	Autumn 1998	February–April 2001	January–February 2003	January–February 2005
<b>Findings</b>	62% heard of DDA	75% heard of DDA (in GB)	73% heard of DDA	63% heard of DDA/legislation (spontaneous reply)	74% heard of DDA/legislation (spontaneous reply)
	28% fairly or very aware of employment provisions	38% (very) aware of employment provisions (in GB)	38% (very) aware of employment provisions		

<sup>17</sup> Table only summarises details of the quantitative elements of these studies. DDA = Disability Discrimination Act.

Roberts *et al.* (2004 [24-25]) also explored how employers first found out about the DDA 1995. For small workplaces, the media was the main source for information on the Act. Indeed, resource issues (time and cost) were sometimes perceived to limit their access to information and partly explain their lower awareness of the *DDA 1995*. For workplaces that were part of multi-site organisations, head office could be a key source of information. Both Roberts *et al.* (2004 [23]) and Hurstfield *et al.* (2004 [83]) report that awareness of the DDA can vary within larger (multi-site) organisations, with senior Human Resources staff displaying a better understanding of the Act than (local site) line managers and supervisors.

Awareness of the DDA 1995 is not the same as knowledge of its provisions. All the studies listed in Table 3.4 report instances of where employers did not know current, or pending, provisions of the Act. For example:

- Prior to October 2004, organisations with fewer than 15 employees were exempt from Part 2 of the Act. However, Goldstone with Meager (2002 [74]) found that eight per cent of respondents incorrectly thought their organisations were exempt from the Act (see also Meager *et al.*, 2001 [55-56]).
- Employers must make reasonable adjustments where arrangements, practices, or physical features place disabled people at a '*substantial disadvantage*' to someone who is not disabled. An employer has a duty to make an adjustment if s/he knows, or could be reasonably expected to know, that the employee has a disability and is likely to be placed at a substantial disadvantage. However, Roberts *et al.* (2004 [27]) found that many employers did not fully understand what was expected of them in being required to make 'reasonable adjustments' for disabled employees; and only 13 per cent thought they were required to make 'reasonable adjustments' for disabled employees.

### 3.6 Disclosure

For employers, the disclosure of an impairment by an employee can be an important event. If an employee discloses a health condition and fulfils the definition of disability in the DDA 1995, then the employer is legally obligated not to discriminate against that employee on grounds of disability (see Chapter 1). As already mentioned, not knowing that an employee is disabled as defined by the Act does not necessarily remove the obligations placed on employers by the Act. Employers can be held to have discriminated directly or on grounds of treating a disabled person less favourably compared with other people (unless the treatment is justified), if the employer's agent or employee (for instance, an occupational health officer) knew of the disability (DRC, 2004; Leverton, 2002 [47]). Employers must have in place confidential means of gathering information about employees. However, until the employer becomes aware of the condition, or could be reasonably expected to be aware of it, s/he does not have to make any reasonable adjustments to accommodate a person's disability (S6(6) DDA 1995).

For employees, the issue of disclosure of an impairment or health condition can be difficult, and is closely linked to their perception of their identity. For people meeting the DDA definition of disability, some will accept the label 'disabled', perceiving it '*central to their personal identity*', and others will reject it (Grewal *et al.*, 2002 [52]). Disabled employees are not obliged to inform their employer of their disability, although being open with an employer about an impairment is one effective strategy to 'thrive and survive' in the workplace (Roulstone *et al.*, 2003). In a face-to-face survey of disabled and non-disabled people conducted in 2001, nearly half (48 per cent) of those likely to meet the DDA definition of disability considered themselves to be 'disabled' (Grewal *et al.*, 2002 [53-54]). Those most likely to describe themselves as disabled were those:

- With a current disability (55 per cent) compared with those with a disability in the past (seven per cent)
- With a depression/mental health condition (59 per cent) compared with those with problems with circulation (44 per cent)
- Aged 45 to state pension age (55 per cent) compared with younger respondents, those aged 16 to 44 years (37 per cent)

People could view themselves not as disabled but as being ill, simply getting old or not as '*worse off*' as others (Grewal *et al.*, 2002 [54]). Some said they were not disabled because they were '*fit and healthy*'. The research also included in-depth interviews and discussion groups with disabled and non-disabled people. This showed that the term 'disabled' can also be rejected because it is too broad and does not accurately reflect a person's identity. These people preferred to consider themselves to be, for instance, blind or dyslexic rather than 'disabled'. (These findings are also broadly supported by qualitative research by Molloy *et al.*, 2003.) For some, being classed as 'disabled' is stigmatising. Certainly some of the employers interviewed face-to-face in the research by Roberts *et al.* (2004 [34]) felt that 'disability' can have negative connotations for some people and carry a degree of stigma.

Disclosure may be more likely if job applicants/employees feel comfortable about disclosing information about their disabilities (DRC, 2004 [27]). This is more likely to occur if employers explain why the information is required and if employers '*genuinely value disabled employees and [are] using the information gathered to create positive change*' (*ibid.*).

### **3.6.1 Disclosure and confidentiality**

An issue closely related to disclosure is that of ensuring the confidentiality of an employee's health condition.

Employers can commission medical reports from independent experts on the health condition of employees. Whether the employees' consent is required before these reports are given to employers has been contested at employment tribunals.

However, the Court of Appeal has ruled that once an employee consents to a medical examination, no further consent is required before the report is passed to the employer (Leverton, 2002 [26]).

There is also the issue of disclosure of a person's disability by the employer to other employees (DRC, 2004 [141]). Apprising other employees about someone's disability could be discriminatory if similar information would not be revealed in similar circumstances. However, some information about a disability may have to be given to a supervisor or co-workers in order to implement a reasonable adjustment.

Under the Data Protection Act, employers have a duty to safeguard the confidentiality of any employee's personal or medical information (DRC, 2005a). If an employee wishes to keep their disability or health condition confidential, disclosure is permissible only when it is absolutely necessary, the employee has consented, and it helps the person undertake the job.

### 3.7 Discussion and conclusions

This chapter has discussed definitions of disability and of incapacity as encountered by UK employers, their understanding of disability, and their awareness of the DDA. The salience of these definitions to employers differs. The most important are the definition of disability in the DDA and incapacity in Statutory Sick Pay.

The definitions are complex. For instance, the Disability Discrimination Act contains special provisions that apply to certain progressive conditions (namely, cancer, Human Immunodeficiency Virus (HIV), and Multiple Sclerosis (MS)), which means that people with these conditions are deemed to be disabled effectively from the point of diagnosis (see Annex A for further details).

They all require that the person have a mental or physical impairment (where the latter can include a 'specific disease'). Both disability and incapacity, as defined earlier, are partly a consequence of the limitations associated with an impairment. Having an impairment does not mean that a person will be disabled or incapacitated, as other factors (such as environment) can produce the 'limitation' in activity, but having an impairment is a necessary condition for being legally and administratively recognised as disabled or incapacitated. It also means that the medical model of disability is influential in the definition of disability and incapacity and that to varying degrees, disability and incapacity are defined by reference to a departure from a general population 'norm'.

Moreover, the impairment underpinning of the definitions means that medical advice and assessment can play a key role in classifying people as disabled and/or incapacitated. For example, the definitions of incapacity in Statutory Sick Pay and the Own Occupation Test include references to 'specific disease', which is a disease identified by medical science and is a departure from health. Although employment tribunals must not simply rely on medical evidence in deciding whether an applicant is disabled under the DDA, medical evidence can be critical in disputes over whether an employee is disabled.

All the legal and administrative definitions are individualistic; they focus on what the individual cannot do. Whilst they might acknowledge the importance of wider institutional and environmental factors, a person's status as disabled or incapacitated is determined at the level of the individual.

At the operational level, the DDA, PCA, and Working Tax Credit definitions use broad categories of activities/capacities to determine disability or incapacity status. There is some correspondence in terms of the broad activities/capacities each definition utilises. However, this overlap should not be over-emphasised. Crucially, the definitions of disability in the DDA and of incapacity in Working Tax Credit and the benefit system are designed to serve different purposes. Therefore, in practice, and as already pointed out, a person who could be considered as not incapacitated under the PCA could be disabled according to the DDA, and vice versa. There are other differences; for instance, in the PCA the claimant's ability to perform the activities is assessed as if s/he was wearing or using any aids or appliances that s/he normally wears or uses, whereas assessment of whether the adverse effects of an impairment are substantial under the DDA involves ignoring any treatment for the impairment that alleviates or removes the effects of the impairment (with the exception of someone wearing spectacles or contact lenses).

There is, of course, a difference in the scope of the definitions of disability and incapacity. Definitions of disability encompass 'everyday' life, whilst those of incapacity are more narrowly focused on a functional assessment that considers a person's performance in a work environment. Similarly, incapacity under Statutory Sick Pay or industrial injuries benefits applies only to employees, whilst the DDA applied to everyone, regardless of economic status.

Moreover, the DDA can apply to employers' response to incapacity. The DDA is framed for the likelihood that 'reasonable adjustments' can accommodate a disabled person's incapacity (impairment). Although not all employees incapacitated according to the Statutory Sick Pay or Own Occupation Test will meet the DDA definition of disability (for instance, their impairment is not long-term), some will.

Notwithstanding the importance of these definitions, many employers are not fully aware of the definitions or of the DDA. Legal and administrative definitions of disability and incapacity will have less influence in the workplace than they should where employers are simply unaware of their existence. Whilst the salience of the definitions to employers differs, it is a concern that many employers would appear to define disability narrowly and thus exclude many people with less visible impairments, and that employers' awareness of the Act itself is significantly less than universal.

Empirical studies suggest that at least one-fourth of employers are unaware of the DDA, and that organisational/workplace size (as measured by number of employees), type of organisation (that is, public, voluntary or private sector), and whether disabled people are currently employed are associated with awareness of the DDA.

Where employers adopt a narrow definition of disability, they may have an inaccurate view of the costs and benefits of employing a disabled person compared with a non-disabled one. The risk is that they underestimate the benefits and overestimate the costs of employing a disabled person. An employer who uses a narrow definition of disability might fail to take into account the productivity of existing employees who, although not perceived as disabled, are disabled within the terms of the DDA. Moreover, an employer who views the productivity of non-disabled employees as a benchmark may not recognise that their actual productivity levels might be affected by sickness absence and presenteeism.

That many employers have 'spontaneous' definitions of disability that fall short of the DDA definition suggests that either ways of promoting people's awareness of the definition are required or the anti-discrimination legislation needs to be reframed so that its enforcement depends less upon the definition.

The first of these policy approaches could involve targeting information about the DDA at employers most likely to be unaware of the definition and of their obligations under the Act – small, private sector employers. It could also entail a publicity campaign aimed at the general public so that people had a better understanding of disability and the law and as a consequence might feel better able to exercise their rights.

The second of these policy approaches is more radical and possibly longer-term, and builds upon the social and civil rights models of disability. It would involve developing a more rights-based and universal approach to tackling discrimination against disabled people (Mabbett, 2005). For instance, Woodhams and Corby (2003 [175]) seem to propose that the sort of duty the DDA 2005 places on public authorities to promote equality of opportunity for disabled people should be applied to all employers. Whilst this would not meet the needs of all disabled people, it could mean that overcoming the disadvantages that many disabled employees encounter would be less dependent upon having to demonstrate that they meet the definition of disability as currently outlined in the legislation.

In any event, enforcing disability rights is more challenging than for sex or race rights. This is because disabilities can change over time (although the Act does cover past disabilities), disabilities can be 'hidden' from employers, and protection is not provided to everyone with an impairment, only those meeting the definition outlined in the Act.



## 3a Commentary: The influence of definitions of disability on the workplace

**Marilyn Howard<sup>18</sup>**

Chapter 3 describes the different models of disability, as well as the definitions that are used in law and social policy and that employers might encounter. The key definition of disability in the Disability Discrimination Act of 1995 (DDA) hinges on the effects of impairments on day-to-day activities, such as mobility, manual dexterity, sight, and hearing. People are defined as disabled if the effects of their impairments are long-term and if they substantially, adversely affect the ability to carry out normal day-to-day activities. Impairments that can lead to disabilities according to the DDA definition are similar to the descriptors used for determining eligibility for incapacity-related benefits, as tested by the Personal Capability Assessment (PCA). Dr. Stafford also notes that these similarities do not necessarily lead to similar outcomes; for example, a person could be covered under the DDA but not be incapable of work as determined by the PCA. Chapter 3 concludes that employers can be faced with different definitions of disability and incapacity that apply in varying circumstances and contexts. Although these definitions have different purposes, they are similar in structure and context. Of course, employers may be unaware of the various definitions and the circumstances under which they apply.

This commentary discusses three themes arising from the description of definitions in Chapter 3.

- Models of disability are relevant especially in the context of an emphasis on institutional change away from a traditional 'medical' model.

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<sup>18</sup> Ms. Howard wrote this text in a personal capacity.

- Defining adjustments rather than people might be consistent with a more strategic approach.
- Some definitions may be more important to employers according to whether the context is recruitment or retention.

### 3a.1 The relevance of models of disability

Chapter 3 describes some models of disability but does not go very far in examining their implications. The three models with the most influence on British social policy, highlighted in Chapter 3, are the medical, the biopsychosocial, and the social (see Box 1).

#### **Box 1 – Models of disability**

These are the subject of considerable debate, but in essence:

- The medical model emphasises disability as a direct consequence of impairment or disease. Although it allows a detailed focus on impairment, there is widespread criticism of this approach, even from clinicians, because it ignores other factors that influence disability (Waddell and Aylward, 2005).
- The biopsychosocial model emphasises a range of obstacles, at both the individual and the environmental levels, and the interactions between them, and importantly picks up on the role of individual perceptions. It tends to give more weight to the perceptions of and influences on people rather than the 'social' factors, such as employers' attitudes and the workplace environment.
- The social model focuses on barriers rather than impairments, so that attitudes of other people (including employers), and the environment within which people wish to operate (including the workplace), are where any 'disability' lies. Individual factors can be downplayed in this model, and there is still debate about its scope and implementation (see Barnes and Mercer, 2004). The focus of the social model on social and environmental barriers has become widely accepted within the disability movement and some public sector organisations (such as the Local Government Association).

As Dr. Stafford has explained, surveys show that many employers still view disability narrowly (Stuart *et al.*, 2002; Roberts *et al.*, 2004). Such perceptions – for example, equating disability with visible, obvious impairment – are shared by many people (see Grewal *et al.*, 2002), so respondents to employer surveys may be simply reflecting these popular conceptions. As such views imply a focus on the individual rather than the environment, they seem closer to the medical than the social model. This could also explain why many employers also believe that they do not employ many disabled people. Some employers have struggled to understand how some impairments could count as 'disability' if they do not have an impact on a person's ability to function in the workplace (Roberts *et al.*, 2004). Similarly, someone moving

into work may also be assumed to be 'less disabled', which can sometimes lead to withdrawal of support or an assumption that the person had misrepresented his or her impairment in the first place (see, for example, Howard, 2002).

Such views have failed to recognise that impairments can be disabling in some contexts but not others. The US framework of impairment and disability (Nagi, 1969) suggests that people are no longer 'disabled' when they take a job or participate in an environment without barriers. This looks similar to distinctions made by social model theorists between impairment and disability; someone may be in an environment that is not disabling, but their impairment remains. Making adjustments to the workplace can remove disabling barriers. But in the British context this does not mean that someone is no longer 'disabled' for DDA purposes. Protection against discrimination exists under the DDA definition, whether or not aids or appliances are used (except for spectacles). Hence, people do not cease to be 'disabled' simply because a successful adjustment has been made – indeed, further acts of discrimination can take place, or a further adjustment may be needed. This highlights the tension within the DDA in that, although the definition of disability leans heavily on impairment (and so could be seen as medical model), its purpose is to require employers to make adjustments for disabled people (more akin to the social model).

### 3a.1.1 Models matter

The assumptions of employers and policy-makers about disability, implicitly drawing on one of the three main models, can affect how a problem is defined and tackled. For example, the biopsychosocial model has been influential in the design of the Pathways to Work pilots, including the emphasis on condition management and changing perceptions (DWP, 2002; see also Chapter 5). Social model concepts have informed the definitions adopted by the Prime Minister's Strategy Unit (2005) in its report on the life chances of disabled people, which distinguished between disability and impairment/ill-health.

In that report, disability is defined as

- '**disadvantage** experienced by an individual...
- resulting from **barriers** to independent living or educational, employment, or other opportunities...
- that impact on people with **impairments** and/or ill-health'

As this report is a statement of Government policy,<sup>19</sup> these definitions should be the basis for policy-making from now on.<sup>20</sup> This will be particularly challenging in the

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<sup>19</sup> [www.officefordisability.gov.uk/report](http://www.officefordisability.gov.uk/report)

<sup>20</sup> Editors' note: In Chapter 3, Bruce Stafford explains that the definition of disability may depend on factors such as its purpose and the context in which it is used. Government programmes and policies use different definitions that are tailored to unique situations.

context of welfare reform, as social security has traditionally drawn on medical models, at least implicitly (Howard, 2005). The Government's welfare reform Green Paper (DWP, 2006) lacks the clarity of the Strategy Unit definition and so may have missed an opportunity to reinforce a different set of messages that logically flow from a social model approach (especially in relation to employers).

Social model thinking is also influencing the legal framework in Britain, which is moving towards a strategic approach that focuses on institutional change, rather than just defining a group of people who are then given rights to complain after the event.

### **3a.1.2 Strategic approaches**

Potential changes to equalities law and enforcement in Britain consistent with the social model could change the definitions that employers encounter:

- Following a recommendation by a Parliamentary Scrutiny Committee, the Disability Rights Commission (DRC) is consulting on whether the focus of anti-discrimination legislation should be on the extent and nature of discrimination rather than disability – in other words, a 'social model' definition (DRC, 2005a). Alongside this, Government has established an Equalities Review and a parallel Discrimination Law Review. The latter is considering a Single Equalities Act that would apply to religion, race, gender, age, sexuality, and disability; one of its aims is to produce a clearer framework that will be more user friendly for employers and employees. A 'Commission on Equality and Human Rights' is due to replace existing commissions with an expanded remit from next year.
- More proactive and positive duties are being put in place to promote equality. Already, service providers (but not employers) are required to anticipate the needs of disabled people; their duty is to disabled people in general and applies whether or not the provider knows that a particular person is disabled (DRC, 2002). This means planning ahead to reduce any barriers to disabled people using their service, such as ensuring physical access to premises, ensuring that information is accessible, and making adjustments so that customers can be served without unreasonable difficulty. Public bodies in Britain now have a duty to promote racial equality and from December 2006 will also have to promote disability equality (see Box 2). A gender equality duty will follow next year.

Policy-makers should be aware of this duty, as they should be making impact assessments of the implications of policy options for disabled people (as well as revising the impact of past policy).

As with the social model definition, this duty explicitly recognises that institutional arrangements can be discriminatory. Change can be achieved only by positive steps taken strategically rather than as piecemeal initiatives for particular minority groups in need of protection (O'Brien 2004). Galvanising political action for change through mobilising a 'minority group' has limitations, as it requires disabled people to mobilise around the most negative aspect of their identity, and membership in a minority group can fall back on medical model concepts.

**Box 2 – The disability equality duty**

This requires public authorities to pay 'due regard' to disability equality when performing their functions, in particular the need to:

- promote equality of opportunity between disabled people and other people
- eliminate discrimination that is unlawful under the DDA
- eliminate harassment of disabled people that is related to their disability
- promote positive attitudes towards disabled people
- encourage participation by disabled people in public life
- take steps to meet disabled people's needs, even if this requires favourable treatment (Disability Rights Commission, 2006).

Some authorities also have a specific duty to publish a Disability Equality Scheme. This will entail involving disabled people from the outset in mapping their current performance, and producing an action plan for how the impact of policies and procedures are to be assessed for disability equality. The duty, enforceable by the DRC, also covers Secretaries of State of most central government departments.

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### 3a.2 Adjustments rather than people

The strategic approaches discussed earlier also suggest that an approach other than to seek wider definitions of disability might be to consider an emphasis on 'reasonable adjustments' (see Box 3), as these play a key role in applying the social model and in promoting equality.

Employers may have to make a reasonable adjustment during any stage of the employment process, from recruitment and induction through to training, promotion, and dismissal. An adjustment entails changes to anything that might put a disabled person at a disadvantage, including the job description, the workplace, working conditions, and the extent of a person's risk of dismissal if he or she becomes unable to do the job. Where the duty to make a reasonable adjustment applies, an employer has to take reasonable steps to prevent disadvantage.

**Box 3 – Reasonable adjustments**

An adjustment can entail altering premises, obtaining or modifying equipment, or assigning someone to a different place of work or training. It can include allocating some of the disabled person's duties to someone else, transferring the person to fill an existing vacancy, or altering working or training hours. Other adjustments include allowing disability-related absence to be counted separately, rather than forcing people to be counted as 'sick'. Similarly, procedures for testing or assessment could be modified, or a reader or interpreter provided. Whether such adjustments are 'reasonable' depends on the effectiveness of the particular steps, their practicability, the nature of the employers' activities, their cost, and the availability of employers' resources and outside help (such as Access to Work).

**3a.2.1 Adjustments – a means to an end**

A reasonable adjustment is an important feature of disability discrimination law, as it can be seen as a means to an end and can also entail treating disabled people differently from non-disabled people. This differs from sex and race discrimination, where, for example, treating men more favourably than women discriminates against women (and treating women more favourably than men discriminates against men); so equal treatment is the foundation for equality. Disability discrimination, however, can arise if disabled people are treated the same as non-disabled people. This is the reason behind having a duty to make a reasonable adjustment. Something that the employer does (such as recruitment practice) or the physical features of the workplace could place a disabled person at a substantial disadvantage compared with a non-disabled person (DRC, 2004). So it is not enough for an employer to treat disabled and non-disabled employees exactly the same or to create a 'level playing field' (O'Brien, 2004). What matters is that the result for the disabled person is the same as it would have been for an otherwise similarly placed non-disabled person: for example, they obtain a job, keep the promotion, escape dismissal.

Shifting the focus away from a definition of particular people towards considering how the workplace might have to be adjusted would mean that a person would no longer have to meet a specific definition (a minority rights approach) before an adjustment could be made.

**3a.2.2 An anticipatory approach?**

At present, employers have a duty only to make reasonable adjustments for a particular person; unlike service providers, there is no 'anticipatory' duty. This means that if an employer starts a redundancy process that has a disproportionate impact on disabled employees, there is no mechanism to challenge this until someone has cause to complain (or has lost his or her job). An anticipatory duty would mean that employers consider the implications in advance. Some employers may already be

anticipating the needs of disabled staff through developing procedures for recruitment, appraisal, promotion, and so forth, so an anticipatory duty could amount to putting best practice on a statutory footing.

This might have distinct advantages over the current situation, where surveys show that employers are often unclear about just what a reasonable adjustment is, and find the term unhelpful when deciding what to do in specific circumstances, as impairments and employment situations vary (Roberts et al., 2004). If employers define disability in narrow, visible, and individual terms (such as wheelchair use), then it follows that making an adjustment could be costly (for example, ramps for physical access; Stuart et al., 2002). Equally, if someone does not 'look disabled', adjustments may not appear to be relevant unless somebody requests one. If, alternatively, employers were to focus on changing their practices and procedures so as not to disadvantage disabled people as a whole, this shifts the onus away from people having to declare an impairment and request an adjustment. Where a working environment is more welcoming, people are more likely to disclose their impairment or long-term condition (Aston et al., 2005), and their chance of obtaining an adjustment is improved. A legal obligation can be a stimulus to change at a systemic level. This might be a more effective tool than persuasion or financial incentives to employers (wage subsidies), in particular as the latter are often focused on individuals and can have counterproductive results, such as dismissal at the end of the subsidy period (see Chapter 5). (Access to Work is different, as it is a means of offsetting certain specific costs). A focus on reasonable adjustments (rather than whether a given person is disabled or not) might be a more fruitful approach for both employers and policy-makers.

### **3a.2.3 The business case**

Some employers are also beginning to take a more strategic approach. The traditional business case emphasising the benefits of employing disabled people, promoted by organisations like the Employers Forum on Disability (EFD) (see Zadek and Scott-Parker, 2001) has been questioned. For example, can a business case be constructed around a diverse group of people who may need very different (and perhaps contradictory) adjustments (Woodhams and Danieli, 2000)? The business case has also often been interpreted as providing evidence to show that disabled people are 'employable', which reinforces the perception that the problem lies with disabled people themselves (EFD, 2005a). Instead, a strategic approach draws on evidence to show how:

*'the organisational benefits of having efficient procedures for enabling every individual to contribute to business success, and for being barrier free for every potential applicant, will be much broader than the costs of adjustments for one individual'*

The EFD is now focusing on how employers can become 'disability confident' – that is, understand how disability affects employees, customers, their markets, competitors, and the communities in which they do business (EFD 2005c; see Box 4).

**Box 4 – A disability-confident employer would:**

- Understand how disability affects every aspect of the business – people, markets, communities, suppliers, and stakeholders
- Create a culture of inclusion and remove barriers for groups of disabled people
- Make adjustments to enable specific people to contribute – as employees, customers, and partners (EFD, 2006)

### 3a.3 Different approaches for recruitment and retention

Dr. Stafford's chapter details the different definitions, but gives less consideration to their relative importance to the employer. It is likely that some definitions are more important than others with regard to existing employees (retention) or job applicants (recruitment).

#### 3a.3.1 Retention

Definitions relating to 'sickness' and absence from work may come to the fore with existing employees at risk of losing their job. Although some employers are concerned about disabled people being absent from work, once someone is off sick, employers may not always consider whether the employee has a disability and needs associated adjustments (Hurstfield et al., 2004). The original DDA definition may have limited the ability of some applicants to pursue litigation, but the new definition (extended from December 2005) should change this. Reducing sick pay for a disabled employee at the six-month stage just because adjustments had not been made earlier can amount to discrimination under the DDA (Nottinghamshire County Council v. Meikle).

Employers may not realise the full consequences of failing to meet DDA requirements in a retention situation. Not only can their reputation (and therefore their business) be affected, but compensation awards for disability discrimination cases can be considerable: last year, such awards were twice as high as in race discrimination cases (Equal Opportunities Review (EOR), 2005). Compensation for one former employee of the Prison Service is likely to be almost £500,000; in the Meikle case, almost £200,000.

However, picking up on the strategic approaches discussed earlier, some employers are already anticipating the needs of disabled employees, which is improving retention rates. Lloyds TSB's strategy addresses recruitment, training, retention and career development, and includes a mentoring scheme and a disability champion. In addition, they have set up a Human Resources call centre and consultancy. There is also a national network of employees, managers, and advisers (Axis) with a budget of £50,000. Axis is a focal point for encouraging staff to disclose. This seems to be effective, as twice as many DDA-related adjustments have been made than staff

identifying themselves as disabled in Human Resources monitoring. Lloyd's retention rates are 76% (Independent Review Service (IRS) Employment Review 758, 19 August 2002).

### **3a.3.2 Recruitment**

Employers tend to give little consideration to potential adjustments to the recruitment process (Goldstone and Meager, 2002; Roberts et al., 2004). So far, DDA discrimination in recruitment has been difficult to establish, although the DRC has supported the first successful recruitment case (DRC, 2005b). A more strategic approach might address this by changing procedures rather than relying on individual complaints.

When recruiting people from welfare to work (see also Chapter 5), employers consider some groups more suitable than others. A quantitative survey of more than 1,200 employers showed a greater willingness to recruit lone parents and job-seekers than people with physical or mental health problems, the latter raising the most concerns in the workplace and regarding interactions with colleagues and customers (Bunt et al., 2001). Employers were not confident that they fully understood the nature of physical or mental health problems and were concerned about the ability of people with them to do the job.

Employers may not be familiar with the definitions used in Incapacity Benefit (IB) received by disabled people, such as the PCA described in Chapter 3. They may, though, have views about recipients. A report for the North East Employer Coalition found that some employers believed that IB recipients would lack the ability or skills to work (Jones and Coates, 2005). In late 2005, the Chartered Institute of Personnel and Development's regular survey of members revealed differences in the perception of IB recipients and disabled people. Of 755 returns (predominantly from larger private sector companies), 60 per cent believed that IB claimants would be more prone to absence, but only 16 per cent believed this of disabled people (Chartered Institute for Personnel Development, 2005).

This suggests that worklessness may be as significant as definitions of disability in the recruitment context. Some employers may be wary of candidates with a long period out of work, because they appear to be less prepared for work and could be more likely to quit at short notice (Newton et al., 2005). Intermediaries have a role in enabling people to show to prospective employers that they have spent time out of work constructively (Bunt et al., 2001) or in using work trials and work preparation directly relevant to the employer (Newton et al., 2005).

An anticipatory approach could also include strategic and systematic changes to recruitment processes. One example is the EFD's 'Recruitment that Works'. This involves employers, intermediaries, and Jobcentre Plus signing up to a project involving clear roles and a staged process. A targeted recruitment process is set up, including a work preparation course for a number of potential applicants to undertake, geared to the employer's needs. In the meantime, the employer gets

'prepared' to take on such recruits (say, through changes to recruitment practices or disability awareness training). Jobcentre Plus agrees (1) to advertise that the employer is seeking to fill vacancies with disabled people and (2) to familiarise themselves with the work the employer has to offer, to enable them to make a better match between the applicant and the job. Ikea's application of this approach included a two-week job preparation programme tailored to the company, followed by participation in Ikea's recruitment process (EFD, 2005b). This led to 11 disabled people being recruited to its store in Thurrock during one year. This approach is being evaluated by the Tripod project, commissioned from EFD by Department for Work and Pensions (DWP), due to report during 2006.

### 3a.4 Conclusions

Traditional medical model definitions of the 'problem' (and therefore the 'solution') are declining in favour of approaches that take account of the environmental context. The social model is having an increasing influence over definitions, in terms both of wider government policy (as indicated by the Strategy Unit report) and of DRC consultation. However, different definitions are still adopted for different purposes, and there is some tension among them.

Given the development in thinking on equality issues in the UK, one question is whether having a definition at all is useful in anti-discrimination law, when the desired result is, for example, for someone to get or keep work. Would a clearer definition of a 'reasonable adjustment' be more fruitful than redefining disability? Extending the anticipatory duty to employers might help to facilitate this, and it would fit in particularly well with the duty of public authorities to promote disability equality.

Looking to the future, there are trends away from an 'individual' focus, which requires that the person fit a particular definition, towards a strategic approach, where organisations have to anticipate and make adjustments in advance for people with impairment. One example is the forthcoming disability equality duty on public authorities. Another is the new emphasis within the EFD towards a more strategic 'disability-confident' approach. Rather than see definitions as a means of identifying people, we could move towards making adjustments for a group (such as through changes to policies and procedures) as a means of creating a positive and encouraging environment within which people can disclose their impairment.

# 4 The costs and benefits to employers of recruiting and retaining disabled workers

**Chris Hasluck**

## 4.1 Introduction

This chapter focuses on the costs and benefits of employing disabled people. It examines the decisions employers make when recruiting workers and when considering whether to retain employees who become disabled whilst employed. In some respects, such decisions are no different from those regarding the employment of any other person. The employer will assess the value to the business of hiring or retaining someone. Nonetheless, in regard to the employment of disabled people, the decisions required of employers may be somewhat different from, and more complex than, other hiring and retention decisions, since there is likely to be greater variation in the ability of disabled people to perform the tasks required and possible additional cost to such employment. Employers might also associate disability with greater uncertainty regarding the potential productivity of a disabled person, with greater potential costs of accommodating the person into the workforce or with differences in absence rates. Finally, legislation places on employers duties that do not apply to employed non-disabled people, while employment decisions can be further influenced by the values, organisational or social, of employers.

There are many different ways to conceptualise and define disability. (Chapter 3 set out several alternative 'models'). In this chapter, the terms disability and disabled people are used for convenience and brevity, but they should be interpreted in their widest sense, to include health conditions, serious illness, and sickness that last for a long period of time and that may or may not limit participation in work. This highlights the fact that 'disabled people' is a heterogeneous group with a wide range of impairments and work-limiting conditions (Berthoud, 2006). Moreover, many employers are so unclear as to what constitutes a disability that they are

unaware that they do in fact employ disabled people until, when surveyed, they are prompted with a broad definition (such as that found in the Disability Discrimination Act [DDA]; see, for instance, Goldstone and Meager, 2002). The most common disabilities amongst the workforce involve mobility and dexterity (Goldstone and Meager, 2002), and there is evidence that employers recognise these conditions, along with visual and hearing impairments, as 'disabilities'. Other conditions, including learning difficulties, speech impairment, and chronic progressive illness, such as cancer or Parkinson's Disease, seem to be recognised as disabilities less frequently (Kelly *et al.*, 2005). Waddell and Burton (2004) conclude that most long-term incapacity for work is caused by mental health, musculo-skeletal, and cardio-respiratory conditions. Peters *et al.* (2003) provide a comprehensive review of the evidence relating to the medical and environmental factors associated with disability, sickness, and job loss.

The discussion in this chapter draws largely upon research evidence from the UK, but where appropriate it embraces theoretical material and empirical evidence from elsewhere in the world (principally the USA). Some issues have been deliberately omitted since they can be found in other chapters of this report. In particular, this chapter does not consider the broader issue of the employment of disabled people and discrimination: this is dealt with in depth in Chapter 2. This chapter also does not consider in any detail the impact of legislation (such as the DDA) and government programmes (such as New Deal for Disabled People [NDDP], Pathways to Work, and so forth), as these are discussed in Chapter 5. However, since the DDA affects employers in terms of placing obligations upon them and causing them to incur costs to accommodate disabled employees, reference will be made to the DDA where relevant.

The structure of this chapter is as follows. First, Section 4.2 considers briefly the nature of the evidence concerning the costs and benefits of employing disabled people. Section 4.3 then provides a context for subsequent discussion by outlining an approach to viewing employers' benefit-cost decisions about employment and examines the implications of the approach for the employment of disabled people. Subsequent sections review the evidence relating to key issues identified from the benefit-cost decision-making, starting with whether there is a link between productivity and disability (Section 4.4). This is followed, in Section 4.5, by an examination of benefits that might arise from the employment of disabled people. Section 4.6 sets out the evidence relating to recruitment, retention, and the impact of employers' Human Resources (HR) practices on the employment of disabled people. Then follows a core element of this chapter, namely, the adjustments that employers must undertake to recruit and retain a workforce containing disabled people, as well as the costs involved (Section 4.7). The final substantive section (4.8) examines the (so far) small amount of evidence available for the UK relating to the impact of legislation on costs and employment of disabled people. The chapter concludes by reflecting on the balance to be struck between the benefits and the costs of employing disabled people, reviewing the discussion, and drawing out some key messages (Section 4.9).

## 4.2 The nature of the evidence on the costs and benefits of employing disabled people

This chapter presents the evidence relating to the costs and benefits of employing disabled people. Much of it has been collected directly from employers through surveys of one type or another. While this might appear the most straightforward way to find out about employers' decisions regarding disabled people, such evidence is not unproblematic. First, as already noted, employers often have a narrow and stereotypical view of disability and thus do not even recognise that they employ disabled people. Second, employer surveys tend to represent disability in a one-dimensional and 'medical' manner, a view that has been challenged by some who see disability as being 'socially constructed' from the limiting effects of society and employers rather than the physical and mental conditions of human beings (Oliver and Barnes, 1998; Thornton, 2005). More pragmatically, the veracity of the answers given by employers can be questioned, as respondents may be unaware of the consequences of their business and employment practices, let alone willing to admit to any breaches of the law or to discriminatory behaviour.

In regard to the costs and benefits of employing disabled people, it is tempting to seek evidence in the form of concrete estimates of monetary value. For several reasons, however, such hard evidence in monetary terms is likely to be difficult to obtain, and it remains – to date – thin on the ground. In the first place, there is likely to be enormous variation in the costs and benefits within a single workplace, let alone across all employers. The costs and benefits of employing a disabled person will vary according to the circumstances of the individual disabled person and the type of work involved. It is difficult to capture such variation with simple surveys, which tend not to collect data about individuals but, instead, to report costs and benefits in qualitative terms or, where monetary values are estimated, to relate to the cost and benefit of employing an 'average' disabled employee.

Even where monetary values are reported, they are liable to be biased. There is evidence that some employers, as a matter of policy, do not collect information on the cost of employing disabled people, seeing it as improper or unethical, while others simply find it too difficult (Goldstone and Meager, 2002). While in principle any aspect of employment that adds value to the business or imposes a cost can be ascribed a monetary value, such quantification is often difficult in practice. It may be hard to separate the cost of employing disabled people from the cost of employing others. For instance, individual employees often require differing amounts of supervision or management, depending upon their personal characteristics (motivation, level of competence, and so on). While the cost of supervision is something that can be quantified, assessing the extent to which such supervision is attributable to disability, as opposed to some other need for supervision, is quite difficult. Similarly, an employer may provide facilities that are open to all employees although they benefit disabled employees most. Again, the attribution of cost is difficult. A further problem arises where benefits or costs are intangible and there is no obvious 'price' by which to value them. For instance, if the employment of

disabled people enhances the image and reputation of the employer, this may benefit the business, but estimating a monetary value for such a benefit would be extremely challenging. Costs can be equally intangible, such as any negative reaction from customers or co-workers.

For all these reasons, quantitative evidence on the costs and benefits of employing disabled people is likely to be limited and even biased. Employers will probably be conscious only of those costs and benefits that arise unambiguously from the employment of disabled people, and then only if they exceed some critical threshold. Small costs and benefits, and those not clearly attributable to disability, will tend to be under-reported, if reported at all. Consciousness of costs and benefits, however, does not mean that employers will be able to estimate their monetary value to the business. Monetary values will be reported only for the more tangible and quantifiable of costs and benefits and in any case seldom describe the variation to be found. One approach to this problem is to distinguish monetary from non-monetary costs and benefits, the former being those on which an employer can place a monetary value, the latter being those of which the employer is aware but to which the employer cannot, or does not, attribute a monetary value. To what degree such a distinction is of value is moot, but hard evidence of the monetary value of employing disabled people is, unfortunately, likely to be the exception rather than the norm, and much of the evidence is qualitative or concerned with non-monetary costs and benefits.

### 4.3 The theory of employers' decisions to recruit disabled people

#### 4.3.1 Employers and access to jobs

Few would deny that disability and chronic ill-health create a significant barrier to employment and a disadvantage in the job market. At the point of entry to the job market, disability may directly limit the type of work undertaken as well as indirectly affect employment prospects through its impact on schooling and acquisition of skills. Indeed, Berthoud (2006) found that the incidence of disability was more prevalent amongst people who completed their education in their early teens than it was amongst people who continued their education into their twenties (which highlights the link between low skills and disability and even suggests that disability could be a consequence of disadvantage). Disabled people might find access to work difficult for a range of reasons, such as lack of accessible transport or of supportive health and social care. Nonetheless, it is employers who control access to jobs, and their behaviour and practices are critical determinants of the extent to which disabled people can enter and retain employment.

In a competitive job market, and in the absence of legislation such as the DDA, employers will be less likely to recruit disabled people if they perceive such people to have lower productivity and to impose additional costs on the business. Employers could be expected always to favour the recruitment of non-disabled workers, from

whom a larger net benefit can be extracted. Employers will hire disabled people, but only in particular circumstances. Employers will employ disabled people where they can obtain a competitive net product or benefit to the business by reducing the wage paid to match the expected lower productivity. Thus, disabled people are often clustered into sectors offering low-paid jobs or into jobs where (low) pay can be linked directly to (low) performance through such means as piece-work pay (Grundy et al., 1999; Burchardt, 2000). Alternately, employers might discriminate against disabled people, either by not recruiting them or by paying lower wages than they pay to non-disabled people. Since the calculus is likely to change with economic conditions, employers might be expected to be flexible in their recruiting practices. When the labour market is tight and recruitment difficult, they will consider employing disabled people despite previous concerns about the lower net benefit to the business, because the alternative is to leave jobs vacant for want of a recruit. When demand in the labour market is weak, employers will reduce their workforce, and those offering the least net benefit – such as disabled workers – will tend to be squeezed out of employment. The employment rate of disabled people is therefore likely to fluctuate as employers modify their recruitment practices in response to prevailing levels of aggregate labour demand.

Employer behaviour and practice also determine how long an existing employee is likely to remain in employment after developing a disability, as the employer weighs the costs and benefits of retaining that person. The onset of disability might involve a period of absence from work, sometimes prolonged, while the performance of the employee might also be affected, either immediately or in the longer term. In response, an employer might choose (within the limits of the law) to sever the employment relationship. The onset of disability is associated with a greatly increased risk of leaving employment (Jenkins and Rigg, 2003), and the extent of that risk is likely to be associated with a range of factors, such as the nature of the disability, age and skill. How long an employer is willing to preserve the employment relationship is likely to reflect the extent to which the employer values that relationship (for instance, if the employee is highly skilled or key in some sense) or how easily an employee's disability can be 'accommodated' in terms of the hours worked, the type of work undertaken, or the remuneration offered. Some people who leave employment after the onset of disability will be able eventually to return to work. Again, employers' control of access to jobs will be important, with those employers who afford ex-employees favoured status ('insiders') offering better prospects of a return to work than those who see an ex-employee simply as another applicant.

The earlier description of employer behaviour is predicated on employers' being rational and effective profit maximisers. An alternative view is that businesses do not usually seek to maximise profits, partly because they do not have the time and resources to conduct the kind of benefit-cost calculations implied earlier and partly because the necessary information on which they make such economic judgements is lacking. Businesses therefore use other criteria to determine its behaviour. It has been argued that a key criterion is 'legitimacy' and that businesses will adopt

practices that are not necessarily the most efficient but are acceptable to their main stakeholders (Oliver, 1991). Legitimacy can be gained by adopting practices that give status to the business and signal its social fitness. From this perspective, employers might adopt practices that support the employment of disabled people even though this might not be the most rational economic course of action. Employing disabled people might bestow social status and legitimacy on the business, and any form of unequal treatment, let alone discrimination, would be avoided as an unacceptable form of behaviour (Friedman and Davidson, 2001). Harcourt et al. (2005) empirically test the economic and institutional perspectives on employer behaviour and conclude that it exhibits aspects of both the rational economic and the institutional models. Businesses seek to maximise profit (or minimise cost) and at the same time to enhance the status and legitimacy of the organisation. However, the balance varies depending on context. Private sector employers behave very much as suggested by the economic model and are sensitive to costs arising in regard to the employment of disabled people. Central and local government, in contrast, place legitimacy and equal opportunity to the fore (since this is usually government policy), whereas public sector organisations outside government behave pretty much like private sector employers (something Harcourt et al. attribute to a lack of enforcement of government policy within those organisations).

In this context, it is important to bear in mind that the DDA alters the employer's decision making process in two ways:

- it prohibits discrimination against disabled people by treating them less favourably than non-disabled people (in terms of employment, opportunities, or dismissal) for a reason related to the disabled person's disability; and
- it requires employers to make reasonable changes to working arrangements or to physical features of the workplace when these changes could prevent a disabled worker from being placed at a substantial disadvantage in comparison to non-disabled people.

Whatever else affects the employment prospects of a disabled person, it is clear that employers' decisions have a critical effect on the extent to which disabled people can enter or remain in employment. Such decisions will be influenced by employers' perceptions of the costs and benefits of employing disabled people, the economic and organisational context within which decisions are made, and the hiring and employment practices that result. Where cost pressures dominate business decisions (for instance, in highly competitive markets or in some small businesses), employers might respond to the perceived costs and benefits of employing disabled people rather differently from businesses in less competitive markets or in large organisations where there is scope for pursuing various business objectives that embrace a social or ethical dimension. The rest of this section considers some of these issues in more detail.

### 4.3.2 Business decisions and the employment of disabled people

In principle, an employer recruits disabled people the same way it recruits non-disabled people. Employers hire an employee so long as the employee's net value, compared to the employers' other options of employing different workers or using technology or other methods to produce goods and services, is positive (put simply, so long as the value to the business exceeds the cost of employment). Leaving aside casual work (where decisions about employment are made on a daily or *ad hoc* basis), employment decisions have to take account of an employment relationship that exists for a period, sometimes a long period, of time. Employers incur 'once for all' costs at the point of hire, and later through training costs, in the expectation of recouping a future return on their investment. During the period of employment, both costs and benefits will vary (for instance, productivity may rise over time as a result of 'learning by doing'), and there may be further costs on termination of the employment relationship (firing costs, redundancy payments, and so forth). Thus the pattern of costs and benefits is likely to fluctuate over time in a fairly complex manner. Moreover, since the future is uncertain and costs and benefits may not turn out as expected, employment decisions always entail an element of risk. Thus, employment decisions will be affected by the employer's attitude towards risk and expectations for the future. Chapter 2 has already discussed the general aspects of the employment of disabled people, and some of the points made in that chapter are reiterated here to facilitate this discussion.

Employers will normally engage and retain labour so long as they expect the productive value of a worker over the duration of the employment contract to exceed the costs associated with recruiting, training, and employing that worker. The expected net value of an employee, in this case a disabled person, can be represented as the sum of the various costs and benefits over future time periods and expressed as a present value. A business operating in competitive markets would be predicted to employ a disabled person if the expected pattern of productivity over time (itself a function of the human capital or skills of the individual) exceeded the expected cost of hiring and training, wages, any modification to the workplace or other adjustments to accommodate the disabled person, and any cost incurred at the end of the employment contract. Where a business is operating in non-competitive markets and generating monopoly profit, there is scope for the business to employ people that a competitive business might not, albeit at the expense of some profit, if they see that as being part of their mission or social responsibility. Nonetheless, even critics of competitive markets who argue that jobs are rationed via a labour queue (Thurow, 1975) would probably accept that employers are likely to rank workers by their net value, with workers perceived as having a low net value (including disabled people) placed at the end of the queue and entering employment when jobs are plentiful but squeezed out of employment when jobs are in short supply.

While very general, this approach suggests a number of predictions about employers and their decisions concerning disabled people. First, even if faced with the same expected costs and benefits, employers will differ in their decisions depending upon

their attitude to risk and their decision-making time horizon. While such variation is likely to exist in regard to all workers, the degree of uncertainty and risk perceived by employers may be greater with disabled people. A risk-averse and myopic employer will be less likely to employ a disabled person than will an employer who is less conscious of risk or who is working with a longer time horizon. Business attitudes to risk are likely to be associated with market position and the consequences for the business of unexpected costs. Businesses in highly competitive markets and small businesses are likely to be the most cost conscious and risk averse, and it is in such businesses that uncertainty about future costs and benefits is most likely to pose a barrier to the employment of disabled people.

A second (and obvious) prediction is that disabled people are more likely to be employed if their productivity is high. Disabled people with substantial human capital and skills are more likely to be hired than those with little human capital and low levels of skill and productivity (for a given employment cost). However, productivity is not uniquely determined; it depends on the match between job requirements and the competencies of the worker. If a business is prepared to invest in matching the capabilities of a disabled person to the requirements of the job, productivity may well be within the range that employers consider normal, although such matching is likely to be associated with additional recruiting and selection costs and costs of adjustments in the workplace. Disability need not be automatically associated with low or lower-than-average productivity.

How long an employee is expected to be retained will also affect the employment decision. The productivity of an employee would not normally be expected to fluctuate significantly over the term of employment (although it might be expected to increase over time with on-the-job learning), whereas many costs, such as selection, training, and workplace adjustments, are 'front loaded'. Employers are unlikely to hire a disabled person unless they expect to employ the person long enough to recover these initial costs. Other things being equal, disabled people would be more likely to be recruited to jobs offering long, rather than short, tenure. Of course, other things are often not equal, and long tenure might be associated with additional employment rights (and thus costs) and greater uncertainty, both of which would reduce the prospect that an employer would offer a job to a disabled person. Short tenure and temporary jobs often avoid these costs. Nonetheless, employers would probably prefer to hire younger than older disabled people, since they are more likely to be able to recover the fixed costs of employment when the employment period before retirement is longer. Employers might also associate age with increased risk of ill health and thus increased cost.

In general, a person willing to accept a low wage is more attractive to an employer. Where a disabled person has low productivity, perhaps because of low skills, some limitation arising from the condition, or the low value-added nature of the job itself, a reduction in wage costs might lead to an increased probability of employment. However, employers might be constrained as to how much they are able to reduce costs through wage reduction. In the first place, paying a lower wage to disabled people than other employees is likely to breach anti-discrimination and equal pay

legislation. Even if it does not, wage reduction might be regarded as inequitable by other employees or even the business itself. Remember also that state benefits for disabled people create a floor below which wages are unlikely to fall. Employers may thus be unable to bring about a real wage reduction for disabled employees. Reduction of the real wage could be achieved by the state if it were to offer employers payroll-based tax incentives or a direct wage subsidy associated with the employment of disabled people.

Any workplace adjustments required to facilitate the employment of a disabled person represent a direct and normally front-loaded cost to the employer. Like any other employment-related cost, adjustments can be expected to create a disincentive for employers to hire disabled people. The greater such costs, the less likely the employer is to recruit a disabled person compared with a non-disabled one. Adjustments and costs are discussed in detail later in this chapter (see Section 4.7), but the evidence, in brief, is that many adjustments can be achieved at low cost. Moreover, for some types of adjustments, there are external benefits that extend beyond the employee who is the immediate beneficiary. For instance, the installation of ramps and lifts for wheelchair access benefits not only the disabled employee for whom they were installed, but any subsequent employee requiring similar access. Indeed, in some instances the benefits of a change to the workplace can extend to the whole workforce. Therefore, when factoring the cost of adjustments into the benefit-cost framework, employers should be spreading the cost over future generations of employees and not just the current workforce with disabilities. Employers who consider only the short-term might overestimate the cost of adjustments by failing to take account of these externalities. Nonetheless, adjustments do impose a cost on an employer, and the higher the cost, the greater the likelihood that an employer will look elsewhere for employees. Reduction of the cost of adjustments through state subsidy could therefore be expected to offset that tendency.

The discussion so far has not distinguished between recruitment and retention decisions, but consideration of the benefit-cost framework suggests that such decisions will be different. In the case of recruitment, an employer will try to estimate the productivity of a disabled person, but uncertainty remains until the person is actually in the job. A risk-averse employer can avoid that uncertainty simply by not hiring the disabled person. An existing employee's productivity is known from experience, so the employer may be in a better position to assess future productivity should that person become disabled or ill. Moreover, employers can, at the recruitment stage, avoid some costs that cannot be avoided with their existing workforce. So long as an employer adheres to equal opportunity procedures, there is little additional cost involved in not hiring a disabled applicant. With an existing employee, any decision to terminate employment would need to take account of lost investment in specific human capital (training), severance costs, and any legal costs from non-compliance with legislation. Employers may thus behave quite differently towards recruits than towards their existing workforce. Again, employer attitudes to risk and the expected length of the employment contract will be significant factors in these decisions.

Examination of a simple benefit-cost approach to employment decisions has suggested a number of predictions of the way employers will behave towards disabled people. The remaining sections of this chapter will examine the evidence relating to some of the key elements of the benefit-cost approach.

#### 4.4 The productive contribution of disabled people

One of the key tasks for an employer is to determine the type, amount, and quality of labour input required for the business and to match recruits and employees to those requirements. From this perspective, disability is but one of many human characteristics – one that in some cases has little or no relevance to the job. For instance, the fact that a person has impaired mobility and is confined to a wheelchair has no direct relevance to the ability to carry out a job in (say) a call centre once there is access to a workstation. The evidence suggests something of a polarisation in the job market between employers who would consider engaging disabled people and who see only small differences in productivity and employers who see little or no prospect that disabled people would be able to undertake the types of jobs they offer.

Many employers associate disabled people with lower productivity. One of the most common reasons employers cite in surveys for not employing a disabled person is that disabled people are not able to do the jobs involved, or at least some aspects of them. Dewson *et al.* (2005) found that 65 per cent of employers who would not recruit a disabled person cited this belief. Such an extreme emphasis on productivity differences may, however, be misplaced, since all employees – disabled and non-disabled – exhibit different levels of productivity. It is notable that Dewson *et al.* found that only three per cent of employers who had actually recruited a disabled person felt that such employees had lower productivity. This finding should be treated with caution, since disabled people in employment are unlikely to be representative of the general population of disabled people. Employers who have recruited disabled people will have engaged the ones they believe to be the most productive, not the ones they believe would have low productivity or would be incapable of doing the job. Despite this caveat, the evidence suggests that there is a possible gap between some employers' perceptions of productivity and reality. There could be scope, therefore, for raising the employment of disabled people through policy aimed at changing employer perceptions.

It is known that disabled people are disproportionately employed in low-paid and low-skilled jobs. Although this could be interpreted as evidence that disabled people have low productivity, it is less clear that such an association results from disability *per se*. While low productivity could reflect the direct impact of disability on the capacity to perform in a job, it could also reflect factors associated with disability, such as low educational attainment or low skill levels arising from interruptions to schooling or training. For instance, Jenkins and Rigg (2003) found that people in the British Household Panel Study (covering the period 1991 to 1998) who became disabled were typically more disadvantaged than other people. In particular, they did not have as many educational qualifications or as much work experience.

Moreover, an observed association between disability and low productivity is not conclusive proof of a causal relationship. Discriminatory recruitment practices by employers could cause disabled people to be excluded from jobs in which they had the potential for high productivity and cause them to be 'crowded' into sectors that offer only low-productivity jobs. In this case, the potential productivity of disabled people is not being realised, and observed productivity is defined by the job.

Econometric studies of earnings differences in the UK have found, in the earnings of disabled and non-disabled employees, large unexplained differences that remain even after variation in personal and job characteristics is taken into account (Blackaby *et al.*, 1999; Kidd *et al.*, 2000). This is not proof of discrimination, but it is consistent with it. The problem with such studies is that few have been able to take account of the range of impairments that might affect productivity (most studies simply use a binary variable signifying 'disabled' or 'non-disabled'). Baldwin and Johnson (2000) were able to address this issue and, using data from the USA, estimated earnings differences after controlling not only for human capital and job-related differences, but also for a range of functional limitations (specifically cognitive, mobility, and sensory). They concluded that differences in productivity were a significant factor in earnings differences (in other words, the productivity of disabled people was, on average, lower than that of non-disabled people in a given job) but that significant differences remained that could be interpreted as the result of employer discrimination. Of course, the latter conclusion needs to be qualified in that the residual earnings differences could be the result of unmeasured differences in productivity, and given the difficulty of taking complete account of a person's productivity, this remains a distinct possibility. That being said, Schumacher and Baldwin (2000) reported similar findings. In their study, in addition to the usual control variables, they took account of people's verbal, spatial, and numerical aptitudes and of the physical demands of the job and reached conclusions similar to those of Baldwin and Johnson.

Schumacher and Baldwin (2000) take the analysis further by examining the relationship between earnings and the proportion of disabled people in different occupational groups. They hypothesise a 'quality sorting' model in which the labour force is sorted by productivity. This model suggests, at its simplest, that both disabled and non-disabled highly skilled people tend to be recruited to high-skill occupations, while low-skilled people (whether disabled or non-disabled) will be sorted by the job market into occupations that require only low skills. They find that earnings levels are negatively correlated with the proportion of disabled people in an occupation, a finding they interpret as support for the view that earnings differences between occupations reflect productivity differences, in particular, productivity differences between disabled employees and non-disabled ones. Taken together with other evidence on earnings differentials, it seems probable that there are (on average) significant productivity differences between disabled and non-disabled people, and that this is manifest in differential entry to occupational groups. Within occupational groups (or similar jobs), the productivity differences between disabled and non-disabled are probably much smaller and earnings differences more likely (but not wholly) to reflect employer discrimination.

It has long been known that any disadvantaged group in the labour market is particularly vulnerable in periods of recession and low labour demand. Indeed, there is evidence to show that disabled people are subject to greater cyclical variation in employment opportunities and may actually be more seriously affected than other disadvantaged groups. The notion of the 'labour queue' suggests that employers implicitly (if not explicitly) rank potential employees in terms of their productivity (Thurow, 1975). When labour demand is buoyant, employers move further down the queue to recruit. When times are hard, however, employers may shed labour from the ranks of those they place at the lower end of the queue, while hoarding those employees they value more highly. Though this is plausible, there is little strong evidence of a direct link between employer's recruitment difficulties and their actions to recruit or retain disabled people. In fact, Dewson *et al.* (2005) found the opposite relationship to be the case when looking at a sample of NDDP employers, although they found a positive relationship between knowingly having disabled employees and having recruitment difficulties. They comment that this difference may be a reflection of a disparity between the formal situation as reported by respondents (who usually hold senior positions within the organisation) and the reality at the front line, where managers may actually respond to tight labour market conditions by recruiting disabled people.

#### 4.5 Benefits to the business of employing disabled people

The most obvious benefit to a business from employing a disabled person is the product or value derived directly from that employee. However, organisations representing disabled people often argue that there are other, less tangible benefits to employing disabled people. For instance, Zadek and Scott-Parker (2001) of the UK Employers Disability Forum (EDF), Business Link,<sup>18</sup> and Fast Forward (a UK employers' organisation<sup>19</sup>) all cite a range of business benefits. These include:

- 1 a greater likelihood of getting the right person for the job;
- 2 the fact that disabled people remain in post longer and have lower absenteeism and good punctuality records; and
- 3 the fact that retaining employees saves on recruitment and training costs, improves access to disabled customers, boosts staff morale, makes the business more representative of the community, and fosters the public image of a fair and inclusive employer.

Insofar as such benefits exist, they might offset the cost of employing disabled people in terms of the workplace adjustments required and (possibly) lower productivity.

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<sup>18</sup> [www.businesslink.gov.uk/bdotg/action](http://www.businesslink.gov.uk/bdotg/action)

<sup>19</sup> [www.fast-forward.scope.org.uk/employers/buscase.shtml](http://www.fast-forward.scope.org.uk/employers/buscase.shtml)

While all these claimed business benefits appear plausible, the evidence to substantiate their existence is limited and seldom provides an indication of their monetary value. Clearly, where the employment of a disabled person has consequences that improve business performance and profitability, this is of value to the business. Nonetheless, identifying such a link to business performance is difficult, since many different factors affect business performance and isolating the impact of any single one is virtually impossible. One test for the existence of such benefits is simply to ask employers whether or not they are aware of such benefits. Evidence from UK employers suggests that many are indeed not aware. Dewson *et al.* (2005) found that employers with experience recruiting a disabled person (from NDDP) were divided equally between those who saw no benefit and those who saw some benefit. Public sector employers were more likely to see benefits than those in the private sector (67 per cent and 42 per cent, respectively). Employers with no experience of recruiting disabled people were much less likely to identify any benefits (66 per cent of those with an opinion), and many (30 per cent) could not say whether or not there were any benefits. The findings were more positive in respect to existing employees who become disabled or chronically sick. Over 60 per cent of employers (regardless of whether or not they had experience of employing disabled people) saw some form of benefit arising from the retention of an existing employee (Dewson *et al.*, 2005).

Where UK employers have identified benefits from recruiting disabled people, they usually mention access to a larger pool of potential recruits, access to a diversity of skills and perspectives, better quality hires, improved employer loyalty and commitment, better retention rates, and improved staff relations and personnel practices as the main gains (Aston *et al.*, 2005; Dewson *et al.*, 2005). Gaining access to a bigger pool of labour is likely to be important for businesses that are experiencing recruitment difficulties, as well as all employers when the labour market is tight. Where employers have no experience of recruiting disabled people, those who see benefits do so mainly in terms of intangible benefits, such as improved image of the organisation, whereas those with experience of recruiting disabled people report concrete benefits in terms of improvements in staff relations, retention, and personnel practice.

Where employees have become disabled or chronically sick and have been retained by the business, employers see the benefits much more in terms of improved staff relations and morale than in terms of the image of the business (Dewson *et al.*, 2005). This is to be expected. Recruitment is a process where the employer interacts with the external world. Retention is much more about the relationship between the business and its workforce. Retention of an employee after the onset of disability signals to the rest of the workforce the value placed on employees by the business and may increase employee loyalty and morale. It also helps the business avoid the loss of specific investments in skills and reduces replacements costs (Campolieti, 2004). A survey of employers contacting the Job Accommodation Network (JAN) in the United States found that 87 per cent of employers who had made an adjustment said that it had enabled them to retain a valued employee, and 55 per cent said it had saved them the cost of training a new employee (JAN, 2005).

The survey of employers that contacted JAN provides one of the few indications of the importance of the business benefits from employing disabled people. This survey found that those that made adjustments for disabled people obtained multiple benefits.<sup>20</sup> These could be divided into direct benefits (that related mainly to employment and HR) and indirect benefits (that comprised mainly broader impacts on business performance). These benefits are described in Table 4.1.

**Table 4.1 Benefits accruing to the business from employment of disabled people**

Type of benefit	Per cent
<b>Direct benefits</b>	
Company retained a valued employee	87
Company promoted an employee	12
Company hired a qualified person with a disability	17
Increased the employee's productivity	74
Eliminated costs associated with training a new employee	55
Increased the employee's attendance	51
Saved worker's compensation or other insurance costs	42
Increased diversity of the company	43
<b>Indirect benefits</b>	
Improved interactions with co-workers	69
Increased overall company morale	61
Increased overall company productivity	57
Improved interactions with customers	42
Increased workplace safety	41
Increased overall company attendance	36
Increased profitability	29
Increased customer base	16

Source: JAN, 2005.

The JAN survey found that a substantial proportion of employers who had adapted the work environment to employ a disabled person reported positive direct effects, in particular increases in worker productivity. Many also reported indirect effects on the performance of the business, notably improved interaction with co-workers, improved morale, and a general increase in company productivity. Of course, employers who contact JAN are unlikely to be typical of all employers. In particular, they are more likely than businesses that do not seek advice on adjustments to have already recognised the benefits of employing disabled people. Consequently, Table 4.1 is likely to overstate the significance of any business benefits for the population of employers as a whole.

<sup>20</sup> The evaluation of JAN is being conducted by the University of Iowa's Law, Health Policy and Disability Centre and will not be complete until September 2007.

Some employers who recognise the benefits of employing disabled people also acknowledge some disadvantages (and some employers see only disadvantages). A large survey of employers recruiting through NDDP found that less than a quarter (23 per cent) saw only benefits and no disadvantages (while eight per cent were not sure about the benefits but saw no disadvantage). Around 17 per cent saw benefits but acknowledged disadvantages (and three per cent were not sure about the benefits but saw disadvantages). A large proportion of employers (42 per cent) saw no benefit from employing disabled people, but most of these saw no disadvantage either (29 per cent saw no disadvantage, while 13 per cent saw some disadvantage). The remaining six per cent were not sure of either the benefits or the benefits and disadvantages (Dewson *et al.*, 2005). Clearly, employer perceptions of benefits and disadvantages are mixed. Nonetheless, many employers (29 per cent) appear to see no difference between disabled and non-disabled workers in the sense that they see neither advantage nor disadvantage to employing disabled people.

When asked to identify the disadvantages associated with the employment of disabled people, employers usually mention a problem concerning the ability of the disabled person to contribute directly to production. High rates of absence through sickness, lower productivity, and the cost of making adjustments are the disadvantages mentioned most frequently. Higher levels of absence are also evident in data from the LFS, which indicates that disabled employees remain in post for shorter periods than non-disabled ones. However, workers who have higher absence levels and change jobs more frequently may be more likely to regard themselves as disabled, conditional on their having a health impairment, so the health impairment may not, in every instance, lead to the absenteeism and turnover. It is also striking that employers with first-hand experience of employing disabled people were three times as likely to mention higher rates of absence and sick leave, and almost twice as likely to mention low productivity, than were employers with no such experience (Dewson *et al.*, 2005). The latter group of employers appeared much more concerned about the cost of making adjustments and possible health and safety considerations. This difference might reflect the fact that employers without experience of employing disabled people have yet to address the costs of adjustments to the workplace. Employers who have already employed disabled people will already have invested in such adjustments. Harris (2002) also makes the point, from the perspective of small business, that concerns over the impact of 'over-regulation', with the associated fear of the potential cost of legal obligations and liabilities and the impact on the competitiveness of the business, was also a barrier to the recruitment of disabled people (Harris, 2002).

## 4.6 Recruitment, retention and human resources practices

### 4.6.1 Recruiting disabled people

Evidence about recruitment practices indicates that employers generally seek to find 'the best person for the job' and will try to recruit people who will 'fit in' with the culture and practices of the business (Hasluck, 1999; Loumidis et al., 2001; Roberts et al., 2004). Businesses operating in very competitive markets, where cost minimisation is a priority, often seek recruits who can 'hit the ground running' and who can make an immediate productive contribution without imposing additional costs in terms of training or disruption of the work of other employees. While discrimination and prejudice undoubtedly exist amongst employers, most employers are benign, so the relevant question is whether or not their employment practices, especially notions of 'the best person for the job' and 'fitting in', create inadvertent barriers to the recruitment of disabled people.

Surveys of employers provide a range of evidence relating to the recruitment process. Employers cite many different reasons for not recruiting disabled people. Some say that they receive few, if any, applications from disabled people (Meager et al., 2001). Others say that a lack of skills and work experience on the part of the applicants makes them unsuitable (Dixon, 2003), while others see their work as inherently unsuitable for disabled people and too costly to be adapted to accommodate them. Dewson et al. (2005) found that 65 per cent of a small sample of employers who said they would not recruit disabled people had reservations about the ability of such people to do the job. Large businesses and those with experience of employing disabled people appear more likely to recruit disabled people than small businesses or those with no such experience. Stuart (2002), for instance, found that employers indicating that they would not consider recruiting a person with a disability were mainly small organisations with fewer than 20 employees. Many employers see the recruitment of a disabled person as a major risk (Roberts et al., 2004).

A recent survey of employers who recruited through NDDP (Dewson et al, 2005) found few (just three per cent overall and four per cent in the private sector) who would admit to not normally employing disabled people but noted that almost two-thirds had no view or particular policy in that area. This survey also found that around third of employers (36 per cent) actively encouraged the recruitment of disabled people. These findings are in stark contrast to the earlier evidence (see the previous paragraph), which indicated that few employers (ranging from just two per cent to 21 per cent [see Goldstone and Meager, 2002]) do so. The main reason for the difference in findings between this study and earlier ones is probably that the sample of employers contained an atypical proportion of employers well disposed towards the recruitment of disabled people, since they had all (knowingly or otherwise) recruited from NDDP. For this reason, it is difficult to draw from this evidence any general inferences about employer attitudes.

The recruitment channels used by employers, and their selection and hiring practices, are likely to create barriers, even if inadvertent, to the recruitment of disabled people. Employers tend to use the same types of recruitment channels regardless of the type of person recruited. One of the most common methods, used especially by small employers, is word of mouth and recommendation by current employees (Cully et al., 1999). Dewson et al. (2005) found that 77 per cent of employers in their sample of NDDP employers used word of mouth or personal recommendation as a normal recruitment channel. Informal recruitment channels such as these tend to replicate past patterns of recruitment and exclude disadvantaged groups, including disabled workers (many of whom will have been out of the labour force for long periods and may be cut off from the world of work). Similarly, employers may not advertise jobs in places routinely seen by disabled people. It is known, for instance, that disabled people are more likely than other jobseekers to make direct application to employers and less likely ask friends or go to a Jobcentre (Grewal et al., 2002).

Recruitment and selection processes can also discourage disabled people from applying for jobs. Goldstone (2002) found that only 20 per cent of employers actively encouraged applications from disabled people, although the proportion increased with organisational size and in the public sector. Dewson et al. (2005) found a higher proportion of employers (36 per cent) actively encouraging applications from disabled people, but their sample was biased in favour of employers well disposed to such recruitment. Jackson et al. (2000) found evidence that the willingness of employers to seek disabled recruits was strongly influenced by the employer's attitude towards disabled people (and knowledge of the DDA). Targeting disabled people, reviewing recruitment documentation, and adapting application and interview processes may all help break down such barriers at the recruitment stage (Woodhams, 2003). Unnecessary reliance on written, formal applications may, for instance, deter people with visual impairment, while a failure to adapt interview procedures or locations might also inhibit the ability of disabled applicants to attend or perform their best. To ensure that recruitment processes do not unfairly discriminate, good practice would include the monitoring of recruitment and disability training for staff, although such practices need to be balanced against the need of a business to be cost conscious and remain competitive.

#### **4.6.2 Retaining disabled employees**

All labour turnover imposes a cost on an employer and that most employers seek to minimise turnover and retain their workforce. The extent to which they do so depends upon the value of the employee to the business and the cost of the steps necessary to retain that person. Where employers have made a substantial human capital investment in their workforce, they are likely to be keen to retain it, while in other situations, such as where jobs are mainly low-skilled, employers may disregard staff turnover, as the cost of reducing it may exceed the benefits of retention. Disabled people are doubly at risk. Disability raises the risk of turnover and increases uncertainty for any employer. In addition, disabled people are more likely than non-

disabled people to be employed in low-skilled and low-paid jobs, where employers have a disregard for high turnover, and are thus at greater risk of leaving employment.

Evidence from the UK suggests that about half of all employing organisations have some form of policy regarding the employment of disabled people, and where such policies were in place, they were usually of a formal and written nature (Roberts et al., 2002). Formal policies tend to be the norm with recruitment but not with retention. Nonetheless, a significant proportion of UK employers have formal policies on such matters as sickness or absence management, consultation with disabled employees on their needs, and encouraging retention of employees who become disabled or whose disability worsens, as well as a range of policies on monitoring disabled employment and employment practices. While this level of commitment to supporting the employment and retention of disabled employees appears good, it is salutary to note that according to the Disability Rights Commission (DRC), more than a quarter of UK employees (28 per cent) believe that their employer would be unlikely to keep them in their job should they become disabled. This proportion increases to 38 per cent in small businesses employing fewer than 25 employees. How respondents reached this pessimistic conclusion is not known, but it may well be that it arises from observation of how their employing organisation had treated disabled employees in the past.

The way in which an organisation treats disabled people – and its willingness to take steps to retain them – is a complex matter. Studies of corporate culture in this context have drawn attention to the prevalence of discrimination and of prejudice, as well as a reluctance amongst some organisations to recruit disabled workers (Dixon et al, 2003). While senior management may be committed to widening access to work for disabled people, it is often the attitudes and behaviour of supervisors and line managers that pose the real barrier (Bruyere, 2000). Roberts et al, (2002) found a significantly lower level of awareness of organisational policy towards disabled people amongst line managers and supervisors than amongst personnel, HR, and senior managers. Moreover, line managers tend to see much less scope for local variation in policy than do senior management.

Cunningham et al, (2004) talk of a 'gap between rhetoric and reality' in regard to the differences that can arise between organisational policy prescriptions and line management practice. Using evidence from case studies, they found that line managers were often ill-prepared or poorly trained to deal with issues of disability. These gaps in skill were frequently exacerbated by a lack of organisational support for line managers, who were often isolated from senior management and uncommitted to the organisation's policies. They also found evidence of tension between 'return to work policies' intended to provide support for vulnerable employees and policies intended to provide health-related discipline. The intensification of the work process in many organisations and budgetary pressures were also identified as further factors leading to a gap between organisational policy and practice. Cunningham et al. (2004) suggest four responses that employers

should take: (1) provide adequate training to line managers in how to handle long-term illness and disability cases; (2) separate more effectively the handling of disability issues from those of discipline; (3) improve the co-ordination between line managers and others involved in managing the workforce, such as trade unions, HR staff, and health professionals; and (4) involve line managers closely in the formulation of organisational policies so that they 'buy in' to them.

Stone and Colella (1996) attempted a synthesis of different disciplinary perspectives and research findings to produce a model of the factors affecting the way organisations treat disabled people. Their model indicates the influence of both personal and environmental factors. Organisational characteristics (conditioned by technology, the norms and values of the organisation, and legislative obligations) affect the type of people who are recruited to the organisation. Organisational characteristics also affect the nature of the jobs on offer and the operation of reward systems. Stone and Colella stress the importance of interaction between the attributes of disabled employees and others in the organisation (co-workers, managers) and the extensive use of stereotyping as a basis for expectations of disabled people and the organisational response to their needs.

From Stone and Colella's perspective, the early experience of disabled people conditions their subsequent attitudes to the job and to their employer (and consequently, the attitude of the employer to them). Some studies have suggested that a proper assessment of the needs of recruits at the outset of employment is essential. The ability of the employer to respond to the needs of employees at the onset of disability or illness is also important, although there may be the added problem of uncertainty as to the employee's condition and need for a period of absence from work. Yandrick (1997) notes that *'the attitude of injured workers to their job, manager, and co-workers carries greater weight in the occurrence of chronic disability than the severity of the injury itself'*. To deal with this issue, many employers (generally large ones) have adopted 'disability management' approaches, the aim of which is to have a workplace prevention and remediation strategy that will prevent disability from occurring or to intervene at an early stage following the onset of disability to allow the continuation of employment for those experiencing work limitations (Akabas et al., 1992; James et al., 1997; Schmal, 2001).

Larger employers, with their dedicated divisions and greater resources, such as occupational health departments, appear better able to deal with these issues. Larger organisations may also have greater scope for re-deployment and more resources for workplace adaptation. Small employers often lack a formal approach to HR matters, disability in particular (Meager et al., 2001). On the other hand, smaller businesses may have the advantage of a more flexible and personal relationship between employer and employee. A further factor in the ability of an employer to retain disabled employees might be the extent to which the employer is aware of, and uses, external support groups and agencies such as Jobcentre Plus.

### 4.6.3 Human resources practices and legislation

Woodhams and Corby (2006) have argued that the character of disability discrimination legislation in the UK has had an impact on HR practices and the employment of disabled people. This complex issue is discussed in detail in Chapter 5. The gist of Woodhams and Corby's argument is that whereas policy up to 1995 (framed by the 1944 Disabled Persons [Employment] Act) was interventionist in character and required employers to take positive steps to recruit disabled people in order to meet an employment quota, the DDA is much more liberal in its philosophy, adopting a voluntary approach that requires employers only to ensure that disabled people are treated no less favourably than non-disabled people (and empowering individuals to take legal action to enforce such equality of opportunity). The consequence of this shift, according to Woodhams and Corby, is that HR practices have shifted from positive, even radical, recruitment practices (such as the reservation of certain jobs solely for disabled people or 'work introduction' schemes) to practices designed to ensure formal and procedural equality (for instance, the implementation of equal opportunity policies that specifically mention disability, the appointment of a manager with specific responsibilities for disability, and disability awareness training).

Comparing data from two employer surveys (the first in 1995 and the second in 2003), Woodhams and Corby found that the use of positive HR measures was the best predictor of a high proportion of employment of disabled people in 1995 (more significant even than organisation size and sector), while other types of HR practice were not associated with differences in the proportion of disabled employees. Such measures were seldom used in 2003 (even though positive action is legal under the DDA) and, where they were used, they had little impact on the proportion of employment of disabled people. In 2003, the most significant predictor of a high percentage of disabled employees was the establishment's sector (with the public sector most likely to employ disabled people) rather than specific types of HR practice. Practices described as 'working with managers' (awareness training, appointing a manager with specific responsibility for equal opportunities) and 'making adaptations' (installing specialist equipment, adapting premises, reallocating staff to different duties) were also significantly related to a high level of employment of disabled people. Overall, they concluded that a wider range of HR measures were in use by 2003 to support equal opportunity and the employment of disabled people, and that the overall effectiveness of such measures was greater in 2003 than in 1995, though the effectiveness of individual measures was much less than it was for positive action.

There is support for the Woodhams and Corby thesis in evidence from a survey of employers who recruited through NDDP (Dewson et al., 2005). Though the sample was clearly biased in favour of employers well disposed towards employing disabled people (almost a third reported that they actively sought to recruit such people), less than three per cent of employers that claimed to encourage applications from disabled people used any form of positive discrimination to do so. The most common methods used to attract disabled people were passive, such as including a statement welcoming disabled applicants (89 per cent) or placing a disability symbol in job advertisements (53 per cent).

## 4.7 Accommodating disability in the workplace

### 4.7.1 Incidence and form of adjustments

Employers regularly make adjustments for workers, disabled and non-disabled, to give them the right tools and work environment to perform effectively. Making such adjustments is part of the normal process of managing the human resources of the business. Nevertheless, one of the principal concerns of employers is that the employment of a disabled person will require them to make abnormally costly changes to work practices and the workplace.

Adjustments that are likely to be required in connection with the employment of disabled people include the following:

- provision of equipment adapted for a disabled person;
- modification of the workplace or premises;
- change of location of job to another workplace;
- redesign of working duties;
- reallocation of a worker to another job;
- provision of flexible working patterns or working hours;
- permit special leave or additional time off work;
- provision of additional support on the job.

It is important to distinguish between adjustments that must be made only once (such as physical modifications to the workplace) and those that impose ongoing costs (such as provision of flexible working conditions or additional support on the job). While the latter is a pure cost of employment, the 'one off' type of adjustment really represents a form of investment that will be repaid over the period of the employment relationship. Moreover, such investments may be of value to other employees or future disabled recruits and thus generate external benefits at zero cost.

While there is a widespread perception that adjustments will always be required, this is not so. In a recent survey of employers known to have recruited disabled people, Dewson *et al.* (2005) found that more than a third (41 per cent) had made no adjustment to retain a disabled employee, and more than half (56 per cent) had made no adjustment to recruit a disabled person. Overall, 24 per cent had taken no steps to accommodate disabled employees. Note that the sample was drawn from employers recruiting from NDDP and contained a disproportionate number of large organisations and public sector employers (although the sample included employers of all sizes and sectors). The finding that workplace adjustments for disabled people were more likely for existing employees than new recruits is consistent with the findings of earlier studies. Goldstone and Meager (2002) also found that adjustments were more common in relation to retention than recruitment (although their study

excluded the smallest of establishments). Other studies, such as Stuart *et al.* (2002) and Meager *et al.* (2001), offer broadly similar findings. In the USA, 84 per cent of employers contacting the JAN for advice on adjustments were doing so to retain an existing employee, only five per cent to accommodate a new recruit (JAN, 2005).

The different propensity of employers to accommodate existing employees and recruits can be expected, since it is more difficult to avoid the need for adjustments for existing employees. Adjustments for new recruits can be avoided simply by not employing them, and this costs a business very little (provided the employer does not discriminate and acts within the law). Existing employees cannot be dismissed without a cost to the business, and in this case the benefit-cost calculation may lead the employer to the conclusion that it is more cost-effective to provide adjustments and retain staff than it is to bear the costs of severing the employment relationship (with periods of paid sick leave, indirect effects on the morale of other staff, and possible legal and compensation costs). It is worth noting in this context that the definition of discrimination under the DDA is the same for both a new job applicant and an existing employee. Enforcement of the DDA, however, is likely to be cheaper, and therefore more vigorous, in the case of existing employees relative to job applicants. This raises the cost of not retaining an existing employee relative to the cost of not recruiting someone who was disabled at the time of the job application. These additional costs reinforce the incentives for employers to accommodate existing employees who become disabled rather than to accommodate new recruits.

The most common adjustments are special equipment, modifications to the workplace, flexible working arrangements, and special leave and on-the-job support (Goldstone and Meager, 2002; Dewson *et al.*, 2005). Nelson and Kleiner (2001) set out practical and largely low-cost ways of accommodating common disabilities in organisations. In the USA, the JAN, via their website, provides comprehensive advice on adjustment solutions, often at very low cost, for a great variety of types of disability.<sup>21</sup> Technological change, especially in microelectronics and information/communications technology, has in many cases revolutionised the range of adjustments available and, just as important, lowered their cost (Roulstone, 1998; Cohen, 2002; Bruyere *et al.*, 2005).

There are, however, differences in the form by which employers accommodate existing employees as opposed to new recruits. Adjustments for existing disabled employees tend to take the form of changes to the work or duties undertaken and special leave and phased returns to work. New recruits are more likely to be accommodated through special equipment or flexible working hours. This suggests that for existing employees, the work is adapted to meet the needs of the employee, while for new recruits, the job remains fixed but adjustments are used to help the recruit fit the job.

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<sup>21</sup> The JAN website address is <http://www.jan.wvu.edu>. JAN is a service provided by the Office of Disability Employment Policy, U.S. Department of Labor.

Many employers report, with the benefit of hindsight, that making adjustments was easy. Several surveys report that the proportion of employers who actually made adjustments and who found adjustments easy to be as high as 70 per cent. Some adjustments are undoubtedly easier to make than others, with flexible hours, modifications to the workplace, and special equipment appearing to be the easiest (Dewson *et al.*, 2005). Nonetheless, whether easy or not, there is now a considerable body of evidence to show that where employers offer adjustments, there is an associated gain in terms of reduced absences and retention of disabled employees (Krause *et al.*, 1998), while Burkhauser *et al.* (1999) found that the provision of workplace adjustments was associated with a reduction in the probability that employees left the workforce.

#### **4.7.2 Factors associated with making adjustments**

Studies of the steps employers took to accommodate disabled employees suggest a number of broad patterns. Adjustments are much more common amongst employers in the public sector (and quasi-public sector organisations such as government agencies, education, and health) and in large establishments. A business that is part of a larger organisation is more likely than a comparable small single establishment to provide adjustments.

There are likely to be several reasons for differences in the incidence of adjustments. First, there may be differences in the values and culture of organisations, with certain ones more committed to employing disabled people. Lee (1996) argued that an employer's attitude towards an adjustment requested under the Americans with Disabilities Act (ADA) was the result of the characteristics of the person with a disability seeking the adjustment, employer characteristics, and employer perceptions of the cost of the adjustment. Similarly, Jackson *et al.* (2000) showed that the willingness of employers to make adjustments and comply with the DDA was a function of their attitude towards disabled people and their knowledge of the DDA itself. Employers that had a knowledge of the DDA were more likely to make cheap and/or non-disruptive adjustments (presumably to comply with the letter of the law), while the likelihood of expensive or disruptive adjustments was higher if employers had both a knowledge of the DDA and positive attitudes towards the employment of disabled people. Public sector organisations in particular may be obligated, or feel obligated, to work to the letter of government policy on equal opportunities. This is not to say that private sector organisations are necessarily less committed, but in many instances there are additional factors at work. While large organisations (both public and private) have resources to devote to accommodating disabled people, as well as formal procedures and policies, this is much less so with small businesses. Small businesses often have informal HR policies and procedures and less scope for certain kinds of adjustments, such as reshaping the job or moving it to another location, or cannot afford to offer special leave, flexible working arrangements, or other assistance. Businesses that have a formal equal opportunity policy are much more likely to make adjustments to the workplace to accommodate disabled people.

In a ground-breaking study of factors associated with the provision of adjustments, Campolieti (2004) argues that employers' decisions to accommodate disabled workers depend on a range of factors, such as the output produced by the worker and the costs of adjustment, together with potential loss of firm specific human capital and cost of replacement should adjustment not be provided. The legal consequences (particularly in terms of an employer's liability for compensation) may also enter into the calculation. Using evidence from Canada, Campolieti examined the adjustments employers provided for workers who returned to work with a permanent disability. She found (after correcting for factors associated with the likelihood of returning to work, such as severity of condition) that a worker's general level of skill was not associated with the provision of adjustments. A worker who had firm specific vocational training was much more likely to be provided with some form of adjustment. This suggests that employers are indeed engaged in a monetary benefit-cost calculation (similar to that described in Section 4.3.2). It is relatively easy (or less costly) to replace employees with general skills on the open market. The loss of employees in whom a substantial investment in firm-specific training has been made (and who would therefore be costly to replace) represents a much greater cost to the business, which makes adjustments to retain their labour worthwhile. It is not surprising, therefore, that when employers in the USA contacted the JAN for advice on accommodating employees, the employees concerned tended to have been with their employer for some time (on average, seven years) and to be the more highly educated/skilled, with 43 per cent having a college degree or higher (JAN, 2005).

The loss of firm-specific investments in human capital is not a factor in the decision whether or not to recruit a disabled person. This is just as true of experienced workers as it is of new labour market entrants. Thus, where a disabled employee leaves a pre-disability employer and at some future time seeks employment elsewhere, the new employer's decision about whether to recruit and provide adjustments will be based entirely on the productive contribution of the individual (and previous specific training is irrelevant). Campolieti (2004) found that adjustments were more commonly provided when a worker returned to the employer for whom they worked at the onset of their disability and less likely if they returned to work with another employer (the analysis was restricted to those who were physically capable of undertaking both the previous and the new job). It is possible, however, to interpret this finding differently. It could reflect a greater institutional obligation (either moral or legal) on the pre-disability employer than on a new employer to attempt to re-integrate a disabled employee (Gunderson and Hyatt, 1996). By failing to offer reasonable adjustments to existing employees, employers may leave themselves open to prosecution or to compensation claims (depending upon the circumstances). Such obligations fall less heavily, if at all, on a new employer (who can, in the extreme case, avoid such obligations by not recruiting at all).

### 4.7.3 Cost and other barriers to making adjustments

Most employers who accommodate disabled employees by making adjustments to the workplace and working conditions report that doing so was easy. Roberts et al. (2004) found that 72 per cent of employers who had made adjustments had found it easy, a figure very similar to the one reported by Dewson et al. (2005). Nonetheless, there is a minority of employers for whom adjustments appear more difficult. A sizeable proportion of employers reported having made no adjustments at all, probably because doing so was too difficult or costly. Small businesses in particular appear to face the most difficulty in making adjustments (Kelly et al, 2005). Some researchers have argued that achieving successful adjustments will continue to be difficult so long as employers and policy-makers see adjustment as a process involving technical changes to the job rather than as a social process involving the disabled person, the person's co-workers, the employer, and others who are helping to facilitate adjustments (Gates, 2000).

According to many employers, one of the main barriers to making adjustments, especially amongst small businesses, is cost (Dixon et al., 2005). But it is the perception of cost rather than a knowledge of the actual costs of adjustment that acts as a barrier, since so few employers appear to have quantified the costs of workplace adjustments. This is partly because some employers believe that no direct costs arise from the employment of disabled people (or that any costs are negligible), while others have a policy of not quantifying such costs or find doing so too difficult. Goldstone and Meager (2002) found that in a quarter to a third of cases surveyed, employers reported no direct costs as the result of any adjustments to the workplace. A further half of all employers acknowledged that there was a cost but had either found it too difficult to quantify or regarded it as part of normal operating costs.

Where actual costs of adjustment have been quantified, the results indicate that costs are non-trivial but often less than many employers believe. A survey of personnel managers in Great Britain by the Chartered Institute of Personnel Development found that the great majority of employers had found it easy to adapt their procedures and workplaces to comply with the DDA (CIPD, 2003). Similarly, Roberts et al. (2004) found that 72 per cent of employers who had made adjustments had found it easy. In the USA, the JAN collected information from 778 employers that had contacted it between January 2004 and April 2005. Just over half (51 per cent) had made an adjustment at no cost, while a further 42 per cent reported having made one at an average (median) one-off cost of \$600 (JAN, 2005). When asked how much they had paid for an adjustment over and above what they normally paid for an employee without a disability, the typical answer was around \$500. In a rare attempt to quantify the costs of adjustment in the UK, Meager et al. (2001) estimated the cost of workplace adjustments at an average of around £770 per disabled employee for whom an adjustment was required. Since many other disabled employees did not need adjustments, the cost averaged over all disabled employees (including those for whom no adjustment was made) was just over £180 per disabled employee. However, it is important to recognise that estimates of

actual costs may be biased downward, since they measure the adjustments actually made voluntarily and not the ones that employers rejected as too costly. Thus, observed adjustment costs will tend to understate the real cost of all potential adjustments and may, therefore, be a poor guide to the scale and cost of future adjustments that might be required of employers under disability discrimination legislation.

The cost that employers are prepared to bear to accommodate disabled people appears to be larger for existing employees than for recruits (put another way, employers will pay more to retain a disabled employee than to recruit one). The reasons for this were discussed in Section 4.7.2. In the USA, the JAN reported that 84 per cent of employers contacting the network for advice and solutions did so to retain a current employee (JAN, 2005). Goldstone and Meager (2002) have provided separate estimates of the monetary cost of adjustments for recruits and existing employees. In the case of adjustments to assist recruitment, 70 per cent reported no direct cost at all, and where a cost was reported, only around 11 per cent reported that it exceeded £500. Where adjustments were made to retain an existing employee, only 55 per cent of employers reported that there was no cost, and 27 per cent reported a cost in excess of £500.

Several different factors appear to influence the scale of the cost that employers are prepared to bear. These factors include business profitability and turnover, with more profitable businesses being better able to spend more on adjustments. The perceived value of the employee to the business, particularly the level of firm-specific skill possessed, is also important. Goldstone and Meager (2002), for instance, found evidence that employers were prepared to spend more on workplace adjustments for non-manual and skilled employees than for semi-skilled manual and unskilled workers. Adjustments are also more likely where the benefit of the workplace adjustment can be spread over a number of disabled employees or even benefit the workforce as a whole, since this lowers the per capita cost. In addition to these factors, many recent adjustments appear to have been induced by new legislation, such as the DDA (Roberts et al., 2004; Kelly, 2005).

Concerns about the financial implications of adjustments seem most acute with adjustments to the work environment. This is probably because such costs have to be incurred 'up front' and employers tend to be myopic, looking at the short-term costs and not the longer-term, investment nature of adjustment. Many small businesses regard it as unfair that they are expected to bear adjustment costs at all, and many argue that the Government should, in full or part, bear the cost (Kelly et al., 2005). As might be expected, when the DDA was extended to cover small employers, many opted for adjustments that could be made without cost. Nonetheless, when small businesses did spend money on workplace adjustments, they spent per capita amounts comparable to those of large organisations.

Adjustments to working conditions, such as special leave and flexible hours, may be less onerous than 'up front' adjustments to the workplace, but they represent a continuing cost for business arising from the employment of disabled people.

Employers may also be reluctant to make changes to working practices that could be seen as unfair by other members of their workforce and thus might lead to resentment and a drop in workforce morale. In their survey of NDDP employers, Dewson et al. (2005) found that 11 per cent of employers with experience of employing disabled people reported adverse reactions from work colleagues. Small business, in particular, argues that it is difficult to offer special leave and flexible working hours, since the burden of such adjustments falls heavily on other employees (because of their small number) in a way not experienced in large organisations. According to a 2005 survey of small businesses (Kelly et al., 2005), a third of small businesses (34 per cent) said it would be difficult or impossible to introduce flexible working hours, while almost two-thirds (62 per cent) said it would be difficult or impossible to introduce flexible work organisation. The great majority of small businesses (77 per cent) said it would be difficult or impossible to allow working from home. While these proportions are smaller than those reported in a similar study in 2003 (Roberts et al., 2004), they remain high.

#### 4.8 Legislation and the cost of employing disabled people

Reports from employers provide one perspective on the costs of employing disabled people, but such survey data do not always tell the whole story. Employers might report only on direct costs or the most measurable costs, and, as has already been noted, many do not seek to quantify such costs. Furthermore, individual employers may not fully recognise the cost of adjustments for disabled people when such costs are externalised across the labour market and all employers. Theoretically, in the absence of *monopsony*<sup>22</sup> and discrimination, any adjustment costs, particularly those enforced through legislation, would be expected to raise the cost of employing labour and reduce employment of disabled people. The argument is much the same as for the introduction of a minimum wage. Alternately, where employers have a degree of power, they might be in a position to make disabled employees pay for their adjustment costs through reductions in the wage. Whether these effects are observed will depend very much on the extent to which costs are affected and the scale of such costs (both of which depend on the extent to which the law is effective and enforced) as well as employers' responses to any increase in costs.

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<sup>22</sup> *Monopsony* refers to a non-competitive situation in which an employer is able to pay the workforce less than its productive value to the business and make above 'normal' profit (a situation referred to, not surprisingly, as 'exploitation'). In that case, an increase in the cost of labour, say, through the need to provide workplace adjustments, usually results in the business giving up some of its excess profit but leaves the employment level unchanged. A competitive firm (generating only normal profits) would be forced by such increased costs to cut employment to restore its profit that would otherwise be reduced below the level necessary for the business to survive.

There is as yet virtually no analysis for the UK that provides a quantitative assessment of the impact of the DDA on the cost of adjustments. An exception is an analysis by Bell and Heitmueller (2005), discussed later in this section. In the USA, where the comparable ADA has been in force since 1990, a number of attempts have been made to estimate the cost of adjustments from macroeconomic data, and these provide some indication of what might be expected to result from the DDA in the UK. For instance, the *President's Committee on Employment of People with Disabilities* surveyed employers in 1997 and concluded that between 1992 and 1997, the average cost per adjustment arising under the legislation had been about \$930. This estimate related only to voluntary adjustments and made no allowance for time spent by businesses in dealing with ADA regulations. Furthermore, the largest element of the costs to employers associated with the ADA appears to have been costs that arose from litigation. According to Acemoglu and Angrist (2001), between 1992 and 2000 the *U.S. Equal Employment Opportunity Commission* brought more than 11,000 charges under the ADA and brokered settlements that resulted in employers paying over \$175 million, excluding administrative costs, legal fees, and private settlements.

Drawing on quantitative models of the impact of ADA on employment, wages, and costs (and some heroic assumptions), Acemoglu and Angrist estimated that the cost of the ADA was \$24.50 to \$35 per week per disabled employee, consisting of \$23 per week as the cost of adjustments and between \$1.50 and \$12 for litigation. This suggests that the ADA increased the cost of employing a disabled worker by 6 to 10 per cent. One consequence of such a cost increase could be a reduction in the employment of disabled people, and this appears to be borne out by the evidence (DeLeire, 2000; Acemoglu and Angrist, 2001). Jolls and Prescott (2004) attempted to separate the impact of the ADA into that arising from the enforced costs of reasonable adjustments and the imposition of increased firing costs. They concluded that the cost of imposed workforce adjustments was directly responsible for the initial negative impact of ADA on employment, although they argue that subsequent drops in the rate of disabled employment was due to other factors. Bell and Heitmueller (2005) suggest that the impact of adjustments was negative because employers in the USA were unable to offset fully such adjustment costs against tax and thus had to bear most of the cost. This may explain the finding by Charles (2004) that the ADA had slightly increased the number of adjustments, but that workers had paid for this in the form of lower wages.

In the UK, Woodhams and Corby (2006) found evidence that adjustments (workplace adaptation, introduction of special equipment, and so forth) were associated with employers having above-average proportions of disabled people in their workforce. They argue that adjustments by employers have become more common as the result of the DDA and its impact upon employers' HR practices. Nonetheless, in the only macroeconomic study to date of the employment effect of the DDA in the UK, Bell and Heitmueller (2005) concluded that the DDA had resulted in, at best, a levelling off of aggregate employment rates of disabled people and possibly to a decline in such rates. This might seem surprising, since in the UK, programmes such as Access

to Work allow employers to recover (in part or in full) adjustment costs for up to three years. Thus, in contrast to the USA, it might have been predicted that workplace adjustments required under the DDA would have less of a negative effect on the employment of disabled people. Bell and Heitmueller attribute the observation of a negative impact to the low take-up of programmes like Access to Work. Since the Access to Work programme is small compared to the potential need for workplace adjustments that are mandated by the DDA, and since Access to Work only covers the costs of adjustments that are greater than those that are mandated, employers were bearing the bulk of the cost of adjustments required under the DDA and had reduced employment accordingly.

Government policy and programmes directed towards the employment of disabled people are considered in detail in Chapter 5. The point here is that no matter how minimal the costs of adjustments reported by individual employers (whether required by the DDA or not), the macro evidence suggests that the costs of adjustment required under the DDA had a more significant impact on employment than the survey evidence seems to indicate (although further evidence is required before a definitive conclusion can be drawn).

#### 4.9 Reflections on the monetary costs and benefits of employing disabled people

This chapter has considered employers' decisions about the employment of disabled people in the context of a benefit-cost framework and an examination of the evidence relating to the main elements of the costs and benefits to employers associated with the employment of disabled people. The discussion leads to a number of broad conclusions:

- While there is a considerable body of evidence concerning the costs and benefits of employing disabled people, most of it is qualitative in the sense that it does not provide monetary estimates. This is partly because many of these costs and benefits are intrinsically difficult to measure and partly because many employers choose not to measure them, either on ethical grounds or else on the pragmatic grounds that it is too difficult and costly to account for them.
- The experience of disability in the workplace is extremely diverse, and the nature of businesses so varied, that it is unlikely that a single, universal assessment of the net monetary benefit of employing disabled people can be made. The range of impairments and the scope for adjustment is likely to vary greatly from person to person (depending upon a person's condition, circumstances, and personal characteristics) and from business to business (depending upon the nature of the productive activity and jobs involved, the technologies used, the market conditions under which the business operates, and the capability of management).

- Many employers believe that the productivity of disabled people is less than that of similar non-disabled employees and fear that employment of disabled people will incur additional costs in the form of workplace adjustments. This inevitably puts disabled workers at a disadvantage in the job market. There is little point in denying that there are productivity differences between disabled and non-disabled people. However, the job market appears to deal with this by sorting the less productive (disabled and non-disabled alike) into low-productivity jobs. Within any given job type or occupation, there is less evidence of significant differences in productivity. The relationship between disability and productivity in a given job is not a simple one; it is intermediated by how well the employer matches the disabled worker to the job and the extent of the support offered. In many situations, a disabled person can be as productive as a non-disabled one, and many employers who have made adjustments to the work environment report that the people affected are just as productive as other employees.
- The treatment of disabled employees is conditioned by organisational culture and values. Only a minority of employers (usually large organisations and those in the public sector) appear to have considered and formulated policies with regard to disabled employees. Line managers and supervisors appear to be critical intermediaries upon whom the ability of the business to manage disability and retain disabled employees is vitally dependent. There is some evidence that line managers are not skilled in the management of disability and may even hold attitudes and beliefs contrary to the formal position of the organisation. Where management is conducted on an *ad hoc* basis, it is reasonable to assume that the decisions made can often be ill-informed and sub-optimal, serving neither the interests of the business nor those of employees.
- Disability is often correlated with other disadvantages, such as low skill, lack of qualifications, poor housing, and lack of access to transport. In many cases, it is the consequence of poverty and disadvantage. This raises several issues for policy. First, it suggests that policy should be multi-dimensional, addressing not just employment but also other issues. Second, it raises the question of whether it is reasonable and socially just for employers to bear the full cost of employing disabled people. It also suggests that many policies not directly targeting disabled people, such as encouraging lifelong learning and workforce development, will have incidental benefits for disabled people and help facilitate their entry into or retention of employment.
- Policy concerning the employment of disabled people tends to focus on the recruitment process, whereas in many ways the more significant issues arise in regard to the retention of jobs once in employment. The onset of disability usually occurs while a person is employed. It is at this point that a person requires the most support from the employer, the employer incurs the highest costs – and the risk of job loss is therefore greatest. The retention decision is a complex one for employers, as it represents a decision akin to an investment decision, in which immediate costs (such as paid absence and adjustment costs) must be set against an uncertain future productive value of the employee together with any potential loss of specific human capital investments and replacement costs.

- The direct costs of adjustments (as measured from surveys) appear small, with many employers reporting zero cost adjustments. These estimates, however, probably underestimate the cost of future adjustments, since employers are reporting on adjustments that have already been made – likely the cheapest and easiest ones. Many small businesses claim that the cost of adjustments is too great for them to bear, although many have actually provided such adjustments. In this regard, requiring all employers to make reasonable adjustments for disabled employees can be seen as preventing ‘poor’ employers from gaining a competitive advantage at the expense of more responsible employers and thus fostering fair competition. In general, employers appear more willing to bear the cost of workplace adjustments and provide equipment than they are to allow flexible work practices. Encouraging employers to adopt flexible practices friendly to the balance of work and life would help disabled employees but would also benefit non-disabled employees.
- Many benefits – often intangible and non-monetary – are claimed for businesses that employ disabled people. Employers cite access to a wider pool of skills, improved morale, better retention rates, and similar indirect business benefits. This evidence remains subjective, however, and there is nothing to link the employment of disabled people directly to improvements in measures of business performance, such as productivity, competitiveness, or profitability.
- Evidence relating to the impact of legislation such as the DDA and its requirement that employers provide ‘reasonable’ adjustments is largely absent for the UK. Evidence from the USA indicates that the requirement to provide adjustments to the workplace had the effect of raising the cost to organisations of employing disabled people and has led to a reduction in their employment rate. The only comparable study relating to the DDA and the UK has reached similar conclusions.
- The examination of the costs and benefits of employing disabled people suggests that there are a number of ‘levers’ through which policy can affect their employment:
  - Measures to reduce the gap between perceived productivity and actual productivity.
  - Measures to reduce the uncertainty surrounding the productivity of disabled people at the point of recruitment (perhaps by means of improved contact between Jobcentre Plus and employers, or work placements with employer).
  - Measures to increase the productivity of disabled people through provision of advice and guidance for employers (to help them match people to jobs) and by the encouragement of specific training by employers, since this is strongly associated with retention.
  - Measures to reduce the direct cost of employment of disabled people, through wage subsidies, working tax credits, and other in-work support.
  - Measures to reduce the relative cost of finding and recruiting disabled people by means of job placement assistance.

- Measures to reduce the cost to employers of disability-related sickness absence to support retention of disabled employees.
- Measures to reduce the direct costs of adjustments, either through advice and guidance to help employers find low-cost but effective adjustments or through subsidising the costs of adjustment.
- Measures to encourage employer support for work-life balance measures (since this indirectly assists disabled people).

An increase in the legal cost and consequences of discrimination and non-compliance with the DDA and similar legislation.

## 4a Commentary: Challenges and opportunities for moving benefits to employers of recruiting and retaining disabled workers above costs

**Steve Bell**

Chapter 4 of this report, 'The costs and benefits to employers of recruiting and retaining disabled workers', provides a valuable and thorough appraisal of the evidence on the economic costs and benefits of employing disabled people. The chapter's author, University of Warwick scholar Chris Hasluck, taps literature from a variety of disciplines to examine how employers see – or *should* see – their options when making decisions about recruiting and retaining workers with functional limitations. Where possible, he seeks to quantify robust evidence, denominated in pounds, on what is involved in these types of business calculations, though more often than not he finds clues that are largely suggestive, though thought-provoking nonetheless. The goal is to deliver an accurate picture of what it means on a profit-and-loss basis for a business to employ and retain workers with a distinct set of capabilities that result from long-term illness or injury, with the expectation (common to the book as a whole) that informed decision-making on the part of employers will result in greater benefits to both employers and disabled people.

Unquestionably, Mr. Hasluck's research surfaces many noteworthy aspects of the employment decision-making from the employer's perspective. The reader will at a minimum come away with a better understanding of the numerous complexities facing employer decision-making regarding recruitment and retention generally,

and especially where disabled people are involved. Skill needs, firm-specific worker know-how, turnover and replacement costs, flexibility in the production process, costs of worksite adjustments, local labour market conditions, relative reliability and productivity of different types of workers, policy and legal constraints, prior employer experience with the workforce challenges of disability, expectations regarding co-worker and customer reaction (both positive and negative), and the larger sense of an organisation's social responsibilities – all play a role. Every situation is, as the author adduces, unique as to the abilities of the worker involved and the capacity of the employer to shape jobs to enable workers to make their greatest contributions.

This being said, a report for broad audiences needs to discern clarity and generality wherever possible even when awash in a sea of particulars. Mr. Hasluck pushes to do this, offering everything he can find in the literature with some amount of broad applicability. For reasons well explained (and wisely presented at the outset), all this does not get us very far. For starters, the author points out that many of the pluses and minuses are not tracked in monetary terms by employers themselves, so of course are not available to researchers. Compounding this is the fact that the employers whose direct experience (of adjustments, job performance, and labour force stability when disabled workers are involved) makes up the bulk of the evidence, are not representative of all employers. On almost every factor that matters to the balance of pluses and minuses – the ability to use workers effectively and flexibly, the investment needed for adjustments and work supports, the size and human resource management capabilities of the firm, and so on – it is employers with the biggest gains and smallest costs who wind up employing most disabled workers and therefore providing most of the evidence. None of this, of course, is Mr. Hasluck's fault.

So what can the research tell employers about the realities of recruiting and retaining disabled workers – and tell policy makers about not just the private business consequences, but the broader social issues? Three things stand out, if one combines the rich information in the chapter with economic theory of firm and worker behavior and additional data from the literature:

- A favourable calculation showing that firms gain on net by employing disabled people, grounded in empirical evidence, does not at present exist.
- To arrive at such a calculation from a strict business perspective is a tall order, given the basic characteristics of business competition and the implications of disability in the workplace.
- The successes already in place, of which the chapter notes a considerable number, suggest that broad inclusion of disabled people into work may not be terribly far off, given social actions consciously focused on making the business tradeoffs more favourable than they are now – at which point those social actions should no longer be necessary.

This commentary puts forward the arguments for these points, along with some additional thoughts on lessons and implications from the chapter.

## 4a.1 The challenge

Mr. Hasluck acknowledges that evidence on the costs and benefits of employing disabled people, measured in monetary terms, is thin. What he finds concerns only costs (of adjustments) and not benefits. Quantitative measures of benefits, even in non-monetary units, do not seem to be available. No figures have been found measuring workers' performance ratings, duration remaining in post, absenteeism/punctuality, public perception of the business, customer volume from the population of disabled people, or public staff morale – the key facets noted as possible benefits that business would accrue from employing disabled people. The closest thing to quantitative measures concerns levels of productivity. The chapter cites evidence from Dewson et al. (2005) that just three per cent of employers, after recruiting disabled people, felt that they had lower productivity than other workers.

Even this strongest example of quantifying employers' cost and benefit trade-offs does not yield very good evidence. In the ideal, one would want independent measures of the productivity of disabled and non-disabled people – measures that could be compared. But this is not that. Moreover, one would want to be able to gauge this factor among all employers who might recruit and retain disabled workers, not exclusively those employers that have already done so. The Dewson et al. evidence illustrates the complexities of interpretation that arise from this contrast. Noting that in the same study 65 per cent of employers who did not recruit a disabled person think performance/productivity would lag, the author takes the difference between 65 and three per cent as an indication of a gulf between perception and reality on the part of employers. But these are two disjointed sets of employers, not a single group with initial perceptions that were later found to be incorrect. Both sets may well have had accurate perceptions of the situation they faced but were dealing with a different set of potential employees, contrasting job needs, or both. These differences could make disabled people less productive than other workers in one instance and not in the other. Not surprisingly, it is when those workers are truly not less productive that recruitment actually takes place and the favourable productivity emerges. The productivity levels that would have resulted had the other employers recruited disabled applicants are unknown.

Obviously, if nothing on the plus side can be put into pounds, one cannot show that gains exceed costs in the 'bottom line' business sense. Still, the balance might be favourable but the evidence lacking. The DRC (2005) reports that just over half the 6.9 million disabled people of working age in Britain work; this seems *prima facie* evidence that in nearly 3.5 million cases businesses and other employers *have* found the balance favourable.<sup>23</sup> Yet the core situation for disabled people—a limited ability

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<sup>23</sup> Of course, the presence of a disability does not automatically imply any work limitation, nor does a work limitation guarantee that a person will meet the definition of disability under the Disability Discrimination Act (DDA). The figures cited include persons who meet either or both of these criteria, a broadly inclusive set of people whose work experience seems most relevant to the issues raised in the current volume.

to carry out certain cognitive and mechanical functions – must in an important number of instances constrain how much those people can contribute to the success of a business. If workers who do not have functional limitations just barely further the success of a business (that is, provide benefits only slightly in excess of costs, as economic theory would predict), those with limitations when employed on the same terms will not.

Let us begin with the difficulties posed by this second point. In a perfectly functioning competitive market – whether it involves the sale of stocks and bonds, consumer goods, labour services, or anything else – items that hold lower value to the purchaser are not kept on the sideline when buying and selling ensue. Rather, they are transacted at lower prices. For the labour market, this translates into lower wages (or more generally, lower total compensation packages) for workers who contribute less to revenues, which makes it possible for benefits of employing that person to exceed costs, though both figures are smaller than they would be for a worker who contributes more to the business. This theory of ‘rational pricing’ distinguishes between employer practices that treat people differently but fairly based on their productivity, which it endorses, and practices that unfairly discriminate on the basis of employer prejudice or ignorance (which economic theory suggests only hurts the financial interests of the business by passing over workers for employment who would have contributed to the bottom line).

From this perspective, monetised measures of gains and losses would show the benefits of employing disabled workers exceeding the costs if prices (that is, wages), which largely determine costs, can be set at a sufficiently low level. But in a real-world economy, wages are often not set as low as underlying productivity might dictate because of:

- minimum wage requirements;
- trade union agreements and certified pay scales for guild workers;
- reluctance to *reduce* wages over time for an individual worker when his or her disability worsens and productivity drops;
- difficulties and cost of monitoring true productivity, as is necessary to set different wage rates for workers in similar jobs but with different levels of performance.

While these forces no doubt have helped some and possibly many disabled people achieve higher incomes when able to find work despite wage inflexibilities and other possible impediments to employment (such as employer discrimination), they undoubtedly stand in the way of setting wages for other people with functional limitations at a level that makes employment possible – that is, makes them attractive to businesses. Moreover, even if employment of disabled people at lower compensation were feasible, some disabled people who now say they wish to work might not do so at lower pay, which would again place them in a category where the total cost to employers of actually getting them to work would exceed the financial benefit.

## 4a.2 Signs of meeting the challenge

As noted earlier, in the UK over half the disabled adults work – nearly 3.5 million people. According to the DRC (2005), the average gross hourly wage of these workers equals 91 per cent of what other workers earn; not ideal, but far from a truly discouraging picture of wages lower by, say, 40 per cent or 60 per cent. So the situation is not hopeless for achieving wage parity and full productivity levels for these people, or for making it possible for even more disabled people to work despite the negative tilt that disability puts on employers' decision-making and the role of potential non-economic factors such as discrimination.

Jenkins and Rigg (2003) show that in the 1990s, three of four Britons who worked prior to the onset of a work-limiting health condition continued to work, at least part-time, two years later.<sup>24</sup> Earnings fell 37 per cent by that point, from £167 per week, two years prior to onset, to £106 per week a year after onset, including those with no earnings (those not working). While not a good financial outcome from the standpoint of the individual and her or his family,<sup>25</sup> substantial productive capacity and value to the employer must remain after disability arrives, reflected in the 63 per cent of prior earnings that does *not* go away. If these figures can be taken at face value in the competitive market model, they demonstrate that hourly wages and/or weekly hours of work can be reduced in many cases to offset any diminished value to employers that would otherwise threaten job loss.

Sixty-three per cent of all productive capacity remains intact and employed despite the onset of often seriously debilitating conditions. If some of the people who lose jobs do so because of wage inflexibility, even though the workers involved remain productive to some extent, an even greater share of productive capacity remains in place. One could envision employer and social adjustments that close much of the remaining gap, accompanied by redistributive policies that offset much of the remaining income shortfall. So the problem looks tractable – but only with flexible labour markets and well-designed public policies.

Mr. Hasluck puts forth a number of suggestions for public policy. Additional active labour market policies and technological trends might hasten progress, as could in-depth research on the many instances noted of existing structures supporting successful employment of disabled people in a way consistent with business competition and profit maximisation. These are the themes of the final two sections of this commentary: additional investigation into the factors that may be making

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<sup>24</sup> Figure 1 of Jenkins and Rigg uses data from the British Household Panel Survey for 1991-1998 to graph the percentage in paid work, which falls from 70 per cent a year prior to onset to 52 per cent a year after onset for those disabled at least two years.

<sup>25</sup> Jenkins and Rigg's report that some of the lost earnings are made up by other income sources, most notably public benefits.

retention and recruitment of workers economically attractive to employers in many current instances, and policy guidance that – by using what is already known or suggested by economic theory – could expand the number of instances where this is true.

### 4a.3 Examining the ‘success stories’

Information in the chapter suggests a number of opportunities for additional conceptual thinking and empirical investigation of situations where the balance of costs and benefits to employers appears to favour employment of disabled people. It would seem worthwhile to look intensely at these situations to try to discover why they run counter to the negative view held by many employers. The Government should undertake this investigative effort with two goals in mind: pin down what makes these cases economically advantageous to employers, and determine what this tells us about making positive employer net benefits possible more often.

Mr. Hasluck has done a great service in uncovering so many of these ‘success stories’ in the literature. For example, they arise explicitly or by implication when he describes:

- Polarisation between employers who say they would consider employing disabled people and see only small productivity differences and those who see little or no prospect for such people to work at all. What are the key distinguishing features in the first case, and how can those circumstances be made more common?
- Contrasts between large and small employers, the former more often finding net economic advantages in employing disabled workers – again to ponder what can be learned from this contrast.
- Public sector jobs filled by disabled workers to a greater extent than other jobs. Is this for economic reasons or the result of a commitment to broader social goals beyond least-cost production made possible by lack of competitive pressure? What economic reasons pop up, and can they be extended to other occupations particularly common among disabled workers?

A number of questions for further research concerning the types of jobs disabled people hold arise in the discussions within the chapter, if one looks below the surface. When seeking to find employment arrangements that will work economically, employers express greater willingness to bear the costs of physical workplace adjustments and special equipment than to make changes in the process of organising work to instill greater flexibility. This makes one wonder about the types of occupations predominant among disabled workers and the types of possibly rigid production processes that go with these occupations – and how this might be changed.

Also, the confinement of many disabled workers to low-skill occupations that have historically high turnover rates prompts a number of other research questions. Low-skilled workers without disabilities also lose their jobs frequently, yet most move

quickly into the next job. Is this not the case for disabled people with similar qualifications and work experience? If not, why not? For example:

- Does the interval of working prior to job loss put more 'wear and tear' on disabled workers who must expend extra energy overcoming functional limitations, which leaves them in greater need of recuperation time before stepping back into otherwise readily available jobs?
- Or is the number of low-skill jobs that disabled people can do simply much more limited than for other workers at the same level of the labour market?
- Does more loss of confidence accompany job loss for people who feel their coping skills are diminished or overstretched?
- Does scarring from discrimination put them off work for a time?
- Or is there more tendency to think that the next job has to be a better job to make the whole effort worthwhile, especially for workers whose pre-onset positions were more lucrative or invested with greater stability and possibilities for advancement?

#### 4a.4 Hastening more universally favourable circumstances

In assessing the picture presented by Chapter 4, one is struck by two economic forces that could improve the balance of costs and benefits to employers of recruiting and retaining disabled workers. Secular changes in the economy, society, and technology promise to play a powerful role. Public policy – if used to speed these trends rather than simply 'put a bandage on the problem' today – could also play a pivotal role in getting the economy to the point where employing disabled workers makes good business sense in many more instances.

The social/scientific/economic dynamics of coming years are not placed into discussion in the chapter but deserve attention before turning to policy. What long-run changes could tip the balance in the profit and loss calculations of businesses looking to the population of disabled people? Evidence shows that labour shortages put pressure in this direction, as the labour queue referenced by Mr. Hasluck is worked down during expansionary periods. But macroeconomic booms are cyclical (and fickle) catalysts of change. More robust, one might foresee, are trends not stemming from the economy but capable of influencing employer decision-making and employment outcomes:

- Lifestyle, environmental, and health care improvements that eliminate the onset of work limitations. These forces are likely the largest contributors historically to producing employment for those *who would otherwise have been too incapacitated to work*, and could play a large role in the future.
- New technologies in the workplace that restore productivity declines that accompany disability.

- Expanded social supports for disabled people, emerging not from economic factors but from evolving standards of human dignity, equity, and social inclusion; the reduction in employer discrimination born of prejudice and ignorance might also be considered part of this social trend.
- Learning on the part of employers and workplace managers as they discover how best to use the talents of people who lack some traditional capabilities but with non-traditional potential that—like any skill—the economy has to learn to apply most productively through intelligent organisation of work. This learning may be abetted by the changing nature of work in the UK—from manufacturing to services and from manual to knowledge work.

This last dynamic factor leads directly into the closing topic, the potential for successful public policy interventions to hasten and encourage secular trends that change business decision-making. The know-how to unleash talent in new ways through the intelligent organisation of work and application of technology has always come *through experience*. This may be the most important policy priority of the next two decades if the goal is to get businesses to see—and *actually be in a place where there exist*—greater economic rewards than costs from employing many more disabled people. Specifically, policies could be designed to prompt on a much larger scale the process of industry ‘learning by doing’ how to profitably engage more, and more severely, disabled people in the workforce.

A number of ideas for government action come out of this perspective, each perhaps expensive to the Exchequer when in place but each also intended to be temporary catalysts of industry change that would make public subsidies unnecessary within a period of years. All these policy ideas can be thought of as investments in social and technical infrastructure, recognising that the performance of 21st century economies is driven increasingly by effective use of human capital. If discrimination does not get in the way, all these ideas could become important in expanding the range of economically viable employment opportunities for disabled people:

- Conduct and disseminate research on existing ‘success stories’ of employing disabled people to businesses’ advantage as outlined earlier, leading to ‘best practices’ guidelines for employers who want to move ahead of trend.<sup>26</sup>

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<sup>26</sup> Possibly instructive in this area is the model of the United States, where federal and state agencies have for decades funded regional, often university-based rehabilitation research and resource centres that scrutinise, document, and at times initiate successful models of competitive employment for people with a range of disabilities. The websites of these centres, such as [www.worksupport.com](http://www.worksupport.com) at Virginia Commonwealth University, provide information on the kinds of activities undertaken by such entities. Whether they have been effective, and how much they have contributed to broadening employment of disabled people, is unknown.

- Encourage greater use of assessment tools that some of the studies reviewed by the chapter suggest are essential in finding successful work arrangements for workers with highly individualised limitations and capacities.
- Expand availability, promotion, and generosity of programmes such as Access to Work, which remove some of the fiscal burden and financial risk to employers of taking on workers whose special capabilities they are at first not sure how to use profitably.<sup>27</sup>
- Introduce wage supplements that push earnings above current productivity levels for people with sharp work limitations to make it worth their while (and financially feasible) to work or seek work on a sustained basis at lower employer-provided wages, again with the idea that more experience, innovation, and worker skill development will lead actual productivity to that level over time and make subsidies unnecessary.
- Equip small employers with the range of human resource department tools that seem to have made it possible for large firms to employ many more disabled people, funded with public monies and delivered at the local level (housed, perhaps, in JobCentre Plus offices).<sup>28</sup>
- None of these suggestions is original; some are among the many policy options Mr. Hasluck offers for consideration at the end of his comprehensive review of the evidence. But the emphasis placed here on their temporary nature as catalysts for achieving the social goal of inclusion through businesses' pursuit of profitability is new, and perhaps essential to justify their not inconsiderable cost.

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<sup>27</sup> Changes in liability law, cost offsets for employers' Health and Safety and DDA compliance investments, defraying of Statutory Sick Pay obligations, and additional financial risk reduction actions on behalf of employers who engage disabled people might also be justified under this element, using public money in place of private to ensure that the vital worker protections that motivate these currently privately-funded supports remain in place.

<sup>28</sup> These measures – which Mr. Hasluck reports large organisations have the internal resources to support more than small businesses – could include assistance preparing formal policies on sickness and absence management (which may reassure disabled people that their situations will be respected in the workplace), active encouragement of applications for employment from disabled people (who often do not have the 'word of mouth' networks with existing workers that small employers rely on for recruiting), interviewing and application processes that accommodate the special communication capacities of some disabled people, consulting expertise in talking to disabled employees about their worksite needs, provision of tools and systems for monitoring disability employment practices, and creation of 'disability management' approaches that focus on workplace prevention and remediation at the early stages of a condition.



## 4b Commentary: Costs and benefits: making the most of limited evidence

**Nigel Meager**

### 4b.1 Introduction

This commentary on Chapter 4 (*The costs and benefits for employers of recruiting and retaining disabled workers*, by Chris Hasluck) focuses on the discussion of non-monetary costs and benefits. The commentary complements that of Steve Bell, which concentrates on monetary costs and benefits. Inevitably, however, the distinction between monetary and non-monetary costs is somewhat artificial (arguably, for something to count as a 'cost' or a 'benefit', it should be possible, in principle, to put a monetary value on it, even if such an appraisal is hard to do in practice), and there is clearly some overlap between the two.

Hasluck has ably steered his way through the evidence and made a highly creditable attempt to tell a coherent story from the patchy UK literature on this subject. Major gaps or errors in the chapter's coverage are not evident, and for this reason the commentary confines itself largely to points of detail, clarification, and interpretation, instead of presenting an alternative or a radically different approach. The main messages emerging from Hasluck's chapter appear to be:

- There is no robust evidence available in the UK quantifying either the costs or the benefits to employers of recruiting and retaining disabled workers, and there is no scope, from available data, for combining estimates of costs and benefits into some overall cost-benefit calculus.
- Such evidence as does exist is partial, often qualitative, and is often derived from surveys or other sources that have clear methodological deficiencies.
- Despite these limitations, the evidence does suggest some tentative conclusions that might provide pointers for policy (although, as we argue, Hasluck could perhaps have made more of some of the policy implications). In particular:

- There is a widespread perception among employers that disabled people are less productive than their non-disabled counterparts, and this perception affects recruitment and retention decisions in largely predictable ways.
- There is, nevertheless, considerable variation between employers in the extent and nature of their perceptions, and in their behaviour towards disabled people. Development of sound policy will require full understanding of the factors influencing this variation, and the extent to which such variation is associated with the characteristics of the employers themselves (size, sector, and so on), their experiences (such as whether they have experience employing disabled people), or external factors (such as demand for their products and services, or local labour market conditions). This will in turn inform an understanding of whether and how policy might influence employer perceptions and behaviour.
- This commentary attempts, within the broad framework of Hasluck's chapter, to strengthen and further elucidate these messages with additional thoughts and evidence drawn from the literature and data in the UK.

#### 4b.2 Experience of employing disabled people: a learning effect or a selection effect?

One of Hasluck's key conclusions is that there seems to be some 'polarisation' between, on the one hand, employers who recruit disabled people (or are favourably disposed to do so) and tend to perceive few problems of productivity and, on the other hand, employers who tend not to employ disabled people or who take the view that productivity and other difficulties would render them unsuitable for employment. He cites, in particular, evidence from Dewson *et al.* (2005) to support this conclusion. He might also have cited in this context the Roberts *et al.* (2004) study (more representative than the Dewson *et al.* work<sup>29</sup>), which found 18 per cent of employers overall believing disabled people to have lower productivity, compared with 22 per cent among those with no disabled employees and 12 per cent among those with disabled employees; and the Kelly *et al.* (2005) study of small firms, which found (with regard to the same question), 17 per cent overall, with 20 per cent among those with no disabled employees and 12 per cent among those with them.<sup>30</sup>

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<sup>29</sup> Dewson *et al.*'s data come from a survey of employers who recruited through the New Deal for Disabled People (NDDP). This sample is skewed towards large employers and those in the public and non-profit sectors, who could be presumed to be favourably disposed towards recruiting disabled people. While this limits the general conclusions that can be drawn from this survey, it does make some of the findings on productivity even more stark: even among this 'positive' group of employers, all of whom were known to have recruited a disabled person, a proportion said that they would not normally recruit disabled people, and cited concerns about productivity.

<sup>30</sup> Note that all these surveys report on employer perceptions of disabled employees in general, rather than specific disabled employees with whom they have direct experience.

In any event, it is true that most employer surveys (including those Hasluck cites) suggest something of a polarisation along these lines. Interpretation of this finding remains something of a puzzle, however. We should stress that the surveys also tend to show correlations between: (1) whether employers perceive a cost/productivity differential and see recruitment of disabled people as problematic; and (2) whether they have already recruited/employed disabled people. Generally speaking, employers with disabled employees (and among this group, those with more disabled employees) tend to see less of a cost/productivity differential, or to see employing disabled people as less problematic, than do employers with no (or few) disabled employees.

It is important to bear in mind that two separate mechanisms could account for this relationship. One possibility is a learning effect: employers who recruit and hire disabled employees tend to learn that their concerns about high cost and low productivity are largely misplaced. Their experience moderates their views. Another possibility, however, is that the relationship is accounted for by a selection effect: employers who regard the cost/productivity differentials as small are most likely to recruit disabled people; those who perceive the most severe cost and productivity issues are least likely to hire them.

If the learning effect turned out to be dominant, then the scope for public policy would clearly be much greater than if the selection effect were dominant. Hasluck notes the difference, found in many studies, between employers who recruit and those who do not recruit disabled people, and argues that this implies a gap between perception and reality with regard to productivity, as well as scope for policy intervention to change employer perception. Such a conclusion is, however, questionable, on the basis of the evidence presented in the chapter. Arguably, whether there is scope for changing perceptions through policy, as Hasluck states, depends on whether the observed relationship reflects a learning effect or a selection effect.

It is not possible to resolve this through employer survey data alone, but case study evidence in some of the employer studies<sup>31</sup> suggests that (some) employers may moderate their perceptions of disabled employees on the basis of experience, which would partly support the policy conclusion based on a learning effect. In the absence of more representative evidence, this question must remain open, and we must at least acknowledge the problem of causality and the possibility that this is a selection effect.

If it is (at least partly) a learning effect, however, it has clear policy implications, for example, in terms of the activities of public placement intermediaries (Jobcentre Plus, Job Brokers under NDDP, and so on). In particular, it suggests that such agencies should consider whether, in a resource-constrained environment, a bigger 'bang for the buck' might be achieved from placing one disabled person with an

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<sup>31</sup> For example, Honey et al. (1993), Meager et al. (2001).

employer who has none (thereby triggering the learning effect) than from placing one more disabled person with an employer who already has some. Ultimately, of course, the optimal strategy will depend on the payoff to each approach, and it might well be optimal in the short run to maximise job outcomes by concentrating on 'friendly employers', at the same time taking steps to expand the employer base for longer-term gains. Arguably, however, performance-related funding arrangements encourage agencies to prioritise the former approach, as it is cheaper to find job placements with the 'usual suspects' known to be positively disposed towards disabled people (indeed, the somewhat skewed nature of the sample of NDDP employers found in Dewson *et al.* is consistent with such a process).

Finally, it is worth noting that similar issues of causality also arise with regard to Hasluck's discussion of Human Resources (HR) practices in general (Section 4.6.3), where he argues that 'positive HR measures' are associated with a greater likelihood of employing disabled people. Once again, in any discussion that correlates some kind of organisational practice with a high level of employment of disabled people, the issue of selection arises: are the organisational practices themselves leading to the greater employment of disabled people, or are they both (the practices and the employment of disabled people) symptoms of something else (being a particular kind of employer)? It is hard to comment further on this issue without clarification on whether the (unpublished) Woodhams and Corby study referred to by Hasluck effectively controls for selection effects, unobserved heterogeneity, and so on. If not, then the causality issue needs to be explicitly acknowledged in the discussion.

### 4b.3 Heterogeneity of impairment types

Disabled people are extremely heterogeneous, a fact often lost in analysis of 'disabled people' in general, such as that found in this chapter. Hasluck makes brief reference to this diversity and its relevance to costs and benefits but does not explore in any detail the extent to which costs and benefits are likely to vary according to the nature and severity of the impairment of any particular disabled person or group of disabled people.

There is a widespread reluctance within the disabled people's movement, and among groups espousing a 'social model' rather than a 'medical model' of disability, to distinguish among disabled people by focusing on the nature of their impairment. It is very clear, however, from available data (such as the LFS data summarised in Table 4b.1) that the nature of the impairment is heavily correlated with labour market chances (employment rates are, for example, much lower for people with learning disabilities or mental ill-health than for people with sensory or physical impairments). The relevance of such variation to the present discussion is that it is extremely likely that this partly reflects significant differences between different impairment types in the (perceived or actual) costs and benefits to employers of recruiting or retaining them (this is not, of course, to deny that variations in other employee characteristics – experience, age, skills, attitudes – might be equally or more important to the assessment of costs and benefits, and thus to employment outcomes).

Moreover, there is supporting evidence from some older employer surveys that perceptions of the difficulty of employing a disabled person vary significantly by type

of impairment. Thus in Dench *et al.* 1996 the proportion of employers saying they would not recruit a disabled person was over 50 per cent with regard to visually impaired people, and was also relatively high for people with learning disabilities or mental health conditions, but was much lower for some other impairments (such as hearing difficulties, allergies, skin conditions, and heart or circulation conditions). The reasons for reluctance to recruit also varied significantly between impairment types, with 'productivity' concerns being rather uncommon, but most likely to be present in the case of people with mental health conditions. Similar findings were reported in the earlier study by Honey *et al.* 1993. It is unfortunate that none of the more recent surveys of employers provide such evidence, but it is reasonable to assume that similar variations in employer perceptions of different impairment types would persist today. Understanding such variations is, therefore, clearly relevant to the design of policy aimed at influencing employer perceptions and behaviour.

**Table 4b.1 Employment rate by main type of impairment**

Impairment type	Employment rate (%)			
	All long-term disabled	Current DDA and work-limiting disabled	Current DDA disabled	Work-limiting disabled only
Diabetes	66.8	47.7	86.6	65.4
Severe disfigurement, skin conditions, allergies	64.8	57.0	73.9	65.9
Chest or breathing problems, asthma, bronchitis	63.7	43.0	83.6	68.1
Difficulty hearing	61.8	47.2	79.1	67.1
Heart, blood pressure, or blood circulation problems	56.7	33.5	84.7	60.5
Stomach, liver, kidney, or digestive problems	56.3	39.5	85.5	67.4
Other health problems or difficulties	54.0	32.4	82.4	60.3
Problems with arms or hands	52.8	40.7	77.0	73.5
Epilepsy	51.8	32.7	89.5	80.1
Difficulty in seeing (while wearing spectacles or contact lenses)	49.6	32.8	*	66.9
Problems with legs or feet	47.9	33.1	85.6	75.6
Problems with back or neck	47.6	33.5	83.5	77.8
Progressive illness	43.0	32.7	88.1	*
A speech impediment	*	*	*	*
Learning difficulties	24.9	17.1	*	41.8
Mental illness	20.0	14.3	55.5	36.6
All	49.7	32.6	82.9	66.9

Source: LFS Spring 2005 (all people of working age [men 16-64, women 16-59] with a long-term disability).

\* = fewer than 10,000 cases in cell.

Further consideration of the nature of impairments also raises the important question of variations in productivity at an individual level, a question Hasluck does not address. Implicit in his discussion of productivity is the notion that disabled people may have (or may be thought to have) lower average productivity than their non-disabled counterparts. Arguably, however, the difference in employers' eyes between the two groups is not only that one group has a lower expected level of productivity, but also that the degree of uncertainty about the productivity of (some groups of) disabled people is likely to be higher. This may not simply be an issue of imperfect information (which might be addressed, as Hasluck notes, through measures to reduce the uncertainty surrounding the productivity of disabled people at the point of recruitment), but is something that may be ongoing and inherent to certain impairments. Thus, for example, many conditions, particularly those involving mental health, may involve unpredictable variations over time in severity and nature, and thus in their likely impact on productivity. In an economic model such as Hasluck's, recruitment decisions about disabled and non-disabled people with identical levels of average productivity will probably differ if the variability in productivity is greater in the disabled than in the non-disabled person. How much this matters will also depend on factors such as an employer's degree of risk aversion and the amount of variation the employer can tolerate from an average level of productivity. (If there is a minimum acceptable level of productivity in a particular job, a disabled person may not be recruited if his or her level is likely occasionally to fall below that threshold, even if the average is within the normal range or is equal to, or even higher than, that of a non-disabled person.) It seems likely, nevertheless, that it is one contributing factor to the extremely low employment rates of people with mental health conditions. Several studies cited in this commentary include qualitative case study evidence from employers regarding this group, which suggests that many have concerns not simply about average levels of productivity, but also about consistency, reliability, and so forth.

#### 4b.4 Evidence from disabled people themselves

In discussing his economic model for the costs and benefits of employing disabled people, Hasluck refers extensively to empirical evidence drawn primarily from surveys or case studies of employers. He also uses the employer perspective to assess factors such as the nature and extent of productivity differentials and the adjustments that employers need to make for disabled people in the workplace. This emphasis is understandable in a review of employer decision-making such as this one.

However, it is also worth noting that on these points there exists UK evidence that is drawn from surveys and studies of disabled people themselves, and there is some value in including such evidence in the discussion of this chapter. Several representative national surveys of disabled people themselves have also asked questions about productivity; thus Grewal *et al.* (2002) presents the results of a question asking disabled people to assess what proportion of a non-disabled person's workload they would be able to undertake. Similar evidence is found in Meager *et al.* (1998). While such evidence is not conclusive, it is nevertheless interesting that the productivity

perceptions of disabled people appear somewhat more positive than those of employers. Thus Grewal *et al.* report that 65 per cent of disabled people (working and non-working) said they could do at least 80 per cent of what a non-disabled person could do at work.

Similarly, Hasluck provides an interesting summary of the literature with regard to the extent and type of adjustments that employers offer disabled workers. It is interesting and relevant to compare the incidence and distribution of adjustments with the evidence from other studies of what disabled people say they need in terms of adjustment in the workplace (once again, Grewal *et al.* 2002, and Meager *et al.* 1998 provide some such evidence). Typically, such studies suggest that most disabled people require little or no adjustment in order to work (for example, Meager *et al.* 1998 found that 80 per cent of disabled people, both economically active and inactive, required no adaptations to the working environment). However, they also suggest that, for those who do require them, provision of such adjustments is important for their employment chances. Thus while Meager *et al.* found that 82 per cent of employed disabled people who required some form of support or assistance said that their needs were fully met, just over a quarter of disabled people who left their last job because of their impairment felt they could have remained if suitable adaptations had been made, but less than one in five of this group had actually been offered such changes.

#### 4b.5 Is it all 'cost', or are there some 'benefits'?

The chapter places greater emphasis on the presumed 'costs' to employers of recruiting and retaining disabled employees than on the 'benefits'. This emphasis fairly reflects the balance of evidence in the UK literature and is therefore justified. Section 4.5 does, however, look at the other side of the equation, albeit with a significant emphasis on US rather than UK literature on the business benefits of employing disabled people. The main source of UK evidence cited is, again, Dewson *et al.* 2005, which, as Hasluck notes, suggests a low incidence of perceived benefits among UK employers. However, he does not stress that the Dewson *et al.* study was a sample biased towards employers likely to have attitudes more positive than average towards disabled people. It is therefore even more noteworthy that sizeable proportions nevertheless saw significant disadvantages in the employment of disabled people (albeit often alongside benefits).

More positive views are offered by some business organisations concerned with disability issues, but as Hasluck notes, little hard evidence is presented on these claims. The arguments here depend significantly on claims that disabled employees exhibit lower-than-average rates of absence and labour turnover. At the end of this section, however, Hasluck notes survey evidence from Dewson *et al.* that the most commonly cited disadvantages associated with disabled employees are higher absence rates. He notes further that LFS data suggest that absence rates of disabled employees are indeed higher, and that they have shorter-than-average job tenures (consistent with higher rates of labour turnover). Hasluck does not reference this LFS

evidence (such evidence can, for example, be found in Barham and Begum, 2005), but it is an important finding, as it shows not only that employers believe that disabled people have higher absence rates, but that this is confirmed by objective survey data at the individual level, and Hasluck might therefore have made an explicit link between this evidence and the earlier references to the employer group views, pointing out that the evidence seems to conflict with these views.

Finally, to reinforce the picture Hasluck paints, it is worth mentioning that the relatively negative findings on employers' views about turnover and absence are also recorded in other studies. Thus the Meager *et al.* (2001) study of small employers, cited elsewhere in the chapter, had a particular focus on the 'benefits' of employing disabled people. It found, however, that only a small proportion (15 per cent) saw benefits in recruiting disabled people, and of that 15 per cent, tiny proportions (four per cent and two per cent respectively, or less than one per cent of the overall sample) thought that those benefits would relate either to better staff retention rates or to lower absence rates.

#### 4b.6 Disabled people and 'the labour queue'

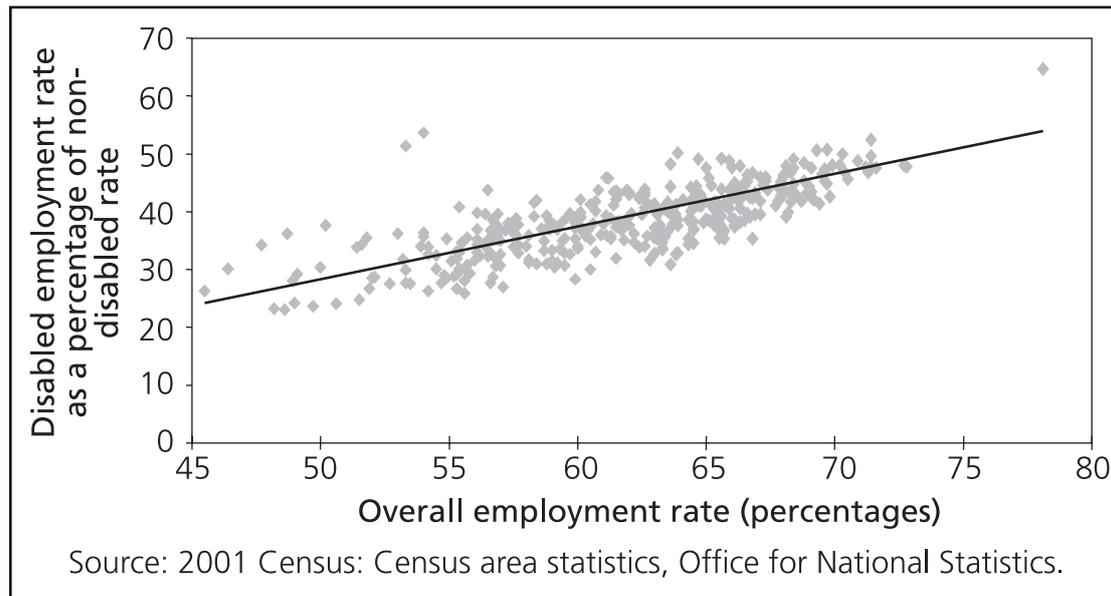
When presenting his economic model of business decision-making with regard to employing disabled people (Section 4.3.2), and when addressing the question of the likely impact of lower productivity on the employment of disabled people (Section 4.4), Hasluck refers to the so-called 'labour queue' argument. He posits, rightly in my view, that disabled workers will be some distance down the labour queue, implying in turn that they are more likely to enter employment in tight labour markets, than in labour markets where there is excess supply. This argument is controversial in the UK policy environment, and some economists have argued that disabled people's low employment rate stems almost entirely from supply-side problems.<sup>32</sup> In practice, of course, there are supply- and demand-side elements to the problem, but Hasluck's discussion might be strengthened by reference to some evidence: if the labour queue argument is valid, then we would expect to see, at the local labour market level, greater divergence of the employment rates of disabled and non-disabled people when the overall labour market is slack. Evidence on this question is limited, but there is some relevant literature on the local and regional incidence of incapacity-related inactivity (see Beatty *et al.* 2000, Fothergill and Grieve-Smith 2005, and McVicar 2005), which gives some support to the labour queue thesis. Simple analysis of data from the 2001 UK Population Census, at local authority-level (using a disability definition based on the concept of 'limiting long-term illness'), illustrates the point: Figure 4b.1 shows how the relative employment disadvantage of disabled people (the ratio of their employment rate to that of non-disabled people) varies with the overall

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<sup>32</sup> The argument for the primacy of the supply side is evident in the UK government's recent Green Paper on Welfare Reform (A new deal for welfare: empowering people to work, published in January 2006). It is available at [www.dwp.gov.uk/aboutus/welfarereform/docs/A\\_new\\_deal\\_for\\_welfare-Empowering\\_people\\_to\\_work-Full\\_Document.pdf](http://www.dwp.gov.uk/aboutus/welfarereform/docs/A_new_deal_for_welfare-Empowering_people_to_work-Full_Document.pdf). See also the discussion in Meager (2006).

local employment rate. There is a strong, statistically significant relationship: the better the local labour market performs, the smaller the disadvantage of disabled people, in line with the labour queue argument.

**Figure 4b.1** Relative employment disadvantage of disabled people at local authority level



Hasluck returns to the labour queue hypothesis in his discussion of the productivity of disabled people (Section 4.4). He cites some prima facie evidence against the hypothesis from an employer survey (Dewson et al. again) showing that employers with recruitment difficulties were less likely to have positive policies on recruiting/retaining disabled people, although he notes that there are other interpretations of that finding, and stresses that the survey also showed a positive relationship between actually having disabled employees and recruitment difficulties (the interpretation being that line managers behave differently in practice than implied by the overall corporate policies). However, there may be a further important interpretation of this finding, not mentioned by Hasluck, that again relates to selection/causality: namely, that the observed correlation (between recruitment difficulties and lack of proactive disability policies) may simply reflect the possibility that employers with no proactive disability policies are also likely to be the kinds of employers who have poor or weak human resources policies across the board, and it is unsurprising that these are the ones who are more likely to experience recruitment difficulty.

#### 4b.7 How recruitment methods may disadvantage disabled people

In Section 4.6.1, Hasluck provides an insightful account of how employer recruitment practices may, directly or indirectly, disadvantage disabled jobseekers. Of particular interest is his discussion of the role of informal recruitment methods (used especially by small employers, and found to be important in the study of Dewson *et al.* 2005). While this account of the evidence is plausible, it is at least arguable that a more nuanced discussion might be merited. It is received wisdom in the literature<sup>33</sup> that informal recruitment methods tend not to favour disadvantaged groups (ethnic minorities, women, people from socially excluded communities, and so on), and various mechanisms are posited to explain this: such groups are not privy to the informal networks underlying the recruitment; recruiters, if allowed to act 'informally', tend to favour candidates who 'look like themselves', and so on. Arguably, however, such mechanisms might not operate to the disadvantage of disabled people in the same way as they do for some other groups. Thus while disabled people are more likely than average to be economically inactive, and thereby separated from networks based on labour market connections, this is a disadvantage they share with other economically inactive people, and is not specific to being disabled. It is less obvious that disabled people tend to cluster in a 'community', as might be the case for minority ethnic groups or people living in disadvantaged residential areas, for example. One in five of the working age population is disabled, and most disabled people live in families or communities along with non-disabled people. Indeed, there is some evidence from case study research<sup>34</sup> that one factor that can influence the recruitment of disabled people is the personal experience of a manager in the firm, such as one who has a disabled relative or friend (in these cases, the operation of informal recruitment methods might even benefit disabled job applicants). Clearly more research is required on whether and how formal or informal approaches to recruitment and employment affect disabled people's chances. On the basis of the available evidence, we would argue that the case for the 'received wisdom' that informal practices automatically and always disadvantage disabled people, and should therefore be discouraged by policy, remains unproven.

#### 4b.8 Recruitment and retention, and the role of legislation

Hasluck refers to the role of legislation in influencing the costs and benefits to employers in recruiting or retaining disabled employees. In particular, he notes that the cost of litigation or non-compliance with legislation is likely to be a factor affecting the employment decision in the kind of economic decision-making model posited in this volume. He also notes at some length in the chapter that employers are likely to behave very differently with regard to recruitment and retention decisions, because the interaction of costs and benefits will be different in the two cases.

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<sup>33</sup> See, for example: Carroll *et al.* (1999); Holzer (1998).

<sup>34</sup> For example, Honey *et al.* (1993) and Meager *et al.* (2001).

There is a case for making more of the relationship between these two points. Arguably, the impacts of anti-discrimination legislation on employers, particularly the costs that legislation imposes on employers, are asymmetrical with regard to recruitment and retention decisions. There is evidence, in the case of the DDA, that its 'bite' on employers is greater with treatment of existing workers who are or become disabled than it is with treatment of disabled job applicants (see Meager and Hurstfield 2005). In particular, the proportion of DDA cases relating to recruitment is much smaller than the proportions relating to dismissal or reasonable adjustment (and smaller than might be expected on the basis of survey evidence on disabled people's experience of recruitment discrimination: see Grewal *et al.* 2002, for example). As Meager and Hurstfield (2005) note, disabled people already in work are more likely to be aware of their legal rights and to have access to support in taking cases (such as from trade unions) than are disabled people who are outside the labour market and trying to get in. Moreover, case study evidence (Meager *et al.* 1999, Hurstfield *et al.* 2005) suggests that recruitment cases are harder to take under the DDA than other kinds of cases, and that lawyers are less willing to take such cases, because the burden of proof is high and the success rate low (it is easy for an employer to justify non-recruitment of a disabled person, on the grounds that a non-disabled person was more skilled or appropriate for the vacancy). Indeed, it is at least possible that more sophisticated employers will become aware that the chances of litigation over non-recruitment of a disabled person are less than the chances of litigation over poor treatment or dismissal of a disabled employee; in such circumstances, a rational cost-benefit calculus aimed at minimising the chances of legal action might even suggest avoiding recruitment of disabled people wherever possible (a possible perverse effect of legislation to protect disabled people's rights).

#### 4b.9 Some concluding thoughts on policy issues

We have at various points noted some policy implications that differ slightly from, or supplement, those raised by Hasluck. In particular:

- The evidence on whether employers moderate their views on disabled employees with experience (or whether those with more positive views in the first place tend to employ disabled people) is mixed and unresolved, but it has important implications for whether policy should try to influence employer perceptions of disabled people, and how far job-matching agencies should seek to place disabled people with 'less favourably disposed' employers.
- It is likely that employer perceptions of costs and benefits vary significantly with the nature and severity of a disabled person's impairment. While more evidence is required, it seems clear that policy initiatives aimed to influence employer perceptions, to improve job-matching, or to offset additional costs borne by employers, need to move beyond a generic consideration of 'disabled people' to recognise that employer concerns will vary with different impairments. In particular, impairments that generate employer concern not simply about the level of productivity, but its degree of variability (such as with some mental health conditions) may require different levels and types of intervention.

- The labour queue argument provides further support for the notion that policy should address employer attitudes and behaviour and help to meet the needs of employers for assistance and support in recruiting/retaining disabled employees.
- More understanding is required of how recruitment methods can directly or indirectly disadvantage disabled jobseekers. In particular, it should not be assumed, without further evidence, that the familiar argument that informal methods are discriminatory (and should therefore be discouraged by policy) automatically applies in the same way to disabled people as it does in the case of some other disadvantaged groups in the labour market.
- The possible asymmetry between the ways in which existing disabled employees and disabled job applicants benefit from anti-discrimination legislation merits some policy consideration; in particular, some thought could be given to enhancing enforcement of and employer compliance with the DDA with regard to discrimination at the point of recruitment.

To finish, we highlight two further policy issues arising out of Hasluck's concluding discussion (Section 4.9):

- In his reflections on the question of 'adjustments', Hasluck writes: 'In general, employers appear more willing to bear the costs of workplace adjustments and provide equipment than they are to allow flexible work practices.' He uses this to justify the policy conclusion that employers ought to be encouraged to adopt flexible policies that permit a balance between work and life. It is not clear to me that this conclusion is justified by his earlier discussion of this issue in Section 4.7, or by the studies he cites there. Thus, for example, in Dewson *et al.* (2005), by far the most common adjustment employers made to facilitate the recruitment/retention of disabled people was the provision of flexible working patterns or working hours. This finding is consistent across nearly all the UK employer studies, including those cited in Hasluck's chapter (and is also consistent with the surveys of individual disabled people that look at what adjustments they require in the workplace). Arguably, while disabled people are indeed likely to benefit from the well-documented growth of flexible working practices, it seems that such adjustments for disabled people are the ones that employers are most willing to make in any case. Perhaps policy measures should concentrate on promoting (or subsidising) those adjustments that are more difficult or costly for employers.
- In his policy conclusion, Hasluck advocates assisting employers through improved advice and guidance to enhance job-matching, and encouraging job-specific training to increase retention of disabled employees. More emphasis could be given to this crucial point (the need for more assistance for employers) and more evidence cited for it. In particular, evidence from the evaluation of the NDDP (Dewson *et al.* 2005) and the earlier qualitative employer studies (Aston *et al.* 2003 and 2005) suggests a demand from employers for ongoing follow-up in-work support (after the point of recruitment) from the various intermediary agencies to facilitate the workplace integration of disabled recruits, help employers deal with transitional difficulties, and thereby improve retention.

# 5 The influence of government programmes and pilots on the employment of disabled people

**Clare Bamba**

## 5.1 Introduction

UK government policy (Table 5.1) towards the employment of disabled people remained largely static from the passing of the Disabled Persons Employment Act of 1944 until the Disability Discrimination Act (DDA) of 1995 (Floyd and Curtis, 2000; Oliver and Barnes, 1998). The 1944 act set up supported employment programmes (such as Remploy), provided for vocational training and industrial rehabilitation, and mandated the largely ineffective three per cent post-war employment quota. These measures were supplemented in the 1970s with a number of health related out-of-work cash benefits such as Invalidity Benefit in 1971 (later replaced by Incapacity Benefit (IB). However, pressure from disability campaign groups (Barnes, 1991; 2002), as well as the increasing numbers on Invalidity Benefit and a fall in unemployment, led to a radical shift of policy in the mid-1990s. The DDA abolished the post-war disability employment quota in favour of a more rights-based approach to the employment of disabled people. Since then, disabled people have been regarded as a key group of working-age benefit recipients and have been the targets of a number of diverse employment interventions (Treasury, 2003). In January 2006, the Government announced that it is planning additional reforms for the provision of services and benefits to disabled people (Department for Work and Pensions (DWP), 2006). Important goals include increasing the employment of disabled people and decreasing their benefit reciprocity. Some of the ways in which the Government plans to accomplish these goals are to revamp the IB programme,

to strengthen early intervention efforts to foster a greater likelihood of claimants' returning to work, and to reduce the number of workplace-induced injuries and impairments so that health impairments are less common and less severe. The new Health, Work, and Wellbeing Strategy, outlined by the DWP, the Department of Health, and the Health and Safety Executive (HSE), also is designed to lead to greater improvement in the prevention of illness and injury, in recovery from illness and injury, and in the overall promotion of occupational health.

Currently planned reforms to government programmes to increase the financial self-sufficiency of disabled people are likely to be successful only if they are based on a strong scientific understanding of what is, and what is not, effective at increasing their employment and earnings capacity. Numerous policy interventions exist, and evaluations of them have been conducted to shed light on which are effective, and under what conditions they might help disabled people, or a subset of them, to obtain or retain jobs. These multiple and varied policy interventions in many ways reflect the different barriers that disabled people face when trying to enter or retain employment: lack of experience or skills; uncertainty from employers; problems with physical access to work; and concerns over pay, hours, and conditions (Gardiner, 1997; Goldstone and Meager, 2002). They also illustrate how increasing the employment (and retention) of disabled people is a complex issue to which there are no easy or immediate policy answers. Different policies and strategies will influence the labour market supply of and demand for disabled workers in different ways. Given the wide range of potential assets and needs of disabled people, challenges exist in ensuring that the services that are provided to a disabled person meet his or her unique needs and capitalise on his or her specific strengths.

In this chapter, we outline and assess the evidence on the effectiveness of more than 20 different government programmes and pilots that have operated in the UK, where the term 'effectiveness' pertains to improvements in the employment and retention rates of disabled people. The review of programmes and pilots was restricted to those that strive to increase the employment of disabled people into competitive employment and those that influence this employment. In Section 5.2, we provide structure to the discussion by cataloguing the numerous interventions into seven types of strategy, each embodying a qualitatively different approach to overcoming hypothesised barriers to employment of disabled people. In Section 5.3, we briefly describe some of the current and recent programmes designed to increase the employment of disabled people. Although each programme or scheme is described at least briefly in this section, we focus the discussion on the largest and most policy-relevant, determined on the basis of the types and intensity of benefits or services that each participant receives, how much money is spent on the programme, and the number of people it serves.

In Section 5.4, we present the empirical evidence of the employment outcomes of participants in the programmes. The evidence comes from 29 evaluations that have had results published between January 1990 and August 2005. The reviewed studies, which utilised either quantitative or qualitative techniques, contain the best available evidence, even though the ability of the studies to inform our topic varies according to their methodological rigour. In many cases, the research is not

analytically strong enough to allow a determination of whether or not a programme influenced the employment rate of its participants, since we cannot tell what would have happened had they not participated. Nevertheless, appropriate scientific and political insights can be gleaned from the review of the different interventions.

Section 5.5 contains three components that tie together the detailed discussion of the seven types of interventions that are reviewed in Sections 5.2 through 5.4. The section explains the methodological limitations of the current evidence base, synthesises the results of the numerous evaluations of specific policies and programmes, and briefly compares and contrasts this evidence with the international experience. An important lesson from this review is that no large-scale programme has demonstrated through a scientifically rigorous study that it improves employment rates by more than a few percentage points. Thus, although rigorous studies of two large-scale programmes are under way, the current evidence base does not yet provide definitive policy guidance about the most effective approaches to increasing the employment rates of disabled people. Though little firm evidence from other countries exists, international evidence is reviewed, when applicable, to fill some of the gaps that arise from this UK evidence base.

Despite the methodological limitations that are discussed in Section 5.5, we conclude in Section 5.6 by identifying both the intervention types that appear to be the most promising and possible future directions for research and policy. Two types of programmes emerge as particularly promising from the UK evidence base. Education and training programmes, which are designed to strengthen disabled workers' job-related skills, have the potential to make workers' more desirable employees and therefore to enhance their employability. Vocational advice programmes, which strive to improve the match between the skills and interests of workers and the needs of employers when filling specific job opportunities, also emerge as potentially effective. Further methodologically rigorous research focusing on these areas and others that appear promising from the international data is needed to help guide the major reforms that are being planned in the next few years.

## 5.2 Policy strategies

Seven distinct policy strategies are used to increase the employment of disabled people (see Table 5.2):

- 1 Education, training, and work placements.
- 2 Vocational advice and support services.
- 3 Vocational rehabilitation.
- 4 Out-of-work and in-work benefits.
- 5 Incentives for employers.
- 6 Employment rights.
- 7 Improving physical accessibility.

These strategies tend to be directed more at either the supply side (push) – enhancing the ability of disabled people to compete in the labour market – or the demand side (pull) – increasing the number of employers willing to recruit and retain this particular group of workers. Note, however, that whilst most government programmes generally affect either ‘supply’ rather than ‘demand’ or ‘demand’ rather than ‘supply’, some affect both simultaneously. This is particularly so with the larger government programmes, including the New Deal for Disabled People (NDDP), Access to Work (ATW), the Work Preparation Scheme (WP), and the Pathways to Work (PTW) intervention, which are described in greater detail in Section 5.3.

Four of the employment strategies focus on disabled people by aiming: (1) to raise their education and vocational skills levels; (2) to provide support and advice in locating and obtaining work; (3) to help in rehabilitation, or (4) to overcome financial concerns about the benefits to work transition. The other three strategies concentrate on employers and the demand side by: (1) providing incentives to employers to employ disabled people; (2) giving disabled people employment and retention rights, and (3) improving access to work through physical modifications to the workplace environment. However, the amount of resources put into supply side and demand side policies that are designed to help disabled workers obtain and retain competitive employment has not been balanced, and, especially since the abolition of the post-war employment quota (1995), there has been a disproportionate focus on the supply side. There has not been sufficient attention paid to increasing the demand amongst employers for disabled employees, nor is it clear that the incentive and disincentive effects for employers have been central to policy formulation.

### **5.2.1 Supply side strategies**

These strategies are concerned with increasing the availability and work readiness of disabled people. They are designed to overcome some of the employment barriers that disabled people face, particularly in terms of lack of skills or work experience, financial uncertainty about trying to work, and the transition into paid employment. They are also intended, by enhancing skills or experience, to help disabled people move from the ‘disabled’ labour market, in which there is an excess of supply and a lack of demand, to the ‘mainstream’ labour market, in which demand is generally higher.

#### *Education, training, and work placements*

Education, training, and work placement schemes aim to increase employment rates by providing vocational skills, work experience and exposure to employers, or recognised qualifications. Benefit claimants who have a disability are also able to access other mainstream employment training programmes and courses at local colleges. The development of these skills is intended to increase the employability of the disabled workers by making them more productive at jobs and hence more valuable than other workers the employer might be able to recruit. Several schemes also rely on a modular approach that combines aspects of both work placement and vocational rehabilitation.

### *Vocational advice and support services*

Some services are designed to help movement into employment by enhancing job search skills, matching people to jobs, arranging access to training and education schemes, offering information about in-work benefits, and providing other forms of individualised vocational advice and support. Disabled people have access to both general employment services, such as Jobcentre Plus, and a number of specialised services that provide assessments of vocational and training needs, help disabled people gain placements, give advice, help with locating and gaining suitable employment, provide relevant information, or engage and motivate disabled people. Vocational advice and support schemes also offer one-to-one support and guidance to disabled people on locating, obtaining, and remaining in employment. More recently, newer programmes and pilots provide access to a variety of vocational advisers, including some from the private and voluntary sector (PVS). Many of the new benefit schemes also tie the process of applying for a benefit with the provision of vocational advice and support services.

### *Vocational rehabilitation*

Vocational rehabilitation, an established form of return-to-work policy in many other countries (Bloch and Prins, 2001), assists people who develop a disability whilst working retain their employment by helping them to recover from impairments or injuries that could lead to disabilities; to adjust their lifestyles constructively, specifically their work habits and environment, to the development or progression of impairments; and, when necessary, to explore alternative work. Vocational rehabilitation programmes provide vocational support, medical support, or a combination to increase job retention and manage health conditions. Such programmes can also help people understand their condition better, so that their own perception about their health and capabilities does not become a barrier to looking for work. Over the next few years, rehabilitation will become a more prominent policy tool in the Government's attempt to reduce the number of new IB claims (Prime Minister's Strategy Unit, 2005).

### *Out-of-work and in-work benefits*

Disabled workers are likely to want their work to be valued at a level worth the effort they expend. That is, they are likely to consider the financial and non-financial benefits of working at a particular job that is available to them, compared with working at another job or not working at all. Thus, government benefits and programmes that support disabled workers while they are working, as well as those that support them while they are not working, have the potential to influence the relative merits of working or not working. Benefits provided to workers while they are working have the potential to enhance the benefits and mitigate the drawbacks to working, compared with non-employment. In-work benefits aim to increase employment by overcoming fears on the part of disabled people themselves about taking low-paid jobs (for example, tax credits), the loss of future benefit entitlement if they are unable to sustain work again, the additional costs of employment such as

transport costs, or the financial difficulties that the initial loss of benefits could create. Benefits provided specifically because a disabled worker is not working have the potential to have the opposite effects. Benefits can include cash payments to people who are assessed by their General Practitioner or a Medical Services doctor as being incapable of work as a result of illness or disability and who meet certain contribution conditions (see DWP, 2004), financial assistance towards the costs of removing the physical barriers that disabled people face when entering the labour market, or a contribution towards the costs of transportation to and from the workplace.

### **5.2.2 Demand side strategies**

These policy interventions focus on increasing the demand for disabled workers amongst employers. They emphasise reducing the costs or risks to employers of engaging a disabled person or placing requirements on employers in their recruitment and retention of disabled people. They are therefore attempts to combat the other type of employment barriers faced by disabled people: employer uncertainty and the physical difficulties presented by some workplaces. Employers' perceptions are often that the costs of hiring disabled people exceed the discounted value of their productivity. Similarly, physical difficulties arise because the workplace environment is seldom designed for people with physical limitations.

#### *Incentives for employers*

Incentives directed at employers aim to encourage recruitment by offering wage subsidies to cover the initial costs of employment. This allows time for employers to assess the suitability of the applicant at no cost to their firm and is designed to break down barriers of uncertainty about workplace abilities. Employer incentive schemes offer a time-limited wage subsidy to firms employing a disability benefit claimant, or allow benefit clients to retain their benefits for a limited time after they return to work. (Supported work programmes, such as WORKSTEP, also often provide assistance to employers to help integrate disabled workers into a new work environment.)

#### *Employment rights*

The DDA introduced employment rights for disabled people (for a detailed discussion of the DDA, see Chapter 1). Its employment provisions make it illegal for a UK employer to discriminate unjustifiably against a person on grounds of disability either in recruitment or in the treatment of existing employees. The DDA therefore has the potential to increase the legal costs that employers incur through their employment decisions when they have a disabled worker in post or when they receive an application from a disabled job seeker. Since 2004, the requirements of

the DDA apply to all UK employers, as the original exemption for companies with fewer than 20 employees has been abandoned.<sup>35</sup>

### *Accessibility*

Accessibility interventions are designed to facilitate employment by reducing the physical workplace barriers, such as the need for specialised equipment, that disabled people may face. 'Reasonable adjustment', including changes to the physical nature of work premises, is a legal requirement under the DDA (see Chapter 3). Therefore, accessibility interventions have the potential to decrease the costs that workers incur as a result of their employment and/or the costs that employers incur as a result of employing disabled workers; these effects can bolster the recruitment or retention of disabled workers to specific jobs, outcomes that might otherwise be infeasible. Disabled persons can apply for up to 100 per cent of the cost of workplace adjustments for the following types of support:

- Adaptations to premises and equipment
- Communication support at interview
- Special aids and equipment
- Support workers
- Travel to work
- Miscellaneous

In some cases, a contribution from employers is also required (Thornton, 2003).

## 5.3 Review of major initiatives

The seven strategies used to increase the employment of disabled persons have been implemented as a part of more than 20 diverse programmes and pilots. As noted, many of the larger schemes rely on a combination of multiple strategies to lower barriers faced by disabled persons on both the supply and the demand sides (Table 5.3). This section briefly outlines the major initiatives undertaken by the Government (Table 5.4 briefly details other programmes).

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<sup>35</sup> Beginning in December 2006, public authorities will have a duty to promote disability equality in all aspects of their operations, including employment. This duty is generally seen as expanding the responsibilities of public authorities by requiring that they take an active role in promoting the equality of opportunity between disabled and non-disabled people and to eliminate discrimination and harassment of people related to their disability.

### **5.3.1 Pathways to Work (PTW)**

PTW began as a pilot programme in October 2003, offered to ten per cent of IB claimants; by October 2006, PTW will be expanded to cover one-third of all IB claimants, and anyone making a new or repeat claim will be automatically enrolled (Organisation for Economic Co-operation and Development (OECD, 2005). PTW participants attend Work-Focused Interviews (WFIs) with personal advisors who help them create an action plan for identifying goals and overcoming barriers to them. A key element of the PTW pilots is the Choices package—a range of services designed to enhance preparation and opportunities for work. Important components of the Choices package are the NDDP (described next) and the Condition Management Programme (CMP). The CMP helps people who are out of work better understand and manage their own health conditions. In addition to relying on vocational rehabilitation and vocational advice and support services, PTW also includes out-of-work and in-work benefits as a part of the Job Preparation Premium and Return to Work Credit (RTWC). RTWC provides £40 per month for up to one year to those who return to work of over 16 hours per week but whose income is less than £15,000.

### **5.3.2 New Deal for Disabled People (NDDP)**

The NDDP, piloted in 2001, is part of the current government's broader – Pathways to Work programme for all types of benefit claimants (DWP, 2003b). NDDP is currently the main employment programme for people receiving IB. In 2003 and 2004, nearly 58,000 people participated in NDDP programmes, which resulted in 20,400 job outcomes at a cost of £37.2 million (National Audit Office, 2005). The NDDP Innovative Schemes pilots were implemented in 1998 and preceded the introduction of NDDP as a nationwide programme. The pilots included a variety of both training and work placement schemes. The NDDP Personal Advisor Service pilots, also implemented in 1998, included vocational advice and support services. More recently, in July 2001, the Job Broker service was introduced under the national extension of the NDDP; this service provides disabled people with access to a variety of vocational advisors. The NDDP relies on two supply side strategies (education, training, and work placement; and vocational advice and support services) to increase the employment of disabled people.

### **5.3.3 Access to Work (ATW)**

In 1994, ATW replaced the Special Aids to Employment Scheme, as well as other schemes including travel-to-work benefits. ATW, which currently serves 34,800 participants, is largely a supply side intervention focusing on accessibility (National Audit Office, 2005). The programme provides advice and information to disabled people and employers and can provide or help defray the costs of communicator supports at interviews, support workers, equipment to help disabled employees in the workplace, adaptation to premises or equipment, and costs of travelling to work if an employee is unable to take public transportation. ATW covers up to 100 per cent of approved costs for new employees in the first six weeks of employment. In some cases, an employer contribution is required.

### **5.3.4 Job Retention and Rehabilitation Pilot (JRRP)**

This pilot was initiated in April 2003 in six locations in the UK. JRRP, a supply side intervention that focuses on vocational rehabilitation, targets people who are employed or self-employed and are at risk of losing their job because they have been absent from work (or unable to work) for between six and 26 weeks because of ill-health, injury, or disability. The JRRP, which is being run jointly by the DWP and the Department of Health, is being used to examine whether work retention is best achieved through vocational support, medical support (health interventions and treatments), or a combination. The intervention itself is based on a person-centred case management approach in boosting access to health care and workplace-focused help.

### **5.3.5 Work Preparation (WP) Scheme**

The WP scheme was introduced in 2001 to replace the Vocational Rehabilitation Programme. WP was run by Jobcentre Plus and offered three types of training: work placement, in-house vocational training, and a combined approach. WP is a demand side programme whose main strategy for increasing the employment of disabled people is education, training, and work placement. WP helps people identify appropriate types of work and is available to those who are out of work or are in danger of losing their job because of a disability. In 2003 and 2004, about 7,400 people participated in WP (National Audit Office, 2005).

### **5.3.6 Working Tax Credit (WTC)**

The WTC supplements the earnings of all qualifying working people with low incomes, and provides an extra top-up for disabled persons. The amount of credit that can be claimed depends on the claimant's income, hours worked, disabled status, and other characteristics, such as age and marital status (Inland Revenue, 2004). The WTC has roots in the Disability Working Allowance, an in-work benefit, which was introduced in 1991 as a means-tested wage top-up for disabled people in paid work. In 1995 the Disability Working Allowance was subjected to some changes, such as access to free National Health Service (NHS) prescriptions and extra money for those working over 30 hours per week. In 1999 the Disability Working Allowance was revamped as the Disabled Person's Tax Credit, administration shifted from the social security system to the Inland Revenue (IR) and the amounts available were increased (Thornton, 2003). In 2002 it was merged with the Working Families' Tax Credit to form the generic WTC. Tax credits such as the WTC are considered supply side interventions that focus on increasing in-work benefits.

### **5.3.7 Permitted Work Rules (PWR)**

PWR replaced the Therapeutic Work provision in 2002; it allows IB claimants to work whilst retaining their benefits for a limited duration, depending on the amount of earnings and hours they work. Under the Permitted Work Rules Higher Limit (PWHL), IB claimants can work up to 16 hours for a maximum of 52 weeks. As a part of the Supported Permitted Work (SPW), people with several health conditions or

disabilities can work for an unlimited duration in supported employment. Under the Permitted Work Lower Limit (PWLL), the number of hours that someone works is not limited, but the person cannot earn more than £20 per week. PWR allows work for a limited duration, encouraging IB claimants to return to full-time work; PWR is considered a supply side intervention, focusing on education, training, and work placement.

### **5.3.8 Job Introduction Scheme (JIS)**

JIS is a demand side strategy geared towards mitigating any additional costs and uncertainties that employers may face when hiring a disabled person. This scheme, introduced in 1977, provided a weekly grant of £45 to employers. In 1999, the amount was increased, and JIS now provides a grant of £75 for the first six weeks of employment to the employer; in certain circumstances, this grant can be extended to 13 weeks. Disabled people requesting support through the JIS may be employed in either full-time or part-time work, but must expect to remain in the position for a minimum of six months after the grant expires. In 2003 and 2004, about 2,000 people participated in JIS (National Audit Office, 2005).

### **5.3.9 ONE Pilots**

These were a series of 12 pilot programmes that began in June 1999 as a way to combine benefits, employment advice, and other services in an integrated setting. The ONE pilots brought together aspects from the Employment Service, the Benefits Agency, the Child Support Agency, and the local authority Housing Benefit service under a single roof to provide work-focused services for IB claimants geared towards moving them into the labour market. Under the ONE pilots, all new claimants of working age were offered WFIs. About nine per cent of working-age benefit claimants in the UK were covered by the 12 pilot programmes (House of Commons, 2002), which grew into Jobcentre Plus. The ONE pilots are a supply side intervention focusing on vocational advice and support services.

### **5.3.10 Incapacity Benefit**

Although IB is not a programme or initiative designed specifically to increase employment of ill or disabled persons, it is the main health related out-of-work benefit in the UK. It is usually paid to people who are assessed by a physician as being incapable of work as a result of illness or disability and meet certain contribution conditions. There are three rates of IB: (1) a lower rate paid for the first 28 weeks of sickness or disability to people who are not entitled to employer funded Statutory Sick Pay; (2) a higher rate paid for weeks 29 to 52 after entitlement to Statutory Sick Pay or lower rate IB has ceased; and (3) a long-term IB rate, which applies to people who have been disabled for more than a year and comprises the most claimants (McCormick, 2000). People claiming IB also have access to an array of other cash benefits and allowances as well. IB is an out-of-work, supply side intervention.

## 5.4 Empirical evidence base

We conducted a review of UK-based empirical studies on the effectiveness of the employment interventions under these seven main strategies. All studies in the public realm and published between January 1990 and August 2005 were included. Thirty-three publications reporting on 29 evaluations were examined: five evaluations were of education, training and work placement schemes; nine looked at vocational advice and support services; two looked at vocational rehabilitation; nine assessed out-of-work and in-work benefits; two examined employer incentives; two evaluated employment rights; and four looked at accessibility. Of the 29 studies, 26 examined single-intervention types, whilst three simultaneously examined a number of different intervention types. Perhaps unsurprisingly, given the thousands of participants and their relative overall costs, the larger programmes – NDDP, ATW, WP – were subject to the most extensive evaluation. At present, no comprehensive evaluations of cost-effectiveness exist (National Audit Office, 2005). Ten of the 29 evaluations were largely qualitative, and 19 were quantitative observational studies, most of which were retrospective and uncontrolled. However, many of the observational studies also had qualitative elements (see Tables 5.5 to 5.11).

### 5.4.1 Supply side evaluations

Most of the studies (23 of 29) examined supply-side interventions. Education and training interventions, vocational advice services, and in-work benefits have received the most analytical attention. The results of the supply side evaluations can be found in Tables 5.5 to 5.8.

#### *Education and training*

Five studies examined education and training interventions, which were themselves carried out under four different programmes: WP (under Jobcentre Plus), NDDP Innovative Schemes, Residential Training, and PWR. Results are shown in Table 5.5. Most showed employment increases ranging from 15 to 25 per cent, after participation in the interventions, with one showing an employment rate of 50 per cent (Maton *et al.*, 2000). Because none of the studies included a control or comparison group, there is no practical way of inferring the effectiveness of the programmes from these employment increases. That is, there is no way of knowing the extent to which employment would have increased among participants had they not entered the programme.

Some studies concluded that interventions of this type were less successful for participants with mental illness or sensory impairments than for other groups. One study also found that PWR participants who had a working partner were more likely to make the transition to paid employment than single people or those with a non-working partner.

### *Vocational advice and support services*

Nine studies of interventions providing vocational advice and support are summarised in Table 5.6. Two made use of comparison groups and thus generated estimates of the programmes' impacts on employment. These studies, of the NDDP Personal Advisor Service and of the Basic and PVS operated by ONE, found that employment rates among participants were four to five percentage points higher than among members of the comparison group (not statistically significant).

Studies of the attitudes of participants toward these interventions found widely varying reactions. One study of the WFI found that reactions tended to vary with the amount of time out of work. One group, consisting primarily of those already looking for work or only recently out of work, viewed the intervention very positively, saying that it provided 'valuable help and support' in the return-to-work process. A second group of largely older people with longer benefit claim histories viewed the WFI negatively, as 'a waste of time'. They also reported that they found the WFI 'insulting' and that they felt 'hounded' by the process. The third group, generally in their 20s to 40s, were fairly indifferent to the WFI, considering them to be little different in terms of helping return to work than other Jobcentre Plus schemes.

One vocational advice study, of a small, short-lived, local government-funded project, examined services that focused on providing employment for disabled people and carers in one area of high unemployment (Arksey 2003). The study showed a very high employment outcome for participants in the year after their involvement. Success was attributed to the intensive, personalised service provided to clients and ongoing support once employment had commenced.

### *Vocational rehabilitation*

Vocational rehabilitation services have been an important element of UK policy since the establishment of industrial rehabilitation units under the 1944 Employment Act. The main contemporary interventions in this area however, the JRRP and the CMP, were implemented only since 2003. Ongoing evaluations, including an experimental evaluation of JRRP (Stratford *et al.*, 2005), have not yet been completed.<sup>36</sup> The current evidence base on employment effects of this type of intervention is therefore limited and consists only of two small-scale qualitative studies (see Table 5.7). There are no UK-based estimates of the effectiveness of vocational rehabilitation interventions in enhancing the probability of employment. Participants in the CMP (implemented under the Choices package in PTW) nonetheless viewed the programme positively and frequently gave it credit for improvements in their condition. Among those who had returned to work, however, views of the role of the CMP were mixed, with only some attributing their new employment status to the programme.

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<sup>36</sup> Results of this evaluation are now available and can be found at Purdon *et al.* (2006) and Farrell *et al.* (2006).

### *Out-of-work and in-work benefits*

To our knowledge, no studies have investigated the role of out-of-work benefits, such as IB, as either incentives or disincentives for disabled people to take up paid employment.

Of the nine studies of in-work benefits published by the end of 2005, only one compared participant outcomes with those of a comparison group to arrive at an estimate of effectiveness (see Table 5.8). This study (Rowlinson and Bertoud, 1996) found that although respondents who were aware of the Disability Working Allowance were more likely to gain employment than those who were not, the differences in employment rates were not statistically significant. Younger people, single men, and women with working partners were more likely to gain employment. Interviews with recipients of the Disability Working Allowance and the Disabled Person's Tax Credit indicate that the programmes were considered to be an important work incentive for many people, who suggested that they would not have made the move to work without knowing about them. According to Corden and Sainsbury (2003 [62]), the Disabled Person's Tax Credit '*had been a strong influence when they thought about working, looked for jobs or made decisions*' (Corden and Sainsbury, 2003 [62]), as it overcame fears about low earnings, '*made work pay*', and offered financial security.

Employers appear to have mixed response to these programmes. Some reported that tax credits were useful in terms of recruiting more skilled or experienced staff to low-paid or part-time posts, and in retaining employees who might otherwise have left. Other employers were critical of the tax credit system, saying it made staff inflexible and often unwilling to work more than 16 hours per week.

### **5.4.2 Demand side evaluations**

Eight studies evaluated demand side interventions. The results of these evaluations are presented in Tables 5.9 to 5.11.

#### *Employer incentives*

The two qualitative studies of the JIS and Work Trial programme are summarised in Table 5.9. One of these concluded that because the JIS offered employers only £270 towards the total cost of the placement, it appealed only to a very small niche of employers, and a more substantial sum would be required to increase the future appeal of the scheme and permit it to have any substantial effect. The other, which studied participants in the Work Trial programme, found that all intervention participants continued in employment after the 15-day trial period ended; however, longer-term retention was considered a possible problem.

### *Employment rights*

As Table 5.10 shows, only two studies examined the effects of the DDA on the recruitment and retention of disabled people, since most of the literature studying effects of the DDA consists of legal case studies. One of these two studies found that the majority of employers were aware of the disabled employment rights contained in the legislation, with larger employers (>100 employees), public and voluntary sector employers, and those currently with a disabled member of staff more likely to be aware. However, the study found little evidence that the DDA was a motivation for employers. Only 35 per cent of employers that had made adjustments to the workplace for disabled employees said that it was done partly as a result of the employment rights legislation. Moreover, nearly half (47 per cent) said they did not think that their workplace would be able to retain a worker who became disabled.

The second study found that the employment rates of non-disabled people remained relatively stable between 1990 and 2001, whilst those of disabled people decreased, and were at their lowest following the implementation of the DDA. In addition, the gap between the employment rates of disabled and non-disabled people was greatest after the DDA. The study concluded that there was little evidence of a positive employment effect of the DDA on the hiring of disabled persons. However, the definition of disability used in the study was broader than that of the DDA, and this could have affected the patterns observed.

### *Accessibility*

Table 5.11 reports the results of four studies of ATW. While none of the four produced an estimate of the effect of ATW on rates of employment among participants, all reported positive results. Survey respondents typically said that they would not have commenced employment without the intervention; many expressed the view that they 'could not work without it' or that it would be 'highly unlikely' that they would be in employment without ATW. The studies found evidence that ATW may benefit some types of disabled people more than others and that certain ATW interventions may be more fruitful than others. Employees in the private sector were more likely than public sector employees to report that they could not work without ATW, and people with mental health problems or eye complaints were more likely than those with musculoskeletal problems or ear complaints to say that they could not work without the scheme. Similarly, ATW was rated more positively by users of on-the-job support and those in receipt of special aids and equipment than by those who had experienced alterations to premises.

Employers' attitudes were diverse, with some reporting that the ATW made no difference to their employment practices and others stating that the intervention made them more likely to employ disabled people in the future.

## 5.5 Discussion

This section draws attention to the key findings of the literature review. It examines the nature of the UK evidence base, summarises the employment effectiveness of the UK programmes reviewed, looks briefly at the policy experiences of other countries, and concludes by highlighting areas of promising practice.

### 5.5.1 UK evidence base

Overall, the results suggested that the different employment interventions had varying degrees of positive effects on employment rates of disabled people. However, the UK evidence base is small and, until the recent introduction of multi-method evaluations in the NDDP and the PTW pilot, lacked the methodological sophistication required to establish whether the positive employment outcomes were due to the interventions or part of a general increase in employment across the whole UK labour force. (Bambra *et al.*, 2005).

Although most studies found an increase in the employment of disabled people, few made use of a comparison group. Some interventions, notably employer incentives, lacked any type of quantitative evaluation. Evidence was more prevalent on certain intervention types, such as vocational advice and support services, than others, such as employment rights. We therefore have few reliable estimates of the effectiveness of employment interventions for disabled people. The relative absence of comparison groups and the tendency to concentrate on perceived rather than actual benefits both make it difficult to draw firm conclusions about programme effectiveness.

Qualitative studies were well represented in the evidence base, although qualitative research designs are not intended to determine effectiveness. The earlier qualitative studies (up to 2002) were problematic, as there was insufficient information provided about the population characteristics or the selection process. That said, the more recent qualitative studies (2003 onwards) were of a better overall quality, with longitudinal designs more common. (Lewis *et al.*, 2005; Corden *et al.*, 2003; Corden *et al.*, 2005).

There are no comprehensive studies of the cost-effectiveness of the different UK programmes (National Audit Office (NAO), 2005 [42-51]). Rough figures on NDDP, ATW, and WP do suggest that some programmes, particularly ATW, are better value than others (National Audit Office, 2005 [50]).

Concerns about the quality and extent of evidence about programmes targeted at disabled people have also been expressed by the National Audit Office (2005). However, the use of experimental designs in the evaluation of government employment interventions is very difficult both practically and politically (Prasad, 2001). For example, an attempt to include an experimental element to the evaluation of the NDDP was rejected by government ministers. However, observational designs using matched rather than randomised comparison groups, or comparative

area level evaluations, may overcome the practical and political constraints surrounding the evaluation of government interventions. Indeed, there are signs that current and future programme evaluations (such as NDDP or PTW) are being more robustly designed, combining both quantitative and qualitative methods and incorporating cost-benefit analysis and also impact assessments. The future UK evidence base will therefore be more methodologically robust.

### **5.5.2 Effectiveness of UK programmes**

The effectiveness of supply side and demand side interventions is examined and compared. Differential employment effects and the nature of employment gained by disabled people after involvement in a government programme are also examined.

#### *Supply side interventions*

Supply side interventions dominate UK policy in this area, so it is unsurprising that the majority examined education, training, and work placements; vocational advice and support services; vocational rehabilitation; or out-of-work and in-work benefits. Overall, the findings for these intervention types were positive; however, the vast majority of studies were uncontrolled. Vocational advice services were subject to the most rigorous evaluation and emerge as the most effective employment intervention. In-work benefits, despite extensive evaluation, emerge as less effective in increasing employment uptake amongst the target groups. There were only two, inconclusive, evaluations of vocational rehabilitation programmes.

All five uncontrolled evaluations of the education, training, and work placement intervention type reported employment increases ranging from 18.5 per cent (Banks *et al.*, 2002) to 50 per cent (Maton *et al.*, 2000). These studies also examined how employment outcomes varied across different groups of disabled people. Different living arrangements (Dewson *et al.*, 2004, 2005), IB history (Dewson *et al.*, 2004, 2005), and impairment type (Ridell *et al.*, 2002; Maton *et al.*, 2000) all had an impact on the likelihood of employment after participation.

Vocational advice and support services were extensively evaluated in nine studies. Importantly, two evaluations with comparison groups both reported positive employment outcomes for participants: the Loumidis and colleagues (2001) study of the Personal Adviser Service found that 11 per cent of participants compared with seven per cent of non-participants gained employment, and the Kirkby and Riley (2003) and Green and colleagues (2003) study of ONE reported that the employment rate of participants of the basic model (28 per cent) were higher than that of the comparison group (22 per cent). Both these studies found that participants left benefits more quickly than non-participants. These results were generally similar to those of the other quantitative studies (Beinart, 1997; Arksey, 2003; Adelman *et al.*, 2004; Kazimirski, 2005), which also noted better employment outcomes amongst women, those with physical health problems, and white participants (Beinart, 1997; Adelman *et al.*, 2004; Kazimirski, 2005). The qualitative studies drew attention to the

importance of the programmes to particular employers (Aston *et al.*, 2005) and to their influence on the employment of particular groups and individuals (Heenan, 2002).

Evaluations of vocational rehabilitation interventions (JRRP and CMP) have only just begun in the UK, so the evidence base is currently incomplete (impact assessments of PTW and NDDP are now being conducted). Only two (inconclusive) qualitative studies were located. They reported generally positive views from participants but, perhaps worryingly, also voiced concerns from employers about the disruption to the workplace caused by the interventions.

No direct evidence was found on the role of out-of-work disability-related benefits such as IB acting as an employment incentive or disincentive. However, in-work benefits such as the Disabled Person's Tax Credit were subject to a number of quantitative and qualitative evaluations. Generally, this type of intervention had a modest impact on increasing the employment of disabled people, as most recipients were already in work when they received the intervention. For example, the study with a comparison group by Rowlingson and Berthoud (1996) found no statistically significant increase in employment amongst those who were aware of the intervention, and the study by Atkinson *et al.*, (2003) found that 72 per cent of recipients were already in work when they applied for the benefit. Similarly, the qualitative studies, including the Athayde and colleagues study (2003) of employers, reported mixed views of the work incentive effect of this intervention type. Uptake and awareness were generally low amongst non-recipients (Rowlingson and Berthoud, 1996). However, there was evidence that this intervention type worked more effectively in terms of enhancing employment retention (Athayde *et al.*, 2003).

### *Demand side interventions*

Demand side interventions – incentives for employers, employment rights, and improving physical accessibility – were evaluated less extensively than the supply side programmes. We were able to locate only two qualitative studies on employer incentives and only two studies of employment rights. Overall, the interventions appear to have had very little impact on the employment of disabled people, though this may partially reflect the limited size of the UK evidence base.

The interventions designed to decrease the costs to employers of employing a disabled person (employer incentives and accessibility) were mixed, with the employer incentive programmes viewed negatively by respondents and the accessibility interventions viewed more positively. The employer incentive schemes (such as the JIS and Work Trial) were not found to create incentives either for employers or indeed for the participating disabled people. The levels of support were too low for employers and did not adequately offset the perceived risks and costs of employing a disabled person. The accessibility programme (ATW) was more positively viewed and was seen by both employers and employees as a useful intervention in terms of increasing the employment of disabled people (Hillage *et al.*, 1998; Beinart *et al.*, 1996).

The employment rights approach was similarly found to be ineffective in increasing the employment of disabled people. Only two UK studies were located that evaluated this intervention type, and neither suggested that the DDA had increased the employment rates of disabled people. The Roberts and colleagues study of employers found that the DDA was not a motivation for employers in their recruitment decisions, and the Pope and Bambra (2005) study found that national employment rates of disabled people did not increase after the introduction of the DDA in 1995.

### *Characteristics of employment*

A number of studies reported on the type of employment gained by successful participants. Generally, the employment gained was stable, with studies by Maton and colleagues (2000), Dewson and colleagues (2004, 2005), Adelman and colleagues (2004), and Kazimirski and colleagues (2005), reporting that between 50 per cent (Adelman *et al.*, 2004; Kazimirski *et al.*, 2005) and 85 per cent (Dewson *et al.*, 2004, 2005) of participants employed through the interventions were with the same employer after one year. However, there were concerns about the low-skilled and elementary nature of the work gained by disabled people (Loumidis *et al.*, 2001; Corden *et al.*, 2003; Lewis *et al.*, 2005; Adelman *et al.*, 2004; Kazimirski *et al.*, 2005; Atkinson *et al.*, 2003) who were recruited to jobs largely in areas such as security, clerical, or call centre work. The income attached to these type of jobs was also an issue in some of the studies (Adelman *et al.*, 2004; Kazimirski *et al.*, 2005; Atkinson *et al.*, 2003), with, for example, the average gross weekly pay of employed respondents in the Adelman and colleagues' (2004) and Kazimirski and colleagues' evaluation of Job Broker a mere £158 per week. The number of hours that disabled employees worked each week varied across the studies, but in some there was concern about the part-time nature (<16 hours per week) of the employment gained and the knock on effects for income (Loumidis *et al.*, 2001; Corden *et al.*, 2003; Lewis *et al.*, 2005). Furthermore, in one evaluation (Adelman *et al.*, 2004; Kazimirski *et al.*, 2005), women worked significantly fewer hours than men.

### *Variations in employment*

Eight studies reported on the characteristics of successful participants in terms of gender, type of impairment, IB history, or living arrangements. Four differentiated their findings by gender. Two vocational advice service evaluations found higher employment rates for women (Beinart, 1997; Adelman *et al.*, 2004; Kazimirski *et al.*, 2005), one found no difference by gender (Loumidis *et al.*, 2001), and another study that evaluated in-work benefits found that single men were more likely to gain employment than single women (Rowlingson and Berthoud, 1996). People with mental health problems were consistently reported as less likely to gain employment than people with physical disabilities (Beinart, 1997; Adelman *et al.*, 2004; Kazimirski *et al.*, 2005; Thornton *et al.*, 2001; Ridell *et al.*, 2002), and people with visual impairments were less likely to gain employment in two studies (Maton *et al.*, 2000; Thornton *et al.*, 2001). Only one study found no difference by impairment

(Banks *et al.*, 2002). A longer history of claiming IB reduced the likelihood of employment (Loumidis *et al.*, 2001; Dewson *et al.*, 2004, 2005), and living with a non-working partner had a significant impact on the likelihood of work (Dewson *et al.*, 2004, 2005). The evaluation of Job Broker by Adelman and colleagues (2004) and Kazimirski and colleagues (2005) found that white respondents were more likely to gain employment, and the Loumidis and colleagues' (2001) study found the same of lone parents.

Overall, the supply side interventions appear to be having some limited success in terms of increasing employment, especially for people with physical health problems. However, the current evidence base also suggests that the ability of supply side interventions to enhance the employment uptake of disabled people further, and improve the type of jobs gained, is limited unless the demand for disabled labour amongst employers is increased.

### 5.5.3 International experiences

Other developed countries share the difficulties encountered in the UK in terms of the rising numbers of people on health-related benefits. The limitations of supply side interventions are also evident. For example, initial evaluations of the wide-scale USA 'Ticket to Work' scheme (a voucher-based system that entitles disabled people to purchase rehabilitation services from a variety of PVS providers who are financially rewarded only for positive employment outcomes) have shown limited uptake and minimal employment outcomes for participants (Thornton *et al.*, 2004). Internationally then, the more successful programmes have tended to focus on stimulating or maintaining employer demand.

Continental European countries, such as Germany, France, and Italy, operate mandatory employment quotas of five to seven per cent. The success of this approach is limited, as a third of employers ignore the quotas because the sanctions for non-compliance are limited – to around one per cent of the payroll (OECD, 2003 [210]). However, about 60 per cent of quota places are still filled. Increasingly though, employment rights legislation, like the UK's DDA, has become operative in Europe (for example the Netherlands) and elsewhere (USA and Australia), but the evidence on the effectiveness of this approach in terms of increasing the employment of disabled people is limited. The USA has one of the strictest disability employment rights acts in the OECD – the Americans with Disabilities Act (ADA) (1990). However, the evidence suggests that it too has had minimal influence on the employment of disabled people, with some suggesting that it has even had a negative effect (DeLeire, 2000; Russell, 2002).

There has therefore been a growing focus on more active labour market policies for disabled people across the OECD countries (OECD, 2003). Research by the OECD (2003 [112]) suggests that countries such as Sweden, Norway, and Denmark, which spend more on certain active labour market policies, have the highest employment rates of disabled people. Sweden operates an extensive and sophisticated policy of

employer incentives, as they subsidise wholly or partly the costs to the employer of employing a disabled person. The subsidy varies by the extent of work capacity reduction and is phased out gradually over a number of years. On the supply side, vocational rehabilitation is also compulsory for people in countries such as Sweden and Norway, and they are the only countries in which more people are involved in vocational rehabilitation or training than are granted a disability-related benefit (OECD, 2003 [110]).

The design of non-UK evaluations has also typically been more robust. For example, in the USA, experimental research designs (with random allocation into intervention and comparison groups) are more common in the evaluation of employment programmes (Corden and Thornton, 2002).

The international evidence therefore confirms the complexity of designing interventions to increase employment amongst disabled people. However, it also suggests that vocational rehabilitation and demand side policy, especially increasing the incentives offered to employers, are avenues that need to be further explored to see if they have potential for improving the employment and retention of disabled people in the UK.

## 5.6 Conclusions

It is a difficult time to write this chapter, as the results of a number of large-scale evaluations of government programmes, such as PTW, are unknown. Furthermore, substantial reforms to IB are planned by the current government, so this overview of the evidence will soon have to be updated.<sup>37</sup> The UK evidence base contains some information about whether the programmes lead to higher employment rates. However, there is less certainty about how key actors can be involved in interventions (such as employers, health professionals, and disabled people themselves), or about cost-effectiveness.

Several areas of promising practice have emerged from this review of the UK evidence base:

- Vocational advice, and education and training, two of the supply side strategies, emerge as fairly successful intervention types. Some of these programmes, such as PWR or Residential Training Courses, were also valuable in terms of how many participants gained long-term, sustainable employment.

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<sup>37</sup> DWP staff are currently reviewing their employment services for disabled people to make them easier to use and more responsive to the needs of individuals. The review also is intended to ensure that the programmes deliver good value for their cost. In the near future, DWP staff intend to consult on the proposals that emerge from this review.

- Although not all programmes had large employment effects, most were able to provide important opportunities for people to engage with the labour market, to move towards the possibility of paid employment, and for some, actually to gain work. Similarly, a number of individual employers rated the programmes high because they provided suitable employees for their workplace. These effects should not be underestimated when considering the effectiveness of programmes.
- Interestingly, some of the smaller, more localised or specialised projects (such as the vocational advice project examined in Arksey, 2003 or the Residential Training scheme evaluated in Maton *et al.*, 2000) that had low numbers of participants (typically fewer than 100) emerged as particularly successful in terms of the final employment outcomes. This was attributed to the intensive support provided within a small-scale project; understanding of, and, tailoring to, the needs of the local labour market; the involvement of the voluntary sector; or the targeting of particular groups. These experiences can perhaps be drawn upon to inform the design of the larger national programmes in the future. Although it cannot of course be assumed that successful elements of projects designed with small numbers of participants in mind will be equally successful if applied to thousands.
- Perhaps one of the problems that this review has shown is the lack of interventions to prevent initial job loss due to disability in the UK, and the difficulties entailed in returning to work. The emergence of JRRP is therefore very promising, particularly in terms of engaging the NHS and employers, and suggests that there might now be the beginnings of a shift in programme emphasis from 'treating' lack of work amongst disabled people to 'preventing' job loss in the first place (National Audit Office, 2005 [31]).

It is hoped that these varied strengths in practice will be built upon in terms of future policy development. However, this evidence overview has also highlighted some of the difficulties faced by government in terms of designing and implementing employment programmes in this area:

- Supply side interventions, particularly vocational advice service, appear to be increasing employment amongst disabled people in the UK. However, the uptake of interventions is generally low (perhaps because of the voluntary nature of most programmes). This needs to be tackled if interventions are to have a broader impact.
- It is perhaps not very surprising that the majority of programmes are supply oriented, as whilst the Government has the power and resources to create interventions to increase employability (for example, by increasing skills, boosting confidence, and overcoming financial barriers), it is much harder for it to influence the behaviour of employers. However, international experience suggests that more extensive, and more financially attractive, interventions, such as reduced work capacity subsidies (Sweden), can enhance demand amongst employers. These should therefore be given more consideration in the future development of UK policy.

- The evaluation of government programmes also needs to be more rigorous. Although the qualitative evidence base is fairly extensive, there is a dearth of high-quality (prospective, with a comparison group) quantitative studies of programme effectiveness, or evaluations of cost-effectiveness. The multi-method designs used in the NDDP and PTW evaluations are an improvement in this respect and should be extended to other intervention types, and matched controls used whenever possible, so that a more robust evidence base exists upon which future UK policy can be built.

Nonetheless, it is possible to be cautiously optimistic in terms of the ongoing influence of UK government programmes on the employment of disabled people.

**Table 5.1 UK disability policy since 1990**

1991	Disability Living Allowance And Disability Working Allowance Act Disability Living Allowance combined the Attendance and Mobility allowances, Disability Working Allowance – wage top-up for low paid workers (replaced with a tax credit in 1999). Placement, Assessment, and Counselling Teams Vocational preparation and placement services (renamed Disability Service Teams in 1999).
1994	Social Security (Incapacity for Work) Act Introduced the All Works Test and Incapacity Benefit. Access to Work Programme Replaced a number of separate schemes – provided financial assistance towards practical aids, workplace adaptation, fares to work, and personal support.
1995	Disability Discrimination Act Since 1996, it has been unlawful to discriminate in recruitment, promotion, training, working conditions, or dismissal on the grounds of disability or ill-health (restricted to employers with over 20 employees, reduced to 15 in 1998). Abolished the 3% employment quota of 1944.
1998	New Deal for Disabled People Pilots A package of different interventions, including the Personal Adviser Service, the Innovative Schemes, and smaller projects such as the Job Finders Grant.
1999	Tax Credit Act Introduced the Disabled Person's Tax Credit – a wage top-up for disabled people in low-paid employment (merged into the Working Tax Credit in 2002). Disability Rights Commission Monitored implementation of the Disability Discrimination Act from 2000 onwards. Welfare Reform and Pensions Act IB became means tested, Severe Disablement Allowance was age restricted, and the Personal Capacity Test replaced the All Works Test. ONE Pilot People applying for benefits were given an adviser to discuss work options. Compulsory after 2000.
2000	WORKSTEP Programme As a supported employment programme, this programme is aimed at disabled people who can work effectively with the right support but who face the most significant or complex barriers to finding and keeping a job. When this is the best option for them, this programme helps people progress to unsupported employment.
2001	Special Educational Needs and Disability Act Extended the provisions of the DDA to education providers (provisions in force from 2002). New Deal for Disabled People National Extension Introduced Job Brokers (public, PVS vocational advisers). Jobcentre Plus Services of the Employment Service and the Benefits Agency were combined.
2002	Tax Credits Act Disabled Persons Tax Credit merged into the Working Tax Credit for all low-paid workers. Permitted Work Rules Allows benefit claimants to undertake paid work for up to 16 hours per week.

Continued

**Table 5.1 Continued**

2003	Disability Discrimination Act 1995 (Amendment) Regulations 2003 Incorporates the Disability provisions of recent EU Employment Directives, removed small employer exemption. Came into force in October 2004. Pathways to Work Pilots 'Return to work' credit for new claimants leaving IB, Condition Management Programmes, and mandatory Work-Focused Interviews.
2004	Pathways to Work Extension 1 Job Preparation Premium paid to those on IB under taking return-to-work activity, extended to IB claims started in past two years.
2005	Disability Discrimination Act 2005 Extends service provisions to transportation. Definition of disability broadened to cover more people with HIV, cancer, and multiple sclerosis (see Chapter 3 for full details). New duty placed on public authorities to promote equality of opportunity for disabled people. Pathways to Work Extension 2 Pilot measures extended to cover around a third of the UK. Job Retention and Rehabilitation pilot Examines retention in work, comparing employment-focused support and health-based support.

Sources: Adapted from Bamba *et al.*, 2005; Barnes, 2002; DWP, 2002, 2005; Oliver and Barnes, 1998; Prime Minister's Strategy Unit, 2005; Thornton and Lunt, 1997, Thornton, 2003.

Table 5.2 Typology of the main UK policy strategies and programmes

Education, Training and Work Placements	Vocational Advice and Support Services	Supply side			Demand side		
		Vocational Rehabilitation	Out-of-Work In-Work	In-Work	Employer Incentives	Employment Rights	Accessibility
New Deal Innovative Schemes	New Deal Personal Adviser Service – Pilots	Pathways to Work – Condition Management Programmes	Incapacity Benefit	Working Tax Credit	Job Introduction Scheme	Disability Discrimination Act and amendments	Access to Work
Work Preparation	New Deal Personal Adviser Service – National Extension (Job Brokers)	Job Retention and Rehabilitation Pilot	Disability Living Allowance	Travel to Work Job Grant (Job Finder's Grant)	Work Trial Employment on Trial		
Residential Training	ONE Pilots	NHS Plus	Income Support (with disability supplement)	Back to Work Bonus	New Deal (subsidy and advice from DEAs)		
Workstep	Work Focused Interviews		Housing Benefit with Disability Premium	52-week linking rule			
Permitted Work Rules	Disability Service Teams – DEAs		Council Tax Benefit	Extended Payment of Council Tax Benefit			
			Industrial Injuries Disablement Benefit	Benefit Extended Payment of Housing Benefit			
			Reduced Earnings Allowance	Help with health costs			
			Help with health costs	Pathways to Work – Return to Work credit			
			Pathways to Work – Job Preparation Premium				

Sources: Bamba et al., 2005; DWP, 2005; Prime Minister's Strategy Unit, 2005.

DEAs = Disability Employment Advisers; NHS = National Health Service.

**Table 5.3 Characteristics of the larger government programmes and pilots**

	<b>New Deal for Disabled People (NDDP)</b>	<b>Access to Work (ATW)</b>	<b>Work Preparation (WP)</b>	<b>Pathways to Work (PTW)</b>
Number of UK Participants <sup>1</sup>	57,800	34,800	7,400	148,000*
Job Outcomes (to nearest 100) <sup>2</sup>	20,400	n/a	1,300	n/a
Cost of Scheme <sup>3</sup>	£37.5 m	£55.8 m	£10 m	n/a
Strategies	Vocational advice and support services Education, training, and work placement Employer incentives	Accessibility In-work benefits	Education, training, and work placement	Vocational advice and support services Vocational rehabilitation In-work benefits

Source: NAO (2005).

<sup>1</sup> Figures are for financial year 2003/4 (rounded to the nearest 100).

<sup>2</sup> Figures are for job entries by participants in 2003-2004 (rounded to the nearest 100).

<sup>3</sup> Figures are for costs (excluding administration) in 2003-2004.

\* All new IB claimants are subject to a WFI.

Table 5.4 Other programmes

Programme	Description
Disability Living Allowance	Tax-free benefit for disabled people consisting of 'care' (up to £60.60 per week) and 'mobility' (up to £42.30 per week) components.
Income Support	Income-related benefit for people between 16 and 59 with low income. Includes premium for disabled people.
Residential Training	Training programme providing up to 50 different vocational training courses for long-term unemployed disabled adults. Many courses lead to National Vocational Qualifications.
Workstep	Provides support and a development plan to employers and employees to ensure that people have the appropriate skills and training for their job.
Work Trial	Allows people to try out a job for 15 days whilst continuing to receive benefits. Also provides up to £10 per day in travel expenses and £3 per day for meals.
Disability Service Teams	Employment advisors, Access to Work advisors, and occupational psychologists available through local Jobcentre Plus offices providing assessment and advice to employers and disabled people.
NHS Plus	Network of NHS occupational health departments provided to the private sector.
Housing Benefit with Disability Premium	Assists in rent and other housing costs for people with low income. Provides an additional premium for disability.
Council Tax Benefit	Rebate on local Council Taxes for low-income people.
Industrial Injuries Disablement Benefit	Cash benefit for people who are ill or have been disabled from a disease or deafness caused by their work.
Reduced Earnings Allowance	Benefit providing up to £49.52 per week to individuals who are earning less than they normally would because of an accident or disease caused by work.
Job Grant	One-off payment when people return to work and stop receiving benefits. Provides £100 to people without children and £250 to those with children.
Back-to-Work Bonus	Tax-free lump sum payment between £5 and £1000 to people who have been moving off benefits and back to work. Phased out in 2004.
52-Week Linking Rule	Allows IB claimants to resume receiving benefits if they leave employment within 52 weeks of starting their job.

**Table 5.5 Education, training and work placement**

<b>Study</b>	<b>Programme and year of evaluation</b>	<b>Study details</b>	<b>Employment outcomes</b>
Riddell <i>et al.</i> (2002) <sup>1</sup>	Work Preparation 1998/1999	2,381, cohort of all participants in Scotland +21 case studies of participants and key informants	13 weeks after participation: 20.8% employment, 24% education/training programmes, 55.1% no outcome.
Banks <i>et al.</i> (2002)	Work Preparation 2000/2001	2,823, cohort of clients in three regions, +cross-sectional postal survey of all 122 providers, + four focus groups, 21 phone interviews with key informants	After participation 18.5% employment, 12.3% education/training programmes.
Hills <i>et al.</i> (2001) <sup>2</sup>	New Deal Innovative Schemes 1998/2000	Monitoring data on all 24 schemes (1,332 clients) + qualitative interviews with managers, staff, clients, employers	Ten schemes commenced in 1998. Average percentage of clients employment by 2000 was 39%. 14 schemes commenced in 1999, and by 2000 the average percentage of clients placed in employment was 26% (still ongoing).
Maton <i>et al.</i> (2000)	Residential Training 1999/2000	150 (out of 475) cohort of ex-trainees + 88 in-depth interviews with current trainees, all 14 training providers	18 months after participation, 50% of ex-trainees in employment, two thirds of whom had been in work for a year or more. 9% of ex-trainees education/training programmes, 41% no outcome. 62% employment duration of one year or more. Bias in provision of training towards the South East of England.
Dewson <i>et al.</i> (2004, 2005)	Permitted Work Rules 2003/2004/2005	1,435, cohort of IB recipients + longitudinal in-depth interviews with 31 participants + focus groups with staff at six Jobcentre Plus sites	24% of respondents were in independent paid work, rising to 25% in 2005. A further 33% were in work and claiming IB under the PWR in 2005. 40% of those with IB claims under two years were in paid work compared with 10% PWR; 80% of those with longer claims were in PWR. 85% remained with their 2004 employer in 2005. Living arrangements were influential: 47% with a working partner were in independent paid work compared with 37% of single people and 15% with a non-working partner.

Source: Adapted from Bamba *et al.* (2005).

<sup>1</sup> Results also available in Wilson *et al.* (2000).

<sup>2</sup> Preliminary results reported in Blackburn *et al.* (1999).

PWR = Permitted Work Rules.

Table 5.6 Vocational advice and support

Study	Programme and year of evaluation	Study details	Employment outcomes
Beinart (1997)	Placing Assessment and Counselling Teams 1996	700, cohort of participants	After six months, participant employment rate increased from 18% to 26%, involvement in education/training increased from 7% to 16%.
Loumidis <i>et al.</i> (2001) <sup>1</sup>	New Deal Personal Adviser Service 1999/2000	2557, cross-sectional study with comparison group of non-participants in 12 pilot areas. + 1156 national postal survey of recipients of IB+ 91 in-depth interviews with stakeholders in all 12 pilot sites	11% of participants in the PAS pilot and 7% of non-participants left benefit at least once during 2-year observation period. Participants left benefit at a faster rate than non-participants. Intervention increased participants' confidence, and most perceived that it had a positive impact on their move towards employment.
Heenan (2002)	New Deal Personal Adviser Service 1999/2000	14 clients who had gained jobs Focus group	Majority felt that they would not have been in employment without the support they had been given by the scheme. Participants identified emotional support given by Personal Advisors as a key factor in their successful move.
Arksey (2003) <sup>2</sup>	People into Employment Service 2000/2002	Monitoring records + 36, postal survey to clients, +postal follow-up to 23 clients + 16 telephone/face-to-face interviews with stakeholders	By end of two-year period, 44 out of 68 disabled clients had obtained jobs.
Kirkby and Riley (2003); Green <i>et al.</i> (2003)	ONE advisory service 2000/2001	4,783, cohort study with comparison group of new benefit claimants in 24 UK areas (12 intervention, 12 comparison group).	Overall, employment of 16 hours or more per week increased in the intervention areas from 24% to 28%. However, the intervention had no significant effect, as similar results were recorded in the control areas: 20% to 25%. However, Basic and PSV intervention types had recorded significant differences in employment rates compared to their respective control groups: 28% to 22% for Basic; 29% to 24% in PSV.

Continued

**Table 5.6 Continued**

Study	Programme and year of evaluation	Study details	Employment outcomes
Lewis <i>et al.</i> (2005); Corden <i>et al.</i> (2003)	New Deal National Extension – Job Brokers 2002/2003/2004	45 longitudinal telephone interviews with clients + 23 in-depth longitudinal interviews with Disability Employment Advisers. + longitudinal focus group with 17 Job Broker staff + 45 face-to-face interviews with clients + 23 in-depth interviews with Job Broker managers + 15 focus groups with 38 Jobcentre Plus advisers	Mixed views of the role of the intervention on movement into work: some very positive, seeing the intervention as essential to the move into work or accelerating the process; others less positive. Generally the jobs gained after were unskilled or semi-skilled, usually at a lower level than that had been undertaken prior to being on benefits. Generally work was part-time (<35 hours per week), but this was attributed to the nature of clients' health problems or to keep within the PWR.
Kazimirski <i>et al.</i> (2005); Adelman <i>et al.</i> (2004)	New Deal National Extension – Job Brokers 2002/2003	4,082, cohort national survey of participants.	47% of participants were in paid work 12 months after the intervention (including 19% under PWR). 68% worked over 16 hours per week. Median gross pay was £158 per week. 26% entered elementary level work but 65% said that their employment was related to their previous skills or experience. Women, white respondents, those with a musculoskeletal health complaint, and those with better overall health, were significantly more likely to work. After one year 50% of employed participants were in the same job, and 25% had a new job. 60% of participants were labour market active after one year. However, 72% of employed participants felt that they would have gained employment without the JB intervention.
Aston <i>et al.</i> (2005)	New Deal National Extension – Job Brokers 2003/2004	50 in-depth interviews with 'good practice' employers in England and Wales.	Scale of recruitment via the Job Broker Service was not particularly large – some employers had only recruited one person via the scheme. However, those recruited had a wide range of health problems. Recruitment was generally to low-level clerical, customer service or call centre work. For some people, the intervention was 'critical' to their recruitment.

Continued

Table 5.6 Continued

Study	Programme and year of evaluation	Study details	Employment outcomes
Corden <i>et al.</i> (2005) <sup>3</sup>	Work-Focused Interviews Job Brokers 2004	Longitudinal qualitative panel study of 24 JB recipients in the first three UK pilot areas. Three individual interviews per recipient.	Mixed views of WFI: those closer to work viewed them positively as providing 'valuable help and support', others, especially older respondents, were more negative and found the intervention 'insulting, a waste of time' (2005, 32), and a third group were rather indifferent not viewing the intervention as any more useful than other similar Jobcentre Plus schemes. Views of the Job Broker service were similarly split with some valuing the continued support offered, whilst others found that they did not meet expectations and did not do anything that the individual could not do themselves: 'pointless'. No one gained a job as a result of the Job Brokers (2005, 48).

Source: Adapted from Bamba *et al.* (2005).

<sup>1</sup> Preliminary results reported in Arthur *et al.* (1999).

<sup>2</sup> Results are also available in Arksey (2002).

<sup>3</sup> This study also evaluates vocational rehabilitation and in-work benefits interventions (see tables 5.7 and 5.8 respectively).

JB = Job Broker; PAS = Personal Adviser Service; PWR = Permitted Work Rules.

**Table 5.7 Vocational rehabilitation**

Study	Programme and year of evaluation	Study details	Employment outcomes
Nice and Thornton (2004)	Job Retention and Rehabilitation Pilot 2003	In-depth interviews with 53 representatives from 22 different employers in four of the JRRP areas.	Quicker access to treatment services, such as physiotherapy, and the ability to get all services from one source was seen to enable quicker return to work for employees. However, some employers felt that the return-to-work plans and the employer's lack of control over the process were disruptive to the workplace and had time, cost, and productivity implications.
Corden <i>et al.</i> (2005) <sup>1</sup>	Condition Management Programme 2004	Longitudinal qualitative panel study of 24 IB recipients in the first three UK pilot areas. Three individual interviews per recipient.	CMP positively viewed and accredited, particularly with improvements in health condition, managing the health condition, and movement towards work. Amongst those who had returned to work, views of the role of the CMPs were mixed, with only some accrediting it to the programme. Specific condition CMPs were generally more influential on movement to work and improving conditions than the generic schemes.

<sup>1</sup> This study also evaluates vocational advice and in-work benefits interventions (see tables 5.6 and 5.8 respectively).

Table 5.8 Out-of-work and in-work benefits

Study	Programme and year of evaluation	Study details	Employment outcomes
Rowlingson and Berthoud (1996)	Disability Working Allowance (pre-1995 changes) 1993/1995	1,113, cross-sectional survey with comparison group of people on sickness and disability benefits and 324 recipients of Disability Working Allowance, plus follow-up for 2 years + two cohorts of new Disability Working Allowance recipients, + focus groups and depth interviews with disabled people and rejected Disability Working Allowance applicants	Respondents aware of Disability Working Allowance at the start of the study were twice as likely to gain employment as those who were unaware, but difference was not statistically significant (10% of aware gained employment versus 5% of unaware). 43% of workers on Disability Working Allowance said that they would not be in a job now if Disability Working Allowance had not existed.
Arthur and Zarb (1997)	Disability Working Allowance (post-1995 changes) 1995/1996	2,800, cross-sectional survey of Disability Working Allowance recipients, half of whom had experienced the pre-1995 scheme and half only the post-1995 changes	45% of new recipients in work reported that they would not have retained their employment without Disability Working Allowance; and 40% of new recipients starting employment reported that they would not have taken employment without the intervention. Little difference between this a previous years (comparison with Rowlingson and Berthoud above).
Corden and Sainsbury (2003)	Disabled Person's Tax Credit 2001/2002	54 in-depth interviews with recipients of Disabled Person's Tax Credit in four localities across England, Scotland and Wales	Evidence that the intervention works as an employment incentive for some who would not have made the move into work without it. Success attributed to overcoming fears about low earnings and providing financial security.
Atkinson <i>et al.</i> (2003)	Disabled Person's Tax Credit 2002	1,315, cross-sectional survey of recipients of Disabled Person's Tax Credit	72% already in work when they heard of Disabled Person's Tax Credit but amongst those not working, 56% said that Disabled Person's Tax Credit had been influential in the decision to take up employment. 63% reported that Disabled Person's Tax Credit had no influence on the wages they were prepared to take for a job. Jobs were mainly unskilled manual, clerical, or sales, and the majority earned less than £500 per month.

Continued

**Table 5.8 Continued**

<b>Study</b>	<b>Programme and year of evaluation</b>	<b>Study details</b>	<b>Employment outcomes</b>
Athayde <i>et al.</i> (2003) <sup>1</sup>	Disabled Person's Tax Credit 2002	50 in-depth interviews with small and medium employers (generally <50 employees) with experience of administering Disabled Person's Tax Credit. Drawn from four English regions	Mixed views from employers: some view the tax credit as a useful way of retaining staff who would otherwise leave, or of recruiting more skilled staff to part-time posts. Others, though, are frustrated by the effect of the 16-hours-per-week restriction on staff flexibility.
Coleman <i>et al.</i> (2003) <sup>2</sup>	Disabled Person's Tax Credit 2002	6,453, cross-sectional survey of all UK employers	Vast majority perceived no effect on recruitment, but amongst larger employers (> 100 employees) with high numbers of part-time workers, 21% said it had helped. Positive views on the role in encouraging new applications varied from 7% (all employers) to 21% amongst employers with current tax credit staff. Generally no perceived impact on working hours or wages, but 25% perceived a positive impact on retention.
Corden <i>et al.</i> (2005) <sup>3</sup>	Return to Work Credit 2004	Longitudinal qualitative panel study of 24 IB recipients in the first three UK pilot areas. Three individual interviews per recipient.	Credit recipients were generally women who returned to low-skill part-time work. Some applicants for the credit were people transferring from the Permitted Work rules. Generally limited success in terms of enhancing employment uptake as applicants needed to already be in work to receive it.
Thornton and Corden (2002) <sup>4</sup>	Travel to Work 2001	36 full case-studies of users and their employers	Evidence from most users that they considered that Travel to Work was essential to their taking up a job.
Corden and Sainsbury (2001) <sup>5</sup>	Disabled Person's Tax Credit 52-week linking rule Job finder's Grant 2000	34 in-depth interviews with clients who had used one of the interventions + Group exercises with 29 admin staff in 5 of the 15 pilot areas	Disabled Person's Tax Credit: influenced some decisions to take work, more so when estimated in-work benefit was over £50 per week. 52-week linking rule: low awareness, few said that it had influenced their decision to take work – but these valued it highly. Job Finder's Grant: Participants said that it did not influence their decisions to take employment. Viewed as a reward, not an incentive.

Source: Adapted from Bamba *et al.* (2005).

<sup>1</sup> This study also examines the Working Families' Tax Credit.

<sup>2</sup> This study also examines the Working Families' Tax Credit.

<sup>3</sup> This study also evaluates vocational advice and vocational rehabilitation interventions (see Tables 5.7 and 5.8 respectively).

<sup>4</sup> This study also examined accessibility initiatives (see Table 5.10).

<sup>5</sup> This study also examined employer incentive schemes (see Table 5.9).

Table 5.9 Employer incentives

Study	Programme and year of evaluation	Study details	Employment outcomes
Atkinson and Kodz (1998)	Job Introduction Scheme 1997	In-depth interviews with 40 employers, 32 advisers, 14 regional managers, and 10 beneficiaries	Employers continued the employment of the participant after the 6- to 13-week intervention period. Half the employers said that they would have offered the employment to the participants without the intervention. Subsidy too small to act as incentive.
Corden and Sainsbury (2001) <sup>1</sup>	Work Trial 2000	34 in-depth interviews with clients	All participants obtained employment after the 15-day intervention period expired. Longer-term retention was considered to be a problem, especially when health worsened.

Source: Adapted from Bamba *et al.* (2005).

<sup>1</sup> This study also examined in-work benefits (see Table 5.8).

**Table 5.10 Employment rights**

Study	Programme and year of evaluation	Study details	Employment outcomes
Roberts <i>et al.</i> (2004)	Disability Discrimination Act 2003	2,022, cross-sectional survey of UK employers + 74 in-depth interviews across 38 different workplaces	63% aware of DDA, more awareness in larger employers >100 (92%), public sector (78%), voluntary sector (88%), and those with existing disabled employees (69%). Overall the DDA was not cited as a motivation for employers' behaviour – amongst employers that had made adjustments for disabled employees, only 35% said that it was done partly as a result of the DDA. 33% expressed that employing a disabled person was a major risk for the employer, and 47% said they would find it difficult to retain an employee who became disabled.
Pope and Bamba (2005)	Disability Discrimination Act 2003	About 20,000, repeat cross-sectional survey of UK population	The average employment rate of disabled people before the DDA was 49.4%. This decreased significantly to 46.3% in the period after the DDA was implemented. The percentage-point difference in employment rates between disabled and non-disabled people also increased significantly after the DDA, from an average of 27.8 to an average of 35.4.

Table 5.11 Accessibility

Study	Programme and year of evaluation	Study details	Employment outcomes
Beinart <i>et al.</i> (1996)	Access to Work 1994/1995	791 recipients 466 employers national cohort of recipients and their employers, + comparison with LFS + qualitative interviews with stakeholders	Recipients: 49% of respondents reported that they would not have commenced employment without the intervention, 31% reported that the intervention had no influence on their employment. Employers: 18% took on ATW recipients as employees after they had received an offer of help; 49% said that the intervention made them more likely to employ disabled people in the future.
Hillage <i>et al.</i> (1998)	Access to Work 1997	492 applicants 258 linked employers cohort in 5 regions + comparison with LFS, + in-depth 26 interviews with managers, advisers, regional directors and job centre staff	Recipients: 41% of respondents perceived that they would not have commenced employment without the intervention, 38% reported that the intervention had no influence on their employment. Employers: 17% perceived that they would not have employed/continued to employ the recipient without the intervention, 68% said that the intervention made no difference and that they would have maintained/offered employment anyway.
Thornton <i>et al.</i> (2001)	Access to Work 2000	628 national cross-sectional survey of ATW users + 20 in-depth interviews with users	Respondents rated the extent to which the intervention enabled them to work: 45% perceived that they 'could not work without it', 32% 'a great deal', 14% 'not much', 1% 'not at all'.
Thornton and Corden (2002) <sup>1</sup>	Access to Work 2001	97 full case-studies with clients and associated employers	Most respondents reported that they found the intervention to be valuable and that it was 'highly unlikely' that they would be in employment without it.

Source: Adapted from Bamba *et al.* (2005).

<sup>1</sup> This study also examined in-work benefits (see Table 5.8).

# 5a Commentary: The influence of government programmes and pilots on the employment of disabled people

**Roy Sainsbury**

## 5a.1 Introduction

The preceding chapter set out to explore the influence of government programmes on the employment of disabled workers. The term 'government programmes' has been interpreted widely to include what Clare Bamba identifies as 'supply side' policy responses designed to increase the employability of disabled people and the attractiveness of working, and 'demand side' policies that aim to increase the incentives and benefits to employers of taking on disabled people. The chapter then goes on to review the research evidence on the impact and effectiveness of each policy or programme. This was no easy task. The diversity in the programmes themselves, coupled with the diversity of formal, government-funded evaluations (as well as other external studies), is clear from Bamba's review. Furthermore, much of the most relevant policy activity is ongoing, and research evidence continues to accumulate. As Clare Bamba observes in her conclusion, 'It is a difficult time to write this chapter'.

In this commentary, I want to do a number of things. First, I want to offer a realignment of the Bamba analysis prompted by the report by the Organisation for Economic Co-operation and Development (OECD) *Transforming disability into ability* (OECD, 2003) based on the idea of distinguishing between 'integration' and 'compensation' disability policies. This will lead to a reflection on the development

of disability and employment policy and where it leaves us in 2006. There has been much policy and evaluation activity in the past six months or so that will inform this reflection, including the recent Green Paper (Department for Work and Pensions (DWP), 2006), a report from the House of Commons Work and Pensions Committee (2006) on incapacity benefits and Pathways to Work, and research evidence on the Job Retention and Rehabilitation Pilot (JRRP); Purdon *et al*, 2006; Farrell *et al.*, 2006), and on elements of the Pathways pilots, such as the Condition Management Programme (CMP); Barnes and Hudson, 2006a), Return to Work Credit (RTWC; Corden and Nice, 2006b), services for new claimants (Corden and Nice, 2006a), and the experiences of existing customers (Barnes and Hudson, 2006b). The difficulties in assessing the influence of policy are explored here. The final part of this commentary looks in more detail at how the reform of Incapacity Benefit (IB) proposed in the Green Paper fits in with employment programmes.

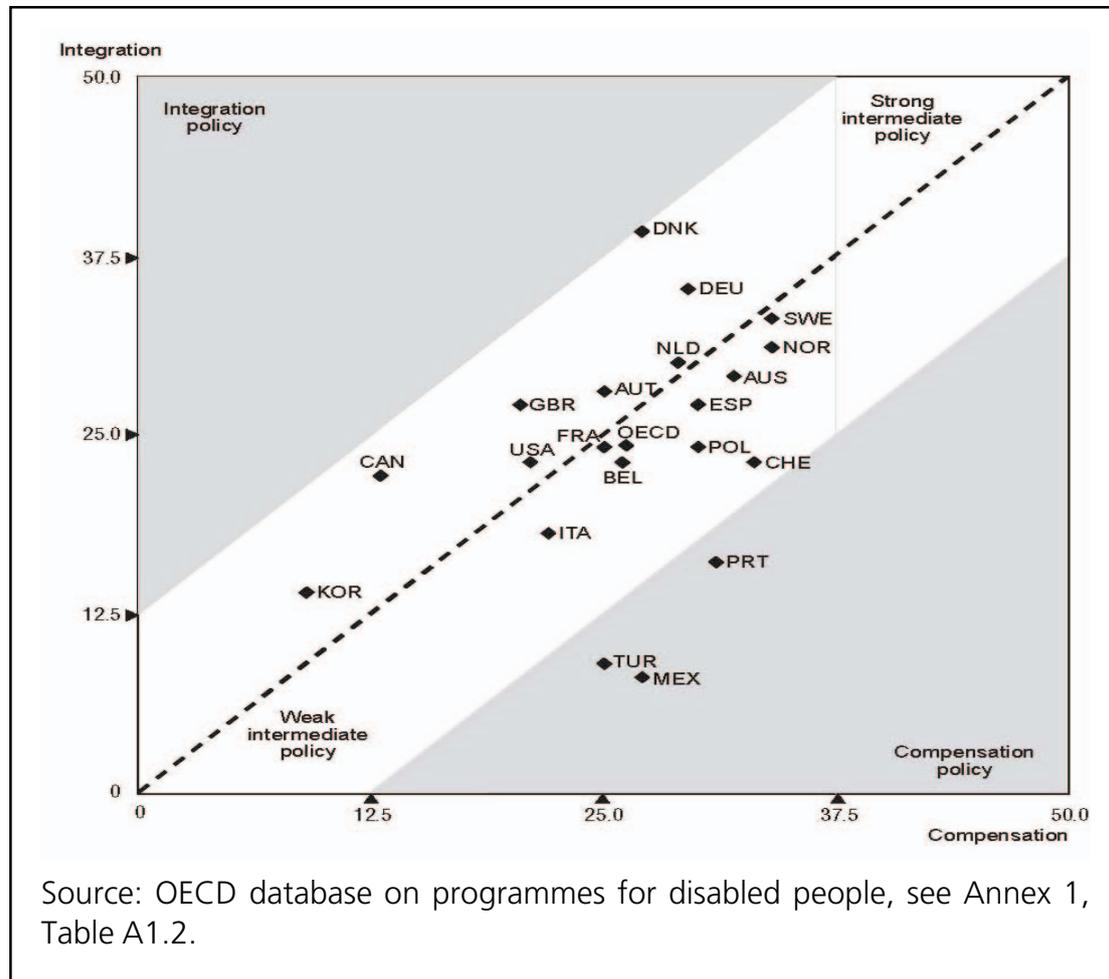
## 5a.2 The integration/compensation perspective

The OECD report contains an innovative analysis of different countries' overall disability policies in terms of two dimensions: 'integration' and 'compensation'. 'Integration' covers all policies and programmes aimed at supporting employment and rehabilitation (and hence would include most of the supply side and demand side policies reviewed in Bambra's chapter). In contrast, 'compensation' is concerned with benefit systems to support sick and disabled people who are out of work. The OECD report uses a number of 'sub-dimensions' to produce a score for each country on the integration and the compensation dimension, and plots these against each other.<sup>38</sup> Figure 5a.1 below reproduces the result of this analysis for 2000.

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<sup>38</sup> The compensation dimension refers to the main disability benefit scheme in each country, and has ten sub-dimensions: (1) coverage; (2) minimum disability level; (3) disability level for a full benefit; (4) maximum benefit level; (5) permanence of benefits; (6) medical assessment; (7) vocational assessment; (8) sickness benefit level; (9) sickness benefit duration; and (10) unemployment benefit level and duration. In each of these sub-dimensions, a higher score means easier access, higher benefit levels, longer duration, and so on. The integration dimension refers to employment and rehabilitation measures, and has ten sub-dimensions: (1) consistency of coverage; (2) assessment structure; (3) employer responsibility; (4) supported employment; (5) subsidised employment; (6) sheltered employment; (7) vocational rehabilitation; (8) timing of rehabilitation; (9) benefit suspension; and (10) additional work incentives. In each of the sub-dimensions, a higher score indicates a more active approach. All sub-dimensions are measured according to a predefined scale, ranging from 0 to 5 points. The points for each sub-dimension are added to obtain the overall score for each dimension; hence, each sub-dimension receives the same weight.

Figure 5a.1 A typology of disability policies in OECD countries

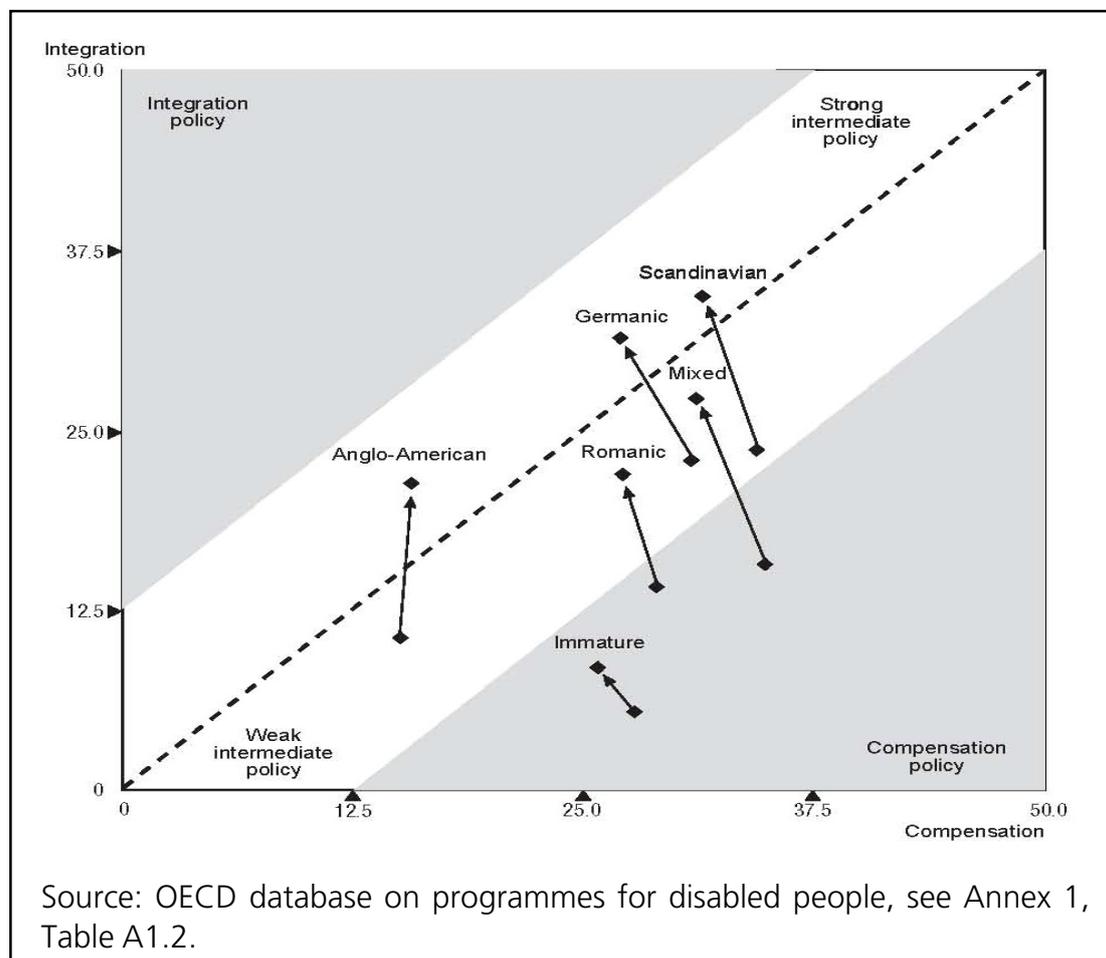


Source: OECD database on programmes for disabled people, see Annex 1, Table A1.2.

The analysis is interesting in revealing that most countries pursue what the OECD report calls ‘intermediate’ policies that favour neither an integration focus nor a compensation focus. Further analysis groups the countries into six ‘clusters’ that share several common features<sup>39</sup> and plots changes in disability policies between 1985 and 2000. Figure 5a.2 shows the results of this analysis.

Figure 5a.2 is striking in showing how clusters of countries have all made large advances on the integration dimension of disability policy but little progress in compensation policies. What the figure actually shows is that benefit systems have tended to become less generous and more exclusive over the period, in contrast with expanding employment and rehabilitation policies.

<sup>39</sup> See (OECD, 2003 [129]). The six clusters are A – ‘immature’ systems (Turkey and Mexico); B – Anglo-American (Canada, USA, UK, Korea); C – Scandinavian (Norway, Sweden, Denmark); D – Germanic (Austria, Germany); E – Romanic (France, Italy, Portugal, Spain, Belgium); F – ‘mixed’ (Netherlands, Australia, Switzerland).

**Figure 5a.2 Changes in disability policies 1985-2000**


This picture certainly appears to hold true for the UK. As Clare Bambra has comprehensively set out, a number of important policy initiatives have been aimed at getting sick and disabled people into work, and, particularly since 1997, sustaining work once they are there. However, the last major changes to IB were in 1995, when the eligibility criteria were tightened considerably, one result of which has been a steady decline in the number of people claiming benefits.

In contrast with the small amount of policy development on IB is the wide range of initiatives taken in the UK to promote integration of sick and disabled people into the workforce. The Government service Jobcentre Plus and its predecessors (the former Employment Service and former Benefits Agency) have always provided services to help people find work, most of which have been available to people out of work as a result of ill-health or disability. However, since 1997 successive Labour governments have sought ways to provide more help through a series of pilots and other initiatives, including the New Deal for Disabled People (NDDP) from 1998, the JRRP from 2003 to 2005, and the Pathways to Work (PTW) pilots, which have been ongoing since late 2003 in parts of Great Britain only. Other measures, such as the introduction of the minimum wage and the system of tax credits to boost low wages, as well as legislation aimed at discrimination, have also been part of a wider strategy to help disabled people overcome the barriers they face in getting work.

### 5a.3 Understanding the recent development of integration policies

I have suggested that it is useful to think in terms of integration and compensation policies when considering how to help sick and disabled people find and maintain employment. Therefore, I shall examine the evolution of both in the UK as a way of understanding how we have arrived at where we are and what lessons this provides for the future development of policy.

It is possible to detect two separate strands in the development of integration policies. First, new programmes, or changes in existing provision, address specific barriers to employment that sick and disabled people face. So, for example, lack of recent work experience as a barrier to employment has been addressed over the years by 'work trials', 'work tasters', and the work experience programme. Another clear example is the provision of education and training opportunities to increase skills.

The second strand is the creation of programmes designed for people at different distances from the labour for which length-of-benefit receipt has been adopted as a proxy indicator. When the Labour government first took office in 1997, one of the major issues to tackle was the seemingly remorseless rise in the number of people receiving IB, particularly the numbers in long-term receipt. Hence the NDDP was designed for people who had been on IB for more than six months. As the NDDP progressed, policy thinking took on a more preventive aspect. The logic was clear – as well as trying to help people off IB and into work, there was sense in trying to keep them from having to claim IB in the first place. This thinking led to the introduction of the JRRP.

The design of the PTW pilots effectively filled the gap between policies for people in receipt of IB for six months and those not yet recipients. Pathways was initially aimed at new claimants of IB in the first six months of their claim. In the evolution of integration policies, the programme also represented something new, with a new breed of IB personal adviser (IBPA) at its heart. The IBPAs were intended primarily to be the 'gateway' (in a case manager type of role) to a range of services and provisions that would address individual barriers to work. This range of services, collectively labelled the 'Choices package', consisted of existing provisions available through Jobcentre Plus and NDDP, for example, but also innovative provisions, including the RTWC, the Job Preparation Premium, the CMP, and in-work support services.

At this point it is worth clarifying what we might call the landscape of integration policy in 2006. In the areas of the country not covered by the Pathways pilot, this comprises the full range of Jobcentre Plus services, including specialist help from Disability Employment Advisers (DEAs), financial support through the Access to Work provisions, education and training opportunities, and supported employment services through the Workstep programme. People can also access NDDP services either directly or via Jobcentre Plus. In the Pathways areas, as the preceding chapter notes, new IB claimants and some existing claimants are required to attend a series

of Work Focused Interviews (WFI) but are able to access the 'Choices package' of existing and new forms of help mentioned above. The JRRP services were discontinued after the pilot closed in 2005.

It is possible to view the new features of the Pathways pilot as the result of the cumulative learning from all preceding programmes and pilots. The element of compulsion in requiring claimants to attend work-focused interviews can be seen as a response to the problem of low take-up of voluntary provision such as NDDP. The CMP is a response to a perceived barrier to work particularly relevant to IB recipients – the perception among some people that their health condition somehow prevents them from working at all or even from attempting some work-related activity. The RTWC is intended partly to increase significantly the financial rewards of working for people entering the low-wage end of the labour market. The introduction of new IBPAs builds on the experience of NDDP and other 'New Deals' where the value of a personal, one-to-one advice and facilitation role has been important in helping people move into work.

The Pathways model, which consists of a wide range of services brokered by an IBPA, has drawn a wide range of support from disability organisations and politicians.

#### 5a.4 An update on evaluation findings

The evaluation programme associated with the PTW pilot has produced a number of further qualitative studies in 2006. Of course, these studies are designed not to produce a quantified assessment of impact, but to explore whether and how elements of Pathways help (or do not help) new and existing IB claimants.

The research into the experience and use of the RTWC (Corden and Nice 2006b) found that paying the RTWC for 12 months supports lasting transitions to work and that knowing about it in advance of making decisions about work could act as an incentive for some people. However, there was also evidence that an extra £40 per week, though a welcome bonus or reward, was generally not significant in terms of overall household income. For some people, RTWC was not relevant – they found suitable work without even knowing about it.

Further evidence on the workings of the CMP has come from research with new claimants (Corden and Nice, 2006a) and with providers of the CMP service (Barnes and Hudson, 2006a). From these an understanding is emerging of how CMP is helping some people but not others. People who were motivated to work recognised that they had personal feelings to resolve; people who had experience with the counselling process appeared to benefit most (Corden and Nice, 2006a). However, there was evidence that some people: (1) did not continue with the programme after an initial meeting with a CMP professional; (2) continued to lack an understanding of what would be involved;<sup>40</sup> and (3) lacked commitment (Barnes and Hudson, 2006a).

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<sup>40</sup> This finding echoed the first wave of research with new claimants (Corden and Nice, 2005).

Evidence from research with a second cohort of new claimants (Corden and Nice, 2006a) showed that Pathways helped some people see work as a more immediate possibility, start to take steps, and even move into work. Health trajectories were critical, however. When people's conditions deteriorated, the prospect of paid work faded considerably. Few people thought that the pilot had made much overall difference to their lives; any influence on their thoughts or actions had been small, perhaps making things easier or causing them to happen more quickly, but not changing their general direction.

Barnes and Hudson (2006b) explored early experiences of extending Pathways to existing IB recipients (who had been on benefit for between one and three years) and found a mixed response from both claimants and IBPAs. Many people were positive about their contacts with a personal adviser and valued the support and encouragement they received. Others, however, felt that they faced certain barriers to work, including employer discrimination, that the pilot could not overcome. Further, some people described themselves as too ill to work and felt that they had nothing to gain from the pilot. IBPAs voiced concerns about the level of their expertise in engaging with some types of client, such as those with severe and enduring mental health problems.

The latest research evidence on elements of Pathways to Work do not suggest therefore that Bambra's conclusion of 'cautious optimism' can be revised upwards yet.

While the final verdict on the impact of Pathways to Work will not be available for some time, the evaluation of the JRRP has been completed (Purdon *et al.*, 2006; Farrell *et al.*, 2006). Remember that JRRP was subject to a randomised control trial in which participants were allocated to one of three intervention groups or a control group. The results were extremely surprising: the JRRP interventions were found to have had absolutely no impact on returns to work. Return-to-work rates were almost identical for the health intervention group (44 per cent), the workplace intervention group (45 per cent), the combined group (44 per cent), and the control group (45 per cent). This result is bemusing, and it is not possible from the research evidence to explain it.

## 5a.5 Assessing effectiveness

One of the problems in trying to assess the influence of government policy on the employment of disabled people is that there are a number of ways of looking at 'influence'. In the literature, we come across references to 'impact', 'effectiveness', and 'cost-effectiveness'. Bambra's review of the research evidence has shown that studies approach these concepts with differing levels of sophistication. And the results often present, as Bambra argues, an 'inconclusive' picture.

One way of making a bit more sense of this inconclusive overall picture is to consider the effects of policy: (1) at the micro level of the key target groups, which I take to be individuals, usually benefit claimants, and individual employers; and (2) at the macro level of overall employment rates of disabled people.

The results of policies at the macro level often seem to have fallen short of aspirations and expectations. This is certainly true of large-scale innovations such as the NDDP personal adviser pilots and the JRRP. Although there was an identifiable positive (though small) effect on the employment rates of participants in NDDP, take-up was so low that the effect on the population of disabled people in receipt of IB was very small. As noted above, the findings from the JRRP are not even as good. Here, based on randomised control techniques, no discernible effect of the intervention groups over the control group was identified.

In contrast, at the micro level of the individual or the employer we find evaluation studies presenting data on positive outcomes for both. For example, the article by Heenan (2002) referred to in the chapter argues that despite criticisms of NDDP for failing to make a large impact on the number of disabled people moving into work, individual participants had sometimes gained a lot. And evidence from employers suggests that when NDDP delivers suitable candidates for jobs (Aston *et al.*, 2005) then employers are happy and think highly of the scheme. Similarly, studies of the effect of JRRP show how some people ascribe great importance to services from JRRP providers in their path back to work. The qualitative studies of the experiences of participants in the Pathways to Work pilots have similarly identified helpful elements of the Choices package.

This seeming contradiction between disappointing macro-level effects and encouraging micro-level effects can actually stimulate creative thinking about policy. We can take NDDP as an example. If policy makers had been concerned only with macro-level effects, we might have seen the closure of the whole programme. However, when distinctions were drawn between the micro and macro levels, two principal lessons for policy emerged: improve and expand the services on the ground to increase micro-level effects and promote take-up to increase macro-level effects. And we can see in parts of the PTW programme the outcome of the creative policy thinking that followed the evaluation of NDDP, in innovations such as CMP and RTWC (to increase micro-level effects) and in the introduction of compulsory Work-Focused Interviews (WFIs) (to promote take-up and therefore increase macro-level effects).

## 5a.6 Understanding developments in compensation policies – IB reform

So far it is not difficult to see that the development in integration policies represented in Figure 5a.2 has continued apace in the past three or four years in Britain. In contrast, it is only very recently that any change in compensation policy, that is, in sickness and disability benefits, has been promoted. IB has remained

virtually unchanged since the mid 1990s, when it replaced invalidity benefit and introduced tougher eligibility criteria.

However, IB has been seen as a problem by government (DWP, 2006). According to the recent Green Paper, little is done to prevent people from moving onto IB; the benefit traps people into dependency, sometimes for long periods; there are perverse incentives created by paying higher amounts the longer benefit receipt continues; and its very name conveys the wrong message – that anyone on IB is incapable of work and beyond help. The Green Paper also argues that a person on IB has no requirements placed on him or her and is offered little support to come off the benefit.

This last point essentially reflects a mismatch between IB (as a compensation policy) and the array of integration measures most recently brought together under the Pathways to Work arrangements.

Integration policies effectively rely on one or more of the following:

- an improvement in a person's health;
- an increase in someone's employability (for example, skills, confidence);
- a willingness to try work (perhaps as a first step).

Why there is a mismatch is that if any one of these things does happen in practice, a person might find that he or she has jeopardised continued receipt of IB. Qualification for IB depends on a person's being limited, by their health condition or disability, in ability to do everyday physical and mental tasks. Essentially, a person will qualify for IB if he or she cannot do certain activities. If health improves to the extent that capabilities are increased, then there is an obligation to report this to Jobcentre Plus. A re-assessment of the benefit might then lead to termination of IB. It is known that one of the main barriers to people engaging with integration policies is a fear of losing benefit. The structure of IB as it is now, and its associated decision-making processes, can contribute to that fear.

Of course, whether or not the proposals for reforming IB will address its flaws (as defined in the Green Paper above) cannot yet be known. The biggest change is perhaps the increase in the conditionality of the benefit. Until the introduction of the PTW pilot, IB recipients had no requirements placed on them (and those outside the pilot areas still have none). The element of compulsion in the Pathways pilots (to attend a series of WFIs as a condition of receiving benefit) will be increased under the reform proposals. To qualify for the new 'Employment and Support Allowance', most claimants will be required to be actively engaged in some form of work-related activity, with sanctions for those who do not comply.<sup>41</sup> Some claimants will be exempt from this requirement, but the Green Paper does not give details of how this threshold will be defined.

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<sup>41</sup> Interestingly, in evidence to the Work and Pensions Select Committee, the Secretary of State said that initial resources may limit this requirement to the completion of an action plan (Work and Pensions Select Committee, 2006 [44]).

Apart from the moral argument that citizens with rights to benefits also have the responsibility to society to seek work, the more functional argument is presumably that greater compulsion will lead to greater numbers of people moving into work. The advantage therefore of increased conditionality is that engagement with integration policies will be increased. However, so far the idea of increased conditionality and sanctions has attracted criticisms from organisations representing disabled people though some employment service providers are more positive (Work and Pensions Select Committee, 2006).

At the time of this writing, the Green Paper proposals are still out for consultation, and a lot of detail remains to be fleshed out. However, the opportunity is clearly present to align integration and compensation policy more closely than perhaps ever before.

## 5a.7 Concluding comments

Policies designed to increase the labour market participation of sick and disabled people are in a particularly delicate state of transition in Britain in 2006. The PTW model is heavily favoured by government. Since the end of 2003, administrative statistics (rather than evaluation research findings) have indicated a positive impact of the pilot in terms of off flows from IB. However, as the Work and Pensions Select Committee has pointed out, it is not known how many of these off flows are into employment.

The research evidence is building a picture of how Pathways (which effectively encompasses all other integration measures) is operating positively for some people at the micro level. But we still lack the macro analysis of impact, effectiveness, and cost-effectiveness. This will come, however.

Both integration and compensation policy-making has always had to grapple with an inevitable tension between, in the words of government in its early years, 'work for those who can, and support for those who can't'. Years of accumulated experience have resulted in integration policy that could be argued to address (or at least attempt to address) all the barriers that people with an illness or disabling condition might face in moving towards work. However, as Clare Bambra argues, more could be done (perhaps drawing on experiences for other countries) to increase demand side integration policies. The difficult trick to pull off is how to engage the greatest number of potential beneficiaries without pressuring and distressing possibly large numbers of benefit recipients for whom work is not a viable option.

# 6 Evidence-based recommendations for policy and research

**Karen Needels**

## 6.1 Introduction

Employers' recruitment and retention decisions play a key role in determining the employment level of disabled people, yet there has been little systematic study in this area. This volume examines the multi-faceted nature of the relationship between disability and competitive, unsubsidised employment from the perspective of employers.<sup>42</sup> While the review of evidence focuses primarily on recent experiences in the UK, experiences either that are more historical or that are drawn from other countries are included when they are pertinent.

This topic is especially timely, for three reasons. First, demographic trends suggest that the employment of disabled workers may soon grow in importance (Chapter 1). The ageing of the labour force is likely to produce more disabled workers, since older workers are more likely to have functional limitations (Section 1.4.2); furthermore, there may be fewer workers relative to the population, so employers may have to turn to new types of workers for employees. Second, medical advances, changes in technology, and a shift in the composition of jobs away from industry and toward service and information sectors may make it easier for disabled workers to fill this need (Sections 1.5.2 and 4.7.1). Third, the Disability Discrimination Act (DDA) and its amendments in recent years were implemented to combat discrimination that in the

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<sup>42</sup> The term 'disability' applies to instances when a person's characteristics and environment prevent working or participation in other activities. By impairment, we mean an individual condition that limits functioning in ways that could result in disability.

past might have prevented capable, disabled people from working; this legislation is part of a broader, societal, normative trend that no disabled person should be denied the opportunity to participate fully in society, including employment, and that employers bear some social responsibility to ensure that their policies, practices, and workplace environments do not hinder this participation.

In January 2006, the Government responded to these trends by announcing plans to reform the welfare state (Department for Work and Pensions (DWP), 2006). Important goals for disabled people are to increase employment, to decrease receipt of incapacity benefits by one million people, and to preserve the protections and support for those with the most severe health conditions and disabilities. These goals will be met through a broad set of reforms, including revamping the benefits system, asking employers and workers to focus on people's capabilities rather than their limitations, improving support for people to enter or return to work, and fostering better workplace environments and management of absences. Individual claimants, employers, and general practitioners (GPs) are all expected to play a part in implementing these reforms, to ensure that disabled people who are able to participate in the labour market do so. In addition, the magnitude of the proposed changes will require that government efforts be designed and implemented in a cost-effective way.

This compendium provides key bottom-line messages that can be used to assist government, disabled people, and employers as they strive to meet the goal of increased employment and self-sufficiency of disabled people, when feasible. While many disabled people are employed, a sizeable portion are not, and government is moving towards providing more realistic expectations and appropriate support for those who can work but who are not currently doing so. Especially given society's needs for a skilled workforce, employers will increasingly need to look to disabled people as a group of potential workers. Employers must be key partners for many of the efforts to bring disabled people into the workforce and to retain them in employment. Not only do employers play a critical role as the gatekeepers to jobs, they also affect on a day-to-day basis whether disabled people (as well as non-disabled ones) both retain their jobs and progress in them over time; that is, they play a large role in whether employment is available to disabled people and more rewarding for them compared with their other options. Therefore, employers' distinct perspectives, including the incentives they face when recruiting and retaining disabled workers, need to be taken into account in the development and implementation of policies in this area. This compendium provides a framework for understanding and analysing this perspective and the empirical evidence on the costs and benefits employers incur in their employment decisions. To date, rigorous evidence does not exist to quantify systematic and large benefits to employers of employing disabled workers, compared with non-disabled ones; the evidence is stronger on the costs. Nevertheless, the evidence as well as the theoretical framework suggests policy levers that can be used to tilt the balance more in the favour of disabled workers. A good place to start developing more refined and

effective strategies to use these levers are the five approaches laid out in this summary. Broadly speaking, they all seek to increase the perceived or actual value of disabled people to employers by increasing actual productivity, improving the market-based matching process, or correcting employers' misperceptions about disabled workers. The evidence suggests the value in retaining existing employment relationships whenever possible, the need to reduce employers' uncertainty and risk when they consider recruiting disabled workers, the need to strengthen disabled workers' skills for specific jobs demanded by employers, and the need to improve coordination among the government programmes and initiatives designed to help disabled people enter and stay in work.

The research described in this report can be used to help guide these reforms. In Section 6.2, we summarise the conceptual (theoretical) framework from Chapter 2 that we have used to examine employers' costs and benefits and the policy levers that the framework predicts can be used to influence employer decision-making. In Section 6.3, we present policy recommendations, including an explanation of the evidence-based findings (reported in earlier chapters) behind them. In Section 6.4, we highlight additional findings that policy-makers may want to consider when thinking broadly about reforms. Finally, in Section 6.5, we present important issues and questions that the current evidence base does not answer, as well as possible directions for future research.

While this compendium provides a comprehensive look at employer decision-making, that issue is only one piece of the labour market. Ultimately, the employment of disabled people will also depend on many other factors, including the actions of the people themselves and the government policies and programmes intended to assist them. In particular, employment rates among disabled people will depend on their attitudes toward work and perceptions of their abilities and limitations. Currently, half the disabled people in the UK are employed; only five per cent are not working but looking for work. (This is about the same unemployment rate observed for the population as a whole.) The remaining 45 per cent are inactive and not looking for work. Thus, meeting the Government's employment goals for disabled people will require not only employer-focused initiatives, but also efforts intended to bring many disabled people into the labour employer market.

## 6.2 The theoretical framework of, and policy levers for, employer decision-making

Employers maintain that when looking for employees, they want 'the best person for the job' (Section 4.6.1). But determining who that person is may be challenging for employers who have limited information for determining whether an applicant is 'good enough'. To understand the general pattern of employment decisions in the economy and to provide a basis for broad policy development, we proposed a conceptual framework of employer decision-making (Chapter 2). In the framework, employers want to look for the workers that will give them the best value for their

money (the costs that an employer incurs in payments to or on behalf of the worker, such as the salary package, as well as other costs that are required so that the worker can do his or her job). All else equal, employers are more likely to want to employ a worker whose productivity is high, whose salary package is low, whose adjustment costs are low, for whom the costs of employing a different worker are high, and for whom the legal costs involved are lower than those of any alternative. Clearly, however, many other factors and approximations will figure into actual employment decisions. For example, employers may discriminate against disabled people or have objectives beyond their own narrow interests for employing disabled workers. Employers are also likely to make their decisions using practical methods, such as informal rules of thumb, subjective assessments, or experience with workers with certain characteristics; employers may simply decide they want to help a specific person in need of a job.

Nevertheless, the available research suggests that the framework provides a useful guide for understanding broad market trends and averages. It also suggests several methods through which public policy has tried to influence these decisions, although in many cases prior efforts have met with only limited success. The methods, and examples of them, include the following:

- **To increase the productivity of disabled workers.** The New Deal for Disabled People (NDDP) Innovative Schemes and the Residential Training programme provide numerous training courses to allow disabled people to attain vocational qualifications and enhance their productivity. The provision of adjustments, through Access to Work (ATW) or other initiatives, can also be helpful for increasing the productivity of disabled people. Policymakers can try to use these types of policies to encourage employers both to recruit disabled job applicants and to retain impaired or disabled employees (or employees at risk of becoming impaired or disabled) who are already very productive, rather than to replace them with new workers. For example, the Job Retention and Rehabilitation Pilot (JRRP) have targeted people at risk of losing their jobs because of absence from work due to disability or ill-health.
- **To lower wages or salary packages** that employers have to pay in order to employ a disabled person. This can be done by having the disabled people's wages subsidised or by having disabled people paid less, or to provide non-work-based subsidies that would allow disabled people to accept lower wages or salary packages. The Reduced Earning Allowance programme provides financial support to workers who, because of a work-related accident or disease, are earning less than they normally would.
- **To lower employers' costs of accommodating the specific needs of a disabled worker or job applicant,** such as through subsidising those costs. The ATW programme can be used to subsidise the purchase of equipment, adaptations to employers' premises, and other adjustments. However, the programme can be used to subsidise only those costs that are greater than ones required by the DDA.

- **To lower employers' costs of finding and employing disabled workers,** relative to the costs of finding and employing non-disabled ones, or to improve the quality of matches between employers and workers so that worker turnover is reduced. These strategies can be accomplished through methods such as providing job placement assistance and helping employers find suitable disabled employees. Both the Work Preparation Scheme and the NDDP provide advice to aid in the matching of workers' skills to employers' needs.
- **To reduce employers' uncertainty,** by helping them assess quickly the productive potential of disabled workers. The Job Introduction Scheme (JIS) provides a small grant to employers for up to 13 weeks, with the expectation that a worker will be kept in post for at least six months after the subsidy expires. Work Trials allow an employer to try out having a long-term, unemployed, benefit recipient, including disabled people, for up to three weeks. Furthermore, having a disabled person attain a certification or credential, through training or a formal assessment of skills, can reduce an employer's uncertainty, even if training does not lead to the development of these skills.

Furthermore, laws against discrimination, such as the DDA, may be used to influence employer decision-making involving disabled people, but their impact on actual employment patterns is unclear. On the one hand, anti-discrimination laws make it illegal for employers to discriminate against disabled workers or job applicants and may therefore increase employment of disabled workers. On the other hand, employers may be reluctant to employ disabled workers due to concerns that the law may unduly constrain them or expose them to legal costs.<sup>43</sup>

In the next two sections, we use the framework to synthesise the evidence from Chapters 3 through 5 and associated commentaries, as well as the policy insights that can be gained.

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<sup>43</sup> Starting in December 2006, public authorities will have a duty to promote disability equality in all aspects of their operations, including employment. This duty extends responsibility from a more passive role of avoiding discrimination to a more active one in which efforts must be undertaken to promote the equality of opportunity between disabled and non-disabled people and to eliminate discrimination and harassment of people related to their disability. The duty has the potential to mitigate the effects of reluctance of employers that are governed by the duty to employ disabled people; even if the reluctance remains, the duty imposes more stringent requirements about the boundaries of their behaviour, since responsibilities are expanded from narrowly regulating how employers treat specific employees and job applicants to more broadly regulating the workplace environment. Of course, employers' compliance with the duty and its effectiveness cannot be determined at this point.

### 6.3 Evidence-based policy recommendations related to employer decision-making

A clear message that comes from the evidence in Chapters 3 through 5 is that it does not provide definitive insight either into the specific value of the costs and benefits to employers of recruiting and retaining disabled workers or into the effectiveness of government programmes designed to increase the employment of disabled people. This is even though the chapter and commentary writers made exhaustive efforts in searching for the best available evidence. For many specific questions, no relevant research was found. Where related research existed, it often failed to address employer decision-making because data were unattainable or the analyses were conducted in a way that does not inform research into employer decision-making.

Nevertheless, policymakers must proceed with policy, even when only limited evidence is available. The empirical evidence presented in the earlier chapters of this compendium provides some guidance for five policy recommendations that relate specifically to the employer decision-making. It is important to note, though, that the policies are suggested, but not fully supported, by the evidence. Therefore, the recommendations provide guidance on directions in which to move, but it will be wise (when possible) to proceed in a way that can incorporate refinements to the policies, based on feedback and monitoring, to ensure that public resources are targeted in cost-effective ways.

#### **6.3.1 View the employer as an important policy customer of disability programmes and initiatives**

We recommend that future consideration be given to policies that treat the employer as an important customer. This stems from the Chapter 5 review of government programmes, in which Dr. Bambra found that recent policy has focused on strategies designed to increase the supply of disabled people to the labour market; these programmes tend to emphasise addressing the needs of an individual and helping him or her to achieve personal goals. While such strategies can indeed boost the employment rate of disabled people (and, in this section, we highlight several as particularly promising), strategies to increase employers' demand for disabled workers by addressing employers' needs have been under-developed by comparison. Clearly, some programmes and policies cannot be categorised as either 'supply-side' only or 'demand-side' only, or as meeting a worker's needs only or an employer's needs only, since they are designed to address more than one dimension of the employer-employee relationship. But it is probably fair to say that the historical emphasis on developing the supply of workers has led to greater emphasis on the worker as an important policy customer and less on the employer as such.

Therefore, we suggest that, in the development or modification of government programmes and policies, a greater emphasis should be placed on helping employers achieve their goals.<sup>44</sup> Employers' goals may include: seeing a product or service sold in the marketplace, seeing people benefiting from it, making a profit, or providing high-quality services that meet customers' or clients' needs. One component in achieving their goals is ensuring that employees who are in post are productive. We also think that government attempts to change employers' behaviour in ways unaligned with their goals are less likely to have strong effects on the employment rates of disabled workers. For example, an appeal to a for-profit business owner for altruism or a sense of ethics may not be successful if the desired behavioral change conflicts with the employer's goal to make a big profit. Similarly, government mandates through legislation may be perceived to be unduly burdensome. Although legislation may limit egregious behaviors by employers and provide redress for those whose legal rights have been violated, it could be difficult and expensive to enforce regulations that run contrary to employers' interests.

In the next three subsections, we suggest a few promising policy strategies for addressing the needs of employers for skilled workers.

### **6.3.2 Focus on programmes and policies that support existing employer-employee relationships**

A policy message that permeates the research evidence is that programmes and schemes designed to help employers retain workers who either develop a disability while in post or whose disability progresses are potentially valuable approaches to fostering higher employment rates among disabled workers, and possibly also reduced rates of reciprocity of IB. This message stems from two sets of findings. First, it is generally to the employers' advantage to retain a current employee rather than recruit a job applicant. Second, workers benefit more from returning to their former jobs (if possible) than from looking for a new job or being on government benefits for the long term.

The evidence indicates that by retaining a worker who becomes disabled (or whose disability becomes more severe), the employer may be able to continue benefiting monetarily from the worker's skills (and hence his or her relatively high productivity) and avoid the costs of recruiting and training a new employee. Employers are especially likely to want to retain current disabled workers who have skills that are very specialised or job-specific, such as an employee who needs to be intimately familiar with the needs of specific customers or clients (Sections 4.7.2 and 4.7.3). New employees cannot possess these job-specific skills so valued by employers. In

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<sup>44</sup> In essence, this review of existing research to help policymakers better understand the employers' perspective is an indication that policymakers do indeed recognise the employer as a customer and an integral part of the solution to low employment rates of disabled people. But there seems to be a lot of potential to strengthen policies that could lead to greater demand for disabled workers.

addition, some potential non-monetary benefits, such as improvements in staff morale, may arise more when an employer retains a disabled worker instead of recruiting a job applicant (Section 4.5). Furthermore, the employer could have a strong personal or moral commitment towards a current employee and could be subject to greater legal risk by failing to make adjustments (Section 4.7.2), since the overwhelming majority of DDA employment-related cases pertain to current workers rather than job applicants. Although the law is designed to prevent discrimination against both job applicants and current employees, the reality may be that employers are at greater risk of facing and losing a DDA discrimination case when they make termination decisions pertaining to current employees.

The evidence shows that workers, too, are likely to benefit from keeping a job when doing so is feasible. The onset of disability in most disabled people occurs while they are in a job, and it is associated with increased risk of leaving the job (Section 4.3.1). Although the research reviewed in this volume did not look explicitly at the benefits to workers of employment, evidence suggests that their earnings decline after the onset of a disability, a result of reductions in their hours of work and changes in the nature of work that is undertaken (Section 4a.2). By retaining a job, workers may be more likely to be able to benefit from higher wages from the employers for whom they have job-specific skills, while also avoiding the costs and stresses associated with having to search for a new job.

Taken together, these findings suggest that policies that support the goals of both employers and workers by fostering the return to work of disabled workers recently on disability leave may be valuable. How to do so effectively for different types of workers, with different skills, employment statuses, and impairments, is a challenge, and their ultimate success cannot currently be determined, although efforts are under way to try new initiatives to foster the maintenance of current employment relationships and to learn from existing or prior ones (Department for Work and Pensions, 2006). New policies are designed to prevent workplace injuries, including the potential restructuring of Employers' Liability Compulsory Insurance to encourage employers to design and maintain healthful workplaces. They are also intended to encourage employers to manage worker absences better once a health problem occurs, and to develop and expand occupational health departments at companies and government-sponsored resources for related issues. Finally, government initiatives are planned to encourage GPs to take an active and early role in incorporating work matters into health assessments and plans for workers whose impairments may interfere with their labour market participation. Overall, these efforts are intended to promote workers' health, reduce their risk of job loss, and avoid their dependence on government benefits, all of which may foster the maintenance of existing, mutually beneficial employment relationships.

Policymakers also might consider expanding or refining current or recently operating programmes that encourage maintenance of employment relationships. For example, Drs. Bamba and Sainsbury explain how results from small-scale studies of the Condition Management Programme suggest that some workers view this programme

positively, and evidence has recently become available to help policy-makers better understand why some participants benefit and others do not (Sections 5.4.1 and 5a.4). While this evidence is not definitive, it might be able to lead to new ways to target resources towards workers shortly after an impairment or disability develops or progresses to help them continue working. The evidence reviewed by Dr. Bambra also suggests that Access to Work has been used to help workers continue working when they might not otherwise have been able to do so. Both she and Dr. Bell report that the programme was positively viewed by both employers and workers as helpful at increasing the employment of disabled workers (Section 5.5.2). As with the studies of the Condition Management Programme, though, the current evidence on Access to Work is not definitive in distinguishing between the types of workers for whom the programme might be critical for ensuring continued employment and other workers. Furthermore, with current funding, the programme may support only a small portion of workers who might benefit. Nevertheless, the evidence suggests the likely wisdom in Dr. Bell's suggestion that policy-makers consider expanding the availability and generosity of programmes, such as Access to Work, that remove any of the potential financial burden and risk of employing disabled workers (Section 4a.4), particularly those for whom an employment relationship already exists. Unfortunately, Dr. Sainsbury notes that recent efforts through a randomised trial to assess the effectiveness of health and workplace interventions through the JRRP do not currently provide guidance on how to increase returns to work, since workers who received these interventions and those who did not had very similar rates of return to work (Section 5a.4). This finding suggests that refinement of these types of initiatives would be necessary to ensure that government resources are used in an effective and cost-effective way.

### **6.3.3 Strive to reduce employer uncertainty about employing disabled job applicants**

We recommend that policymakers consider reviewing and possibly adapting programmes and undertaking additional initiatives to encourage employers to employ disabled job applicants about whom they might have initial concerns. This recommendation stems from a pervasive finding from earlier texts of this compendium (especially Chapters 4, 4a, and 4b) that some employers, especially those who have not previously employed disabled workers, have concerns about employing disabled workers. In one small survey, for example, about two-thirds of employers reporting that they would not recruit a disabled person cited the belief that such people would be unable to do all or some parts of the jobs; other data indicate that some employers think disabled people lack skills and work experience (Section 4.6.1). Other employers, in contrast, employ disabled people and generally do not report problems doing so. Despite this variation across employers, they will always want to feel confident that every employee is valuable and productive (regardless of how the employer precisely defines and measures these traits). As Mr. Meager points out, we cannot discern from the data whether the difference between employers who are willing to employ disabled workers and those who are not arises because: (1) the former group has learned through experience that disabled people are more

productive than had been perceived to be the case; or (2) the two sets of employers differ in substantive ways that make the employment of disabled people unsuitable employees for the latter group.

To the extent that the employers learn through experience that their fears about employing disabled workers and their perceptions about the value of disabled workers as employees are not accurate, then overcoming these fears and perceptions is an area in which policy can try to intervene. Addressing employers' concerns about a job applicant can be done through potentially numerous different ways. One way, discussed in the next sub-section, might be to provide training or certification to disabled workers who develop or possess certain skills that an employer needs in its employees. Doing so will help the employer feel comfortable that the worker is capable of performing at a satisfactory level. Another approach might be to expand public policy efforts to help the employer understand generally what is required of it through the DDA or specifically what workplace adjustments are necessary for a disabled job applicant to perform a job satisfactorily. For example, employers who fear that they might be required to make very expensive adjustments to meet the workplace needs of disabled workers might perceive less risk to employing a disabled worker if they understand that the DDA requires that they make reasonable adjustments only. (Improving employers' understanding of the DDA is discussed in Section 6.4.5.) A third approach might be to assess whether it is sensible to expand employer incentive programmes, such as those reviewed by Dr. Bambra in Section 5.4.2. Ultimately, an important component of initiatives such as those discussed here would be to reduce employers' uncertainty about: (1) whether a disabled worker can perform the job at a level commensurate with that of a non-disabled worker (or, put another way, that the disabled worker is the 'best worker for the job'); and (2) whether the costs of employing such a worker, compared with the benefits, are reasonable for the employer to bear. Of course, the evidence presented in earlier texts of the compendium do not indicate clearly what proportion of employers that do not employ disabled workers have accurate perceptions about doing so. But if an employer's concerns are unfounded or if they can be found to be less important overall than the employer originally thought them to be, then an employment relationship with a disabled employee is likely to continue in the long run.

#### **6.3.4 Expand the use of training, especially customised training**

Our recommendation that policymakers consider expanding the use of customised and general training of disabled workers is based on evidence from two sets of research findings. The first is that, as a group, disabled people are more likely than non-disabled people to lack characteristics that foster success in the labour market. The second is that several small-scale approaches to use training appear to be successful at linking disabled workers with jobs.

Like some non-disabled workers, some disabled workers may need assistance to obtain skills sufficient for working productively at a job. For example, disabled workers are less likely, on average, to have any educational credential or to have a credential at least at degree level (Section 1.5.1). The relationship between education and training on the one hand and disability on the other is complex. Some impairments develop early in people's lives, interrupting education and training, and making it hard to obtain a job (Section 4.5). Other impairments arise as a result of low educational qualifications and work experience (Section 4.5), possibly because of a job or the environment in which the person lived. However, the data show that the gap between the employment rates of disabled and non-disabled people is smaller for people with an educational credential than for those without one. While the evidence does not provide definitive guidance, expanded policies to boost the skill levels and educational qualifications of disabled people might prove valuable to increasing their employment rates as well.

One promising approach is customised training that places greater emphasis on the employer as customer. This type of training is tailored to a specific, pre-identified employer or set of employers and may occur even at the employers' worksite. Ms. Howard, in her commentary on Chapter 3, favourably assesses small-scale efforts to link employers, Jobcentre Plus, and intermediaries to prepare workers for placement at a specific employer. The employer benefits from subsidised training to fill needs for high-skilled employees when there is a worker shortage, and they are more likely to have confidence in the skills and suitability of the graduates who often are already matched to specific jobs at the employer. Trainees are likely to have a job upon their completion of the programme. Furthermore, specialised training may be better than general training at fostering long-term employment. Employers will value the workers shortly after training is completed, and evidence indicates that employers are more willing to make workplace adjustments for people with specialised skills (Section 4.7.2); therefore, an employer may be more willing to retain a disabled worker who has received customised training if adjustments are necessary over time. While customised training efforts are new and are so far operating on a small scale (and, to our knowledge, have not been extensively evaluated), expansion of these types of collaborative efforts between employers, Jobcentre Plus, and intermediaries has the potential to address very specific employer needs and facilitating good job matches while accomplishing the policy goals to increase employment of disabled workers.

Dr. Bambra's chapter (Section 5.2) and Dr. Sainsbury's related commentary provide details on several education or training programmes, such as the NDDP Innovative Schemes, Pathways to Work (PTW), and the Work Preparation Scheme, that provide general training and that are tailored to unique needs of disabled people. Although there have been several studies of these types of programmes, Dr. Bambra could not determine whether most programmes increased the employment of disabled people, since they typically did not include a comparison group. However, it is possible that programmes that provide general training to disabled workers may be successful, especially if they can be followed up with job matching and placement

services to ensure that a good fit is found to address the technical and non-technical needs of both the worker and employer. (Other employment and training programmes may serve disabled people, even though the programmes do not target them. However, these types of programmes were not reviewed in this volume, so we cannot say whether beneficial effects for disabled people exist.)

### **6.3.5 Strive for greater coordination of the multiple interventions related to disabled workers and employment**

This recommendation stems from the prevalence of diverse programmes that try to address the many barriers that disabled people face as they try to obtain and retain a job (Section 5.2). Chapter 5 described in detail seven distinct types of approaches to increase the employment of disabled people, such as training programmes, vocational advice and support services, or incentives for employers. However, each approach may contain more than one type of programme, and some programmes span the different approaches. Furthermore, some programmes may be beneficial at helping a worker obtain a job, while others may help the worker retain one. Programmes that provide vocational advice, such as the NDDP, were generally viewed as having a positive effect on employment rates of disabled people, although none of the assessments of the programmes was as scientifically rigorous as might be ideal. According to Section 5.5.2, since most recipients are already employed, in-work benefits such as tax credits may not increase the employment rate of disabled people, but they may help with job retention.

Having diverse ways to respond to the needs of employers and workers seems appropriate, since no single programme will be useful for all employers and workers, given their diversity. (The findings about the diversity of employers and of disabled workers are explored in more detail in Section 6.4.) Part of the benefits of diversity in programmes may reflect both variation in and uncertainty about factors that motivate employers; moreover, it may be hard for employers and disabled people to find which programmes best addresses their needs. In some instances, employers and disabled people may report that a programme was not effective in helping them to meet their needs, but it might have been very effective for others.

Efforts to coordinate and integrate the diverse set of programmes to match services and supports to the specific needs of employers and disabled people may increase cost-effectiveness. This may especially be the case since it may be valuable to integrate the employment-focused programmes reviewed in this volume with services focused on other areas, such as housing, transportation, and health care. The success of any individual in obtaining or retaining a job will depend on receipt of the right mix of services and supports. The Government already recognises the value in this type of approach, since it recently announced that it is embarking on a new path to bring about a simpler, more coordinated, and more flexible welfare system (DWP, 2006). Ultimately, the Government envisions even further reform to provide a single gateway to financial and back-to-work support for those in need. Development of this type of system has the potential to offer the flexibility that is needed to tailor services to individual circumstances.

## 6.4 Additional evidence-based considerations for policy strategy

In this section, we point out several over-arching considerations for policymakers as they debate policy changes. These considerations arise directly from the evidence presented in Chapters 3 through 5. The first three subsections pertain to the diversity among employers (in Sections 6.4.1 and 6.4.2) and among disabled people (Section 6.4.3). Another area for consideration, discussed in Section 6.4.4, pertains to general labour market policies designed to influence employers, workers, or the employment relationship. These considerations do not necessarily lead to a single recommendation for a policy or policy approach, as with the findings in Section 6.3; rather, the findings presented here bear on a wide range of policies and programmes.

### 6.4.1 Small and large employers differ in many policy-relevant ways

A theme that emerged from research presented in earlier chapters is that the distinct features of large and small employers may influence the specific operational design and effectiveness of programmes and policies. For example, within a single programme, it may be that one approach is more successful for placing workers at large employers, while another is best with small employers. The potential need for different operational approaches arises from the finding of dramatic differences between large and small employers in their awareness of the DDA, their ability to prevent or minimise the effects of functional limitations, and their capacity or willingness to accommodate the needs of disabled workers.

The evidence indicates that large employers are more likely than small ones to understand what is legally expected of them. For example, they are more likely to be aware of the provisions of the DDA (Section 1.3.4), probably because they usually have dedicated human resources departments whose job it is to know government regulations and resources (Section 4.7.2). Large employers have also been covered under the DDA for a longer time. Furthermore, they have greater resources (Section 4.7.2) and thus may be more likely to be taken to a tribunal for an alleged DDA violation, and to be found to have been capable of making reasonable adjustments. We suspect that this greater legal risk is an additional incentive for large employers to be aware of what is required and to follow the law.

Large employers also are likely to have greater capacity to prevent disabilities and to make adjustments when they do arise. The data show that such employers are more likely than smaller ones to have developed 'disability management' approaches to prevent disabilities and to minimize the effects of them arising as a result of the workplace environment (Section 4.6.2). By reducing the severity of workplace-induced impairments, these efforts can reduce the costs of adjustments that might otherwise be needed; avoid the costs of having to recruit and train a new worker; and reduce the likelihood of losing a productive worker with job-specific skills. Furthermore, large employers are more likely to make adjustments (Section 4.7.2),

possibly because they are better able to absorb the costs. They are likely have more opportunities to redistribute tasks among co-workers or to transfer disabled workers to other positions. Depending on the specific situation, a small employer may think that re-assignment of a disabled worker (or of some tasks that might normally be performed by an employee in a certain post) is infeasible (Section 4.7.2). In essence, a large employer can expect to have to make adjustments, and a broader range of adjustments is reasonably expected of them; a small employer might not have the capacity to set aside funds for adjustments that may or may not be needed by a disabled worker or job applicant.

Despite the differences between the policies and procedures of large and small employers, there can be a gap between an employer's official policy on recruitment or retention of disabled (and other) workers and what line managers do in reality (Section 4.6.2). This gap may be wider for large employers, whose official policies and corporate leadership may be further removed from line managers who make day-to-day recruitment and retention decisions. In contrast, smaller employers are less likely to have official policies but more likely to have a personal relationship with a disabled employee, which could influence their response to changes in the worker's needs (Section 4.6.2). While employer survey data indicate that large employers are more likely than smaller ones to recruit disabled people (Section 4.6.1), Labour Force Survey data indicate that only a comparable, and possibly even slightly lower, proportion of workers at large employers are disabled compared to the proportion at small and medium employers (unpublished quarterly Labour Force Survey data covering 2002 through 2005, available from the DWP). These data do not take into account characteristics of large and small employers besides an employer's workforce size, such as geographic location, occupations, and industrial mix; these other characteristics may influence an employer's need for different types of workers, their ability to provide flexible work environments, and ultimately their proportions of workers who are disabled. But, these data should be kept in mind when comparisons between small and large employers are made. Furthermore, these data suggest that a richer understanding of the distinctions between the policies and practices of large and small employers is warranted. For example, are large employers better able to offer employment or provide adjustments to disabled workers with visible impairments, while small employers are better able to do so for those with other types of impairments, such as hidden ones? Or is one type of employer more successful at retaining disabled workers, while another is more successful when recruiting them?

Ultimately, the differences between small and large employers imply that policymakers and programme operators will have to consider various avenues for encouraging change. Many policies will need to be different for large and small employers. Large employers, for example, may be able to expand or supplement their in-house disability management programmes; small employers may need more government-funded supports for when specific disability-related issues arise. The Government has recognised the need to develop different systems and choices for large and small

employers, as evidenced by its plans to use a national helpline, called Workplace Health Connect, to provide small and medium-sized businesses in England and Wales with advice on occupational health, safety, and return-to-work issues (DWP, 2006 [31]). Another example of the Government's sensitivity to this issue is the initially staggered coverage of the DDA based on the number of employees an employer has. However, we suspect that the need to be attuned to the empirically detected differences between large and small employers will abound in other programmes and policies as well.

#### **6.4.2 Public and voluntary sectors differ from their private and for-profit counterparts**

Differences other than those between large and small employers might also affect policy and can be found between employers in various sectors of the labour market. Two additional distinctions stand out from the review of evidence. The first is the public sector compared with the private; the second is the voluntary sector compared with the for-profit. Overall, data presented throughout earlier chapters suggest that employers in the public and voluntary sectors, as groups, are more attuned than private, for-profit employers to issues related to disabled people.

Different types of examples support this finding, although we echo a finding in Hirst et al. that not all potentially relevant research contrasts patterns in employment between disabled and non-disabled people for different industrial sectors (Hirst et al., 2004 [xiii]). For example, public sector employers are more likely than private sector ones to be aware of the DDA (Sections 3.5.3 and 5.4.2, Hirst et al., 2004 [111]) as well as its specific provisions (Section 1.3.4). They are also more likely to have a more inclusive understanding of the term 'disability', to have a formal policy covering employment of disabled people, and to be willing to make adjustments for disabled people (Hirst et al., 2004 [111]). Public sector employers are also more likely to report benefits from employing disabled workers (Section 4.5) and to encourage job applications from disabled people (Section 4.6.1). In fact, Chris Hasluck found that being a public sector employer is the most important predictor of having a high percentage of disabled employees (Section 4.6.3) and that workplace adjustments are more common among public than private sector employers (Section 4.7.2). He speculates that this latter difference may arise because public sector employers feel more obligated to follow government policy strictly on equal opportunities for workers with different characteristics. Another possible reason for these differences is that public employers tend to be larger, on average, than private ones. Counterbalancing these differences that show more awareness of disability-related issues and more formal procedures to address them is a finding that a smaller percentage of disabled people in the working-age population (12 per cent) are employed in the public sector than are non-disabled people in the working-age population (19 per cent) (Hirst et al., 2004 [12]). Some of this difference might arise because a smaller proportion of the disabled working-age population is working or looking for work, compared with the non-disabled working-age population (so the proportion of workers in each group who are in the public sector is closer to the

same). However, the data also show that disabled workers in the public sector occupy lower occupational statuses and as a result are likely to have lower gross weekly pay (Hirst *et al.*, 2004 [xii and 164]).

Differences between the voluntary and for-profit sectors also emerged from the evidence. For example, voluntary sector employers are more likely to be aware of the DDA (Sections 3.5.3 and 5.4.2) and of specific provisions within it (Section 1.3.4). Further, staff in the voluntary sector are more likely to recognise impairments as disabilities (Section 3.5.1) and to say that it is easy to employ a disabled person (Section 3.5.2). Dr. Stafford suggests that this latter finding may be because this sector comprises a higher proportion of employers that work with disabled people, compared with the for-profit sector. It also may be that voluntary sector employers face less competitive pressure to reduce the costs of providing their services.

As with employer size, policymakers may want to ensure that new programmes and policies, as well as modifications to existing ones, take into account this diversity among employers.

#### **6.4.3 Disabled people with mental health impairments face challenges different from those of other disabled people**

Programmes and policies designed to address the employment-related needs of disabled people are likely to be most effective when they take into account the diversity of the disabled population. The evidence suggests that one group of disabled people likely to face special challenges is the one with mental health impairments.

People with mental health problems have lower employment rates than people with physical disabilities (Section 1.4.1). Further, some employers do not recognise mental illness as an impairment that can lead to a disability, even though it was more recognised in this way than some impairments (Section 3.5.1). As is the case with people with physical disabilities, employers sometimes perceive people with mental health problems as difficult to employ (Section 3.5.2), and some government programmes are often (though not always) less effective for people with mental health disabilities than for those with physical ones (Sections 5.4.1 and 5.4.2).

These types of disabilities may pose particular challenges for policymakers, employers, and workers. One possible reason is that mental health impairments are often invisible. A person with this type of impairment may be reluctant to let colleagues know of the situation (Office of the Deputy Prime Minister, 2004 [69]). To the extent that a worker is reluctant to reveal a mental health condition that warrants adjustments to the work environment or work responsibilities, and to the extent that employers (and co-workers) have a negative reaction to the worker's needs, a need might go unaddressed and the employee would miss out on the benefits of the DDA. When this occurs, the employer avoids the cost of making an adjustment, but the disabled worker may be less than optimally productive. Furthermore, he or she may have to leave the job, either by choice or dismissal, because of an inability to

meet the standards for the job; the employer then will incur the costs of recruiting and training a new worker.

Another reason that mental health disabilities are likely to be hard for policymakers, employers, and workers to address is that reasonable adjustments may be hard to identify and implement or especially costly. While we do not know of evidence that compares the adjustments necessary for mental health disabilities with those for physical disabilities, the types of adjustments might differ. For some disabled people with physical impairments, the one-off purchase of equipment or the modification of the work premises may be sufficient. In contrast, it is possible that disabled people with mental health impairments may be more likely to require ongoing adjustments that affect an organisation's way of doing business. Employers and supervisors may be particularly reluctant to make such adjustments.

Ultimately, successfully addressing the distinct challenges posed by mental health impairments requires taking into account issues related to the disclosure of the impairment, society's attitudes towards mental health issues, and the types of adjustments that are warranted.

#### **6.4.4 Broad labour market trends and policies may influence disabled as well as non-disabled workers**

Policymakers concerned about the employment status of disabled people should remember that their initiatives fit within a broader labour market milieu. Economy-wide trends may influence the labour market participation of disabled people. Similarly, programmes and policies designed to support other workers may influence this segment of the population as well. Policymakers who design programmes to address the specific needs of disabled workers may want to ensure that their targeted programmes coordinate well with these broader forces, potentially capitalising on mutually beneficial efforts to bring about change. Moreover, they may be able to find allies among groups that have a similar objective for a different target group.

Many examples of such trends could be given, such as the move towards flexible work schedules, accommodations for workers with higher-than-average rates of sickness absence, or the development of support for workers who need additional assistance getting to and from their workplaces. However, for space considerations we discuss only two examples, to provide a flavor of the ways in which broad policies can influence outcomes for disabled workers. One is the recent movement towards flexible schedules and part-time work (Section 1.5.2). The evidence indicates that disabled workers are slightly more likely than non-disabled ones to be in part-time jobs, jobs with flexible work schedules, and self-employment (Section 1.5.2). While these descriptive patterns do not indicate that disabled workers prefer these arrangements to full-time work, an inference from the data is that flexibility in the schedules, with less-than-full-time work, may be one way they can participate more easily in the labour market and develop job skills. Policies that encourage employers to allow part-time work schedules may increase labour market participation by

disabled people who might otherwise lack the skills necessary to receive a full salary package or who may be unable or unwilling to do full-time work. Such flexibility might also be helpful to any workers who juggle their job responsibilities with family obligations or other demands on their time, and it may encourage other types of workers, such as older ones approaching retirement, to remain in the labour force – which is important given the projected economy-wide labour shortage (DWP, 2006).

Another example concerns sickness absence, where the evidence indicates that disabled people, on average, have higher rates (Section 1.5.2). However, a person's disability status is by no means the only worker or workplace characteristic associated with variation in absence due to sickness. Policies designed to reduce sickness absence among all workers may influence the rates of disabled workers, and policies designed to reduce sickness absence among disabled workers may influence the rates of other workers. Policymakers who want to influence the sickness absence of disabled workers may find that coordination with partners who are not focused on disabled people may still be a useful approach to bringing about change.

Ultimately, most broad labour market policies will have effects on disabled people and their employment status. Thus, policymakers should remember that broad policies, as well as those narrowly focused on disabled people, can often be beneficial to everyone involved and not benefit one group at the expense of another.

#### **6.4.5 Although the DDA is straightforward in some ways, some employers are unaware of the DDA, confused about it, or afraid of it**

The intent of the DDA, as it pertains to employers' employment practices, is to prohibit employers from treating a disabled job applicant or employee less favourably than other job applicants or employees, and it requires employers to make reasonable adjustments for disabled applicants and employees so they are not placed at a substantial disadvantage in comparison to others. Thus, the legislation has the potential to alter employers' calculations of the costs and benefits to employing a disabled worker compared with a similar non-disabled one, by regulating the conditions of employment and by imposing obligations to make adjustments. All else equal, an employer is likely to prefer less uncertainty about whether costs will be incurred and less regulation that restricts their employment options.

Despite the straightforward intent of the DDA, employers are sometimes uncertain about just whom it covers or the costs they might have to bear by employing a disabled worker, especially since the DDA definition of disability does not always correspond with the perception of the general public. Some employers do not understand whether job applicants or employees should be categorised as disabled, and are uncertain about what types of questions they can ask during their recruitment efforts. (Some people who meet the DDA definition do not consider

themselves disabled.) In addition, the DDA might make an employer reluctant to employ a disabled job applicant because doing so leads to additional uncertainty about what adjustments have to be made. Even though employers are not obligated to anticipate the need to accommodate every type of disability (Section 1.3.3), they may be concerned that they will unknowingly fail to meet legal requirements. Finally, they may be at an increased risk of being taken to a tribunal if their compliance is in dispute, even if they made a good-faith effort to comply with the law or make adjustments. This uncertainty is in addition to the uncertainty and risk the employer would face when employing a disabled worker in the absence of the legislation or when employing a non-disabled worker (with or without the legislation).

Evidence suggests that a non-trivial portion of employers are unaware of, or do not properly understand, what is required of them by the DDA (Section 3.5.3). Small employers in particular may not invest time or energy into learning the details of the law, since they employ only a few people and do not have dedicated human resources staff. If they fail to make adjustments that they should, they are avoiding legally mandated costs. However, if they are taken to a tribunal, they would incur additional costs that could have been avoided had they complied with the law. An employer's fear of a DDA-related discrimination case being brought against it might also motivate it to incur costs that it is not legally obligated to make and that it would not make in the absence of the legislation. This fear may lead an employer to make unreasonably expensive adjustments out of concern that a tribunal's definition of reasonable is much broader than its own. The employer might also be afraid to dismiss a disabled worker who is not performing at the appropriate level even after all reasonable adjustments have been made. In essence, the employer may think its choices are between keeping in post an unproductive disabled worker or firing the employee and facing a discrimination case.

To address the uncertainty of employers – small private sector ones in particular – about employing disabled workers and to help them understand and meet their DDA responsibilities, the DWP has recently implemented a multi-phase awareness-raising campaign targeting small and medium-sized businesses. This effort has been aimed at helping employers and service providers to recognise their DDA obligations as well as the commercial benefits of providing accessible services. One component of this campaign is the partnering with business organisations and intermediaries to secure their cooperation to disseminate information to their member businesses. Another component is the use of radio, press, and online methods to increase awareness and to publicise organisations that have been especially active in addressing disability-related issues.<sup>45</sup>

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<sup>45</sup> While it is unclear at this point how effective this campaign will be, the methods used were based on DDA-focused research findings from a large telephone survey of 1,000 small employers and in-depth interviews with 36 small business owners (Kelly *et al.* 2005). Important findings were that a high proportion of small businesses obtain their information from professional organisations and that small businesses often do not pay attention to DDA-related information unless it is of immediate use to them.

Even if the publicity campaign is successful in increasing employers' awareness and understanding of the DDA, a tension still remains between: (1) a desire to reduce potential ambiguity in the legislation regarding who is covered and what is a reasonable adjustment; and (2) a desire to ensure that the legislation is flexible in allowing a case-by-case determination of its applicability. This research review did not uncover clear-cut ways to improve the legislation. Doing so may require a detailed examination of the implications of DDA-based case law. However, the research cited in Chapter 3 suggests that policy agendas that operate through the DDA may need to take into account the wide range in awareness and understanding of the legislation, especially how employers interpret disability issues in ways that are different from what is on the books.

## 6.5 Possible avenues for future research

Both employers and policymakers have objectives that suggest the value of having evidence-based information on the topics covered in this compendium. Employers would like to recruit and retain workers – both disabled and non-disabled – who can satisfactorily perform the tasks required for a job and who can contribute to the overall success of the organisation. Policymakers want to ensure that employers can access information to make sound business decisions, that workers and job applicants are not discriminated against, that disparities in employment rates between disabled and non-disabled workers narrow, that no one capable of self-sufficiency persists in collecting government benefits, and that employers comply with regulations governing employment. However, the ability of both employers and policymakers to accomplish their objectives in the best way is limited by the incomplete nature of current information relevant to programme and policy. As noted in numerous places throughout the compendium, this evidence base contains gaps.

The findings and policy recommendations presented in Sections 6.3 and 6.4 suggest five areas in which additional research might be useful to shrink the gaps in the information base and to strengthen the policy agenda. The first is to develop a better understanding of the sensitivity of employer decision-making to changes in employers' familiarity with disabled people as workers and their perceived risk of employing them. Can programmes be structured to mitigate employers' perceived risk in employing disabled workers? If so, would the rate of employment of disabled people increase? Or are the perceptions of some employers (those that do not think disabled workers can work for them) accurate? The second is to determine whether training programmes, especially when customised, are an effective and efficient use of public resources to foster the placement of disabled workers in jobs. Which types of training are most effective, and which types of disabled workers benefit most? Can the small-scale success stories of customised training be replicated? The third area is to examine the conditions under which disabled workers exit the labour market, so that better strategies can be used to help reduce the number of these exits. Which factors are most influential in intervening to prevent these exits, so that

disabled workers can stay involved in the labour market as much as possible? A fourth area is to come to a better understanding of the costs of adjustments required by disabled people, especially those with mental health impairments. Moreover, it would be helpful to know to what extent these adjustments are larger, or smaller, than the costs that employers incur to accommodate the individual needs of non-disabled workers. Which DDA-required adjustments are especially effective at helping disabled people, especially those with mental health impairments, to stay in their jobs? And how do these adjustment costs compare with the other adjustments that employers give to workers? The fifth and final area for future research is to develop a better sense of which programmes and schemes are most likely to be cost-effective at helping disabled people obtain or retain their jobs.

Of course, the evidence reviewed in Chapters 3 through 5 provides some insight into these broad research areas. In addition, the DWP has some ongoing studies that touch on these issues. But gaps remain. Ultimately, it is rare for a single study to provide definitive answers for a topic of policy interest. Therefore, these suggestions for areas of future research will not, by themselves, address all gaps in the evidence on the employer's perspective of recruiting and retaining disabled workers, given the complex and dynamic interplay between the characteristics and needs of workers; the characteristics of jobs and the needs of employers; and the broader social, political, and legal milieu. However, we expect that pursuit of these research avenues would expand the boundaries of knowledge so that employers and policymakers are better able to meet their objectives.



# Appendix A

## Disability Discrimination Act 1995 definition of disability

**Bruce Stafford**

As mentioned in Chapter 3, for someone to be covered by the Disability Discrimination Act (DDA) 1995:

- the person must have an impairment that is a mental or physical condition;
- the impairment must have adverse effects which are substantial;
- the substantial effects must be long-term;
- the long-term substantial effects must adversely affect the person's ability to carry out normal day-to-day activities.

These four aspects of the definition of disability are discussed in turn.

### A.1 An impairment that is a mental or physical condition

The *DDA 1995* does not define 'a mental or physical impairment'. Guidance issued by the DWP states that the term '*should be given its ordinary meaning*' (DWP, 2006 [3]).<sup>46</sup> Accordingly, a wide range of impairments can be covered by the Act, for example, cardiovascular diseases, impairments with fluctuating effects (such as myalgic encephalitis), severe disfigurements, developmental impairments (such as dyslexia and dyspraxia), progressive conditions (such as muscular dystrophy), and mental impairments (such as depression and eating disorders) (DWP, 2006 [4]). Moreover, people with human immunodeficiency virus (HIV), multiple sclerosis (MS), and cancer (see the next section) or registered blind or partially sighted by a

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<sup>46</sup> This guidance came into force for new claims under the DDA on 1 May 2006.

consultant ophthalmologist or registered as such with a local authority are deemed to be disabled for the purposes of the Act.

However, there are some conditions (mainly addictions and anti-social behaviours) that are not treated as impairments for the purposes of the Act (see Table A.1).

**Table A.1 Conditions not treated as impairments under the Disability Discrimination Act 1995**

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Addiction to, or dependency on, alcohol, nicotine, or any other substance (unless the addiction resulted from the substance being medically prescribed)
Seasonal allergic rhinitis (for example, hayfever) except where it aggravates the effect of another condition
A tendency to set fires
A tendency to steal
A tendency to physical or sexual abuse of others
Exhibitionism
Voyeurism
Disfigurements due to tattoos and decorative body piercings

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Source: Statutory Instrument, 1996.

Usually, the presence of impairment is not disputed (although see Hurstfield *et al.*, 2004 [310-314]). The Court of Appeal has determined that it is not necessary to identify the causes of an impairment; rather, people can rely upon the effects or symptoms of their impairment to satisfy this aspect of the definition (Hurstfield *et al.*, 2004 [311]). However, it may be necessary to consider whether someone has an impairment in order to assess its effects (DWP, 2006 [3]). Nevertheless:

*'Whether a person is disabled for the purposes of the Act is generally determined by reference to the **effect** [emphasis in original] that an impairment has on that person's ability to carry out day-to-day activities.'*

(DWP, 2006: 4)

Whether the adverse effect of an impairment is substantial and affects day-to-day activities is discussed in the next section.

Part 2 of the Act also applies to people who were disabled in the past, even if they have fully recovered, provided their previous disability meets the definition outlined in the Act.

In addition, since December 2005 people no longer have to demonstrate that their mental illness is '*clinically well-recognised*' before it can be regarded as a mental impairment under the Act. This change, introduced by the DDA 2005, brings the definition of mental illness in line with that for physical impairments (where there is no need for the condition to be clinically well-recognised) (Joint Committee, 2004 [31]). Nonetheless, people with mental illnesses still have to meet the full requirements of the definition of disability as outlined earlier in order to be protected by the DDA.

## A.2 The impairment must have adverse effects that are substantial

The adverse effects of an impairment on day-to-day activities must be substantial, that is, not just minor or trivial. That the adverse effects must be substantial is compatible with the view that disability is a limitation that is a departure from a population norm (see Section 3.2) (DWP, 2006 [9]). Moreover, it is a measure of the severity of impairment (Woodhams and Corby, 2003 [163]).

Official guidance on the meaning of 'substantial' suggests that the following should be taken into account (DWP, 2006 [9-13]):

- The time taken to carry out an activity by a person with an impairment compared with the time taken to complete the activity by someone without the impairment.
- The way in which an activity is carried out compared to how it might be done if the person did not have the impairment.
- The cumulative effects of an impairment may be substantial for an individual either when considering more than one activity (whereas they are not substantial for each activity in isolation), or where the person has more than one impairment and taken together the adverse effects might be substantial.
- Whether the person can be reasonably expected to modify their behaviour so that an impairment ceases to have a substantial adverse effect on day-to-day activities. However, employers should not assume that people with successful coping strategies are not disabled employees.
- Whether environmental factors, such as temperature, time of day or levels of stress, exacerbate the adverse effects of an impairment.
- With the exception of someone wearing spectacles or contact lenses, any treatment for the impairment that alleviates or removes the effects of the impairment is ignored when assessing whether the effects of an impairment are substantial (DDA 1995 Schedule 1(6)). Although the Employment Appeal Tribunal (in *Abadeh v British Telecommunications plc* 2001 IRLR 23) has ruled that if the outcome of continuing treatment is a permanent improvement, then this improvement must be taken into account (Leverson, 2002 [19]). However, where the outcome of continuing treatment is unknown or its removal would result in a relapse or worsening condition, the medical treatment must be disregarded when deciding whether someone is disabled.

In addition, there are special provisions in the Act relating to progressive conditions and severe disfigurement. Under the DDA 2005, people with the progressive conditions of HIV, MS, and cancer are (as already mentioned) deemed to be disabled for the purposes of the Act from the point of diagnosis. People with other progressive conditions, such as dementia and rheumatoid arthritis, that have had some adverse effect on their ability to carry out day-to-day activities, but whose effect is not substantial, are deemed to have a substantial adverse effect if it is likely

to be substantial in the future (DDA 1995 Schedule 1(8)(1)). The person must establish on *'the balance of probabilities'* that the progressive condition is likely to lead in the future to substantially adverse effects (see *Mowat-Brown v University of Surrey* 2002, IRLR 235 in *Hurstfield et al.*, 2004 [329]). People must also establish that the adverse effects will be long-term (see next section) (DWP, 2006 [14]).

People with severe disfigurements do not have to demonstrate that the impairment has a substantial adverse effect on their ability to carry out normal day-to-day activities (DDA 1995 Schedule 1(3)(1)). The severity of the disfigurement involves assessing the degree of disfigurement and taking into account its location on the body (DWP, 2006 [16]).

Recent tribunal and Court of Appeal cases show that applicants have to provide detailed and relevant medical evidence on the 'deduced effects' of treatment if they are to establish that the effects of their impairment are substantial (*Hurstfield et al.*, 2004 [326-327]).

### **A2.1 The substantial effects must be long-term**

The substantial adverse effects must be long-term, that is, an effect which (DDA 1995 Schedule 1(2)(1)):

- has lasted at least 12 months; or
- is likely to last for a total period of at least 12 months; or
- is likely to last for the rest of a person's life, even if that person is not expected to live for 12 months.

This 'long-term' requirement effectively excludes temporary effects such as a broken limb and infections. However, where an impairment has a substantial effect on normal day-to-day activities, but then ceases, the substantial effect is regarded as continuing for the purposes of the Act if the impairment remains and at least one recurrence of the substantial effect is *'more likely than not'* to happen 12 or more months after the initial occurrence (see also *Hurstfield et al.*, 2004 [322]). Thus people experiencing periods of remission, as with conditions like epilepsy or asthma, continue to be protected by the Act (Leverton, 2002 [21]). However, people with depression and anxiety disorders can find it difficult to meet this requirement, as they have to establish that they have a continuing impairment with recurring effects, not simply a recurring impairment.

For people with a disability in the past, the Act defines 'long-term' so that the substantial effect must have lasted for at least 12 months or that any reoccurrence happened or continued 12 months after the first occurrence (DDA 1995 Schedule 2(5)).

Employment (appeal) tribunals have considered whether the duration of a disability should be determined up to the time of the alleged discriminatory act or up to the date of the tribunal hearing. The preferred approach appears to be that tribunals need to assess whether applicants meet the definition as at the date of the alleged

discriminatory act, but 'to do so with the benefit of hindsight of events occurring after that act' (Hurstfield, *et al.*, 2004 [321]; see also DWP, 2006).

## **A2.2 The long-term substantial effects must adversely affect their ability to carry out normal day-to-day activities**

Broadly, 'normal day-to-day activities' are considered to be activities carried out by most people on a daily, frequent, or regular basis (Secretary of State for Education and Employment, 1996 [C2]; and DWP, 2006 [19]). Examples include:

*'...shopping, reading and writing, having a conversation or using the telephone, watching television, getting washed and dressed, preparing and eating food, carrying out household tasks, walking and travelling by various forms of transport, and taking part in social activities.'*

(DWP, 2006 [22])

For the purpose of the Act, 'normal' is anything that is not abnormal or unusual (Hurstfield *et al.*, 2004 [318]). Although activities that are 'normal' for a particular person or group of people are excluded:

*'The term "normal day-to-day activities" does not, for example, include work of any particular form, because no particular form of work is "normal" for most people... The same is true of playing a particular game, taking part in a particular hobby, playing a musical instrument, playing sport, or performing a highly skilled task. Impairments which affect only such an activity and have no effect on "normal day-to-day activities" are not covered.'*

(Secretary of State for Education and Employment, 1996 [C3])

So an inability to perform at work may not be sufficient to bring someone within the legal definition of disability (see also Woodhams and Corby, 2003 [168]). For example, in *Quinlan v B&Q plc* 1998, the Employment Appeal Tribunal found that the applicant, who could no longer lift heavy objects because of open-heart surgery, was not covered by the Act because he could still handle everyday objects (Leverson, 2002 [23-24]). However, more recently it has been decided that the applicants' working environment may provide a context for considering their performance of day-to-day activities (Hurstfield *et al.*, 2004 [58]). The ability to perform day-to-day activities within the work environment may be relevant (for instance, if dismissed on grounds of incapacity) and should not in principle be disregarded (see Hurstfield *et al.*, 2004 [316-318]).

The Act says there must be a substantial effect on the person's ability to carry out normal day-to-day activities, not necessarily an effect on the activities themselves. However, an impairment is only to be treated as affecting the person's ability to carry out normal day-to-day activities if it affects at least one of the following broad categories of functional capacity (DDA 1995, Schedule 1, 4(1)):

- mobility;
- manual dexterity;
- physical co-ordination;
- continence;
- the ability to lift, carry, or move ordinary objects;
- speech, hearing, or eyesight;
- memory or ability to concentrate, learn, or understand;
- perception of the risk of physical danger.

The focus of the legislation is the effect on normal day-to-day activities, and not the functional capacities. This list of capacities is not a list of day-to-day activities. What is a normal day-to-day activity is unspecified and acknowledged by the Employment Appeal Tribunal to be difficult to define (see Leverton, 2002 [24]). The Employment Appeal Tribunal has also decided that the overall impact of an impairment on the functional capacities must be considered, rather than taking each item in turn (Hurstfield *et al.*, 2004 [318-319]).

The Employment Appeal Tribunal in *Goodwin v The Patent Office* 1999, IRLR 4, cautioned that disabled people may understate the impact of their impairment on normal day-to-day activities, because they have developed avoidance or coping strategies (Leverton, 2002 [23]). The focus should be on what the person cannot do, or can do with difficulty, rather than on what s/he can do (*ibid.*).

Mabbett (2005 [218]) points out that an implication of the focus on normal day-to-day activities is that a person's aims and aspirations are not considered when determining whether they are disabled under the Act. Their impairment is assessed against a normal life, rather than '*against a person's own life, reflecting their achievements, ambitions and preferences*' (Mabbett, 2005 [219]).

# Appendix B

## Guide to employers for the recruitment and retention of disabled people

**Clara Williams and Craig Thornton**

### B.1 Introduction

Finding and retaining capable, productive employees is key to the success of any business, but identifying qualified candidates with the correct balance of technical and interpersonal skills can be difficult. Numerous factors influence a potential employee's overall productivity and, when making employment decisions, companies must try to predict the ability of a candidate to perform essential job tasks. Because of the challenges in predicting any potential employee's future productivity, employers, perceiving additional uncertainty with recruiting or retaining disabled people, are often hesitant to consider employing them. However, such people are often overlooked as a source of high-quality labour: many are highly skilled, adept at finding flexible and creative solutions to problems, and self-

motivated characteristics that can make them ideal employees. In fact, they represent a significant under-tapped labour pool: nearly 20 per cent of the UK's working-age population meet the definition of disabled in the Disability Discrimination Act (DDA). Because labour shortages are projected for the coming years, employers will have to consider supplementing their traditional workforce with other workers whom they may not currently consider. As the workforce ages, some employees will also become disabled whilst working. This guide is meant to review some of the factors and questions that employers might consider when facing an employment decision involving a disabled person, or when retaining an employee who becomes disabled.

## B.2 Productivity

All employees possess a mix of technical and interpersonal skills based on their individual characteristics, experience, and education, as well as a host of other factors. All these contribute to the level of productivity that employers can expect from them. However, in evaluating the potential contributions that a disabled person would make to an organisation, employers might emphasise unduly the perceived limitations and fail to consider the full mix of strengths and experiences. It is possible that a disability would not in any way limit a person's ability to work; in other cases, a disability might easily be adjusted for and therefore should be treated as only one of many characteristics of a potential employee and not a defining condition. With workplace adjustments, many disabled employees can achieve the same – or an even greater – level of productivity as a non-disabled worker.

Workplace adjustments for disabled employees can take several forms. Some disabilities can be adjusted for through solutions specific to an individual, some through general but simple design modifications in the workplace, such as production redesign. Further, physical changes to the work environment are not always necessary; it is often simply a matter of easily-implemented adjustments such as flexible scheduling, modification of tasks, or redistribution of tasks among employees. Taking on a disabled employee can give employers the opportunity to increase productivity and customer satisfaction by re-examining and optimising the distribution of tasks such that the skills of all employees are put to best use (see

exhibit in the box for an example of opportunities created through production redesign to improve productivity through the employment of a disabled worker). In addition, employers should remember that because some disabilities do not remain static but instead can evolve over time, adjustments should be reviewed periodically.

### **New opportunities for disabled workers through production redesign**

*Issue:* A shoe store felt that a disabled worker with limited communication skills could not be employed to sell shoes.

*Redesign:* An analysis of all the tasks performed by shoe sales staff suggested an alternative approach. The current sales staff would concentrate on customer interactions and delegate their supply-room activities (keeping shoe inventory organised and processing deliveries and returns) to the new disabled worker.

*Result:* The disabled person was given a job to manage the supply room. The resulting increased attention to the customers and to organizing inventory made it easier to meet customer demand and created more sales.

### Questions to consider

- What abilities does the candidate have that will be important for the position?
- Can the open position (or other positions) be customised to emphasise a candidate's strengths?
- What type of adjustment will the employee require? Are there simple ways to make those adjustments?
- Will other employees or customers benefit from these adjustments? Can adjustments make the overall workplace more efficient and productive?

## B.3 Retention

In addition to recruiting disabled employees, employers can face situations in which valuable employees become disabled. However, because of the skills, expertise, and experience that employees accumulate on the job, it may be highly desirable to retain disabled workers, even after the onset or progression of a disability. To retain an employee who develops a disability or whose disability progresses, employers must move quickly to help the newly disabled worker comprehensively manage his or her impairment and expectations for future work. In many instances, it is also important that employers let the disabled worker's colleagues know how changes to the workplace and work roles could affect them as well.

Many of the same strategies for dealing with the disabilities of new employees can be implemented for current workers, but employers must consult with employees to assess quickly the nature of the impairment, any necessary adjustments, and modifications to job

roles that can allow the employee to continue working. By retaining disabled employees, employers will not only maintain productivity, but also contribute to workplace morale. Further, non-disabled employees will observe and appreciate the efforts that employers make in retaining disabled workers.

### Questions to consider

- How can the firm continue to benefit from the employee's experience and job knowledge? Can the current job role be modified to adjust for the disability?
- Will the employee need time off to recuperate? What kind of assistance programmes might the employee qualify for? Which will help the employee to return to work as soon as possible?
- How will the disability and the employer's efforts to adjust for it affect other non-disabled employees?
- How can workplace health promotion help limit the effects of potentially disabling conditions and reduce sickness leave in general?

## Disability Discrimination Act

When considering engaging or retaining a disabled person, employers must also consider the legal context in which they operate. The DDA mandates that employers provide reasonable adjustments to adjust for the disability-related needs of employees or candidates, but employers can legally decline to make an adjustment if the costs are too high. However, employers often face substantial uncertainty determining whether an employee is disabled, particularly for hidden

disabilities like those affecting mental health. Employers also face uncertainty about what constitutes a reasonable adjustment. Just as a worker's productivity is influenced by numerous factors, determining whether or not an adjustment is reasonable depends on the specific circumstances of the situation. When determining whether or how to adjust for a disabled worker, employers should consider the following:

- The extent to which simple adjustment will mitigate the productivity constraints the disabled worker faces
- The full range of available adjustments, including changes to the overall distribution of tasks
- The effects of the adjustment on the employer's operations

Employers must also consider the additional constraints the DDA places upon them. Organisations sometimes respond to shifting demands for products and services by adjusting employees' work roles to reflect market dynamics. However, in some instances, disabled employees (as well as non-disabled ones) lack the flexibility necessary to take on new tasks or expanded roles. Employers should be cognisant of such limitations when assigning or reassigning work roles in response to market shifts. Note, however, that while the DDA protects disabled employees who are fully capable of performing essential tasks (perhaps with reasonable adjustments), it does not protect employees who, disabled or not, are unable to perform essential tasks satisfactorily.

## B.4 Additional resources

Employing a disabled person and navigating the DDA can pose unique challenges entirely new to employers. However, disabled people also represent an under-utilised source of high-quality labour. Next listed are resources that employers can access when considering recruiting or retaining a disabled worker.

## B.5 Government programmes

- **Access to Work** assists employers in defraying the costs of communicator supports at interviews, support workers, aid equipment, adaptation to workplaces.
- **Workstep** provides support and a development plan to both employers and disabled employees.
- Under **Work Trial**, a disabled person can try a job for 15 days while the employer assesses whether or not the person can be engaged on a permanent basis.
- **Disability Service Teams** provide advice to employers and disabled people through local job centres.
- **Job Introduction Scheme** pays employers a weekly grant of £75 for the first six weeks that they employ a disabled person.
- **New Deal for Disabled People** provides job broker and personal advisor services that can help match disabled people to employment opportunities based on skills, interests, ability, and experience.

## B.6 Web-based resources

- **Jobcentre Plus Employer Resources** is a government agency that helps working-age people move from welfare to work. It assists employers in advertising vacancies and provides information about recruitment.  
[[www.jobcentreplus.gov.uk/JCP/Employers/index.html](http://www.jobcentreplus.gov.uk/JCP/Employers/index.html)]
- **Jobcentre Plus Help for Disabled People** provides resources specifically for disabled people. It provides a list of assistance programmes for employers interested in engaging disabled people.  
[[www.jobcentreplus.gov.uk/JCP/Customers/Helpfordisabledpeople/index.html](http://www.jobcentreplus.gov.uk/JCP/Customers/Helpfordisabledpeople/index.html)]
- **Government Work Schemes and Programmes for Disabled People** are centralised resources of publicly funded programmes for disabled people.  
[[www.direct.gov.uk/DisabledPeople/Employment/WorkSchemesAndProgrammes/fs/en](http://www.direct.gov.uk/DisabledPeople/Employment/WorkSchemesAndProgrammes/fs/en)]
- **Shaw Trust** is a national charity that provides training and work opportunities for disabled or disadvantaged people. Resources for organisations interested in employing disabled people, including business case for diversity, recruiting assistance, managing absence leave, employee retention, and resources on how to stay informed.  
[[www.shaw-trust.org.uk/page/3](http://www.shaw-trust.org.uk/page/3)]
- **Scope** is a disability organisation for people with cerebral palsy. Resources for employers include the business case for employing disabled people, as well as employment and training services.  
[[www.scope.org.uk/work/rwd\\_employer.shtml](http://www.scope.org.uk/work/rwd_employer.shtml)]
- **A4e Employer Recruiting Resource** is a database of job-ready customers, including disabled people.  
[[www.a4e.co.uk/Looking\\_to\\_recruit.aspx](http://www.a4e.co.uk/Looking_to_recruit.aspx)]
- **Mencap's Accessibility Services** assists in making organisation information more accessible to people with learning disabilities, including document editing and training.  
[[www.mencap.org.uk/html/accessibility/accessibility\\_services.asp](http://www.mencap.org.uk/html/accessibility/accessibility_services.asp)]
- **JMU**, part of the Royal National Institute for the Blind, provides consultancy services in making buildings accessible, including access audits and design appraisals, advice and support in providing access statements and strategies, procurement support, and individualised training courses.  
[[www.jmuaccess.org.uk](http://www.jmuaccess.org.uk)]
- **Disability Rights Commission Employers and Services Resources** promotes full social inclusion of disabled people. It provides information on, and a practical guide to, the DDA and best practices.  
[[www.drc-gb.org/businessandservices/index.asp](http://www.drc-gb.org/businessandservices/index.asp)]

- **Employers' Forum on Disability** focuses on disability in the workplace. It provides information on recruiting and retaining disabled workers, as well as methods of serving disabled customers.  
[[www.employers-forum.co.uk/www/index.htm](http://www.employers-forum.co.uk/www/index.htm)]
- **Employ's Employer Resources** provides practical, ongoing support and consultancy services to employers recruiting or employing disabled people. It works in partnership with Jobcentre Plus.  
[[www.remploy.co.uk/employers](http://www.remploy.co.uk/employers)]
- **Workplace Health Connect** provides free, practical advice on workplace health and safety, to managers and staff of small companies. It works in partnership with the Health and Safety Executive to transfer knowledge to companies so they can tackle future issues themselves.  
[[www.workplacehealthconnect.co.uk](http://www.workplacehealthconnect.co.uk)]

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