

Department for Work and Pensions

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## **Shaping future support: The Health and Disability Green Paper**

The BMA is a professional association and trade union representing and negotiating on behalf of all doctors and medical students in the UK. It is a leading voice advocating for outstanding health care and a healthy population. It is an association providing members with excellent individual services and support throughout their lives.

The Association welcomes the opportunity to respond to the Government's consultation. Please find enclosed our submission. It addresses the specific questions in the consultation relating to the provision of in-work support for disabled doctors.

We welcome Government recognition of the need to improve support for disabled people to enable them to enter and remain within the workplace. Disabled doctors and medical students are a valuable part of the medical profession, bringing unique insights into the patient experience. A diverse patient population is best served by a medical workforce that reflects and understands their needs.

We support the broad aims of the green paper to improve the health of disabled people and those with long term conditions, through enabling them to enter and thrive in the workplace. We welcome efforts to reduce the disability pay gap, especially in light of the increased costs of living with disability or long-term ill-health. Our response focuses particularly on issues relating to in-work support; however, we also note that improving the health of disabled people across society is an important aim in its own right, which will bring economic and social benefits across society. This will have a dual benefit for the medical profession: it will allow more disabled doctors and medical students to be retained within the workforce to deliver care to patients, and it will also reduce morbidity in the population associated with worklessness, reducing demand on health services.

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Listed as a Trade Union under the Trade Union and Labour Relations Act 1974.



## **What more could we do to further support employers to improve work opportunities for disabled people through Access to Work?**

We welcome commitments to increase the flexibility of the Access to Work scheme and reduce the bureaucracy associated with application. Our [2019 disability survey](#) found that doctors using the scheme for themselves reported a number of issues with the existing provision.

The most common concerns were around the burdensome process and length of time taken to get adjustments. Only 12% of BMA survey respondents had used Access to Work, with some suggesting they were unaware of the scheme and that it should be better promoted to both employees and employers. Of those using the scheme, 58% reported overall satisfaction, while 23% were dissatisfied.

Respondents said there needed to be greater awareness of the scheme among employers because employer engagement is needed to ensure that applications are processed smoothly and in a timely fashion. Access to Work also advises employers on reasonable adjustments but some respondents felt that the assessors did not have sufficient understanding of doctor-specific issues, for example GP practice funding. They also reported concerns that there was variable quality of advice available on the types of adjustments available to support people with some specific conditions, notably mental health conditions and some neurodiverse conditions.

Part time employees are potentially financially disadvantaged by a provision of the Access to Work scheme, which says that the individual needs to pay a percentage of the costs if they use the equipment outside work. This has led to equipment, such as wheelchairs, being locked away in offices at the end of a shift, meaning, for example that the user has to source another wheelchair to travel to and from work. There are also some process issues around transferring equipment purchased through Access to Work between different employers, which can be particularly challenging for junior doctors on rotation. Lead employer arrangements can mitigate these issues to some extent. However, better arrangements need to be put in place which enable disabled junior doctors to access individual specialist equipment through Access to Work and retain it for the duration of their training.

We would therefore welcome proposals to enable support acquired through the scheme to be transferred between different employment settings without the need to make a new application each time.

People who have fluctuating or relapsing/recurring health conditions and disability report particular challenges in securing appropriate, sustainable adjustments to enable them to continue in work. It is vital that the Access to Work scheme is accessible to this group, and that people managing fluctuating conditions are not disadvantaged relative to their colleagues who need full time support.

We have also received reports that staff administrating the Access to Work scheme are sometimes unclear or sceptical about the need for in-work support for disabled people working within the NHS. We would welcome a further conversation with DWP to ensure that there is a good understanding of how Access to Work support may be used by healthcare professionals.

## **Strengthening the duty to make reasonable adjustments**

Improving access to reasonable adjustments was the top priority identified by 69% of our disabled members. Our view is that strengthening the duty to make reasonable adjustments and ensuring employers are confident and competent in discharging the duty to make reasonable adjustments is critical to retaining disabled people within the workforce.

For many disabled doctors and medical students, securing adjustments they need to work safely and effectively has proved challenging. Only 55% of the respondents that need adjustments say they have managed to secure what they need. There were some differences by gender and ethnicity – 57% of female and 49% of male respondents said they had obtained the adjustments they needed, and 58% of white British compared to 39% of ethnic minority respondents had got the adjustments they needed.

Failures to provide support can lead to these doctors being lost to the profession entirely. This is bad for the individual, bad for patients, and bad for employers and the NHS as a whole, exacerbating retention problems and pressures on the remaining workforce. Failure to provide appropriate adjustments may reduce an individual's capacity to function to their full capability in the workplace, potentially reducing their work output and leaving them at increased risk of being managed out of the workplace through overly rigid performance management processes.

Barriers to securing reasonable adjustments identified by doctors and medical students included lengthy and complex local processes, lack of understanding of employers to available financial support and advice through Access to Work, and a lack of timely intervention. As we set out in our response to the Government's Health is everyone's business consultation, it is important the workplace adjustments be made in a timely fashion. This is in line with case law on reasonable adjustments, which in the absence of statutory guidance, says that failure to provide reasonable adjustments in a timely fashion can be regarded as a failure to comply with the duty.

There is no indication of what is considered timely - a request for flexible working made under the statutory procedure, for example, must be responded to within 3 months. However, this is likely to be too long a process for someone seeking a modification, for example, to facilitate a return to work after a period of sickness absence.

Some adjustments may be made relatively quickly. The process may take longer where a fuller occupational health assessment is required, physical modifications to premises are needed, or specialist equipment needs to be procured. In any of these or other situations, it is important that employees are involved throughout the process.

We therefore recommend that employers should be required to formally respond to the request within 14 days, setting out the decision that has been taken and an indicative timescale for making the adjustments, within a maximum timeframe of three months for implementation.

## **Improving access to occupational health support**

Good quality occupational health support is vital in retaining disabled people within the workforce. The BMA is concerned that access to high quality occupational health support is patchy across the within the medical profession, particularly for those working in general practice, and across the population more broadly. We welcome the indication in this paper that

the Government will look at ways to improve access to high quality occupational health services, and hope that the final proposals will give further detail as to how this will be achieved.

We hope that our submission is useful – please do not hesitate to contact us for more information if required.

Yours sincerely

**Greg Beales**  
Director of Communications and Policy