

Conservative Party Disability Consultation

Response by Royal National Institute of the Blind (RNIB)

Who we are

We are the leading charity working for the two million people in the UK with sight problems. Our mission is to challenge blindness and the disabling effects of sight loss by providing information and practical services to help people get on with their own lives, as well as campaigning with and on behalf of blind and partially sighted people. RNIB also challenges the underlying causes of blindness by working towards its prevention, cure and alleviation.

RNIB welcomes the opportunity to respond to the wide-ranging review of policy that this consultation has initiated.

Response to questions on ‘key policy areas’.

1) Disability Discrimination Act

1(a) Should the Joint Committee’s recommendations be accepted in full by the government?

RNIB welcomed the Joint Committee’s report as a well-balanced and thorough document that set out additional measures the government could take in order to move towards their manifesto commitment of achieving full civil rights for disabled people.

We understand that in relation to some recommendations (such as introducing a duty preventing controllers of premises from unreasonably withholding consent to a disabled person wishing to make changes to communal areas of a building) there may be a genuine need to carry out consultation on how implementation should take place after legislation were passed. However, we do not see the outright rejection of recommendations as justified or constructive and believe that the Committee’s recommendations should be accepted in full.

The government established the Joint Committee as a group of experts to advise them on the future provisions of a Disability Bill, in order to move towards full civil rights. We find it surprising that they have rejected so many recommendations of the Committee they appointed.

We are also concerned that the government is presenting the forthcoming Disability Bill as the final step in achieving full civil rights for disabled people, and therefore the fulfilment of their 1997 and 2001 manifesto commitments. Having rejected many important recommendations of the Joint Committee in areas such as definition of disability, extending the DDA to cover volunteers, and housing, it seems misleading to claim that the Bill will achieve full civil rights for disabled people.

1(b) What further legislation, if any, is needed to counter discrimination?

A number of key recommendations made by the Joint Committee have been rejected by the government, which we believe would be essential elements of further legislation needed to counter discrimination.

Protection for volunteers and access to support for employers.

Volunteering is a key route into employment for the general population, and even more so for disabled people. However, volunteers are not covered under the DDA. This creates a number of problems:

- Direct discrimination against disabled volunteers cannot be challenged
- Discrimination in relation to benefits or training offered cannot be challenged
- A volunteer's employer has no right to use the Access to Work scheme in order to fund any adaptations or special equipment that may be needed for them. This means that getting a voluntary position that properly caters for their access needs is very difficult for disabled people.
- Volunteers do not have a right to claim under the Access to Work scheme for vital support from, for example, an interpreter or for additional transport costs. This is a disincentive to volunteer, as no help is available with extra costs that result from, for example, inaccessible public transport or other barriers.

Accessible Housing

Currently disabled people have inadequate rights to improve the accessibility of their housing. The Housing (Scotland) Act 2001 protects disabled tenants in social housing from landlords unreasonably withholding consent to their requests for adjustments, but disabled tenants in England and Wales are not afforded the same protection. The Landlord and Tenant Act 1927 does not apply in England and Wales if a

lease is silent on the issue of alterations or improvements, or if it contains an absolute prohibition against them. It applies only if there is a clause in a lease making the carrying out of improvements conditional on the landlord's consent.

The Disability Rights Commission has no powers to issue Codes of Practice or take cases based on the LTA, 1927, and awareness of the legislation is very low.

We would therefore like to see legislation that prohibits landlords and controllers of premises from unreasonably refusing consent to a disabled person wishing to make changes to their own premises and also to communal areas of shared buildings.

Enforcement of the DDA

The difficulties that blind, partially sighted and other disabled people have had and are still experiencing in relation to taking discrimination cases under Part 3 of the DDA in the County or Sheriff Courts are now well documented¹. We would like government to make provision that Part 3 cases can be heard in an employment or equality tribunal, with the power to transfer cases to the courts.

Currently cases of alleged discrimination in relation to goods, facilities, services and premises are heard in the County Court (in England and Wales) or Sheriff Court (in Scotland). This is different to employment cases, which are heard in Employment Tribunals.

The available numbers illustrate the huge gap between the number of cases heard in the Employment Tribunals and those taken to the County or Sheriff Courts, demonstrating the consequences of the expense and risks associated with taking cases in the courts:

- 8,908 Part 2 cases were issued and/or decided from when Part 2 came into force up until 1st September 2000.
- 53 known Part 3 cases were issued from when the DDA came into force up until 1st February 2001.²

Unlike Employment Tribunals, the County and Sheriff Courts require a fee in order to issue a claim and begin proceedings. This fee varies

¹ The Price of Justice, RNIB, 2000

² (Figures from 'Monitoring the Disability Discrimination Act 1995 (Phase 2)', Income Data Services & DWP, February 2002.)

according to how much and what is being claimed in the case, and is not payable by people on income support or in severe hardship. However, knowledge of this exemption is not widespread and the initial fee is beyond the means of many.

Allocation of the case to a track

In addition, the track to which a case is allocated can determine whether or not a claimant pursues the case. Claimants will want to keep cases in the small claims track where costs are unlikely to be awarded against them if they lose (unless they have acted unreasonably). However, it is open for defendants to argue that the case be heard in the fast or multi-track (costs are fixed in the fast-track, but potentially unlimited in the multi-track).

Where a defendant is successful in getting the case allocated to the fast or multi-track, in most cases a claimant without legal aid or support from RNIB, the DRC, or others, will have to withdraw their claim due to the potential financial implications of losing the case and having the defendant's costs awarded against them.

It is imperative that disabled people have access to justice. Otherwise the DDA is little more than a voluntary code. We propose the following measures:

- All discrimination cases should be commenced in employment tribunals.
- Where the matter does not relate to employment the tribunal should be designated an equality tribunal. This is in line with the Independent Review of the Enforcement of UK Anti-Discrimination Legislation.
- Lay members who are called to hear cases should have knowledge and experience of the relevant field; additional members should be appointed with relevant knowledge in respect of education and consumer affairs.
- The President of Tribunals or a Regional Chairman should have the power to transfer a matter to the County Court either on application by a party or of his or her own motion.

The criteria for transfer should include:

- whether it would be more convenient or fair for the hearing to be held in County or Sheriff court, having regard to the facts, legal issues, remedies and procedure.
- the availability of a judge specialising in this type of claim.

- the facilities available at the tribunal and at the court where the claim is to be dealt with and whether they may be inadequate because of the disabilities of a party or a potential witness.
- the financial value of the claim and the importance of the claim to the public in general.

Equivalent provisions should be made for the transfer of cases to the Sheriff Court in Scotland

From October this year, and following the implementation of the Disability Discrimination Act 1995 (Amendment) Regulations 2003, Tribunals will have jurisdiction in relation to employment businesses, which are currently covered by Part 3 of the DDA and thus heard in the County Court. As a result of the changes to jurisdiction, the Tribunals will be considering the full gamut of duties under Part 3 of the Act - including the reasonable adjustment duties relating to physical features. Tribunals will already be used to dealing with "goods and services issues" - giving added weight to Tribunals' abilities to consider goods and services cases, where the reasonableness of an adjustment to a physical feature is also central in determining the merits of cases.

- Giving Employment Tribunals powers to order Re-instatement or Re-engagement of disabled people.

Currently an Employment Tribunal, when ruling in favour of a blind or partially sighted person who has taken a disability discrimination case against an employer, does not have powers to order the reinstatement of that person in their job or re-engagement if requested. This is unlike cases of unfair dismissal, where the power of reinstatement already exists.

Seventy five per cent of blind and partially sighted people of working age are not in paid employment³. They face additional barriers to gaining and retaining employment, such as inaccessible and discriminatory adverts (additional measures relating to which the draft disability Bill addresses), discrimination at recruitment stage, an inaccessible transport system and inaccessible workplaces. For these reasons it makes sense to offer blind, partially sighted and other disabled people who win disability discrimination employment cases, the same option of reinstatement available to people who win unfair dismissal cases, so they can go back to their job or be re-engaged if that is an option they wish to take up.

³ Work Matters, RNIB, London, 2002.

In some cases a breakdown in employer-employee relations will have occurred prior to the case being heard that will make reinstatement an unattractive proposition. However, we feel that the option of reinstatement should exist and legislation should be harmonised.

Currently there is no limit on the compensation that can be awarded in cases of disability discrimination. With unfair dismissal cases there is a £50,000 ceiling. It is imperative that giving tribunals powers of reinstatement in relation to disability discrimination does not lead to limiting compensation awards. As an employer could defy a reinstatement order, leading to a further compensation claim, such a limit to compensation awards would act against the interests of disabled people who have faced disability discrimination. In addition, those for whom reinstatement or re-engagement is not appropriate need unlimited damages to be maintained. The Disability Rights Task Force recommended this and the government agreed.

- Disability Leave

Disabled people are nearly five times as likely as non-disabled people to be out of work and claiming benefits. Of the 2.8 million disabled people on state benefits and not in work nearly a million would like to work. In the case of blind and partially sighted people the statistics are more shocking, with 75% of blind and partially sighted people of working age not in employment.

140,000 blind and partially sighted people of working age are facing exclusion from the labour market due to employers' negative attitudes towards people with sight loss- nine out of ten employers rate blind and partially sighted people as either 'difficult' or 'impossible' to employ⁴.

To improve job retention we have been forwarding the idea of disability leave as a right that government should support and include in part 2 of the DDA or the Employment Rights Act, 1996.

- What is disability leave?

Disability leave would enable newly disabled people, and those whose existing impairments change, to retain their employment through the provision of a limited period away from the workplace for rehabilitation and/or retraining that allows them and their workplace to make adjustments for their impairment, allowing them, when ready, to return to work.

⁴ **Beyond the Stereotypes: Blind and Partially Sighted People and Work.** RNIB, London, 2004.

Whilst the scope of reasonable adjustments in the employment provisions of the DDA can - and often is - interpreted to permit disabled people to have time off in relation to their disability, it is not a right and depends on the circumstances of the case. We would wish to see a firm right to return to work embedded in legislation.

Four thousand people in employment lose their sight each year and of these around 25 per cent leave work quickly, moving into unemployment. These people could have remained in employment had they been able to take disability leave for;

- low vision assessments
- independent living assessment and training
- mobility training
- training in the use IT access technology

As with maternity leave, disabled people who take disability leave would have a right to return to work in the same or an equivalent position.

During the course of leave disabled people would be on disability benefits, thereby meaning that their employer would not be financially disadvantaged by the period of leave.

Disability leave would allow the 4,000 people in employment who experience sight loss each year to have the time and support to adjust and remain in work, rather than slipping into unemployment. This is desirable considering the increased tax revenue it ensures through people remaining in work and the reduced cost to the state in the form of benefit payments.

Disability leave is needed not just for people who experience sight loss, but for anyone who needs training and rehabilitation resulting from a new or changed impairment.

- Single Equality Act

We believe that the proposed merger of the existing equality commissions into a Commission for Equality and Human Rights (CEHR) is misguided without a Single Equality Act (SEA) in place. A SEA would ensure that all the strands to be included within the CEHR have equal protection from discrimination. Our fear is that disability, as the newest strand to gain a Commission (the DRC), will suffer in comparison to other strands such as race and sex, as our legislation is still coming into force, or is yet to even get to the statute book.

1(c) What can be done by government to eliminate discrimination other than by legislation?

- Changing attitudes

In many cases legislation is only the beginning of a process whereby discrimination is tackled and eliminated. Attitudinal barriers form a substantial part of the discrimination that disabled people face on an everyday basis, whether that comes from employers who believe that blind people are extremely difficult to employ⁵, or direct discrimination in the form of harassment and bullying⁶.

The disability movement has broadly welcomed the proposed Commission for Equality and Human Rights. One reason for this is that it will have a duty to promote equality of opportunity for disabled people, tackle discrimination and promote good relations. This duty is very welcome and would provide the impetus needed to tackle the horrendous level of hate crime, harassment and bullying experienced by disabled people, and particularly people with learning difficulties. We would therefore welcome a corresponding duty for public sector bodies, within their duty to promote equality of opportunity, to promote good relations and tackle discriminatory attitudes.

With these duties in place we believe that it is of vital importance that they are used and that discriminatory attitudes are challenged through public information campaigns, the promotion of positive images of disabled people and the elimination of discriminatory or divisive policies.

- Increasing knowledge of civil rights legislation

Legislation makes discrimination unlawful, but knowledge of it is limited. For example, a recent RNIB and Action for Blind People report found that 97 per cent of small employers are unaware of the new duties under Part 3 of the Disability Discrimination Act that have applied to them from 1st October.⁷

We therefore believe that a significant amount of extra work remains to be done in terms of making employers and service providers aware of

⁵ Nine out of ten employers rate blind and partially sighted people as either 'difficult' or 'impossible' to employ. (**Beyond the Stereotypes: Blind and Partially Sighted People and Work**, RNIB and Action for Blind People, London, 2004)

⁶ For example, Mencap, in their 'Living in Fear' report found that 88% of people with learning difficulties who had been surveyed had reported being bullied in the last year.

⁷ Ibid, p.5.

the duties that they have to disabled people. To this end we would support government public information campaigns designed to raise awareness of the DDA, increasing employer and service providers' level of compliance and thereby tackling discrimination and most probably lowering the level of County/Sheriff Court and Employment Tribunal cases.

2) Schools

2(a) Is the Government's policy of inclusive education for disabled children working, or are disabled children being physically included but educationally excluded?

We support appropriate, well funded, inclusion which meets children's social, physical and educational needs.

However, issues around inclusion are particularly acute for families with disabled children from black and minority ethnic groups (see Parents for Inclusion report 'All our children belong', 2004), who seem to be given the impression that special schooling is the only option for their children, or are given inadequate support which forces them out of mainstream.

We have several concerns around the provision in schools for children with disabilities.

1. Provision across the country varies widely, both in the range and quality of what is on offer. For example:

- Nationally, there is a big difference between the numbers of children with SEN placed in special schools (CSIE research).
- Provision for children in the early years is seen as a priority for some Local Education Authorities and not for others.
- There is wide variation between LEAs in the number of children with statements of SEN. (Recent research has shown that the highest statementing authorities do not necessarily have the best provision).
- There is a lack of accountability from LEAs about how children with SEN are faring (Audit Commission Report 2002)

- Increasing delegation to schools can work against the interests of children with low incidence impairments such as visual impairment
- Some mainstream schools struggle to understand that children with SEN are their responsibility. Children in such schools are in danger of being disadvantaged.
- Some children go to special schools because their parents have insufficient confidence in mainstream provision. In other words, it is a default option.
- Parents often feel disempowered because of poor communication with professionals. (Our own research highlights this again and again).

In summary, we support the government's inclusive policy, but have concerns that the level of educational inclusion is not as high as it should be, and varies widely across the country.

2 (b) What should be done to reduce the gap between the qualifications gained by disabled and non-disabled children?

Possible solutions

- Funding should be maintained centrally for the development of effective central support services for children with low incidence needs. Such services can respond flexibly to the whole range of needs and work with schools to develop their own policies and practices.
- Services should have enough staffing to meet the needs in their own LEA. This includes input for pre-school children as soon as they are identified.
- Children should be able to go to a mainstream school unless there is an overwhelming reason why this is not feasible.
- Schools should take responsibility for all their pupils, including those with SEN.
- The support children and school staff receive should be highly skilled.

- Special schools should have clear criteria for the children they serve.
- There should be support to families with a child with significant SEN to help them to cope over the years. This can take many forms e.g. regular support going into the home, flexible residency options and excellent therapy services.
- Good communication systems must be ensured, with parents having a real say in how their children are educated.

3) Healthcare

3(a) How should health service staff be trained in assessing and meeting the needs of disabled people?

Visual impairment awareness training and general disability awareness training is essential in raising staff awareness of the diverse needs of disabled people. Staff need to have confidence in their dealings with disabled patients, and in relation to visually impaired people this would involve competence in a number of areas.

Mobility

Staff must have confidence in being able to guide a visually impaired person, appreciating that this is an interactive process, describing the environment being negotiated, and not about pulling someone along.

In addition it means giving thought to the fact that visually impaired patients may require ongoing mobility assistance if they have to attend other departments or visit other areas of a building. Leaving visually impaired people to struggle in complex buildings, or rely on assistance from members of the public is not acceptable.

Access to information

Staff must be aware that people with sight problems as well as, for example, people with learning difficulties, will need information in accessible formats. These must be available and staff must not only know of their existence, but inform disabled people that accessible formats are available, as expectations are that they will not be and people may therefore not ask.

Staff must also be trained and ready to assist with other tasks such as assisting people with sight problems to sign papers or complete forms.

3(b) Should disabled people have greater access to unified budgets which enable them to decide on the commissioning of services for their needs?

We have concerns that direct payment entitlement criteria tend to favour severely disabled people and not blind and partially sighted people. However, we welcome measures designed to empower disabled people, but would emphasise our concern that eligibility criteria take full account of the impact of sight loss on people's ability to carry out day to day activities and remain independent.

3(c) Is ring-fenced funding for some items, such as powered wheelchairs, or specified standards for access to services needed?

We have major concerns around the level of equipment that is available to people with sight problems around the country through Community Equipment. The provision of even basic items such as white canes and magnifiers is not consistent and demand for more expensive items such as CCTV readers is unmet.

We would welcome ring-fenced funding that ensured that people with sight problems could get a wider range of equipment that is essential for their mobility, access to information and independence.

4) Transport

4(a) By what date should all rail vehicles be accessible?

RNIB gave evidence to the Joint Committee on the draft Disability Discrimination Bill as part of the Disability Charities Consortium. In our written and oral evidence we argued for a date of 2017 by which all older inaccessible rail vehicles should be taken out of service. We argued this for the following reasons:

- 2017 is the same date for buses, thereby ensuring that both forms of transport are accessible to disabled people, forming an integrated and accessible network.
- 2017 is a realistic date when taking into account the half-life refurbishment programmes that older inaccessible rolling stock will undergo in the coming years.

- Any other date further into the future is unacceptable to disabled people, bearing in mind that the first parts of the DDA came into force in 1996.

4(b) How should taxi provision be made more accessible?

- Private Hire Vehicles

The Private Hire Vehicles (Carriage of Guide Dogs etc) Act requires PHVs to carry guide dogs with their owners and operators not to discriminate when taking bookings from an assistance dog user.

We of course welcome these vital provisions, but compliance must be monitored and it is this that we would urge in order to ensure that taxi provision is not discriminating against assistance dog users.

- Taxis

We welcome the fact that the Government have finally issued policy proposals for accessible taxis and indicated that they will consult on them sometime in the future. However, considering there was an initial consultation on proposals for DDA Taxi Regulations under the previous Conservative Government we believe that formal consultation and implementation is slightly overdue!

One additional measure that we would like to see is for the training of taxi drivers to include familiarisation with assistance dogs. This would not only dispel myths that some drivers seem to entertain around dog's behaviour or cleanliness, but also provide those drivers with little experience of dogs with skills on how to behave around an assistance animal.

Accessing information in vehicles

One other area of concern to visually impaired people is the difficulty of knowing the correct cost of a taxi ride, as the taximeter cannot be read. Talking meters have been researched and we would welcome further development and implementation of these meters. The provision of a receipt with the taxi number recorded would also help, as would the taxi number in Braille, clear large print and tactile formats in the cab.

4(c) How could the motability fund and community transport schemes be improved?

We would like people who are currently not in receipt of the higher rate mobility component of DLA to be eligible for the motability fund. Blind people face a particular problem in this area as their impairment is not

regarded as having the same impact on mobility as a physical mobility impairment, and so higher rate mobility is beyond their reach. This is unjustified when blind people incur extra transport costs through the use of taxis where public transport is either not available, is inaccessible or unreliable.

Community transport

Current provision is patchy, so we would like to see comprehensive provision so that wherever you live you will know that there is CT available and that the service will be the same as in other areas.

- We would like to see CT co-ordinating car sharing among commuters as part of the move to encourage people out of their cars.
- CT should not do individual journeys as these are better taken by car or taxi.
- CT should develop further wobbly routes – extensions of Plusbus (which currently focuses mainly on shopping), a more community-based solution than other providers.
- One cannot separate CT & Dial A Ride but the most radical solution maybe to abolish DaR & replace it with CT.

4(d) Other transport issues we would like to raise.

- Public service vehicle access regulations for buses should include requirement for on board audible and clear visual passenger information.
- Local Transport Plans should be required to include comprehensive measures to promote and monitor improved access for disabled people.
- We welcomed the commitment that the Government made to accessibility for disabled people being a condition of public money being spent in support of its Ten Year Plan Transport 2010. This must be monitored and every opportunity taken to follow this through such as in Local Transport Plans.
- Comprehensive walking/pedestrian environment strategy including requirements of disabled people.

- All proposals for transport infrastructure, pedestrian environment and public realm development should be required to produce an access statement setting out the access strategy and how this will be achieved.

5) Access to Goods and Services

5(a) How could Government promote the part three provisions more effectively?

The evidence that we outlined in our comments on 1(b) clearly demonstrates that the problem with part three provisions is not so much promotion of awareness of the legislation, but difficulty in accessing the courts and therefore in promoting access to justice.

The available evidence clearly points to the conclusion that the costs involved in taking a County of Sheriff Court case in terms of issuing and the potential of having costs awarded has kept the number of cases taken to very low levels compared to part two. Therefore we have recommended reforms to the Court system to address this problem.

In addition it would be beneficial to support and resource disability organisations such as access groups so that they can raise awareness and challenge for positive action.

5(b) Is further legislation needed to promote access and, if so, how should it be framed?

We believe that further change is needed, as outlined in the Joint Mobility Unit Access Partnership's submission. (JMU is supported by the Royal National Institute of the Blind and the Access Association).

5(c) What are the most important measures which service providers could take within the present legislative framework?

- Ensure that all their staff receive comprehensive disability awareness training so that they know how to respond to the needs of customers with different impairments and are aware of the adjustments that can be made to facilitate access.
- Develop and adopt a positive plan of action and regularly monitor and review the impact of this, in conjunction with disabled people, and publish reports on progress, similar to those in the proposals for a public sector duty to promote equality for disabled people.

6) Employment

6(a) How could employers best make workplaces and recruitment programmes accessible?

Accessing job adverts

The first major barrier that people with sight problems experience in the recruitment process is being able to access job adverts. Most adverts are in small print (we recommend 14 point as a minimum). We therefore recommend that employers use larger print sizes in their job adverts in order to make them accessible to a wider audience of disabled people.

The journey to interview

Once invited to interview it is essential that the employer sends all correspondence and information relating to the interview in the candidate's preferred format.

In late 2003 RNIB contacted 56 medium and large sized employers across the UK to see how they would respond to requests for application packs and forms in a variety of formats. Only two employers managed to send out all the information in the format requested. Some employers had managed to provide information in the appropriate sized text, but had neglected to do the same for the application form, whereas others had ignored the request altogether.

Another finding was that a quarter of the employers sent out the information with a considerable delay, giving less than one week to complete the application form. People with sight problems may need longer to complete the forms, so this made the difficulties much worse.

Disabled people applying for jobs face a dilemma when asked whether they have a disability on an application form. Evidence shows that these enquiries are used by some employers to screen out disabled applicants in advance of the interview stage, when discrimination is very difficult to prove.

However, enquiries as to whether a candidate will require any adjustments if they were called to interview are both welcome and necessary.

6(b) How should incapacity benefit be reformed?

The current Pathways to Work pilot schemes have shown positive results in moving IB claimants into work with the right support and training. We know that around half of all unemployed people who say they would like to work are disabled. This means that there are around 1.02 million disabled people wanting to enter employment.

However, we have strong concerns around proposals to reform IB given that programmes such as JobCentre Plus, Work Preparation, Workstep and NDDP are not delivering for blind and partially sighted people and therefore are not providing a route off benefit and into work.

- Welfare to Work programmes are designed to assist those nearest to the labour market
- Jobcentre Plus's funding regime can encourage programme providers to work with those applicants whom it is felt are more likely to find employment.⁸

Our view is therefore that IB is not the problem, it is the lack of focus on disabled people who are further from the labour market that has caused numbers moving off benefit and into employment to remain below expectations.

With the right amount of tailored training and support those people who are further from employment can gain the confidence and skills needed to re-enter the job market. However, creating insecurity and concern through possible reform of IB would not be helpful in reaching these people and getting them onto programmes to assist them on the journey back into work.

In addition it must be remembered that IB is a benefit that is based on contributions and is therefore a right for those who have paid National Insurance contributions. It also allows partners of IB claimants to go out and work, raising family income and preventing poverty and hardship.

We are very concerned about the current noises being made around IB reform and do not see change as being justified when we now have evidence that the approach taken through the Pathways to Work pilot schemes is proving effective.

⁸ Corden, A. & Thornton, P. 'Results-based funded supported employment: Avoiding disincentives to serving people with greatest need' in **DWP Report W160**, (DWP, Sheffield, 2003).

6(c) Is the balance between supported and open employment right and, if not, where should it lie?

Our experience demonstrates that blind and partially sighted people are facing significant difficulties in accessing both types of employment. However, we support the promotion and development of supported employment opportunities and intermediate labour market initiatives to help long-term unemployed people back into work.

Workstep: The number of blind and partially sighted people taking part in the programme in 1999 was 609, less than three per cent of the total number of participants. There is evidence that blind and partially sighted people are missing out on similar intermediate labour market initiatives. Arksey, Thornton and Williams (2002) reported that “people with mental health problems were considerably over represented in transitional employment (and) intermediate labour market schemes” but people with a visual impairment were not represented at all. Supported employment providers need to pro-actively consider how to include more blind and partially sighted people in their provision.

New Deal for Disabled People: Two per cent of participants in NDDP state that ‘difficulty seeing’ is their main disability. Through our experience of providing NDDP services in the South West of England we believe that with appropriate levels of funding, greater numbers of blind and partially sighted people can be helped into work. However, at present NDDP does not have sufficient funding to provide adequate support and evidence suggests that Access to Welfare to Work programmes for blind and partially sighted people has been poor and they are not getting jobs in large numbers.

Our recommendations to improve this situation are as follows:

- Introduce contractual arrangements for specialist input to ensure that existing programmes like NDPP deliver impairment sensitive provision.
- Ensure that rehabilitation and training programmes are adequately funded so that they meet the needs of blind and partially sighted people.
- Promote the development of supported employment opportunities and intermediate labour market solutions.

7) Benefits

7(a) What should the priorities be for the reform of benefits themselves?

Please see our comments in section 7(c).

7(b) What special equipment costs should the benefit system cover?

The major costs to blind and partially sighted people fall into a number of areas:

Communication

Many younger people with sight problems have harnessed the independence that accessible computer technology can bring. However, the cost of 'Access Technology', such as computer software that can speak text, magnify it on screen, or refreshable braille keyboards, is high and therefore beyond the means of most blind and partially sighted people, especially when 75 per cent of the working age population is out of work (140,000 people).

We would like to see the cost of a computer with Access Technology covered by the benefit system. The impact of the technology for blind and partially sighted users is huge. It makes sending and receiving emails possible. It makes surfing the internet for research, shopping, learning and general enjoyment possible (if websites are themselves designed to be accessible). It also gives the possibility of controlling finances, bills and other matters from the comfort and security of home.

In addition we would like to see assistance with the cost of mobile phones. Mobile communication technology has given blind and partially sighted people greater independence and a safety net if lost, in trouble or unable to locate a public phone facility. However, accessible phones such as the Nokia Communicator, which enables blind and partially sighted people to send and receive text messages and manage appointments with speech output technology, come at a high price, beyond the means of many.

7(c) How could the whole benefit system be adapted to meet the needs of disabled people?

We feel that one of the major areas of work is in addressing age discrimination within the benefits system against disabled people.

Currently this discrimination can work both ways, against younger and older disabled people:

- People who develop an impairment after the age of 65 are unable to claim DLA and therefore miss out on the help it gives with extra costs relating to mobility along with access to schemes like Motability.
- Younger severely disabled people are unable to claim the Winter Fuel Allowance, despite the fact that they have identical or increased fuel needs to older disabled people who are eligible for the allowance.

In addition we feel that the benefits system does not recognise the extra costs of blindness and discriminates against people with a sensory impairment:

- People registered as blind are unable to claim higher rate mobility component of DLA as their needs are not seen as being equal to those of people with mobility impairments. We feel that this is not justified as blind people rely on taxis as their main provider of transport outside of public transport and therefore face substantial additional costs, not met by lower rate DLA.
- DLA or AA offers no help with the additional costs that blind people face in relation to communication needs, such as the purchase of computer equipment, accessible mobile phones, or the extra costs of buying accessible format publications.

8) Social Services and Family Care

8(a) How should the Care Standards Act be reformed, if at all, and the care system be simplified and streamlined?

We have been concerned for some time with both the quality and availability of social care for blind and partially sighted people. The Care Standards Act has gone some way towards addressing problems within the system, but it has not been 100 per cent successful. Some aspects of regulation within the social care arena have inhibited choice and involvement and removed from people the right to take risks. The balance between risk and regulation is always a difficult one, but so long as an adult is capable of making informed decisions, this should include the right to make choices over the level of risk they want to take.

The need for training

The establishment of a regulatory body for social care practitioners and a policy of increasing substantially the numbers of people within the social care workforce who are qualified are laudable developments. However, as sight loss continues to be wrongly regarded as a low incidence disability, we have concerns that awareness of the incidence of sight loss and its impact amongst “generic” workers remains low.

Sight problems are very common amongst older people and people with learning disabilities. Despite this, those working with them are often preoccupied with other presenting needs and fail to recognise the presence of sight problems or assess for their consequences. Many clients in these categories will not report or may even be unaware that they have a significant problem with their sight and so the onus must be on the social care practitioner to investigate the possibility that visual loss might exist and be causing difficulties.

Inspections by the Social Services Inspectorate have highlighted widespread lack of awareness of sensory loss amongst social care staff not specialising in working in the “sensory field.” This can be best addressed through training and whilst the voluntary sector no doubt has a role to play in campaigning for greater attention to be paid to sensory matters, we believe that that more could be done centrally to ensure that these gaps in training provision are addressed.

Workforce numbers unable to meet growing need

In addition to the need for greater awareness of sight loss and its impact amongst generic workers (and particularly amongst those working with older people and people with multiple disabilities and or learning disabilities) there is a continuing shortage of specialist rehabilitation officers working with this client group.

There has been a lack of central or local government leadership in this area. The net result is that insufficient numbers of rehabilitation workers are being trained to meet the growing demand of this client group.

The number of older people in the upper age groups is growing both in real terms and as a proportion of the population as a whole. Sight loss is most prevalent in this group, and so the population of people with serious sight problems is set to rise year on year for the foreseeable future. This demographic time-bomb is already exploding. Local authorities are having problems with staff retention and many rehabilitation workers are leaving the profession. Efforts are underway to address this issue

through the development of a competency framework with plans for career development opportunities, but this is something that should have happened years ago, and the problems are unlikely to disappear overnight.

It has been clear for many years that people with sight problems do not figure highly on the agendas of social care planners and commissioners. Some great social services are provided to blind and partially sighted people in some parts of the country. Sadly these are in the minority and social care for this group is still very much a postcode lottery.

Fair Access to Care Services

Fair Access to Care Services (or FACS) was meant to level the playing field for all social care recipients (or potential recipients of social care). We have evidence that blind and partially sighted people do not make it to the assessment stage, and even when they do, because those conducting the assessments are not sufficiently trained or experienced, needs are overlooked and people are “screened out” from receiving the care that they need. We would like to see an independent evaluation of the whole FACS initiative with recommendations made to ensure that those with serious sight problems are always assessed and that the assessment is conducted by someone suitably qualified.

Joint working

There are several initiatives around aimed at improving joint working. The Modernisation Agency has worked up some care pathways for different groups of people with sight problems. These efforts along with those of the Low Vision Services Implementation Group are beginning to yield more holistic and integrated services, particularly at the interface between health and social care. There is still an overriding perception however of significant “gaps” between health and social care agencies in many areas and more attention needs to be paid to this issue.

User involvement

Despite several policy and legislative drivers in the last 15 years, the active involvement of service users in social care is still patchy. A recent survey conducted through the Association of Directors of Social Services found that the areas in which social services departments in England are having the most difficulty in relation to the ADSS document, “Progress in sight: National standards of social care for visually impaired adults” are planning and involving visually impaired adults in service planning. Even in areas where authorities are performing reasonably well, they often get no further than “user consultation” which is far removed from the notion

of “participation” advocated in many quarters including by ADSS. We believe that there is still a long way to go before service users can really be described as being “involved” – not only in evaluating, managing and planning local services, but also in their own care packages. Accessible information is still not available universally and this undermines any claims that people are being empowered. We would like to see more enforcement of these basic human rights along with a cultural shift that actually puts users first rather than rhetoric suggesting that this is the case.

Increased profile

Above all else the profile of blind and partially sighted people needs to be raised throughout the social care sector. Directors of social services tend to concentrate on the national priorities set in the Performance Assessment Framework and the Delivery and Improvement Statements. These are the hoops through which they need to jump to achieve higher star ratings. As sight loss does not figure in these crude measurement tools, it is little wonder that the needs of those with serious sight loss are overlooked. It is essential that the profile of this growing group is increased.

How could direct payments be made more effective?

Direct payments can be very effective in increasing the independence and choice experienced by disabled people. In our experience however, there are a number of factors which inhibit those with existing care packages to switch to direct payments. The main issues reported include:

- The “fuss” of changing the care package and the perception that this will not be smooth.
- Having to take on the responsibility of finding their own carer/carers.
- No guarantees of reliability (though similar arguments could be made with existing arrangements).
- Added financial responsibility that many do not want to take on.

People in receipt of agency carers are confident that if their usual carer is ill and cannot attend, then the agency will provide a substitute. If a service recipient employs his or her own carer independently it is believed that there is an increased risk that they will have to manage without care until the carer is well again.

We feel that if there is to be greater confidence in the direct payments system that:

- The burdens and risks associated with service users employing their own staff should be reduced.
 - Reliable and speedy back up systems need to be available to those who use direct payments if problems occur in the provision of their care.
 - There should be comprehensive support in relation to the financial aspects of managing direct care payments.
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- 9) Housing

9(a) Does the law need to be changed to give disabled people greater freedoms to adapt the homes which they live in?

In their evidence on housing to the Joint Committee, the government rejected the claim made by many disability groups that current legal protection in this area for disabled people is inadequate.

The government asserted that the Landlord and Tenant Act, 1927, protects disabled people's right to make changes to adapt their homes in the face of unreasonable refusal from a landlord or controller of premises.

However, we are not convinced that this is the case.

- Firstly the LTA, 1927, is not a piece of civil rights legislation and therefore is not widely known of by disabled people.
- Because it is not a specific piece of disability rights legislation, the DRC has no powers to assist disabled people wishing to take cases under it. This loss of advocacy is very concerning and unsatisfactory. In addition, the DRC cannot issue any Codes of Practice.

The Minister claimed in her evidence that neither a lack of awareness of the legislation or the small number of cases is necessarily indicative of a problem meriting additional legislation. We wish to challenge this view and contend that there is a problem and need for additional legislative protection.

In order for disabled people to be able to improve the accessibility of premises (at their own cost) and for controllers of premises to know their responsibilities to disabled tenants, we would like to see specific provisions brought in, firstly to bring housing within the DDA, and secondly to ensure the following;

- That disabled people are given a right to make reasonable changes to communal areas of buildings to facilitate their access.
- That landlords be required to address the needs of all tenants when performing works such as the installation of entry systems or changes to the approach of premises.

9(b) What should the Government do to encourage best practice by those who design and build homes in meeting the needs of disabled people?

The Welsh Assembly has funded research by RNIB Cymru into the housing design requirements of visually impaired people, leading to two publications 'Housing Sight' and 'Adapting Homes'. Housing Sight provides practical advice on building houses that are accessible to people who are blind or partially sighted.

Adapting Homes is a guide to adapting existing homes for people with sight loss. There are over 1.28 million homes in Wales and 35% of these were built before 1919. The guide is a resource for all those involved in providing adaptations to existing homes to meet the needs of people with sight loss.

The Welsh Assembly is currently consulting on new social housing standards, which include design standards recommended in Housing Sight. Central government should take this up for all social housing.

New housing should require lifetime home standards under Part M of building regulations, and should incorporate within this Housing Sight recommendations.

9(c) Should local authorities have a duty placed upon them to create and maintain disability housing registers?

This is a measure that we argued for in our evidence to the Joint Committee and which disability organisations have been lobbying for in relation to the Housing Bill.

John Grooms have conducted research on how a lack of accessible housing is affecting disabled people. A lack of housing registers means

that disabled people are unable to go to one point to seek details of suitable accommodation. In addition, a lack of housing registers means that in many cases adaptations are made to homes to make them accessible, but are then removed for new tenants when a disabled tenant leaves. An accessible housing register would enable greater matching of disabled people to accommodation that meets their needs, making the most use of adapted premises and getting value for money out of those adaptations.

10) Commission for Equality and Human Rights

10(a) Is the Government right to want to integrate the DRC into a new Equality and Human Rights Commission?

We recognise the case that has been made for the establishment of the CEHR in terms of a desire not to create new Commissions for religious belief, age and sexual orientation. However, in our response to the White Paper we outlined a number of concerns regarding the funding, structure, powers and governance of the CEHR.

We believe that the government is only justified in wanting to integrate the DRC to the extent that the following are assured;

- The budget of the disability strand remains at or above current levels for the DRC.
- Enforcement and investigation powers in relation to conducting inquiries, issuing compliance orders and taking goods and services and employment cases on behalf of disabled people must remain at their current levels or be enhanced within the CEHR.
- Representation of disabled people must remain or be enhanced from its current level within the DRC.
- A Single Equality Act must be passed to harmonise legislation for all the strands, giving a level playing field on which the CEHR can begin its work.

10(b) Are the safeguards which the Government is offering adequate?

We believe that the assurances contained within the White Paper are not adequate. Having said that, Ministers have recognised the almost universal concern expressed by respondents to the White Paper on issues such as funding, representations and legal and enforcement

powers⁹. When a Bill is introduced into Parliament we, individually, and as a member of consortia, will seek amendments to the Bill in order to address the concerns of our members and other stakeholders.

10(c) If they aren't, how should the interests of disabled people be especially protected within the new Commission?

We feel that the interests of disabled people have been recognised and protected in some respects, but not others.

The government has recognised the special nature of disability, in that we are not just tackling attitudinal prejudice and discrimination, but also the need to make environments, processes and information accessible. This need for physical change in the environment is the defining characteristic of the disability strand and has been protected through the proposed establishment of a disability committee and the appointment of a board member who has or has had a disability.

However, other measures that should be taken to protect the interests of disabled people have not, and we would argue for the following:

- **A Single Equality Act**

Existing equality legislation for all the strands needs to be harmonised in one Act to ensure that the CEHR can work effectively for all the groups it will represent. If there is no Single Equality Act then we will see the CEHR having to work across strands with different levels of legal protection for those groups, leading to competition between strands keen to improve their legislative protection. This would create rivalries and tensions within the CEHR, distracting it from its goal of cross-strand working.

If the government intends to go ahead with the merger minus a Single Equality Act, leaving strands with different levels of legal protection, we hope this indicates that the plan is to have separate policy functions for each of the strands, as each differs in its legislative protection outside of a Single Equality Act. This is the Federal Model that many disability organisations have been arguing for since the debate on a CEHR began.

⁹ Assurances on these issues were given by Jacqui Smith MP at a Unison fringe meeting at the Labour Party Conference on Tuesday 28 September 2004.

11) Final Questions

11(a) What can the Government do to make all forms of information and media more accessible to disabled people?

Customer and Citizen information should as a matter of course be made available promptly on request in a range of accessible formats, as well as being available in accessible forms on accessible web sites. The Disability Discrimination Act 1995 can be used to back up such a demand, but going to court should be a last resort. All Government and other public bodies should adopt Best Practice in this area, and this should be reflected in all Government policies and practices.

Blind and partially sighted people also face a dearth of accessible books, newspapers and magazines in the realms of education and life long learning, leisure reading and material for daily living, hobbies and interests. This barrier is also faced by others with a reading related disability, such as people with dyslexia. This is a serious form of social exclusion.

Research recently completed by the Library and Information Statistics Unit at Loughborough University, on behalf of the Right to Read Alliance, to be released in November 2004, shows:

- Only 4.4% of a randomly selected cross-section of books published between 1999 and 2003 are available in any accessible format: braille, large print, or audio.
- Fewer than 3% of the titles surveyed were available in any given format. Since few visually impaired people can read all accessible formats, this figure is closer to the reality faced by most people with sight loss.
- Only 13% of junior fiction titles are available in any accessible format, meaning that all children with sight loss are denied over 8 books out of every ten.
- Fewer than 2% of the cookery and gardening titles surveyed are available in any accessible format.

Please note that these findings are embargoed until 16 November 2004.

Furthermore, it is rare for an accessible title to appear at the same time, or even with a few weeks of the original publication. People needing a particular title for, say, a course of study, may face long delays in getting an accessible format version because of the limited resources of the voluntary sector, who undertake the vast majority of transcription work.

To alleviate this problem, we recommend:

1) Increased state support for production of accessible information.

Acceptance by Government that it is a legitimate and indeed valuable use of public funds to give significant support to commercially unviable accessible formats. Currently, there is virtually no direct Government funding of this activity.

2) Collaboration between sectors

Closer collaboration between the publishing industry and bodies such as RNIB, to take full advantage of modern technology and build trusted environments in which electronic source material can be made available to the producers of accessible formats. This would cut down significantly on the amount of work currently required, and could make more titles available more promptly. However, this too requires money: it is unrealistic to expect publishers to fund all this and unreasonable to ask the voluntary sector to do so.

As a first step, we are calling on Government actively to support pilot projects between ourselves and the publishing industry, and to set up a high level task force, with membership drawn from Government, publishers, booksellers, authors and the voluntary sector to formulate a national plan to end the massive shortage of accessible format information currently experienced by all those with a reading related disability.

At the moment, we are pursuing voluntary agreements with the publishing sector. However, once the most effective ways of operating have been established, government should be prepared to back this up in due course with legislative powers to ensure that suitable electronic versions of publications are made available to a central repository, to which bona fide agencies would have access. This, too, would require funding to manage and administer.

One way in which public money might be supplemented would be a small levy on the sale of print books.

Education

In the schools sector, there is plenty of evidence to suggest that funding and organisation are failing to guarantee pupils with sight loss the same material as their class mates, in the right format at the right time. The total delegation of responsibility to school level needs to be reviewed. The resources needed to meet children's rights under SENDA need to be marshalled regionally or centrally.

11(b) How could the tax and investment system be reformed in ways which would help disabled people?

It is in the interests of publishers, authors and people with a reading related disability to promote a viable commercial market in accessible formats. We recommend:

- That tax breaks be designed for publishers who publish large print, unabridged audio or other accessible forms of their titles (or of others' titles).
- The Government should work within the European Union to change VAT rules so that reduced rates can be applied to audio books, bringing them closer into line with print material. People who have to read through a particular format should not be discriminated against because of that.

11(c) What can the Government do to help the voluntary sector and charities, and reduce bureaucracy and red tape?

We would value the opportunity to discuss issues around this question separately as they go somewhat beyond the scope of the consultation and our response would be too lengthy to include in such a broad consultation.

11(d) Where can best practice in Britain be found, and how can Government learn from it?

The problems described above, in relation to accessing information, are national in nature.

Within the public library sector, there is a wide diversity in levels of service. Some authorities (such as Portsmouth) have won prizes for particular initiatives, while others refuse to do more than stock a few audio titles. In particular, a number of local authorities refuse to pay subscriptions to the RNIB Talking Book Service, thus denying access

through the “free” public library sector to a significant proportion of the accessible titles available.

Low Vision services

The National Eye Care Services Steering Group has established pilot schemes in Gateshead, Barking, Dagenham and Havering. These pilots are establishing new ways of utilising the skills of optometrists, carrying out procedures in the High Street that would otherwise have had to take place in the Eye Hospital, subject to waiting lists. Using the skills of optometrists has harnessed extra capacity and reduced waiting times which is essential when treating eye disease that can cause sight loss within months of diagnosis.

Referral times have also been lowered with optometrists able to refer patients directly to the Eye Hospital if necessary without the patient having to go back to their GP for an onward referral.

11(e) Where is best practice abroad to be found, and how can Government learn from it?

Access to information

In the United States, The National Library Service for Blind and Physically Handicapped People receives Federal funding of over \$50m a year. This is mostly spent on the production of braille and audio material, which is then distributed through a network of regional outlets. NLS does not, however, have a monopoly and other bodies such as Recordings for the Blind and Dyslexic (RFBD) still flourish.

Scandinavian countries generally fund the bulk of their accessible format production from Government funds, channelled through specialist agencies.

Tackling Hate Crime against disabled people

Most studies on hate crime do not include hate crime committed against disabled people and the lack of statistics hampers work on this issue. It would help if the fact that people were disabled, together with their access needs was included in the data when a person's details are entered on to the police computer as a victim or perpetrator. We are pleased that the Metropolitan Police are going to address this issue and we hope that other police forces will follow soon.

In the United States, legislation¹⁰ requiring data collection has proved to be a powerful mechanism to confront violent bigotry against individuals on the basis of their race, religion, sexual orientation, or ethnicity, and has increased public awareness of the problem and, as a result, an increase in the reporting of those offences.

The Department of Justice has established a new freephone number for reporting complaints of hate crimes. Studies have demonstrated that victims are more likely to report a hate crime if they know a special reporting system is in place.¹¹

In the United Kingdom the Metropolitan Police Community Safety Unit, who record hate crime, flag up hate crime committed against disabled people and have recorded 80 incidences of disability hate crime since the Metropolitan Police started to collect statistics earlier this year.

In contrast a failure to collect statistics can give the impression that the issue will not be taken seriously, leading to under reporting. A survey of 129 people with a disability and/or a medical condition for **Hate Crime Against Disabled People in Scotland: A Survey Report**, published in March 2004, found that 40 per cent of those who had been victims of hate crimes did not report them to the police. Of those who did report the attack to the police one in five said that the police did nothing as a result and three-quarters said that the police had taken details of the attack but were unable to do anything.

¹⁰ Hate Crimes Statistics Act (1990)

¹¹ Anti –Defamation League (2001)