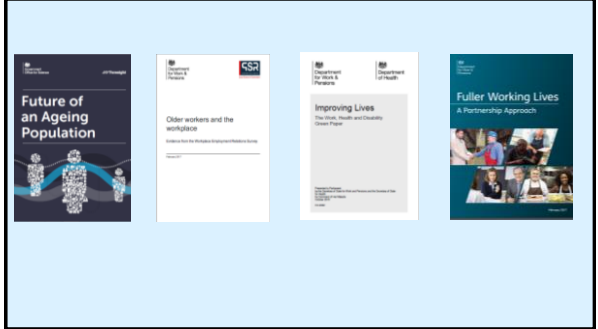


DISABILITY DISCRIMINATION IN THE WORKPLACE

Ralph Fevre, School of Social Sciences, Cardiff University, UK
fevre@cardiff.ac.uk



- With an ageing population and increased expectations of human rights we might expect more and better jobs for disabled people and those with health conditions.
- As workforces age, the proportion who are disabled or have health conditions rises.
- Access to work for all sections of the population is often at the centre of increased expectations of human rights and frequently emphasised in equality legislation and public policy.
- The UK provides a useful case study of the difficulties of meeting these expectations.
- There are 400,000 more working age disabled people in the UK than there were in 2013, taking the total to more than 7 million.
- Almost 1 in 3 working-age people in the UK have a long-term health condition and around 1 in 5 has a mental health condition.
- However, there is still formidable barriers to disabled people and those with health conditions entering, remaining and progressing in employment.

- In the UK there is a 32 percentage point disability employment gap and 150,000 disabled employees leave work every 3 months.
- Those who remain in work have significantly lower pay, less satisfactory work and poorer prospects of advancement.
- The latest UK report from the UN Committee on the Rights of Persons with Disabilities notes widespread ignorance of the rights of disabled people and the almost total failure of government policy to address these issues.
- In a recent green paper the UK government shows signs of accepting that employers may be part of the problem.
- This paper reports on robust, representative research which shows that in the UK, there is institutionalised discrimination against disabled employees which is largely hidden from those employees and, until now, from policymakers.
- The seemingly individual problems disabled people encounter in the workplace are part of a wider and more systematic pattern of less favourable treatment.

- Reliable and robust survey research shows disabled people know they have a hard time at work, including being less favourably treated, *however they rarely think this has anything to do with disability.*
- Simply asking people if they have suffered disability-related discrimination is not a reliable way to measure the size of the problem society faces or to identify the real causes of the disability employment gap.
- Disabled people are not responsible for this lack of recognition. There are two main reasons why they don't see the contribution of discrimination to disabling them.
- These are the assumptions which disabled employees share with non-disabled employees about (1) the behaviour of employers (2) the relevance of the law to this behaviour.

The Fair Treatment at Work Survey Evidence

Barely 3 per cent of disabled people reported receiving unfair treatment *because of their disability*. A little less than 3 per cent reported disability discrimination.

Amongst all employees the proportion reporting unfair treatment or discrimination was 13 per cent and 7 per cent respectively.

The Survey Evidence

- So the proportion of disabled people reporting unfair treatment or discrimination in employment because of their disability was actually *lower* than the proportion of all employees thinking they had experienced unfair treatment or discrimination.
- What did disabled people think was behind the greater part of their unfair treatment or discrimination?
- Like other employees, they understand their problems as personal to them, and their employment situation, and not as part of a systematic pattern in which many other disabled employees are similarly treated.

In Fact There Is Overwhelming Survey Evidence For Such A Pattern

- In the Fair Treatment survey disabled employees experienced all of the problems that other workers experienced, only more so.
- They were nearly *twice as likely* as non-disabled people to have a problem with their employment rights.
- They were *more than twice as likely* to experience a combined measure of bullying and harassment, sex harassment, and other serious problems affecting health or wellbeing.
- They had problems with holidays, rest breaks, number of hours or days worked, pay, contracts, set procedure for a complaint, set procedure for a grievance (11 per cent versus 4 per cent), health and safety (again, 11 per cent versus 4 per cent), sick leave or pay, retirement.

Other Types of Ill-treatment

- The kind of ill-treatment that featured heavily for disabled workers was closely related to employment problems (and PCPs), for example items like 'pressure not to claim something you are entitled to' and 'your employer not following proper procedures'.
- In the Fair Treatment Survey disabled workers were significantly more likely to suffer all of seven different types of ill treatment them. For example, they were more likely to report all of the following occurring *monthly or more often*: employers ignoring their own procedures (9 per cent versus 2 per cent), being treated in a disrespectful or rude way (11 per cent versus 6 per cent), being humiliated or ridiculed (4 per cent versus 1 per cent).

Another Survey: the British Workplace Behaviour Survey

- Complaints about their employer not following proper procedures were made by 1 in 5 of all workers but by a third of those with a disability or long-term illness and 4 out of 10 of those with a psychological/learning disability.
- Yet *only 4 per cent of the disabled workers* considered disability to be a factor in their experiences of ill-treatment at work (despite being given a free choice to say as many factors as they liked).
- And *only 9 per cent of disabled workers* felt that those experiences had anything to do with long-term illness or other health problems.
- Hardly any of them thought they were suffering from discrimination.

So How Did They Explain Ill-treatment?

- The majority of disabled workers put their ill-treatment down to the nature of the workplace; for example, citing 'it's just the way things are at work', their position in the organization or their performance at work.
- So, disabled employees see their problems with ill-treatment as consequent on features of their employment situation rather than experiences they have in common with disabled workers in other employment.
- This is wholly in keeping with the suggestions that disabled employees think British employers rarely discriminate and believe that equal treatment is fair.

Once Again The Survey Evidence Contradicts these Assumptions

- Being disabled had a far greater effect on ill-treatment recorded in the BWBS than any other factor. The only other protected ground that came close was sexual orientation.
- Holding all other things constant, those with a learning difficulty, psychological or emotional condition, had an increased risk of 21 types of ill-treatment that was nearly three times as big.
- The risk for those with other disabilities and long-term health conditions was twice as big.
- The risk for those with physical disabilities was increased by 15 per cent

For Example, Holding Other Factors Constant

- People with other health conditions are seven times as likely as non-disabled people to be pressured not to claim something they are entitled to.
- People with psychological problems are four times as likely as non-disabled people to be treated unfairly in the workplace.
- Both of these types of employee are more than three and a half times as likely as non-disabled people to experience their employer not following proper procedures.

The Implications for Regulation

- Equality legislation which relies on employees recognizing they have suffered discrimination cannot be effective when employees do not view their experiences using the lens of discrimination.
- There are obvious measures which could be taken to improve the effectiveness of the legislation but it by no means certain that the basic design of UK anti-discrimination legislation is fit for purpose.
- Other aspects of regulation than equalities legislation may be of help here, for example the regulation of sickness absence is a source of trouble for disabled employees in UK workplaces.

Some Conclusions

- UK employers have a short-term financial incentive to reduce sickness absence and disabled people are more likely to be forced out of their jobs for this reason because they are more likely to be absent.
- For years, UK policy makers have been as obsessed by levels of sickness absence as the employers.
- But no UK government has considered the most straightforward solution: paying for sickness absence out of taxation so that employers do not see short-term gain in dismissing disabled employees.
- And there are several other respects in which UK regulation of statutory sick pay does far less to keep disabled people in work than the regulatory approaches used in other European countries.