A report by Leigh Day into the experiences of disabled people in the workplace

There are over 6.9 million disabled people of working age in Great Britain, nearly a fifth of the total working-age population. Despite progress in anti-discrimination legislation and social attitudes, disabled people are still significantly disadvantaged in the workplace.
FOREWORD BY EMMA SATYAMURTI,
SOLICITOR, LEIGH DAY

There are over 6.9 million disabled people of working age in Great Britain, nearly a fifth of the total working-age population¹.

Despite progress in anti-discrimination legislation and social attitudes, disabled people are still significantly disadvantaged in the workplace. According to the Labour Force Survey, in 2012 46.3% of working-age people with disabilities were employed as compared with 76.4% of working-age non-disabled people, a difference of 30 percentage points or 2 million people². And the gap used to be even wider.

A decent job provides more than a salary; it provides a role, not just in the narrow sense of the job description but also in terms of a purposeful connection with other people and contributing to a shared enterprise. At a basic level, getting a fair wage in return for work you have done is a confirmation that you have value in the world. Other forms of recognition, such as career development or simple appreciation, are also validating. If you are struggling with a disability, long-term unemployment or underemployment can impose a doubly heavy burden, in terms of financial poverty and also through the pain of social isolation and low self-esteem. And there’s a high cost to society too, in the economic drain of wasted talent, lower tax revenues, and higher welfare costs.

Of course not all disabled people are in a position to work, but for too many people the obstacles are caused not by their disability but by barriers to and in the world of work. In our employment practice at Leigh Day, we see at first hand the very real damage caused to our disabled clients by the difficulties they face in the workplace. We see, for example, the impact the rigid attitude of managers to flexible working has on clients trying to manage the effects of mental ill-health or chronic pain; or how the refusal to provide technical support such as specialist software can prevent an employee with dyslexia working to their full potential; or generally how an unsympathetic and unconstructive approach by employers to the needs of disabled staff can make the difference between keeping them in productive work and forcing them onto long-term sick leave.

Reflecting on the obstacles faced by our individual clients, we wanted to explore the question of how disabled people fare in the workplace more broadly, to understand the human realities behind the statistics and to see if our clients’ experiences reflect wider trends and patterns.

In order to explore the feelings of disabled people in relation to discrimination and work, we decided to quantify the work-related experiences of disabled people, and the impact they feel these have on their lives. We commissioned an independent nationally representative survey amongst 2000 people in April 2014, and found that 20 years after the Disability Discrimination Act came in, it’s still a nuanced picture. Some conclusions surprised us, but sadly other findings reinforced the picture already familiar from the concerns and difficulties our clients bring to us.

Emma Satyamurti, Employment and Discrimination Solicitor, Leigh Day

¹HSE website http://www.hse.gov.uk/disability/facts.htm
SUMMARY

Our research examines the views of working age people in Great Britain whose disabilities affect their ability to work, and which bring them within the scope of the Equality Act (the current incarnation of the Disability Discrimination Act). That’s approximately 4 million people, or 1 in 8 of a workforce of 32 million.

Despite progress in anti-discrimination legislation and social attitudes, disabled people are still significantly disadvantaged in the workplace.

• Our figures show that around 1 in 5 of these disabled people feels unsupported and discriminated against, on a range of measures. This result suggests around 800,000 disabled people in Britain feel they are being/have been discriminated against in employment.

• Nearly half of our respondents who might apply for a new job said they would not feel confident in disclosing a disability when applying for a job.
  » 3/4 of the sample gave their reasons for lack of confidence as being around fear of discrimination, not personal factors such as ‘embarrassment’.

• About 2/5 of those with a disability whilst in employment have asked for adjustments. Personal feelings (e.g. ‘not wanting to draw attention to disability’) are prominent in reasons for not asking.

• Less than half of those asking for adjustments received everything they requested, and nearly a third reported that they received no help or received very little help following the request.

• Of those with a disability whilst in employment:
  » One in six do not/did not feel supported by colleagues,
  » One in four do not/did not feel supported by their employer/senior management.

47% would not feel confident in disclosing their disability when applying for a new job

THAT’S 1.6m PEOPLE

Disabled? □Yes □No
RECOMMENDATIONS

In light of our survey findings we think the following examples of best practice would make a real improvement in disabled people’s access to work opportunities if employers applied them more widely:

- Clear and well-publicised policies on the right of disabled employees to reasonable adjustments;
- A proper process for discussing possible adjustments with disabled employees;
- Obtaining specialist advice relevant to the specific disability, eg a dyslexia assessment;
- Training for managers in how to manage staff with disabilities sensitively;
- More flexible sick leave policies;
- A flexible approach to working hours and location where possible;
- A ‘can-do’ approach, focusing on what the disabled person can do and how to maximise this rather than on what they cannot do;
- Raising awareness of mental health issues to reduce stigma.
DISABILITY DISCRIMINATION IS STILL A BIG ISSUE IN THE WORKPLACE

How big a problem?

Our survey found nearly one in three people (30%) describe themselves as disabled in some way, and about half of these said their day-to-day activity is limited as a result. Those who have impairments tend to be older (55% above 65 years old), and have lower educational attainment (49%), which means that more of this population would naturally be more susceptible to unemployment.

However, it is a stark reminder of the harsh reality of disability at work that even looking just at people of working age, less than half of disabled people are in employment, compared with three quarters of working age non-disabled people.

Chart 1: Do your health problems or disabilities, when taken singly or together, substantially limit your ability to carry out normal day to day activities?

Base: All respondents (2,113)
DOES BEING OPEN ABOUT DISABILITY DAMAGE YOUR JOB CHANCES?

Our research sample showed that 60% of those with an activity-limiting impairment were of working age. However when we asked them about applying for jobs, 30% said they were not very confident, or not at all confident, in disclosing their disability, and this rises to nearly half of those who are active in the job market. It is positive that nearly half were confident enough to be open, but the number who were not is still too high for complacency and suggests that considerable stigma still attaches to being disabled.

Chart 2: If you were applying for a job how confident would you feel in telling the employer about your health problem/disability when applying?

<table>
<thead>
<tr>
<th>Confidence Level</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Very confident</td>
<td>23%</td>
</tr>
<tr>
<td>Fairly confident</td>
<td>25%</td>
</tr>
<tr>
<td>Not very confident</td>
<td>19%</td>
</tr>
<tr>
<td>Not at all confident</td>
<td>28%</td>
</tr>
<tr>
<td>Don’t know</td>
<td>3%</td>
</tr>
</tbody>
</table>

Base: All with disability/long-term illness limiting their daily activities and able to work (219)

Those who are least confident are:

People with mental illness

In our experience, mental illness still attracts particular prejudice amongst the general population. It is therefore of no surprise to us that this group should have the least confidence in disclosing their condition. The irony is that the adjustments (if any) needed by people suffering from mental ill health to support them at work are often, in our experience, the least costly to the employer. A sensitive and supportive attitude, and a measure of flexibility over issues such as working hours, may be all that is required.

People who (feel they) have already experienced discrimination

Once bitten, twice shy, indeed. As we’ll show later, fear of discrimination is often based on the reality of experience, and these applicants have learned that it’s better not to reduce their chances of being considered for the job by being open.

The reasons for this lack of confidence are hard-headed and practical. Well over half stated that they felt disclosing their disability would reduce their chance of getting the job or that they would be discriminated against. Less than one in five said that they didn’t disclose because of personal factors such as ‘embarrassment’.
REASONABLE ADJUSTMENTS?

We were pleased to see that nearly half of disabled people in work had asked for reasonable adjustments. However, that still leaves a significant number not feeling able to ask for adjustments, and our results also suggest that some groups are less confident than others in asking for what they need.

Younger and better educated people are more likely to ask for adjustments

Unsurprisingly, those who have asked for adjustments are more likely to be in groups which might be expected to be more self-confident and / or assertive, i.e. those whose working lives have been largely or completely protected by disability discrimination legislation, and those with higher educational attainment.

Younger people

If you are under 35, your entire working-age life has been covered by disability equality legislation. We see that among people aged 16-34 the proportion who have asked for adjustments is nearly half (49%).

Between ages 35-54 the figure is 46%, falling to only 29% amongst people aged 55-64. Among people aged 65+ it was only 7%, but this is largely because they were not disabled when they were working.

If you have lived most of your working life without the expectation of change, you are perhaps less likely to believe it’s worth asking. We would hope that as the working population ages and fewer people have spent a significant part of their working life without the benefit of disability discrimination legislation, confidence will be more evenly spread across the different age groups.

The better educated

One of the benefits of education is to build self-esteem and confidence, and this shows in our survey. Those with higher educational attainment (degree/post graduate) are more likely to have asked for workplace adjustments to be made than those with medium level education. People with a medium education level are in turn more likely to make a request that those with low educational attainment. Are you more likely to know your rights if you are better educated?

People with previous experience of discrimination, and those suffering from mental ill health, are also more likely to ask for adjustments

Perhaps less predictable were our findings that those who felt they had previously faced discrimination, and those with mental health difficulties, were also more likely to request adjustments.

People with personal experience of discrimination

We see resilience amongst our clients which is reflected in this sample. Feeling that they have been discriminated against at some point in their working lives is a feature more common amongst those who have asked for adjustments to be made. It’s as though this group is used to fighting and has become battle hardened, and is therefore more willing to press for what they need.
People with a mental health condition

It was interesting that although mental illness presents a particular barrier to disclosure when applying for jobs, it doesn’t seem as likely to deter those already in work from asking for adjustments. Perhaps this is because the adjustments sought are often about ‘soft’ features of working life like hours and flexible working, and not more obviously costly physical adjustments.

Personal factors seem to make it more difficult to ask for reasonable adjustments. 7% of our disabled sample had not sought adjustments because of ‘not wanting to draw attention to disability’, or because ‘it would be embarrassing’. But we believe it’s possibly not just about personal feelings. People may fear being sacked or marginalised if they draw attention to their disability where its existence is not already known to the employer.

Finally, only 2% thought it would not be worth asking for adjustments because the request would be rejected, which gives some cause for optimism.

You might not get what you ask for

Disabled people reported mixed responses from employers when they asked for adjustments. Two fifths of those who requested adjustments got everything they asked for. A further quarter got some of what they requested, but not everything. So you have two chances in three of having some changes made to your working environment if you ask, but that still leaves one in three of our disabled respondents who asked but saw no adjustments, or very few adjustments, made to their working environment to accommodate their disability. Good odds for the Grand National, but your employment rights shouldn’t be a gamble.

Chart 3: Which of these terms best describes what happened as a result of your request for adjustments?

<table>
<thead>
<tr>
<th>Term</th>
<th>Percentage</th>
</tr>
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<tbody>
<tr>
<td>Everything</td>
<td>41%</td>
</tr>
<tr>
<td>Some but not all</td>
<td>27%</td>
</tr>
<tr>
<td>Very little help</td>
<td>14%</td>
</tr>
<tr>
<td>No help</td>
<td>17%</td>
</tr>
</tbody>
</table>

Base: Those saying that they have asked for adjustments (100)
MOST FEEL SUPPORTED, BUT ONE IN FIVE DON’T

A main focus of our survey was to establish how workplace attitudes affect people like our clients. We sought to find out how disabled workers felt their colleagues and senior managers treated them.

Many of those surveyed did not feel that they had encountered any lack of support since the disability had not affected them at work, either because of the job type, or because the disability had arisen after they had stopped working. We excluded these responses, and looked in detail at those who had a disability affecting them whilst at work.

Most workers support their disabled colleagues

It was a pleasant surprise that two thirds of those who responded said their colleagues were very or fairly supportive. We believe this shows that workplace attitudes are progressing, and that the contribution of disabled people is on the whole acknowledged and valued.

But there is still a worryingly significant minority who do not / did not feel supported by colleagues: nearly one in six felt their colleagues were not very, or not at all, supportive.

Chart 4: Which of these best describes the attitude of your colleagues and employer towards your health condition or disability? (If not currently working, think about your last employment).

Base: All with disability/long-term illness limiting their daily activities and able to work (219)
Workplace equality is still a considerable way off with this level of alienation being reported. Where respondents ventured a reason why they felt this way, themes seemed to be culture, ignorance and indifference: ‘culture / not the workplace culture to be supportive’; ‘no understanding of my disability /problems’; ‘they had their own problems / weren’t interested’.

Culture and ignorance are management issues: employers need to take responsibility for educating themselves and their staff about disability issues

**One in four disabled staff do not feel supported by their manager**

Although just over half of employers and managers are also supportive of their disabled workers, there is less support than amongst colleagues. One in four of disabled workers does not/did not feel supported by their employer or senior management (one in six for colleagues)

It was more difficult to establish why this should be. Most of our respondents were unable to explain why there had been a lack of management support, although again an unsupportive working culture, and lack of interest, emerged as themes.

**26%**

of disabled people in work **don’t feel supported by employers**
DISCRIMINATION HAS NOT GONE AWAY

It is still widespread in the workplace

There have been great strides in workplace equality for people with disabilities, but it would be a mistake to think that discrimination has been swept away by equalities legislation, important though that has been. Our survey shows that for the 4m people of working age with a disability, one in five has definitely/possibly felt discriminated against in employment. That’s nearly 800,000 people! If someone proposed to discriminate in the job market against the population of the County of Nottinghamshire, the nation would be up in arms. But because disabled people are spread throughout the UK, and often fall within the most marginalised groups, the impact of this discrimination is less visible.

At Leigh Day we believe it is time for the discrimination to stop, and we are campaigning with organisations representing people with disabilities to challenge injustice and prejudice, whatever form it takes.

Chart 5: Have you ever felt that you have been treated unfairly, or discriminated against in employment, because of your health problem or disability? Please think about past jobs, as well as current and recent jobs.

Base: All with disability/long-term illness limiting their daily activities (373)
**Discrimination blights life chances and wastes talent**

Discrimination is still stopping disabled people from participating fully in the workforce. This creates a pool of people who do not benefit from the life-affirming benefits of work, who are forced to rely on state benefits, and who cannot contribute to GDP growth or pay taxes. Their potential contribution is also wasted, to the detriment of employers and society generally.

One in five has definitely/possibly felt discriminated against in employment, and a similar proportion believed they had been discriminated against when applying for jobs. This means that significant numbers of disabled people report that they are being kept out of the workforce, or are having their career opportunities curtailed, because of prejudice or a failure to accommodate their needs.

We think that it’s a terrible waste of talent to deny 800,000 people fair employment opportunities.

**Chart 6**: Have you ever felt you have been treated unfairly, or discriminated against when applying for jobs, because of your health problem or disability? Please think about occasions in the past, as well as current and recent jobs.

Base: All with disability/long-term illness limiting their daily activities (373)
THE PERSONAL COST OF DISCRIMINATION

While we expected to see the price of discrimination showing as exclusion from the job market, what we were not prepared for was to see the cost of discrimination on the individual’s health. One of the biggest reported outcomes of the discrimination was ‘my health suffered as a result’.

There was a wide range of hard job-related outcomes, and the chart below shows the extent of the problem. It may be possible for employers to rationalise or explain these away, but it is difficult for a caring society to ignore the human cost revealed in these figures.

**Chart 7: Which of these describes what happened as a result of the unfair treatment or discrimination?**

<table>
<thead>
<tr>
<th>0%</th>
<th>5%</th>
<th>10%</th>
<th>15%</th>
<th>20%</th>
<th>25%</th>
</tr>
</thead>
<tbody>
<tr>
<td>I did not get the opportunities that I should have done</td>
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<tr>
<td>I was unable to carry on with the job I was doing</td>
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<tr>
<td>My health suffered as a result of the way I was treated</td>
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<tr>
<td>I was turned down/my application was unsuccessful</td>
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<tr>
<td>My career did not progress as it should have done</td>
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<tr>
<td>My boss was not supportive</td>
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<tr>
<td>I didn’t get an interview</td>
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<tr>
<td>I could not participate fully</td>
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<tr>
<td>I was not given the opportunity to prove myself</td>
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<tr>
<td>My income was lower than it should have been</td>
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<tr>
<td>My request for a reasonable adjustment was refused</td>
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<tr>
<td>My colleagues were not supportive</td>
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</table>

Base: Those answering ‘Yes, definitely’ or ‘Yes, possibly’ at either Chart 5 or Chart 6 (20)
CONCLUSIONS

As we can see in our survey there are many examples of good practice, supportive colleagues and employers, and we feel that real progress is being made, almost 20 years after disability discrimination laws came into force.

Most disabled people are not routinely discriminated against when they apply for jobs, or at work. Most of them receive support from their colleagues and managers to deal with the impact of their disability on their work life.

These are encouraging findings.

However our survey demonstrates that there is still a significant minority of disabled people who face unfair barriers to full (or in many cases, any) participation in employment, and whose right to equality is blighted by discrimination at work.

We have identified that 800,000 disabled people face discrimination at work in its many forms. There is a hard economic case to be made to address this discrimination: these people are worth £16bn to the economy of the UK (Leigh Day calculations based on average earnings).

It’s a huge wasted workforce.

But for us, one of the most striking findings of our survey is the impact discrimination is having on disabled people’s health. Is it a sign of a caring society to make life worse for some of its most vulnerable workers?

So, nearly 20 years after the Disability Discrimination Act first prohibited disability discrimination, Leigh Day will continue to fight for equality for disabled workers, and will campaign with other organisations wherever we perceive we can improve the life chances of those facing discrimination at work.
APPENDIX 1: METHODOLOGY

Research objectives

• To provide data which explores the difficulties faced by disabled people in the workplace, and the impact they feel these difficulties have on their lives.

• The data will explore the feelings of disabled people concerning the attitudes of employers and colleagues.

• Be repeatable to allow follow up in future years

Research method

• This is quantitative research, using an omnibus survey provided by GfK-NOP

• The survey was UK wide, interviewing 2113 adults

• Fieldwork took place between April 10-15, and May 8-13, 2014

• Interviewers were sent to randomly selected streets and door-knocked, working to “quota targets”

• The questionnaire was scripted in specialist questionnaire software, and administered on a laptop

Age

• The prevalence of impairment/disability increases with age

• Our sample of people with impairments affecting their day-to-day activities is therefore older than the population in general

  » 16-34 = 43 people
  » 35-54 = 95 people
  » 55-64 = 72 people (note narrower age band)
  » 65+ = 163 people

• Total = 373 people with impairment affecting day-to-day activity

• If not currently working, disabled respondents were asked to think about previous employment when answering questions
“THE PURPLE WORKFORCE - A report by Leigh Day into the attitudes of disabled people on their role in the workforce” - is a paper published by law firm Leigh Day in October 2014.