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Dear Colleague,

Public Consultation; Improving Specialist Disability Employment Services

UNISON is pleased to offer its views to the above consultation. We have had, from our creation in 1993, an embedded autonomous structure for under represented groups (disabled, black, women and lesbian, gay, transgender and bisexual) members. This extends to all levels of our structures. Nationally we have a bespoke structure of disabled members who advise the union on policy matters, it is unique in that it deliberately involves members who are disabled and black, lesbian gay bisexual and transgender, women and deaf people (who's first language is British Sign Language); our members were involved in this consultation.

We have had long standing concerns about the government's proposals to remove the Access to Work Scheme from public services, indeed the union was so concerned that almost two thousand delegates at our National Delegate Conference last year voted for the union to campaign against threats to our members jobs. I enclose a copy of UNISON's national policy on Access to Work.

Our members are very concerned that the Department for Work and Pensions does not appear to have met its responsibilities under the Disability Equality Duty. The Code of Practice on the Disability Equality Duty, paragraph 1.22 which states clearly that these general duties apply to Ministers, Government Departments and others.

The general duties apply both to the public functions of public authorities, and to other groups and individuals legally responsible for carrying out those functions(Code of Practice - paragraph 5.14).

Under the Disability Discrimination Act (public Authorities) (Statutory duties) Regulations 2005, SI No. 2996, Sch 1, public authorities are subject to specific duties (including producing disability equality schemes, involving disabled people in the development of such schemes, developing specific, precise and annual reports detailing progress towards achieving disability equality, publishing details of monitoring and evidence-gathering (including how information gathered will be used), and conducting disability equality impact assessments on all current and

future policies, practices and procedures (with a timetable for the former). (Code of Practice paragraphs 3.28-3.42)

The code also advises that best results will be achieved by involving disabled people in such assessments.

It is UNISON's contention that neither the policy proposal to withdraw the Access to Work Scheme from the public sector, nor the consultation process itself complies with the general duty or the specific duties as applied to the Department for Work and Pensions and its agencies.

We suggest that appropriate involvement exercises are undertaken with disabled people before any recommendations are made to Ministers or Parliament.

Yours sincerely

Gloria Foran
National Officer
Membership Participation Unit

UNISON Policy on Access to Work (as agreed by 2007 National Delegate Conference)

Conference welcomes the intention of the government to give greater assistance for disabled people and those suffering ill health who seek access to work. However it notes with concern that part of the government's plans for the reform of Incapacity Benefit and replacement by an Employment and Support Allowance involve A) the potential for sanctions for non-participation in work-related activity; B) the delivery of more programmes for this group by private companies under commercial, outcome-driven contracts and C) that these companies would have the power to make decisions regarding sanctions. It further notes the proposal in the Freud Report for privatising employment-related services for claimants after one year of their claim. UNISON believes that these plans and proposals are unacceptable. It is inappropriate that private companies should profit, and even receive a share of benefit savings, when people get work through the support of numerous agencies, including the National Health Service, as well as their own efforts. Conference recognises the invaluable support available to disabled workers through the government's Access to Work Scheme (ATW). We believe a properly funded scheme could help disabled people stay in work, assist employers to open up job opportunities to disabled people and make public services more responsive to the needs of disabled people.

We share the concerns of sister unions in the civil service where ATW funding has been withdrawn from government departments since October 2006 and the consequences for their disabled members jobs. We commit to fight any attack on ATW services in workplaces where our members are employed.

Conference notes the dire employment prospects of disabled people:

- 1) Only 50 per cent of disabled people are in work;
- 2) One million disabled people without a job want to work;
- 3) The average hourly pay of a disabled employee is 10 per cent less than that of non-disabled people;
- 4) Unemployment rates for visually impaired people stands at 75 per cent, for Deaf British Sign Language users it is 63 per cent, for those with mental ill health it is 80 per cent and only 17 per cent of people with learning difficulties are in paid work.

Conference is also concerned that:

- a) Inadequate resources are available to fully support disabled people into work as part of the government's welfare reform measures;
 - b) Arbitrary reductions in funding available for British Sign Language/English interpreters, resulting in unqualified language services available to deaf public service workers and users;
 - c) The scheme is generally not available to volunteers seeking work experience opportunities;
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d) There has been no expansion in resources particularly to assist employers to meet their obligations under the Disability Equality Duty.

Conference therefore calls upon the National Executive Council to work with the National Disabled Members' Committee to:

i) Lobby government to increase ATW resources to support disabled people coming off benefit and into work;

ii) Reinstate funding for deaf workers' access to qualified and registered sign language interpreters;

iii) Extend the scheme to volunteers seeking work experience in public services;

iv) Expand provision to enable employers to meet their obligations under the Disability Equality Duty;

v) Agree to inform ministers of this position of opposition to sanctions within the Employment and Support Allowance and the privatisation of access to work provision and in particular the potential for private companies to implement sanctions;

vi) Join with other trade unions and campaigning groups to seek to change these provisions and to prevent the proposals in the Freud Report on privatisation of employment services from being implemented.

Public Consultation

Helping people achieve their full potential: Improving Specialist Disability Employment Services

Consultation Questions

19 - If you have recent experience of our Access to Work provision, what aspects did you like the most and do you have any suggestions for improving the service?

Access to Work has been an employment lifeline for many of UNISON's disabled members. Our branches have found the existence of the provision of central government support to our disabled members in removing barriers to their working environment as an invaluable aid to negotiating satisfactory and equitable working conditions. Employers have been much more willing to negotiate adjustments where there has been funding support; local authority employers have been particularly keen to use ATW as a way of managing their responsibilities under Gershon.

UNISON issued ATW guidance to branches 4 years ago and reports tell us it has really made a difference to the support that negotiators were able to offer. The guidance promotes the important role local union representatives can play as well as the valuable part that disabled workers have in identifying reasonable adjustments at work, we know they have often found effective, common sense solutions. However, ATW is underutilised, even in public services. The British Chamber of Commerce has called it "the government's best kept secret" as 74% of employers claimed not to know about it. It is surely one of the best economic arguments for welfare reform; for every £1 spent on ATW the treasury recoups £1.70 in tax and national insurance contributions. ATW is proven to remove barriers at work and has made public services more accessible and available to all and more effective as a result.

Our members propose that DWP should improve advertising the Scheme by using:

- National and local television and radio and other digital media such as government internet bulletins
 - Teletext and Ceefax
 - Broadsheet and tabloid newspapers
 - Direct mailshots to key public sector employers such as local authority social work departments, PCT's as employers of nurses and occupational therapists in hospitals, and educational establishments as employers of disability advisers in universities and colleges
 - Education providers of the next generation of nurses, occupational therapists and social workers should be asked to integrate a module on the ATW Scheme in its induction programmes.
 - Exhibitions at conferences being run by the public sector, employers organisations (such as the Improvement and Development Agency, NHS employers and the Institute of Education) and the TUC and affiliated trade unions.
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One particularly good example of AtW provision concerns one of our members who has a package that he claims provides “unfettered access to work”. Our members have frequently identified the workplace as potentially the most ‘disabling’ part of their lives, and yet one of our member’s ATW packages, along with additional financial support from his UNISON branch, enables him to employ a personal assistant for 30 hours a week. His package enables him to be involved as a union branch secretary and a member of the TUC General Council. In this instance, AtW does not tie our member to one employer, this is helpful as the member negotiates and represents with 100 employers locally, and travels over 6000 miles per quarter. UNISON provides resources for his involvement in the union and to support his participation on TUC business. This member feels it would be utterly foolish to expect that an employer would pay ATW costs and then give an individual carte blanche to work with other employers that don’t pay. He also explained to us that ATW has given him real physical independence to work at the highest political level by removing barriers, this has enabled him to make the transition from his early beginnings in a sheltered workshop to gain a career and a promotion to a Principal Local Government Officer and to have a position on the national stage.

The Disability Rights Commission’s guide on supporting Deaf people (British Sign Language users) offers an example of using ATW as a resource for training hearing people as a reasonable adjustment. The EAT decision in the case of *Simpson v. West Lothian Council* (2004), a case backed by UNISON, found that it was reasonable for the employer to be required to consider offering Deaf awareness training to colleagues of a Deaf worker as a reasonable adjustment. The judgment made it clear that while other staff could not be compelled to undertake such training, it was within the scope of the reasonable adjustment provision of the DDA that the employer should make it available. This ruling is significant in that it makes clear that the adjustment to be considered may apply not directly to the disabled person, but to their work colleagues. We wonder how willing employers will be to meet the cost of such an adjustment without ATW support.

Time has moved on since that important tribunal decision and we are now getting reports from our Deaf members that ATW services are already worsening. We have been advised that Deaf people are not being afforded choice in interpreting services, that they are being offered support from people who are not qualified interpreters but from people who have only a basic knowledge of British Sign Language, (BSL), and that stringent restrictions are being placed on the amount of interpreter support such that interpreters are having to work unhealthy and unsafe situations, and Deaf workers are not able to receive support at times when it is vital for them to be able to access the various aspects of their work and work environment.

The impact on the job prospects for disabled people is massive; failed interviews, accelerated and discriminatory use of disciplinary and capability procedures, lost training opportunities and consequent stagnation in career advancement are signals of worsening employment prospects for Britain’s 70,000 Deaf population. These signals are hardly evidence of the government’s commitment to recognise British Sign Language as the fourth indigenous language of the UK. UNISON members have come to expect quality support at work which many have received in the past.

20 - What can we do to ensure Access to Work is used more effectively to meet the needs of individuals?

As part of this public consultation, we invited members and associates to share their experiences of AtW, there was a number that reported positive experiences of employers making provision directly and routinely however, many reported stressful situations that could have, and sometimes actually have, compromised their positions in the workforce. Examples of responses include:

- Job Centre staff including Disability Employment Advisors are reported as having an inadequate level of knowledge about anti discrimination legislation, contemporary employment practices and the need for, and ways of determining, reasonable adjustments. We suggest that investment is made in training and supporting ATW staff at all levels so they are able to offer an improved service.
 - A burdensome amount of administration on managers, HR and occupational health and health and safety personnel can some times lead to fraught relationships within the workplace – it would be much more helpful to have AtW, in agreement with disabled people and their employers, take more responsibility in the assessment, procurement and installation processes.
 - The quality of specialist ICT and ergonomic equipment recommended for, and delivered to disabled workers varies considerably; it is not unusual to have equipment delivered with little or no advice about installation or use.
 - Management concerns about achieving funding to make provision for internally resourced fares to work for our members and the additional bureaucracy that would be associated
 - Heavy administrative demand on members processing invoices for services they have received such as sign language interpreters and lip speakers
 - Expensive equipment has been delivered that was found to be entirely inappropriate or unnecessary. One example we received referred to equipment that wasn't needed or used in over two years.
 - Inflexibility with the Fares to Work Scheme that result in higher cost for the transport support and a reduction in support to the travelling needs of our members.
 - A mixture of responses concerning the level of consultation with disabled members themselves about the most suitable adjustments. Some reported lack of consultation whilst others reported being offered a range of options with little guidance about how to enlighten the employer about the value of selecting what sometimes needs to be the most expensive option.
 - Members in a variety of occupations have reported extremely long delays in even receiving assessments, even when they have informed AtW in advance of taking up their employment, and even longer gaps between the assessment and the installation of equipment and the availability of the attendant training. Delays of over 12 months are by no means uncommon.
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We believe that binding Service Level Agreements with strict penalty clauses would help alleviate many of these problems.

Members who experience mental ill health are pleased to learn that the DWP intends to improve services as they feel particularly vulnerable to long term unemployment and poverty. We recommend the DWP consults with the TUC and its partners on the matter of supporting people with mental ill health at work on the basis of its excellent forthcoming guidance to affiliate unions.

We would also suggest that Access to Work is extended to provide support for work placements and volunteers in order that disabled people can better demonstrate their full competencies to sponsoring employers and improve their paid job prospects. We would also welcome the Scheme being extended to apprenticeship schemes to support younger disabled people's aspirations for training in a trade and eventual paid work as skilled professionals.

Further attention needs to be given to making the scheme accessible to different communities. Materials need to be provided in different community languages to support the economic independence of those who face multiple levels of discrimination in racism, disability discrimination, poverty and social exclusion. Our members are concerned about high levels of unemployment within some communities and the additional costs associated with impairments prevalent in these communities such as Lupus, Sickle Cell, Thallasaemia, Tay Sacks and so on. It goes without saying that particular attention to promoting the Scheme to the UK's communities should help alleviate poverty through opportunities for paid work and result in greater opportunities to promote community cohesion.

Finally, in line with the DWP's obligations under the disability duty, we would wish to see clear encouragement to all public bodies to utilise AtW in support of formal appointments to public body boards of governments (involvement of disabled people in public life). A dedicated AtW fund allocation to this area, which is likely to include disabled people not necessarily in paid employment, would both demonstrate the Department's commitment to this element of the general duty, and greatly facilitate disabled peoples' opportunities for such involvement.

21 - How would you try to better balance the need for consistency of decision - making in Access to Work across the country with benefits of local flexibility?

DWP should establish direct consultation with organisations like ourselves. UNISON has had, from its creation in 1993, an embedded autonomous structure for 'minority groups (disabled, black, women and lesbian, gay, transgender and bisexual) members. This extends to all levels of our structures. Nationally we have a bespoke structure of disabled members who advise the union on policy matters, it is unique in that it deliberately involves members who are disabled and black, lesbian gay bisexual and transgender, women and deaf people (who's first language is British Sign Language). Our members would be pleased to be involved in providing their wisdom, experiences and evidence of geographic profiles of AtW.

AtW should also maximise opportunities to improve consistency in service provision by forging relationships with the user led organisations that were recently awarded funding under the government's Independent Living Strategy. These organisations

will be able to provide a wealth of experience and expertise about removing barriers to work and provide a more reliable guide to workplace equipment on the market.

We believe that greater flexibility at local level in relation to the approval of funds for increasingly expensive equipment would be helpful. A local senior ATW manager should be able to approve claims which currently have to be dealt with at national level to shorten the gap between application and final delivery, sometimes unacceptably long.

22 - How can we more effectively focus Access to Work on adjustments/support beyond that which an employer should make as a reasonable adjustment under the Disability Discrimination Act?

We believe that AtW should actively and publicly move towards an approach which encourages realistic assessments of need and which discourages the application of minimum criteria. Often, disabled people starting a job are not aware of the barriers they will face, or of the enhancements (duty to consider more favourable treatment) which would encourage them beyond the 'satisfactory' and would enable and empower them to 'realise their full potential'.

We do have concerns about the lack of attention that appears to have been given to developing the services that Disabled people need to achieve equality in work and as citizens. Many Disabled people require more than ramps, they need fully integrated, complimentary accessible services in order for barriers to be removed. As an organisation that has obligations under the DDA we can draw from our experiences of providing adjustments to support our disabled members inclusion and participation. We have witnessed evidence of a growing service provider market that is not fit for purpose, we have on occasions had experience of being duped into purchasing services that have not provided access and have wasted members' potential opportunities to contribute to disability and wider policy development.

We have been for example:

- Been advised that hotel meeting rooms are equipped with induction loop facilities; when these fail, meetings are suspended and the venue owners/managers insist the fault must be due to the malfunction of the member's hearing aid
 - Commissioned language service professionals and been assured that they are providing people of an appropriate standard for the job. Upon evaluation service users have indicated that they were not satisfied with the service as the individuals concerned were neither adequately trained nor linguistically competent; contract compliance is a big concern for us
 - Been offered interpreting services from sign language into Braille even though no such thing exists
 - Been advised of companies offering talking document services that are not tone indexed, or professionally read
 - Found companies offering Braille services that are actually producing hard copy embossed gobbledygook
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In light of our experiences it now goes without saying that we are committed to ensuring our Disabled members can take part in our activities and are very careful about the services we contract. We have had the experience of organising Disabled members for over 25 years and whilst we do not expect them to police access we welcome their feedback and take action as appropriate. We are concerned that employers will not have access to our extensive experience and may fall foul of unscrupulous “cowboy” practitioners and service providers, if AtW is removed from public services.

We urge the Government to pay attention to the important issue of developing qualified, quality assured services that are vetted with the Criminal Records Bureau to support Disabled people’s rights. Government, (and AtW In particular). It needs to be recognised that there is no conveyor belt in the UK waiting to generate new services at the flick of a switch and that investment needs to be made in developing courses in speech to text transliteration, talking document services, BSL/English Interpreting, lip speaking, deaf/blind interpreting, note taking and legible hard copy Braille production, etcetera. We suggest DWP liaises with other government departments about opportunities to expand and regulate services and that contact is made with professional associations, where they exist, disabled people’s organisations, and regulatory and quality assurance organisations (such as the BSI) for advice and evidence of what these standards should be.

23 - Do you believe that we should increase employer contributions to Access to Work adjustments as long as the savings are reinvested in the programme?

No. UNISON doesn’t believe there is any sound rationale for increasing employer contributions either in the public private or third sectors. With stringent Public Spending Round settlements, increased pressure on third sector funds and a severe predicted economic downturn, employment costs are subject to severe scrutiny in all sectors. We believe that disabled people will be seen as an expensive drain on diminishing resources, not least in the public and third sectors where many of our disabled members work or will want to work, and in those parts of the private sector to which public functions and other public sector activities and services are outsourced. Particularly vulnerable are those workers who work in the care services (in either sector), and we believe that disabled staff in this sector would be hit very badly if employers’ costs were to rise in relation to the provision of support to disabled workers.

24- Are there more innovative ways in which we could make better use of the private and third sectors in delivering Access to Work?

We believe that the contribution of both the private and third sectors in delivering assessment and goods, services and training is both a necessity and a procurement minefield. We would wish to see greater formal regulation to deal with the blatant conflicts of interest involved in both limiting the local lists of assessors to ‘preferred providers’, (which limits the choice open to disabled people to use companies who already know their general access needs and the way they and their impairment/s inter-relate), and to eliminate the Cartel-like practices whereby the same companies who provide assessment may also provide the goods recommended and/or the training which is needed to use the recommended equipment or software.

25 - Ministerial Government Departments are now directly funding Access to Work adjustments for their disabled staff. What are your views on other

public sector organisations paying for such adjustments if any savings were reinvested in the programme?

We believe that any such proposal for public sector organisations could ultimately be disastrous for disabled people. In order for employers to fund adjustments directly, resources would need to be saved elsewhere and we feel that ultimately when services are cut they are known to have the greatest impact on the poorest communities, including disabled people's communities. Secondly, if public sector organisations are expected to fund adjustments directly and achieve equality and relieve poverty through meeting their Disability Equality Duty we do not understand how they would be able to do so without employees facing inevitable redundancies.

As stated earlier, many of our members have reported existing good practice within public authority settings where employer contributions are already being made. We are not aware of any reliable business case to withdraw provision and see this as an extension of free market policy that will not lead to greater efficiency in public services or better use of public spending. Had government planned to restructure and increase funding to the public sector to meet some of the costs of supporting disabled workers that would be a different story, but it has not announced plans to do so.

The DDA has been strengthened considerably and individualised employer actions to remove discrimination should become less common. Health and safety standards have a high priority for UNISON but it is a reality that public service workers face all sorts of risks, they may be assaulted at work, become injured by dangerous substances, they may also be diagnosed with a non-work related condition or impairment. Public sector employers will have to deal with the additional costs of administration associated with new systems required to make adjustments for these workers and they will face increased workforce costs and possibly increased allegations of disability discrimination. We also believe that employers and disabled people will find it difficult to get the right advice for the best barrier-free solution. Employers will need financial support and advice about the range of options on the market but without ATW they will be faced with the massive growth of disreputable service providers who may appear to be providing barrier-free solutions but, are in fact, growing fat profits on the back of employers commitment to equality and at the expense of disabled people's rights. The real cost of withdrawing or reducing ATW funding will not be the employer's poorer record in efficiency in public spending, it won't be the re-expansion of the welfare state, the real cost will be the poverty, isolation, creeping unemployment and social exclusion faced by disabled people.

Government has committed to reducing the cost of incapacity benefit by getting disabled people who can work and want to work into paid employment. A significant reason why disabled people have been classified as incapacitated is because there has not been enough investment in ATW for barriers to be removed through adjustments at work. It is ironic that government doesn't recognise the urgent need to expand ATW to support incapacity claimants to take accessible work and at the same time, enable employers to meet their legal duties.

Even with current ATW provision we believe there is a need to regulate, license and standardise services that provide access to disabled and Deaf people. With or without ATW there is a dearth of quality provision, and there is no anticipated rise in the readiness of the market to respond to increased need for support equipment, aids and adaptations. AtW could consider persuading manufactures of standard

equipment (such as fire alarms and computer equipment) to build accessibility into these baseline products rather than encouraging the gross over-charging experienced by disabled people requiring 'specialist' equipment (e.g. flashing alarms and accessible SatNav equipment). We have alluded to the need for capacity-building to train BSL/English Interpreters, lipspeakers, personal assistants and other service providers required as part of a package of reasonable adjustments. Indeed, we recommend an increase in funding for public sector organisations to train HR professionals and line managers in the importance of adopting a proactive role in working with disabled workers in identifying and overcoming physical, environmental and organisational barriers in the workplace, and in AtW's role in this.

In the context of the new Disability Equality Duty we also fail to spot any rationale for withdrawing ATW from public sector employers. Public sector employers are obliged by law to involve disabled people in delivering the Duty. This will not be a straightforward, simple exercise; involvement need to be fully facilitated, a range of accessible services need to be provided in addition to standard environmental access, these services are already in place for many public service workers and could usefully be deployed to assist employers with their new Duty. We already know that many public service employers are struggling to set up such involvement processes and structures, and many of our branches are promoting their disabled members groups and networks to get involved in this important historic moment that should set a framework for achieving equality by 2025. It is difficult to envisage how employers will meet their duties to involve disabled people in establishing action plans, conducting impact assessments and designing effective monitoring systems and the reviewing of action plans and the setting of new targets without ATW resources being directed to support this work. It is disabled workers who would bear the brunt of any government decision to withdraw support for their independence and ability to contribute to the economy as full and equal citizens.

There is no background information (in the form of an assessment of the effect on disabled peoples' employment in ministerial government departments. Furthermore, we have not seen any published disability impact assessment related to this proposal, and indeed believe that this proposal has not been Equality Impact Assessed at all, and suggest that this is undertaken immediately and that data is gathered for an analysis to be undertaken that identifies current claimants and recipients of AtW in public services, their occupational type, salary by range, the broad nature of their impairment and the broad nature of their adjustment(s).

We first became aware of the proposed withdrawal of ATW when the government's consultation "Improving Life Chances" was issued, we found it tucked away in the employment chapter and we've been monitoring members experience of developments ever since.

We have asked members to let us know about their experience of the ATW scheme, some advised of extensive delays in getting equipment, aids and adaptations, or services, under funding, and concern about the level of discretion available geographically. Over 60% of UNISON branches have Equality Officers and almost 20% have dedicated Disability Branch Officer posts, these activists have been a vital resource in monitoring developments, challenging discriminatory actions and taking part in local negotiations to improve our disabled members rights at work. We have also been advising our members to raise the ATW issue with their employers, as

they too should be registering their concerns about the impact on the public sector in general, and also on the public purse.

UNISON doesn't believe there is any rationale to withdrawing ATW support from the public sector. We are not aware of any reliable business case to withdraw provision and see this as an extension of free market policy that will not lead to greater efficiency in public services or better use of public spending. With below inflation funding arrangements, any increased pressure on employment costs (beyond the levy currently made to recognise public sector employers' responsibility for making reasonable adjustments) is likely to lead to increased pressures on the stability of employment for disabled people, the discouragement of progression to jobs which might require higher support, and an increase in the existing deficiency in training and development take-up by disabled people. There is already anecdotal evidence of this occurring extensively in ministerial departments, and it is also likely to lead to a matching pressure on the recruitment process, with managers preferring to pass over disabled recruits in order to minimise the impact on their departmental budgets, particularly where responsibility for reasonable adjustment stays with the line manager's departmental or section or team budget.