

**Shaping future support: the health and disability green paper
Department for Work & Pensions consultation
Response from the Low Incomes Tax Reform Group (LITRG)**

1 Executive Summary

- 1.1 LITRG welcomes the opportunity to respond to the green paper on health and disability. While LITRG is not a disability organisation, we are interested in tax issues and related benefits issues for disabled people.
- 1.2 Much of the green paper is given over to discussing work: independent living in terms of helping disabled people into jobs and being in employment as leading to improved health.
- 1.3 The purpose of our response is therefore to highlight what we see as some current potential barriers to work in areas such as income tax, VAT and Universal Credit (UC). We make recommendations on where we think rules and practice could be changed to improve incentives, reduce burdens, and thus contribute to the Government's overall objectives.
- 1.4 We highlight some issues for disabled people who use Access to Work to engage the services of a support worker. These people will often become an employer, something which is not well understood by users of the scheme or those administering it. Meanwhile, HMRC provide little tailored information on the tax considerations that arise on the recipient of a grant from taking on a support worker. The current approach is leaving disabled people in a potentially difficult position, which may ultimately undermine the scheme.

- 1.5 We urge better staff training and closer co-operation between DWP and HMRC around Access to Work and the tax issues that arise when a grant is used to fund a support worker.
- 1.6 We think the government should take the opportunity to explore tax reliefs and other tax-related changes which could help more disabled people get into work, and those already in jobs to remain in post.
- 1.7 For example, considering the perhaps comparable recent announcement of a national insurance 'holiday' for veterans, one possibility is for the tax system to be used to encourage employers to create job opportunities for disabled people.
- 1.8 We also suggest that policymakers should consider how the tax system could be used to alleviate potential cost differences between disabled people and non-disabled people, of putting oneself in a position to work.
- 1.9 By way of an illustration, where you have a sympathetic employer, certain costs that are met for you to assist you to work (for example the provision of a taxi into work) will not be classed as a taxable benefit and are therefore tax-free. However, you cannot claim relief if you meet such costs personally. This is unduly restrictive where the sole reason for the outlay is to reduce or remove the barrier of the disability itself (and is particularly unfortunate while there are flaws with the Access to Work system which may be preventing people getting funding for such costs).
- 1.10 It seems there is an urgent need for DWP to actively work together with other areas of government, such as HMRC, to bring about these small, but important changes. Stepping back and considering the system as a whole will lead to better-coordinated policymaking in this area.
- 1.11 Universal Credit (UC) is the now the main working age benefit. In general, there are glitches and mismatches in the design of the system¹, which means that the system is not working as well as it should. For example, although real-time information (RTI) is supplied to DWP by HMRC for administrative simplicity, the definition of earned income for UC does not always neatly match up with the tax data. Issues that need to be addressed include the fact that RTI data does not capture unreimbursed employment expenses, which means that people (including disabled people and people with health conditions) are likely to be losing out.
- 1.12 Within the UC system, there are several opportunities to provide additional support and incentives to disabled people to enter, or remain, in work. For example, through adjusting the taper rate or increasing work allowances. However, parts of the UC system rely on the discretion of work coaches which leads to the possibility of uncertain and inconsistent outcomes.
- 1.13 Specific outreach work is needed, for both claimants and DWP staff, to promote the fact that significant flexibility can be offered within things like the claimant commitment and Minimum

¹ As we explain here: <https://www.litrg.org.uk/latest-news/submissions/200313-call-evidence-economics-universal-credit-uc>

Income Floor, so that both feel more confident when discussing a claim, the options available and the decisions that are made.

2 About Us

- 2.1 The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998, LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low-income workers, pensioners, migrants, students, disabled people and carers.
- 2.2 LITRG works extensively with HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.
- 2.3 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

3 Introduction

- 3.1 We welcome the high aspirations the government has with regard to transforming policy, practice, and public attitudes in this area. The green paper sets out the government's ambition for disabled people and people with health conditions to get better employment support and to work with employers to improve employment chances of those people.
- 3.2 We would also like to commend the government on producing an easy-to-read version of the (very long) main consultation document and for being flexible and having virtual and face to face meetings rather than insisting on written submissions, in order to maximise the reach of the consultations. We hope that this has encouraged more meaningful comment from stakeholders and that the feedback will be carefully considered and taken on board.
- 3.3 We are not a disability charity per se. Others are in a better position than us to provide detailed comments on the proposals. However, we have interest and expertise in tax and related benefits matters as they affect the unrepresented, including disabled people. In our view, if the government's policy objective is to increase the number of disabled people in work, then the tax system should not work against this objective.
- 3.4 We therefore highlight some particular difficulties faced by disabled people (and employers) in the tax and related benefits systems and make recommendations as to how to remove those barriers.
- 3.5 We frame our comments and recommendations loosely under the four following questions posed in the green paper:
- What more information, advice or signposting is needed and how should this be provided?

- How can we better support young disabled people and people with health conditions who are moving out of education to find appropriate work?
- Universal Credit (UC) has many features, such as the work allowance and taper, that aim to make it easier for people to move into work. How can we ensure that disabled people and people with health conditions are aware of these features, and encourage people to try out work on UC?
- While continuing to focus financial support on people who need it most, how could we more effectively support disabled people with their extra costs and to live independently?

4 What more information, advice or signposting is needed and how should this be provided?

4.1 The Access to Work scheme is an important source of financial support to help people get into work or remain in work. However, currently there is a lack of information, advice or signposting to Access to Work recipients, which could leave them non-compliant with tax law.

4.2 To explain: many of those in receipt of government money (not just Access to Work, but social care direct payments and NHS personal health budgets) are not aware that if they are given a grant directly and use it to take on a support worker/personal assistant, then this brings with it many responsibilities. These include registering as an employer with HMRC, operating a PAYE scheme, arranging a workplace pension, and paying at least the national minimum wage.

4.3 This lack of awareness is demonstrated in queries that we receive, such as that below:

'I have a £320 a month grant for a support worker from Access To work. I am self-employed and have a small business that I work for and run on my own. My wife is the support worker and helps me to do the things that I struggle with due to my health conditions. Access to work pay my business and then the business pays my wife the £320 a month. Please can you tell me if that money is taxable on our income or is it just my wages that are taxable. I have read that it isn't taxable but want to make sure. Thankyou'

4.4 Our reply explained that there were potential considerations for: his business in terms of accounting for the Access to Work grant; for him, in terms of being an employer; and for his wife, in terms of receiving such taxable income. We are concerned that people such as these are leaving themselves open to all manner of penalties for tax non-compliance, because of not understanding the basics, which may ultimately undermine the scheme.

4.5 We have recently heard of another scenario where an employed Access to Work recipient seems to have taken on a support worker themselves and the Access to Work scheme is paying the support worker directly (gross).

4.6 This situation is very worrying because if the hallmarks of an employment relationship between the claimant and support worker are present, a responsibility for operating PAYE (and other employer compliance issues) still exists. Our understanding is that, under general principles, this sits with the claimant (as employer) even if they are not the one administering payment.

4.7 We have been advised that DWP have **not** agreed a workaround with HMRC on this. Therefore, again, we are concerned that in the absence of any specific agreement/understanding with HMRC, the claimant is at risk of being found non-compliant by HMRC for failure to operate PAYE.

4.8 Training and guidance for DWP staff and customers on the tax issues relating to Access to Work should be improved and we encourage closer co-operation between DWP and HMRC regarding Access to Work.

5 How can we better support young disabled people and people with health conditions who are moving out of education to find appropriate work?

5.1 There remains a stubborn disability gap (28.8%) in the UK¹, which seems to suggest that something ‘isn’t working’ in terms of entry into, and the retention of, jobs.

5.2 In the UK, efforts to address this gap tend to be focused on supported employment programmes like the Work and Health programme² (characterised by intensive personalised support to help individuals into and at work).

5.3 There are some modest interventions aimed at employers – for example, financial support towards the costs of adapting the working environment to meet the needs of a specified employee. However, the strategy for employers mainly seems to be to promote good employment practices and rely on the notion that it makes ‘good business sense’ to employ a disabled person.

5.4 In reality, these may not be sufficient to overcome some of the difficulties that people with disabilities face. In particular, they seem to overlook the fact that sometimes a disability can impact an employee's productivity compared to other staff, irrespective of their ability to do a job.

5.5 Our interest in this area has been stimulated by the receipt of the following query:

‘My son is nearly 30 and has learning difficulties that have been assessed. He has reading, writing, attention span etc. As such it is difficult to find him any paid employment. He is keen on farming and did attend a course at college but was unable to progress due to his inability to access the written work required on the follow on courses. He does voluntary work for a local farmer. The farmer would employ him full time if there was any form of wage subsidy scheme he could access simply because his productivity level nowhere meets that of an ordinary worker. Are there any such schemes available? I have searched extensively through the government websites and the nearest thing that equates to that is the Access to Work Scheme. However that does not appear to give the employer financial support in salary grants. Is there anything I am missing or can you offer any further advice? Thank you.’

5.6 We understand that, internationally, it is widely accepted that targeted financial incentives can help stimulate labour demand by providing financial support to employers if the worker’s health condition impacts their work capacity or by reducing employers’ uncertainties about jobseekers’

¹ <https://commonslibrary.parliament.uk/research-briefings/cbp-7540/>

² <https://www.gov.uk/work-health-programme>

work capacities¹. However, currently Access to Work does not offer salary grants to employers and there are no current specific subsidy programmes in the UK that we are aware of.

- 5.7 We appreciate there are many reasons for these policy decisions². However, given that it has been recently recognised that the tax system is capable of influencing behaviour in this area in relation to other constituencies of taxpayer, perhaps 'financial inducements' should be reconsidered.
- 5.8 For example, a National Insurance contributions (NIC) holiday³ for businesses who employ armed forces veterans has recently come into force which is intended to 'help further incentivise employers to take advantage of the wide range of skills and experience that ex-military personnel offer'⁴.
- 5.9 A similar NIC holiday for young disabled people could help get them into the workplace. In particular it would offer an opportunity to employers to benefit from disabled people's skills and potential, encouraging them to overcome perceived hurdles, and so build on the notion that it makes economic sense to employ disabled people. It would also provide valuable work experience for young disabled people that they can build on throughout their working life, and so develop further their future 'employability'.
- 5.10 It should be noted that while there are several general schemes available to help employers fund new jobs and with the costs of employing staff, such as the Kickstart programme⁵, these are not specific to disabled people. Indeed, in respect of the Kickstart programme, which is intended to provide fresh opportunities to a new generation of talent, we note that the equality analysis says those with disabilities accessing the scheme may face barriers to engagement⁶. Although the equality analysis goes on to say that there are various plans to mitigate these barriers, schemes that are targeted at young disabled people more specifically, might prove more successful in getting them into work.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/266512/wp120.pdf

² There are many interesting papers and discussions looking at the rationale behind these policy decisions, such as here: <https://publications.parliament.uk/pa/cm201617/cmselect/cmworpen/56/5607.htm>

³ <https://www.gov.uk/government/publications/national-insurance-contributions-relief-for-employers-who-hire-veterans/national-insurance-contributions-relief-for-employers-who-hire-veterans>

⁴ <https://www.gov.uk/government/news/tax-cut-for-employers-of-veterans-brought-in>

⁵ <https://www.gov.uk/government/collections/kickstart-scheme>

⁶ <https://www.gov.uk/government/publications/equality-analysis-for-the-kickstart-scheme/equality-analysis-for-the-kickstart-scheme>

- 6 Universal Credit (UC) has many features, such as the work allowance and taper, that aim to make it easier for people to move into work. How can we ensure that disabled people and people with health conditions are aware of these features, and encourage people to try out work on UC?**
- 6.1 UC was brought in to simplify the benefits system by combining support for those in and out of work, housing, and childcare costs, with additional payments for people who have disabilities or caring responsibilities.
- 6.2 In general, there are some glitches and mismatches in the design of the system¹, which means that the system is not working as well as it should. For example, although real-time information (RTI) is supplied to DWP by HMRC for administrative simplicity, the definition of earned income for UC does not always neatly match up with the available tax data. Issues that need to be addressed include the fact that RTI data does not capture unreimbursed employment expenses, which means that people with qualifying expenses (including disabled people and people with health conditions) are having too much income reckoned for UC and are losing out.
- 6.3 Within the UC system, there are several opportunities to provide additional support and incentives to disabled people to enter, or remain, in work. For example, through adjusting the taper rate or increasing work allowances.
- 6.4 However, some of the UC system relies on the discretion of work coaches which means that outcomes can be uncertain and inconsistent. For example, self-employment can be an important option for disabled people to get into work, as it may offer a more convenient and flexible method of working. If gainfully self-employed disabled claimants of UC find themselves subject to the minimum income floor², we understand that DWP staff may be able to operate some degree of discretion as to its operation.
- 6.5 It might be useful for DWP to commission some research to fully understand the considerations for disabled people around UC which may be acting as a barrier³. In the meantime, to encourage disabled people to try to work on UC, is it vital to ensure appropriate training and guidance, with input from specialist external organisations, such as disability charities, is given to staff implementing any such discretionary aspects of the rules, to ensure consistency.

¹ As we explain here: <https://www.litrg.org.uk/latest-news/submissions/200313-call-evidence-economics-universal-credit-uc>

² If you are gainfully self-employed then a minimum level of income from self-employment will be assumed (the 'Minimum Income Floor' (MIF)), even if your actual income is lower than this.

³ This would build on the research and findings of SSAC, as set out in their recent report on 'How DWP involves disabled people when developing or evaluating programmes that affect them': <https://ssac.blog.gov.uk/2021/01/06/involving-disabled-people-in-social-security-developments-that-affect-them/>

7 While continuing to focus financial support on people who need it most, how could we more effectively support disabled people with their extra costs and to live independently?

- 7.1 Disabled people can experience additional costs in everyday life – including work. For example, in terms of getting to work they may be unable to use public transport and need to use a specialist taxi service instead.
- 7.2 There is no blanket exemption or relief for the extra costs which are incurred by a disabled employee in work, over and above those incurred by a non-disabled employee. Instead, there are piecemeal reliefs, such as the blind person's allowance¹ (which is useful for blind or severely sight impaired people but no one else) or such as that contained in s246 Income Tax (Employment and Pensions) Act 2003 (ITEPA)².
- 7.3 Section 246 ITEPA 2003 gives an income tax exemption if transport is provided between home and work for a disabled employee, or if the employer pays for such transport or reimburses the expense incurred. We understand that inaccessible transport can be a barrier to employment for disabled people³, this seems to be a sensible relief. However, disabled employees cannot claim a tax deduction for costs which they bear themselves and are not reimbursed by the employer (and relief is not available under general principles, for such 'ordinary commuting').
- 7.4 We appreciate Access to Work plays an important part in helping to fund a disabled person's extra costs such as transport costs from home to work. However, we understand that low awareness of the scheme, caps on grants, and problems with the Access to Work process⁴ mean that the funding will not offer complete coverage in every instance, potentially leaving the employee to make up the difference.
- 7.5 Policymakers could therefore consider allowing disabled people to claim as an employment expense, the costs of putting themselves, as far as possible, on a par with non-disabled employees. The deduction from income could result in tax relief becoming available⁵, as well as a potentially increased benefits award (see our comments in paragraph 6.2), which would help restore their out

¹ Blind Person's Allowance is for people with blindness or those who are severely sight-impaired. It allows those people a chance to earn more money before they start to pay income tax. <https://www.litrg.org.uk/tax-guides/tax-basics/what-tax-allowances-am-i-entitled#toc-what-is-the-blind-person-s-allowance->

² <https://www.legislation.gov.uk/ukpga/2003/1/section/246>

³ <https://www.papworthtrust.org.uk/news-and-blogs/papworth-trust-survey-highlights-range-of-accessibility-issues/>

⁴ As set out here: <https://www.versusarthritis.org/campaign-with-us/current-campaigns/working-it-out/>

⁵ Provided the disabled person earns enough to pay tax in the first place. If the disabled person does not earn enough to pay tax, they will not be able to get any tax relief, so consideration needs to be given as to how their non-reimbursed expenses might be recognised.

of pocket position. Consideration could similarly be given for the self-employed, where again there is currently no blanket income tax exemption or deduction for extra 'disability-related' costs incurred.

- 7.6 Some self-employed people also face barriers in terms of HMRC's application of the VAT zero rate rules to buying goods and services for use in their business.
- 7.7 Zero rate relief is available to individuals who buy certain goods or services. The legislation states that for relief to apply the supply is to be for the disabled person's 'domestic or personal use'. HMRC's guidance advises that this does not include use for business purposes. It is not clear to us how HMRC have arrived at the qualification of the term 'domestic or personal use'. Domestic use, we agree, might be interpreted to exclude use for business purposes but there is nothing that precludes something for personal use also being for business use. In the absence of definitive case law on the subject, we can see no justification for narrowing the definition of 'personal' in the ordinary sense of the word to one definition. We would like to see HMRC's guidance be reviewed and amended so that it does not prevent claims to the relief from being made by business users who nonetheless buy something to help them overcome their disability for personal reasons¹.
- 7.8 It seems there is an urgent need for DWP to actively work together with other areas of government, such as HMRC, to bring about these small, but important changes. Stepping back and considering the system as a whole will lead to better-coordinated policymaking in this area.

LITRG
1 October 2021

¹ Although the VAT would be deductible in computing the employer's taxable trading profits which may partially restore their position.