

# From compensation to capability - disabled people, work and well-being

**Speech by Neil Crowther, Disability Programme Director at the Beginnings reception, House of Commons, London, 8 July 2008**

## Introduction

Thank you for inviting me to speak this morning.

What we are here to debate is central to the vision and goals of the Equality and Human Rights Commission - a society in which all have the freedom and opportunities to reach their individual potential, in ways which benefit society as a whole.

The permanent revolution that is welfare reform is expected to reach another milestone in the next few days. Interviews in the newspapers over the weekend suggest radical proposals. We desperately need radical solutions.

Whilst there is a good story to tell about the progress made on disabled people and employment, we cannot lose sight of just how far we have to go.

2.6 million people remain impoverished on incapacity benefit, at a direct cost to the taxpayer £7 billion a year. There are more disabled people living in relative poverty today than a decade ago. The indirect social and economic costs are enormous.

It is clear that the reforms of the last decade have failed to reach particular groups and individuals, often picking off the 'lowest hanging fruit' instead. Whilst

over 50 per cent of disabled people are in employment, this falls to around 20 per cent for those who have a mental health problem or a learning disability.

The Equalities Review, Chaired by Trevor Phillips, included a series of momentum measures which asked when, at the current rate of progress, the employment penalties facing different groups would disappear. For disabled people it concluded 'possibly never'.

Sadly, the national policy debate around employment and welfare reform over the last year or so also seems to have run out of momentum. Gesture politics frequently wins over evidence based policy making.

So I want to use this morning to set out some of the radical ideas I would hope a green paper might include.

I need first to be clear that these are personal reflections, not the ratified position of the Equality and Human Rights Commission. I am quite sure there are myriad complexities and counter-arguments which I will fail to address in the short time I have - but I hope what I say today is a useful contribution to the debate we will all be having over the coming months.

## **An active welfare state**

The welfare reforms we have seen over the last decade or so derive from a broader policy shift from 'passive' to 'active welfare states', replacing paternalism with the promotion of individual responsibility.

Such shifts in welfare policy have helped and are helping to transform attitudes and expectations concerning the contribution disabled people have the potential to make. In doing so it is helping to win the case for wider reforms which empower the individual and remove barriers.

But what of those whose circumstances make regular paid employment a major challenge or a complete impossibility?

This question was perhaps most famously answered with the sound-bite 'work for those who can; security for those who cannot'.

That formula has become a millstone around the necks of policy makers and those seeking to influence them. Rather than a consensual debate about creating a modern welfare state able to optimise opportunity and well being for all, the

debate around welfare reform remains largely a polarised debate pre-occupied above all else with arguments about who should and should not be required to work.

The effect has been to widen and entrench inequality - creating an active welfare state for those who can and a passive and stigmatised welfare state for those who cannot.

'Security for those who cannot' has delivered little by way of improved life chances for those not expected to engage in work related activities. It has meant a degree of protection, but the trade off is the absence of expectation and opportunity, and let's face it very little financial gain either.

### **From compensation to capability?**

If we are to move on, I believe we need to harness and develop the idea of an active welfare state for all.

I do not use this phrase as short-hand for a shrinking welfare state, but rather for a re-deployed welfare state which better mitigates risks, which is there to help people avoid the triggers of disadvantage and which helps people get on in their lives through building capabilities.

'Capabilities' is not a word one uses often when discussing disability issues. However my use of it is rooted in the thinking of the Nobel Laureate Amartya Sen. In Sen's theory, grounded in human rights principles, capabilities are substantive opportunities for individuals to achieve particular states of being or to undertake particular activities. Sen's theory acknowledges that different people experience different barriers and have different needs in relation to achieving these capabilities.

This is, of course, highly consistent with the core ideas of the disabled people's movement, especially independent living.

All independent living means at the end of the day is the opportunity to lead an ordinary life - or as Sen might put it, achieving the capabilities commensurate with being able to participate fully and achieve ones individual potential. Of course this might provide an individual with the opportunity to lead a quite extraordinary life. In an active welfare state independent living should be our baseline aspiration for all - and not only those currently deemed able to work.

But of course, work is what we are here to talk about, so I am going to focus the rest of my time on the sorts of interventions which I believe could expand disabled people's capabilities in relation to securing, getting on in and importantly staying in paid employment.

## **Building employment capabilities**

I believe welfare reform has failed to reach certain groups quite simply because it has failed to appreciate the extent and causes of what Sen calls the 'capability deprivation' facing them.

The groups most likely to be out of work are frequently clients of multiple public services, each having a contribution (or in many cases a detraction) to make towards expanding employment opportunity.

They often may require atypical working arrangements.

And in many cases those channelled into disability focused programmes will face a range of other, sometimes more influential barriers, relating to their age, lack of marketable skills and qualifications, the challenges of securing childcare or language barriers for example.

Despite some steps towards greater personalisation, I very much doubt the system currently has the flexibility or connectivity to deal with this.

I want to begin by proposing three reforms concerning a greater focus on and engagement of the individual:

The introduction of a more generic 'new deal' gateway able to tailor bespoke solutions, able to look outside the confines of traditional employment support, finding creative solutions and drawing together the support of multiple agencies, including health and social care.

A higher degree of self- directed assessment and support by the individual concerning the problems they experience and the solutions they foresee.

And related to this the expansion of individual budgets into the arena of employment support programmes.

Some may have doubts about such an approach, especially in the climate of suspicion around benefit claimants and assumptions about the need for coercive

approaches. But I am always reminded of the example I heard of a man with mental health problems who was desperate for a job, but who experienced acute anxiety during interviews. He used his direct payments to recruit the help of an actor to help him control his nerves and adopt assertive behaviours. He got a job and came off benefits. I very much doubt this would ever be the prescription offered by Job Centre Plus or contracted agencies.

We could make far more of the creative potential of those we are seeking to support. Importantly this should not only be just the individual concerned. Peer advice and support is relatively unexplored in the arena of employment policy, yet it is at the heart of thinking about independent living. Disabled people have not only been able to provide one another with practical assistance and support - they have inspired one another. Harnessing such inspiration and peer support may be the missing ingredient in getting people to engage positively in back to work programmes.

It is clear that the private and voluntary sectors are destined to have an expanded role in relation to employment programmes. However, I believe our existing model of commissioning may fail to harness or stimulate the sort of innovation we need to reach these most excluded groups.

In a recent article, Michael MacDonnell, previously of the Number 10 Delivery Unit, proposed an idea which he termed 'the venture state'. Whilst a commissioner seeks to purchase a service at a specified standard and price, in the venture state model, the State prospects for innovative approaches which suggest high social returns. Many innovative providers cannot deliver services to a large number of people or over the long term even though they have a greater impact than traditional mass providers. They need to scale and professionalise their operations, but frequently lack the resources to do so, and lose out to larger, more traditional providers in seeking contracts from national and local government and public bodies. MacDonnell proposes that the state acts as a source of financing or transforming these providers.

In effect, he proposes a Dragons' Den for social entrepreneurs, and his hypothesis is that such a model is far more likely to stimulate new innovation than the existing Commissioning relationship.

I think this idea merits serious consideration, including in relation to developing the peer support I talked about earlier.

It is clear that retention remains a critically important. I hope that the goals of the Employment Retention Bill will be given serious consideration in the forthcoming Green Paper, introducing rehabilitation leave as a statutory right. We need to build on proposals to improve the reach of employment advisers by providing greater support and guidance for employers both in relation to the benefits and practicalities of retaining people at the onset or escalation of impairments or health conditions.

The Access to Work scheme has consistently provided a clear return on investment to the Treasury and for many has been the pivotal factor in their getting in, getting on and staying in work. Expanded and in part rolled into the expansion of individual budgets, it should be made available to people with mental health problems to overcome the barriers they face in securing and staying in employment - for example securing out-of-hours support, mentoring, counselling or stress management.

In the last decade, people with no qualifications are the one group to have seen no significant change in their employment prospects and the increasing demand for high skills means this situation is only likely to worsen. 40 per cent of disabled people have no formal qualifications, with disabled 19 year olds three-times as likely not to be in any form of employment, education or training.

Analysis by the Social Market Foundation found that bringing disabled people's skills up to average levels by 2020 would add £13 billion to the UK economy - equivalent to 6 months economic growth - so there is a clear incentive to act.

The Education and Skills Bill provides a major opportunity to challenge the skills deficit among young people.

We also need a concerted effort to reduce the skills deficit amongst working age disabled people generally.

Supporting people to develop skills and competencies in work is consistently shown to have better outcomes than training outside the workplace, in terms of creating sustainable employment opportunities. We should continue to switch resources currently tied in sheltered employment towards supported open employment, including ongoing support with personal development once people are in jobs - developing schemes such as Workstep - as well as harnessing the opportunities

presented by the expansion of apprenticeships. Employers need to be very much at the heart of meeting the skills challenge.

This year the Government has launched a major review of our care and support system. A key objective of any reform should be expansion in the capabilities of disabled people, and their families to achieve independent living and to participate in paid employment.

Both the current shape of social care services and local authority eligibility criteria are denying disabled people with relatively low support needs the services and resources which would leave them well-placed to enter paid employment. Such support could also relieve family members of caring responsibilities, so freeing them for paid employment, improving family well-being overall.

I have already spoken about the potential of individual budgets and self-directed support to help make engagement in paid employment a more realistic possibility. Equally, portability - allowing a person to transfer their care package from one local authority area to another - would widen opportunities, which is why the Commission supported Baroness Campbell's proposed amendment to the Health and Social Care Bill and will be closely monitoring Government proposals in the anticipated Green Paper.

NHS reforms also hold the potential to put greater control into the hands of disabled people and allow people with long-term health conditions to fashion services and support around their own day-to-day requirements.

## **New flexibilities**

So those are ways through which we can better prepare and equip individuals with the resources needed to get in, get on and stay in the labour market.

But we must also consider the ability of the labour market to provide suitable employment opportunities.

It seems no coincidence that many of the groups now most distanced from the labour market are those who may have a greater call for more atypical working arrangements, whether in relation to when they work, where they work or the adjustments they may require.

We need to innovate in this area too, working with employers to develop and explore new models of working. The Equality and Human Rights Commission will launch a programme soon called 'Working Better'. This aims to kick-start a new debate about workplace flexibilities - about both where and when people work. This debate has historically centred on gender equality and in particular on the opportunities of parents and carers. We will open the debate up to ensure consideration of disabled people.

We believe everyone should have the right to request flexible working and I am particularly keen to explore how new flexibilities could open up employment opportunities for people with fluctuating conditions, especially mental illness. Just as peer support between disabled people yields positive results in relation to expectations and innovation, employer to employer exchange and support also needs to be nurtured and developed. Networks such as Beginnings and organisations such as the Employers Forum on Disability will be central to future success.

And last but not least, we hope a Single Equality Act will bring new stimulus to overcoming discrimination and disadvantage in the labour market.

A single equality duty, powers for employment tribunals to issue instructions, not simply award compensation, employers able to take positive action, government able to use its £160 billion a year of public procurement as leverage in the private and voluntary sectors, greater transparency expected from public and private organisations in relation to performance on equalities, and expanded powers for the EHRC to carry out light touch investigations in the private sector have the potential to strengthen the capacity of our equality laws as a force for systemic change, not just individual remedy.

## **Conclusion**

We have made good progress over the last decade, and we should learn from and build on what works.

But, in truth, there is a mountain to climb and more of the same isn't likely to help our ascent. The Commission will be examining closely and seeking to influence the Welfare Reform Green Paper, and wider reforms in relation to health, social care and our equality law in the hope that we can secure the radical solutions we need to make the transition from compensation, to capability for all.

