

**Work and Pensions Committee Inquiry
Disability Employment
March 2024**

**Response from the Social Security and Tax Advice Team and Deaf and Disabled
Members Committee
Equity Trade Union**

Introduction

1. This is a submission from the Deaf and Disabled Members Committee (DDMC) and Social Security and Tax Advice team from Equity Trade Union.
2. [Equity](#) is the UK's largest trade union for performers and creative professionals. Most of our members are self-employed. The work is usually short term and project based. The creative industries currently make up nearly 6% of the UK economy.¹ 3% of members identify as deaf or disabled.
3. We have a dedicated Deaf and Disabled Members Committee who provide representation on the everyday experiences of deaf and disabled workers in the entertainment industry. Support for these performers to work will directly affect who we see on the stage and screen and has a far-reaching impact on society.²
4. Equity is the only UK trade union to offer an in-house social security advice service. We have been operating for several decades. We run a bi-weekly helpline and casework (appeals) service. We have considerable front line experience on issues in practise for self-employed deaf and disabled workers.
5. It is the experience of the DDMC and Social Security Advice team that there has been a deterioration in employment support for deaf and disabled workers since 2010.
6. In particular, successive cuts to social security and restrictions made to the Access to Work Scheme for the self-employed have created more barriers to work in practice. We recently shared evidence about this with the United Nations Committee on the Rights of Disabled People (UN CRDP).³
7. It is our considered assessment that this retrogression must be acknowledged and addressed in the first instance when it comes to an inquiry on disability employment.

WPC questions

1. What progress has been made, especially since our 2021 report on the disability employment gap, on supporting disability employment?

¹ Centre for Economics and Business Research (2020), [Contribution of the UK Arts and Culture Sector to the UK Economy, Arts Council England](#)

² <https://www.sense.org.uk/media/latest-press-releases/impact-of-strictly-finalist-rose-ayling-allis/>

³ We refer to the convention as the Convention on the Rights of Disabled People (CRDP) rather than the given name - Convention on the Rights of People with Disabilities (CRPD) - as we follow the social model of disability. The convention allows us to do this.

8. The experience of the DDMC is that no progress has been made.

2. How can people with disabilities and health conditions be better supported to start and stay in work? Which disabilities are associated with the greatest barriers to work?

9. Reversal of cuts to social security for deaf and disabled workers in order to make them financially better off in work – work that they chose to do not are forced to (see answer to question 5 below).
10. A comprehensive review and re-design off all the systems that are meant to support disabled people into work, led by deaf and disabled people with the social model of disability at its core, is required.

3. What are the barriers to employers hiring disabled people and ensuring those people stay in work?

11. There are considerable societal barriers. Access costs are one example (see answer to question 4 below and case study). Our deaf and disabled members report that they are often paying to work in practice due to lack of availability of support. There is only so long that this can continue before work becomes financially unviable.

4. How successful have policies, such as Access to Work and the Disability Confident Scheme, been at increasing employment rates among disabled people and ensuring disabled people stay in work? How could they be improved?

12. We have limited experience of the Disability Confident Scheme. We note that research has shown that employers that have reached the highest level of Disability Confident are no more likely to employ DDP than those that have not signed up to the scheme,⁴ and more than a third of all employers who signed up failed to employ a single DDP after they joined.⁵
13. Our members regularly contact us reporting difficulties with Access to Work as follows:
 - Refusal to provide support to those receiving Employment and Support Allowance (ESA) and undertaking permitted work, even though AtW staff guidance explicitly states that AtW will be considered in this instance.⁶
 - Refusal to provide support to those whose self-employment does not pass the 'business viability test'; the requirement to show that you are earning at least the annual Lower Earnings Limit (LEL)⁷ as well as failure to implement guidance on temporary downturns.
 - Failure to correctly apply guidance on freelance workers.⁸ See case study below.
 - Waiting times are too long to enable work, let alone short-term work.
 - Onerous re-application requirements.
 - Not having ultimate say in what equipment or support is required is problematic in practice; for example, you may require a certain piece of equipment in order to

⁴ Pring, J. (2023). Top Disability Confident members 'do no better on jobs than non-members'. Disability News Service [online] 14 December

⁵ Department for Work and Pensions [DWP], (2023). Disability Confident: survey of participating employers, May 2022. GOV.UK [online] 18 September

⁶ See 2.3, 2.4 and 2.5 Access to Work: staff guide - GOV.UK (www.gov.uk)

⁷ See What is self-employment section paragraph 13-25. Note in 2023/24 the LEL was £6396.

⁸ See Freelance Workers section, paragraphs 39-43 and 50-61.

work however the AtW decision maker will ultimately decide whether to grant funds for that or something else based on their opinion. The deaf/disabled person is the expert in understanding their needs and their choice should be prioritised.

- Lack of understanding about disability in itself as well as the entertainment industry.

14. We note that in January 2024, it was found that the Access to Work backlog had trebled since February 2020, rising to more than 25,000.⁹ This is another 8% increase in the waiting-list from 23,289 on 1 June 2023 despite DWP claiming last July that improvement had seen processing times fall in the last year.¹⁰

Case study: Ms A, actress and dancer – on Access to Work

Because I am working, and working on short term projects, I have no time to go through the considerable bureaucracy required in order to get Access to Work payments. Nor can I wait for approval before I take work given it is short term project-based work. For example, I have been advised that it currently takes at least 12 weeks for an initial application to Access to Work to be approved.

The work is usually intensive. I have to prioritise it, and then when it is passed, move on to other work. This leaves no room for fighting for Access to Work support. Therefore, I am usually meeting costs off my own back, at the expense of my pay, e.g. hardly receiving any money for work as it has been used to pay for support workers.

For example, on my last application for Access to Work, I was told I need to supply tax returns in order to be accepted as self-employed. In fact, all that was required according to their own guidance, was my self-employment number (UTR).

Failure to provide a copy of a tax return meant my Access to Work application was not approved. They did not advise me that their own guidance now incorporates more flexible rules on freelance working that would only have required that I additionally supplied proof that my earnings would be more than national minimum wage, which they were. I note that this is not characteristic of work typically offered to disabled people in other sectors in my experience.

Whatever the rules are, ultimately, I should not be denied financial help that I require in order to access work from a scheme that has been set up in order to help me access work. This of all things should be accessible.

My experience as an actual working person is that it is impenetrable to access on an individual basis – I would need additional administrative support in order to make applications and access to independent advice to make sure the decisions were correct and/or challenge as needed.

15. Improvements needed:

- Statutory AtW scheme with clear appeal rights to an independent tribunal.
- Better training of AtW staff.
- Scope to get AtW support for applying for work, as well as for doing work once obtained. Currently support is only available for the latter. For the self-employed, particularly those in the 'freelancer' category of AtW, support getting work is as important as support while doing the work. For actors, they might go to many auditions before securing relatively highly paid short-term work. Without going to the audition, they will not get the work.

⁹ [HC Deb 4 September 2023 vol 737 c11](#)

¹⁰ [Pring, J. \(2024\). Access to Work waiting-list climbs again, despite DWP claims. *Disability News Service* \[online\] 29 February](#)

- Evaluation of the financial and social returns of investment in Access to Work.
- Further investment in scheme so that it can keep pace with demand.
- A review to ensure that the scheme is underpinned by a social model of disability and delivered in accordance with principles of inclusion.
- Faster processing of initial eligibility for AtW and invoice approval and payment.
- Removal of the Business Viability test.

5. Does self-employment provide a valuable route for disabled people to find and stay in work? How could support for self-employed disabled people be improved?

16. Entertainment industry work is generally only offered on a self-employed basis in our industry so is not always a choice. Our deaf and disabled members tell us that being self-employed can be helpful when it comes to the flexibility required when working as a deaf or disabled person. However, there are significant issues in relation to social security and tax/national insurance, as follows:

Tax and National Insurance (HMRC)

17. Members have explained to us that they have no effective support from HMRC in order to clearly understand what expenses they can claim as a deaf or disabled self-employed worker.
18. There is no dedicated service for deaf and disabled people provided in relation to tax and national insurance processes. Not only is it increasingly difficult to get through to speak to a member of staff, more and more deaf and disabled members are finding a lack of consistency and knowledge from staff. Overwhelmingly members report difficulties in either accessing help or receiving the required support from HMRCs 'extra support team. Website information is inadequate and inaccessible.
19. There are serious technical issues that need to be resolved in relation to the self-assessment system and voluntary payment of class 2 NIC. Currently it is not possible to make or even elect to pay class 2 NIC through the tax return if you are in receipt of an incapacity related benefit such as Employment and Support Allowance (ESA). Self-employed workers need to maintain their class 2 NIC payments in order to ensure entitlement to ESA in the event of a reclaim. In addition, some may owe class 2 as the threshold for payment of class 2 NIC – the Small Profits Threshold (SPT) – is currently lower than the permitted work limit within ESA.
20. Equity have raised this issue with HMRC but have not been assured that the issue has been fixed and have not been consulted further on it. HMRC should work with unique stakeholders like us in order to ensure that processes are fit for purpose.

Social Security (Department of Work and Pensions)

21. Successive cuts to support for deaf and disabled self-employed workers and the removal of the safety net due to over a decade of welfare reform, as well as the continuation of this strategy with further cuts to come, are set to make working as a self-employed deaf/disabled person even more difficult if not impossible. Examples are as follows:

Employment and Support Allowance permitted work and self-employment.

22. Those in receipt of ESA¹¹ can undertake what is known as ‘permitted work.’ Full details are set out in regulations but the most common is a threshold of less than 16 hours a week for no more than 16 x National Minimum Wage per week. This is a helpful way for those experiencing ill health to try out work. If the threshold is exceeded, the claimant is automatically considered fit for work and their benefit entitlement ceases.
23. There used to be a safeguard to allow claimants to reclaim income-related ESA (irESA) within 12 weeks if work does not work out – known as the 12-week linking rule. However, since the advent of UC, this now only applies to contributory ESA (cESA), not irESA. This means an irESA claimant who is thinking about trying work now has to weigh up the benefits of work against the fact they will completely lose entitlement to an often long-standing social security payment. They would likely be entitled to UC instead, but members tell us they are terrified of UC.
24. Members often contact us and report issues with permitted work decision making for the self-employed. It is our experience that DWP staff on the helplines are not commonly aware of law allowing for flexible averaging of hours and earnings when it comes to permitted work.¹² Decision makers may be better aware however it takes time to get through to them and many claimants do not know the difference, and do not push the issue further. In addition, clear information about permitted work and self-employment, as well as information about the 12-week linking rule for cESA claimants, is not available online.¹³
25. There is no set process to get a permitted work arrangement of this kind agreed with claimants and advisers often having to wait a long time to get written agreement in place. Usually, no response is received at all, leaving claimants unsure of ESA’s position on their proposed arrangements.
26. Ensuring self-employed ESA claimants can also pay voluntary class 2 national insurance contributions is problematic in practice. It is in an ESA claimant’s interests to pay voluntary class 2 NICs to protect future cESA entitlement if they come off ESA for a period, as explained above.
27. People in this situation only have the option of claiming Universal Credit, where the self-employed are far worse off (see next section). Many don’t even seek advice on their rights.
28. Complexity, cliff edges, lack of clear and public information, poor decision making and processes across DWP and HMRC, as well as lengthy waiting times across the board are creating retrogression in support for deaf/disabled self-employed workers when it comes to ESA in practice.

¹¹ The social security payment made to those who have ongoing ill health.

¹² See for example Regulation 39(2) (ESA Regulations 2013) allows for averaging where there is no recognisable pattern of work in relation to permitted work; Regulation 77 Calculation of earnings of self-employed earners, to be read with regulation 83(9); Regulation 79(5) Calculation of weekly amount of income (employed earners and other income); ADM chapter V3 provides guidance to decision makers on the averaging of earnings and hours at paragraphs V3058 and V3081- V3083 respectively; CE/870/2018, CE/871/2018 and CE/874/2018: Period over which to average fluctuating earnings for purposes of ESA permitted work rules [2019] UKUT 153 (AAC).

¹³ See for example [Permitted work factsheet - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/404443/Permitted_work_factsheet_-_GOV.UK.pdf)

Case study: Ms B, actress with genetic learning and development disability – on ESA

Ms B is an actor who has claimed irESA and PIP for many years. After years of working in the industry for free, as is typical for disabled actors, and paying to work by paying expenses out of her own or her family's pocket, she was paid for a project. Ms B intends to use the money to finance future work as she does not anticipate getting more paid work soon.

There are various ways that ESA could treat the payment under the rules. This leads to difficult decision-making for ESA and therefore a dependence by Ms B on ESA applying the complicated rules correctly, which Ms B has no faith will happen. This uncertainty has caused Ms B and her carers enormous concern. Ms B has heard many negative stories about moving to Universal Credit. Ms B and her carers spend most of their life managing disability-related administration, such as health, care and social services. The uncertainty about social security and lack of faith in the system to make the right decision is one more thing to worry about.

Regression in support for self-employed deaf/disabled workers: from Tax Credits to Universal Credit (UC)

29. Regressive changes to ESA in relation to work due to the introduction of UC are echoed in regression to support for deaf/disabled workers who are now mandated to move from Tax Credits to Universal Credit.
30. While Tax Credits ignored savings, UC does not. If moving from TC to UC under managed migration, savings over £16,000 are ignored for 12 months, however a deduction from the UC award is made – 'tariff income' – which can result in considerably less UC being paid.¹⁴ The self-employed in particular require robust savings in order to weather periods of unemployment, and this is even more so the case for those who are also juggling health issues.
31. Tax Credits gave disabled workers, both the employed and self-employed, additional payments to ensure that they are financially better off in work. To qualify you needed to be in work 16 hours or more a week, be in receipt of a disability benefit or to have moved from ill health benefit (e.g. ESA) in order to qualify.¹⁵
32. Perversely, under UC, the only way claimants can get additional financial support as a disabled worker is to go through a work capability assessment and be found to have LCWRA - a limited capability for work- and work-related activity, i.e. not be required to undertake any work at all.
33. Many DDP will already have PIP or DLA and do not want to undergo yet another assessment of their ill health/disability so may opt out of electing to undertake a WCA to get additional support.
34. But unless they do, they will not be able to escape the Minimum Income Floor (MIF) - a minimum assumption of earnings received and applied to your claim regardless of whether you do not receive any earnings in a month. It takes effect after a one year 'start up period' and is usually set at 35 x national minimum wage per week and or has the effect of severely reducing or stopping UC payments.

¹⁴ See regulation 72 (1) UC regs 2013. Example: if the UC (managed migrated) claimant holds £16,000, there is a £174 monthly deduction £ from £ from their UC award.

¹⁵ See regs 9 and 9b, Working Tax Credits (Entitlement and Maximum Rate) Regulations 2002

35. The financial effect is worse than the highest sanction for failure to comply with any work-related requirements.¹⁶ In practice, we are finding that the MIF is either making self-employed workers ill or driving them out of the industry into low skilled and low paid, social security subsidised employment.¹⁷

Case study: Mr C, actor with long term mental health issues – on the MIF

Mr C is a professionally trained actress with longstanding anxiety. When Covid struck he had just finished work on a popular TV series. It was the first time in his life that he had to claim social security.

Although the MIF was suspended during Covid, the continual threat of its return, combined with the impact of Covid on his industry caused him to experience considerable stress which negatively impacted on his anxiety. Towards the end of Covid, he was found Gainfully Self-Employed with a start-up period applied, meaning no MIF applied for 12 months.

As part of the start-up period, he had to attend interviews at the job centre to discuss what he was doing to increase his self-employment work. Over this time, he had several different work coaches and none of them showed any real understanding or respect for his industry work. He was getting small bits of performance work however the industry was still recovering from Covid.

He suggested to his work coach that he do some retraining to become a celebrant. This would make good use of his performance skills. He found a course and asked the DWP for financial help or to suggest where he could find some. They offered her no help. He was told – “we are not here to help; we are just here to administer.”

At the end of his start up period, the MIF as imposed, pushing him into poverty. He then became so unwell with severe anxiety that her doctor signed him off work. He underwent a WCA and was found to have a limited capability for work- and work-related activity.

36. If you undergo the WCA and are found to have either a Limited Capability for Work (LCW) or Limited Capability for Work- and Work-Related Activity (LCWRA), you can work and earn without automatically losing your ill health status.

37. If put in the LCWRA group, you also get an additional financial component included in your UC award (the LCWRA element) and a financial disregard of earnings (the Work Allowance) which results in your being financially better off while claiming UC on this basis and doing work.

38. However, the Government now plans to restrict access to the LCWRA group. This is another way that support for the self-employed deaf/disabled worker is being cut. We have heavily criticized this move in our response to the Governments consultation.¹⁸ See our answer to question 6 for more detail.

39. Improvements needed:

¹⁶ 2023/24 figures – a £12 per day deduction to the standard allowance applied for the duration of the month, for 91 days (approximately 3 months) for the first sanction in any 12-month period, and 182 days (approximately 6 months) for a second high level sanction. High level sanctions apply, for example, where a claimant refuses the offer of a job. For example, a higher-level sanction applied to a jobseeker with £500 rent would result in a monthly UC payment of around £500 whereas applying the MIF would result in a UC payment of £92.

¹⁷ See [Universal Credit and our members | Equity](#)

¹⁸ See [equity_wca-consultation-response_october-2023_final-301023.pdf](#)

- ESA – better public information about permitted work as a self-employed person and the 12-week linking rule.
- More investment and staff training to improve DWP and HMRC services for deaf/disabled people.
- Improved information about the value of paying class 2 NIC voluntarily in relation to ESA as a self-employed worker, particularly in relation to deaf/disabled workers.
- A technical correction to the current online self-assessment system to give those in receipt of ESA and also working on a self-employed basis the ability to pay class 2 NIC voluntarily.
- Removal of the savings penalty for those transferring from Tax Credits to UC.
- A review of the impact on the loss of no capital limit for those transferring from TC to UC
- Abolition of the Minimum Income Floor.

6. How will the Government's announced reforms to disability employment support, such as Universal Support, Work Well and the proposals in the Back to Work Plan, help close the disability employment gap?

40. We assess that these measures are of little use to deaf and disabled workers that we represent. As previously explained, a holistic review into the many societal barriers that deaf and disabled people face is required in order to make meaningful and lasting changes. This should be led by deaf and disabled people and follow the social model of disability.
41. The removal of rights to support while in or out of work as a result of under welfare reform has left deaf and disabled people in a worse position.
42. It is of constant disappointment that the legislation that underpins social security can be easily changed without proper scrutiny, leaving it open to political manipulation. The state is entitled to make rules and change social security, but it is not entitled to misrepresent the reality. In the run up to a General Election we continue to see the distortion of social security by politicians¹⁹ despite the UN CRPD recommendation for the Government to promote positive images of disability benefit claimants among the public and in the media. The true picture is complex, and the lack of understanding is being abused.
43. If the government were serious about helping deaf and disabled people in work, it would incorporate the UN CRPD into domestic law.
44. It is of serious concern that the government is planning on cutting entitlement to the Limited Capability for Work Related Activity group²⁰ which will remove LCWRA component and the Work allowance. As explained above this is **the** financial incentive to work for deaf and disabled people and those in this group are **not** prevented from working, though they may not be aware of their rights to do so.
45. It is our considered opinion that people are not aware of their rights when it comes to social security, particularly as the system has become more complicated with the introduction of UC. It is disingenuous for the Government to say that disabled

¹⁹ [Thousands on disability benefits to lose extra £5,000 a year in autumn statement | Disability | The Guardian](#), [Life on benefits will not be an option under Labour, says Liz Kendall | Welfare | The Guardian](#) and [Rishi Sunak: I'll slash benefits to fund plan to scrap national insurance | The Independent](#)

²⁰ [equity_wca-consultation-response_october-2023_final-301023.pdf](#)

people are 'stuck' on incapacity benefits without consideration of this factual reality.²¹ It should investigate what deaf and disabled on social security people do regarding work once they are aware of their rights rather than remove the rights that enable them to do so. Cuts to WCA will make life even more difficult for deaf and disabled people by pushing them into mandatory work-related activity and opening them up to the sanctions regime. DWP's own research shows that sanctions do not work.²²

46. While the Government is increasing work-related requirements for UC claimants, including for those with ill health or disability, it fails to make clear that engagement with work related requirements, has always been possible on a voluntary basis. There has been no analysis of how claimants interact with this support and if they do not, why not. If any employment support is to be successful, it should be voluntary and sold on its merits, not imposed by creating financial hardship.

47. Improvements needed:

- Incorporation of the UN CRPD into UK domestic law
- A complete overhaul of employment support for deaf/disabled people to be led by deaf/disabled people.
- No further changes, including cuts to the LCWRA group, until this takes place.
- Any employment support schemes should be voluntarily and sold on merits not imposed by sanctions.
- Removal of sanctions.

Conclusion

48. We urge the committee to consider its outcomes of its inquiry into safeguarding as well as the the recommendations of the UN CRPD (due in April 2024) before it completes its report on disability employment. Considerable state investment and change in approach is required in order to properly support deaf and disabled people in work.

²¹ See our analysis of this claim from para 2.1 to 2.19 of [equity_wca-consultation-response_october-2023_final-301023.pdf](#)

²² [The Impact of Benefit Sanctions on Employment Outcomes: draft report - GOV.UK \(www.gov.uk\)](#)