



Law Society
of Scotland

Consultation Response

How should DWP involve disabled people in changing how it works?

April 2020



Introduction

The Law Society of Scotland is the professional body for over 11,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Mental Health and Disability sub-committee welcomes the opportunity to consider and respond to the Social Security Advisory Committee consultation: *How should DWP involve disabled people in changing how it works?*¹ The sub-committee has the following comments to put forward for consideration.

General Comments

As DWP have not engaged with us in the past, we are responding to this consultation on that basis and are answering questions 7- 14 of the consultation document only.

We note that the consultation uses the term 'disabled people' throughout. We recognise that this is the terminology widely used by disabled people's organisations in the UK, and is consistent with the social model of disability. However, we would highlight that on an international level and particularly in the context of the UN Convention on the Rights of People with Disabilities,² the widely accepted terminology is 'people with disabilities'. This is reflective of divergence in practice internationally. We have used the term 'disabled people' throughout this response in order to ensure consistency with the consultation document.

7. In what ways do you think you could have made a valuable and constructive contribution to DWP's work, and what would be the most effective way for DWP engage with you?

Many of our members regularly represent disabled people, or advise organisation of or for disabled people. Our members may advise or represent disabled people at times of great difficulty or distress, for example during interactions with court and tribunal processes. Our members are therefore well-placed to provide DWP with valuable feedback informed by their own experiences and those of their clients. For this reason,

¹ <https://www.gov.uk/government/consultations/how-should-dwp-involve-disabled-people-in-changing-how-it-works/how-should-dwp-involve-disabled-people-in-changing-how-it-works>

² <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

we would suggest that in future engagement, 'organisations representing' disabled people should be construed widely to ensure effective consultation.

We respond to consultations on a UK level on a regular basis. We are regularly consulted by other bodies, including the Scottish Government, on consultations which are relevant to our remit. We would welcome being made aware, as a matter of course, of opportunities to engage with DWP.

8. Would you wish to engage with DWP in future? Please provide the reasons for your answer?

We would be happy to engage with DWP in the future, although we note that many aspects of social security, including disability benefits, are now devolved and will shortly be delivered by Social Security Scotland rather than DWP. Nonetheless, where the work of DWP continues to impact on disabled people in Scotland, we anticipate that there will be occasions where we remain in a position to make a valuable and constructive contribution to the work of DWP.

9. What would be the most effective way for DWP to make sure you could engage with them?

See our answer to question 7, above.

10. Are there any areas or types of engagement that you would not have with the department?

Our members are subject to duties of confidentiality and legal professional privilege, and as such we are not generally able to share specific identifiable case examples or qualitative information.

11. Please tell us about other engagement you have had on disability issues with public sector or other organisations outside of DWP?

The sub-committee regularly engages with stakeholders in the public sector, and with other organisations. This includes responding to consultations and calls for evidence as appropriate. Examples of the committee's recent written engagement can be found on our website.³

More broadly, the Law Society of Scotland's policy work aims to help to influence the creation of a fairer and more just society. This includes proactive and reactive policy work in a number of areas where disability issues may arise, including Health and Medical Law, Legal Aid and Criminal Law. We are currently undertaking a proactive policy project regarding vulnerable persons accused of criminal offences.⁴ Further information about our policy work can be found on our website.⁵

³ <https://www.lawscot.org.uk/research-and-policy/influencing-the-law-and-policy/our-responses-to-consultations/mental-health-and-disability-law/>

⁴ Ensuring fairness: A review of existing legislation, measures and practices concerning the vulnerable persons accused of criminal offences in Scotland: <https://www.lawscot.org.uk/research-and-policy/influencing-the-law-and-policy/our-proactive-policy-work/>

⁵ <https://www.lawscot.org.uk/research-and-policy/>

We also work with our members and the public to promote equality and diversity across our activities. As a membership body we are covered by the public sector general equality duty (GED) in relation to our public functions, and voluntarily aim to adhere to the GED for all our functions as a core part of our Equality and Diversity strategy. We consult directly with our members by undertaking an anonymous detailed survey every 3 - 5 years. Through this we gather information across all the protected characteristics including disability. In our 2018 survey we asked for information on our disabled members' experiences of requesting reasonable adjustments in the workplace. At that time this was an area where there was very little research available and we believe we were one of the first professions to gather this data.

Our Equality and Diversity strategy and work is overseen by the Equality and Diversity Committee, which has a mixed membership of solicitors, and others with a deep interest in equality and diversity. We also meet with member organisations regularly to discuss any issues arising across all protected characteristics.

We consult with different organisations across all our work depending on the subject matter. Specifically in relation to disability we have recently consulted Inclusion Scotland and the Equality and Human Rights Commission in Scotland.

12. Do you have any suggestions to develop the process for you to be able to engage with DWP in future?

We have no comments to make.

13. What would be your minimum expectations of who the department should consult, and how that consultation should take place, to provide reassurance that decisions taken by the Department are well-informed and credible?

We note that DWP has been subject to adverse findings in court proceedings, and also to negative coverage in the national press. We would suggest that this risks creating and perpetuating a perception of DWP as an organisation which is hostile and uncaring towards disabled people. Positive engagement and consultation with disabled people and the organisations representing them to address this perception and the root causes of such concern is to be welcomed.

14. Is there any other evidence on this subject you would like to add?

We have no further comments to make.

For further information, please contact:

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