

This is an Open Access document downloaded from ORCA, Cardiff University's institutional repository:<https://orca.cardiff.ac.uk/id/eprint/101034/>

This is the author's version of a work that was submitted to / accepted for publication.

Citation for final published version:

Fevre, Ralph 2017. Why work is so problematic for people with disabilities and long-term health problems. *Occupational Medicine* 67 (8) , pp. 593-595. 10.1093/occmed/kqx072

Publishers page: <https://doi.org/10.1093/occmed/kqx072>

Please note:

Changes made as a result of publishing processes such as copy-editing, formatting and page numbers may not be reflected in this version. For the definitive version of this publication, please refer to the published source. You are advised to consult the publisher's version if you wish to cite this paper.

This version is being made available in accordance with publisher policies. See <http://orca.cf.ac.uk/policies.html> for usage policies. Copyright and moral rights for publications made available in ORCA are retained by the copyright holders.



Why work is so problematic for people with disabilities and long-term health problems

Ralph Fevre, Professor of Social Research, School of Social Sciences, Cardiff University,
Glamorgan Building, King Edward VII Avenue, CF10 3WT; email: fevre@cardiff.ac.uk

Occupational health researchers and practitioners are well aware of the stubborn gap in employment rates between disabled and non-disabled people in OECD countries.¹ They may be less aware that many of the causes of this gap can be found in the workplace. The example of employers' attitudes towards sickness absence shows how some of these causes might be traced back to the behaviour of employers. United Kingdom (UK) employers are particularly likely to be exercised by levels of sickness absence.² Even though UK rates of sickness absence are modest by European standards, and levels of sick pay are among the lowest in Europe, a higher proportion of sick pay is paid by employers in the UK than in other European countries.³ This gives UK employers a particular incentive to reduce sickness absence. In 2004 disabled people in the UK were twice as likely as non-disabled people to require sickness absence and a decade later this gap persisted even as overall rates of sickness absence fell. In 2016 the rate of sickness absence was 4.4 per cent for employees with long-term health conditions as against 1.2 per cent those without.⁴ Any attempts by employers to bear down on the costs of sickness absence may well have a disproportionate effect on disabled employees and contribute to the disability employment gap by causing them to leave their jobs.⁵

To understand the mechanisms involved we need to know more about those aspects of work, such as problems with employment rights and forms of ill-treatment, which may be more common amongst disabled employees. Research has demonstrated that people with disabilities and long-term health problems encounter difficulties which are not caused by their impairments

or long-term health problems but can be traced to the behaviour of employers, managers and other employees.⁶ The research evidence is particularly strong for the UK.⁷

As in many countries, disabled employees have fewer qualifications and so are more likely to have less skilled jobs and lower pay. However, disabled people also find it harder to move into skilled jobs. They feel their skills are not properly utilised and they do not have access to skills-development and training. Even though they have lower expectations, disabled employees have lower job satisfaction, and feel they have less influence in, and commitment to, their workplaces. Some of these differences may be a result of the higher concentration of disabled employees in part-time jobs, but job satisfaction measures are good predictors of how likely people are to leave their jobs. The question remains, however, as to what connection there might be between these subjective experiences of the workplace and the behaviour of employers.

Two UK surveys have been particularly useful in answering this question. The first was the UK government's Fair Treatment at Work Survey.⁸ The 2005 pilot for this survey showed that disabled people were more likely to suffer a range of different forms of discrimination and ill-treatment.⁹ For example, they were twice as likely as other employees to have experienced unfair treatment at work including discrimination and bullying and sexual harassment (disabled women were particularly at risk of both). For half of the disabled employees, the ill-treatment was ongoing at the time of the survey. It was significant for occupational health practitioners and researchers that employers' failures to deal with long-term illness were often at the root of these problems. The UK Equality Act (EqA 2010) provides equal protection against discrimination for people with certain long-term illnesses (cancer, HIV and multiple sclerosis) and for people with other kinds of illness who can demonstrate a long-term and substantial effect on their daily life. In the rest of this article the term 'disabled employee' should be understood to include employees who fall into either of these categories.

The 2005 survey suggested that some of the association researchers had assumed to be the evidence of health effects might really be the consequence of discrimination against disabled employees. This possibility was pursued in the main Fair Treatment at Work Survey which was undertaken in 2008 using a particularly robust methodology with additional questions about employment problems and with subsequent data analysis through multivariate modelling. Descriptive analysis showed similar levels of ill-treatment (with one in five cases of ill-treatment leading the employee to leave employment) but multivariate analysis using logistic regression allowed researchers to separate out the effects which might really be correlated with disability rather than other characteristics of individuals, their work, or their workplaces.

In multivariate analysis, disabled people were nearly twice as likely as non-disabled people to experience a problem with their employment rights. They were also more likely to experience bullying and harassment but they were *not* more likely to interpret their experiences as unfair treatment or discrimination. In fact, the problems disabled employees were experiencing were not those that were peculiar to employees with a disability and which could, therefore, be readily understood as discrimination. Instead they experienced all of the problems that the rest of the workforce experienced, only more so: they had problems with holidays, rest breaks, number of hours or days, pay, contract, set procedure for a complaint, set procedure for a grievance (11% versus 4% for those without a disability or long-term condition), health and safety (again, 11% versus 4%), sick leave or pay, retirement. However, even though employees might not recognize it as such, this was evidence that UK employers were breaking the law and, in many cases, actively discriminating.

The UK EqA 2010 requires employers to organize work in such a way that disabled people are not discriminated against in accessing or doing work. Employers should ensure they have rules in place to prevent disability discrimination in recruitment and selection, pay, terms and

conditions, sickness absence, training and development, promotion, dismissal and redundancy. The rules are meant to prevent the kind of pattern observed in the Fair Treatment at Work Survey and qualitative research gives us a further insight into the way employers flout these rules.¹⁰ For example, people with multiple sclerosis are denied reasonable adjustments or redeployment and forced out of their jobs because they are deemed no longer competent or have taken too much sick leave.¹¹ In fact, employees with many different impairments and health problems find their line managers adhering to a policy which frames sickness absence in terms of discipline and performance. A common theme of qualitative studies is that specialist human resource managers are no longer deciding how policies on sickness absence, vocational rehabilitation and reasonable adjustments operate, or even giving advice on their operation. The decisions are left to poorly-informed line managers who are driven by performance metrics and forced to operate within strict budgets.

The second of the two surveys allows us to estimate how much more exposed disabled employees are to the kind of experiences reported in qualitative research. The British Workplace Behaviour Survey (BWBS) was undertaken in 2008. It used 21 questions¹² about workplace behaviour to take a closer look at the behaviour disabled employees considered to be problematic but rarely considered to be disability discrimination. In all of the 21 types of ill-treatment covered by the BWBS, larger proportions of disabled employees experienced ill-treatment at work and in 20 of these types the differences with non-disabled employees were statistically significant ($p < 0.05$ or less). Seven of the 21 types of ill-treatment were also covered in the Fair Treatment at Work Survey and very similar results were recorded there.

Behind these more obvious patterns, there were subtle variations in patterns of ill-treatment for different categories of disabled person. For example, multivariate analysis of the BWBS showed the increased odds of the type of ill-treatment occurring for different groups of employees with disabilities (physical, psychological, other) compared to non-disabled

employees. The odds of someone in the other disability group experiencing ‘pressure from someone else not to claim something which by right you are entitled to’ were 5.96 [2.78, 12.78]. The odds of someone experiencing their ‘employer not following proper procedures’ were 2.60 [1.03, 6.56] for employees with a psychological disability and 2.56 [1.37, 4.80] for employees with other disabilities. All of these results were statistically significance ($p < 0.05$ or less).

When asked what they thought lay behind the most serious kinds of ill-treatment, disabled employees saw their problems with ill-treatment as a normal aspect of their employment, perhaps shared with non-disabled employees with the same employer, rather than as experiences they shared with disabled employees in other workplaces. It took robust survey research to reveal the degree to which disabled workers face the same problems in different workplaces.¹³ Without this knowledge, individual disabled workers are in a very vulnerable position when they are faced with employers who ignore their legal duties. Even with assistance from occupational health professionals or trade unions (particularly local worker representatives) they have little power to force their employers to make the often trivial changes to the way work is organised which allow them to hold onto their jobs.

It would be a step towards addressing this power imbalance if those to whom disabled people turn for help and advice were fully aware of the likelihood that the problems any individual disabled employee is experiencing are a part of a wider pattern of discrimination which the law is meant to prevent. In the surveys discussed in this article, less than one in 20 disabled workers thought that the problems they had experienced at work amounted to discrimination. It would be a great help to these individuals if occupational health professionals (along with trade unions and the third-sector organizations which have a special interest in disabled employees) could bear in mind the full picture of systematic disability discrimination which individual employees cannot see. This would sensitize occupational health professionals to the possibility that the

biggest challenge disabled employees face is not coping with, or recovering from, their illnesses or impairments but getting their employers to comply with the law.

Words [1782]

¹ Schur L, Kruse D, Blanck P. *People with Disabilities: Sidelined or Mainstreamed?* Cambridge: Cambridge University Press, 2013.

² 'Sickness absence rates and costs revealed in UK's largest survey' *Personnel Today*, 28 Oct 2015 <http://www.personneltoday.com/hr/sickness-absence-rates-and-costs-revealed-in-uks-largest-survey/> accessed 21 April 2017.

³ Gimeno D, Benavides FG, Benach J, Amick BC 3rd. Distribution of sickness absence in the European Union countries. *Occup Environ Med*. 2004;**61**:867-9; European Foundation for the Improvement of Living and Working Conditions, *Absence from work*, 2010.

https://www.eurofound.europa.eu/sites/default/files/ef_files/docs/ewco/tn0911039s/tn0911039s.pdf accessed 28 March 2017; Criddle C. Which European country offers the best sick leave? *The Telegraph*, 6th September 2016. <http://www.telegraph.co.uk/business/0/which-european-country-pays-the-most-when-workers-take-sick-leave/> accessed 28 March 2017.

⁴ Barham C, Begum N. 'Sickness absence from work in the UK' *Labour Market Trends* April, Office for National Statistics, 2005. ONS *Sickness absence in the labour market*, 2016 <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/labourproductivity/articles/sicknessabsenceinthelabourmarket/2016#which-groups-have-the-highest-sickness-absence-rates> accessed 21st April 2017

⁵ Laura Gardiner L, and Gaffney D. *Retention Deficit*, London: Resolution Foundation, 2016. <http://www.resolutionfoundation.org/app/uploads/2016/06/Retention-deficit.pdf> accessed 28 March 2017.

⁶ Fevre R, Foster D, Jones M, Wass V. *Closing Disability Gaps at Work: deficits in evidence and variations in experience*, Cardiff: Cardiff University, 2016. <https://orca.cf.ac.uk/96511/1/CLOSING%20DISABILITY%20GAPS%20AT%20WORK%20Ralph%20Fevre%20et%20al.pdf> accessed 28 March 2017.

⁷ Also see Coleman N, Sykes W, Groom C. *Barriers to employment and unfair treatment at work: a quantitative analysis of disabled people's experiences*, EHRC Research Report no. 88, London: EHRC, 2013. <https://www.equalityhumanrights.com/en/publication-download/research-report-88-barriers-employment-and-unfair-treatment-work-quantitative> accessed 28 March 2017.

⁸ Fevre R, Nichols T, Prior L, Rutherford I. *Fair Treatment at Work Report: Findings from the 2008 Survey*, Employment Relations Research Series no. 103, London: Department of Business, Innovation and Skills, 2009. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192191/09-P85-fair-treatment-at-work-report-2008-survey-errs-103.pdf accessed 28 March 2017,

⁹ Grainger H, Fitzner G. *Fair Treatment at Work Survey 2005: Executive Summary*, Employment Relations Research Series no. 63, London: Department of Trade and Industry, June 2006.

¹⁰ See Fevre et al and the other publications listed in Fevre et al and its constituent research.

¹¹ All-Party Parliamentary Group for MS, *Employment that works - Supporting people with MS in the workplace*, London: MS Society, 2016. https://www.mssociety.org.uk/sites/default/files/Employment%20that%20works%20-%20APPG%20report_0.pdf accessed 28 March 2017.

¹² Fevre, R., Robinson, A., Lewis, D and Jones, T. The Ill-treatment of Disabled Employees in British Workplaces, *Work, Employment and Society*, 2013;**27**:296-315

¹³ House of Lords Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the Impact on Disabled People*, London: TSO, 2016.

<https://www.publications.parliament.uk/pa/ld201516/ldselect/ldseqact/117/117.pdf> accessed 28 March 2017. House of Commons Work and Pensions Committee, *Disability Employment Gap Report*, 2017

<https://www.publications.parliament.uk/pa/cm201617/cmselect/cmworpen/56/56.pdf> accessed 28 March 2017.

13. United Nations Committee on the Rights of Persons with Disabilities, *Report of the UN Inquiry concerning the United Kingdom of Great Britain and Northern Ireland*, CRPD/C/15/R.2/Rev.1, 2016
<http://www.ohchr.org/Documents/HRBodies/CRPD/CRPD.C.15.R.2.Rev.1-ENG.doc> accessed 28 March 2017.