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The Law Society

Legally Disabled?

The impact of Covid-19 on the employment and training of disabled lawyers in England and Wales: Opportunities for job-redesign and best practice

Full report of findings and recommendations
October 2020

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The impact of Covid-19 on the employment and training of disabled lawyers in England and Wales: opportunities for job-redesign and best practice

Foreword

The Law Society and its Lawyers with Disabilities Division were delighted to work with Legally Disabled? researchers Professor Debbie Foster and Dr Natasha Hirst on Legally Disabled?: The Career Experiences of Disabled People in the Legal Profession (January 2020).

Throughout 2020 we have been looking at ways to disseminate and encourage action to address the findings and make the solicitors profession more inclusive for disabled people. A key focus of this activity has been on reasonable adjustments. It was clear that many disabled solicitors still struggle to access the support and adjustments they need to be effective at work.

According to the research, the most requested (and refused) reasonable adjustment was remote or home-working. However, Covid-19 has meant that most solicitors now have experience of working in this way. So we asked Debbie and Natasha to carry out further research to capture disabled people's experiences, so we could ensure good practice was captured and lessons were learned.

It is my pleasure to share the latest findings with you. They demonstrate how remote working has created opportunities for many disabled solicitors as well as some issues that still need to be addressed, including ensuring accessibility in the use of technology.

We look forward to working with the profession in taking the recommendations forward.

David Greene, President of The Law Society of England and Wales

Introduction

In January 2020 the findings of an investigation into 'The Career Experiences of Disabled People in the Legal Profession in England and Wales' were published by Cardiff University. This was the first comprehensive project of its kind in the UK and involved a partnership between a team of researchers based at Cardiff University ('Legally Disabled?') and the Lawyers with Disabilities Division (LDD) of The Law Society (TLS). The project was unique because it was funded by a lottery grant awarded to a consortium comprising of disability rights organisations from the four nations of the UK. Findings have subsequently shaped policy debates and new practices at The Law Society of England and Wales. The research and its recommendations initiated a series of roundtable discussions with members and representative organisations in the Spring and Summer of 2020 and shaped new priority areas for disability inclusion.

This research extends the 'Legally Disabled?' project (see: www.legallydisabled.com). Most notably, Covid-19 has cast a spotlight on what our previous research had identified as the most requested (and most refused) reasonable adjustment: remote or home-working. The fact that Covid-19 necessitated that everyone in the profession experienced home-working, has been significant. The universalisation of this shared experience has been transformative and has catapulted what was regarded as a minority request or a second-class way of working, into a mainstream concern and priority. Predictions that home-working will become a permanent and accepted feature of future working arrangements has also provided new opportunities for disabled people and the profession to shape a more inclusive working environment.

The Law Society has worked with Cardiff University researchers to capture the experiences of disabled lawyers in training or employment during the pandemic and coming out of lock-down. The LDD and Law Society were also keen to include disabled people seeking training and employment during this difficult time. While recognizing Covid-19 has presented serious challenges to disabled people, it has also identified new opportunities such as disability inclusive job-redesign and the valuable contribution disabled people (often more experienced home-workers than colleagues) can make to new ways of working. More generally, people have begun to question some of the artificial boundaries between our public and private lives. We are all reassessing our work/life balance, but some question the false dichotomy this terminology encourages us to accept. Work and life are not separate: our mental, emotional and physical health, relationships, family, prosperity, and life chances are all very much intertwined with our work. There are currently real opportunities to re-shape and potentially humanise our working lives.

Human sustainability has been a much neglected topic among academics and practitioners (Foster et al., forthcoming, 2020). Work needs to adapt to people's lives: as parents, guardians, carers, or disabled people. What is certain is that we will age, yet workplaces, as with many

public spaces, often fail to accommodate life events across the life-course. Public spaces and many public discourses accommodate only abstract, disembodied or standardised people. The contrast with private spaces that are shaped and imagined by their occupants are often most acutely experienced by disabled people.

About the survey

This survey was co-designed by the Legally Disabled team consisting of Professor Debbie Foster (Cardiff Business School) and Dr Natasha Hirst (independent disability researcher) with the Law Society's Lawyers with Disabilities Division (LDD) and members of their Diversity and Inclusion team.

The survey ran from the 23rd July to 16th August 2020 and asked respondents questions relevant to their work during the period from lockdown in March of 2020 to July/ August of 2020, when some employers were beginning to implement limited combined home and remote working. It was restricted to disabled lawyers in training or employment or actively seeking training and employment, who saw their professional body as The Law Society of England and Wales. Unlike the previous survey carried out by the Legally Disabled team (Foster and Hirst, 2020) it did not include barristers, people recently retired from the profession or judges. Both research projects excluded university students.

Online surveys, the online survey tool designed for Academic Research, Education and Public Sector organisations, was used to build the survey and collect the data. This tool was also used to analyse some of the data, in addition to Excel. The analysis examines 108 valid responses, all of which were anonymous. We also collected demographic and diversity data of survey respondents, which is outlined in the appendix.

There are limitations attached to the data collected. We chose to use a survey because we wanted to capture data quickly from a very specific period of time: lockdown during the first Covid-19 outbreak in the UK and the period during easing of lockdown. For this reason it was necessary to use a data tool that could be distributed and analysed quickly in a fast changing situation and interviews had a greater potential to cause stress. This was a new experience for everyone, including the researchers and for this reason they asked The LDD of The Law Society and its members to help refine the questions, but inevitably, some issues will have been overlooked. A number of opportunities were provided in the survey for respondents to provide additional narrative about their own experiences. We also provided unlimited space at the end of the survey for people to elaborate on issues they chose to highlight. Direct quotations from respondents are included throughout the report.

The survey was structured to direct individuals to the questions most relevant to their working lives during the Covid-19 pandemic. The first set of questions were for those in employment, including those on training contracts. The second set were for those seeking employment or training. Some individuals who were in employment and seeking new opportunities may have answered both sets of questions.

Some questions may only have been relevant to a small number of individuals and, as such, no generalisations can be drawn and this has been noted where applicable. Only disabled people were included in this survey, so it is not possible to draw a comparison between the experiences of disabled and non-disabled legal professionals.

Executive Summary

1. Our research suggests many **people with long term health conditions, non-visible impairments or mental health conditions don't automatically identify as disabled**, however, during lockdown some people declared their disability for the first time. Now more than any other time it's important to create organisational cultures and have conversations that enable disabled people to feel confident to disclose to their employer. Not only does this mean employees receive the equipment and working practices to realise their full potential and productivity, but it ensures that employers are confident that they have met the test of 'reasonableness' in this new working environment.

   Recommendation: Create positive working environments that provide 'safe spaces' for disability disclosure. Our previous research recommended larger organisations appoint a dedicated disability officer. Invest in disability awareness initiatives and training to increase understanding of impairments and ensure appropriate adjustments are in place and everyone understands their benefits.

2. Findings suggest **the vast majority of disabled people have welcomed home-working in the legal sector, in particular the benefits of it having been a shared experience**. Home-working, which the 'Legally Disabled?' research had found was until recently the most requested but refused reasonable disability adjustment in the profession, is most likely here to stay.

   Mass home-working has created a new working environment and it is **ESSENTIAL** that appropriate reasonable adjustments are developed for this context. Future working environments are likely to be a mix of working from home, office-based working and 'hybrid' environments of remote and present attendees, therefore adjustments need to be developed for these different contexts to **effectively integrate and include disabled employees.**

   It is, nonetheless, important not to assume that home-working automatically equates to flexible working. Genuine flexible working gives individuals reasonable control over when, where and how they work their hours. This is particularly important for disabled people with impairments that may fluctuate, cause pain or fatigue.

   Recommendations: Accept that **home-working IS a REASONABLE adjustment** to accommodate a disabled person's impairment since Covid-19. All employees may need some adjustments in this new working environment, but a **separate reporting procedure** needs to be established for disabled staff, to facilitate tailored advice from

Access to Work or from impairment specific organisations (e.g., about the use of accessible technologies, working methods or equipment).

Move from crisis management to future planning and provide certainty and new career structures. Our previous research recommended organisations adopt imaginative job redesign to facilitate reasonable adjustments. Little did we know that the pandemic would require a much broader reimagination of organisations and the value of human resources. Remote working removes some of the norms of office-based working that were barriers to disabled people. The importance of travel, presenteeism, lookism for example, are reduced. There is potential to recruit a different kind of employee, develop different skills and build teams in a different way. Remember also that it is a reasonable adjustment to allocate or exchange some tasks from a role to another person to make the role accessible. E.g. a person with a hearing impairment is recruited to a role that would usually involve some telephone work. A reasonable adjustment would be to assign this part of the role to another person and allocate them other areas of work, or provide appropriate PA support.

3. **The survey pinpointed a number of areas where policies and practices required review** to adapt to Covid-19 circumstances. These included:
   - **Sickness absence policies/practices**– encourage everyone to cease working while unwell. Ensure that Covid-related absence is recorded separately and that policies are in place to support employees who are at high risk or live with or care for others who are at high risk of contracting Covid-19.
   - **Furloughing or redundancy of staff** – selecting a disabled member of staff rather than exploring all avenues to facilitate a reasonable adjustment to their work, is likely to be regarded as discriminatory.
   - **Recruitment and selection** – home-working as an integral part of new working arrangements provides new opportunities to recruit talented disabled staff. Existing job descriptions need updating to accommodate and attract this group and would enable new divisions of labour and reward targets.
   - **Supervision –** supportive communications and supervision are essential for successful remote working. Some disabled people (e.g. those on the autistic spectrum, people with sight and hearing impairments) may find remote methods of communication more, not less difficult and may need encouragement to self-identify. Are your managers and staff aware of potential difficulties experienced by disabled colleagues and clients? Is appropriate disability awareness training available?

- **Reward management –** If you are still using billable hours, a system the 'Legally Disabled?' research identified as substantially disadvantaging disabled people in the profession (and potentially discriminatory), this is a good time to review this. Our survey findings showed home-working instilled a greater sense of trust among disabled people, but this was not experienced in terms of confidence and empowerment. Build on this trust by moving away from 'task and finish' reward strategies, harness people's skills and initiative but also find new ways to support them and build confidence (on-line mentoring), empower (sharing of good practice/experiences) and reward.
- **Disability by association –** The Equality Act includes direct discrimination because of someone else's disability, or harassment related to someone else's disability. This is commonly known as discrimination by association or associative discrimination (see: *Attridge Law v Coleman, 2009*). This may be applicable to employees in your organisation who have caring or guardianship responsibilities or possibly are part of a household in the Covid-19 context.

4. **During the period of our survey, disabled people reported experiencing new, more accessible opportunities including remote work experience, professional development, social events and networking**. However, remote options are not accessible for all and some reasonable adjustments or alternatives to remote training and development opportunities may be needed. Considering inclusion and accessibility from the outset will create a better experience for all who take part.

   Recommendation: Continue to develop and invest in what we will term **'accessible citizenship'**. Remote working has enabled many disabled people to participate more than ever before in formal and informal activities within their organisation, allowing them to gain more skills but also be better integrated into decision-making and organisational culture. Build on and identify the investment needed to facilitate these positive experiences of remote work experience, professional development, meetings, social events and networking, by ensuring that remote attendance is an integral part of your post-Covid inclusion strategy.

5. **We found technology and remote recruitment processes were not always beneficial to disabled people.** This was disappointing, particularly because common barriers cited by disabled people in our earlier research included inaccessible built environments and travel, which were removed through remote processes. We were also disappointed to find that most disabled people did not have a positive experience of recruiters, which reaffirms a key finding of 'Legally Disabled?', which highlighted that many disabled

candidates experience direct and indirect discrimination by recruitment agencies. Irrespective of the challenges of remote processes, this problem needs urgent attention in the profession.

Technology, particularly remote meeting and conference platforms, were both enabling and disabling depending on individual impairment and circumstances. Organisations need to understand the needs of disabled people applying to and in their organisation to meet their access requirements and utilise available accessibility functions of online platforms.

Recommendations: employers, recruiters and interviewers should consider a wider range of technologies and avoid prior assumptions about the accessibility of different technologies and platforms. Issue a standard questionnaire on access requirements to **all employees and potential employees.** Develop expertise to understand both common, but also individual impairment IT adjustments. Technological accessibility and reliability may be an issue for a wider pool of users, including clients.

6. **Respondents told us that working from home brings health and well-being benefits but one size does not fit all.** A number of work-related barriers and stresses are removed through home-working, e.g. tiring commutes and building more flexibility into the working day. This enables many disabled people to maintain energy levels and better manage their impairment. Many also reported an improvement to their physical and mental health through home-working.

   Despite these benefits disabled people expressed a wish to have a level of **choice** to work remotely and in the office in future. A significant minority found it difficult to manage their mental health when remote working and not all have a home environment that is conducive. It should **not** be assumed that all disabled employees would prefer to work from home.

   Recommendations: Choice and suitability of working location for disabled people is important. Avoid creating new exclusionary practices by making assumptions about where people should work. Irrespective of location, reasonable adjustments need to be put in place and regularly reviewed This includes ensuring that pre-existing reasonable adjustments remain accessible.

   Public spaces and office spaces must remain accessible to disabled people and will need to adapt to meet covid-19 safety requirements. For example, ensuring that there is adequate space for wheelchair users, adequate seating where queuing is in place, transparent visors to support lipreaders and supporting people with vision impairments to navigate shared spaces.

7. **We found disabled people needed some certainty in relation to future working arrangements.** A high proportion of respondents were anxious about the impact that lockdown easing would have on their work environment. Organisational responses to the pandemic have largely been focused on crisis management. As we plan for the future, **adaptive rather than crisis management** allows disability inclusion to be built in from the start of the planning process rather than being an add-on that doesn't meet needs.

   Our previous research concluded that disabled people were largely 'unexpected' in the legal profession and working practices had not sufficiently adapted to their increased presence. New opportunities are available to rebuild the way that organisations and processes work that are disability inclusive.

   Recommendations: Developing a long-term plan will be advantageous for everyone since the current levels of uncertainty are a cause of stress. The views of disabled employees MUST inform decisions taken regarding changes to working practices and organisational structures.

8. **Communications and working relationships were important to disabled people during the pandemic.** Successful efforts have been made to support staff to manage their mental health and well-being in a variety of ways and most felt that they had enough social contact with colleagues, although they missed being in a work environment alongside colleagues. Communications strategies successfully employed in the sector included remote socials, talks and regular team and management meetings.

   However, we found a mixed picture regarding communication with managers and colleagues that indicated variability in working cultures and practices. This suggests that more needs to be done by employers to overcome the challenges of maintaining constructive working relationships for teams and clear lines of communication for individuals working remotely. Consideration needs to be given to different impairments when doing this. In addition to 'concentration fatigue' our findings showed than individuals who identified as neurodiverse or on the autistic spectrum as well as sight impairments struggled with the loss of visual cues.

   Recommendations: Reimagine your organisation **in coproduction with disabled people**. If the future is a hybrid structure of remote and office working, inclusive communications and participation are essential. An inclusive communications strategy needs to consider how to replace traditional everyday connections between supervisors and teams. A mix of in-person and remote attendance at meetings and events raises clear accessibility challenges and these need to be understood and

managed. Some platforms are more accessible than others and splitting events and meetings into smaller chunks supports concentration and participation.

It is essential that disabled people who may express a preference for home-working in the future are fully included and not ghettoised or excluded.

9. **Centralised resources support inclusion.** We know from our previous 'Legally Disabled?' research that where disabled people have good access to financial resources to support adjusted working arrangements and they are surrounded by positive 'can do' attitudes they can excel in the legal profession (e.g. of childhood litigants). Covid-19 has created a difficult financial environment for businesses and it is important that resources for appropriate adjustments are protected.

   Recommendations: Ring fence resources centrally to fund reasonable adjustments for disabled people. These must be viewed as strategic investments so that disability inclusion is a strategic organisational priority and is not part of decision-making in reviews of devolved or departmental budgets. To embed this strategic objective in the organisational culture a dedicated budget also needs to finance disability inclusive training to build organisational expertise in impairment specific accessibility. In large organisations this might be a dedicated disability officer. Access to Work grants can also be utilised to support both large and small and medium sized businesses.

10. **Productivity.** Everyone requires robust IT and communications systems to be productive, whether working remotely or in the office. Good IT support ranked highly as supporting people to cope with the challenges of home-working. Our findings showed that having control over when and how to work enables disabled people to manage energy levels and work more productively. Respondents to our survey felt that they were more trusted and had greater autonomy in carrying out their work. This is likely to have contributed towards increased productivity. However, interestingly, this did not translate into a greater sense of confidence and empowerment at work.

    Recommendations: introduce or expand schemes such as mentoring, training and supportive line management. Higher levels of trust probably came about as a consequence of the 'crisis' because it was essential to do so. What lessons can managers learn from this? Reflect on this and consider different management styles that harness initiative and autonomy.

    Ongoing transparent and open communication is key to this, including discussing workload, job design and reasonable adjustments.

Findings

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12. Hopes and concerns of disabled people as lockdown eases

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Bibliography

Appendix - demographics

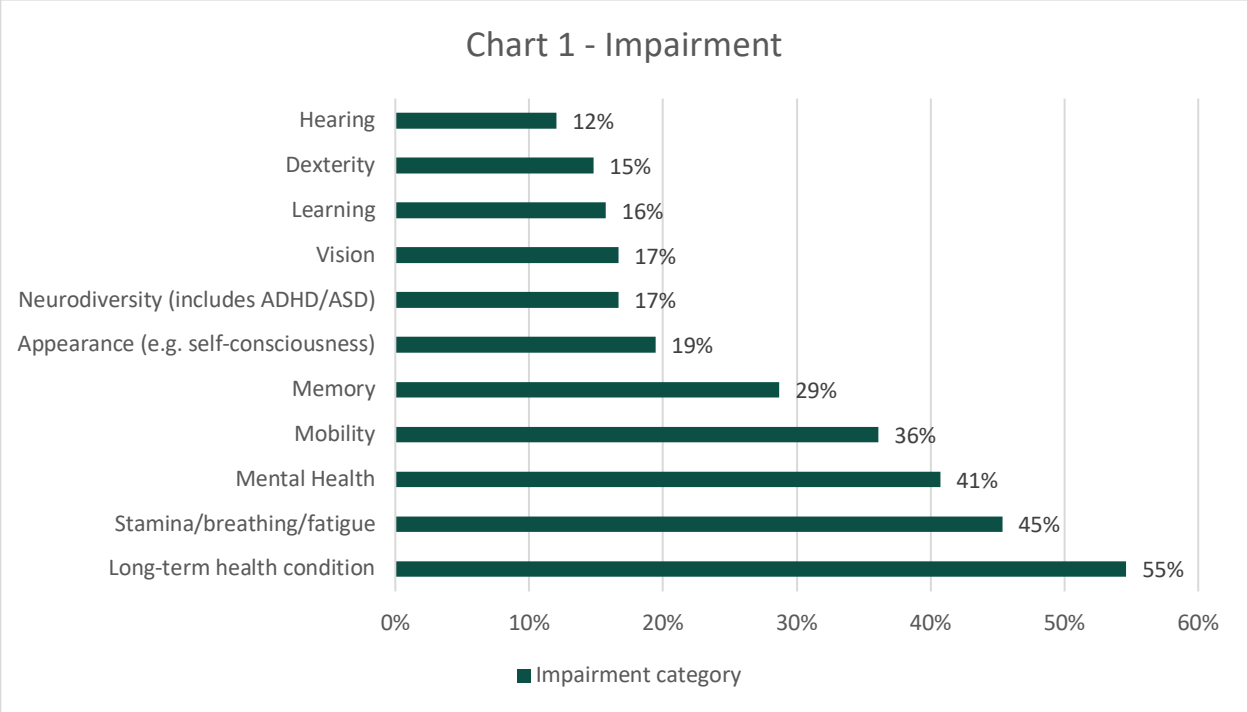
1. Disability and impairment

We asked people if they self-identified as disabled and if they met the Equality Act 2010 definition of disability. These two questions were designed to encourage the participation of those who are disabled in legal terms but do not consider themselves to be disabled people (11% of our respondents) and those who may not know if they meet the Equality Act definition of disability (4%).

Even among legal professionals our findings suggest there is confusion about who 'qualifies' as disabled, suggesting employers need to be very precise in their communications when trying to reach this group of people, particularly in relation to their duty to provide workplace adjustments.

In previous surveys the 'Legally Disabled?' team have not asked questions about the type of impairment a respondent has. Our work is guided by a social not a medical model of disability and as such we are primarily concerned with how society reacts and responds to disabled people and whether these experiences are disabling. In the past we have felt it sufficient to use the categories of visible or non-visible impairment (declared or not). However, it is apparent that Covid-19 represents a bigger threat to some impairment groups, including those with pre-existing impairments and medical conditions.

This was a multiple-choice question and allowed respondents to select all categories that applied to them.



Interestingly, only 33/108 respondents selected just one impairment category. This means 69% of our respondents have multiple impairments/health-conditions. In some respects this reinforced the findings of our previous research, where we found that over 90% of survey respondents had a non-visible impairment (Foster and Hirst, 2020). This was revealing because we had found that even where someone had a visible impairment (which often defined them to others as disabled), the vast majority also had a non-visible impairment, which they chose to conceal.

The fact that 45% identify their impairment as 'stamina/ breathing/fatigue' and 41% 'mental health' suggests that effects of an impairment may fluctuate and employer support needs to be tailored to individual needs over time. This also highlights the importance of creating a supportive and open working environment, where disabled people feel able to discuss their requirements and adjustments can be reviewed and revised.

2. Employment and training status at the start of lockdown

The Law Society was particularly interested to learn about the situation of its disabled members in training or employment, or seeking training or employment during this period. We were also interested in whether disabled people as a group were chosen or offered themselves for furlough during this period. Whether they were being targeted for redundancy and if they were, had they been given the reasonable adjustments they needed to continue working?

At the start of lockdown 86% of our respondents were **in** employment and 14% were not.

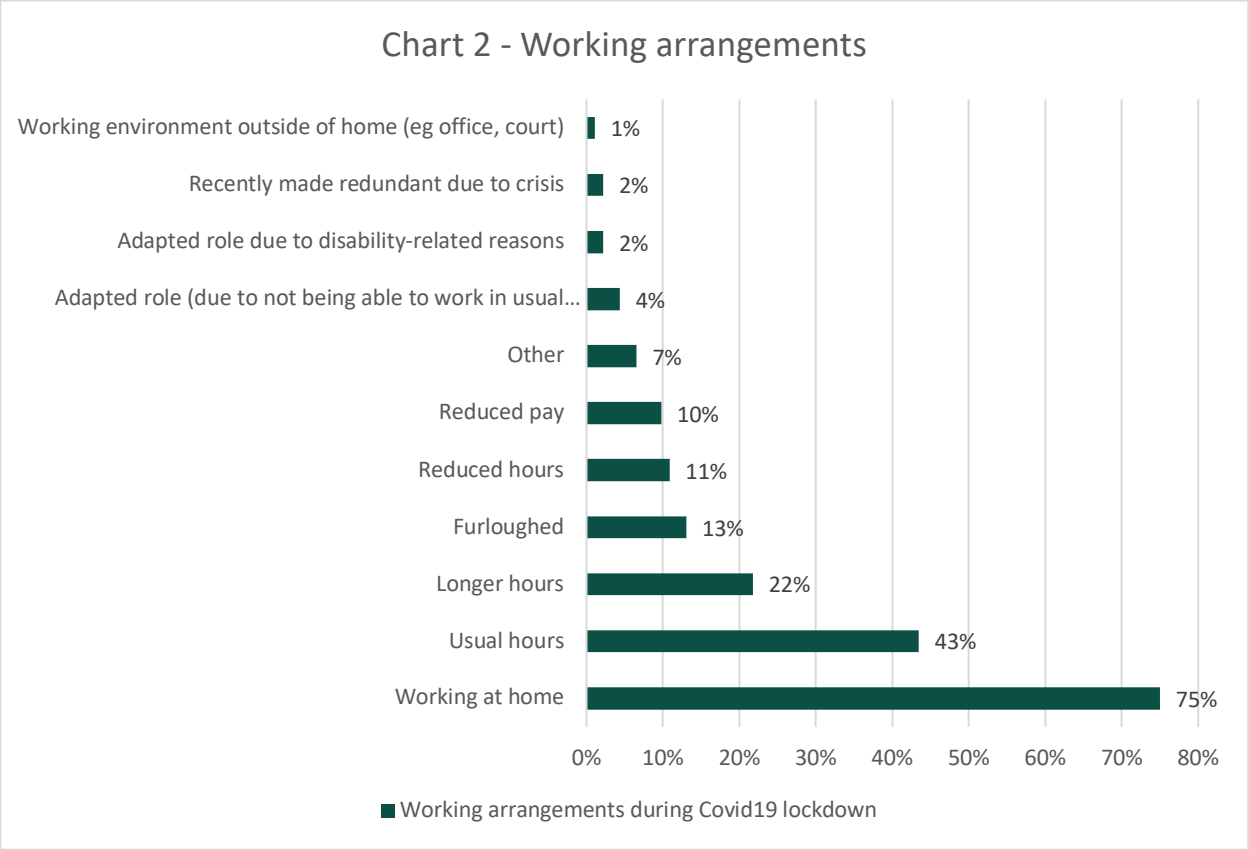
3. Working arrangements for those *in training or employment* during Covid-19 lockdown in comparison to their pre-lockdown situation.

Of those in training or employment, unsurprisingly three quarters were working from home during lockdown, 13% were on furlough, 2% made redundant due to the crisis and 7% selected 'other' (chart 2). Most of those who selected 'other' had been on sick leave. One cited dismissal "due to disability" and one had experienced an end to their employment via a settlement agreement. Only 1 respondent was working in an environment outside of their home.

3.1 Working hours

44% of respondents reported their working hours had remained unchanged, with 22% reporting an increase and 11% a decrease. Additional comments indicated that where working hours had increased this was often cover for furloughed staff. Significantly, only two individuals reported their role had been adapted for disability-related reasons.

This was a multiple-choice question and allowed respondents to select all categories that applied to them. Findings indicate that the majority of respondents were able to fulfil their usual workload from home, (chart 2).

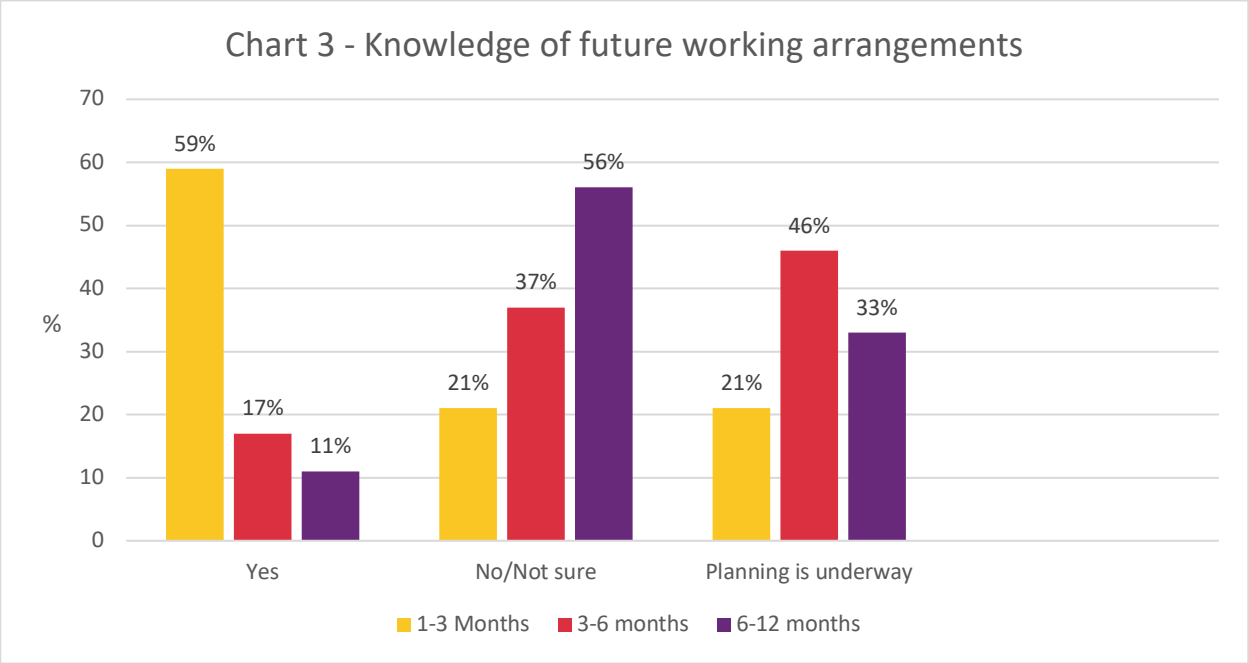


Since lockdown has eased, just under one third (30%) have experienced a change to their working arrangements, with only a small increase in the numbers working outside of their home (to 4 individuals).

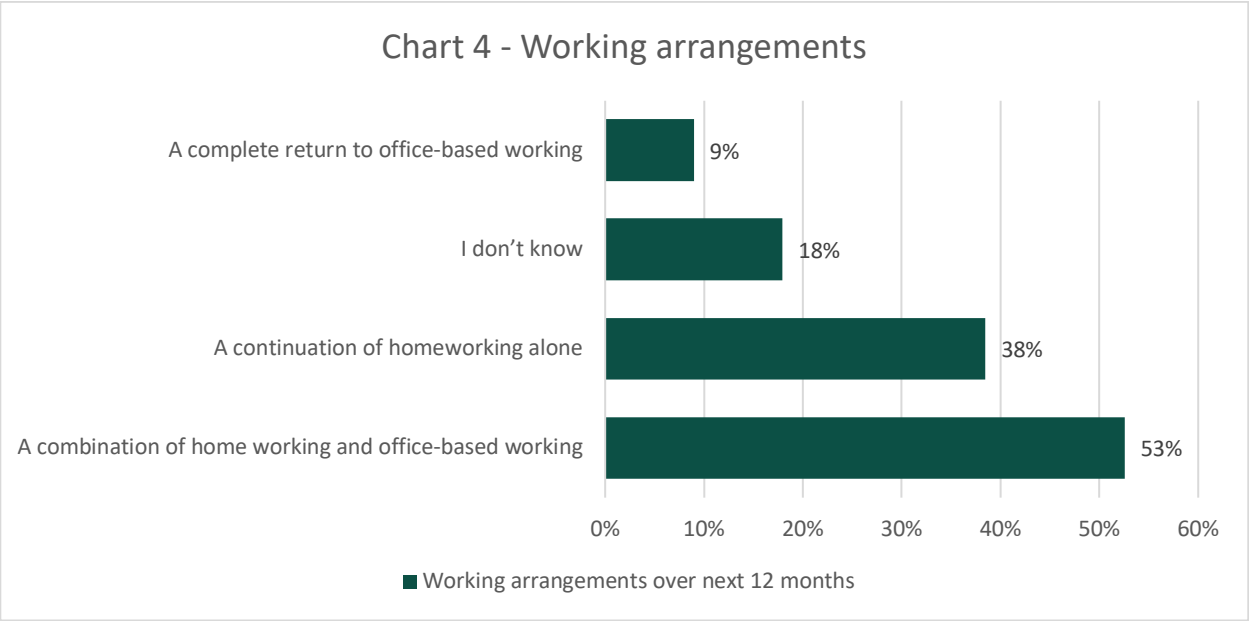
3.2 Consultation by employers about future working arrangements

Because of the anxiety that many disabled people experience as a consequence of the risks associated with Covid-19 and pre-existing health conditions, we were interested to learn whether employers were keeping disabled staff informed and consulting with them about future working arrangements.

We asked about knowledge of working arrangements over the next 1-3/ 3-6 and 6-12 months. 59% of respondents were aware of the working arrangements that their employer proposes to put in place over the next 1-3 months. There is, however, greater uncertainty regarding longer term working arrangements, (chart 3).



Over half of respondents (53%) expect their future working arrangements to be a combination of home and office-based working. However, the table below reflects multiple-choice answers and many people ticked all options, indicating that the common working patterns are likely to change over time and affect different employees in different ways, (chart 4)



Two thirds of respondents felt that their views are being sought and considered by their employer on changes to working arrangements (though we have no data to compare disabled and non-disabled staff), but significantly a quarter of respondents said they did not feel adequately consulted.

At this critical juncture when it is essential that working practices are reviewed there is a historic opportunity to ensure that the needs of disabled employees are met. Organisations engaged in future planning need to ensure that such planning is fully inclusive and equality impact assessed.

> "I hope that social distancing will be taken seriously and that people with health conditions won't feel dismissed and isolated. Social distancing is non-existent in our offices at the moment - there are few hand sanitizers around the office but that is the extent of it."

> "Working from home is the main adjustment I needed and I have not had to ask for it! The problem is returning to the office and whether my role will continue to be accessible to me - this will depend on how the return to the office is managed for everyone."

3.3 Furlough

Over half of those surveyed (53%) said their employer had made use of the Government furlough scheme. It is, therefore, potentially significant that only a small number of the disabled people that participated in our survey had been directly affected by it, though it is not possible to draw any generalisations.

We speculated before the survey that some disabled people might feel under pressure to offer themselves up for furlough because of fears that they might not be provided with adequate reasonable adjustments. We also wondered if disabled people might be targeted for furlough by employers. It is possible that those furloughed were more likely to be in administrative roles, rather than those practicing law.

Where applicable, 12% (n=6) offered themselves for furlough, with 20% (n=10) being selected for furlough. Of those furloughed 5% (n=2) believed they were selected for furlough because they are disabled with 7% (n=3) stating they do not know.

4. Disability disclosure among respondents in employment or training

A question we were interested to ask was whether the experiences of lockdown (and universal home-working) had meant that a greater number of disabled people in the profession had felt it was easier or more comfortable to disclose they were disabled to their employer and colleagues. For some, we anticipated, this might become a necessity if they had previously chosen to conceal an impairment.

We found that the majority of respondents had already disclosed their impairment to their employer (85%) but fewer had disclosed to their colleagues (64%). During lockdown 9% and 19% disclosed to their current employer and colleagues respectively for the first time, with 6% and 18% respectively saying they have not disclosed. Our previous research showed a disclosure rate of 60% to employers, significantly lower than the disclosure rate indicated by this survey. This difference could be due to a smaller sample and a different cohort of respondents.

42% of those that reported they had disclosed to their employer since lockdown received a 'positive and supportive' response, although 10% said they experienced a 'negative and unsupportive' reaction. The remainder of respondents either had mixed experiences from disclosing or neither positive nor negative responses. Unfortunately, because of the limitations of the survey tool we do not know exactly how this negative behavior manifested itself.

Interestingly, 60% found **colleagues** to be 'positive and supportive' when disclosing, which contrasts with 6% who found colleagues negative and unsupportive. Perhaps most revealing were the 26% and 11% who said they had 'mixed experiences' when disclosing to employers and colleagues respectively during the pandemic. That disabled people found their colleagues to be supportive and managers less so is of interest. This has been a uniquely difficult time for everyone in employment and the positive and supportive attitudes disabled people experienced from colleagues may have been due to the shared situation. Additionally, unlike in the workplace, colleagues can't see the reasonable adjustments given to others, they therefore can't see or resent what they perceive to be 'missing out on'.

Evidence from large-scale workplace studies in the U.S. lends support to the view that if disabled and non-disabled people share flexible working practices that the former are supportive of adjustments. Schur et al (2014) looked at organisations with flexible corporate cultures, where all personnel were able to request adjustments to their work, for a wide variety of reasons. They found that disabled people's requests for adjustments were no more expensive than non-disabled colleagues and in such organisations, were viewed more positively by co-workers. This is important because it goes against what is commonly assumed: that

disabled people are more costly to employ and will have a negative effect on co-workers. Concluding the study, however, the authors note that "granting accommodations has positive spillover effects on attitudes of coworkers, as well as a positive effect on attitudes of requesting employees, but only when coworkers are supportive" (Schur et al. 2014:593). This suggests that if opportunities for home-working post-pandemic are mainstreamed and made available to everyone, not only will all employees benefit, but disabled people will find it easier to make a case for it to become a common reasonable adjustment.

5. Reasonable adjustments

This survey was in some respects motivated by the findings of our previous research, which concluded that many disabled people in the legal profession believed they would benefit from home-working as a reasonable adjustment, but this was often refused or dependent upon status. What we can almost certainly predict is that reasons commonly given to justify this refusal will in future hold little legitimacy and the basis of what is 'reasonable' in terms of home-working will change as a consequence of Covid-19.

In the circumstances created by lockdown of increased home-working for everyone, we were interested to learn whether the act of requesting reasonable adjustments had, however, become easier for disabled people in the legal profession. We also were interested in the extent to which employers had been proactive in their duty to ensure that disabled people had received the adjustments they needed.

Of those disabled people surveyed 52% told us they already had reasonable adjustments in place prior to Covid-19. This is a relatively low figure but not entirely surprising, given our previous findings that many disabled people were reluctant to disclose or typically under-disclosed their impairments to their employer and consequently received no, or inadequate reasonable adjustments.

Interestingly, 20% of respondents said they had requested reasonable adjustments for the first time since lockdown and 19% stated that their reasonable adjustment requirements had changed since lockdown and home-working.

Where applicable, just under one third (32%) had had their reasonable adjustments reviewed by their employer. It is notable though that 17% did not know what reasonable adjustments might be of benefit to them.

There is a legal duty on employers to be proactive in relation to workplace adjustments and we would have expected that, given the changed circumstances to working arrangements brought about by Covid-19, we would have found greater evidence of this. Findings also suggest that

now the dust has settled employers need to be much more proactive in relation to their disabled employees and ensuring that they have the relevant equipment and support to do their job. New home-working environments require evaluation, the provision of equipment and I.T. needs to be assessed for accessibility and it may be necessary to consider employment of personal assistants outside the office. Employers would also be well advised to contact Access to Work for advice, or Disabled People's Organisations (DPOs) that have a wealth of experience and knowledge.

RAs already in place	**RAs requested and put in place during lockdown**	**RAs requested and not provided during lockdown**
• IT and communications technology • Flexible working	• IT and communications technology • Flexible working • Physical adaptions to the home environment	• Disability awareness training • Flexible working • IT and communications technology • Physical adaptions to the home environment • Changes to targets/billable hours

In terms of types of reasonable adjustments, we found that the most common adjustments already sufficiently in place (prior to Covid-19) were IT and communications technology and flexible working. These were also most cited as reasonable adjustments requested and met in full, followed by physical adaptations to the home environment.

The most commonly requested adjustment that was <u>not</u> provided was disability awareness training for colleagues. This is consistent with our previous findings, which highlighted how adjustments that sought a change to culture and attitudes, or that required colleagues to make adjustments with the way that they worked, were frequently denied. Given how unusual the circumstances, we do acknowledge that this may be viewed as a longer-term objective for organisations as new ways of working develop, but urge them to ensure it is a part of a long-term strategy.

Reasonable adjustments often requested but denied, or not met in full were flexible working, provision of IT and communications technology, physical adaptions to the home and changes to billable hours or targets. Flexible working is a reasonable adjustment that is both provided and denied, pointing to significant variability in the willingness of employers to consider and

implement this as a reasonable adjustment. Findings suggest a complex picture and a need for more in-depth conversations with individuals about their experiences. For example, flexible working and home-working did not always appear as complementary and we found examples of people being micro-managed remotely.

> "Strict online monitoring of tasks completed but ignoring number of phone calls and length of calls. If you get a lot of phone calls you have less time to work on files/tasks. Then you get questioned and have to justify matters but getting a lot of phone calls and length of phone calls is not accepted by managers they expect you to do both answer all the phone calls and complete all tasks within the working hours."

5.1 Requesting reasonable adjustments during remote working

The ease of securing reasonable adjustments under new working conditions was something we were interested in. Significantly, 19% of respondents found it easy or very easy to request reasonable adjustments during the period surveyed, compared with 18% who indicated they found it difficult or extremely difficult to request adjustments. This points to a high level of variability in the experiences that disabled people have in securing the support required to do their job.

Many respondents expressed hope that Covid-19 had raised employer awareness of disability adjustments and the value of home-working to disabled people as well as employers. Most respondents envisaged continuing to work from home for at least a proportion of the week in the future.

> "Prior to Covid, I didn't ask to work from home on a regular basis because I assumed my employer would be unwilling to make that adjustment. In my view, post Covid it will be much harder for them to say it isn't a reasonable adjustment for disabled employees to work from home permanently because the previous argument of there being a business case against it doesn't really hold water."

The removal of the need to commute to the office or to see clients and easier access to remote meetings were highlighted as benefits that disabled people would like to see continue. Nonetheless, some felt that the physical adjustments they needed to improve their home-working environment had not been provided and in some cases it would be difficult to make these because of lack of space, or others working from home. Lockdown resulted in emergency circumstances and it will become increasingly incumbent on employers to evaluate the health and safety risks of all employees home-working, if, as expected, an increase in home-working becomes the norm.

Interestingly, some disabled people said they still lacked confidence or feared asking their employer for reasonable adjustments. Those who were shielding, or living with someone who needed to shield, also expressed concern that the significance of this and its associated risks were being dismissed by their employer.

> "My firm have completely disregarded the fact that I am shielded and have repeatedly requested me to come back into the office which I have not felt able to refuse. My experience is that people who are shielded or who have long term health conditions at my firm are treated as those they are neurotic and too scared to come in when there is actually a physical health reason for not coming into the office."

Many indicated that because flexible working arrangements were likely to be requested by most of the workforce to support home-working were easier to secure:

> "It's easier to work from home, as everyone is doing so, which is useful for me. Because everyone is asking for adjustments, it normalises it for those with disabilities who need them."

However, some indicated that securing disability-related reasonable adjustments during lockdown had actually become harder and expressed fears about a possible return to either mixed home and office working, or just the latter:

> "No it is not easier due to lack of government support, colleague support is excellent but the regulator and system are the failure"

> “I had been requesting home-working well before Covid-19 and suddenly I have got it. The quest now is to keep the adjustment.”

> “Working from home and remote attendance at courses has actually been helpful and removed some issues. It would be helpful if this continued post lockdown to allow those disabled to attend more events remotely.”

> “Working from home has made things easier but lack of space means I don’t use the equipment Suitable for my health.”

The negative impact of Covid-19 on access to physical therapies and healthcare was also raised, although this would not necessarily be a downside of home-working in more stable times.

> "I have run my own business, from home for the last 6+ years. Therefore, the only effect of Covid-19 for me has been the inability to attend specialist gym, yoga & occasional massage at my local MS Therapy Centre"

6. Online networking, training and professional development opportunities for those in employment or training

Our previous research on the career experiences of disabled people in the legal profession (Foster and Hirst, 2020: pp59,105) had found disabled people unable to fully access or participate in meetings, training opportunities and networking: the latter being an important dimension of a successful legal career. We wanted to learn, therefore, whether the move to remote working had improved accessibility.

Where applicable, about one quarter (26%) said they had faced barriers in accessing meetings, networking and training opportunities during Covid-19. However, of those who had sought to engage with online training opportunities, over three quarters (77%) found these to be accessible, with 9% finding training events inaccessible and 14% reporting they could not find any accessible training opportunities.

From our findings, online training and personal development opportunities appear to be potentially significant in supporting the education, skills and future career development of disabled people in the profession. However, employers and training providers need to understand what impedes access for the minority reporting inaccessible experiences and determine the relationship with impairment type. For example, anecdotal evidence suggests that people with sight impairments find using remote platforms particularly difficult: inaccessible type and font sizes, instructions, differences between platforms and an absence of physical cues from others can be problematic.

Respondents have indicated multiple impairments so it is not possible to know which impairment has the most impact on access. What is or isn't accessible seems to be a very individual experience. Employers cannot assume that an individual with a particular impairment will find online events more or less accessible. Such assumptions risk creating damaging new stereotypes about remote working.

7. The impact of working from home on physical and mental health

Clear benefits from home-working were reported by disabled people in the profession during lockdown and the time period covered by the survey. One of the most obvious was an opportunity for many to demonstrate that remote working was an effective reasonable adjustment for both employer and employee:

> "It has been such a relief for my employer to find out that home-working can work well, rather than me having to prove it. My physical and mental health has been majorly

> improved as a result of being less tired and stressed and I know that my work is of a higher quality."

> “it has given me so much more energy to be able to avoid the commute.”

It is also noteworthy that our findings suggest that the benefits of home-working for disabled people since the appearance of Covid-19, have outweighed the benefits of home-working before Covid-19 (see chart 5, below). We speculate that this is interrelated with the unprecedented nature of the situation, whereby all employees, not just a minority with protected characteristics, worked from home. Consequently, substantial efforts were made by organisations to address possible isolation, improve virtual communications, maintain organisational identity and build virtual communities.

Despite reported benefits, it is still important to note that a proportion of respondents (approximately one third) did say they experienced negative effects associated with home-working, most notably related to their mental health. In addition, some home environments are not conducive to remote working and disabled people are more likely to require physical adaptations and equipment, in short supply during lockdown. Health and social concerns as well as interrupted access to medical and support services are likely to have also disproportionately affected disabled people and affected mental health.

> “There is a greater awareness of the need to look after peoples' wellbeing and willingness to be sensitive to be individual circumstances.”

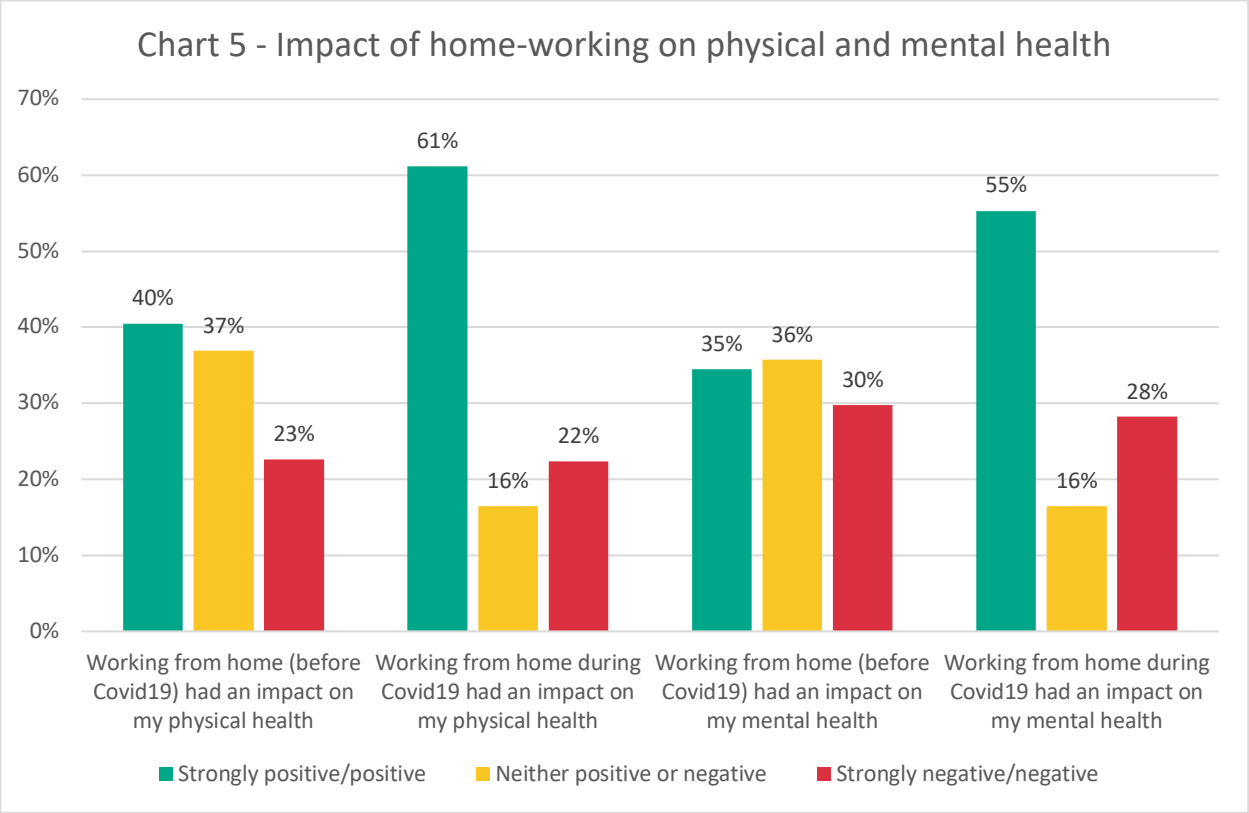
What universal remote working highlighted was the importance of virtual networks and social opportunities and this needs to continue. Communication policies and practices need to ensure inclusivity. Opportunities for informal office-based communications may be limited, but to prevent new on-line cliques developing it may be necessary to ensure more regular and formal virtual communications.

New categories of employees are also likely to emerge. As well as those who work largely from home, combined present and remote working will increase. Organisations need to consider whether such demarcations based around working arrangements might produce marginalised sub-groups. The mix of present/remote working can create its own set of challenges around inclusion and access, for example, ensuring sufficient technology is in place for hybrid meetings.

Among disabled people who become regular home-workers there will be some that are more at risk than others. New HR policies may be needed to protect the employment rights of ‘shielders’ as defined by the Government and health service. Many disabled people, however, felt they were wrongly left out of official categories of people who should shield and this will include a multitude of different impairment types.

It is important to acknowledge that The Equality Act 2010 provides legal protection to a group of people who are defined as disabled by association. This could include: carers, guardians, someone who lives in a household with a person who is shielding or disabled, or it may apply to a personal assistant employed by a disabled person or an organisation. The law is currently unclear, but it is the case that less favourable treatment of a disabled person or someone who is associated with a disabled person because they are at greater risk from Covid-19, would likely be discriminatory.

Employers and organisations have real opportunities to develop a more inclusive, flexible working environment, but to do this difference and the needs of different groups need to be fully understood and acknowledged.



8. Experiences of *applying for* employment and training during lockdown

The Law Society and LDD were interested in evaluating the experiences of members involved in *applying* for employment and training during lockdown and since the onset of Covid-19 restrictions. This applied to only a small number (12) of respondents, but provides some insights. 10 of the 12 had been involved in interviews since lockdown began.

8.1 Accessibility of the recruitment process

Disabled people's experiences of the accessibility of remote job interviews varied. Technology played the role of both enabler and disabler, with Microsoft Teams being noted as an inaccessible platform and Zoom as more accessible. Glitches with technology, such as logging into meetings and inaccessibility associated with online testing, were cited as problems in selection and recruitment processes.

One respondent detailed how they had requested a new interview after the wrong link was sent to them, but this was refused. Another described being expected to attend a telephone interview that was not accessible. Worryingly, one respondent was asked to attend face to face interviews during lockdown. As our previous research found (Foster and Hirst, 2020: pp31), some disabled applicants requested reasonable adjustments in advance of an interview but requests were not forwarded to prospective employers by recruitment agencies, or they were simply not made available at interview.

Two job applicants admitted they did not know what reasonable adjustments may have benefited them: suggesting employers need to be proactive in providing lists of commonly available adjustments and personnel involved in selection and recruitment need to be appropriately trained.

Respondents found remote interview processes accessible and inaccessible in equal measure. Although this was a small sample, it is significant that no one who responded to these questions had found it easier to request adjustments to a remote process than a physical one and we could not identify one example of all requested adjustments being met in full. We have no way of knowing if all requests were 'reasonable', but we caution against assumptions that technology will inevitably improve the accessibility of the recruitment process, by removing some physical barriers found in previous research (see: Foster and Hirst, 2020).

8.2 Disclosure during the application process

Only four respondents disclosed an impairment for the first time during Covid-19 when applying for a job or training, despite the potential that pre-existing health conditions might be relevant to the recruitment process. Positive experiences included receiving a prompt response from a prospective employer to check what adjustments would be needed. Negative experiences following disclosure however, included examples of opportunities being withdrawn or denied, no response received upon disclosure, or reasonable adjustment requests going missing. Multiple comments expressed a fear of being discriminated against if they disclosed their impairment, below are just two examples:

> "More negative experience during Covid-19 but perhaps this is due to employers being able to be more picky with their candidates i.e. more people applying than spaces for and not many jobs out there to apply for."

> "if I disclosed to a recruiter pre-Covid they would likely state that there were no jobs suitable for me and that I should just apply direct - this was only after I disclosed. Now during Covid I am even more anxious to disclose because of the lack of jobs available for me to apply to. I believe that employers may see me as too difficult to employ and it would be hard work securing my adjustments - even though I know that when using Access to Work it isn't. Due to a lack of understanding surrounding how to employ disabled people - employers may think it would be easier to employ a non-disabled person. Therefore, I am facing a double edged sword whereby if I disclose I may not get interviews or indeed the job - but if I don't disclose then I wouldn't be able to work without my adjustments which I so desperately need."

If employers anticipate that a combination of remote and office working will be required in future, job descriptions need to formally reflect this, to attract disabled talent. Clarity around the boundaries between home and office working is also important, as some jobs may require travel to meet clients or appear in courts. Our previous research for the 'Legally Disabled?' project (Foster and Hirst, 2020: pp37) found a widespread fear among disabled people to disclose non-visible impairments. Significantly, this fear was also experienced by people with visible impairments who often chose to conceal non-visible ones. We identified the need to build greater trust with disabled employees and explore more imaginative and flexible job design. Covid-19 has accelerated the need for both and provides timely opportunities to re-set expectations around working practices that build in inclusivity. The content, delivery and management of job roles should all be reviewed.

8.3 Experiences of recruitment agencies during lockdown

A key finding of 'Legally Disabled?' was that disabled people in the profession had an overwhelmingly negative experience of recruitment agencies with only 9.7% of disabled solicitors and paralegals reporting a positive and supportive response when using legal recruitment agencies. (Foster and Hirst, 2020: pp11). A small number of respondents answered a question on experiences of using recruitment agencies during the pandemic and we provided an opportunity for them to detail these in space provided by an open box.

Multiple responses described recruiters who were not good at listening and lacked an understanding of disability, resulting in a failure to follow through on requested adjustments.

Many recruitment agencies had themselves furloughed staff, so it was sometimes difficult to ascertain whether advertisements for jobs were active and this may have contributed to negative experiences. We were, nonetheless, most surprised to learn that one disabled person was asked to attend face-to-face interview:

> "Asked to attend a face to face interview (next week), which I am going to do (because I need a job) but I am extremely concerned and somewhat panic-stricken about going and sitting with a group of people I do not know for an extended period."

Although most responses were negative we did, nonetheless, encounter one positive example that we include for reasons of balance:

> "Disability has not been an issue for the recruiters or firms they usually deal with. For a particularly 'tricky' firm, the recruiters worked well with me to write a sensitive yet disclosing cover statement for my disabilities."

8.4 remote work experience and starting employment during lockdown

The Law Society and LDD wanted to learn from examples of remote internships or work experience during lockdown, because of their potential to widen disability inclusiveness. We found one example of someone who had undertaken a remote internship and had a very positive experience:

> "This is an extremely positive experience for me. It has given me chances to undertake work experience at City firms - where pre covid, due to my disability I would have never been able to attend them. I really hope that organisations continue to hold virtual work experiences as I finally feel included as a disabled graduate. I really wish that these opportunities were available to me as a student because I constantly compared myself to others undertaking city vacation schemes and thought that I was useless and not as good of a candidate because I couldn't do them due to my disability. I couldn't even consider attending work experience especially in London as I didn't know that I could access reasonable adjustments and also the travel would severely impact my condition."

We also had two examples of disabled people starting new jobs during lockdown: both of whom had encountered difficulties. One found starting a management role remotely, problematic, the other commented on a lack of coherence when starting:

> "My new role involves management which has been difficult to adapt to when I cannot sit with the people I am managing, or get reliable contact with my manager."

"[I] missed out on the coherency of a usual process and meeting other new starters."

8.5 Online networking, training and professional development opportunities for those seeking employment or training

Among those applying for jobs or training contracts who had attended online networking events, 50% found them more accessible than in-person events and 28% found them to be less accessible. 22% found on-line events no more or less accessible.

Of those who engaged with online training opportunities, the vast majority (78%) found these to be accessible, 9% found training they attended to be inaccessible and 13% could not find any accessible training opportunities.

These findings are from a very small sample, but match those of the larger group accessing online training opportunities whilst in employment, suggesting that online training and personal development opportunities have the potential to increase accessibility and support the career development of disabled people, though as previously mentioned there is a need to develop a better understanding of the obstacles facing some people from specific impairment groups. Directly engaging with disabled staff and seeking external expertise from Disabled People's Organisations (DPOs) will support with developing inclusive solutions for online training and networking opportunities. Where training is procured, employers should request that disability inclusion is central to delivery.

9. The overall experience of disabled people working or in training in the legal profession during lockdown

In this section of the survey respondents were asked to rate their views on a scale of 'strongly agree' to 'strongly disagree' covering a number of issues we identified with the LDD and Law Society as having been relevant to disabled people under lockdown. (*The figures provided are after the removal of 'not applicables').*

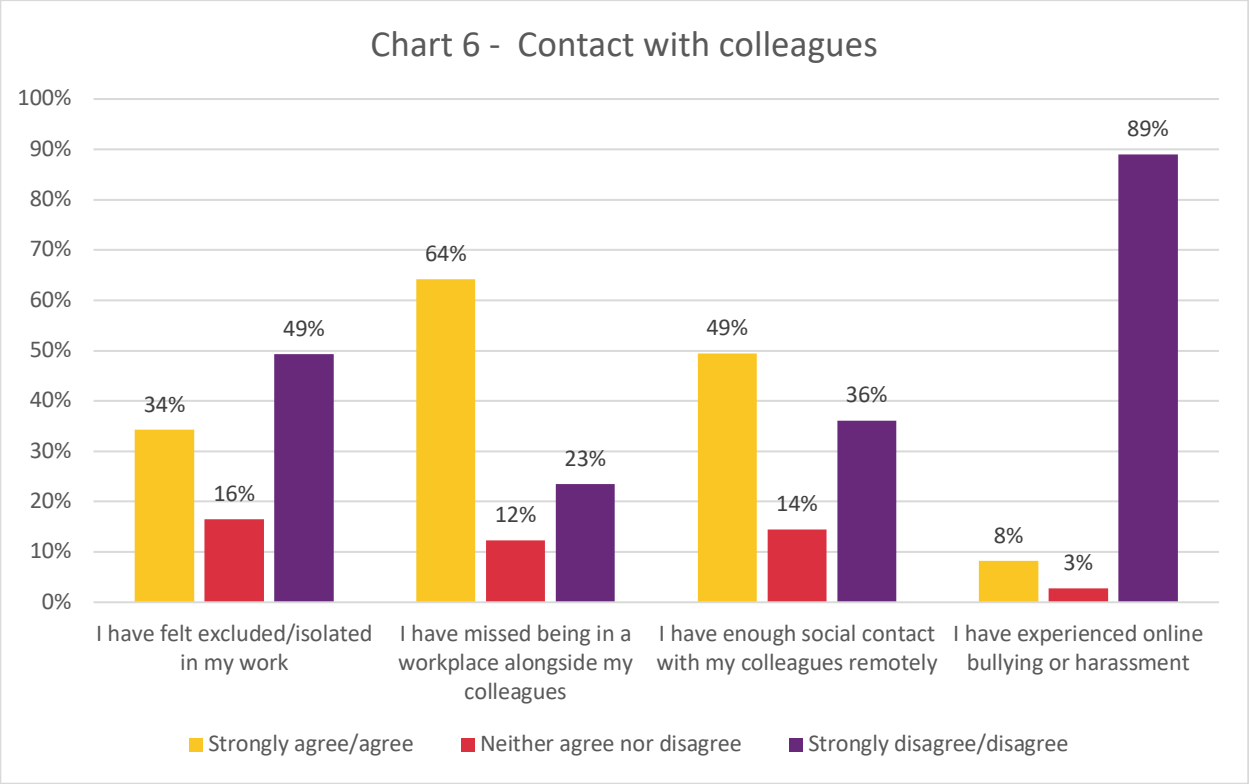
9.1 Exclusion & isolation

Although 64% of people have missed being in a workplace alongside their colleagues, almost half felt that they had experienced enough social contact with colleagues to not feel excluded or isolated at work. Nevertheless, about one third did feel excluded and believed they did not have enough social contact with colleagues. This is probably a consequence of different levels of engagement in different workplaces. It will be a learning process for employers to get the

level of engagement right for employees who may work predominantly or exclusively from home.

9.2 Online bullying and harassment

A question on bullying and harassment of disabled people was included because of its significance in earlier research (Foster and Hirst, 2020: pp102). We particularly wanted to know if moving to on-line working had brought about new problems for disabled people and found that 89% did not believe it did.



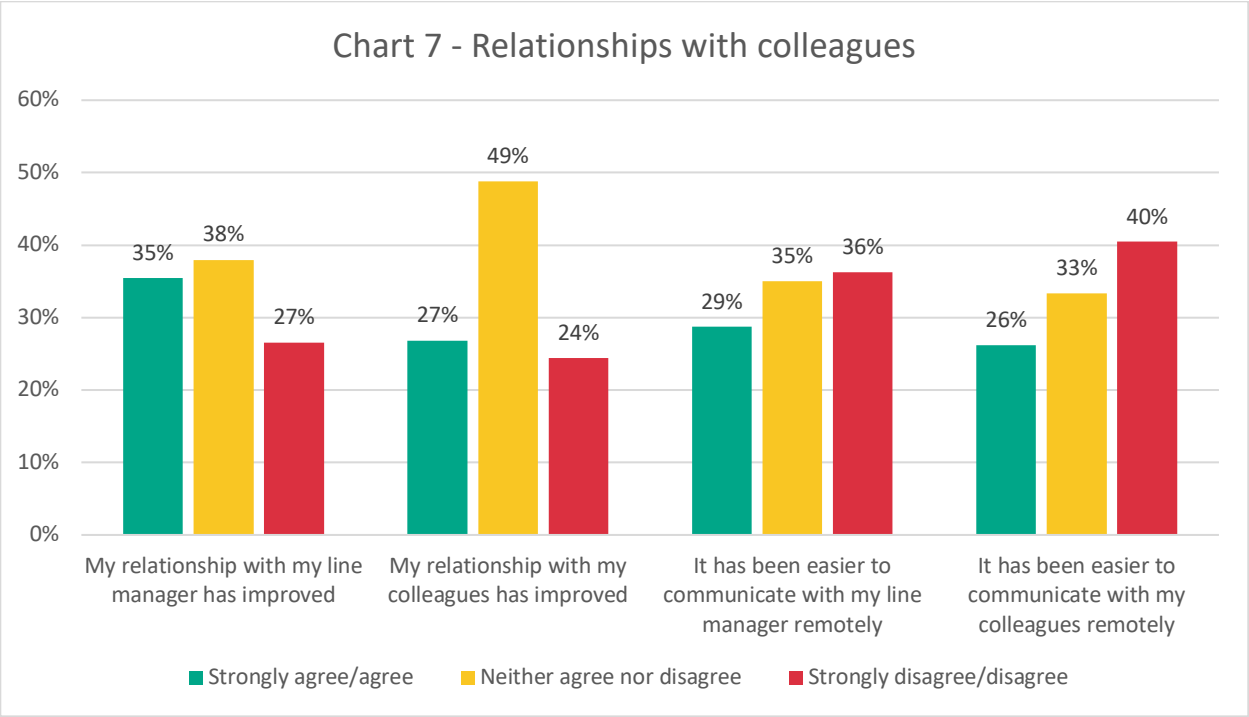
9.3 Communications and relationships with managers and colleagues

Mixed responses emerged when people were asked about their experiences of communication and relationships with colleagues during Covid-19. The largest group stated there had been no change in their relationship with their line manager or colleagues, at 38% and 49% respectively. A third also stated there had been no change in the ease of communication with their line manager or colleagues.

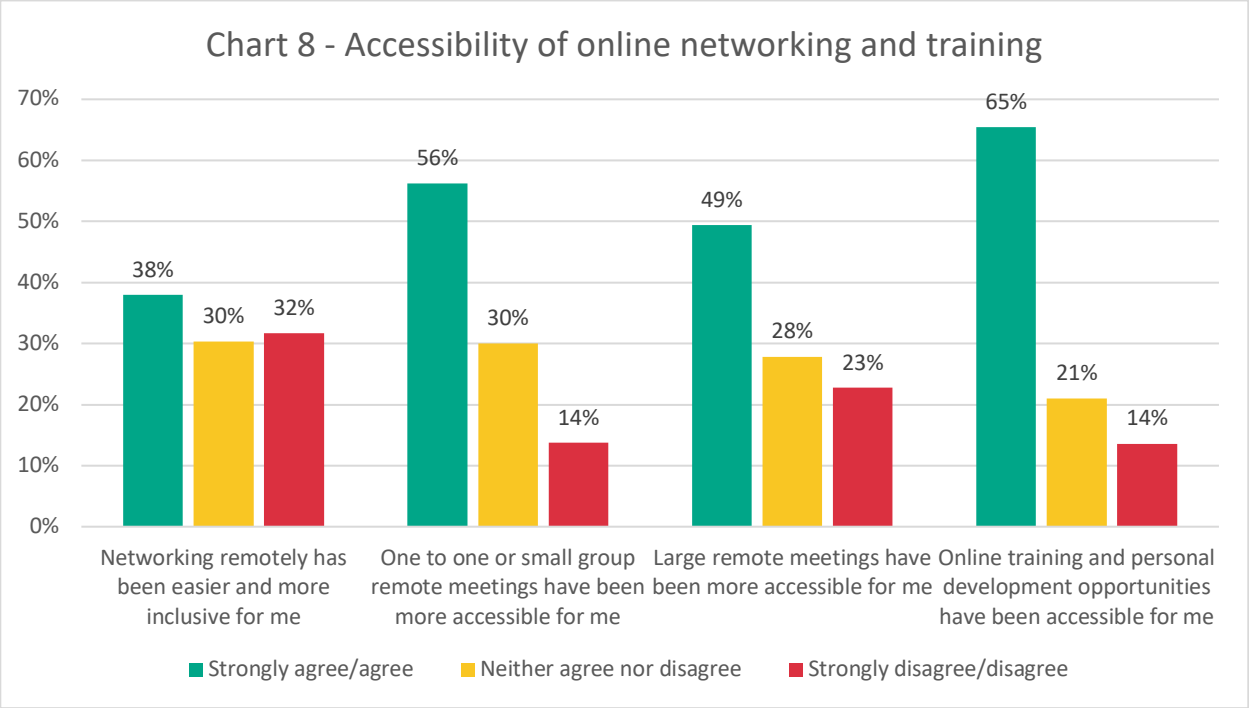
Interestingly, 35% stated that their relationship with their line manager had improved, while 27% said it had worsened. 27% agreed that their relationship with their colleagues had also improved, with 24% saying it had worsened.

We found that when asked about communication with managers and colleagues, respondents were more likely to say it had deteriorated, which is perhaps unsurprising given the sudden challenges of remote working that were thrust upon everyone. Communication with line-managers and colleagues worsened for 36% and 40% of respondents, respectively. This is likely to point to the variability in organisational cultures and the different approaches of individual managers.

On balance, we found disabled personnel reporting that relationships and communication with colleagues and managers had improved for only a minority (between one third and one quarter). This suggests more needs to be done by employers to overcome the challenges of maintaining working relationships and clear lines of communication for individuals working remotely and consideration needs to be given to different impairments when doing this.



As previously noted, online training opportunities, webinars and small meetings have largely become more accessible. However, a significant minority of disabled people found online networking and large meetings inaccessible (32% and 23% respectively) and a better understanding of these present barriers is necessary to improve provision.



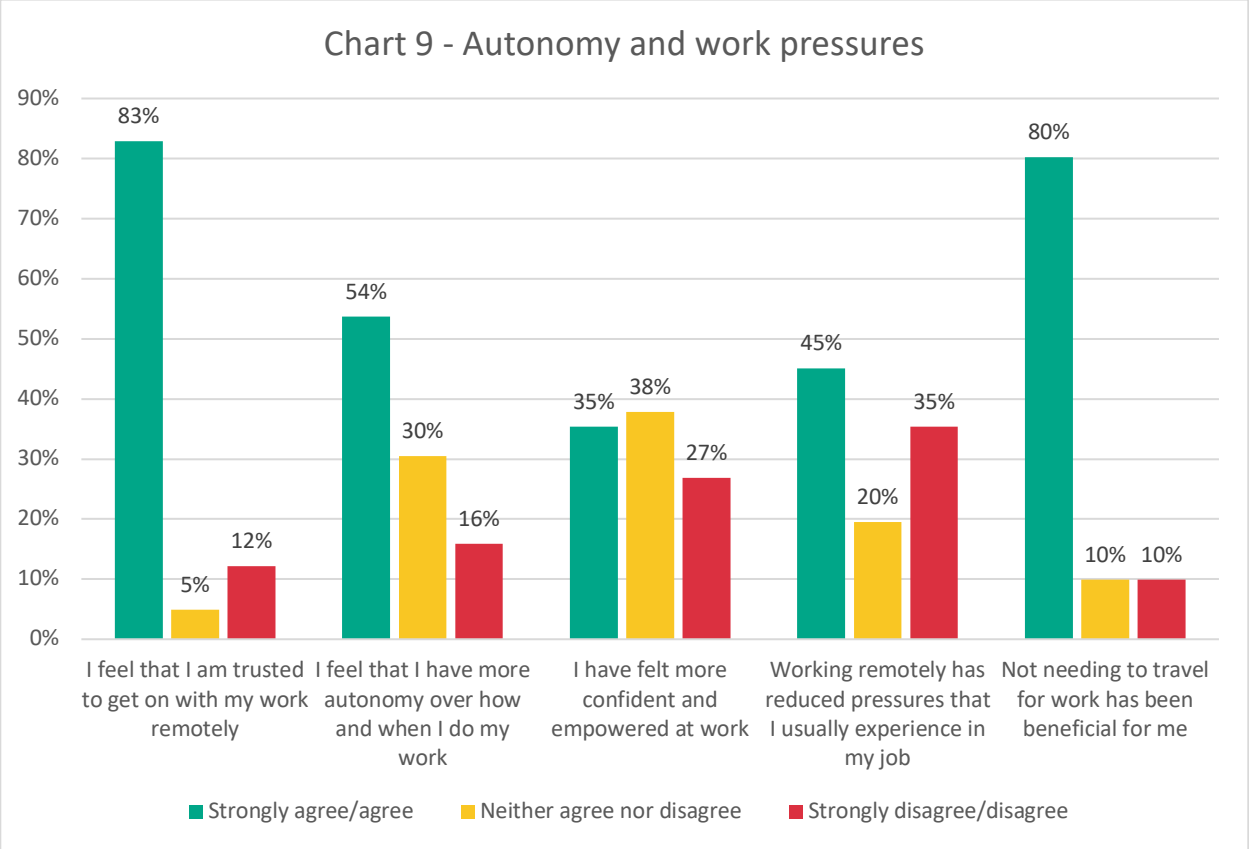
Removal of the requirement to travel to a workplace has been a clear advantage for many respondents (80%). It is also interesting to note that the vast majority (83%) felt they are trusted to get on with their work remotely. This contrasts with our previous research that suggested a key reason for refusing home-working as a reasonable adjustment pre-Covid-19, was lack of trust and a desire for presenteeism on the part of managers.

9.4 Autonomy & control over work since lockdown: confidence & empowerment

Over half (54%) of respondents indicated that they had experienced more autonomy over how and when they work since lockdown. Control over the way work is carried out is particularly important to disabled people because the ability to manage workloads around the effects of an impairment is vital, especially when it is unstable or unpredictable (Foster and Hirst, 2020: pp46). Lack of employer flexibility and control over work schedules were stressors and obstacles to performance identified in our Legally Disabled? Research. However, 54% is still relatively low, given the importance of control and flexibility in the lives of many disabled people.

When asked about confidence and pressures of the job, a more nuanced picture emerged. While 35% agreed that they felt more confident and empowered at work since lockdown, 27% had not. Moreover, while 45% said that working remotely reduced the usual pressures of the job, this has not been the case for 35%. It is interesting that increased trust does not necessarily equate to more confidence at work. It could take time to develop confidence, indicating that

more support (e.g. mentoring) and training may be needed for people to feel greater control and empowerment over their work.



9.5 Productivity

Over half (53%) of disabled respondents said their productivity had increased since they have worked remotely, with just under one fifth saying it had not. This is despite the fact that home-working was imposed at very short notice, with little preparation and often involving inadequate tools. This lends weight to wider pre-Covid-19 academic studies that consistently show that overall, home-working increases the productivity of employees (Bloom et al, 2015). This quotation reflects some of the advantages of home-working post-Covid-19 experienced by disabled people:

> "Before lockdown I worked from home part of the week and endured constant remarks about how disruptive it is and how people who work from home aren't efficient. I'm hoping these attitudes will change. Working from home all the time has dramatically improved my quality of life. I now have a life outside of work. Before lockdown all my energy was taken by work and travel. And the pain was constant. I now have time for physiotherapy, exercise, proper food, rest. I feel like a human being again."

When analysing the responses of those with caring responsibilities (adults/children) eight out of eighteen felt that this had decreased their productivity. However, only three individuals reported being less productive working from home, indicating that caring responsibilities did not have an overall detrimental effect on productivity for this small sample of respondents. It's possible that despite feeling that caring responsibilities impacted on productivity, overall, the experience of working from home still enabled people to be more productive. Those who indicated lower productivity were evenly split across age groups.

9.6 Technology

One quarter of respondents said they had struggled with the technology needed to do their job remotely. For example, these comments from one respondent revealed the problems experienced by someone trying to work remotely with a hearing impairment:

> "Online courts are exhausting when trying to lip-read tiny faces on screen….Zoom is much more accessible than many competitors…Online documents can cause eye problems if you have to work with them all day…I have been surprised by how many participants in online meetings have to be asked to turn their cameras on so that I can lip-read. [There are] casual assumptions that everyone can use telephones or see a screen or hear people who are wearing masks or sit in front of a screen all day"

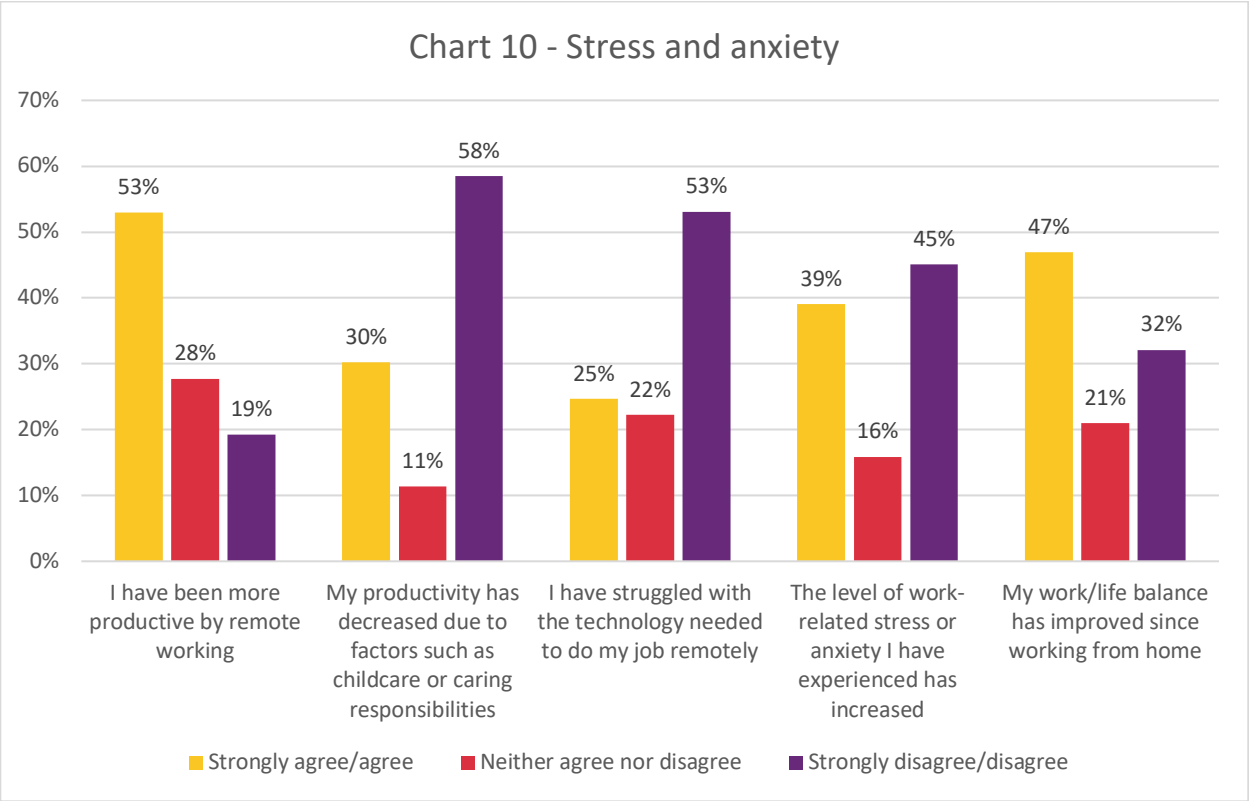
IT and communications audits must ensure that appropriate training, technology and software is made available and is accessible to all employees and particular attention needs to be paid to disabled employees. Equality Impact Assessments should identify and resolve most barriers to remote working for different groups, but there is still a possibility that solutions may not be found that would address some impairments. In such circumstances bespoke job design incorporating reasonable adjustments need to be considered, particularly if there is no longer the option of a person carrying out their job in an office (e.g. where a disabled person may be shielding). It is essential that employers work in partnership with DPOs or impairment specific organisations and Access to Work to ensure that they explore all available adjustments when deciding on their 'reasonableness' (a concept that is likely to change).

9.7 Work related stress and anxiety

The impact of Covid-19 on physical and mental health has been noted elsewhere, but we were particularly interested in examining the phenomenon of work-related stress and anxiety. We received mixed responses from our disabled participants. When asked about the level of work-related stress or anxiety respondents had experienced since lockdown 39% said this had

increased and 45% believed it had decreased. Interestingly, and possibly related to this, almost half (47%) said they had experienced an improvement in their work-life balance since working from home whereas nearly one third (32%) had not.

Asking people about their experiences of stress and work during a pandemic has obvious limitations, particularly when the respondent group have a long-term medical condition. Although our question specifically targeted work-related stress, it would be understandable if those responding found it difficult to separate out stress caused by work from other stressors in the home and occurring in wider society.



9.8 Managing a health condition or impairment during lockdown

It is clear that working from home has enabled the majority (61%) of disabled people to manage their impairment or health condition more effectively and 70% would prefer to continue working remotely in the longer term. When we cross referenced responses with impairment type, however, mental health and memory were cited as the two most difficult impairments to manage from home. It would have been interesting to know whether these were people living alone, but we do not have data on this.

> "I am an in-house solicitor in an accountancy firm. Remote working avoids the need for a commute which means more can be achieved in a day in particular if you are managing a health condition. People assume though that remote working doesn't itself require any adjustments. E.g. not everyone can participate in video calls at short notice or for large parts of a work day."

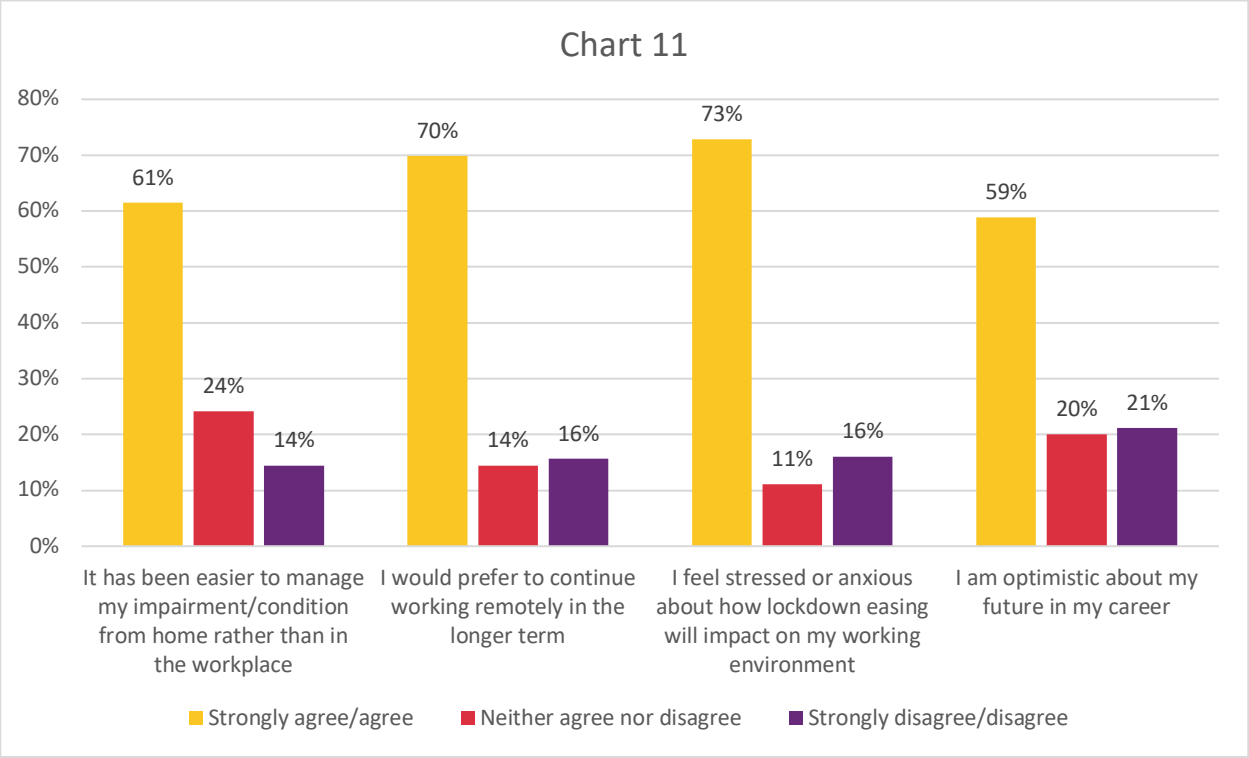
Although sole practitioners may be expected to have more control over their working environment, this may be more complex for those who would usually meet clients face to face. One raised a concern regarding the lack of guidance from the Solicitors' Regulatory Authority on the issue of shielding and felt left unprotected in the face of client harassment, despite seeking advice.

> "As a sole practitioner I should have been in an official shielding. One of the biggest challenges I have come up against during lockdown is the public not understanding that although I am in the office and protected in the office you cannot have an appointment with me, I will not come into any contact with you. One was really not happy even the week after lockdown and was demanding I see them."

9.9 The future and coming out of lockdown

Almost three-quarters (73%) of respondents said they felt stressed or anxious about how the easing of lockdown will impact on their working life. However, 59% reported being optimistic about their future career compared to 21% who were not. The vast majority (70%) of disabled people are clear that they would prefer to work remotely in the long term: as this respondent says, however, the future will very much depend on whether managers listen to disabled staff:

> "the fact that I am not the only person dialling in to meetings like before has made the quality of the meetings for those dialling in remotely much better. My firm's management team are working on the basis that everyone is gagging to get back to the office full-time. This is not the mood of most of the people I speak to… Will see whether management listens. "



9.10 Adapting performance and supervision procedures during lockdown

Our previous research (Foster and Hirst, 2020: pp47) identified performance measurement targets and practices in the legal profession, particularly the law profession's use of billable hours to quantify performance, as problematic. Using the quantity rather than the quality of work performed as a primary measure of performance, we concluded, placed some disabled people at a 'substantial disadvantage'. We were keen, therefore, to see whether employers had considered adapting performance procedures and targets specifically for disabled staff during the period of lockdown and changed working arrangements.

Responses suggest that the vast majority (three quarters) of employers did not adapt their performance procedures during lockdown and subsequent periods of remote working. However, 13% of respondents reported that their employers did adapt their performance procedures in a way that made it easier to complete work and 4% adapted their procedures in a way that made it harder to complete work. This is an area that will need to be investigated further by organisations in the future if remote working is to continue, alongside revisions in job descriptions and evaluations.

A similar split was seen when respondents were asked if employers adapted supervision procedures. Responses show 72% of respondent's employers did not alter supervision

procedures. The answers to questions on performance and supervision raise a number of questions that might be explored further, including:

- Given the significant change in working arrangements during this period of time why did so few respondents experience changes to performance and supervision procedures?
- Was there simply not enough time to institute changes? If so, what changes are needed for the future if home-working becomes normalised and what issues most affect disabled people in the profession?
- If changes were not necessary, does this simply confirm what many disabled people have told us they believe is true: that remote working in the legal profession makes little difference to achieving targets and can be supervised efficiently, but the legal profession has simply not wanted to make this very reasonable adjustment?

10. Good and poor practice during lockdown

In terms of identifying potential good and poor practices among employers, we provided additional space for respondents to comment. **Good practices** included more open and regular employee communication with supervisors; focusing on what needed to be done; altering targets and providing support and flexibility for management workloads; a 'do what you can' attitude.

> "Our objectives / goals take into account the effect of the coronavirus pandemic on work. Line manager has been in regular contact and easily contactable - he trusts me to do my work but is available as and when needed."

> "I am a Locum so don't have targets - I bill for the hours I work. But they were more flexible given the Covid situation with deadlines. I also went into hospital twice and they were SO supportive and held the fort on my work for me both times - amazing".

Some even commented about how the pandemic had brought out the best in people, essentially humanising working relationships in a way that hadn't happened before:

> "…weekly catch ups with my line manager, able to catch up with other team members if required, a basic level of kindness, I work for a local authority and across the board (even with non-lawyers) they have been exceptional. They have set up a Covid task force where people feed in their views etc. and adjustments are made. People are treated as individuals and work has been allocated fairly and when I've been sick my boss has been prepared to check everything! There have been some family bereavements in our team and everyone has pulled together. I'm so lucky where I work".

Examples of **poor practice** cited by participants included: staff being expected to increase their workloads to cover the work of furloughed colleagues while working reduced hours; the proliferation of meetings that felt like over-supervision; short notice meetings and micro-management.

> "As staff were furloughed, those still in the office were expected to cover work and juggle their own work whilst working reduced hours. Although chargeable hours and general targets were reduced, in practice this had no impact in reality, as all staff members still working were working over capacity and having to work weekends and non-working days to keep on top of work. Effectively it ended up being same hours worked, same work pressure for less pay."

11. Valuable sources of support during Covid-19

We wanted to identify valuable sources of support for disabled people working within the legal profession during lockdown and respondents seemed keen to share these examples with us. Many organisations had introduced webinars, team video/audio calls and set up socials, buddy systems and team WhatsApp groups, which were all cited as positive. Non-work support from friends and family was cited by many alongside support from colleagues and team members, including line managers.

Some respondents cited having flexibility around working hours and personal assistance from family members at home, as helpful in managing work and health. Practical support also made a great difference to people, especially IT support, improved workstation equipment, and good technology/ internet access.

Mental health and well-being support was referred to by a number of respondents: this included workplace support and support provided by external organisations such as LawCare and the Lawyers with Disabilities Division (LDD) of the Law Society, the latter demonstrating the value of self-organised identity groups in the profession.

Below are a number of examples of the wide range of support that respondents drew on during lockdown, drawn from comments they provided:

> "Mental health support through a therapist organised through work - even though lockdown could have been the most autism friendly time & I should have been able to find this easier, the huge uncertainty in particular around other people observing social distancing rules and the lack of seeing peoples' non-verbal communication/lack of eye contact actually made the time very stressful."

> "HR - a listening ear not connected to my immediate colleagues. Speaking to work friends one-to-one about personal issues."

> "Agile working has had the greatest impact, and the support from Management to continue to work from home after restrictions were lifted."

> "I was on a phased return to work when the lockdown came in. I was due to start going back into the office but my employer was very understanding I would not want to put myself at any additional risk and took the choice away from me by asking me to continue to work from home. They have allowed me to keep to 80% hours and pay while I work from home (not furlough)."

Coaching and the ear of a senior partner also proved important for some, which echoes the findings of our previous research, which highlighted the importance of mentoring relationships to disabled people:

> "The quality of work coming my way was an issue prior to lockdown. Lockdown made that position worse. I arranged for a senior partner in the business to be a coach / support person for me shortly after lockdown who has been instrumental in recently escalating my concerns with my phased return to work to a senior level. Lockdown would have been much harder without his support."

Not all of the above examples are disability-specific and would benefit all employees but provide a sense of the different kinds of support drawn upon.

Comments were also received from disabled people not currently working due to furlough or absence (often sickness absence) and we include this one, which suggests some felt overlooked and further support needs to be put in place:

> “No support has been provided to me. During furlough and following a Covid related bereavement in immediate family, no support received from employer. No contact during furlough. Not kept in loop, etc.”

12. Hopes and concerns of disabled people as lockdown eases

From the comments provided, the overwhelming hope of disabled respondents was that employers will continue to facilitate home-working and many hoped it would become as equally accepted as office-based work. In some instances, preference for home-working was linked to the absence of reasonable adjustments they had experienced at the office (e.g. workstation/parking space). However, respondents were particularly positive about opportunities that home-working provided for them to manage their time and impairment,

flexibly. For some, it enabled them to work in a bespoke environment tailored to their needs, or it allowed them to take adequate breaks and exercise (if required). For others, however, home-working needs were yet to be met and needed to be addressed by employers and they were genuinely concerned about the risks associated with returning to an office-working environment:

> "I hope that social distancing will be taken seriously and that people with health conditions won't feel dismissed and isolated. Social distancing is non-existent in our offices at the moment - there are few hand sanitizers around the office but that is the extent of it."

Some indicated that they looked forward to returning to the office, but even among this group, the majority wanted to retain the facility to work from home more often. An overall preference for flexible working, including home-working was, nonetheless, often tempered by the caveat of being able to maintain a good work-life balance. The preference expressed by most was a choice and control over the balance of remote and on-site working.

> "A mix of remote and in office working. Employer flexibility with this. A better home-working setup. More flexibility over working hours. More understanding of the importance of exercise to support mobility problems and being able to make time for this."

> "I hope to continue to work from home a majority of the week, I did not enjoy it at first but now I feel it's better for my health and productivity."

As well as fears of being 'forced' back into commuting, using public transport and being in a potentially unsafe office environment, disabled people raised concerns about the practicalities of working from home or alternating between home and office over the longer term. We would urge employers to address these logistical and job design issues at the planning stages, giving consideration to the position of disabled people as a distinct group. We also acknowledge that other factors e.g. care responsibilities but also income group and housing tenure will influence home-working. Below are just two examples from survey respondents:

> [I'm] "concerned about heating my home during the colder period if no return to the office by then. Switching between home and office working (e.g. a day here and a day there) will be difficult in practice as I have my office chair at home, but as I live and work alone then I fear being asked to work at home all the time with increased isolation (them and us). Concerned about heating my home in colder months - no allowance from employer for that. If it gets really cold I'll have to move my 'office' into my lounge so there would be no demarcation between my work and living space. Hopes that the IT

will continue to be used rather than a return to 'in person' meetings, so that I can continue to be involved in things."

"I suspect I was furloughed instead of a less experienced colleague after I mentioned I had been struggling with my home-working set up as it had caused physical pain. I would have benefited from more flexibility in working hours so I could take time out during the day for a walk/ exercises to stop my body getting stiff and in pain but the demands/ deadlines put on me at the beginning of lockdown meant I was working longer hours. This combined with not having a proper office chair/ desk etc led to an extreme flare up in my symptoms which are usually well managed/ sometimes non-existent for months/ years at a time."

13. What further action is needed by the profession?

The end of the survey provided space for participants to comment on the further action they thought the profession needed to take following Covid-19. Below we provide some of these for further consideration:

"There are much bigger issues to consider for disabled lawyers in the new normal. The Law Society, the SRA and the Government must, must, must do their best to protect the vulnerable. We struggled before, during and after the lockdown more than most. Sensitivity and higher duty of care must be exercised to provide support to advance the professional lives of disabled lawyers in the new normal."

"Due to this lockdown I have definitely seen an increase in the number of vacancies that allow working from home, however, these are often lawyers with experience. There are very few opportunities for those that are starting off in the profession, who have to shield due to Covid-19 and other health conditions/medication. There is also the uncertainty that whilst the opportunity to work from home is currently available that this could change in the future, increasing my fear that I would be seen as not being productive has my peers, resulting in less career progression."

"My employer has not been supportive at all during this time. Law society should monitor more closely how firms treat their juniors."

"There should be continuing monitoring of firms to check and enforce compliance with equality laws."

“Don’t just think of employees ask disabled partner owners how you can help us? I did not terminate or furlough one member of staff in Covid but I would like support!”

“Remote working has revolutionised the industry, I now feel comfortable asking for this as a reasonable adjustment. This alongside a part-time training contract would truly make the industry accessible to me. This and the accessibility of virtual work experiences and networking events has been a game-changer for me. I can now attend any events I need to develop my career without worrying about how my condition will be impacted by travel, if I will be able to use my wheelchair and if there are seats at a standing event. Most importantly I haven't had to re-arrange the 2-3 days after an event due to increased pain and fatigue - it is revolutionary. The profession really needs to understand how accessibility has increased for disabled people during Covid-19 and see how now we are starting to become on a level playing field. Lastly, I, unfortunately, had negative experiences pre-Covid as a paralegal which left me believing that I could not be a lawyer because I was disabled. But now - I am signing up for my LPC and applying for training contracts - I now feel like I can fit in and I am not difficult. I just need the right tools to succeed.”

“The SRA issued absolutely no guidance under the Equality Act for solicitors who have a disability or fell within the shielding regulation. Additionally, I don’t even know if they were aware that we are officially protected by our shielding letters. Where is official guidance and adjustments from the SRA and the law society for solicitors I see shielding … that had letters saying stay indoors which I had? I rang the SRA in April for guidance over this and answer phone said working from home send us an email and we will response in x number of days. That is no good to protected solicitors who are taking seriously advice not to come into contact with people at the peak of the lock down That is our rights v clients demands and lack of policy on it.

I insist on clients wearing a mask with me because of my high risk in fact I shouldn’t even be working but the SRA have made no provisions for us in this which I believe to be a breach of their own guidance or lack of.”

Recommendations

1. **Support disclosure**: Create positive working environments that provide 'safe spaces' for disability disclosure. Our previous research recommended larger organisations appoint a dedicated disability officer. Invest in disability awareness initiatives and training to increase understanding of impairments and ensure appropriate adjustments are in place and everyone understands their benefits.

2. **Disabled people have welcomed home-working in the legal sector so** accept that **home-working IS a REASONABLE adjustment** to accommodate a disabled person's impairment since Covid-19. All employees may need some adjustments in this new working environment, but a **separate reporting procedure** needs to be established for disabled staff, to facilitate tailored advice from Access to Work or from impairment specific organisations (e.g., about the use of accessible technologies, working methods or equipment).

   Move from crisis management to future planning and provide certainty and new career structures. Our previous research recommended organisations adopt imaginative job redesign to facilitate reasonable adjustments. Little did we know that the pandemic would require a much broader reimagination of organisations and the value of human resources. Remote working removes some of the norms of office-based working that were barriers to disabled people. The importance of travel, presenteeism, lookism for example, are reduced. There is potential to recruit a different kind of employee, develop different skills and build teams in a different way. Remember also that it is a reasonable adjustment to allocate or exchange some tasks from a role to another person to make the role accessible. E.g. a person with a hearing impairment is recruited to a role that would usually involve some telephone work. A reasonable adjustment would be to assign this part of the role to another person and allocate them other areas of work instead, or provide appropriate PA support.

3. **Review HR policies and practices** to adapt to Covid-19 circumstances. These include:

- **Sickness absence policies/practices –** encourage everyone to cease working while unwell. Ensure that Covid-19 related absence is recorded separately and that policies are in place to support employees who are at high risk or live with or care for others who are at high risk of contracting Covid-19.
- **Furloughing or redundancy of staff –** selecting a disabled member of staff rather than exploring all avenues to facilitate a reasonable adjustment to their work, is likely to be regarded as discriminatory.
- **Recruitment and selection –** home-working as an integral part of new working arrangements provides new opportunities to recruit talented disabled staff. Existing job descriptions need updating to accommodate and attract this group and would enable new divisions of labour and reward targets.
- **Supervision –** supportive communications and supervision are essential for successful remote working. Some disabled people (e.g. those on the autistic spectrum, people with sight and hearing impairments) may find remote methods of communication

more, not less difficult and may need encouragement to self-identify. Are your managers and staff aware of potential difficulties experienced by disabled colleagues and clients? Is appropriate disability awareness training available?

- **Reward management –** If you are still using billable hours, a system the 'Legally Disabled?' research identified as substantially disadvantaging disabled people in the profession (and potentially discriminatory), this is a good time to review this. Our survey findings showed home-working instilled a greater sense of trust among disabled people, but this was not experienced in terms of confidence and empowerment. Build on this trust by moving away from 'task and finish' reward strategies, harness people's skills and initiative but also find new ways to support them and build confidence (on-line mentoring), empower (sharing of good practice/experiences) and reward.
- **Disability by association –** The Equality Act includes direct discrimination because of someone else's disability, or harassment related to someone else's disability. This is commonly known as discrimination by association or associative discrimination (see: *Attridge Law v Coleman, 2009*). This may be applicable to employees in your organisation who have caring or guardianship responsibilities or possibly are part of a household in the Covid-19 context.

4. **Accessible remote work experience, professional development, social events and networking have been positive outcomes of Covid-19**. Continue to develop and invest in what we will term **'accessible citizenship'.** Remote working has enabled many disabled people to participate more than ever before in formal and informal activities within their organisation allowing them to gain more skills but also be better integrated into decision-making and organisational culture. Build on and identify the investment needed to facilitate these positive experiences of remote work experience, professional development, meetings, social events and networking by ensuring that remote attendance is an integral part of your post-Covid inclusion strategy.

5. **Technology and remote recruitment processes**: employers, recruiters and interviewers should consider a wider range of technologies and avoid prior assumptions about the accessibility of different technologies and platforms. Issue a standard questionnaire on access requirements to **all employees and potential employees.** Develop expertise to understand both common, but also individual impairment IT adjustments.

   Technological accessibility and reliability may be an issue for a wider pool of users, including clients.

6. **Working locations**: Choice and suitability of working location for disabled people is important. Avoid creating new exclusionary practices by making assumptions about

where people should work. Irrespective of location, reasonable adjustments need to be put in place and regularly reviewed This includes ensuring that pre-existing reasonable adjustments remain accessible.

Public spaces and office spaces must remain accessible to disabled people and will need to adapt to meet covid-19 safety requirements. For example, ensuring that there is adequate space for wheelchair users, adequate seating where queuing is in place, transparent visors to support lipreaders and supporting people with vision impairments to navigate shared spaces.

7. **Create certainty in relation to future working arrangements**: Developing a long-term plan will be advantageous for everyone since the current levels of uncertainty are a cause of stress. The views of disabled employees MUST inform decisions taken regarding changes to working practices and organisational structures.

8. **Communications and working relationships were important to disabled people during the pandemic**: Reimagine your organisation in coproduction with disabled people. If the future is a hybrid structure of remote and office working, inclusive communications and participation are essential. An inclusive communications strategy needs to consider how to replace traditional everyday connections between supervisors and teams. A mix of in-person and remote attendance at meetings and events raises clear accessibility challenges and these need to be understood and managed. Some platforms are more accessible than others and splitting events and meetings into smaller chunks supports concentration and participation.

   It is essential that disabled people who may express a preference for home-working in the future are fully included and not ghettoised or excluded.

9. **Centralised resources support inclusion.** Ring fence resources centrally to fund reasonable adjustments for disabled people. These must be viewed as strategic investments so that disability inclusion is a strategic organisational priority and is not part of decision-making in reviews of devolved or departmental budgets. To embed this strategic objective in the organisational culture a dedicated budget also needs to finance disability inclusive training to build organisational expertise in impairment specific accessibility. In large organisations this might be a dedicated disability officer. Access to Work grants can also be utilised to support both large and small and medium sized businesses.

10. **Productivity.** Introduce or expand schemes such as mentoring, training and supportive line management. Higher levels of trust probably came about as a consequence of the 'crisis' because it was essential to do so. What lessons can managers learn from this? Reflect on this and consider different management styles that harness initiative and autonomy.

    Ongoing transparent and open communication is key to this, including discussing workload, job design and reasonable adjustments.

Bibliography

Bloom, N., Liang, J., Roberts, J. and Ying, Z.j., (2015) 'Does Working from Home Work? Evidence from a Chinese Experiment', The Quarterly Journal of Economics, Vol. 130, No. 1. pp 165–218, https://doi.org/10.1093/qje/qju032

Felstead, A and Reuschke, D (2020) 'Homeworking in the UK: before and during the 2020 lockdown', WISERD Report, Cardiff: Wales Institute of Social and Economic Research. Available for download from: https://wiserd.ac.uk/publications/homeworking-uk-and-during-2020-lockdown

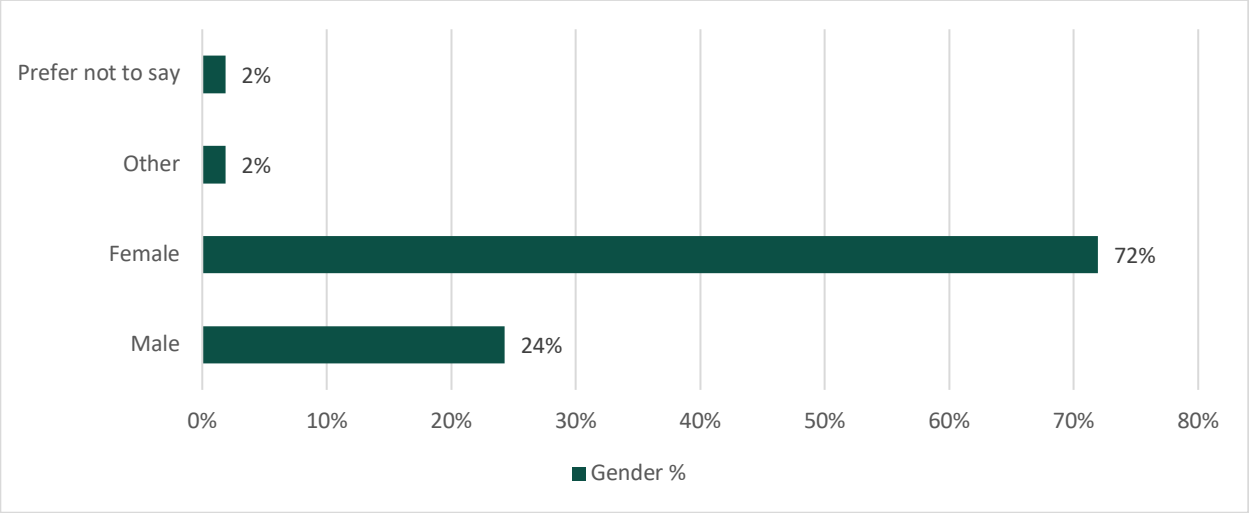
Foster, D., and Hirst, N., (2020) 'Legally Disabled? The Career Experiences of disabled people working in the Legal profession', Cardiff University. http://legallydisabled.com/research-reports/

Foster, D., Masso, M. and Osila, L. (2020, forthcoming) Work accommodations and sustainable working. The role of social partners and industrial relations in the employment of disabled and older people in Estonia, Hungary and Poland. European Journal of Industrial Relations.

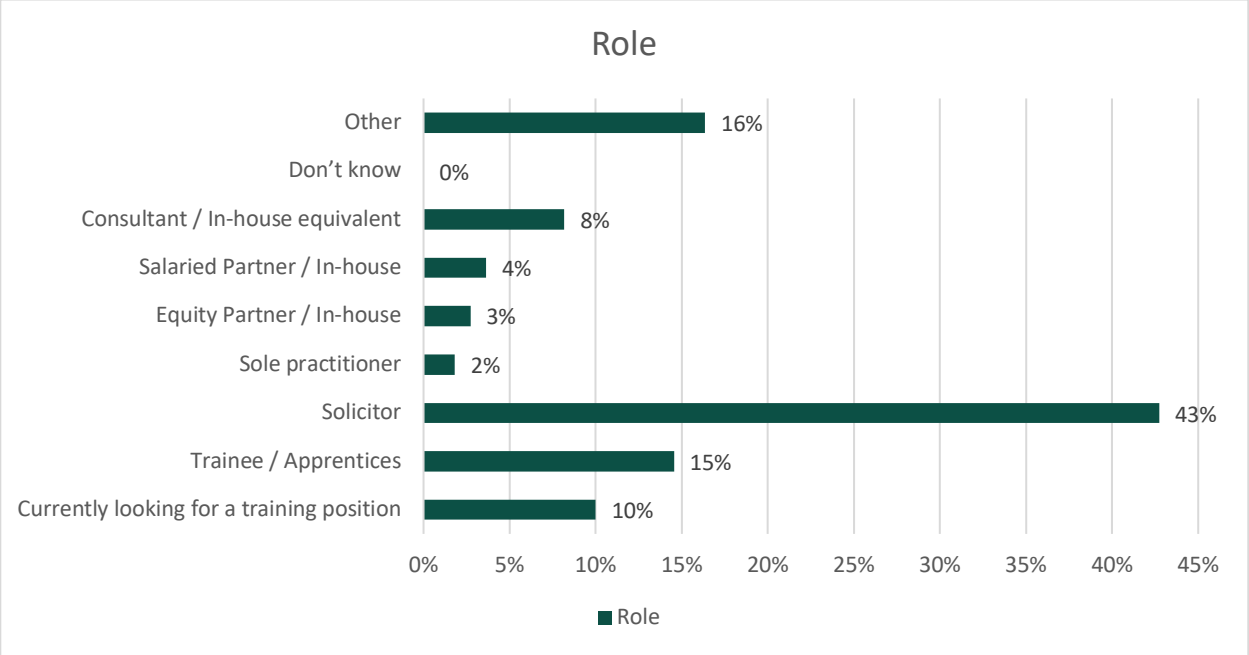
Schur, L., Nishii, L., Adya, M., Kruse, D., Bruyére E, S.M., and Blanck, P. (2014) Accommodating employees with or without disabilities, Human Resource Management, July-August 2014, Vol. 53, No. 4. Pp. 593–621

Appendix - Demographics

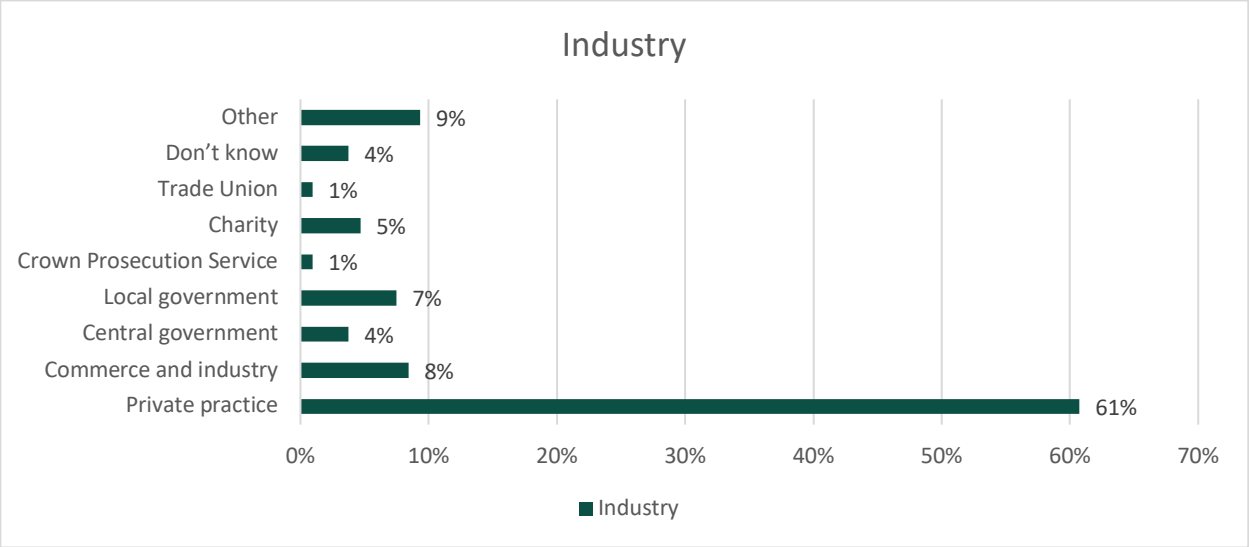
Gender



Role



Industry


Industry
Other
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Trade Union
Charity
Crown Prosecution Service
Local government
Central government
Commerce and industry
Private practice
9%
4%
1%
5%
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7%
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61%
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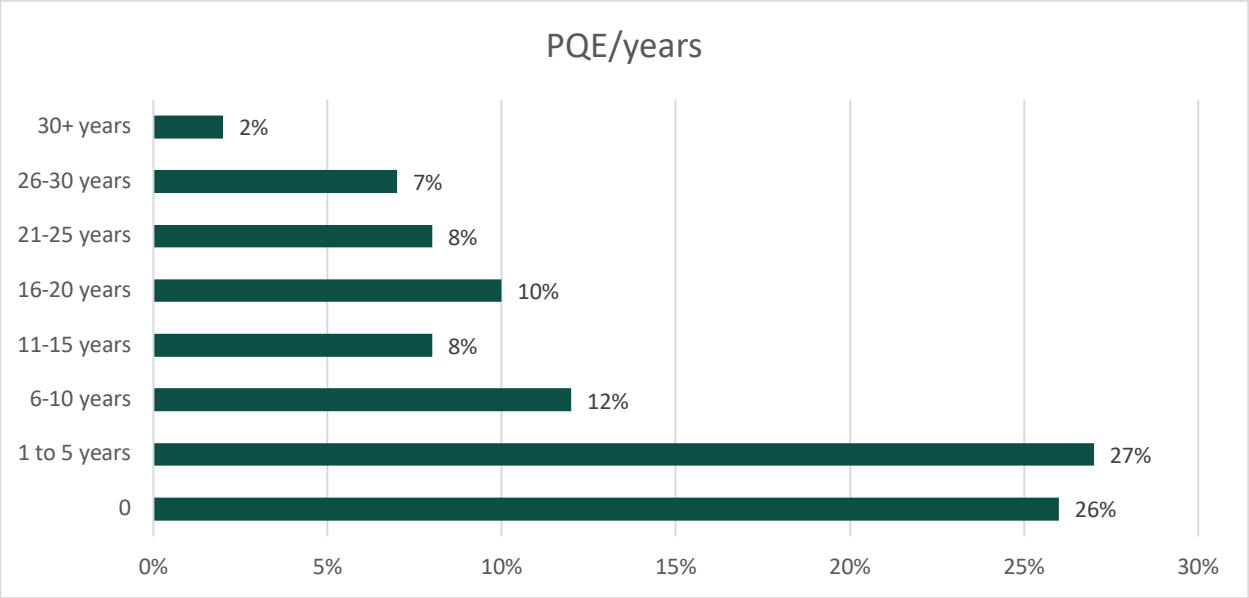
40%
50%
60%
70%
Industry

PQE


PQE/years
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26-30 years
21-25 years
16-20 years
11-15 years
6-10 years
1 to 5 years
0
2%
7%
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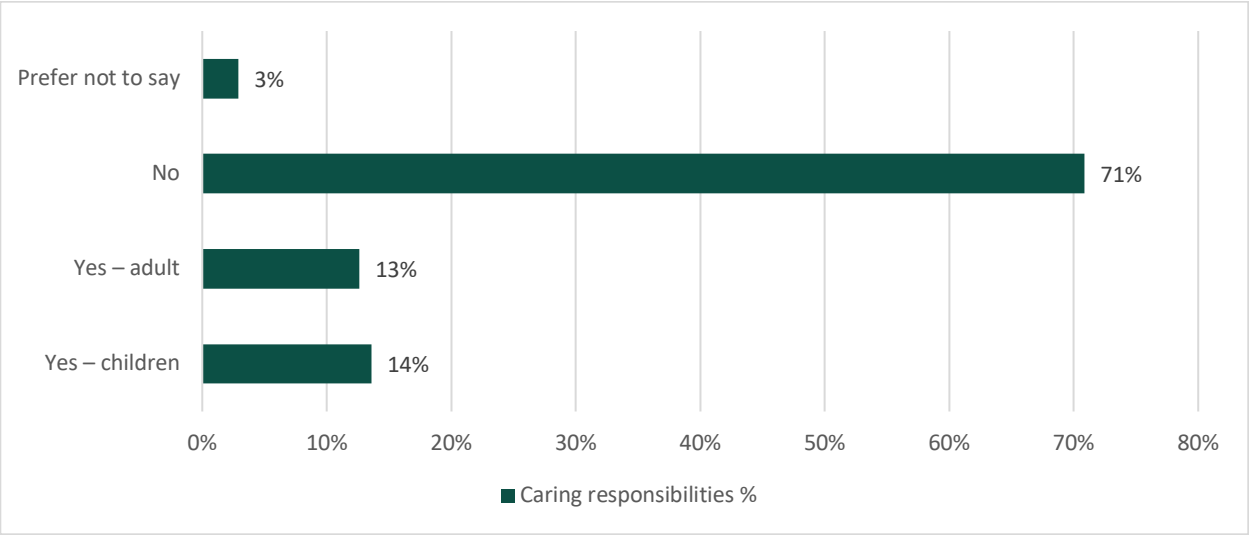
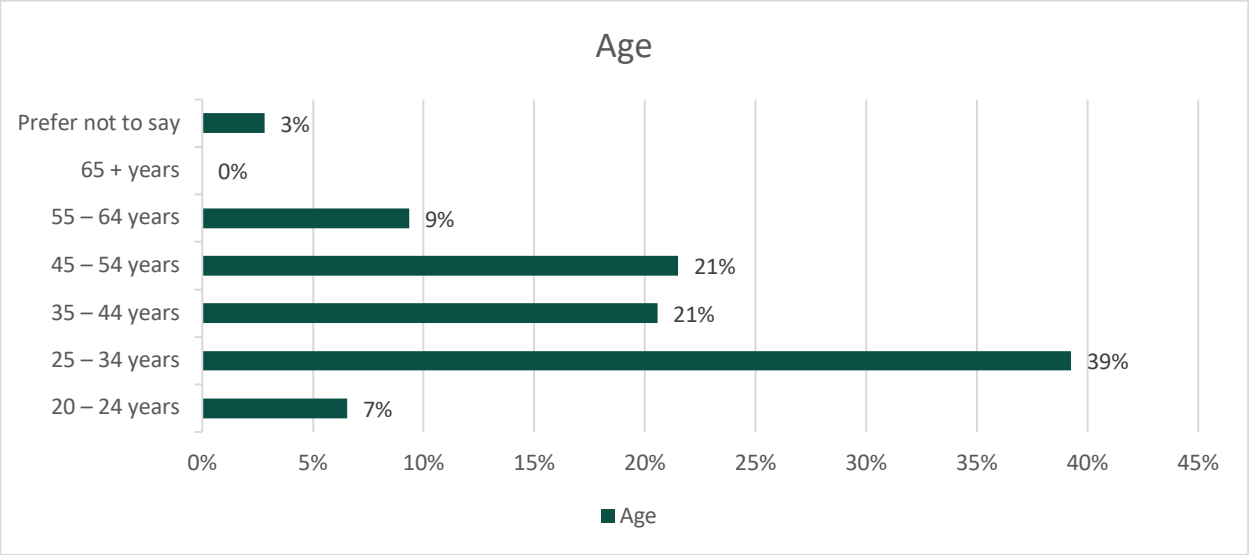
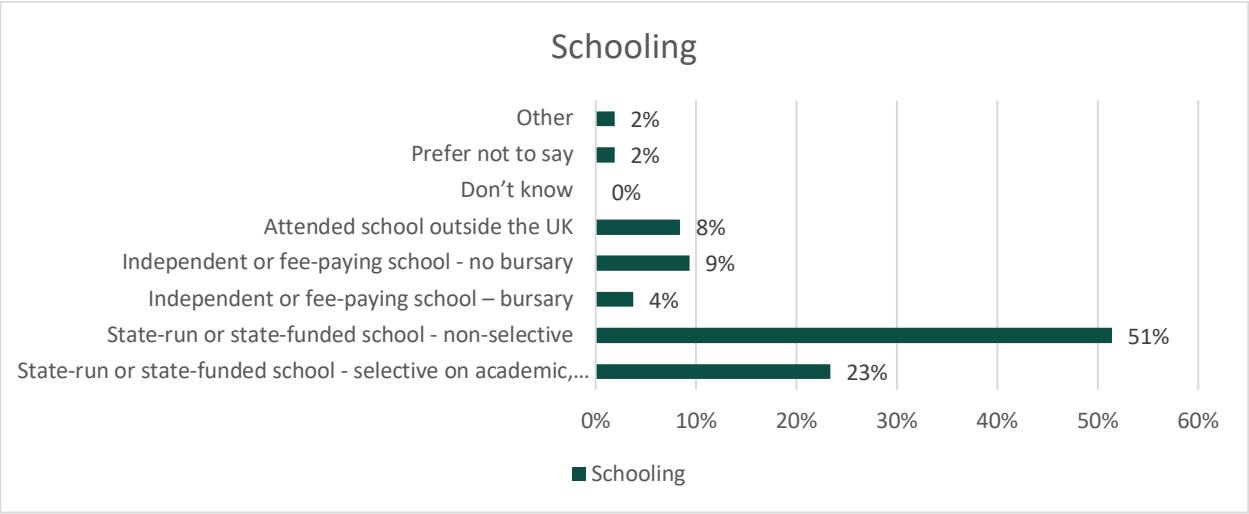
Caring responsibilities



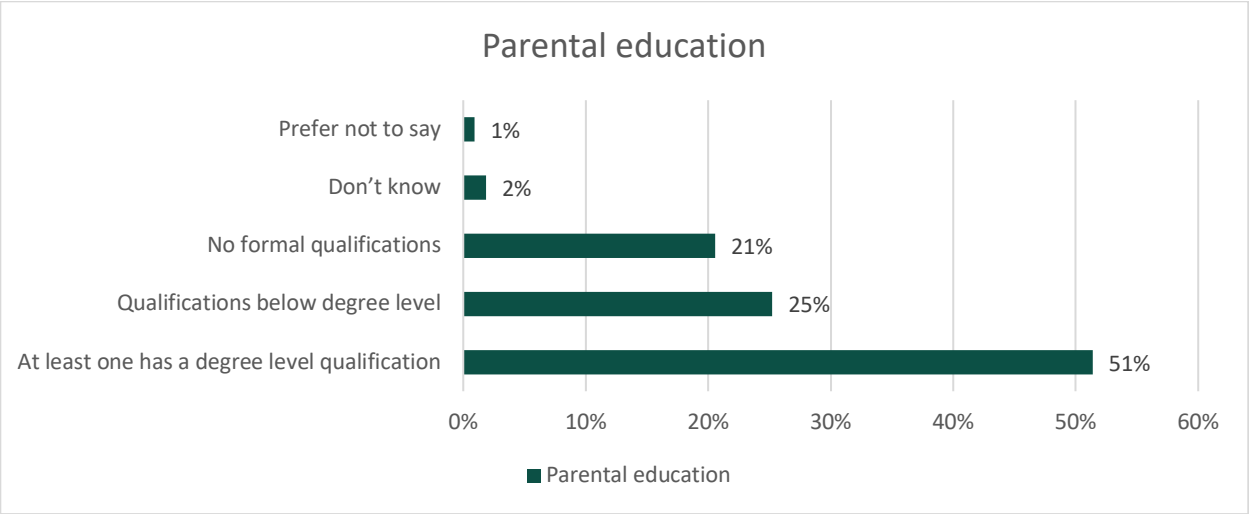
Age



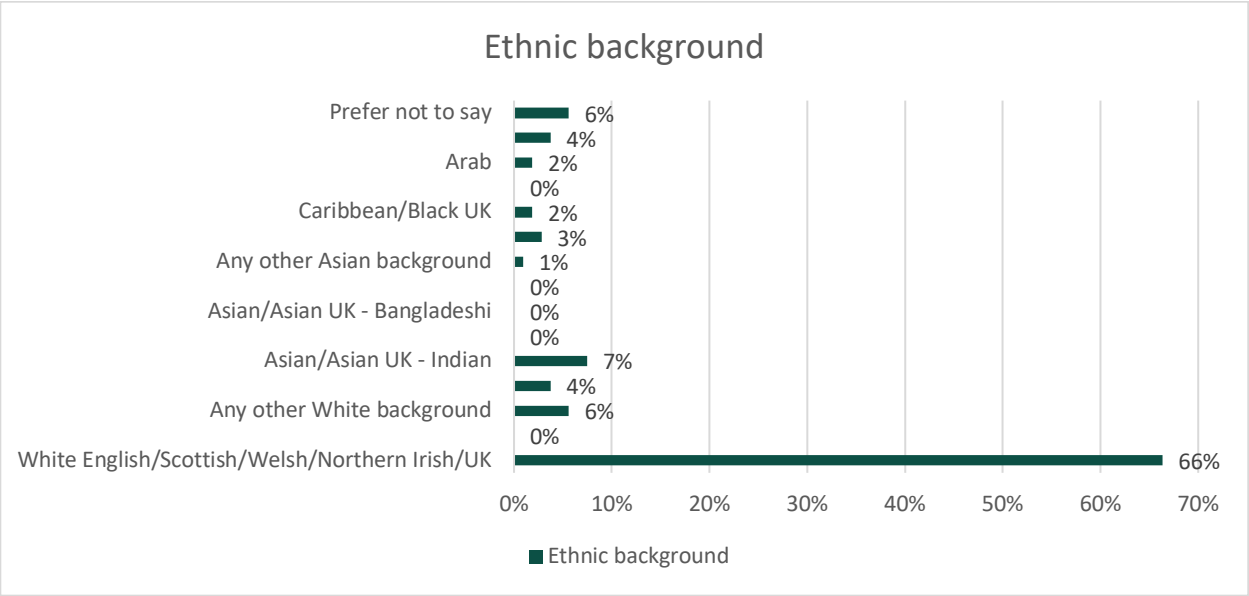
Schooling



Highest qualification level of parents



Ethnic background



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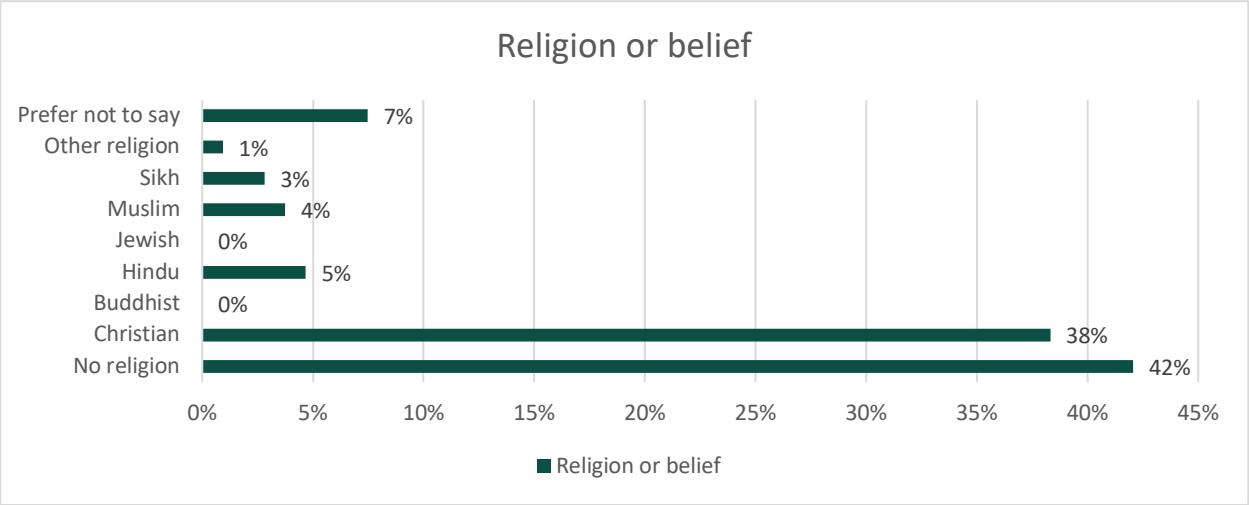
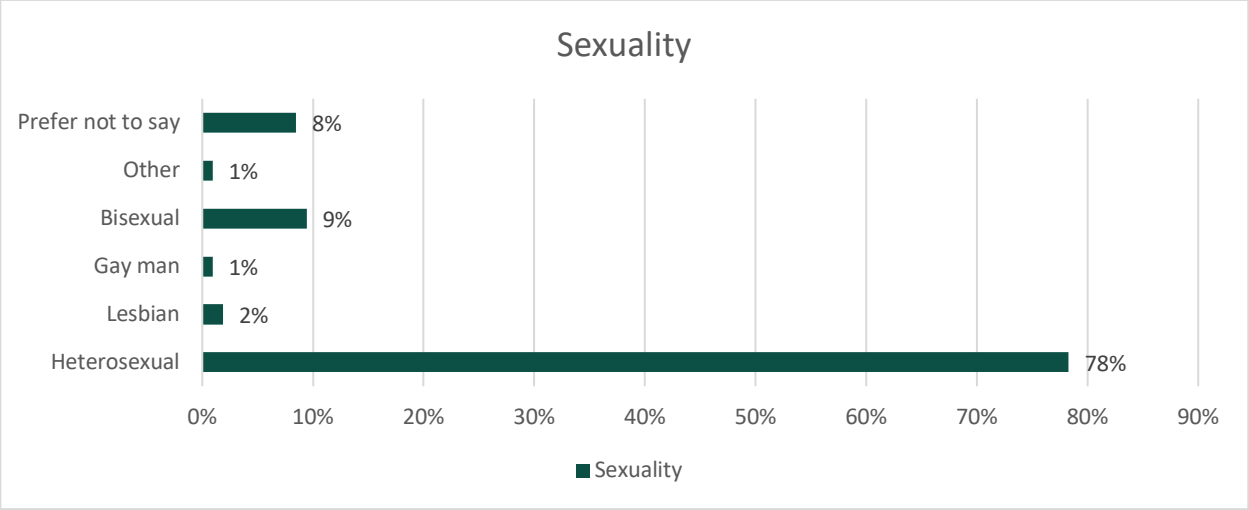


Sexuality



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