

SURVEY OF THE NATIONAL HEALTH SERVICE AS AN EMPLOYER
OF PEOPLE WITH DISABILITIES

by

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and

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[*Editorial note:* The NHS is one of the largest employers in Great Britain. In 1981, there was great concern about unemployment in Britain, and a less well publicised but even more acute concern was being expressed about the prospects of persons with disabilities to gain employment. 1981 was also the International Year of the Disabled. Because of the nature of the work it carries out, one might expect also that the NHS would have a special relationship with people with disabilities. In this year a survey was therefore carried out of the NHS's practices in giving employment opportunities to people with disabilities. We are publishing this survey here because it gives an example of the use of the survey as a monitor of the effects of social policies which are intended to improve the situation of social groups at risk of injustice or discrimination. At the present time of debate over the role of politically relevant information, it seems appropriate to offer such an example. The postscript to the original study, carried out in 1986, shows that the situation of people with disabilities who seek employment deteriorated considerably in the first half of the 1980s.]

Historical background to the study

The need for special legislation to protect the employment prospects of people with disabilities had been clearly demonstrated during the Second World War. A labour shortage had developed as the economy boomed under the stimulus of war production. Amongst other measures, the Ministry of Labour in 1941 introduced the *Interim Scheme for the Training and Settlement of Disabled Persons in Industry* (Titmuss 1950, p. 478). This was a training and employment scheme for all people aged sixteen and over who were disabled by whatever cause, and who, because of their disability, could not return to their normal work or obtain employment (Bolderson 1980). The experience of this scheme clearly demonstrated that there was nothing inevitable about the exclusion of people with disabilities from the workforce. Of those who were unemployed in 1940, 185,000 had been classified as 'unemployable', mainly as the result of

a severe disability. But the *Interim Scheme* enabled all but 18,000 of these to start work, according to an article in The Times (11 December 1943).

A Ministerial Order in 1946 incorporated this finding into the 1944 Disabled Persons (Employment) Act. This Act established a register of disabled persons, and the Act and other subsequent legislation laid down that employers of 20 or more employees have a duty to employ at least 3% registered disabled people. This obligation is known as "the Quota".

Patterns of employment of people with disabilities in the NHS in London

The purpose of the survey was to investigate the way in which the Quota rule was operated in the NHS in London. In 1981, the Area Health Authorities still existed (AHA), and there were 15 of these in London. The Area Personnel Officers of all of these were approached with a request for information on the employment of people with disabilities in their Areas. Ten Area Personnel Officers agreed to co-operate with the survey.

Proportions of the workforce in these 10 AHAs who had disabilities varied between 0.4% and 0.8%, with an average of 0.5% (Table 1).

The next question was, therefore, how did this situation, in which the Quota was being undershot by such a large amount in all AHAs, continue? To answer this question it was necessary to look into the development of the Quota policy more closely, and to understand the role played by "exemption permits".

Exemption permits

It is an offence for an employer to engage someone other than a registered disabled person when that employer is below quota. If such an employer wishes to engage an employee, and no suitable registered disabled person is available, he must apply for a permit to do so. If employers break the law, they may be fined up to £100 (£500 if the employer is a corporate body), imprisoned for up to 3 months or both. This might at first seem to be a very strong incentive to the provision of jobs for people with disabilities.

In the original legislation, a below quota employer had to apply for an exemption permit for each non-Registered Disabled worker newly hired. However, a series of Departmental Circulars introduced between February 1959 and June 1961 gradually introduced the "bulk permit scheme", which effectively disarmed the 1944 Act. The use of Departmental Circulars to introduce the bulk permit scheme allowed this important change in law to be introduced without public debate. There is no mention of it in the Ministry of Labour Gazette, Hansard, or The Times during the relevant years.

Because of the absence of public debate on the bulk exemption permit scheme, it is difficult to get a balanced view of the reason for its introduction. It does seem reasonable to conclude that it was introduced more for the benefit of the employers than to boost the employment prospects of people with disabilities. From the employers point of view, it turned what must have been (and was intended to be) a constant reminder of their legal obligations to the disabled into a twice-yearly administrative chore (the bulk permit ran for a six-month period).

Examination of the evidence shows that at the time of the introduction of the bulk Permit Scheme, the interests of people with disabilities would have demanded a tightening rather than a loosening of the 1944 Act. Already some 40% of employers were below quota. Unemployment among the registered disabled had increased to 7.9% compared with 1.6% for the rest of the workforce (Table 3).

Jobs in which registered disabled persons were employed

In order to understand the full extent of the problems faced by people with disabilities in the labour market, we also need to look at the sorts of jobs they were able to obtain. Unfortunately only 6 of the 10 responding AHAs were able to provide information on this topic.

The distribution of Registered Disabled persons was found to differ markedly from that for all NHS staff. The Registered Disabled were over-represented in the ancillary grades, and under-represented in the nursing and medical grades (Table 2).

The information supplied by the six AHAs also made it possible to examine the relationship between the type of jobs held by Registered Disabled persons and the nature of the disabilities from which they suffered. The wide variety of disabilities involved, together with the complexity of the NHS's occupational and grading structure made the information sometimes difficult to summarize. An examination of the data reveals no immediately obvious relationship between type of disability and particular occupations.

Firstly, no difference was apparent between the range of disabilities found and the various grades. For example, the professional grade contained people suffering from the following disabilities: cardiac problems, blindness, haemophilia, chest disease, back injury, foot defect, artificial limb. The portering grade similarly contained those suffering from: epilepsy, back injury, deafness, cardiac problems, arthritis, learning difficulties, partial sight, polio, and amputation.

Secondly, a wide range of occupations was found within each "disability

group". For example, the following jobs were performed by those with cardiac and chest problems: gardener, car park attendant, gate porter, senior nursing tutor, clerical officer, carpenter, assistant accountant, dark-room technician, stores officer, nursing sister, senior engineer, lift attendant, porter.

These findings suggest that one cannot account for the concentration of the Registered Disabled into the ancillary grade simply in terms of the limitations imposed by their disabilities, because, although a diagnostic label does not necessarily correlate well with an actual level of disability (Yelin, Nevitt and Epstein 1977), it is unlikely that Registration would have occurred in the absence of significant impairment. The wide variety of jobs contained within most occupational grades means that there is some job at each level which is compatible with almost every type of disability. If the Registered Disabled, in spite of this, are over-represented in the most poorly paid occupations, it must be that some other factor is blighting their chances.

The factor identified tends to vary with one's position in the employer-employee relationship. Disabled employees see employers' attitudes as the cause of the problem. For example, a survey of people with disabilities, which was carried out in the early 1970s, found that:

There is little doubt that a strong general feeling existed that to be 'on a green card' (signifying registration) was a practical disadvantage. The unanimous opinion -- sometimes based on the worker's perception of his or her own experience, but more often on the general lore of the 'everyone knows that' kind -- was the men [and women] on the Register would find it more difficult to get employment, would have a very limited range of jobs available to them, and would be discriminated against with regards to pay and conditions of work (Blaxter 1976, p. 171)

Support for this perception of employers' attitudes comes from Walker (1982) who in a study that was broadly similar to Blaxter's but which included interviews with employers, found that

Many (employers) did not appear to accept that they should, or could, make any effort to employ the handicapped. (p. 131)

Our study can only offer impressionistic evidence on this point, but there did seem to be important variation between health authorities. It was noticeable that some Area Personnel Officers replied to the survey with interest, appear to already have the requested information to hand, described in detail the co-operation with the local Disablement Resettlement Officer, and included information about disabled employees who had not registered. In contrast, others had obviously never examined the issue in any detail, and simply replied along the lines of "The NHS contains an unusually high number of occupations which are unsuitably for the disabled."

Employers, on the other hand, tend to see the problem as caused by a shortage of suitably qualified applicants for the more skilled and, therefore, better paid jobs. This was the type of reason offered by most the AHAs when applying

for their exemption permits. Of course, these two points of view are not incompatible. A shortage of suitably qualified Registered Disabled persons would result if discrimination against them extended to their exclusion from training courses and to a general acceptance of inadequate rehabilitation facilities. The experience of the blind is relevant to this issue. Blind persons have long been the best organised of the various groups of people with disabilities, and, among others things, their organisations supplement official training and rehabilitation efforts with special educational aids, facilities and programmes. In our survey, it was notable that the majority of blind persons were employed in white collar jobs, the only group amongst those with any form of disability to have gained such a firm access to the better paid sectors of the labour market. The jobs they held were mainly in physiotherapy, dark-room technical work and audio-typing.

Summary and discussion

This is a very modest-scale survey of one industry in a single city. It found that all the Area Health Authorities in London were employing considerably below their quota of Registered Disabled people; that most of the AHAs were nevertheless within the letter of the law, through having obtained "bulk exemption permits"; that the Registered Disabled people were disproportionately concentrated in the worst paid jobs, and that this relationship between disability and grade of job could not be explained by any limitation inherent in the wide variation of disabilities experienced by people employed by the Health Authorities concerned.

These findings can be placed in a wider perspective by a comparison with the national situation since 1944 (see Table 3). Our findings seem typical of the present national situation, although the present situation is in marked contrast to the early, seemingly more successful years of the Act. For example, a Committee of Inquiry in 1956 found that government departments were more than meeting their quotas, averaging 5%; that private employers were also within quota, averaging 3.5%; and that "comparatively few" employers were below quota (Piercy Report, Cmd 9883; para. 167). From the point of view of people with disabilities, the situation steadily deteriorated so that by 1980, government departments were averaging approximately 1% Registered Disabled employees, private employers 1.5% and fully two-thirds of employers were below quota. 8,255 of these employers were below quota without the authorization of an "exemption permit", although there had been no prosecutions under the Act during the previous five years (Hansard, vol. 999; col. 325).

While it is not possible to identify the introduction of "bulk exemption permits" as the cause of this deterioration, it is noticeable that their introduction around 1960 coincided with the average figure for private employers falling for the first time below the figure of 3%.

The Manpower Service Commission (now the Training Agency), which since 1976

has been responsible for the Quota Scheme, see the problem in the following terms (MSC 1981):

"A fundamental difficulty arises from the discrepancy in the nature of the obligations placed on employers and on disabled people. While employers have a statutory duty to employ the 3% Quota, registration by disabled people under the Scheme is voluntary. The decreasing numbers of disabled people choosing to register have meant that employers are being expected to comply with ... an impracticable law" (para 4.2)

A second finding of Blaxter's (1976) survey of people with disabilities, however, casts grave doubts on the MSC's argument. With respect to the supposedly voluntary nature of registration, she found that

"few people in the sample appeared to appreciate its (registration's) 'voluntary' status: no one had ever asked to be registered, and only one person had ever asked to be taken off the register. Most workers in the survey represented registration as an administrative procedure arranged by medical or employment authorities together, without much reference to them, or something which happened automatically if, because of health problems, they remained too long among the 'ordinary' unemployed." (p. 169)

Blaxter's finding that few of the people with disabilities in her study appreciated the voluntary nature of registration exposes the logical flaw in the MSC's argument. Choice involved knowledge, and it follows that no meaningful or valid choice can be made in the absence of knowledge. If people with disabilities are uncertain or inadequately informed about registration, then one cannot claim that they are "choosing not to register". The MSC's attempt to explain falling registration in terms of choices does not therefore hold water.

We would argue that the MSC's explanation reverses the chain of events. Blaxter found that people with disabilities saw their employers as discriminating against those who are Registered, while many of the employers interviewed by Walker were not interested in employing "the handicapped". This must be known to the medical and employment authorities whom Blaxter found actually take the decision whether or not to register a particular person. They undoubtedly make such decision in the light of this knowledge, and it would seem that with progressive frequency they have been deciding against registration. Thus, people with disabilities are not being registered because the Act has become discredited, rather than the Act becoming impracticable because people chose not to use it.

If the steady erosion of the 1944 Act, which is illustrated in Table 3, is seen in this way, then the question becomes, why has employers' discrimination against people with disabilities increased? The most obvious answer to this question lies in the drive for increased productivity and international competitiveness which gathered pace during the 1960s. Even if the Registered Disabled people on one's payroll were "good workers", taking on new Registered people will have been seen as entailing an unacceptable risk of lost productivity. However, this obvious answer is probably not the

right one. Pressures to speed up production and increase profits have been a constant feature of life in industrialised countries for at least the past century.

Instead, let's turn the question on its head and ask, why should employers have discriminated less against people with disabilities for a period after the Second World War? Looking at historical trends, we can see a certain consistency between the fate of the King's National Roll (the post World War I scheme for employment of the disabled) and the 1944 Act. Both came out of a world war, both were initially successful, and both became steadily less effective as the post-war period progressed. We would argue that this reflects an attitude on the part of employers which is prepared to grant exceptional privileges ("a debt of honour") to disabled ex-servicemen¹. Once this "debt of honour" is seen as having been discharged, underlying economic interests re-assert themselves.

Although the King's Roll was voluntary and the 1914 initiative was an Act of Parliament, the existence of legislation seems to have made little difference in practice. As with the King's National Roll, employers returned to seeing the provisions of the 1944 Act as a threat to industrial competitiveness. Eventually, having a "green card" became recognised as a handicap to obtaining satisfactory work, and progressively fewer people were registered. The powers in the 1944 Act have in fact rarely been used. Indeed, the main contribution of the State to the administration of the 1944 Act has been the introduction of exemption permits. The evidence does seem to indicate the wartime legislators were mistaken in their belief that the force of law could be relied on to prevent discrimination against people with disabilities in the field of employment.

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¹ Further study would be necessary to see whether ex-servicemen injured in the Falklands conflict were in receipt of such a "privilege".

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POSTSCRIPT: Employment of the Registered Disabled in London Local Health Authorities in 1986

Because of the reorganisation in 1982, the Area tier of management was removed by the time of this follow-up study. It has therefore been necessary to approach individual local health authorities, and to amalgamate where necessary for purposes of comparability.

TABLE

Area HA	No employed in 1981	Nos employed in 1986	No. of registered disabled 1981	1986	%decrease
A	4970	3958	37	8	78
B	4665	5500	33	15	55
C*	21390	15956	98	33*	66
D*	16426	10775	63	36*	43
E	7500	7115	30	19	37
F	8118	9078	29	16	45
G	8771	7773	35	19	46
H	7500	7519	35	15	57
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			360	161	

* Based on estimate, as there were only figures for 1/3rd of the AHAs.

Discussion

These results indicate that less than half (45%) as many registered disabled were employed in 1986 compared with 1981. Nationally the number of registered disabled persons has declined only by 15% between 1981 and 1986 (from 460,178 to 389,273).

Another possible explanation is that the decline reflects the general doubling of the unemployment rate from 6% in 1981 to 12.5% in 1986. However, the effect of general unemployment cannot be a direct one, as the NHS employment rate has been stable over that period, approximately 80,000 workers in the health authorities surveyed in both 1981 and 1986.

A more likely explanation is that there is an indirect effect of high unemployment in that pressure from able bodied persons unable to find other work has "squeezed" the employment of the disabled in the NHS.