

Employment Retention Policy

A report prepared for RNIB by

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1 Introduction

This Report investigates the potential for a statutory model of employment retention leave. A Private Members Bill (HC Bill 2006-07) [79] currently in progress through Parliament would, if enacted, offer disabled employees the right to paid leave for employment assessment, rehabilitation or re-training.

'It is illogical to support disabled people to get off benefits and into work whilst allowing those who develop a disability to be laid off with a pension or forced onto incapacity benefit – this helps neither the worker, the company nor the country – everyone loses'.

(John Robertson MP, speech to the House of Commons, 13 March 2007) ¹

Employment retention leave is paid time off work arising from an individual's impairment.² It is aimed at those individuals where there is an onset of an impairment and/or where they have an existing impairment but there is a deterioration in their condition. The duration of the absence from work will vary, from a few hours to several months. The leave may be periodic or continuous.

Employment retention leave is necessary because the likelihood of someone leaving employment is increased following the onset of disability. The proportion of individuals who remain in employment after the onset of disability is known to fall over time (Burchardt,

¹ Hansard 2006-07, Col. 156-157

² Also known as Rehabilitation Leave or Disability Leave.

2003b:9). Although the evidence is limited, analysis of the British Household Panel Survey (BHPS) suggests that the onset of disability is linked with a reduction in employment from 81 per cent two years before onset to 36 per cent two years after onset. (Bardasi et al, 2000:2) Moreover, 5 per cent of individuals who become DDA disabled leave employment almost immediately, rising to 13 per cent after nine to twelve months, representing around 1 in 5 of all those in employment who become DDA disabled (Burchardt, 2003b: 11).

The employment penalty for disabled people has shown a substantial increase since the 1970's (Berthoud and Blekesaune, 2007:12), and their persistent employment disadvantage is well documented: disabled people are 30 per cent more likely to be out of work than non disabled people with similar characteristics (for example, age and qualifications) (Equalities Review, 2007).

The use of employment retention leave benefits employers, employees and the Government, and is clearly linked with broader policies to enable more people to engage in paid work. The strategy document *Health, work and well-being – Caring for our future A strategy for the health and well-being of working age people* argues that one outcome of a successful strategy should be the opportunity for 'people with health problems or disabilities to optimise work opportunities' (DWP, DH, HSE, 2005:27).

Critically, the absence of a statutory employment retention leave scheme means that:

'... it [will] be exceptionally difficult to increase the percentage of disabled people in employment, as each year numerous people who could return to work if their condition was understood and treated as disability rather than sickness end up claiming benefits or drawing on their pension schemes before retirement age instead.'

TUC, 2006:19

It is estimated that raising the employment rate of disabled people to that of the general population across the EU would raise the overall EU employment rate between two and three per cent (European Commission, 2004).

Methodology

In compiling this Report, we carried out a review and analysis of existing literature and policy documents. We also conducted telephone interviews with employers, insurers, and members of a disability support group. Employers were selected on the basis of having a commitment to retaining disabled employees. The research sought to identify and evaluate a model of employment retention leave; to explore potential funding mechanisms for this leave, and to examine the ease with which employment retention leave could be implemented.

1.1 Employment retention and the Disability Discrimination Act

Under the Disability Discrimination Act, employers have a duty to make 'reasonable adjustments' for disabled staff when a 'policy or practice or a physical feature of their premises, places the disabled person at a substantial disadvantage' (DRC, 2007). Employment retention leave would constitute a 'reasonable adjustment' under the terms of the Act. Indeed, the leave itself provides a period of time during which both employer and employee can make necessary reasonable adjustments. These may include adjustments to working arrangements, adjustments to premises, or adjustments to the job (HSE, 2007) (Annex 1)

The Disability Discrimination Act states that a person is disabled if they have '*a physical or mental impairment which has a substantial and long-term adverse effect on the ability to carry out normal day to day activities*' (see Annex 2).

2 Current practice

2.1 National/international policies

In the UK over half (52 per cent) of employment establishments have a (formal or informal) policy covering the rights of disabled employees and applicants (Roberts *et al.*, 2004:38-39). Not all of these businesses will have a policy on employment retention leave. Indeed, an internet search using the terms 'disability leave' and

'rehabilitation leave' suggest that only a minority of firms have paid leave arrangements for employment retention purposes.

However, a number of trade unions, such as UNISON and the Public and Commercial Services Union, have model agreements that members can use in negotiations with employers, and a survey of 1,221 workplaces in the UK carried out by the TUC in 2002 found that 12.5 per cent of employers surveyed offered a 'rehabilitation service', and 9 per cent offered some form of additional paid leave for rehabilitation, stress or disability (described in the Report as 'recuperative leave') (TUC, 2002:6).

National surveys show that in the UK, in just over eight out of ten workplaces where disabled people have ever been employed, adjustments have been carried out (83 per cent in Roberts *et al.* (2004:60) and 84 per cent in Simm *et al.* (2007:64)). In over half of establishments this included flexible working time or varying hours for disabled employees (55 per cent in Roberts *et al.* (2004:57) and 56 per cent in Simm *et al.* (2007:64)). Indeed, Simm *et al.* point out that these adjustments are often referred to as 'disability adjustment leave'.

There is a lack of consistent definitions of disability and collection of statistical data; and from an international perspective, legislation and practice with regard to rehabilitation of employees who are absent because of sickness varies. Nevertheless, some countries (notably Australia, North America and Scandinavia) have a statutory requirement that all companies with 20 or more employees have rehabilitation policies and procedures in place. These must be

implemented when an employee has been absent due to sickness for more than four weeks (Higgins, April 2007).

Employers in Sweden are required to ensure that any rehabilitation needs are analysed as soon as possible, and to undertake measures for effective rehabilitation of employees, while employers in the Netherlands must submit a report of work incapacitated employees to a social security agency within 13 weeks and must also submit a 'work resumption plan' (James *et al.*, 20024).

In some countries in Europe, an employer's responsibility for continuing to pay employee wages during sickness absence is seen as promoting both absence prevention and employee retention measures. In the Netherlands, for example, employers are liable for wages during sickness absence for a year (with some exemptions). In Denmark and Norway, more people enter vocational rehabilitation and training than are granted disability benefits, and it is argued that although statistics are not always amenable to international comparison:

'The data suggest that even the highest average per capita costs will pay off in the medium term should (the) vocational intervention result in successful labour market reintegration.'
(OECD, 2003:112).

2.2.1 Ireland

The Republic of Ireland has one of the most generous schemes to support employment and employment retention of disabled employees. *The Wage Subsidy Scheme* (WSS) offers financial

support for employers in the private sector who employ some people with disabilities for at least 20 hours a week. Employers can access one or all of these schemes. There are three strands to the scheme:

- i. **Strand 1** subsidises employers of staff with 'proven productivity rates' of 50-80 per cent, and is designed to cover a productivity shortfall. The maximum subsidy is €8,295 per annum. For a disabled employee with a productivity level below 50 per cent of normal work performance, there is a maximum subsidy up to €10,323 per annum. The amount of the subsidy varies depending on the number of hours per week the disabled employee is employed. WSS does not affect the equal employment rights of disabled employees.
- ii. **Strand 2** applies where a company employs more than two disabled people, and includes a grant to cover the additional supervisory, management and other work related costs, based on the number of disabled employees employed. The grant has a sliding scale from an additional 10 per cent of wage subsidy for three to six disabled employees to a maximum of 50 per cent of wage subsidy for more than 23 disabled employees.
- iii. **Strand 3:** an employer of 30 or more disabled workers can claim a grant of €30,000 per annum towards the costs of employing an Employment Assistance Officer.

Additional support for employers in the Irish Republic includes:

- *Employee Retention Grant:* A two stage grant enabling employers to identify adjustments and or training to enable a disabled employee to remain in their work, or to re-train the employee to

enable them to take up another position in the company. Stage 1 funds 90 per cent of the costs of developing a retention strategy (to a maximum of €2,500 per annum), enabling employers to 'buy in' external skills and knowledge; Stage 2 provides funding at 90 per cent of eligible costs (to a maximum of €12,500 per annum), to enable employers to implement their retention strategy, including employee re training.

- *Workplace Equipment Adaptation Grant (WEAG)*: Payable to private sector employers for adaptation of the workplace or equipment. Up to € 6348.70 for minor building modification and assistive technology. The grant can also be used to upgrade equipment previously funded under the WEAG scheme.
- *Disability Awareness Training Support Scheme*: Open to all companies in the private sector. Training grants are available for the development of personnel at all levels and occupations within this sector. The purpose of the grant is to enable companies to:
 - Employ or retain people with disabilities;
 - Promote the employment of people with disabilities;
 - Promote the management of diversity within the workplace.Funding for the Scheme is available to companies at a level of 90 per cent of costs in the first year and 80 per cent of costs in subsequent years. The maximum funding available to a company is €20,000 in any one calendar year.
- Policies to help disabled employees to access the labour market include a job interview/interpreter grant for jobseekers; a Personal Reader Grant for employees with a visual impairment, and a Supported Employment Programme for disabled jobseekers (FAS, n.d.).

2.2.2 Company/employers' policies

Recent survey evidence describes some of the perceived barriers that employers say prevents the employment and retention of disabled people (Vision Twentyone, April 2007). These include anxiety about the language and terminology around disability, and misunderstanding about disability in general, and the employment of disabled people. However, at company level, an increasing number of employers are engaged in developing 'Disability Confidence'. This is a relatively new concept, developed by the Employer's Forum on Disability, to inform and enable companies to meet the needs of both their workforce and customers. The Employer's Forum describe the 'building blocks' of disability confidence as having strategic, commercial, legal, societal, ethical and professional benefits.

'Traditional cost-benefit analysis focuses unduly on the assumed costs of accommodating individuals. By contrast the disability confidence business case includes aspects such as the enhanced management capacity and organisational performance, which are usually overlooked.'

(Employers Forum on Disability, 2007)

The Employer's Forum argues that there is a good business case for a proactive approach to meeting the needs of disabled employees, and this is reflected in the policies and procedures of many organisations. However, there is some variation in levels of 'disability confidence' at company level; particularly in smaller companies, although the situation is improving (Lam *et. al.*, 2005). However, recent research evidence demonstrates that larger establishments, both in the public and voluntary sector, are more likely to have a wider understanding of disability, to have made adjustments, and to

have a more positive attitude towards disabled staff (Simm *et al.*, 2007:6).

Examples of this proactive approach have been identified by the research team, and are included here. Salford City Council, for example, operates a Disability Leave Scheme (DLS). This provides a newly disabled employee, or a disabled employee whose condition has deteriorated, with up to six weeks off work:

‘to adjust to the change in personal and professional circumstances. During this period of leave, the employee is able to assess their disability or condition and how it affects their job role, bridging the gap between sickness and a return to work. The employee’s job is protected whilst on the DLS to give both the employee and their manager time to seek professional help to adapt to the new circumstances.’

(Salford City Council, 2006)

The Disability Leave Scheme is in addition to other policies on the employment of disabled people. The costs to the Council are seen as low when compared with the benefits, and the Council’s policy document on Disability Leave states that ‘very few’ employees have used this scheme.

Lloyds TSB also takes a highly proactive approach towards employing disabled people, and ensuring that employees who become disabled are able to remain in employment. Subject to meeting the policy criteria disabled employees are allowed to take

‘Reasonable Adjustment Absence’, which is a period of paid absence, (or partial absence) from work. Reasonable Adjustment Absence can be taken when:

- An employee is confirmed by their GP as being able to work
- They are prevented from carrying out their role because they are awaiting a specified ‘reasonable adjustment’ to their workplace
- That adjustment is essential to the effective performance of their role.

(Lloyds TSB Disability Resource Toolkit)

The company employs external case advisers, and make full use of the Access to Work Fund where appropriate. The consultants recommend Access to Work (AtW) assessments, which are undertaken by Disability Service Teams (DST) which are part of Jobcentre Plus. These assessments are free. Specialist assessments (for example, occupational health, adaptive technology/IT or psychiatric or impairment specific assessment) may be recommended by either the case advisers or Disability Service Team, and these are funded by the company. Again, very few employees have taken Reasonable Adjustment Absence.

The company has a strong commitment to rehabilitation, with clear policies which include a Reasonable Adjustment Process; a Personal Development Programme (PDP) for disabled employees; Mentoring and Career coaching for disabled employees, and Disability Awareness Training, which is available for all staff. Finally, Lloyds TSB has a Group disability network, AXIS, which is ‘owned’ and run

by disabled employees. AXIS provides support and networking opportunities for disabled employees, raises awareness of disability as an issue (for all employees) and creates an environment in which employees are able to disclose their disability, thereby enabling them to 'own' and manage their 'disability issues'.

Other examples of organisations that are developing, or have a commitment to developing, employment retention policies, include the Halifax Bank; the Scottish Courts Service; Scottish Power, and Sheffield City Council (TUC, 2002:15) and Kingfisher plc (which includes B&Q).

2.2 Employment retention leave and the benefit /tax system

2.2.1 Differences between Statutory Sick Pay and paid employment retention leave

In practice, it can be difficult to make a clear distinction between 'sickness' and 'disability' (TUC, 2006:19). Further, there are drawbacks to the current system; for example, a period of phased rehabilitation is ruled out during sick leave, because of a potential effect on sick pay and benefits (DRC, 2007). The introduction of a statutory employment retention scheme will involve a formal decision about the individual's entitlement to the leave by an employer that may be informed by a medical assessment and where appropriate will involve **paid** employment retention leave.

Employment retention leave is not granted to cover sickness absence; it is a paid absence that arises from a disability and not sickness. Formally, employment retention **leave** should be counted separately from sick leave and should not be used to cover period of 'sickness'. Accordingly, those on employment retention leave would not be in receipt of Statutory Sick Pay.

Paid employment retention leave would apply to people deemed disabled under the Disability Discrimination Act, whereas Statutory Sick Pay is payable to employees aged 16 and over and under 65 who are 'incapable of work' for 4 or more consecutive days. The individual must also have a contract of employment with an employer and earn enough to pay National Insurance contributions.

Some of the key differences between the paid employment retention leave proposed in this report and Statutory Sick Pay are outlined in Table 2.1.

Table 2.1 Key differences between paid employment retention leave and Statutory Sick Pay

Aspect	Paid Employment Retention Leave	Statutory Sick Pay
In-scope population	People defined as disabled under the Disability Discrimination Act	Employees with an incapacity to work
Eligibility criteria	Employees aged 16 and over who are capable of work but who require further assessment, treatment and / or rehabilitation. Individual must have a contract of employment.	Employees aged 16 and over and under 65 who are ‘incapable of work’ for 4 or more consecutive days. The individual must have a contract of employment with an employer and earn enough to pay National Insurance contributions. In addition, people may be treated as incapable of work for the purposes of Statutory Sick Pay under certain circumstances, for example, when under medical observation because of contact with an infectious disease and a

‘Certification’	Leave approved by a manager/employer. May involve a medical assessment	Medical Officer of Environmental Health has issued a certificate excluding the person from work. Self-certification for first 7 days, then ‘reasonable medical evidence’ usually a sick note from a GP.
Maximum period	Will vary depending upon circumstances. Duration of employment retention leave must be ‘reasonable’	28 weeks. If an employee continues to be sick after the maximum liability of 28 weeks, then s/he can claim Incapacity Benefit.
Consecutive days	Employment retention leave need not be for consecutive days. It could be for (parts of) single days, blocks of days/weeks or periods of part-time working.	Employees must be ‘incapable of work’ for 4 or more consecutive days. Periods of incapacity for work up to the 28 week maximum can be linked where a new period is separated from the previous period by less than eight weeks.

Link with occupational sick pay

Not applicable

Payments made under an occupational health scheme count towards a person's SSP entitlement. If the occupational sick pay scheme pays less than the full SSP, the employer must make up the deficit.

Other benefits

Employment retention leave is not available to people receiving Statutory Maternity Pay, Maternity Allowance or (other) national insurance benefits. However, recipients may claim: Income Support, Housing Benefit, Council Tax Benefit, Disability Living Allowance, industrial injury benefits and bereavement benefits.

SSP is not paid to people receiving Statutory Maternity Pay, Maternity Allowance, Statutory Paternity Pay, Statutory Adoption Pay or (other) national insurance benefits. However, recipients may claim: Income Support, Housing Benefit, Council Tax Benefit, Disability Living Allowance, industrial injury benefits and bereavement benefits.

Deductions

Paid employment retention leave is treated

SSP is treated like pay and so is taxable

	like pay and so is taxable and liable for National Insurance contributions, and deductions can be made for pensions, student loans and attachment of earnings orders	and liable for National Insurance contributions, and deductions can be made for pensions, student loans and attachment of earnings orders
Hospitalisation	If employee was hospitalised they would be on sick leave and not employment retention leave.	Does not affect payment of SSP
Disputes	Employment Tribunal ⁵	Dealt with in first instance by HMRC

⁵ Our qualitative work suggests that employers who have proactive policies around employment retention would generally work to avoid a situation reaching the Employment Tribunal stage.

2.2.2 Links with incapacity-related benefits

People without entitlement to Statutory Sick Pay/occupational health pay (such as the self-employed) and those whose entitlement to these benefits has come to an end may claim Incapacity Benefit. Recipients of Incapacity Benefit are incapable of work during a 'period of incapacity for work'.

Under the present system, Incapacity Benefit is paid at three rates:

- Lower short term rate (£61.35 per week) is paid for the first 28 weeks of entitlement and is mainly claimed by those not entitled to Statutory Sick Pay, such as the self-employed.
- Higher short term rate (£72.55 per week) is paid after 28 weeks of entitlement – someone whose entitlement to Statutory Sick Pay had expired and was still incapacitated could claim this rate.
- Long term rate (£81.35 per week) is paid after 52 weeks of entitlement.

Incapacity Benefit is paid for each day someone is incapable of work during his or her 'period of incapacity for work' (that is, a period of four or more consecutive days; or two days for people having plasmapheresis, chemotherapy, radiotherapy, regular weekly kidney dialysis or total parenteral nutrient). However, Incapacity Benefit, like Statutory Sick Pay, is generally not paid for the first three days of a period of incapacity for work.

Incapacity Benefit, except for the short term lower rate, is taxable.

Some Incapacity Benefit recipients continue to have a contract of employment – even if their entitlement to Statutory Sick Pay/occupation sick pay has ended. This means that an incapacity benefit recipient could still hold discussions with their employer about returning to work (as shown in Figure 3.1). These discussions could be facilitated by a Jobcentre Plus' Disability Employment Adviser or a Incapacity Benefit Personal Adviser or a represented of an employment service contracted provider (for example, a Job Broker adviser under New Deal for Disabled People or an adviser in the provider-led Pathways to Work programme).⁶ If the discussions were successful the individual could move from Incapacity Benefit to paid employment retention leave as part of the process of a return to employment.

Where private or voluntary sector providers are involved there is a concern that outcome-related funding regimes may have perverse effects that disadvantage job retention (Kennedy and Wilson, 2006:54-55). Outcome-related funding regimes tend to reward job entry and so providers may favour benefit recipients who are more 'job ready' and/or they facilitate entries to jobs that are unsuitable. This can be militated against by funding schemes that reward job placements that are sustained for a specified period of time (say, 13 weeks or longer), as well as paying for job entries. With respect to the employment retention leave proposals outlined here, outcome-related funding may mean that more difficult job retention cases are not pursued because the costs to the provider exceed

⁶ Pathways to Work has been extensively piloted and is due to be rolled-out nationally in 2008. The Government intends that private and voluntary sector organisations have a key role in the delivery of Pathways to Work.

the payment they might receive, and/or they are not interested in such cases because the individual has a contract of employment and no job entry payment can be achieved. RNIB will need to monitor the terms and conditions of providers' contracts awarded by Jobcentre Plus.

Employment and Support Allowance

Under the Welfare Reform Act 2007, Incapacity Benefit and Income Support on grounds of incapacity will be replaced by a new benefit, the Employment and Support Allowance, which is a replacement of earnings benefit with contributory and means-tested components.

People may be entitled to Employment and Support Allowance by satisfying

either National Insurance condition conditions (similar to those for incapacity benefit) or a means test (similar to Income Support);

and

a 'limited capability for work test' that shows that their mental or physical condition limits their capability for work to the extent that it would be unreasonable to expect them to work.

The 'limited capability for work test' will be conducted during an initial 13 week 'assessment phase'.⁷ A second test will be conducted during this 13 week period to determine whether their limited capability is such that it would be unreasonable for the person to engage in 'work-related activities'. Decisions on the 'limited capability for work' and 'limited capability for work-related activities' will be based on medical evidence provided by claimants, their General Practitioners and DWP doctors.

Employment and Support Allowance has two tiers: the support component and the work-related activity component. The former comprises those assessed as having a limited capability for work-related activity. The latter consists of those assessed as **not** having a limited capability for work-related activity and they will be subject to 'work-related conditionality', which initially will comprise work-focused interviews, but this provision could be extended to, for example, agreeing an action plan and even rehabilitation-type activities. Claimants who refuse to undergo the assessments or follow any set work-related activities without good cause face a benefit sanction.

In the context of employment retention leave, a key issue is the extent to which the Employment and Support Allowance's assessments and work-related activities complement and support employers own practices. On the one hand, DWP regulations and procedures need to be sensitive to the fact that, as employees, claimants may have already had a medical assessment and

⁷ Regulations may specify conditions where this assessment phase may last for more than 13 weeks.

discussions with their employer that are effectively about ‘work-related activities’. The employee-claimant may find it intrusive, even unnecessary, if they are asked to participate in a series of assessments that appear to cover essentially the same issues. On the other hand, it is important that employers do not see the introduction of a 13 week assessment period as a reason for not conducting and funding their own assessment of the employee’s work-related needs. RNIB should consider whether a **single** assessment process is both desirable and feasible. Such an assessment would need to involve a range of stakeholders such as social services, employers, NHS and DWP.

Conceivably, a recipient of the work-related activity component of Employment and Support Allowance who still has a contract of employment could receive Jobcentre Plus and/or contracted provider support with discussions with their employer. As with Incapacity Benefit, these discussions could lead to employment retention leave and/or other reasonable adjustments as part of a return to work strategy. However, the concerns about outcome-related funding mentioned above also apply to the new Employment and Support Allowance.

2.2.3 Working Tax Credit

Working Tax Credit is an in-work benefit designed to ‘*make work pay*’ for those in low paid employment. It is paid to people who are in receipt of Statutory Sick Pay/occupational sick pay, so arguably people on employment retention leave should be eligible for Working Tax Credit.

Working Tax Credit is paid to people who are employed or self-employed (either on their own or in a partnership), who:

- usually work 16 hours or more a week
- usually live in the UK
- are paid for that work (that is, voluntary work is excluded), and
- expect to work for at least 4 weeks

and who are

- aged 16 or over and responsible for at least one child, or
- aged 16 or over and disabled, or
- aged 25 or over and usually work at least 30 hours a week

Disability element

Working Tax Credit comprises several elements, including additional amounts for people with a disability. If not already in receipt of the credit/disability element, the impairment that leads to the employment retention leave may give entitlement to the benefit. To qualify for the disability element, the claimant (or partner) must usually work for at least 16 hours per week and:

- have a mental or physical disability that puts them at a disadvantage in getting a job; and
- to have been in receipt of certain benefits.

Further details about Working Tax Credit and the disability criteria can be found in HMRC (2005a and 2005b).

2.2.4 Access to Work

The Access to Work Fund is recognised by disability rights groups and many employers as a valuable resource to support the engagement of disabled people in employment (Simm *et al.*, 2007; RNIB, 2004). Recent research evidence suggests that Access to Work is particularly useful for small to medium sized businesses that do not have access to internal specialists or the resources to pay for external advice. However, the research found that although employers did not find cost a major barrier, smaller establishments were often ‘suspicious of cost implications’ (Simm *et al* 2007:158) and Access to Work can provide crucial support to employers and disabled employees. Our qualitative research found that Access to Work also makes an important contribution to employment retention for large employers.

However, the scheme is still not well publicised. In 2002, 74 per cent of employers did not know of the existence of Access to Work (RNIB, 2004), and a key recommendation of this research is that the scheme needs to be given a higher profile. According to a recent TUC report, the lack of publicity for the Access to Work Fund has led many disabled people to suspect a ‘*deliberate intention to ration the scheme through ignorance*’ (TUC, 2006b: 6).

3 What would an ideal model look like?

This chapter outlines a hypothetical or ideal model of how employment retention leave could be implemented. It is recognised that this model will not apply in all circumstances or to every case of disability onset; nonetheless it provides a starting point for discussing the practicalities of its introduction.

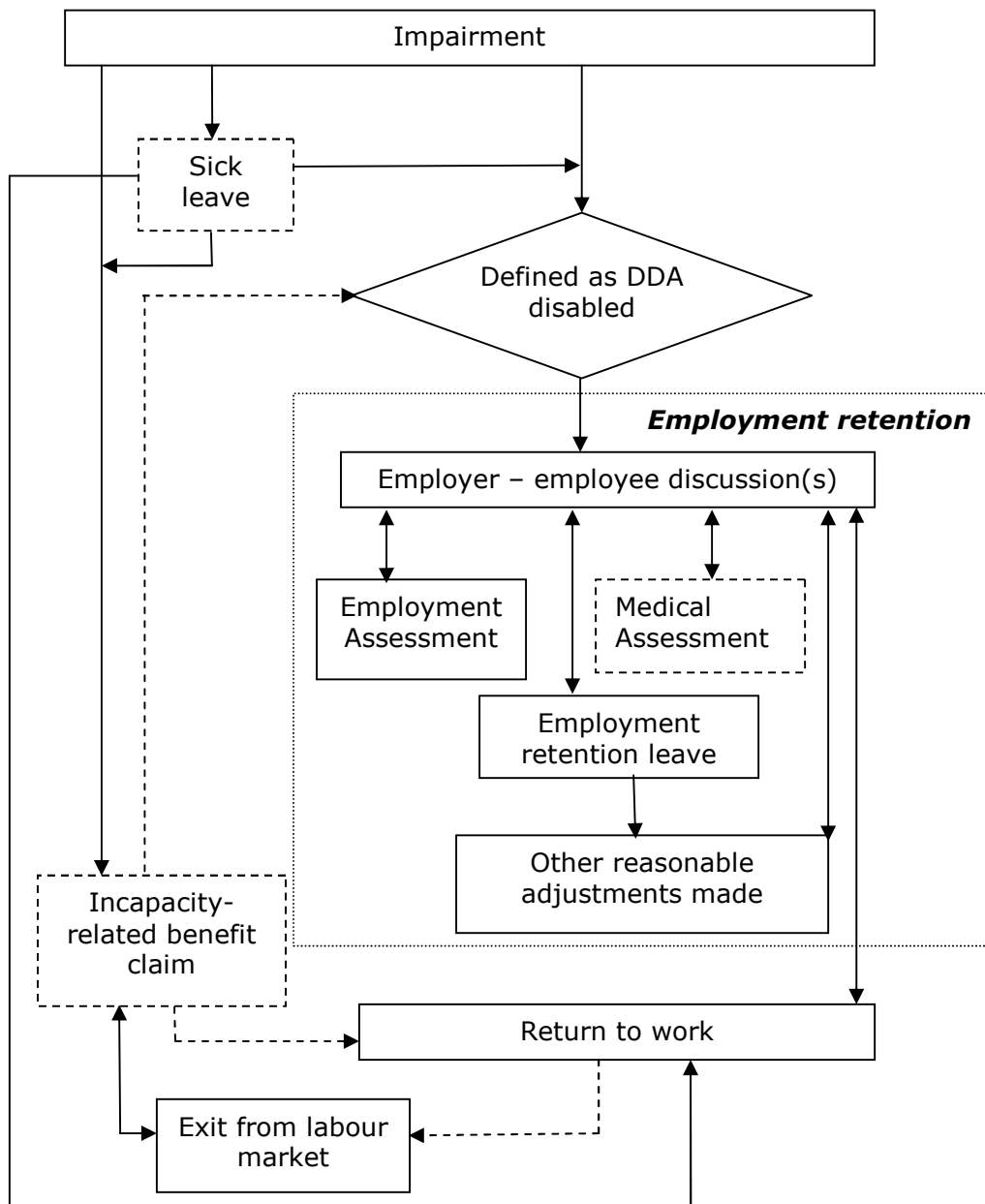
3.1 The Process

The granting of employment retention leave will be part of a wider process that explores the full range of reasonable adjustments that an individual may need in order to secure their continued employment. A wide range of people may be involved in the process; in addition to the disabled worker and representatives of the employer the process may involve medical professions (including the individual's own doctors and those with training and experience in disability assessment), lawyers, representatives from insurers, and staff from Jobcentre Plus.

Figure 3.1 provides a high-level view of the underlying process, which involves at least three primary stages:

- an injury or illness that leads to a (worsening) impairment
- a discussion between the employer and employee about employment retention and what 'reasonable' adjustments are required (which may include a period of paid leave for rehabilitation purposes)
- an outcome that might include employment retention.

Figure 3.1 The employment retention leave process



As Figure 3.1 shows, there are a variety of routes by which an individual may secure employment retention leave. It could be initiated when the employee is identified as being a disabled person within the terms of Disability Discrimination Act 2005; something that could happen pre- or post-recruitment. Some employees may have a pre existing disability, which they have chosen not to disclose to their employer, while others may not have previously considered themselves to be disabled. The realisation that the employee may be classed as disabled under the Act may or may not follow a period of sick leave. Indeed the employee may have ceased entitlement to Statutory Sick Pay/occupational sick pay and claimed incapacity benefit, even taken the employer to the Employment Tribunal to establish that they are a disabled person under the Act (this link is not shown in Figure 3.1). In any event the worker holds discussions with (a representative of) the employer about their impairment and work-related needs. The employee may or may not have a third party (such as a trade union representative) present at these discussions.

The Disability Rights Commission's guidance for Trade Unions suggests that if a person's absence through sickness is clearly disability related, it is good practice for employers to consider reasonable adjustments at that point, for example through allowing a disabled person to have more time off, or providing other support (DRC, 2006).

The process of accessing employment retention leave commences with a discussion between the employee and the employer or their representative (i.e. line manager). This would always be in conjunction with an employment assessment, during which any

reasonable adjustment could be identified (including employment retention leave). It is the employer who sanctions paid employment retention leave. This employment assessment would be a requirement for any employee wishing to access employment retention leave. Similarly, any employee requesting redundancy because of disability would be required to undertake an employment assessment. The only circumstance in which an employment assessment would not be required would be where this had already taken place, and a 'repeat' assessment would represent an unnecessary duplication.

In determining whether to grant employment retention leave the employer may also request that the employee undergoes a medical assessment or provides (further) medical evidence. Employees who cannot give reasonable grounds for refusing an assessment are, in practice, unlikely to be given employment retention leave.

Research evidence suggests that the optimum time for effective rehabilitation is between approximately one and six months into a period of absence, and that later interventions mean that obstacles to a return to work are more complex, and therefore harder to overcome, making rehabilitation both more difficult and more costly (Waddell et al, 2004). It is vital that the employer-employee discussions and any assessment provide the worker with easy and early access to relevant rehabilitation services (Better Regulation Task Force, 2004: 31-33):

'In order to be successful rehabilitation has to occur promptly after an injury or illness has occurred.'

(Better Regulation Task Force, 2004:33)

The total duration of the employment retention leave will vary and depend upon individual circumstances. The estimated duration of each leave period will need to be negotiated between the employer and employee (TUC, 2006:20). Local agreements with trade unions may incorporate a maximum total period for employment retention leave per annum. An alternative approach, which more closely reflects the Disability Discrimination Act, is that the total duration must be 'reasonable', where this is defined in terms of the criteria outlined in the Act and the code of practice (DRC, 2004).

Whilst the individual is in receipt of employment retention leave, any other reasonable adjustments could be carried out.

(For completeness, Figure 3.1 also shows that there are other pathways for people returning to work without having employment retention leave. These are shown to highlight that employment retention leave must be seen as part of a wider system for facilitating employment retention).

3.1.1 Independent assessment

In some (but not all) instances the worker may be referred for an **independent** 'assessment'. Either the employer or the employee could formally request an assessment, but if both parties agree, there would be no reason for employment retention leave not to commence immediately; that is, the request for an assessment should not delay

the leave.⁸ The assessment must be conducted as quickly as possible after it has been requested, and in any event within three months (see BICMA, n.d.). The assessment could be conducted before (where an impairment is known about in advance), during or after a period of sick leave (APIL, 2004:4).

The aims of the assessment could include:

- Making a recommendation on whether employment retention leave was appropriate and, if so, an estimate of its frequency and duration;
- Identifying what other 'reasonable adjustments' might be appropriate; and
- Possible referral to other services, which may include a medical assessment.

The assessment is not designed to determine the cause of the impairment, nor the worker's longer term needs for medical treatment or care (see BICMA, n.d.).

Depending upon circumstances (for instance, where both parties agree in advance about the nature of the impairment) the assessment could be conducted by a Disability Employment Adviser.

The assessment could be conducted at the employee's home, or at the assessor's place of work. In certain circumstances, the assessment could be conducted over the telephone (APIL, 2004:4).

⁸ One large employer interviewed for this research operates a process of employees' self-defined impairment related absence.

Medical assessment: Employment assessment and medical assessment are separate processes with the latter being optional. Depending upon the worker's circumstances a medical assessment may involve their General Practitioner, consultant, a medical adviser or occupational health adviser appointed by the employer. The Bodily Injury Claims Management Association (BICMA, n.d.) guidance is that (see also APIL, 2004:3):

'It is essential that the process of assessment and recommendation be carried out by those who have an appropriate qualification (to include physiotherapists, occupational therapists, psychologists, psychotherapists and so forth). It would be inappropriate for assessments to be done by someone who does not have a medical or other appropriate qualification. Those doing the assessments should not only have an appropriate qualification but should have experience in treating the type of disability from which the individual claimant suffers.'

The worker may have to give their permission for their medical records to be shared with others.

The report on the medical assessment could cover:

- 1. The injuries sustained by the claimant*
- 2. The claimant's present medical condition (medical conditions that do not arise from the accident should also be noted where relevant to the overall picture of the claimant's needs)*

3. *The claimant's domestic circumstances (including mobility, accommodation and employment), where relevant*
 4. *The injuries/disability in respect of which early intervention or early rehabilitation is suggested*
 5. *The type of intervention or treatment envisaged*
 6. *The likely cost*
 7. *The likely short/medium-term benefit to the claimant'*
- (BICMA, n.d.)

Item 5 above could include a specific recommendation on the appropriateness of employment retention leave as well as other reasonable adjustments.

Both employer and employee should receive copies of the employment and any medical assessment report. The employer and/or the employee may query its findings, and any related correspondence with those undertaking the assessment must be copied to the other party.

Employers should be obliged to take into account any report based on the assessments. Given that the Disability Discrimination Act requires employers to make 'reasonable' adaptations, if they reject any recommendations for employment retention leave or other reasonable adjustments they should be required to give the worker a statement in a suitable format giving the reasons for their decision. Similarly, the worker should not be obliged to undertake any of the recommendations, but, like the employer, should be required to formally inform the employer of their reasons for rejecting any relevant recommendations in the report.

Assessments raise a number of issues including disclosure and the payment for the assessment (see Section 7.4).

3.2 Potential activities during employment retention leave

Individuals on employment retention leave could be involved in one or more of the following activities:

i. Continuing contact with employers

During employment retention leave, continued contact between employer and employee would be an important element of employment retention policies. Contact could include support, training and development, and constructive work-related activities where appropriate. These would have an important role in promoting employee retention. Access difficulties may need to be identified and addressed to support this strategy; the leave would allow employers and employees to discuss and negotiate other reasonable adjustments.

Evidence from employees on sick leave suggests that they value continued contact with their employer. Generally, people on sick leave believe that line managers should initiate contact.

Nevertheless, this contact should be sensitive, rather than intrusive, and different levels and frequency of contact may be appropriate for different people in different situations (Farrell *et al.*, 2006).

ii. One to one support including:

- Counselling
- Mentoring
- Advocacy

iii. Work-related support, including:

- (re-)Training
- Graduated or phased return to work
- Keeping in Touch days (KIT days)

Similar to the Maternity Leave model; Keeping in Touch days can be used for work or any other activity that enables an employee to keep in touch with his or her work environment, including, but not exclusively, attendance at conferences, appraisals, or team meetings. Keeping In Touch days are not the same as the reasonable contact that employers may continue to have with employees during periods of leave, because employees can work for their employer during Keeping in Touch days. This work is not covered by an employees' normal contract of employment and is paid by the employer. Work would not have to be over whole days, but a shorter period (of, say three or four hours) would count as a full Keeping in Touch day. Employees would continue to be paid during employment retention leave for the weeks that they engage in Keeping in Touch days.

iv On-going medical interventions including (taken from Better Regulation Task Force, 2004:32):

- acute medical attention;
- accurate early assessment and diagnosis;

- pain relief;
- physical therapies (chiropractice, podiatry, physiotherapy, osteopathy, complementary therapies etc);
- wider therapies (e.g. speech therapy);
- ergonomic support;

4 Funding models

This chapter outlines some general models for funding employment retention leave. The advantages and disadvantages of each model are summarised in an associated text box.

4.1 General assumptions

Under all models, employers and employees would continue to have liability for National Insurance contributions.

The amount of paid for employment retention leave would be the same as Statutory Sick Pay so that neither employers nor employees have any financial incentive to move/not move from Statutory Sick Pay to employment retention leave earlier than they would otherwise do so if there was a differential in the two payments.

People in receipt of paid employment retention leave would not be able to claim Statutory Sick Pay or Incapacity Benefit/Employment and Support Allowance. They would, however, be able to claim Disability Living Allowance and Working Tax Credit as well as Housing Benefit and Council Tax Benefit.

4.2 Models

There are three main models:

- State benefit
- Private provision
- Mixed funding

4.2.1 State benefit

Here paid employment retention leave like Incapacity Benefit is a welfare benefit provided by the State. There are two versions of this funding model:

- Paid employment retention leave would be a contributory benefit and entitlement depends in part upon an individual meeting National Insurance contributory conditions. Underpinning social insurance is the contributory principle. However, in recent years successive Governments have moved away from the notions of social solidarity that underpin social insurance and favoured social assistance schemes that, through means-testing, allow them to target help on those most in need.

Advantages of the contributory principle

The advantages of the contributory principle include (not in any order of priority):

- Equitable provision – arguably only those at risk of needing a replacement income should fund a social insurance scheme from which they might benefit. This does not preclude notional contributions, but does mean that non-beneficiaries should not pay for benefits which they are not potentially entitled
- Comprehensive coverage – it can encompass employees, employers and the self-employed
- Simplicity – it is an easy to understand principle

- Assurance of security – contributors know that if the appropriate contingency arises they have some entitlement to financial assistance
- Promotion of self-esteem – it avoids the stigma associated with social assistance as people believe they have taken steps to protect themselves and consequently take-up of contributory benefits is better
- Ease of administration – unlike means-tested benefits the income of the claimant and any other members of a household does not have to be established, the employment retention leave would be paid regardless of household income
- Reinforcement of the value of paid work through contributors gaining entitlement to a ‘social right’ – it maintains a link between the labour market and the contingency when a replacement income is required
- Flexibility in policy – the principle is compatible with various other possible policy objectives, such as poverty alleviation, protection of living standards, etc.
- Avoidance of the need to means test benefits.

Disadvantages of the contributory principle

The main disadvantages are (not in any order of priority):

- Exclusion of certain groups - non-contributors who might need a replacement income through paid employment retention leave can be excluded from benefit receipt. Ultimately, it is a matter of political judgement as to whether certain groups who could require a replacement income should be excluded from a social insurance scheme. Nevertheless, women because

they are disproportionately represented in lower paid jobs are more likely than men to be excluded from social insurance by the lower earnings limit. Moreover, the self-employed paying Class 2 contributions are not entitled to the full range of contributory benefits, and this could include employment retention leave

- Incompatibility with the demands of a flexible labour market – the payment of contributions assumes full-time continuous participation in paid employment. The increase in temporary, part-time and self employment limits people's entitlement to social insurance
- National Insurance contributions are effectively a hypothecated tax on labour and so may depress employment levels
- Perceived complexity - the complexity of the National Insurance scheme can make it difficult to understand (Stafford, 1998) especially for the self-employed (Corden, 1998)
- Lack of transparency – there is a lack of public awareness of what people receive in return for the payment of National Insurance contributions (Corden, 1998; and Stafford, 1998)

- Paid employment retention leave is a social assistance benefit paid for through general taxation. The advantages and disadvantages of employment retention leave as a means-tested benefit are essentially the opposite of those outlined for the contributory principle.

There is a third option whereby paid employment retention leave is a hybrid benefit having a contributory and income based components, as with Jobseeker's Allowance. With Jobseeker's Allowance, people can receive the benefit for up to six months as a contributory benefit and then as a means-tested benefit. Those with insufficient National Insurance contributions receive the income based version of Jobseeker's Allowance from the outset. A similar arrangement could apply to employment retention leave.

4.2.2 Private provision

Employment retention leave could be funded privately, rather than by the State. There are at least two versions of this funding model:

- Employers bear the cost of employment retention leave, which they could insure against if they wished. The insurance policies could also cover the cost of other payments such as those for the medical assessment, although our qualitative work suggests that full use of existing support (including Disability Employment Advisers and the Access to Work Fund) could lessen the overall burden on employers.

Employers Liability Compulsory Insurance is designed to meet the costs of legal fees and compensation if an employee becomes ill or is injured at work through the fault of the employer (Employers Liability Compulsory Insurance Act 1969, unless exempt). Our qualitative work also suggests that suitable insurance could be included as an additional element of employer's existing insurance, (although cover for medical insurance and income

protection insurance tends to be expensive).⁹ This would place paid employment retention leave on the same footing as Statutory Sick Pay. Within this model there are two further options:

- Full salary payable by employer
- Part salary payable by employer with a top-up either via private insurance by the individual or by the State (say Working Tax Credit)

Advantages

- Costs to the Government/taxpayer are minimised. To the extent that the employment retention leave reduced the flow on to Incapacity Benefit there is a real benefit saving
- Gives employers a further (financial) incentive to promote health and safety at work and follow best practice in sickness absence.
- The employer full salary payment model is possibly the only model that minimises claims for benefits such as Housing Benefit and/or Council Tax Benefit

Disadvantages

- Employers are less likely to hire people with a health condition or impairment if they believe that the condition or impairment is likely to deteriorate as they will then incur costs
- Adds to employers' labour costs, and will increase the financial pressure on some firms so that they hire fewer people. Scheme could disproportionately affect small and medium sized firms

⁹ See also <http://www.businesslink.gov.uk/>

- Individual pays the insurance premium. This could be a separate employment retention leave policy or combined with, say private healthcare/medical insurance, permanent health insurance, or critical illness protection.¹⁰ Policies would need to include the cost of medical assessments. It is not clear if they should also include a sum to help with workplace adaptations/rehabilitation costs.

Advantages

- If voluntary scheme: Allows individuals the choice of whether or not to take out an insurance policy
- Could be tax efficient for individuals, conceivably employees could receive tax relief on premiums or the benefit paid could be tax free.

Disadvantages

- Benefit may be paid as a lump sum that is inadequate to cover actual costs of an assessment and provide an income for the period of the employment retention leave
- No clear financial incentive for employers to undertake reasonable adjustments to the workplace (other than the Disability Discrimination Act)
- Added household expense especially for the low paid
- Distrust of private sector provision – whilst people may be content with their existing occupational and private pension provision, there is concern that private insurance for incapacity and unemployment can offer poor value for money (Stafford, 1998). In particular, insurance policies can be seen as too expensive, with

¹⁰ Some employers offer PHI to their employees either free or at a reduced charge.

administrative charges and commission fees believed to be too high

- If compulsory – in current political climate would be seen as a ‘hidden’/‘stealth’ tax and politically unpopular
- Certain conditions will be excluded and this will leave people without adequate protection. Some policies will not pay unless the policyholder cannot do any occupation, and so would be unsuitable for funding employment retention leave
- Low take-up
- If voluntary scheme - Information asymmetries mean that those who might expect to benefit (e.g. those with a health condition that could be expected to deteriorate) would take out a policy. Insurers may require potential policyholders to undergo a medical examination before granting a policy

Premiums would be higher in certain industrial sectors such as the construction and mining industries.

A further difficulty with the privately funded model is that:

‘... if rehabilitation is provided before liability is established for an injury or the full extent of an injury is known, then in the long run it may be difficult to establish who should pay and whether the early treatment provided was correct.’

(Better Regulation Task Force, 2004:34)

It is important that under any privately funded scheme individuals receive the employment retention leave and any associated

assessment and rehabilitation support promptly, rather than after waiting to sort out who is 'paying' (BRTF, 2004:34; APIL, 2004:4-5). Otherwise the effectiveness of the scheme in helping people retain their employment is comprised.

4.2.3 Mixed scheme

In this model, provision would be mixed. This could be similar to Statutory Maternity Pay, for example, which is contingent on individuals meeting National Insurance requirements, but is also part funded by the employer. Large employers recover 92 per cent of the costs of Statutory Maternity pay, (105 per cent if they are small employers), from Inland Revenue.

Statutory Maternity Pay is paid for 39 weeks. The rules are fairly complex, but broadly speaking, Statutory Maternity Pay is paid at 90 per cent of average weekly earnings (if this is less than £112.75) with a lower earnings limit of £84 per week before July 14th 2007, and £87 after that date.¹² To get paid maternity leave of 39 weeks, employees must have worked continuously for the same employer for 26 weeks by the 15th week before the child is due, (the 'Qualifying week') and to have worked during the 'qualifying week' (for all or part of the week)

Workers who do not meet the criteria for Statutory Maternity Pay, including the self-employed, may claim maternity allowance, paid

¹² Women who are classified as 'workers' (rather than employees) are not entitled to Statutory Maternity Pay, but may be entitled to a Maternity Allowance.

through Jobcentre Plus, at the rate of £112.75 for 39 weeks. To be entitled to Maternity Allowance, women have to have worked for 26 weeks during the 66 weeks immediately before the qualifying week. These 66 weeks are known as the 'test period', and a woman has to have earned at least £30 a week for 13 weeks at any time during the test period, or have pre-tax earnings of £87 a week (that is, above the lower earnings limit) in the 8 weeks before the qualifying week.

Advantages

- Reduction in recruitment costs
 - Retention of skilled employees (the best employers achieve up to 90% 'return to work' rates) (E O C, 2005:7)
 - Statutory scheme – covers all female employees
 - Costs shared
-
- *Disadvantages*
 - Requires flexible and proactive approach from employers
 - Lower earnings limit would disadvantage some employees
 - Additional costs to employers (from covering posts, loss of skills and experience during the absence, management and administrative time)
 - Costs to employers can be relatively high for SMP (between £5k and £7.5k per annum) and may be problematic in a micro business (with fewer than 10 employees) (EOC, 2005)

5 Costs and Benefits

5.1 Evidence on Costs and Benefits

Although there are a number of businesses that have employment retention leave policies and procedures in place, there is scant evidence of the actual monetary benefits and costs of the scheme (Paschkes-Bell, 1996), or indeed, more generally of retaining disabled employees (Hasluck, 2006:87-88). Hasluck (2006:87-88) outlines possible reasons for the absence of robust monetary data on the costs and benefits of employing disabled people:

- Surveys often ask about costs and benefits of the typical or average case and consequently fail to capture the wide variation in costs and benefits to employers.
- Some surveys ask for estimates in qualitative terms or for responses to pre-specified monetary bands, rather than for precise quantitative figures.
- Some employers, for a variety of reasons, do not record data on the costs of employing disabled people.

These reasons undoubtedly apply to the current study and help to explain the lack of 'hard' financial data on costs and benefits of employment retention leave schemes. In addition, like (Paschkes-Bell, 1996), the research team found that the firms contacted have not systematically monitored the monetary gains and losses of the scheme.

Given this lack of monetary information this report outlines the items that might be expected to give rise to a benefit or cost. The benefits and costs of employment retention leave are incurred by different groups of people, who may have different perspectives on whether a given item is a benefit or a cost. For example, the Government will perceive any reduction in expenditure on incapacity-related benefits as a benefit, but the individuals concerned may see a fall in benefit income as a cost (albeit one offset by a salary). Accordingly, this chapter lists the benefits and costs of employment retention leave from four perspectives:

- the employee perspective;
- the employer perspective;
- the Government's perspective; and
- the private insurer's perspective.

The sum of these four perspectives gives the overall societal perspective.

5.2 Employee perspective

Some workers develop a (more serious) impairment and as a consequence are at increased risk of redundancy or pressure to take early retirement on grounds of incapacity. Leading up to these 'forced' exits from employment, workers can face periods of sickness absence, when in fact they are capable of work, and periods of reduced (half) pay. In summary, not providing employment retention leave *'can lead to long-term absences, loss of self-confidence and even job loss, with the common difficulty of getting back to work again.'* (DWP, DH, HSE, 2005:19).

Employment retention leave would mean that the worker would know that their employment is reasonably secure and that they will continue to receive pay; this should reduce levels of stress that might otherwise hinder their return to work.

In summary, the benefits and costs to employees are as follows:

Benefits:

- Avoids job loss
- Depending upon funding arrangements may mean a higher earnings (compared to income from any benefits)
- Continued membership of any occupational / private pension scheme, and so should give higher income in retirement vs. moving onto benefits and leaving pension scheme

Psychological and health benefits of being in work, in particular minimises any fall in levels of self-confidence and self-esteem

Costs:

- Employees continue to pay National Insurance contributions. (In contrast, those in receipt of Incapacity Benefit would receive National Insurance credits)
- Insurance premiums to cover costs of employment retention leave: Depends upon funding model – it could be paid by employer, employee or Government (see Section 4.2)
- Increased costs associated with working (for example, travel or childcare costs). However, costs may be offset by Access to Work or by employer

- The (leisure) time people must give up when they go to work. The monetary equivalent of this leisure time forgone is possibly not less than a quarter of earnings (Bell and Orr, 1994; Greenberg, 1997, and Greenberg and Robins, 2005)

5.3 Employer perspective

The principal benefit to employers of employment retention leave is that it retains the individual in employment so securing their *'accumulated skills and experience'* and avoids the costs or recruitment and training new staff.

Benefits:

- No redundancy pay (assuming the employment retention leave is successful)
- No pay in lieu of notice (assuming the employment retention leave is successful)
- Reduced salary while on reduced pay (assuming that employment retention leave pay is less than 'normal' salary)
- Reduced employer's National Insurance contributions while on reduced pay (assuming that employment retention leave pay is less than 'normal' salary)
- Reduced Statutory Sick Pay while on employment retention leave - but this is potentially offset by cost of employment retention leave, which might be the same as Statutory Sick Pay – so cancelling one another
- Perceived by employees and customers as a good employer who promotes equal opportunities. This could encourage loyalty and

commitment from employees – boosts staff morale. Signals to the workforce the value the business places on employees (Hasluck, 2006:97)

- Business may be seen as more representative of the community; and could avoid costly disability discrimination cases
- Retains employees with (valuable) experience and skills
- Avoidance of costs incurred in recruiting a replacement if employee is not retained – includes staff, advertising and other recruitment and induction costs

Costs:

- Total cost of medical pension up to retirement age (compared to what would have been paid had the employee left the business)
 - Employer's National Insurance contributions paid whilst employee on employment retention leave (compared to what would have been paid had the employee left the business)
 - Salary paid while on employment retention leave; although the cost incurred will depend upon the funding model used (see Section 4.2)
 - Employee's overheads while on employment retention leave
 - Productivity lost while employee on employment retention leave - but this may be offset by hiring temporary staff, although productivity may be lost while a new recruit undergoes training
 - Additional costs of recruitment and training temporary staff cover (includes salary and National Insurance contributions)
 - Lost investment in training employee who has left the business
- Cost of reasonable adjustments for disabled employee. Hasluck (2006:105) distinguishes between capital and revenue

expenditures on adjustments. The former would include physical modifications to the workplace and is a 'one off' expenditure that may be of value to other employees or future (disabled) employees. The latter covers, for example, personal assistance or flexible working conditions, and is an on-going cost.

Adjustments are not always required to retain an employee, nor are they necessarily relatively expensive. A nationally representative survey of employment establishments conducted in early 2003 shows that of the 28 per cent of employers who had to make changes to the workplace or working practices, 68 per cent said there was a direct cost incurred (Roberts *et al.*, 2004:60 and 63-64). However, in estimating the costs of adjustments in the last 12 months, 19 per cent of these employers said that the cost was nothing, and a similar percentage (18 per cent) did not know. For the other employers the cost varied – 31 per cent said it cost between £1 and £999; 19 per cent £1000 and £4999; and 13 per cent over £5000. Unfortunately this survey did not distinguish between adjustments following the recruitment of a disabled person from those that arise from employment retention.

Nevertheless, a survey of employers who had recruited participants on the New Deal for Disabled People reveals that 41 per cent of employers had made no adjustments to retain a disabled worker (Dewson *et al.*, 2005:50). However, this sample is by definition skewed towards employers who are likely to be disposed to employing disabled people.

Survey evidence suggests that employers are more likely to implement adjustments for existing employees than for recruits, probably because it is more difficult to avoid doing so (Hasluck, 2006:106).

Meager *et al.* (2001:43-44) estimate the average cost of an adjustment to be £722 per disabled employee where the adjustment was carried out. As not all disabled workers require an adjustment to be carried out, the average cost across all disabled employees is lower (£184 per disabled employee). However, these figures will under-estimate the costs of all **potential** adjustments as employers will have rejected some of these as too costly to implement.

Recent research evidence demonstrates that the majority of employers who do make adjustment have no particular difficulty in doing so (Simm *et al.*, 2007); indeed, average costs of workplace adjustments are low, at £184 per disabled employee in 2001 (Employers Forum on Disability). Moreover, there is evidence that 'only 4% of disabled people of working age require additional aids in the workplace or need health related treatment that would impact on their work'. (CSR Europe, n/d)

Conversely, the loss of trained and experienced employees moving onto benefits and pensions too soon is expensive, with an estimate from the UK Post Office that each early retirement on health grounds costs in the region of £160,000, while studies in the USA suggest 'an average return of US\$30 on every \$1 spent

accommodating people who become disabled as part of a 'skill retention strategy'. (CSR Europe, n/d)

Employers' costs for adjustments may be offset by Access to Work.

- Insurance premiums to cover costs of employment retention leave Pay. However, depends upon funding model adopted – employment retention leave could be paid by employer, employee or Government (see Section 4.2)
- Costs of administering employment retention (mainly staff costs)
- Cost of medical assessments, but could be offset by insurance policy
- Employment retention leave pay. Cost incurred depends upon funding model – employment retention leave could be paid by employer, employee or Government. If employer costs, these might be offset by the cost of Statutory Sick Pay / occupational sick pay, which might be the same as amount paid for employment retention leave – so cancelling one another. Costs might be met by an insurance policy – see also Section 4.2

5.4 Insurer perspective

Our qualitative interviews with insurers suggest that the industry is 'keen to cost' employment retention leave insurance as a long term income protection product. However, insurers also stressed the importance of managing sickness and absence, arguing that many employers would need to improve their existing procedures, particularly in terms of monitoring and notifying sickness and absence.

In summary the benefits and costs to insurers are:

Benefits:

- Increased income if funded by employers and/or employees via (private) insurance scheme
- Lower level of damages that are paid to people pursuing a personal injury claim for loss of earning (Better Regulation Task Force, 2004:32)

Cost:

- Administering and marketing of insurance scheme

5.5 Government perspective

The Better Regulation Task Force (2004:32) quote an estimate made by the Association of British Insurers that in 2003 the increased tax revenues and benefit savings to the Government of an improvement in rehabilitation services was £1.3 billion.

In summary, the benefits and costs to the Government are as follows:

Benefits

- Reduction in Incapacity Benefit and Income Support expenditure. Could also be a reduction in Jobseeker's Allowance expenditure as some might not be awarded Incapacity Benefit
- Reduction in costs of administering Incapacity Benefit and Income Support

- Reductions in expenditures on Housing Benefit and Council Tax Benefit (although some people's incomes while on employment retention leave may be low enough to give entitlement to these benefits)
- Increases in indirect tax revenues (that is, VAT and duties on certain commodities such as alcoholic drinks, tobacco and petrol) because people's incomes are higher as a result of employment retention.
- Increases in employees' National Insurance contributions because people's incomes are higher as a result of employment retention. (In certain circumstances the reasonable adjustments/occupational health support provided by employers may be an employee benefit that is liable for employee and employer National Insurance contributions – see HSE (n.d.))
- Increases in employers' National Insurance contributions
- Increases in direct tax revenues, because people's incomes are higher as a result of employment retention. (In certain circumstances the reasonable adjustments/occupational health support provided by employers may be a taxable employee benefit – see HSE (n.d.))

Costs

- Increase in costs of employment retention leave. Costs depends upon the funding model used – employment retention leave could be paid by employer, employee or Government (see Section 4.2)
- Increase in costs of administering employment retention leave

- Increase in cost of Working Tax Credit - more people should be eligible for Working Tax Credit.
- Reduced taxes paid by businesses as a result of increased provision of occupational health support due to employment retention leave (Under certain circumstances employers can deduct expenditure on occupational health support against business profits see HSE (n.d.) for details).

The impact of increased employment retention on the health service is difficult to assess. It might lead to increased demand (and hence increased costs) for services and treatments that help people stay in employment. The mix of services and treatments used would depend upon the nature of employee's condition. In some cases people will be using a service or treatment that they would have used even if they were not on employment retention leave, in other cases they will utilise the service earlier than they would otherwise have done so, and in some cases they would not have used the service/treatment in the absence of the introduction of employment retention leave.

Alternatively, employment retention leave might lead to a reduction in the demand for certain services/treatments. It might mean that some people will not use, or will use later, services or treatments that they would otherwise have used, because successful employment retention alters their need for certain services/treatments.

The net impact of these various outcomes and how they impact on expenditure on the NHS is unknown. That is, it is unclear whether, from the Government's perspective, the introduction of employment retention leave:

- Produces a reduction in demand for services/treatments and so a net saving in NHS expenditures;
- No change in total NHS expenditure, although possibly a change in the mix of services/treatments used; or
- An increase in demand for NHS services/treatments leading to a net increase in NHS expenditures.

6 Who might claim employment retention leave?

6.1 Numbers

The number of people who each year would avail themselves of paid employment retention leave is difficult to estimate because the necessary information is not available. Nonetheless, it is possible to give a range within which the number of employment retention cases is likely to be located.

Table 6.1 gives various estimates for populations that include people who are potential uses of employment retention leave. The lowest estimate in the Table is 25,000 per annum; based on people leaving work due to work-related illnesses.

The table suggest that the absolute upper limit for an estimate is a figure less than 118,500 cases per annum. This estimate represents the number who voluntarily gave up employment for health reasons in 2004-05. However, not all of these cases would be suitable for employment retention cases, but this proportion is unknown. Given this uncertainty, if 50 per cent is assumed this would give 59,250. A figure that is not too dissimilar from the estimated 62,000 derived from Incapacity Benefit data. This estimate is based on the numbers of claimants flowing onto Incapacity Benefit short term higher rate (that is, what many people claim after 28 weeks of sick leave) minus those flowing onto Incapacity Benefit longer-term rate (that is, the higher rate paid after 12 months on incapacity). Combining these two figures would give 60,625 as an upper estimate. Thus the number of potential Rehabilitation cases is likely to fall between 25,000 and

60,625 per annum. This range is a crude estimate, based on considerably less than ideal sources, but gives an indication of likely demand.

Table 6.1 **Number/proportion and sources for estimates of number of employment retention cases**

Number/Proportion	Comment	Source
25,000	people leaving work due to work-related illnesses per annum. Source unclear but may exclude work-related injuries	John Robertson, MP; <i>Hansard</i> , 13 March 2007, col. 156
<1%	published RNIB estimate, but population base used is unknown	RNIB, 1994, <i>Disability Leave: a guide for employers</i> , quoted in Paschkes-Bell (1996)
0.3%	of employees in clerical work are at risk of developing a disability in a year	UNUM Ltd, quoted in Paschkes-Bell (1996)
62,000	the difference between the number flowing on to	Authors own

	Incapacity Benefit short term higher rate and Incapacity Benefit long term rate in 2004. Not all of the claimants would be suitable for employment retention leave	calculation using DWP Incapacity Benefit statistics
3.6% (118,500)	voluntarily gave up employment for health reasons in 2004-05. An unknown percentage would have benefited from the scheme had it been implemented	ONS (2006) Labour market review, 2006, Table 2.9
3%	of those in work become 'disabled' each year. Here a broad ADL-limited definition of disabled is used: 'Does your health in any way limit your daily activities compared to most people of your age?' This estimate will include the self-employed and employees	Burchardt (2000:19) using British Household Survey Panel
2.6% (608,000)	who become DDA disabled and remain so for at least 1 to 13 weeks	Burchardt (2003b:9) using the Labour Force Survey

6.2 Employment retention

Although workers defined as disabled under the Disability Discrimination Act have higher sickness absence rates compared to non-disabled workers (5.9 per cent compared to 2.5 per cent; (Barham and Begum, 2005:153)), Burchardt (2003:11) shows that there is a striking difference between those who become disabled according to the Disability Discrimination Act and those who start a Statutory Sick Pay/Incapacity Benefit spell. Whilst five per cent of those becoming DDA disabled initially leave employment, 23 per cent of the Statutory Sick Pay/Incapacity Benefit group do so. Moreover, this differential is maintained over time; at nine to 12 months after onset, the proportions are 13 per cent and 47 per cent respectively. It is possible that those claiming Statutory Sick Pay/Incapacity Benefit are in general more severely impaired.

The retention rate of those classed as DDA disabled is similar to that of **all** of those in employment; '*... suggesting that the onset of DDA disability may not in itself be an additional risk factor*' (Burchardt, 2003b:11). However, the retention rates of those who become DDA disabled **and** are off work are similar to those for the Statutory Sick Pay/Incapacity Benefit group (Burchardt, 2003b:11). (The latter in turn have lower retention rates than for the general population.)

7 Issues

In preparing this report a number of issues emerged that require further consideration and/or will affect the design of a statutory employment retention leave policy. These issues are whether voluntary work should be permitted during the leave period, the level of provision of occupational health services, the disclosure of disability to an employer and work colleagues and the commercial viability of the private insurance funding model. These issues are briefly considered in this chapter.

7.1 Activities during employment retention leave

Our qualitative work suggests that it may be desirable to allow employees to engage in voluntary work and related activities during periods of employment retention leave. This may be particularly important for employees with mental health problems. The qualitative interviews with Mental Health Service users suggests that voluntary work could support employment retention through the provision of a non-pressured work environment, enable the maintenance of work related skills, and counter social isolation (see also DWP, 2004, and Warner, 2002). A report compiled by the Disability Employment Coalition (RNIB, August 2004) also identifies voluntary work as an important element in extending disabled peoples' access to the job market. While this would clearly not be appropriate for all employees, voluntary activities are potentially an important part of the package of measures to support employment retention.

The key issue requiring further consideration is who funds the time an individual spends doing voluntary work in situations where the work is part of the process of returning to paid employment – is it the employee, the employer or the Government?

7.2 Provision of occupational health services by employers

The effectiveness of a statutory employment retention scheme is partly dependent upon the provision of occupational health services by employers. Whilst the level of demand that the introduction of the scheme might generate is difficult to gauge, it is possible that there is insufficient provision of occupational health services. A telephone survey of companies revealed that in the UK¹³ (IOM, 2002:44-45):

- Only 15 per cent of companies provide occupational health support using a 'broad' definition that covers hazard identification, risk management and provision of information.
- Only three per cent provide occupational health support using a 'stringent' definition that covers hazard identification, risk management, provision of information, modifying work activities, training on health-related activities, measuring workplace hazards and monitoring trends in health.

The proportion of companies providing occupational health support increases with company size, as measured by number of employees. For example, using the broad definition of occupational health the proportion increases from 11 per cent for micro-companies (those

¹³ Weighted results for the UK.

employing 10 people or less) to 71 per cent for large firms (those employing more than 250 people). This raises questions about the ability of smaller sized firms to deliver effectively rehabilitation services and support to those on employment retention leave. However, a quarter of businesses (27 per cent) (using the broad definition of occupation health) would be willing to share their occupational health services (on a chargeable basis) with other local firms.

For both definitions the percentages for companies varies by industrial sector; they are very low in the retail sector (eight and one per cent, respectively) and highest in mining and quarrying (38 per cent and 18 per cent, respectively).

The paucity of occupational health coverage has been recognised by the Government. The recent key strategy document, *Improving the life chances of disabled people*, included the recommendation that the Department of Health and the Department for Work and Pensions should from 2008 onwards increase the supply of occupation health provision and encourage employers to provide occupational health services (Prime Minister's Strategy Unit, 2005).

These recommendations build upon earlier recommendations made by the Better Regulation Task Force's report *Better routes to redress*, which the Government accepted (BRTF, 2004; DCA, 2004). The Better Regulation Task Force called for a review of NHS-provided rehabilitation services and for mechanisms to be developed that would facilitate employee's early access to rehabilitation services.

In part the Government's response to these proposals is outlined in the Department for Work and Pensions' *Framework for Vocational Guidance*.

7.3 Disclosure of disability

For people meeting the Disability Discrimination Act definition of disability, some will accept the label 'disabled', perceiving it '*central to their personal identity*' and others will reject the notion (Grewal *et al.*, 2002: 52). Disabled employees are not obliged to inform their employer of their disability. Although being open with an employer about an impairment is one effective strategy to 'thrive and survive' in the workplace (Roulstone *et al.*, 2003). People could view themselves not as disabled but as being ill, simply getting old or not as '*worse off*' as others (Grewal *et al.*, 2002: 54). Some said they were not disabled because they were '*fit and healthy*'. The research also included in-depth interviews and discussion groups with disabled and non-disabled people. This showed that the term 'disabled' can also be rejected because it is too broad, and does not accurately reflect a person's identity. These people preferred to consider themselves to be, for instance, blind or dyslexic rather than 'disabled'. (These findings are also broadly supported by qualitative research by Molloy *et al.*, 2003.)

For some, being classed as 'disabled' is stigmatising. Certainly some of the employers interviewed face-to-face in the research by Roberts *et al.*, (2004: 34) felt that 'disability' can have negative connotations for some people and carry a degree of stigma, a point that is borne out by recent research in which employers said that

'misunderstanding about disability in general' was a barrier to employing disabled people (Vision Twentyone, 2007:2).

Not knowing that an employee is disabled as defined by the Act does not necessarily remove the obligations placed on employers by the *Disability Discrimination Act 1995*. Employers can be held to have discriminated directly or on grounds of treating a disabled person less favourable compared to other people (unless the treatment is justified), even if they do not know that the person concerned has a disability (DRC, 2004; Leverton, 2002). However, until the employer becomes aware of the condition, or could be reasonably expected to be aware of it, s/he does not have to make any reasonable adjustments to accommodate a person's disability (S6(6) DDA 1995).

Disclosure may be more likely if job applicants/employees feel comfortable about giving information about their disabilities (DRC, 2004: 27). This is more likely to occur if employers explain why the information is required and if employers '*genuinely value disabled employees and is using the information gathered to create positive change*' (*ibid.*).

Disclosure can be an issue with medical advice and reports. An employer can commission a medical report from an independent expert, but the employee can then refuse permission for the report to be passed to their employer (Leverton, 2002: 25).

There is also the issue of disclosure of a person's disability by the employer to other employees (DRC, 2004: 141). Telling other employees about someone's disability could be discriminating if

similar information would not be revealed in similar circumstances. However, some information about a disability may have to be given to a supervisor or co-workers in order to implement a reasonable adjustment. In these circumstances it would be good practice to obtain the consent of the disabled worker in advance of informing other employees.

Under the Data Protection Act employers have a duty to safeguard the confidentiality of any employee's personal or medical information (DRC, 2005a). If an employee wishes to keep their disability or health condition confidential, disclosure is only permissible when it is absolutely necessary, the employee has consented and it helps the person undertake their job.

7.4 Insurers' perspective

The qualitative work highlights several important issues for the private model (see Section 4.2.2). Key issues include commercial viability and the broader policy context around equality issues.

Insurers highlighted the extent to which employment retention leave would be an insurable risk in the context of demographic change, and some insurers argued that such insurance would not be commercially viable. An increasingly elderly population is likely to include greater numbers of disabled people, which, in the context of new age discrimination legislation, has the potential to significantly increase the financial risk.

Nevertheless, there does not appear to be evidence that large numbers of employees would require employment retention leave; moreover, when this was required, it would be in employer's interests to actively support and promote rehabilitation (including all the other measures available under reasonable adjustments).

Some insurers argued that employment retention leave would be more likely to be insurable if employers were known to be managing such a scheme well. For a scheme to be well managed, early intervention would be critical; work would need to be seen as part of the rehabilitative process, and all stakeholders would need to be 'on board' and proactive.

8 Conclusion and Recommendations

'In a modern world where rising dependency ratios and global market forces place an ever greater burden on those of working age in supporting others, neither our economy nor our society as a whole can afford for us to stand back and allow people to be written off.'

(DWP, DH, HSE, 2005:2)

8.1 The case for employment retention leave

There is a strong case for the introduction of a statutory employment retentions policy in the UK.

Employment retention leave may be seen as a logical extension of contemporary government policies aimed at promoting the engagement of individuals in paid employment. Recent policy measures have emphasised the importance of work as a route out of poverty, and in promoting social inclusion.

The economic and social costs of failing to support policies that optimise conditions for disabled people in employment are high. A report in December 2006 for the Joseph Rowntree Foundation found that the poverty rate for disabled adults is twice that for non-disabled adults, (a higher difference than a decade ago). The report goes on to say:

'it is also clear that disabled people face formidable barriers in finding work. The most striking evidence of this is that graduates with a work-limiting disability have a higher chance of being out of, but wanting, work than a non-disabled adult who has no qualifications at all. Neither a willingness to work, nor self-improvement through education, are therefore sufficient to give disabled adults anything like the same economic prospects as their non-disabled peers'.

(Palmer et al, 2006:16)

Employment retention leave should be seen in the context of the whole range of existing measures to support disabled people in employment. This includes making full use of under exploited resources such as the Access to Work Fund. In comparison with other European countries, Britain has a low rate of sickness absence. In 2005, a lower proportion of working time in Britain was lost to short-term absence than in any other country except Denmark; and only Austria, Germany and Ireland lost a lower proportion of working time to long-term absence. In this context, Britain has a problem of 'presenteeism' – that is, employees who say that they have gone to work when they have been too ill to do so, a finding that applies to employees in every social class, and across all regions (TUC, 2005:3).

Our qualitative work highlighted the importance of good monitoring procedures for effective management of sickness and absence. Evidence from employers suggests that although many are aware of gaps in their monitoring systems, even in organisations with a

positive and supportive attitude to disabled employees, monitoring of the use of, for example, the Access to Work fund, or even employees who are DDA disabled, is poor or non-existent. Better monitoring systems (or, in many cases, the introduction of monitoring) would help to proactively support disabled employees in the workplace (DWP 2004: 25).

The absence of robust monitoring systems means that there are limitations to the analysis of the benefits and costs of retaining disabled employees. Nevertheless, based on existing evidence, it appears likely that a relatively small proportion of employees would use employment retention leave. Moreover, as the TUC report cited above argues:

‘All employers under-report sickness absence, and one of the first things that happens when an organisation starts devoting more resources to absence management is that record-keeping improves ‘ (TUC, 2005:6)

There may, as discussed in earlier sections of this report, be some particular challenges for small businesses in implementing employment retention leave. Nevertheless, these challenges are potentially manageable. A survey focusing on the retention and reintegration of disabled employees of small businesses in the Greater London area (with fewer than 50 employees) found that employers would welcome a ‘single, responsive, business orientated service that can help to resolve difficulties as and when they arise’ (TriNova Ltd, 2005:68) together with tailored packages of support with a ‘menu of options’, including support with workforce health, HR

management, specialist job retention support and workforce development.

Finally, any employment retention scheme would have to be statutory, because a voluntary scheme is likely to have a low take-up, especially amongst small and medium sized businesses. Indeed, there is (regretfully) a need for universal employer compliance with (existing) disability legislation. For example, a recent survey of compliance with legislation under the Disability Equality Duty found that although most public bodies did have their Disability Equality Scheme in place by the deadline of 4 December 2006, 27 per cent did not (TUC, 2007).

8.2 Implementation of employment retention leave

A statutory employment retention policy could be introduced by using secondary or primary legislation.

There are two potential routes to implementing the proposals discussed in this report through secondary legislation. The first is through issuing guidance under section 53A of the Disability Discrimination Act. Through this route, the Secretary of State could request the Disability Rights Commission to prepare a code of practice on employment retention.

Although guidance may lead some employers to amend their practices, there would be no legal obligation imposed on individuals (although a court or tribunal would be required to take the guidance

into account). For this reason the issuing of further guidance on employment retention is not proposed.

The second potential route would be through the enactment of new legislation. Under the Welfare Reform Act 2007, the Secretary of State can issue regulations to implement aspects of the Employment and Support Allowance. The 13 week assessment period during the claim process for Employment and Support Allowance might make job retention a possibility for some claimants. However, this secondary legislation could not be used to introduce a general right to employment retention leave. Further, only an unknown proportion of potential employment retention cases will be affected, and would exclude others, including individuals who move from sick leave to retirement on the grounds of incapacity, or who are ineligible for Employment and Support Allowance.

The final option would be to introduce a statutory right to employment retention leave. Although this would be a longer process than either of the secondary legislation options, it is the surest way of ensuring that workers are given access to employment retention leave (and associated assessments). The introduction of a Bill to establish a right to employment retention leave is recommended. This might potentially be implemented as an element of the proposed Employment Simplification Bill announced in the Prime Minister's Queens Speech (11 July 2007).

8.3 Funding employment retention leave

The lack of ‘hard’ quantifiable data on the benefits and costs make it difficult to assess which of the three broad funding models outlined in Chapter 4 should be recommended as the ‘best’ funding model. The three funding models have different advantages and disadvantages and politically and financially have different appeal to the main groups that could be affected by the introduction of the policy – employees, employers, insurers and Government.

The research team’s tentative recommendation is that a version of the mixed funding model should be adopted for paying for employment retention leave. The main reason for suggesting the mixed funding model is that it shares the costs amongst the beneficiaries. It also avoids some of the (political) risks associated with the other funding models, namely:

- Historically, both Labour and Conservative Governments have moved away from contributory benefits and towards move targeting of benefits to those most in need. Arguably, a funding model based only on National Insurance contributions is unlikely to gain much political support (c.f. Section 4.2.1). In addition, the social insurance model has a number of key disadvantages, notably that women might not gain full entitlement to the leave because of their work patterns.
- In the context of a fiscally tight public spending round, Government is unlikely to agree to fund a solely social assistance, or means-tested version of the policy (c.f. Section 4.2.1).

- To ensure compliance with the legislation, any employer insurance funded scheme would probably have to oblige firms to take out insurance cover. As a consequence employers may hire only individuals who are non-disabled, or apply health criteria to potential employees. Except where labour markets were buoyant, and employers might otherwise face labour shortages, the introduction of compulsory insurance for employers to cover employment retention might (further) disadvantage (existing) disabled people in the labour market.
- The introduction of compulsory private insurance for employment retention for employees is not seen as politically feasible – it would be depicted as a ‘hidden’ tax increase.

Nevertheless, if assessment of employees who would benefit from employment retention leave was mandatory, there is a potentially viable option in a similar model to Maternity Leave, as discussed in Section 4.2.3 of this report. Any assessment under this model likely to have to be mandatory because otherwise the State might be reluctant to fund its share of the costs unless there was evidence that leave was justified. It is possible that such an assessment could be ‘certified’ by say a GP in similar to the certification of sickness absence. Such a process would minimise administrative costs and be straightforward and easy to understand by employees and employers. The success of this model would be contingent upon good management of potential employment retention leave cases. Assessment would need to happen quickly, and clear policies and procedures in place to manage the leave effectively. There are, however, examples of good practice that suggest that this would be manageable.

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ANNEX 1

Examples of adjustments to working arrangements include:

- allowing a phased return to work;
- changing individual's working hours;
- providing help with transport to and from work;
- arranging home working, providing a safe environment can be maintained;
- allowing an employee to be absent from work for rehabilitation treatment.

Examples of adjustments to premises include:

- moving tasks to more accessible areas;
- making alterations to premises.

Examples of adjustments to a job include:

- providing new or modifying existing equipment and tools;
- modifying work furniture;
- providing additional training;
- modifying instructions or reference manuals;
- modifying work patterns and management systems;
- arranging telephone conferences to reduce travel;
- providing a buddy or mentor;
- providing supervision;
- reallocating work within the employee's team;
- providing alternative work.

Source: Health and Safety Executive, 2007, 'Managing Sickness
Absence and Return to Work: Workplace Adjustments',

Retrieved from:

<http://www.hse.gov.uk/sicknessabsence/reasonableadjustments.htm>
on 2 May 2007

ANNEX 2

The DDA states that a person is disabled if they have 'a physical or mental impairment which has a substantial and long-term adverse effect on the ability to carry out normal day to day activities'.

For the purposes of the Act the effect of the impairment has lasted or is likely to last for at least 12 months. Normal day-to-day activities include eating, washing, walking. A normal day-to-day activity must affect one of the 'capacities' listed in the Act which include mobility, manual dexterity, speech, hearing, seeing and memory. The Act excludes some conditions (such as fire setting and hay fever).

However, people with a 'past disability' or a progressive condition are covered by the scope of the Act. Under the terms of the DDA, people with HIV, cancer and multiple sclerosis are covered by the DDA from the point of diagnosis, rather than from the point when the condition has some adverse effect on their ability to carry out normal day-to-day activities.

Source: Directgov, '*Definition of 'disability' under the DDA*',

Retrieved from:

http://www.direct.gov.uk/en/DisabledPeople/RightsAndObligations/DisabilityRights/DG_4001069 on 3 May 2007.)

