

National Association of Disabled Staff Networks (NADSN)

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NADSN Steering Committee
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COVID-19 Post-Lockdown: Perspectives, Implications and Strategies for Disabled Staff

Background

The National Association of Disabled Staff Networks (NADSN) is a super-network that connects and represents disabled staff networks at organisations across the United Kingdom. NADSN exists as a collective platform to share experiences, develop good practice, and to examine challenges and opportunities for disabled people in the workplace. Focused on the tertiary education sector, we also have membership from the NHS, public, private and third sector, undertaking a variety of occupational roles; all committed to equality, diversity and inclusion of disabled staff.

Unsurprisingly, over the last few weeks, NADSN has been contacted regularly by its member networks, as well as individuals, to provide a position paper regarding potential future scenarios post the COVID-19 lockdown measures to raise awareness, engage in policy making processes of government, higher education institutions (HEI) and related sectors, as well as provide examples of options in respect of strategies to ease lockdown restrictions and COVID-19 return-to-work.

This paper will first discuss NADSN's observations about the lived experiences of Disabled people during COVID-19. Secondly, it moves to outline COVID-19 and the changing workplace. The paper then moves to a broad discussion concerning safe working practices and policies as we move out of lockdown and beyond. Finally, the paper has developed a series of recommendations concerning Disabled staff.

The NADSN Steering Committee has been very concerned about the development of national policy up to this time and for moving out of the COVID-19 lockdown stage as it has been silent in relation to Disabled staff apart from in presenting a narrow, medicalised view. We have structured this paper within a social model of disability and the sentiments expressed in the UN *Convention of the Rights of People with Disabilities* (CRPD) in considering the current issues and setting out our recommendations. The Preamble of the CRPD states,

. . . disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others. (Convention on the Rights of Persons with Disabilities, 6 December 2006, at [e], our emphasis).

In other words, we understand disability not as a self-contained impairment or ‘condition’, rather the expression and experiences of disability always emerge within a context. The context of this paper is COVID-19 and the social, legal and economic responses of individuals, governments and institutions. In this paper ‘Disabled’ is an inclusive term encompassing people with physical and/or sensory impairments, mental health experiences, long term health conditions, learning differences and people who identify as neurodiverse. We have used a capital ‘D’ when referring to Disabled people/staff/students. This is a conscious decision we have made to emphasise that societal and attitudinal barriers continue to exist for people with long-term conditions. The capital ‘D’ also shows that Disabled people have a shared identity and are part of a community that continues to fight for equality, similar to Black and Minority Ethnic (BME) or Lesbian, Gay, Bisexual and Trans (LGBT+) communities. NADSN strongly argues that those developing public policy move from a narrow, medicalised view of Disabled people and adopt the approach outlined in the Preamble of the CRPD, alongside the social model.

Our Observations

Broader Contexts

NADSN connects with and represents Disabled staff networks, so the focus of this paper is on people in work. This crisis has brought a new lengthy period of heightened anxiety for Disabled staff and their allies, negatively affecting our mental health and wellbeing – a situation that is yet to be resolved and adequately documented. Disabled staff experiences are varied. As part of the first wave of restrictions and initial lockdown, some Disabled staff were forced to disclose ‘underlying health conditions’ in order to be recognised as ‘vulnerable’ or ‘highly vulnerable’ in relation to shielding measures, such as accessing supermarkets to purchase food. Within the sector there is a deep concern that a narrow view has been taken of Disabled people in public policy and that there is a serious lack of understanding about the lives and new realities of Disabled people, extending to those with other underlying ‘health conditions’. This has been illustrated through the decisions made by the UK government, and some senior leaders within healthcare and public sector organisations.

Decision making has lacked an underlying understanding of the diversity of people and communities in the UK, wherein Disabled people have been characterised as burdens rather than as contributory citizens. We have much to offer around the experiences of isolation and implications for existing equalities legal frameworks. At its most extreme, Disabled people have been portrayed through policy and the media as not worth treating, or resuscitating, if they develop COVID-19 and need care. Policy and policy engagements border on a soft eugenics approach (Brown, 2020; Macdonald, 2020), where there is a scaling of human life (c.f. National Institute of Health Care [NICE] guidelines). After considerable advocacy from the disability rights movement (Ryan, 2020b), NICE has revised their guidance note (NICE 2020). We believe that the experiences of Disabled people living with varying degrees of self-isolation prior to the COVID-19 crisis can provide a valuable

insight, not only into different ways of living, but also successful strategies that have been used to connect to community and employability.

Workforce Contexts

NADSN members are concerned that as restrictions are removed and employers require Disabled staff to return to campus this will pressure them into disclosing conditions, and family circumstances or personal health issues, which they may not want to share publicly. Already some Disabled staff are being refused the option of working remotely on the basis that they were not 'eligible' or considered 'vulnerable' enough to be included in the various shielded lists (Ryan, 2020a). At the same time, power dynamics will play an important role in how much pressure Disabled staff feel to return to the workplace. For example, graduate students who teach may not feel able to 'refuse' to return to campus working.

NADSN believes this crisis has shown employers how easily achievable some of the reasonable adjustments Disabled people have been arguing for, particularly for those who need or want to, work from home. Disabled staff roles may need restructuring for the longer term and there is a risk that prejudice and ableism will guide these decisions. If Disabled staff are not fully involved there is also a risk that a non-social model approach will ultimately be found to put employers in conflict to the *Equality Act 2010*. In the past, some Disabled staff have been told by their HEIs that it is not possible to undertake their jobs remotely, and that it is not possible to receive reasonable adjustments. However, COVID-19 has demonstrated that remote working *is* possible; and, with targeted reasonable adjustments many Disabled staff have flourished in undertaking their work activities from home. The COVID-19 crisis has demonstrated that working from home is possible when everyone works towards a shared goal. This crisis can be turned into an opportunity to reappraise remote working for staff who wish this.

COVID-19 and the Changing Workplace

As planning takes place for reducing the 'lockdown' the Health and Safety Executive have produced guidance for employers, 'Working Safely During the Coronavirus Outbreak' (HSE 2020:2). This guidance is unequivocal in stating that employers must consult all their staff on health and safety. We expect that moving forward employers will speak to their Disabled staff about all planned working arrangements, and that this will include colleagues who live with household members currently shielding, and who will continue to need to shield for the foreseeable future. Workplaces may not be able to be adapted to ensure that they are accessible and safe for all Disabled staff. Employers will need to work closely with their staff to reimagine the workplace, this will continue to include working from home.

There are many reasons why students and staff may find themselves at an increased risk of infection despite social distancing measures. Some Disabled people require close intimate contact with personal assistants reducing their ability to socially distance. Disabled staff may have a health condition or disability that puts them at an increased risk, have family

members or share a house with others who are at increased risk from COVID-19. Furthermore, certain categories of university staff are at heightened risk for COVID-19.

It is not unusual for staff employed by HEIs to have combined academic and clinical roles, increasing their exposure to COVID-19. Through the lock-down in many HEIs, IT and library staff, security, domestic and other estates staff have carried out their roles to ensure that HEIs are/were open for business. These staff will be critical actors in the return to work health and safety management strategies of HEIs. Changes to the number of staff attending work on campus and the resulting numbers of children resuming nursery and school increases exposure to potentially asymptomatic children and adults. All these factors increase the anxiety felt by Disabled people and Disabled staff shielding family and friends and directly impact on their decisions about whether they feel safe to work on campus.

Working safely as we move out of lockdown and beyond

Disabled staff employed within higher education are understandably concerned that certain approaches to the gradual reopening of campuses, without adequate consultation with disabled staff networks, and NADSN, will create a two-tier system of 'healthy' and 'unhealthy' workers, with differential employment contractual arrangements, which heighten inequalities and may be in breach of equalities laws. Existing research into the lived experience of Disabled and chronically ill staff and students also highlights that Disabled people experience higher levels of bullying (see Adams & Oldfield, 2012; Barnard, 2017), which may increase due to the need to continue to work remotely and/or being treated differently as colleagues and fellow students return to campuses. This will entrench further practices of institutional ableism, whereby staff and their assumed productivity are ranked in the performance of teaching, research, professional services and estates requirements.

HEIs have Disabled staff in many roles: teaching, research, practical tutors, management, technical and professional services, administrative and support staff, security, porters and domestic staff, etc. Disabled staff may find themselves directly or indirectly discriminated against in existing HR policies, particularly in the areas of illness and absence management for those affected by and shielding from COVID-19. An important recommendation from the World Health Organisation is for the adoption of flexible, work-from-home policies for Disabled staff, along with financial compensation for the technology required to do so:

Where possible, implement flexible working arrangements that allow people with disability to telework. Ensure they have the technology they need, including any assistive products typically available in the Workplace. ... If teleworking is not possible, consider allowing people with disability at high risk of severe symptoms to take leave (including paid leave) until the risk of infection is reduced. Explore government policy and support that may be available to employers to enable the implementation of these measures (WHO, 2020, 13).

These flexible working arrangements should be reviewed, and Disabled staff should be given the choice to continue to work from home full time or part time. However, Disabled staff should not find that they face additional costs (through cost transfer) related to these arrangements. It should be noted that the experiences of Disabled staff, during COVID-19, of working at home have been varied – some colleagues have found the remote working experience to be liberating. Whilst for others, working at home has contributed to different degrees, an increase in anxiety, especially if these workers are also undertaking roles of carers (including home schooling), have reduced social care support, experience financial stress, strained family relations or suffer domestic abuse.

A return to non-remote working may be unfeasible or impossible for many staff and students, especially those with long-term health conditions or disabilities. Social distancing measures could potentially be observed within institutional settings, but individuals are concerned about the implications of traveling to and from their workplace. These issues will need to be addressed in consultation with disabled staff networks. NADSN is concerned that those staff and students who are at an increased risk from COVID-19 themselves, or whose household members are at an increased risk from COVID-19, would be disadvantaged for low or non-attendance, particularly in view of the lack of disability-related leave categories within current absence policies in many HEIs. This could lead to staff being disadvantaged and further marginalised in their career progression opportunities through their need to continue to work remotely from home.

In addition, the risks to Disabled people can be compounded by intersectional factors such as age, gender, ethnicity/race and other structural conditions, including unsuitable housing, employment, and environmental stressors. Disability must be recognised as an intersecting component of wider structural inequalities. We do not know about the degree of impact of peer-reviewed journal submissions by Disabled people during the COVID-19 period. Going by reports about the decline in journal submissions by women academics in contrast with male academics (Staniscuaski, et al, 2020; Wenham et al, 2020), we would proffer that Disabled researchers would be similarly impacted due to the challenges of working at home, which we identified earlier in the paper.

The Health and Safety Executive have directed that the reorganisation of the physical workplace is essential to put in place social distancing, for example, moving furniture to create space between staff, using automatic door openers, leaving doors open to allow air circulation (HSE, 2020). Some of these measures could improve accessibility but one-way traffic measures within buildings may not provide an accessible route in and around the workplace for Disabled staff, for example wheelchair users and colleagues who have a visual impairment or who are blind. Disabled staff may not be able to disinfect their personal equipment when moving from public spaces to home, further increasing their risk of infection (WHO, 2020). People who are already highly anxious may be unable to work in a public space but able to work from home.

Conclusion

Whilst NADSN has some insight from its members, there is much we don't know about the experiences of Disabled people living and working during COVID-19. Further research on the experiences of Disabled people working in higher education, and other sectors, is needed, so as to inform strategies being developed by employers during the relaxation and eventual ending of the COVID-19 lockdown. In the meantime, NADSN argues that it is imperative that Disabled staff, through disabled staff networks, not only be consulted, but play a key role in the development of roll-out strategies. NADSN itself can play a pivotal role in not only providing a UK wide perspective, but as a medium for co-ordinated engagement with employers, HEIs and governments about disabled staff.

Recommendations

Guiding Principle: An Individualised, Consultative Approach

The basis for all strategies must be *a recognition that individuals have very differing needs, that the situation we find ourselves in is unique and unprecedented, and that therefore more flexibility than ever is required* to ensure equity and inclusion. In effect, we are asking for individuals to be able and allowed to negotiate the finely grained approach that is best suited for individuals' personal circumstances and needs. Where flexible working arrangements are not possible, NADSN strongly argues that governments work with employers to fully fund paid leave for Disabled staff at high risk of severe symptoms until the risk of infection is negligible. NADSN has made 12 recommendations:

Recommendation 1: Necessity of COVID-19 HEI Response to be Equality Impact Assessed

We strongly recommend that HEIs use this pandemic situation as an opportunity to ensure that any line management training, policies and procedures pertaining to managing Disabled workers (e.g. absence management, capability, carers, health, safety and wellbeing, personal and career development reviews, etc.), are robustly equality impact assessed/analysed if they have not already. This will ensure they do not have a differential or adverse impact on certain groups, which are protected by law against discrimination.

Recommendation 2: No-Detriment Policy – widening application to Staff & Doctoral Students

Many HEIs have already adopted a “no-detriment” policy for the remainder of the academic year 2019/20. In some HEIs this extends to postgraduate taught or research students, but in others, this approach is limited to undergraduate students only. We recommend that these policies are extended to the academic year 2020/21. Within the context of the *Equality Act 2010*, we recommend that the no-detriment policy be broadened to cover staff as well as students. The no-detriment policy will set out how students unable to attend campuses will not face any detriment to their learning, teaching or assessment, will not be penalised for attending remotely, and will be able to access all student services whether attending

campus or studying from home. In particular, we recommend clear policies and strategies relating to doctoral students and international students who may require additional support regarding extensions to submission dates.

Recommendation 3: Course, programme and module evaluations

Commonly, evaluations for courses delivered online in HEIs that are usually not providing distance learning courses differ greatly from courses delivered in person on campus. This is, in part, due to different expectations of what learning looks like in these contexts and expectations potentially not being met because of altered ways of working. Consequently, within the no-detriment policy, a clear statement relating to the role of course evaluations is required, in particular as course evaluations and module feedback are often used as criteria for career progression of staff. Instead, HEIs should continue to solicit feedback through evaluations, but with guaranteed caveats that everyone is trying their best under emergency, non-ideal circumstances and that evaluations will not be used to penalise or disadvantage individuals.

Recommendation 4: Access to teaching and learning

Staff and students should have the choice between attending in person or remotely. This will have implications on how course delivery is developed in practice. However, no student or staff member should be forced or indirectly coerced through informal sanctions, to travel to campus, when they, or someone they live with, is at an increased risk from COVID-19.

Recommendation 5: Access to meetings

The COVID-19 lockdown experience has shown that meetings and business can be held effectively via collaborative platforms, such as MS Teams, Zoom, and Blackboard Collaborate. The infrastructure, to varying degrees across HEIs, is now in place, and therefore there is no reason why individuals should not be able and allowed to dial into a meeting as a matter of course as part of remote working arrangements.

Recommendation 6: Returning to campus

Where the return to campus is considered, NADSN recommends policies that recognise not only safety on the campus itself, but also on the way to campus or between university and placement sites. Whilst some institutional locations allow for relatively safe journeys to and from the place of work and study, there are others where journeys via public transport cannot be avoided. Any reasonable adjustment strategies and agreements for a return to campus should include contextual factors that may impact on Disabled staff and students.

Recommendation 7: Revision of workload and tasks

All workload allocations in relation to staff and students require an intersectionality informed approach. For example, those who have caring and/or childcare responsibilities are disproportionately affected by the current circumstances. Where it is possible,

managers and tutors should encourage staff and students to consider flexibility in their hours of work and agree a solution that works effectively to assist them in balancing their home responsibilities with work and study commitments. Additionally, programme teams should consider how workload in their teams may be reorganised and reallocated, so that people at an increased risk from COVID-19, who cannot travel to campus, have the opportunity to take on more remote tutorials and student support sessions combined with more marking instead of their face-to-face teaching load.

Recommendation 8: Consideration of the impact of furlough scheme

Some HEIs have furloughed staff members instead of providing reasonable adjustments to ensure they may be able to work from home. For academic staff even on full pay, being furloughed can have a negative impact on career in terms of losing influence (the good committee work or enjoyable projects get reassigned) and access to resources (lab or office space) and colleagues, which can have a negative impact on career progression.

Furthermore, we would like to highlight the potential redundancies of vulnerable Disabled staff due to downsizing of organisations and the threat of recession. Apart from voluntary severance schemes, managers are being asked to identify vulnerable areas to cut in organisations. Added with the insecurity of employment and the casualisation of contracts, Disabled staff may be at increased risk due to their extra support needs.

Recommendation 9: Careers progressions and promotions criteria

In line with the Equality Act 2010, a clear and dedicated statement and fair, transparent policy reviews in career progression and promotions criteria are needed to ensure that people at an increased risk from COVID-19 are not disadvantaged in these processes until a vaccine is found, even if this may take 18-24 months, or longer. This extends to formulation of policy guidelines for the REF.

Recommendation 10: Research outputs and REF

The differential impact of COVID-19 on Disabled researchers needs to be acknowledged and more significantly, there is a need for (1) further research about the COVID-19 impact on publication submission and REF outputs, and (2) procedures around reasonable adjustments with respect to COVID-19 to be implemented so that Disabled staff are not disadvantaged in their career progression.

Recommendation 11: Disability disclosure and accessibility requirements

Within the context of the teaching and learning environments and research and administrative work, the current COVID-19 crisis presents a unique opportunity. Given that deprioritising care on the basis of disability could be characterised as a form of soft eugenics, and that many HEIs have medical professionals working for them, we recommend that educational ethical guidance regarding care of Disabled people with COVID-19 be

provided. Disability Rights UK's guidance on "COVID-19 and the rights of disabled people" would be an excellent model for communicating this concern quickly to staff.

Further, we know from statistics that many within higher education still do not disclose their conditions or needs for fear of retribution. Instead of considering accessibility measures as temporary and disability disclosure as a mere statistical matter, we should incorporate Disabled staff/students and accessibility norms as a core aspect of university life, to the extent that studentship and workforce in higher education reflects human diversity. HEI's have the chance to make academic communities accessible for a much wider group of people by continuing the current 'temporary measures' for and, in the long-term, by fostering a proactive approach to disability-inclusion.

Recommendation 12: Disabled staff in high risk positions

During the lockdown of HEIs, many staff continued to work on-site to enable HEIs to operate. These staff are employed in positions related to estates, maintenance, security, technical and cleaning services. In addition, staff are also engaged in clinical roles and work with the NHS. It is imperative in preparations for returning to work, inclusive of COVID-19 on campus arrangements, that Disabled workers are able to negotiate work conditions and adjustments, without any detriment, that will minimise potential exposures to the virus, particularly if those staff have an underlying health condition.

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