Written evidence submitted by the Royal Association for Deaf People

The Royal Association for Deaf People (RAD) is one of the largest Deaf organisations in England offering a range of accessible services for Deaf people including Advice, Advocacy, Children and Families, Youth and Transition, Employment and Skills, Health and Social Care, Interpreting and Community Development. It has also become one of the largest employers of deaf people delivering the services it provides through peer support.

AtW is an essential tool for many disabled workers in the UK, without this support many of its users would not be able to work and could have a lifetime of unemployment or doing meaningless jobs for which they are not suited. The scheme provides funding for people who have a disability or health condition. It pays for practical support and specialist equipment in the workplace and essentially places Disabled workers on a level playing field within society.

AtW was established to ensure that disabled employees were able to maintain and sustain employment and to develop their potential throughout their career; many Deaf people have achieved great outcomes as a result. However, in recent times multiple issues have been reported arising as a direct result from the policy changes that AtW have introduced causing conflicting issues for both employees and employers of Deaf workers. The Deaf and hearing loss sector has become increasingly aware of challenges they now face when using the scheme; it is widely becoming a second barrier to seeking and sustaining employment. The impact of the recent policy changes is such that employers may think negatively about employing Deaf people due to the additional responsibilities around the 30 hour rule and the aggressive approach that AtW has imposed on employers with regards to their recruitment policies.

Over recent months there have been increasing concerns over a perceived shift in policy relating to the way communication support is provided for Deaf people and those that require 30 hours or more for communication support per week. These concerns relate to:

- **Inconsistency** in determining the rate for interpreting as required by the individual
- £30,000 interpreter salary cap if required for **30 hours per week** or more.

Whilst the Department for Work and Pensions (DWP) has highlighted that this guidance has been in place since June 2011, however, its recent application and aggressive introduction begun at extremely short notice and without due warning. This has had a
significant and profound impact on the ability of Deaf people to access appropriate communication support whilst carrying out their work responsibilities effectively.

**Inconsistency**

There are frequent inconsistencies in the decisions being made by AtW caseworkers which on occasions contradicts the guidelines that AtW follow. These inconsistencies are causing significant upheaval for both employers and employees where staff within the same organisation doing similar roles have been given completely different support packages; for example: one employee being supported appropriately with full support whilst another member of staff is having to seek support at an inferior level due to the lower hourly rate that they have been awarded or having to recruit a communication support worker as a result of the 30 hour rule.

In addition, there is evidence of AtW users who have different hourly rates for different roles. For example: a Deaf Coordinator of a project is awarded a rate of £45 per hour for interpreter support whereas the Deaf Manager of the very same service is having to source inferior support at the rate of £35 per hour. This ultimately results in that the Manager has a greatly reduced opportunity to source appropriately skilled and qualified interpreters to support them at high level meetings; which is ultimately vital to the individual’s performance and responsibility in the running of the organisations that they work for.

**The 30 hour rule**

The current situation is already beginning to see a detrimental effect on the employment experiences of the wider Deaf community. The long term prognosis is fewer Deaf people in employment either through lost potential opportunities by employers’ fears of employing a Deaf individual and their costs or through a ‘quiet employer agenda’ to flush out Deaf individuals and thus rid themselves of the additional costs forced on them and thus creating a negative impact.

The consequential impact of this policy change effects a Deaf person’s income, their place in society, the opportunity to follow their chosen career and their peace of mind in terms of financial security. Everybody loses. Employers lose talent; Government loses public
support, tax revenue and unnecessary financial burden is added to the welfare benefits bill; and, ultimately, society loses the benefits of diversity.

Recruiting a salaried interpreter gives rise to many issues:

- Who actually manages the interpreter, is it the Deaf person or the Deaf person’s employer?
- Who is liable for the additional costs of employing the interpreter; such as overheads, the interpreters’ national insurance and tax, the compulsory pension scheme set by the Government or company policy in relation to pensions, the interpreters’ registration fees, training, Continuous Professional Development (CPD) are all issues that arise from this policy implementation.
- What if the Deaf person does not have the required confidence or the requisite skills to manage their interpreters or in the case of the employer refusing to manage them thus leaving the Deaf person in a vulnerable position? As a direct result, could end up having to reduce the hours of support in order to avoid this stipulation.

In addition to the above, being forced to use the same interpreter for a wide range of scenarios such as meetings, conferences, telephone calls, sight translation can be detrimental to the point ineffective. Many Deaf people use certain interpreters for certain tasks to ensure that they are receiving the best support for the given scenario; the right to choice is lost by the implementation of the 30 hour rule.

In support of their policy regime change AtW are stating that employers are responsible for the additional costs of employing an interpreter as ‘reasonable adjustments’ under the Equality Act 2010.

Reasonable adjustments

We feel that the DWP do not fully understand or follow the term ‘reasonable adjustments’ in the whole context of the Act. The term ‘reasonable adjustments’ is only enforced adjustments that are reasonable to the employer if they are not reasonable after having considered them.

The following case determined in the Courts decided the term ‘reasonable adjustments’ under the Equality Act 2010:
In Warner v. Armfield Retail & Leisure ltd UKEAT/0376/12/SM the consideration of employing a Support Worker to enable a disabled person to execute their tasks in line with their employment contract is reasonable. Having considered this ruling AtW’s policy that enforces employers to take on the cost of employing additional staff to support their disabled employees is not reasonable under the Equality Act 2010 and thus making AtW’s policy unlawful and not compatible with the Equality Act 2010. Enforcing companies to take on additional cost of employing support workers in this time of austerity is and will force employers out of business due to the enforced costs and thus having further impacting detrimental effect on all of the employees of the company forcing them out of work; resulting in a further drain on the welfare benefit system.

Support for additional co-working interpreters
AtW introduced another new policy aimed specifically at Deaf users (07/04/14 - without completing equally impact assessment) removing support for an additional co-working interpreter, citing that the deaf individual’s employer is expected to provide this under reasonable adjustment. The use of additional interpreters for co-working alongside another is absolutely crucial in assisting a Deaf individual to carry out their working duties effectively in such environments like delegate, conference, performance, commissioning, networking and contract meetings (to name a few) for which it cannot be reasonably expected to stop a whole congregation (of anything up to 100 people) every 20 minutes for a lone interpreter to have a 10 minute break; which is industry standard for Health and Safety. Furthermore, the constant dialogue of technical jargon and terminologies used in some lines of work can be debilitating and exhausting to translate for any one person to the point there exists the risks of underperforming such translations and contents can be lost or misinterpreted through exhaustion and lethargy.

Finding an effective solution
All parties have an interest in devising a solution that balances equality of access for Deaf people with pressures to reduce government spending. If we get it right, EVERYBODY wins with a social return on investment.

AtW have stated that these cost cutting measures are necessary and in accordance with the budget handed to them from the treasury. This however has created a false economy. In the Government’s recent report to AtW by Liz Sayce, it is stated that for every £1 the
Government spends on AtW the Treasury recoups £1.49; thus meaning the economy grows and the Treasury is able to reinvest back into the system. It is a ‘blind’ contradiction to AtW’s agenda that cuts are necessary to save money.

**Independent inquiry**

In the past six months the Deaf community has explained the consequences of current Access to Work issues to the Minister for Disabled People and the DWP. We welcome the engagement so far and remain committed to working with the Government and officials. However, it is clear the situation is getting worse for Deaf people, with reports of new job losses every week.

Employers and employees are being challenged by the need to make up any shortfall when Access to Work support is reduced and there are more demands on the Access to Work budget which is not reasonable as previously stated.

More fundamental action is needed that provides clarity on all of the challenges faced and that identifies an agreed solution to reduce the negative impacts for all involved, but particularly deaf people.

**We therefore recommend the Minister for Disabled People commissions an independent inquiry into the Access to Work scheme for Deaf people.** It should consider the range of issues presented below. We feel a review is timely because

- ample evidence of the negative consequences of Access to Work has been presented;
- these consequences were unintended and contradict the stated aims of the Government’s disability policy, namely to ensure that disabled people are able to access mainstream employment;
- it is in the interests of everyone involved to identify a practical and mutually acceptable solution; and
- It is important that a solution is arrived at objectively.

It is important that a review

- is done quickly (three months from start to finish);
• is not – and is not seen to be – an attempt to kick the issue into the long grass;
• rules nothing out; and
• is done by someone who is – and is seen to be – independent.

The process should involve

• Government officials;
• organisations working with and for deaf and deafblind people, eg BDA, Royal Association for Deaf People (RAD), Action on Hearing Loss, Action Deafness, Hearing Link, Sense, Signature, SignHealth, NADP;
• Deaf users of Access to Work;
• interpreter representatives; eg ASLI, VLP; and
• employer representatives, eg CBI, FSB.
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<tr>
<th>Category</th>
<th>Summary of issues</th>
<th>Impact for wider stakeholder groups</th>
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| Level of support | - The 30 hour limitation placed on the freelance support available through Access to Work for deaf people  
- £30,000 cap on the salary a Deaf person can provide to a full time interpreter through AtW that is not in line with market rates  
- Access to Work not following its own guidance, forcing the use of Communication Support Workers (CSW) as a cheaper option than Registered Sign Language Interpreters (RSLI)  
- Inconsistent rates given to claimants for those who are not in the 30 hour rule category  
- Having to book own freelance interpreters having impact on time to do work | Employers  
- Reduced access to the employee, who may be unable to fulfil their job role  
- Relationship with employee deteriorates  
- Cost of employing salaried interpreter i.e CPD, Registration, Insurance, travel, not reasonable under Equality Act 2010 (see above for case)  
RSLIs  
- Deskilling, lack of interest in roles due to inflexibility  
- Negative impact to their reputation if CSWs are seen as interpreters  
- Being employed as full-time interpreter by one deaf person is not economically viable given the current market rate and a less attractive option than providing freelance support for other deaf people  
Government  
- False economy - the potential waste of money in the long term when RSLIs need to be called in to do the work to the required standard  
Employee  
- Availability of support is reduced.  
- Level of support is lower  
- Risk of being dismissed on capability increased |
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| Interaction and communication with Deaf users| • Lack of response to communication from deaf users about their support packages  
• Only communicating over the phone about individual cases  
• Inaccessible information, including forms and guidance  
• No signposting to the review or complaints process  
• Changes made at short notice and without warning  
• Poor understanding and knowledge of the needs of Deaf people  
• A lack of consistency in decisions and support provided | Employers  
• The potential for wasted time and money, and perceived unfairness  
• Employee less effective than they should be in job role  

Government  
• The cost of mistakes and investigations through ineffective scheme administration  

Employee  
• Employee left with unsuitable support  
• Impact on the health of the employee due to stress created  
• Inequality received in treatment to Deaf users in relation to communication |
| Application and Assessment Processes         | • Access to Work talking directly to employers rather than deaf people  
• Retrospective changes are being made  
• Lack of guidance on what to do when a full time interpreter cannot be engaged  
• Information not being shared within Access to Work on people’s support needs  
• Lack of data about the use of the scheme by Deaf people, e.g. the number of BSL users receiving support  
• Administration fee incurred by booking agencies who | Employers  
• Uncertainty about their role and responsibilities  
• May be liable for unexpected costs  
• Scheme seen as burdensome by employers who have to respond to on-going queries  

RSLIs  
• Reduced opportunities for work  
• Financial implication for agencies who provide support for their own staff not being able to |
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<td>Cost of communication support</td>
<td>Access to Work says interpreters are too expensive. This oversimplifies the situation of a complex marketplace and a highly trained profession. Simply cutting the funding that deaf people can use to engage interpreters has unintended impacts, such as Deaf people losing their jobs</td>
<td><strong>Employer</strong></td>
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<tr>
<td>Purpose of scheme</td>
<td>Thus placing employee at risk of losing job</td>
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| • AtW argues that employers have a responsibility to pay for some communication support. It is unclear whether employers are aware of this or if an employer’s duty to make reasonable adjustments stretches to the funding of communication support for deaf staff | **Employers**  
  • Increased costs  
  • Deaf people seen as less attractive employment prospect  
  • may need to demote, redeploy or end employment of deaf person  
  • reduced benefit of diversity of workforce |
| • AtW are starting to refuse claims for support at job interviews, thus reducing access to employment for deaf people | **Government**  
  • Access to Work budget goes further but potential for more benefit claims / less tax revenue from increasing numbers of deaf people out of employment  
  • not meeting policy objective of equal access to employment for disabled people  
  • potential breach of Equality Act duties  
  • overall negative impact on reputation |
| • AtW are beginning to say that deaf people should revisit their role and change what they do and allocate some of their duties to hearing colleagues | |

**Our recommendations for effective solutions**
The AtW scheme should be commended for the essential support it provides for thousands of people in employment. However, as previously identified recent changes have meant that on-going support is working against the employment needs of Deaf people. While the Government has highlighted the importance of personalised support in employment, feedback tells us that AtW is not currently delivering this for Deaf people.

Our specific recommendations are as follows:

- Technological efficiencies should be explored and implemented at every level of the scheme (for example, a wider range of contact options, online form submission)
- Improved Deaf awareness training for AtW staff
- A revised and fair reconsideration procedure should be developed, which is promoted and accessible to all AtW users
- The scheme must provide an amount of support that is sufficient to enable Deaf employees to perform effectively in their job roles
- The ‘30 hour policy’ as it has been applied to communication professionals should be abolished
- The scheme should seek to implement personalised and flexible support. This could potentially be achieved by giving Deaf people more control over the support they access (including asking individual’s to consider the most cost effective solution).
- AtW guidance should be made much clearer and more transparent and should be publically available
- AtW should explore more creative and flexible methods of providing support, including improved uptake of options such as Video Relay Interpreting Services, where appropriate.
- The Government should take steps to increase the supply of communication professionals.
- AtW to consider reinstating Assessors in complex high end users to ensure effective and appropriate support is in place
- AtW to consider engaging with relevant peer stakeholders for professional advice when considering clients’ complex support needs

11 June 2014