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(ATW0177)

Executive Summary

1. I’m a BSL/English interpreter with over 30 years’ experience interpreting with Deaf people, and with family and friends who are Deaf.

2. In 2013 I began to hear from Deaf\(^1\) people of problems they were having with AtW.

3. There have always been problems with inconsistency, and some delays, but these seemed different. It was a combination of three things:

   - Sudden significant changes to the AtW support they were receiving without any clear reason for it.

   - Often accompanied by a change in the relationship with the AtW Adviser, from relatively supportive and individualised to dogmatic, rule based, and at times implicitly or explicitly hostile.

   - And a real sense of helplessness from Deaf people, that there was ‘nothing they could do’ about what was happening, having been told only that ‘AtW is not a statutory benefit, all awards are made at the discretion of the Secretary of State. As a discretionary award you have no right to appeal against decisions’.

4. This deep helplessness and frustration was in reaction to the Kafkaesque combination of the sudden (and systemic) imposition of seemingly arbitrary changes and rules, delivered in an impersonal and often subtly hostile way, by people who often seemed unwilling to respond to their questions or concerns, that risked their job and ability to continue working being lost. They were often led to believe that they didn’t even have the right to complain about this.

5. The customers who experienced this included successful senior managers, highly competent professionals, entrepreneurs who had established their own companies, as well as advocates and office workers. People of skill, tenacity and resource, who had succeeded as Deaf BSL users in a competitive and non-disabled world, but who in the face of these changes, the way these changes were being made, and their lack of any voice, now often felt helpless, confused, angry, stressed, impotent, and powerless.

\(^1\) Most of the evidence included comes from Deaf people who use British Sign Language.
6. I set up DeafATW.com in response to this, to provide an accessible resource for Deaf AtW users, to tell them that they could complain, and how they could. It has since grown to include accessible information about how to challenge poor AtW decisions, and how to campaign for change, including how to submit evidence for this inquiry.

7. Over the past 9 months many Deaf people have shared their experiences with me, including showing me the emails and documents exchanged with AtW. My evidence to the committee is of these people’s experiences, as well as my understanding of the situation. Where possible I have shared their experiences and from their correspondence, preserving confidentiality as requested².

The 30 hour ‘rule’

8. In mid-2013 AtW began imposing this requirement.

9. Deaf people told AtW that employing an interpreter would not properly meet their access needs and that it would not be possible to recruit a full time interpreter, because:

- The frequency and/or intensity of interpreting would not be sustainable for one interpreter on a regular basis, and there would be health risks for the interpreters³.

- That they worked variable hours, and/or in varying locations, and it would be neither possible nor reasonable to recruit an interpreter to work those hours.

- The salary of £30,000⁴ was not an attractive enough salary for a Registered Sign Language Interpreter to take on this workload.

10. Deaf people also asked what would happen if they could not recruit. Would their existing package continue until they could recruit? And

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² Many Deaf people fear that speaking out will lead AtW to cut their support. That’s why all of the people commenting have asked that they remain anonymous. If the Committee wants to ask these individuals to give evidence, then I can pass on that request.

³ There is a high incidence of occupational injury and disability for Sign Language Interpreters. An excellent summary of the research and causes can be found here http://www.ryerson.ca/woodcock/pdfs/OHSforSLI.pdf

⁴ The only source for this figure AtW have ever acknowledged is an ASLI survey of its members from 2011. The majority of salaried interpreters who responded at that time were working for Interpreting Agencies, Local Authorities or Deaf organisations, i.e. employers where the work involves working with a range of customers, and which offers a range of benefits that make up for the lower than freelance income. Neither of these conditions apply to the work proposed with single AtW customers.
continue as before if it proved not possible to recruit? Would they be given support in advertising and recruiting?

11. In the responses I’ve seen these questions were not addressed, AtW Advisers simply said that this was a policy decision/rule and was non-negotiable.

12. This was repeated at most Reconsiderations. E.g. ‘Having reviewed the details of your case it is clear that the funding decision is consistent with operational delivery guidance and policy intent’.

13. This was true even when customers were highlighting specific problems that meant that it was self-evident that a single interpreter could not do the work, e.g. the Chief Executive of an organisation who travels all over the UK and work very long days. The AtW Advisers simply didn’t respond to those concerns.

Rationale given by AtW for this change

These include:

‘There’s no change, it is existing guidance being rolled out’

14. This is based on AtW guidance about ‘support workers’. However, it fails to recognise that there is a significant difference between professional interpreting, and general support work.

Economy of scale

15. “Where support is regular and predictable we have an expectation that there should be an economy of scale to the commercial rates supplied.”

16. This assumes that the same interpreter is working full time with one client at a freelance rate. That is not the case. Most Deaf employees have a pool of interpreters who work one half or full day on a regular basis. This enables the Deaf person to use the varied skills of their interpreters as appropriate, and allows co-working where needed (i.e. use two interpreters together for a half day meeting, but have no interpreter for the rest of the day).

17. AtW is offering funding based on what they think the service should cost, not what it does cost, and refusing to recognise the impact on the Deaf customer of being unable to procure the support they need with the budget provided.
18. This is akin to recommending a £5,000 wheelchair, but only funding £2,000 because AtW think the wheelchair should be cheaper.

**Fraud**

19. Fraud has been mentioned in a number of the Minister’s statements. It’s not clear how the recent changes relate to the fact that some individuals have committed fraud.

20. Deaf people have told me that fraud is often raised with them in inappropriate ways. For instance *the first thing the Adviser said to me in the telephone assessment was “you know that many Deaf people have committed fraud?”*

21. This has been experienced some by Deaf people as an attempt to intimidate them.

*Deaf people are too expensive*

22. In meetings with UKCoD, AtW officials have said that *Deaf people are too expensive* and that they take up a disproportionate percentage of the AtW budget.

23. Denying necessary support for one group because they are *too expensive* is not customer focused and fails to take account of the necessary cost difference between different types of support.

24. AtW should have carried out, and made publically available, an Equality Impact Assessment before making significant changes to their practice affecting one type of disability.

**AtW exists just to ‘top up’ Employers’ reasonable adjustments:**

25. *AtW is not intended to meet a person’s access needs. It contributes to the additional costs, over and above the reasonable adjustments that employers are required to make*.

26. This has been used even with self employed Deaf people, where this means paying for their access needs from their income.

27. Whilst this is reasonable in theory, this is not how AtW support has worked historically, and this very significant change has not been discussed with employers or customers. It would only be reasonable to take this approach after a consultation has been carried out, clear guidance issued enabling AtW advisers to weigh the reasonableness of the employer’s adjustments.
and after a notice period to allow employers to find the funding to pay for this. None of these has yet happened.

**The impact on Deaf people of the 30 hour rule**

28. Where Deaf people tried to discuss alternate ways of reducing their budget, so that they could at least have some qualified interpreting support, AtW have responded in one of three ways:

- If the Deaf person offered (through desperation) to reduce their hours below the 30 hours that had triggered the ‘requirement’ to employ a salaried interpreter, they were told that even if they reduced their hours, their support would continue to be supported at a salaried equivalent, i.e. a reduction from £40 ph to typically £18 ph.

- At least one person was told that attempting to reduce her hours could be seen as evidence of fraud, in that the number of hours’ support she had originally requested could not have been a true reflection of her needs.

- In some cases AtW agreed to provide the customer with a £30,000 ‘pot’ to spend as they saw fit. This allowed the choice between having support that didn’t meet their needs, or support that met their needs for at least some of the time.

29. In January 2014 customers were told that this ‘loophole’ had now been closed, and customers were no longer going to be given a budget to spend flexibly, but would get a budget as if they had employed someone, at a fixed hourly rate of around £18 per hour.

30. This meant that customers could not get any support at all with the AtW budget, unless the employer, or customer, topped this up to the usual hourly rate.

**Other changes to AtW affecting Deaf people:**

31. Further cuts have been made to the support provided by AtW, again unexpectedly and without consistency:

- AtW have moved to a telephone-based service. This is not accessible for BSL users, particularly for those with reduced interpreter support.

For some customers:
• Reductions in support (weekly hours and hourly rates) are being applied retrospectively, even where the previously agreed rate of support has been used and paid for, leaving the Deaf employee to personally meet any shortfall or leaving interpreters underpaid. Interpreters are reluctant to take the Deaf person to the Small Claims Court because they know that AtW have under-reimbursed, but equally cannot afford not to be paid for work carried out. AtW refuses to speak to interpreters about underpaid invoices and will not respond to their complaints about this.

• AtW say they no longer fund a second interpreter for meetings. Many customers are told that if they ‘want’ a second interpreter, their employer should pay, or should ‘restructure the event for everyone so that one interpreter can do it on their own’. (AtW guidance explains the need for two interpreters for assignments of 2 hours or more.)

• AtW say they no longer fund note takers. The general justification is that ‘someone in the meeting can take notes’. This demonstrates a lack of understanding of both the role of a note taker\(^5\) and why Deaf people might need one.

• AtW will only fund Communication Support Workers (CSWs), not Registered Interpreters.

• AtW set maximum hourly rates that are below the lowest fee rate in a given area. When asked how AtW formulated these rates, advisers say that they have ‘consulted with deaf-focused organisations’ but will not name the organisations. When asked how the customer can find interpreters charging such low fees, AtW say that ‘it is for the customer to arrange their own support’.

• The current guidance (v24) states that for interviews support should be ‘confirmed immediately’ and AtW will pay 100% of the cost. Some Deaf people’s experience is that AtW expect them to ask the employer to provide the support, that AtW always speak to the employer before approving funding in order to try to persuade the employer to fund. A concern is that at the interview stage this highlights the cost impact of the disability to the employer, and therefore reduces their chance of being appointed.

\(^5\) See [http://www.anpnotetakers.co.uk/manual-notetaking/](http://www.anpnotetakers.co.uk/manual-notetaking/) for more about this role
Attitude and conduct of AtW advisers

32. One of the most worrying aspects of the recent changes is attitude and tone of some AtW advisers’ communication with Deaf people.

33. For example, where a Deaf person has been unable to appoint a salaried interpreter, or find an interpreter willing to accept the new lower hourly rate, this is referred to as the person ‘choosing not to appoint’ or ‘choosing to spend more’.

34. AtW Advisers often justify award decisions by claiming they are following ‘rules’, that in fact contradict AtW guidance, e.g. *AtW do not provide for a second interpreter for longer assignments*. The adviser’s explanation for this contradiction was that the guidance doesn’t say that AtW will *fund* a second interpreter.

35. I have seen email exchanges where the adviser utterly refuses to engage with the Deaf person’s pleas for understanding, and in some cases makes hostile or derogatory comments towards the customer. For example, one adviser pointed out that the Deaf person’s English in their emails is good enough [implying that there was no need for interpreter support] where in fact an interpreter had written the Deaf person’s emails.

36. Customers’ requests to see the complaints procedure were rarely met, and attempts to complain were rebutted, ‘*I asked for the complaints procedure 12 times over 3 months. I never received it.*’ ‘*Despite complaining, AtW continued to call their responses an “escalation of reconsideration to a more senior manager”*, and continued not to address any aspect of my complaint’

Quotes from those affected

“My employer agreed to make a contribution towards the shortfall between the AtW funding and the cost of using freelance interpreters, but said that I would have to pay the difference myself. As I couldn’t afford to do this, I felt I had no choice but to resign.”

“After 10 years of being a loyal member of staff all I ever talk about with my manager now is AtW, and how much my access needs costs. This change has completely changed my relationship with employer. I just want to be supported to be a member of staff and get on with my work, because this is what I am employed for!”
“When AtW cut my funding I asked HR for help in dealing with AtW. Instead they discussed with their legal advisers taking my case down a competency route if deemed that I was no longer able to perform my duties.”

“For the previous five years I’d had positive support from my AtW Adviser, and a package agreed that met my needs. When I got a new job, and reapplied for AtW, AtW were no longer supportive, instead they were rude, cold, lacked empathy and sensitivity, and often failed to respond to emails and questions. Trying to get my access needs met now was a battle.”

“I am an honest person, who just happens to be deaf, and I am trying to overcome the obstacles caused by my deafness to pursue the career I love. AtW made me feel like a criminal, constantly interrogating me, refusing to accept what I told them, and not being willing to work with me on finding a practical solution.”

“The night I left my job, my dream job, I had the best night’s sleep I’d had in literally months. It wasn’t till a few days later that I realised I was sleeping well because I wasn’t thinking about AtW anymore.”

Recommendations

1. Adopt and apply PHSO’s Principles of Good Administration\(^6\), in particular ‘being customer focused’ and ‘being open and accountable’. AtW should provide a flexible and individualised service, making decisions based on all relevant considerations, and should be open and honest about the reasons for its decisions.

2. Urgently address the hostile and negative culture among some AtW advisers towards customers.

3. Remove automatic application of the 30 hour rule and for customers who have been negatively affected by this, urgently review their support to ensure that it meets their reasonable needs.

4. Implement enhanced Deaf Awareness training\(^7\) for those dealing with Deaf people, and customer service training at all levels.

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\(^7\) Generic Deaf Awareness training would be insufficient for AtW Advisers who require in depth knowledge of customers’ communication needs and the support that would meet those needs.
5. Treat the customer as the ‘expert’ in their own disability, whilst keeping staff updated on developments in support and technology in order to offer a suite of support options to customers.

6. Design and embed robust counter-fraud measures, and stop raising fraud casually in interactions with customers.

7. Offer immediate and easy-access full support to customers at interview and probation stage to avoid the risk of employers perceiving disabled employees as costly and burdensome.

8. Make more use of trial periods or temporary provision to meet immediate needs and to enable assessment of longer-term needs, and work collaboratively with customers.

9. Subscribe to an online video interpreting service to enable Deaf people to telephone AtW directly (www.signvideo.co.uk).

10. Consult with PHSO on developing a robust, effective and accessible complaints process.

11. Collate and consider issues raised in customer feedback/complaints at board level to ensure continuous organisational improvement. Publish complaints, complaint themes, and actions to redress.

12. AtW have been tasked with extending the scheme, and so are looking to make the money go further. After working to restore their customer’s trust, genuinely engage with customers, providers and professionals to explore ways to develop a menu of resources that allow needs to be met whilst potentially reducing costs.

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