Written evidence submitted by DeafATW (ATW0343)

DeafATW and evidence of change:

AtW have said that there were no changes prior to the restructure. However, Deaf people and interpreters started to talk to me, and others, about problems with AtW in late summer/early autumn of 2013.

It was in response to my growing outrage at the stories I was hearing that I set up a website (www.deafatw.com) on 11 October 2013 (date of registration of the website).

I used the website to advise (predominantly) Deaf people about how to challenge/complain about unfair or unworkable AtW decisions. Once the website was set up, people began to contact me and to send me copies of their correspondence with AtW. Seeing large numbers of different customers’ emails and letters helped me to see a pattern forming of changes being made, as described below (with examples).

You can find the physical evidence of a change in approach in the correspondence AtW customers received about award decisions, reconsideration requests and complaints. Some of these have been provided to you as evidence for the Inquiry (those mentioning names were set aside as background reading).

Notably, many, many Deaf people are able to describe a change in tone/attitude that accompanied the change in approach.

The dates suggested below reflect the information that has been given to me. The problems may have been experienced earlier than I am aware. The following issues are just some of the main issues, as there are many more (e.g. job redesign, delays in responses, blocking access to complaining, etc. that are not identified here).

Emerging problems from early summer 2013 (i.e. before restructure):

The 30 hour guidance begins to be applied as a rule; Deaf customers start to be offered the (said to be) equivalent hourly rate of a salaried interpreter to purchase freelance support; budgets are capped at £30,000; restrictions on flexibility start; reconsideration decisions mention a ‘policy intent’ to restrict high value awards. Advisers mention a ‘LEAN pilot’.

For example:

June 2013: CEO of Deaf Charitable Company has 30 hour rule imposed. The response to his reconsideration request in September 2013 says “I am afraid that the reconsideration team is not in a position to amend the decision that has been made to fund your support on the basis of the cost of salaried interpreters. This is an operational delivery decision based upon principles adopted across our
programme and as such is not one that we have discretion to change given the number of hours of support for which you are authorised to claim.” [This wording is standard and appears in many subsequent reconsideration letters I have seen.]

17/7/13 Email from Adviser to customer in response to her questions about employing a salaried interpreter (30 hour rule): “You need to advertise and employ a salaried interpreter. I have never had any involvement with this before. I am aware that ATW limit is £30,000 per year. So after August your interpreter support will drop to this amount.”

From the autumn of 2013:

30 hour rule continues; Letters say that there is ‘no right of appeal’ – right to a reconsideration not routinely mentioned; reconsideration decisions do not mention the complaints process but suggest nothing further can be done; hourly rate starts to be capped; clear change in tone of correspondence / lack of flexibility; attempts at complaining are not dealt with; AtW assessments become budget focused rather than needs focused.

For example:

7/10/13 Letter from Esther McVey to customer’s MP: “As he requires full time support, the funding will be for the full-time salary and employer on-costs of a suitably qualified interpreter.”

28/10/13-4/11/13 Series of increasingly distressed emails from AtW customer seeking to understand how she could employ an interpreter (how to manage tax, NI, employment regulations etc. Response emails talk in general terms about these decisions but do not address the customer’s queries. [I have seen many examples of customers’ concerns and direct questions being ignored.]

4/11/13 AtW customer letter to AtW, raising issues and asking questions about employing an interpreter, and effective hourly equivalent rate used for freelance support. Response simply repeats 30-hour guidance.

7/11/13 Letter from Andrew Minnis to AtW customer [Managing Director of an SME] “Your experience of what an interpreter would accept as a salary is not our experience, I know of several deaf organisations who are paying similar salaries for employed salaried interpreters and many of our customers have taken up this option as it provides them with the security of the regular 1 2 1 support they require. Again, it wouldn’t be right for us to make exceptions for certain job roles neither does our guidance require us to…

… Some customers may choose not to recruit a salaried support worker and may still choose, as their right to do so, to use freelance support. In these instances we only reimburse at an equivalent salaried rate, circa £18 per hour. It will therefore be up to the individual how they fund the difference. Should you choose to recruit then we can consider some associated “on costs” in line with our guidance, for
example pension contributions.” [The first of a number of letters I have seen describing customers’ inability to recruit an interpreter as a ‘choice’.]

10/12/13 AtW email to Deaf AtW user “... if you reduce your working hours to below 30 ... we would simply reduce the salary funding to match the hours ... You would not be in a better situation.”

28/1/14 Email from AtW Adviser (m) to Deaf person (f) about his recent conversation with her manager: “[your manager] stated that your employer would not have originally employed you if it had not been for the offer of ATW support. I mentioned to him that since your first application for support we have solely been responsible for addressing your work related needs, approximately £50,000.00 per year for the past 6 years = £300,000.00 although we have no legal obligation to do so, unlike your employer who has not contributed one penny. ... the HR department has taken legal advice upon what would happen if the offer of Access to Work [salaried interpreter] support is not taken up and you are not able to perform your duties. He stated that your HR department may take inefficiency action against you.” [Deeply insensitive handling of risk to customer’s job.]

10/2/14 Email from Adviser to customer restricting any flexibility in his award: “The 25 hours per week is based on up to 5 hours per day for 5 days per week. If you only work 4 days in one week, then the ATW award would be reduced pro rata so the ATW award would be 20 hours per week, and for 3 days work the award would be 15 hours etc. There is no flexibility to use extra hours over 5 hours on one day if you for some reason you have not used support from a previous day, if for example you were on holiday leave or if you were on sick leave. Please note that I will not be available tomorrow to answer any further questions.”

[NB there are many more similar emails and letters from AtW to customers demonstrating the above change in approach and attitude from the late summer of 2013 onwards.]

Increasingly AtW say they will only pay for 1 interpreter, even where two required by guidance, and despite being within budget, or lack of alternate funding.

17/2/14 – Email from Adviser to customer: “The funding we make available at this date is your salaried support only - you may wish to ask your employer if they wish to fund a second interpreter under reasonable adjustment due to disability as Access to Work would not cover this.” 18/2/14 Email correspondence continued with same Adviser: “Our guidance states that a second interpreter may be required - it does not state that Access to Work will fund this.”

March 2014 – Increasingly decisions are made to reduce or stop AtW support retrospectively, or are made without discussing with or informing the customer. As well as the impact on Deaf and disabled AtW users, this means that interpreters who have worked in good faith are often left owed £1,000’s of pounds, with the only option to sue the disabled person for the money owed.
11/3/14 Email from Adviser to customer: “Any support can be reviewed and amended and normally the Adviser would liaise with the customer, although decisions can be made without discourse where information is present for an Adviser to form a picture of the support needs of a customer. In this case a dialogue did not happen.”

March 14 – AtW advisers increasingly tell customers that there are regional rates differentiated for Agency & freelance bookings, and qualification of interpreter. These rates are often substantially below the market rates for the area. AtW senior managers say that this isn’t the case.

14/3/14 Email from Adviser to customer: Please note that in the London and Home Counties area, Access to Work pay a maximum rate (inclusive of VAT or travel) of £45 per hour if the support is provided by an interpreting agency. If the support is provided by a freelance interpreter Access to Work pay a maximum rate (inclusive of VAT or travel) of £35 per hour. These rates are applicable to fully qualified BSL and experienced interpreters. If the interpreter is not fully qualified then a sliding scale applies. Access to Work can and will ask for the qualifications of any freelance interpreter to ensure the correct rate is applied to a customer’s support.

March 14 – Advisers increasingly ignore the clear guidance re CSI (Communication Support at Interview) – expecting interviewees to request Communication Support from the interviewer (so having to declare their disability), insisting they speak to the prospective employer in each case, not approving CSI promptly.

March 14 Email from Adviser to customer: “There has been no Policy change, we should aim to speak to the employer before any decision on providing support at interview. The procedure has changed in that an Adviser is responsible for the collection of information and deciding if a support grant can be made. Where an employer already provides reasonable adjustments at interview for applicants with a disability, they are responsible for providing the support at interview. Access to Work should not be asked as a default or replacement provision. Access to Work expects a customer to request the employer provide support at any interview they are invited to attend, and where that employer’s recruitment policy does not allow for it to provide that support, Access to Work may be able to help. Access to Work support is intended to augment an employers responsibility under the Equality Act 2010, not replace it.”

April 14 – Whilst Communication Support Workers (CSWs) (i.e. people working as interpreters who aren’t interpreters) have been used for some time where AtW customers have requested them, increasingly customers who request interpreting support are given CSWs for all or part of their hours.

Issues from May 2014 onwards (i.e. during and after restructure)
May 14 – Minister for Disability announces review and suspension of 30-hour guidance for new applicants.

May 14 - The restructure takes place; call centre process established; there is a backlog and increased delays in settling invoices; increased difficulty in getting response from AtW advisers etc., as no named adviser, and no direct contact possible.

Reviews of people affected by 30-hour guidance applied as a rule, conducted by the named team, turn out to be 'business as normal reviews' assuming that the provision currently provided, that is the subject of complaint, is satisfactory, and there should only be change if something ‘new’ has happened.

31/7/14 Email from Adviser to Deaf customer “The [Minister's] announcement alone does not mean that any existing grant will be changed if the current support is meeting a customer's needs. I need to establish what, if anything, has changed in your circumstances to warrant a review of the existing grant, or why the grant is no longer appropriate.”

June/July 2014 – Self employed people and people working for their own Ltd companies contacted, reviewed, told that they don’t qualify for AtW support, either because they aren't paying Class 2 NI contributions, or because they aren't paying themselves the National Minimum Wage, and having support stopped. This despite the fact that AtW didn't inform them that this was a requirement.

September 2014 – AtW new complaints procedure in place, but no information for AtW customers about it.

I do not know if the 30-hour guidance is being imposed on new Deaf applicants to AtW. And whilst the call centre has shown signs of improvement, none of the changes and problems identified above have been resolved for either AtW customers who have been affected by them, or by new applicants.

Darren Townsend-Handscomb RSLI FASLI MAPP (DeafATW)

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