RESEARCH ARTICLE

The implementation of equality legislation: the case of disabled graduates and reasonable adjustments.

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This article explores how reasonable adjustments, part of UK equality legislation, are secured in the workplace. This article argues an implementation gap exists where the impact of the law is weak, despite legal mandates to aid disabled people in employment. The research points to the importance of employer's knowledge of the effects disability as a key determinant of securing workplace adjustments.

Keywords: Disability, equality legislation, implementation gap, reasonable adjustments.

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Introduction

Disability equality has become an established part of United Kingdom (UK) equality legislation where the Equality Act 2010 protects disabled people against direct and indirect discrimination, harassment, victimisation and failure to make adjustments. The Equality Act 2010 affords disabled employees the right to request 'reasonable adjustments' (RA), changes to the nature of their work role and circumstances to allow them to continue working with an impairment. Reasonable adjustments can take the form of alterations to the manner in which work is carried out, such as working flexibly, undertaking a different balance of duties, the provision of technological support, or alterations to physical premises. The concept of reasonable adjustments moves away from the market driven job design model and focuses on individual needs (Somek, 2011). Although disabled employees have the legal right to seek RA, RAs are often not put in place, confirming discrimination and disadvantage (Fevre et al., 2010; Foster, 2007; 2015; Schur, et al., 2013) where RA provision is hampered by restrictive interpretations of the law (Bell, 2015).

Extant literature debates the effectiveness of equality legislation through the lens of an implementation gap, the difference between what is mandated in law and workplace practices. This article seeks to provide a discussion on the factors contributing to an implementation gap by analyzing whether, and how, disabled graduates are able to secure RA. The paper considers the types of adjustment that disabled graduates secure, the effectiveness of these provisions to eliminate disadvantage and the mediating factors that shape the implementation gap.

Disabled graduates are of particular interest to the study of reasonable adjustments because the knowledge economy demands skilled graduates (Brown et al., 2011) yet disabled graduates are, simultaneously, a minority group who are least desirable to employ based on their particular minority status (Bruyere et al., 2004; Legnick-Hall et al., 2008). Furthermore,

disabled graduates are more likely to be underemployed than their non-disabled counterparts (Tunnah and Lecacy, 2012) and should be engaging in graduate level work but employers may feel reasonable adjustments are more problematic as the jobs are more complex to alter. Given this particular context it is important to ascertain whether equality legislation provides adequate protection for disabled graduates, as a subset of the wider disability population.

The article contributes to current debates in three key ways; first it provides more information than was previously available on the ability of disabled people to secure adjustments. Secondly, previous research on the nature of the implementation gap has focused on either the characteristics of an organisation or the role of mediating actors, this article extends this analysis to include both factors simultaneously. Finally, the article presents a nuanced debate on the exact role of an employer's knowledge of the effects of disability and the balance of knowledge and responsibility between equality and diversity HR specialists and line managers. The article proceeds to outline the relevant literature, the research methodology and presents the data by exploring the research questions.

The nature and shape of the implementation gap

Drawing on work by Dickens (2012) the efficacy of law can be examined by investigating how law is implemented in practice, its mediation. Mediation includes the processes used by actors to translate statutes into workplace practices. Positive mediation involves complying with the law and ensuring equal treatment ensues. Conversely, negative mediation could involve outright rejection of the law but is commonly more subtle and includes actions that curtail the law's equality objectives (Dickens, 1989). The result of positive and negative mediation is an implementation gap, the difference between what is mandated in legislation and what happens in the workplace.

Research suggests that there is not a sharp dichotomy between the presence and absence of an implementation gap; instead debate centers on the different situations in which law is more or less effective at minimizing an implementation gap (Heery, 2011). Equality legislation has improved equality outcomes in some areas and the implementation gap is minimal, for example in women's access to employment (Hakim, 2011), whilst simultaneously a continued gender wage gap is present (Tijdens and Van Klaveren, 2012). Furthermore, there is an increased prevalence of formal equality opportunity policies in both public and private sectors (Van Wanrooy et al., 2013). However, formal hiring procedures, in response to legislation, have questionable outcomes on equality (Kirton and Healy, 2009). Given that the extent of an implementation gap varies, this research focuses on a specific strand of equality, disability. This study, identifies the extent to which legislation has been successfully implemented with regard to the provision of reasonable adjustments for disabled graduates.

Dickens (2012) found that trade unions, line managers and civil society organisations mediate legislation. While historically unions failed to represent minority members (Colgan and Ledwith, 2002) today they improve equality outcomes in organisations, especially when trade union equality representatives are present in the workplace (Bacon and Hoque, 2012).

The role of line managers is more ambiguous. Dobbin (2009) found line managers to be central as they gave force to legal mandates. Foster and Scott (2015) and Foster (2007) report line managers' knowledge, goodwill and attitudes are central to implementing reasonable adjustments. Simultaneously, evidence suggests that line managers subvert formal policies to pursue their own agenda (Edelman, 1990). Line managers' ability to 'sell' equality issues is restricted by their ability to 'sell' to senior managers (Dutton et al, 2002). The role of this

research is to identify the exact role of line managers in RA provision and ascertain whether their role is ambiguous as found in the general equality literature.

Civil society organisations (CSOs) shape the implementation gap by influencing law and representing worker issues (Dickens, 2012; Osterman, 2006). They relieve the pressure on individual disabled persons by indirectly enforcing law, identifying and prioritising particular issues (O'Brien, 2012). CSOs advocate the inclusion of minority groups in the regulatory process to improve the quality of regulation (O Brien, 2012). However, CSOs are external to organisations, which can hinder their ability to affect change inside an organisation (Pollert, 2007).

While the role of certain actors in mediating legislation is debated, it is also important to consider organisational characteristics that affect the shape and size of the implementation gap. A variety of approaches to legal compliance have been identified in organisations, ranging from minimum legal compliance to instigating sophisticated policies to support equality law objectives (Cox, 1991). The exact factors that determine an organisation's stance on implementing law in practice are contested. A number of different organisational characteristics may affect the successful implementation of equal opportunity policies (EOP). The first is the size of the organisation; smaller organisations may have less effective EOP with Hoque and Noon (2004) reporting that larger firms were more likely to have better disability policies and adjustments. However, and Jovic (2013) report better RA policies and provision in smaller organisations due to flatter hierarchies. Secondly, the sector of the organisation could influence the effectiveness of EOP. Healy et al., (2011) report that despite more legal mandates in the public sector[2], inequalities remain stagnant. A further important characteristic could be

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[2] The public sector is subject to the Public Sector Equality Duty, a legal requirement where public sector bodies have to implement equality plans and monitor equality.

the presence of a disability champion - senior managers and executives who champion and fight for equality and diversity; some research supports diversity champions as pivotal (Healy and Oikelome, 2007), while other research finds their effects to be minimal (Colgan, 2012). Finally, consideration could be given to formal policies. Dickens (1989) reports that some human resource practices could contribute to gender inequality in organisations, while other research shows formal policies to be associated with improved equality outcomes (Hoque and Noon, 2004; Riley et al., 2013).

To summarise, the first aim of this article is to understand the existence of an implementation gap by assessing who mediates legislation in the case of reasonable adjustments. The second aim of the article is to assess the characteristics of the organisation to understand the impact these characteristics may have on RA provision.

Methodology

The results emanate from a UK wide study of 67 participants, completed between 2009-2011; in the immediate aftermath of the global financial crisis. The data was part of a wider inductive research project that examined the labor market experiences of disabled graduates in regard to: recruitment and selection, the role of external agencies to support disabled graduates and benefits received in lieu of employment. The research focused on the disabled graduates' story telling as a way to access participants' reality, perspectives and experiences. A life history method was used to understand the biography of the individual and their lived experiences (Mason, 2002).

The research used a purposive opportunist sampling approach with advertisements placed in media channels such as 'Linked-In', impairment specific and general disability websites and the published disability press. Disabled graduates were interviewed who had

graduated with a minimum of a Bachelor's degree since 1995[3] and self-defined themselves as disabled. The sample was not formally representative of the disabled population, it favoured disabled graduates who are IT literate, worked in the disability sector and had higher degrees. However, there is value in exploring the workplace RA experiences of this particular group as it could be expected that their high level of skills and social capital could afford them an easier workplace experience.

The sample comprised of 10 male and 21 female participants. Seven participants were unemployed at the time of the research, two were higher degree students, one was retired and the remaining 21 were employed. The majority of the sample (21) were between 21 and 40 years old, seven participants were aged 41-60 and three participants were 61 years or over (see table 1

[INSERT TABLE ONE]

The research included additional participants in order to add depth and breadth to the stories of the disabled graduates, (see table two). These interviews provided supplementary information to aid the interpretation of the primary interviews with the disabled graduates. It was not paramount, therefore, that the interviewees were from the same organisation as the disabled workers. This approach also served to preserve participant anonymity.

[INSERT TABLE TWO]

Semi structured interviews were chosen because their flexibility is essential to create a rich study (Mason, 2002). Eliciting personal narratives gave voice to the disabled graduates because people who live with impairments are experts on the impacts of disability (Albrecht, 1992). The interview took a chronological approach to aid recall when discussing past events

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[3] The year 1995 was used as a cut-off to engage with people who had looked for work, or been working, since the introduction of the Disability Discrimination Act.

(Mason, 2002). Recall does not hinder the validity of the research because how the person remembers the past can be the most important part of the story they will tell (Gusdorf, 1980). Interviews lasted 90 minutes on average, were audio recorded, transcribed verbatim and then subject to complete coding, by hand, for thematic analysis (Braun & Clarke, 2013). Some of the codes were drawn from the research questions and literature, while others emerged from the data. As new codes emerged, all previous transcripts were reanalysed using the new codes and finally codes were aggregated into themes. All data was stored confidentially, anonymised, informed consent was obtained and data handling conformed to the Data Protection Act 1998

Graduates experiences of securing reasonable adjustments

To establish the presence of an implementation gap, the researcher considered the types of adjustment required and if the disabled graduates received their RA. The study included data about 36 jobs; of which, 23 were adjusted, 10 were not adjusted, one participant did not disclose and two participants did not want any adjustments.

The accounts show that the most common type of adjustment was time related (nine participants); either flexible hours or part-time work. Flexible hours were requested to manage medical appointments and impairment effects (See Thomas, 2007), while some participants felt their impairment was so severe they could only work part-time. Jessica, with a physical impairment, wanted part-time work to allow her to negotiate working with her impairment.

> "…*I would want to work part time initially because I am unsure of how physical it would be in terms of travel, extra time would need to be put aside. I would need to find my feet*"

At the time of the interview Jessica was contemplating re-entering the labour market for the first time since her accident; and hoped to increase to full-time hours.

Despite the popularity of time-related adjustments and the policy intervention of flexible working, not everyone received the requested time adjustments. Keith needed amendments to his shift pattern due to a physical impairment. He was required to work until 10pm and return at 7am the next day. He told his managers that he was not coping with this shift pattern

"…*they weren't very considerate of my problems with tiredness. They kept on giving me late shifts then back in on early the next day…A couple of times I fell asleep at work…*"

Keith blamed the manger's unsympathetic stance for the lack of adjustments. Other frequently requested adjustments were technological (six participants) such as a text-to-speech phone for Joe who had a dual sensory impairment. Personal assistants were also provided to a number of the sample (five) to enable them to complete essential parts of their role.

"*The PA did tasks that I couldn't do even with a screen reader, like photocopying and filing, all the fun stuff! I only had their support part-time.*"

Four participants requested adjustments to the physical premises of a building, such as David who needed ramp access to his office. It took David several months and repeated angry emails to receive this access. David attributes this lack of initial compliance to the organisation not knowing who was responsible for making adjustments.

Four participants requested alterations to their work duties, which the participants found the hardest to secure. Adjustments to work itself involve altering how work is conducted to accommodate a person's impairment. In these instances Rebecca wanted to be able to vary the amount of time she spent with customers when her impairment worsened.

"*…it is incredibility variable, sometimes I am ok and other times I can't speak to another human being; trying to explain that sometimes when you come in that you will have to spend the entire time doing admin work is almost too much of a hurdle.*"

Despite being reluctant to ask her manager for RAs to 'work itself', Rebecca found her manager was supportive and allowed her to carry out administration tasks when her impairment worsened instead of dealing with customers. Duncan has a learning impairment and when his capability was questioned, he fought for alterations to the way his work was organised. Instead of carrying out numerous tasks simultaneously, eventually his employer allowed him to separate different parts of the day for different tasks. All tasks were completed by the end of the day but Duncan was able to complete the work in a manner that allowed him to make sense of what he was doing. The participants felt these adjustments were difficult because they challenged the way work was organised and often needed more management input to make the adjustment operational.

Given extant debates on the context and mediation that facilitate or inhibit EOP, the paper now turns to investigate each of these issues in turn.

Contextual factors

Participants in small organisations (four) all received the adjustments they requested. When the participants were questioned about why they were able to secure their adjustments they needed in the small organisations, the participants responded that due to the smaller size of the organisation, managers were willing to learn about the effects of disability and meet their needs without being constrained by formal procedures, for example Claire:

> *"because it was a smaller place they were more willing to learn about deafness and to make more reasonable adjustments and I had an easier time with A2W; they were more understanding."*

Secondly, the distinction between public and private sector was not seen to be important, but working in the third sector was important. 10 jobs were in the private sector, where 50% received adjustments. Similarly, in the public sector, 11 out of 19 jobs were adjusted, just over 50%. When the participants were questioned as to why these adjustments

were not forthcoming, the participants reported that line managers were not supportive or there was no key person responsible for RA provision.

"*But the fact that there is no sensible, understood process for agreeing reasonable adjustments allowed both my division and the office managers to totally mismanage the situation with very unpleasant personal consequences (Sandra).*

Seven jobs were in the third sector, all of which received the adjustments requested. The participants reported that this provision was the result of working in an organisation that understood disability, where disability was "the norm" and people understood the effects of disability, as reported by Nancy:

"A lot of the people have a pretty good attitude towards disabled people… they don't judge, they don't notice my disability, they react to me as a person, not as a disabled person."

Analysis showed that impairment was unlikely to be a predicating factor in adjustment provision. The table below shows the spread of impairments and number of jobs that received the requests un/successfully.

[INSERT TABLE 3]

Six participants had more than one job and in one job they successfully received adjustments and in others they did not. What this finding hints at is the need to consider not just the impairment but the combination of several contextual factors such as size of organisation, sector and normalcy of disability.

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In contrast to the contextual factors, mediation was shown to be important in successful RA provision. In the instances below, mediation was the key factor in determining the outcome of the implementation gap. The mediation by HR and line managers, colleagues, external agencies and the disabled employees will now be discussed.

HR managers and Formal Policies

The accounts, uniformly, indicate that when a specialist equality and diversity (E&D) HR manager was present, workers were able to secure better outcomes than when generic HR managers were present, even when formal policies existed. 15 participants worked in organisations with formal reasonable adjustment policies; five had formal policies and a generic HR manager and 10 participants worked where there were formal policies and specialist E&D HR managers, solely responsible for equality and diversity. The accounts show that where a specialist E&D HR manager had sole responsibility for equality and diversity, all 10 participants received the necessary adjustments. For example, Nancy, who has a physical impairment, needed alterations to some internal doors and the provision of a scooter. When she started work, the specialist E&D HR manager contacted her with knowledge about the effects of disability and the support she may need. This support meant: "*everything went smoothly*". This point is an example of mediation operating in a context of structural support.

In organisations where there were formal policies but no specialist equality HR support, adjustments either failed or were protracted and unnecessarily difficult; all five participants who worked in organisations with formal policies with generic HR support failed to secure RAs. Sandra, for example found it difficult to find the right person to approach about her need for flexible hours. She reports *"my line manager knew nothing and vaguely sent me in the direction of faceless HR"*. Equally, Sally, who needed a guide dog, found it difficult to receive

the adjustments she needed to work in a school as it had a strict no animal policy. Despite a formal policy for equality and diversity, there was no-one Sally could contact to allow her to use her guide dog:

"*... four of the six teams refused to have me because of the dog...allergies, people were frightened of the dog, people didn't want to take the dog into the school that they were working with because they could have been issues of health and safety. It was rubbish, just excuses, I had no one to contact.*"

Generic HR managers posed problems when they used a blanket formal policy and implemented adjustments without consulting the disabled employee, illustrating the importance of the disabled person's agency and knowledge of their needs. Claire, for example was provided with a hearing loop that did not meet her needs: "*HR bought one without telling me and... it didn't do me much good because it amplified everything not just the person talking.*" Keen to implement their formal polices, some generic HR managers and line managers made assumptions about the needs of the disabled graduates, which often did not mediate the disadvantage they faced.

The data suggests, therefore, that alongside formal polices, organisations need specialist E&D HR managers with knowledge of the effects of disability to reduce the likelihood of an implementation gap. The specialist E&D HR mangers advise line managers, which makes line managers less likely to make decisions that will hinder the provision of RAs.

The availability of training potentially explains why specialist E&D HR managers are better at supporting disabled workers than generic HR managers or line managers. One private sector HR manager reported that their HR managers have *"extensive and thorough training"*.

Another HR manager, who had sole responsibility for overseeing disability in the organisation, reported that he could spend as much time as he needed on disability issues as he had "*no competing pressures*" and this allowed him to undertake substantial training. The HR managers who were given extensive disability training reported this was because equality and diversity was highly valued in their organisation: *"we know the value of equality and diversity and we want to tap into that talent pool.*"

Line managers

Line managers' mediation was the second factor shown to shape the implementation gap. Rebecca's line manager allowed her to start later in the day if she had a bad night. While Rebecca saw this ad-hoc arrangement as positive she was wary that should her line manager change, these *"informal privileges"* may be removed and if she changed job she would be unlikely to secure such arrangements. This type of experience reflects the idea of glass partitions, where the participants reported being reluctant to move jobs because they may lose informal privileges or networks of support set up with colleagues (Roulstone and Williams, 2012). The participants, in addition, reported that these informal RAs were often insufficient to meet their needs.

Sandra needed adjustments for work hours. Despite formal policies, in a public sector organisation, her line manager refused on the grounds it was inconvenient.

> *"I had one or two conversations where I would suggest job share and they would say; 'we can't do job share because it is fulltime'' I was trying to explain to them that the point of job share is that it is filled on a fulltime basis, just filled by more than one person. I don't know whether they were just obtuse or they were deliberately being obtuse because they didn't want to consider a disabled person who couldn't work full time.*

Sophie, working in healthcare, has a learning and physical disability. Her line manager felt "*she wasn't suitably trained to deal with disabilities in the workplace*" and was replaced

with another line manager who was *"equally as clueless about disability"*. Despite changing line manager, Sophie was still unable to secure the adjustments she needed and ended up taking sick leave due to stress. Keith working in the sports industry found his second line manager to be helpful in altering his shift rota. Keith reported that his new line manager was helpful because he had personal experience of disability and was more knowledgeable and empathetic. Hayley, who has several sensory impairments and found it easy to receive the adjustments she needed when working in a disability related organisation because line managers were *"tuned into equality issues"* and commonly worked with disabled people. Therefore, when Hayley requested adjustments she was not judged as incompetent and managers drew on their previous experience of supporting disabled colleagues. Lisa worked in a disability related organisation and reported that *"adjustments were seen as normal and just accepted"*. Participants who worked in organisations who had vast experience of working the disability arena had a uniformly positive experience of work. This positive experience of work was attributed to the supportive environment in which they worked and the notion that disability was "*normalised*". In these instances, the higher percentage of disabled workers in disability organisations meant that management took inclusion more seriously, which improved RA outcomes.

What these accounts are indicating is that some line managers are subverting formal policies to either hinder or help implement RA; i.e. the discretion in the line manager's role can be used in some cases to make informal adjustments while in others it may be used to block adjustments even when formal policy is seemingly supportive. According to the disabled graduates, the factors that affected whether line managers would push against structural constrains to enable provision was knowledge of the effects of disability. The interviews show that when line managers lack knowledge about disability or how to make RA, RA are more

likely to fail. In contrast, those managers who were knowledgeable about the effects of disability secured successful RAs for the graduates.

Colleagues

Colleagues were shown to be important mediators because some the participants (two) faced the choice of engaging the support of their colleagues or leaving employment because of insufficient adjustments. Sally, in her second job, found herself unable to function in meetings because management failed to enlarge materials; there were no formal RA policies and despite petitioning her line manager nothing was implemented. Instead, Sally asked her colleagues to send her material in advance of meetings which she would enlarge. Colleagues also carried her beverages, because line management would not provide a trolley. These instances could suggest that disabled graduates are active agents, rather than passive victims, using an informal coping strategy to navigate imposed disadvantage. The lack of provision is forcing the disabled graduates to make their own informal arrangements. Their ability to do this is constrained by colleague acceptance or rejection of additional support.

Several participants reported that colleagues were unhappy when RA were implemented. Sophie needed the fonts enlarged on her computer, due to the technical set up of the system the font was enlarged on all computers, which resulted in Sophie being bullied by colleagues whose computers were also affected. Sophie found this situation distressing and unmanageable. Hayley, when working in science, had her separate work area destroyed by jealous colleagues that disrupted her experiments and she fell behind in work.

> *"And the problem with that, was although I set aside my stuff, other people in the lab in the daytime would use my stuff and not clean it up and they caused quite a lot of my experiments to be set back because of things like glassware being contaminated and screwing up all my results… It was incredibly frustrating."*

The accounts suggest that when adjustments impact the work of colleagues, it is likely the disabled person will experience negative reactions from colleagues (see Noon, 2010).

The reason behind these colleague actions appears to be normalcy of disability and how the individual employee is perceived. When an organisation has a lot of disabled employees or operates in the disability arena then the colleagues are more likely to be supportive, Lisa reported that *"when a lot of your colleagues are disabled you do things for each other and you don't think twice about doing them, because you know they will do things back for you."* What the data hints at here is that in such organisations adjustments are not formalised because there is no fear of asking for ad hoc adjustments as the need arises because *"disability is normal".* The accounts indicate, therefore, that the potential of a RA to impact colleagues could increase the likelihood of the RA being poorly implemented, unless you are working in an organisation where disability is seen as "normal".

External Agencies

There were no reports in the accounts of disabled graduates turning to trade unions or civil society organisations for support to implement reasonable adjustments. When questioned why this was the case, many participants were not trade union members and few felt a CSO had the power to influence their manager implement reasonable adjustments.

The only external agency contacted by disabled graduates for reasonable adjustment support was 'Access to Work' (A2W). A2W are funded by the UK government to support disabled people into work. Disabled employees can apply for monetary support and training to mediate barriers in the workplace. The aim of this programme is to support disabled employees into work and simultaneously aid employers with the financial costs that can arise from employing a disabled person (DWP, 2013). The institution of A2W is widely praised by the participants, yet the mechanics of the organisation are criticized. A2W's success at supporting

disabled graduates was variable; common complaints included slow arrival of equipment, poor disability knowledge by A2W personnel and decentralized provision. Joanna, who has a physical impairment, needed a custom-made chair but the A2W physiotherapist selected a standard chair from a catalogue which did not meet Joanna's needs.

> "*It was a fiasco. I was assessed by a physiotherapist who knew nothing about me and a chair was duly selected from a catalogue (which she had no real knowledge/experience of). .. it has to be said that the chairs are not comfortable for me and I don't think the physio did a very good assessment.*"

Many found it surprising that A2W's staff lacked knowledge about the effects disability. Despite time delays, ignorant staff and decentralized provisions, the general trend was that A2W did overcome barriers to working and without A2W they *"... literally couldn't have done the work."*

Disabled person

Finally, the disabled person was paramount in shaping the implementation gap. This fact mainly centered around how much knowledge the disabled graduate possessed about the type of adjustment they would need and how proactive they were in pursuing adjustments. Rose has a learning impairment and was not aware that she was entitled to any adjustments, failed to request any and consequently struggled in work *"The thing is it [the impairment] is so hard because it does impact on my work, it does mean that I am not as thorough I struggle with it in my own head."* Duncan only disclosed to save his job and David, showed fighting spirit when he had to threaten legal action as he was *"... determined to get what I am entitled to".*

The interviews show that when RAs fail, disabled graduates instigate a range of coping mechanisms. Some participants fought for their rights and still could not receive the adjustments they needed, could not engage the support of colleagues in ad hoc adjustments and therefore resigned. When this situation happened the accounts show the participants exit their job and then engage in three coping strategies: self-employment, rebranding and unemployment. Paul was working in an international organisation at the time of his stroke. The organisation was unwilling to make RAs, so Paul moved to self-employment and became a disability practitioner: *"they just didn't want to know, I had no choice but to resign."* Amelia, Lucy and Paul chose self-employment because it allowed them to *"practice"* what they needed in the workplace and gave them the flexibility. Amelia, a piano teacher, has a degenerative physical condition which meant she needed to alter how she taught:

> *"I turned high tech to compensate – I got various keyboards, there was one that is an Interactive Music Work Station which had various features… you could record things in slow motion, it records digitally….During the lesson they had to respond to the recording rather than me respond to them because I couldn't play live anymore."*

Lucy, was working as a phlebotomist when she developed an impairment that meant she was unable to hold her hands steady to take blood. Her employer failed to offer alternative work or training, a response mandated in legislation. Instead of fighting for her rights Lucy resigned because she was simultaneously being bullied*:*

> *"At the time I was having a lot of trouble with a work colleague who was being very non-understanding about the fact that I couldn't stand for long periods of time and that affected my mental health as well. So I almost took the opportunity of struggling with my work to get out of there and set up my own business."*

These findings suggests that turning to self-employment could be a form of coping strategy and also indicates people being forced from conventional employment and taking on the costs of adjustments themselves, including engaging in precarious employment. The ability of a person to turn to self-employment was contingent on the support networks around them and their social capital. Those graduates with more social capital and more supportive family networks were able to engage in self-employment.

Three participants rebranded themselves as disability advisors because they felt they would be more likely to receive adjustments in these roles. Emma, a wheelchair user, resigned because she could not secure lift access to her workplace. Her employer believed the adjustment would be cost prohibitive, which reflects earlier work by Schur (2003). She rebranded herself as a disability advisor. Sandra also re-branded herself as an equality and diversity specialist:

> "*So basically I got back into work by reinventing myself as an EO Advisor. I wasn't able to gain employment as an archivist*"

The final response to failed RA provision was unemployment. Joanna became unemployed, the only participant, at the time of the study, who failed to secure another position. She is using this time to investigate new career options.

The accounts have shown the presence of an implementation gap, where adjustments were either difficult to secure, such as in the case of David, Sally and Joanna, described above or were rejected, as in the case of Lucy and Sandra. What this finding suggests is that an implementation gap could exist in the case of disabled graduates.

Discussion

This article used a study of disabled graduates and reasonable adjustment provision to determine the nature of an implementation gap. The research focused on two research questions, the evidence for an implementation gap and considered the contextual factors and mediators that shape the implementation gap. Despite legislation and enforcement mechanisms, the study found evidence to suggest that an implementation gap exists. Some disabled graduates were unable to secure adjustments and others faced torturous and slow processes to secure their entitlement, for example, David being told to carry his wheelchair up steps and Claire waiting three months for desks to be moved around so she could lip read. This study, therefore, supports earlier work on the existence of an implementation gap (see: Dickens 2012; Heery 2011; Colgan et al., 2003).

Departing from earlier work, this study drew together mediation and organisational characteristics to understand the implementation gap. The study indicates, in some instances, context could have some impact on the implementation gap. Small organisations were more flexible which facilitated RA provision, in line with research by Sheuy and Jovic (2013). However, Sheuy and Jovic (2013) attribute ease of adjustment in small organisations to flatter hierarchies. In contrast, this research showed adjustments were secured due to small organisations' willingness to learn about the effects of disability. There are also hints at an empty shell hypothesis (see Hoque and Noon, 2004) where the formal policies in the public sector are not given substance. This phenomenon could be explained by the dark side of line management where line managers deliberately subvert policies (Edelman, 1990). Alternatively, it could be further evidence of line manager lacking imagination as in the case of Claire (moving desks) and lack of initiative to retain employees as in the case of Lucy (see also Foster and Wass, 2013).

There was little distinction found between private and public sectors but those working in the third sector uniformly received RA. The degree to which management perceive certain issues to be relevant reflects the characteristics of the workforce (Felstead et al., 2002), as shown in the instance of the 100% success rate in the third sector.

The participants' impairment was not seen to be central in affecting the gap because while people's impairments were stable, their ability to secure adjustments was variable depending on the context in which they worked. This finding highlights the need to consider the interaction of the body with society (see Thomas, 2007).

Turing to explore mediation; there is evidence that line managers and HR specialists do mediate legislation, which is consistent with previous research (e.g., Colling & Dickens, 1998; Cunningham and Hyman, 1995; Gilbert et al., 2011; Gonas, 2004; Purcell, 2012), the study expanded this work by focusing on the constraining and enabling contexts that influence HR and line managers. The accounts indicate line managers may only be influential when specialist E&D HR support is absent.

In contrast to findings by Dickens (2012), in the opinion of disabled graduates, specialist E&D HR managers were more influential than line managers because they retained authority and responsibility (see Walsh, 2007). The ability of specialist E&D HR to positively reduce the implementation gap reflects the work by Healy and Oikelome, (2007) where diversity specialists are pivotal. However, this study expands the work by Healy and Oikelome (2007) and shows the disability specialists need to be in a HR role. When specialist E&D HR managers were present, line managers were often given little training, lacked knowledge or power to implement RAs. Conversely, the data indicate that the presence of a generic HR manager created a more important role for line managers, yet they often lacked knowledge of the effects disability. It is not lack of knowledge on disability policy or legislation that was

important (see Bell, 2015; Foster and Scott, 2015) but knowledge of the effects of disability on the person that was shown to be important in determining RA outcomes. The accounts indicate that the balance of power between specialist HR, generic HR and line mangers is reflective of the wider value of equality and diversity in the organisation. The ability of line and HR managers to implement RA in an environment which does not value equality and diversity creates a situation where they reproduce structural constraints, as seen in Colling and Dickens (1998) and inhibit RA provision. The ability of specialist E&D HR, generic HR and line managers to implement RA could be attributed to three causes, firstly, knowledge of the effects of disability, secondly the ability of line managers to 'sell' equality to senior managers (see Dutton et al, 2002) and finally the characteristics of the workforce.

The participants report that A2W was pivotal in implementing RA, despite concerns about its efficacy. However, due to funding cuts (Unison, 2015) the ability of A2W to continue providing such levels of support is questionable. A2W was the only government agency reported to affect RA provision and contrary to Dickens (2012) trade unions and CSOs were not shown to mediate law in the instance of RA.

Colleagues were shown to mediate the implementation gap in two ways, contrary to Dickens (2012). Colleagues, firstly, impact the RA process through their acceptance or rejection of the different treatment afforded to disabled employees. Secondly, they provide a route for ad-hoc, informal adjustments. In the study, where colleagues accepted the different treatment, then RAs were more successful, but when colleagues opposed the RA they acted negatively towards the disabled person and the RAs usually failed. While William-Whitt and Taras (2010) found negative colleague interaction around disability was the result of the disabled colleague previously being considered 'difficult', this study found no evidence of this phenomenon. Instead, the acceptance or rejection of RA hinged on how much disruption the colleagues experienced (e.g. Sophie's font enlargement) and the degree of normalcy of

disability in the organisation. This finding contrasts with work by Foster and Wass (2013) who found that if reasonable adjustments were disruptive then line managers were likely to be inactive. Instead this study shows that disruption of reasonable adjustment does not cause line managers to be inactive, but colleagues to react negatively.

Additionally, the interviews suggests that the disabled person themselves affected the implementation gap. Hepple et al., (2000) and O'Brien (2012) acknowledge the need for employees to assert and pursue their rights; in this study the disabled graduates who had more social capital, acted as active agents and pursued their adjustments were more likely to receive RAs. Engel and Munder (2003) found individuals who do not see disability as all-encompassing are able to maintain a forward looking attitude, evidenced in this research. Where disabled graduates engaged in alternative career choices to mediate disadvantage this echoes the negotiation model (Gerhardt, 1989) where disabled people strike balances between illness, treatment and selfhood. While pursuing an alternative career could be empowering for the disabled graduate, the positive effect is minimal because they are still constrained by the conditions of society and have hence taken upon themselves the costs of precarious employment, unemployment or career diversion.

What this research highlights is the underpinning importance of experience of disability and knowledge of the effects of disability in determining the nature of the implementation gap. The graduates reported more positive experiences, across the board, when specialist and generic HR, line managers, colleagues and they themselves had more experience of disability, a factor not reported elsewhere.

Practical implications of the study include the need to champion knowledge of the effects of disability as this was the main mediating factor in the shape of the implementation gap. Disability awareness training should be encouraged to allow colleagues to accept the

different treatment afforded to disabled employees. Furthermore, the study highlights the practical importance of continued governmental support via A2W.

Conclusion

Heery (2011) states that the efficacy of law depends on the degree to which it contradicts or reinforces societal trends. While society is seen to advocate the employment of disabled people and equal rights, their experience differs depending on the implementation of law in the workplace. The study found that while the majority of adjustments were secured, the process was usually painful and protracted, attributed to the existence of an implementation gap, instead of legislative failure. Mediation, context and their interaction were seen as paramount to implementing legislation, underpinned by knowledge of the effects of disability. The study showed that consideration of context or mediation alone are insufficient to fully understand the implementation gap. Further large scale, case study research is needed to identify the extent to which the implementation gap is evidenced in the wider disabled worker population.

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