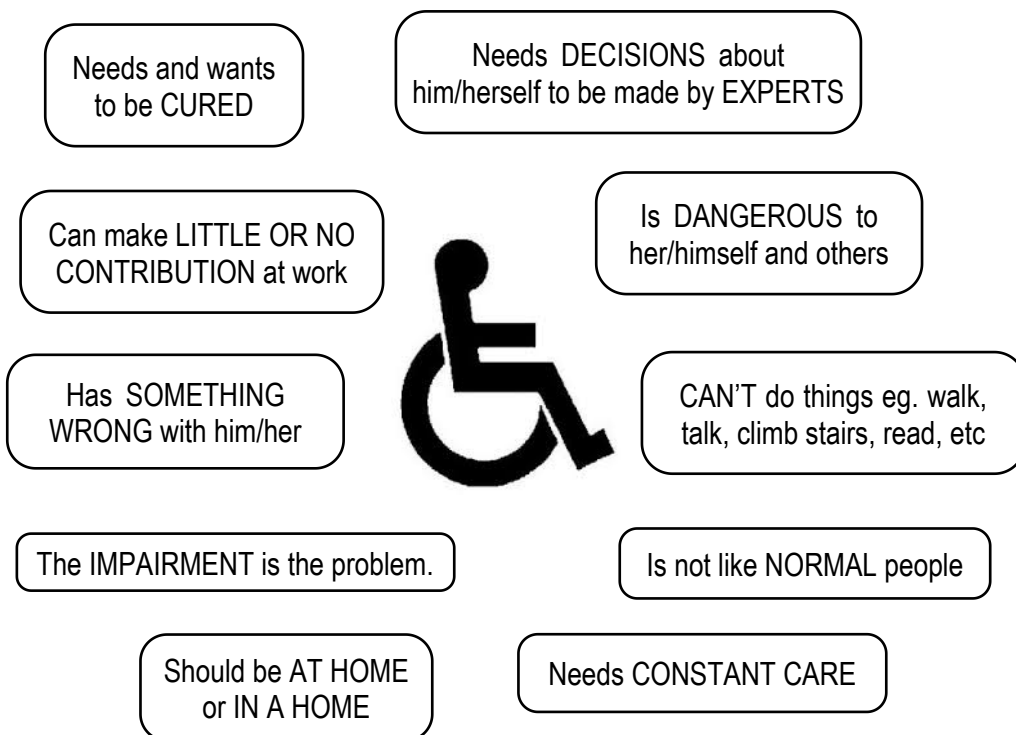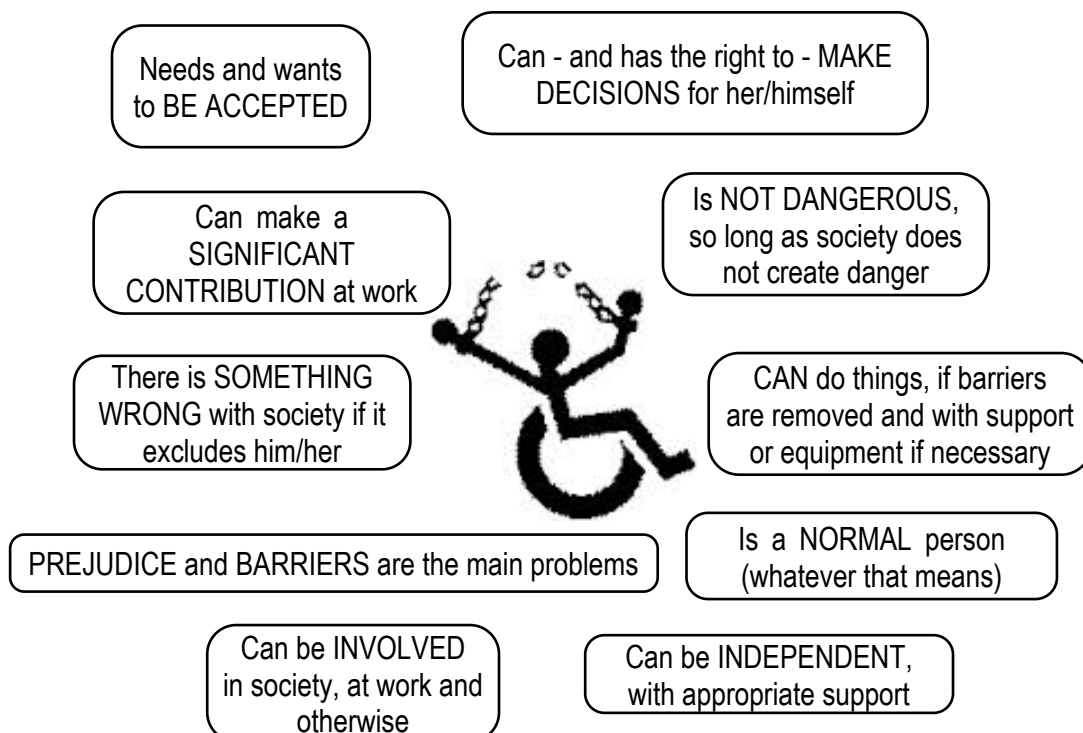# Trade Unions and Disabled Members: Why the social model matters

Taking forward TUC policy on the social model of disability

THE MEDICAL MODEL OF DISABILITY

Needs and wants to be CURED

Needs DECISIONS about him/herself to be made by EXPERTS

Can make LITTLE OR NO CONTRIBUTION at work

Is DANGEROUS to her/himself and others

Has SOMETHING WRONG with him/her

CAN'T do things eg. walk, talk, climb stairs, read, etc

The IMPAIRMENT is the problem.

Is not like NORMAL people

Should be AT HOME or IN A HOME

Needs CONSTANT CARE

THE SOCIAL MODEL OF DISABILITY

Needs and wants to BE ACCEPTED

Can - and has the right to - MAKE DECISIONS for her/himself

Can make a SIGNIFICANT CONTRIBUTION at work

Is NOT DANGEROUS, so long as society does not create danger

There is SOMETHING WRONG with society if it excludes him/her

CAN do things, if barriers are removed and with support or equipment if necessary

PREJUDICE and BARRIERS are the main problems

Is a NORMAL person (whatever that means)

Can be INVOLVED in society, at work and otherwise

Can be INDEPENDENT, with appropriate support

Trade unions and disabled members: why the social model matters

Introduction

Trade unions played a big part in the progress made in improving the lives of Britain's eleven million disabled people, particularly in the area of employment, until that progress was halted by the policies of the Coalition government that took office in 2010. Trade unions have since played an important part in resisting the impact of those policies.

In 2008, following a recommendation of the TUC Disability conference, the TUC published guidance for unions on why it was important that they base their policies, practices and actions on the social model of disability, in contrast to the medical model which was then – and remains – dominant in society. A lot has changed since 2008 and the 2014 Disabled Workers Conference asked for an updated version of the guidance.

The attacks on the lives and living standards of disabled people and the associated propaganda to justify them that have been carried out by the Coalition government have reinforced prejudice and discrimination against disabled people. This makes it even more important that the social model – in which the disability is understood to be the result of barriers preventing the inclusion of people with impairments, and not the impairment itself – is used as the foundation for unions' work in this area. This is not a philosophical distinction – it has real significance in society, in the workplace and in the way that unions work.

There are many reasons for building on the progress unions have already made: the legal framework has changed with the ratification by the UK of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), itself based on the social model; the Equality Act 2010 has replaced the previous legislation (the Disability Discrimination Act 1995

(DDA)); many unions have strengthened their commitment to engage with their disabled members; and trade unions have been champions of the resistance against government attempts to take disabled people back into the Dark Ages.

This briefing invites unions, in compliance with their legal obligations and recognising the practical impact of adopting a social model approach, to continue to develop work with their disabled members to review their practices and policies and to strengthen their commitment to equality.

1.   The law, TUC policy and the social model in practice

DDA, Equality Act, PSED

The former Disability Discrimination Act (DDA) 1995 was subsumed within the Equality Act 2010. Although successive progressive amendments blurred the edges, and the public sector equality duty adopted in 2006 pushed it further in the direction of a social model approach, the law remains rooted in a medical model of disability. To gain the protection of the law against discrimination on grounds of disability, someone must demonstrate what they cannot do by comparison with a non-disabled person. If they meet the criteria, they are entitled to a "reasonable adjustment" from the employer or service provider to enable them to work or access the service. The focus of this law is therefore what the disabled person cannot do, rather than a challenge to the barriers that might cause the problem in the first place: in this model, the individual is the problem, not the barrier. Cases often begin with the employer arguing that the complainant is not disabled enough to qualify for protection, and the claimant having to demonstrate what they cannot do. If this is proven, then they have to show that an adjustment the employer could have made would have been a reasonable step for them to take.

The Equality Act retained the equality duty that had been added to the DDA in 2006: this was the obligation on all public sector organisations to challenge discrimination, involve disabled people in relevant decision making and positively promote

inclusion and equality (amongst other obligations). This positive extension of the law brought it closer to a social model approach. Unfortunately, among the retrograde measures introduced by the coalition government was a significant weakening of this public sector equality duty, with the effect of reducing its usefulness as a way for disabled people to take forward their rights through public policy. Failure to follow even the duty's weakened requirements has provided the basis for many legal challenges to government attacks on disabled people.

Unions are also subject to the law: the DDA and now the Equality Act placed obligations on unions as "trade associations". It is illegal for a union to discriminate against a member or applicant, on grounds of disability, in the provision of access to training or events, publications, level of representation, benefits, meetings and election procedures. (For detailed guidance on how the law works, see the TUC's *Disability and Work*).

UN Convention

The framework in which UK law operates has now changed. The UK government ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in 2009 and the Equality Act has to be read to comply with it. The Convention is now (2015) being cited in UK courts. The UNCRPD was written by an international team of disabled people's representatives and inclusion of and engagement and involvement of disabled people is its central theme across all its articles which touch on every aspect of life. The Equality and Human Rights Commission guidance to the UNCRPD states (page 8) that "the Convention is based on the social model of disability. It recognises that people with impairments are excluded by barriers created by society, and so are disabled by inaccessible services, barriers in the built environment or prejudice and stigma. It also recognises that these barriers change over time for the individual."

Trade unions and the social model

Since 2007, TUC policy has been for a consistent approach across the movement of support for the social model, training to ensure that staff and representatives understand this approach, and reviews of union practices (such as publications) to make sure that the right arguments and the right language are used; and an insistence that support for the social model is required before support is given to external disability organisations. In 2014, the policy was reinforced at the Disabled Workers' Conference with a call for new guidance on the social model to ensure that awareness is raised of the changing circumstances of disabled workers and that disabled workers are encouraged to become involved in the movement.

Positive progress is being made. The biennial TUC Equality Audit tracks progress by trade unions on the whole equality agenda. The 2014 Audit confirmed progress by unions in the area of disability. The audit identified that since 2011, the number of unions that monitored members for disability has risen from 27 to 47 per cent. Although this remains fewer than the number monitoring for gender and ethnicity, the increase indicates continuing progress. A similar proportion monitored the number of disabled members among their conference delegates and national executive members. There was also an increase in the proportion of unions taking steps to encourage recruitment of disabled members and promoting their engagement in the union. Four-fifths of trade unionists are now in a union that has a national disability committee or structure. Having such a mechanism is a vital step in ensuring the voice of a union's disabled members is heard.

2.   Why the social model matters

The medical model underlying the DDA/Equality Act has a long history. For a long period, disability was thought by almost everyone to signify an inability to live a "normal life". Disabled people were seen as either the pathetic and helpless objects of charity, or else, if they managed despite everything to succeed in their careers and lives, as heroic figures overcoming their

"defects" (not, note, the barriers) by superhuman effort. This was also the message promoted by the Coalition government during and following the Paralympics (2012). Historically, well-meaning celebrities and philanthropists appointed themselves the spokespersons and experts on disability, despite being non-disabled themselves, and the focus was on street corner collections to fund the charities, none led by disabled people, and separate institutions to care for (= lock away) the most impaired. Although much has improved since disabled people began to challenge this picture and demanded the right to speak for themselves, and there have been changes in the policy of many of the large charitable organisations, the medical/charity model continues to dominate popular awareness and the media continues to promote this image relentlessly. Non-disabled people might assuage their consciences by making a donation to a good cause, but nothing changes for disabled people as a whole when this approach dominates thinking.

The social model challenges this approach. It recognises the vital point that the barriers that currently exclude disabled people are not only the obvious physical obstacles (such as steps for a wheelchair user, or the absence of an induction loop for someone with a hearing impairment), but also the attitude that accompanies the medical model. There is a deep-rooted social and cultural majority consensus based on the medical model, and these attitudes maintain and condone continued exclusion and inequality. Since 2010, government propaganda assisted by the media to portray those on benefits as scroungers and cheats has reinforced prejudice against disabled people and has enhanced a Victorian distinction between "deserving" and "undeserving" poor with disabled people on the wrong side of this barrier, while charities raising money based on images of suffering reinforce the idea of disability as an individual defect calling for compassion, instead of campaigning for support to remove the barriers that prevent inclusion.

The social model turns the traditional approach on its head. It asks what can be done to remove the barriers to inclusion: it is about fitting the job to the worker, rather than the worker to the job. It places the onus on the employer (and service

provider) to make changes to the workplace and to workplace policies, practices and procedures to render them accessible to disabled people, rather than on the worker to demonstrate what it is they cannot achieve. Adopting this approach is also a win for the employer and service provider, who will benefit because they become accessible to a wider group of potential workers and potential customers, instead of having to rush to fix a problem to provide access to each individual employee who requires an adjustment.

Social versus medical model: two different approaches
Case study 1

A disabled person using a wheelchair cannot get into the workplace because of a step in the doorway. In the medical model, someone will be assigned to lift the disabled person up and over the step, every time.

In the social model, the employer installs a permanent ramp so that disabled worker has permanent access to the workplace. So also will anyone else with mobility problems, or people pushing trolleys (etc).

Adopting a social model approach will have obvious benefits for the many disabled people with visible impairments such as affect mobility, sight and hearing, the people most associated with the term "disabled" in public perception, and where simple and proactive changes can bring greater inclusion. It will also have a major impact for the many millions of disabled people with what are called "hidden impairments". It has long been the case that people with mental health conditions have faced even worse exclusion from the labour market than most other disabled people, and even greater social stigma: and government austerity policy has not only increased the incidence of conditions like depression arising from stress, it has also reduced the capacity of health and social services to offer remedies when affairs reach the point where these are called for. The social model approach would lead to employers being asked to address the causes of mental health conditions in their own practices, to minimise

them and to encourage an environment where colleagues feel confident to disclose a problem while it is possible to remove the cause before it is too late. Training for staff and managers would reduce the risk of stigmatisation that prevents early disclosure in too many cases.

Social versus medical model: two different approaches Case study 2

Joanna is starting to turn up late, miss deadlines and behaving out of character. In the medical model, HR begin capability procedures despite her saying she is stressed. She is dismissed, the union sues the employer in the ET for disability discrimination. They win but Joanna does not wish to return to this job.

In the social model, the employer has a mental health workplace policy and managers have been trained in it. Joanna's line manager discusses with her what is causing her stress, identifies workload and issues at home, acts to redistribute work (with the consent of colleagues) and to allow Joanna time off to deal with her domestic crises. Joanna remains in employment and returns to full productivity.

Simple changes in the workplace – and greater awareness from employers and managers readily achieved by training – could also remove the causes of problems created for workers with dyslexia, dyspraxia, or autism and other neurodiverse conditions by their work environment or management practice. There is TUC guidance available for unions on all these subjects.

Using a social rather than a medical model immediately transforms how the position of a disabled person is seen. It changes the focus of union action, too, from dealing with the effect of an individual's impairment to identifying the barriers that need removing. This is the most important challenge for union negotiators today.

3.   Steps towards a consistent social model practice

Most unions have undertaken significant steps to ensure that they are providing no less a service for their disabled members than for any other members. Some have established strong internal structures with the required support to ensure that their disabled members have an effective voice. Smaller unions may not have been able to find the resources to go so far. But all unions will have the resources to consider taking some of the following steps.

Formal adoption of the social model

It would be a good starting point for the union to ensure that it enshrines in its own rules, or adopts as policy, that it uses the social model of disability and that it expects all its employees and representatives to follow it.

Training of staff and representatives

It may be necessary to accompany such a step with the provision of training to ensure that staff and representatives understand what the social model means. Logically, such training can be combined with training in the practical steps that union representatives need to know about to ensure that they are providing effective representation to disabled members, or negotiating appropriate policies and procedures with employers. Many unions already provide disability training. If so, it is suggested that this is reviewed to ensure that the training provider is working in a social model framework.

Much trade union education is provided by recognised trade union tutors (such as the very successful Disability Champions project). Where unions are buying in training from sources outside the movement, the TUC recommends, in keeping with the spirit of the social model, that this is provided where possible by disabled people themselves, and that it be Disability Equality training rather than Disability Awareness training. Both types will explain the legal obligations, but whereas the former is rooted in the social model and promotes an inclusive understanding of disability equality, the latter – and it can be of

variable content and quality – sometimes reproduces and reinforces a medical model approach.

Involving disabled members

Alongside these measures, it is strongly recommended that unions that do not yet have structures through which to involve disabled members give consideration to establishing them. The disability movement long ago adopted the principle of "nothing about us without us" and the same should apply in a trade union setting. Such a body can be asked for its views and recommendations on all and any disability issue, subject of course to each union's rules, and can play, if involved, a constructive part in improving the organisation's policies and practices. By the same process, disabled members will become involved and engaged with the union.

Reviewing policies and practices

A disabled members' structure could be involved in a review of the union's policies, practices, publications and activities to check that these are free of medical model approaches to disability. It will be important for this exercise to take place, insofar as it leads to a consistent application of the national policy of the union. In the process, understanding of why the exercise is taking place can be improved and spread across the union.

Examples of what might need to be reviewed could include:

- the **language** used in union literature and websites: it is important that the terminology is a reflection of the union's understanding of disability. Medical model terminology sends out the wrong signal and can additionally be highly offensive to disabled people. There are a number of guides available (including one from the NUJ) that explain what is appropriate terminology.

- the language used in materials produced for the recruitment and employment of the union's paid staff

- the approach to, and **images** of, disability in union journals and publications

- how **monitoring** of the membership and staff is carried out: while monitoring is only the first step in providing information to enable the union to meet (at a minimum) its legal obligations, without monitoring it may be much more difficult to identify and rectify problems. When monitoring, it is essential that questions ask members not about impairments but to self-define as disabled. Advice on monitoring disability and the social model approach is given in the TUC publication *Disability and Work*.

- whether the union offers support to organisations of disabled people – for example, those leading the struggle against government policies on a social model basis such as Disabled People against the Cuts; or those promoting a long-term social model understanding of the position in society of disabled people, such as UK Disability History Month. UKDHM offers the opportunity every November/December to organise activities that promote deeper understanding of the role of disabled people and reclaim the history of disabled people's struggles for equality.

- support given to, or received from, <u>outside organisations</u>. It may be necessary to enquire of disability organisations in receipt of donations, or advertising, or which place advertisements in union publications, whether they subscribe to the social model, and make it clear that the union will not continue to support (or offer space to) organisations that do not. In this way, the union can avoid inadvertently offending against disability equality principles or offending members who might be angry that support is being provided for an organisation the practices of which may be incompatible with disability equality. It may also add to the pressure to change for the better the practices and policies of disability charities (for example).

Necessarily, to carry out a programme of review (and if necessary, change) will call for a decision at the highest levels to give sufficient priority to this work. The most important step will be to take the social model thoroughly on board, if it is not already, and to deploy it as the underpinning for making whatever changes are found to be required.

4.   The benefits of the social model

This briefing has explained the benefits of unions ensuring that they pursue a social model approach to disability throughout their policies, practices and procedures. At a time when the gains of previous years have been reversed by government policy which is also demonising disabled people, it is more important than ever for unions to challenge this with a response rooted in a social model case for inclusion.

Unions taking the steps to make this "live" in their activities will benefit as well from increased membership participation and activity and increased recruitment of disabled people – who are already (if only slightly) more likely than non-disabled workers to be union members.

Persuading employers to accept the argument that they should adopt a proactive approach to removing barriers will not only benefit the union's current disabled members, it will also benefit members whose impairments change and members who acquire impairments in the future; and make the employer more attractive to potential recruits.

Conclusion

The TUC Disabled Workers Conference and the TUC Disabled Workers Committee have invited unions to strengthen their commitment to disability equality by reviewing their policies, practices and procedures to ensure that they achieve an effective adoption of the social model of disability, as laid out in this briefing, and maintain the position trade unions are rightly claiming as leaders of disability equality.