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Welcome

Our sense of ‘self’ is closely connected to whatever occupies most of our time; for the majority of working age people that means employment in some form – paid or voluntary, full or part-time – or perhaps full time education.

Gainful employment contributes massively to our general wellbeing, and striving to return to work is something that motivates many people affected by brain injury, although their capacity to return to a pre-injury occupation might be seriously compromised.

In this issue, Dr Andy Tyerman – a clinical neuropsychologist behind inter-agency guidelines on vocational assessment and rehabilitation – considers the benefits of helping people to return to or remain in work (page 3).

On page 12 Professor Andrew Frank of the Vocational Rehabilitation Association looks at some of the essential ingredients for a successful return to work – robust policies, processes and management.

The complex needs of people supported by the Brain Injury Rehabilitation Trust means that few will return to paid employment. However, Dr Sue Capstick demonstrates how specialist rehabilitation and sheer determination has enabled two individuals to play a valuable role within their communities on page 7.

Katherine Maxwell of Moore Blatch looks at the rights of employees and the obligations of employers following a serious injury, and at the employment rights of those finding themselves with carer responsibilities on page 9.

On the flip side of the coin, Glen Miles of asb law provides a few pointers on what to bear in mind if you find yourself having to employ personal support workers on page 14.

There is some flexibility within the welfare benefits system to encourage people who can’t return to their previous employment to consider retraining or working or volunteering on a part-time basis. Phil Runciman of Nestor offers more detail on page 11.

If you’d like us to cover a specific issue in Brain Injury News or on our website, please do get in touch. You can find further information and resources on our website at www.braininjurygroup.co.uk, and if you need help with a problem now, please call 0800 612 9660 to find out how we can help.

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The Brain Injury Group, a not-for-profit community interest company, is a network of specialist brain injury solicitors and other professionals with proven experience of supporting those affected by brain injury. Our aim is to provide a gateway to support, information and advice for brain injured people, their families and carers.

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The importance of work for people with a brain injury

Consultant Clinical Neuropsychologist Dr Andy Tyerman heads up the Community Head Injury Service at Buckinghamshire Healthcare NHS Trust, where he helps people adjust to and manage the effects of a brain injury. Here, he discusses the importance of work after a brain injury.
During our working lives we typically spend about half our waking hours at work. Work provides us with essential personal and social benefits, including a sense of personal worth, the opportunity to participate in a social community, structure to the day and, of course, financial independence.

The effect of unemployment is well documented. Of the negative mental health consequences, depressive symptoms are well known but these also commonly include stress reactions, anxiety and loss of self-esteem. For those with health conditions there is a strong association between worklessness and ill-health, manifested in higher mortality, poorer general health and poorer mental health and strong evidence to support the restorative effect of re-employment (see Tyerman et al. in press). As such, it is generally concluded that the benefits of work outweigh the risks. Although for those with a disability, work can pose significant challenges.

Returning to or remaining in work has been shown to be a key element in quality of life and life satisfaction after a traumatic brain injury (TBI) or a stroke. However, only a minority of people of working age return to work after a brain injury or stroke, or attain work if they have had a brain injury during their childhood. Systematic reviews of those previously in paid or voluntary work report return to work rates ranging from 0-84% after a TBI, with a mean of 41% at one or two years, and 3-60% after stroke with a mean of 39% at two years (van Velzen et al. 2009).

**Vocational rehabilitation: an urgent area of unmet need**

The central importance of work after a brain injury or stroke is made very clear to me as a clinical neuropsychologist trying to assist people in understanding, managing and adjusting to the effects of their brain injury, it was clear that the loss of daily occupation left a huge vacuum in people’s lives. Without the foundation of work, most people were struggling to find purpose and meaning to their daily lives. Helping people to return work or to alternatives to work was clearly an urgent area of unmet need.

**Addressing a range of complex needs**

The work-related needs after a brain injury are many and varied. They involve a complex interaction of many factors relating to the individual, their work situation at the time of the injury, the nature of the brain injury, the rehabilitation received and the specific demands of the job.

People with a broadly comparable brain injury will be differentially restricted depending on their profession and job specific role, while those with a similar job role will be differentially restricted depending on the nature and severity of their brain injury. Some people require informed advice about a graded and supported return to previous work, with some also needing help to regain the skills necessary for a return to work. Those unable to return to their previous job role may need guidance about work adjustments or an alternative job role with the same employer. Their employers may need guidance too. Those unable to return to the same kind of work need to be assessed and supported to apply for and settle into new alternative employment.

People who want to return to higher education, vocational rehabilitation programme

We are very fortunate in the Community Head Injury Service, Buckinghamshire Healthcare NHS, to have had the opportunity since 1992 to develop and run ‘Working Out’, a brain injury vocational rehabilitation programme specifically to help people who had been unable to return to their previous occupation to find alternative work or alternatives to work (Tyerman et al. 2008). This programme has demonstrated that it is possible to help many people to return to alternative employment (often part time) or other occupation, although for some people this has required ongoing access to specialist support.

*Continued on page 6*
Working Out – outcomes achieved

- 23% returned to full-time paid employment
- 8% returned to training/higher education
- 25% returned to part-time paid employment
- 30% went to alternative unpaid occupations

The figures left show the outcome for a series of 100 people who had been unable to return to a previous occupation (at a median of 45 months post-injury). Very few would be expected to achieve this without specialist input.
The programme initially focussed on people unable to return to previous work. However the value of developing specialist assistance in return to previous work and in long-term job retention and employment have also been evident. Some of those who appear initially to have made a successful return to work struggle to maintain this over time. This occurs for many reasons, such as fatigue, unrealistic expectations of a quick return to full productivity, and the ever-changing demands of work (for example, the introduction of new technology).

Sadly, some of the long-term job retention referrals to our programme are people subject to capability or disciplinary processes because of the effects of their brain injury.

Benefits of helping people back to work

Assisting people with brain injury back to work has required flexibility and creativity. It has involved guiding and supporting people to prepare for, explore and establish themselves in a new occupation. There is a wide range of options available including open employment, self-employment, vocational training, supported employment, permitted earnings (a Department for Work and Pensions scheme that allows people on certain benefits to supplement their income through work of a therapeutic nature), social enterprise projects, voluntary work, adult education and leisure pursuits.

It is important to stress that while voluntary work may be viewed as a less desirable outcome, for people with a brain injury unable to return to previous work, voluntary work can make a major difference for them and their families.

We have seen the benefits of helping people back to alternative occupation in restoring structure and meaning to their lives - without specialist help they would have had little prospect of doing so. During my career I have focussed on providing neuropsychological rehabilitation in developing services to support families and in vocational rehabilitation. The difference made by the Working Out programme in helping people to return to some kind of work after brain injury is, in my view, the most important contribution of my career.

Models of vocational rehabilitation

There is a range of models of vocational rehabilitation that can support people after a brain injury. These include neurorehabilitation programmes with integrated or added vocational rehabilitation elements, models adapted for brain injury, case coordination models and consumer-directed models, all of which have reported positive vocational outcomes (Tyerman, 2012). Our experience is that different models are best suited to different vocational needs and services involved in brain injury rehabilitation. For example, added vocational rehabilitation elements for NHS community brain injury services, supported employment models for specialist providers, case coordination models for independent case managers, and consumer-directed models in the voluntary sector.

Disappointingly, there has been only limited growth in specialist vocational rehabilitation to facilitate a return to work after a brain injury in the 25 years that we have been running our programme, and currently only a minority of people with a brain injury receive the support they need. However, there is much that can be done to support people to return to and stay in work, without having a specialist programme designed for that purpose.

The majority of people of working age with a brain injury are keen to return to work. But they need guidance and support from those who understand their needs, both in advising them in what is likely to be possible at any given stage and in practical problem-solving and supporting them to achieve this.

The extent of unmet need is such that we need all injury rehabilitation services to consider what more they could do to assist people with a brain injury with their work-related needs.

Dr Andy Tyerman qualified in 1979. He has been Head of Service at Aylesbury Community Head Injury Service since 1992. The highly regarded service provides brain injury assessment and rehabilitation, specialist family services and the award-winning ‘Working Out’ programme. He has been instrumental in producing inter-agency brain injury guidelines on vocational assessment and rehabilitation.

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References


The Brain Injury Rehabilitation Trust (BIRT) is a charity leading the way in brain injury rehabilitation across the UK. Here Dr Sue Copstick, Director of Clinical Services, introduces Duncan and Gary, who the charity has supported into volunteering roles, enabling them to make progress with their rehabilitation and engage within their communities.

At BIRT, we offer specialist assessment and rehabilitation services for people with disabilities resulting from brain injury. This includes traumatic brain injury, stroke and other forms of acquired brain injury.

Founded in 1991, BIRT has 15 centres across England, Scotland and Wales. The multidisciplinary teams in our rehabilitation centres support people with a brain injury to function as independently as possible, develop their lives as they choose and participate in the wider community.

We provide a full range of services to meet people’s needs at any stage of their recovery. As an individual becomes more independent, BIRT provides suitable support and accommodation which will, hopefully, lead to them being discharged and living independently.

The people BIRT supports have extremely complex and challenging needs. Very few will go back to full employment but many volunteer in a wide range of roles. The following case studies demonstrate how specialist rehabilitation, as well as personal determination, can result in people making a valuable contribution to their community.

**Gary’s story**

Gary, 44, came to BIRT’s Daniel Yorath House (DYH) in February 2015, from the rehabilitation ward of a local hospital. He’d had a stroke when he was 42 and was experiencing considerable physical problems, including weakness on his left side and low muscle tone. He needed hoist assistance with transfers, and was using a wheelchair to get around. Gary also had memory problems and attention deficit, as well as difficulties with executive functioning such as initiation and slow processing.

Gary’s aim was to return to the flat where he’d lived before his injury. His rehabilitation programme was built around the neurobehavioural approach with combined psychology – to help Gary gain insight into his injury – as well as physiotherapy and occupational therapy.

To achieve his goal, Gary needed to strengthen his left side to increase his stability and mobility, and to improve awareness and insight into his brain injury.

**Building the skills to return home**

DYH arranged regular hydrotherapy sessions, delivered alongside an intensive programme of physiotherapy. The occupational team focused on helping Gary to practice the skills he would need when returning home – such as self care, meal planning, managing finances and getting involved in his local community.

In May 2015, less than 12 months after arriving at DYH, Gary completed a sponsored walk. Cheered on by staff and service users, friends and family, he completed a mile, walking with just one stick.

Gary also started volunteering in a local charity shop, St Gemma’s Hospice in Guiseley, for two to three hours a week. The DYH team supported him to get this placement to build his confidence and develop his CV.

Gary was discharged from DYH in December 2016 and was able to return home to his second floor flat. He is now living independently and has increased his time at the charity shop to two days a week, which he enjoys. "It’s good, it keeps my mind active," he says.

Gary’s long-term goal is to be able to return to paid employment.
Duncan, 39, came to BIRT’s Graham Anderson House (GAH) in Glasgow in 2012. He’d sustained a brain injury when he was 17 and had been living with his family. He’d had several rehabilitation placements which had failed because of his challenging behaviour.

GAH is a specialist neurobehavioural assessment and post-acute rehabilitation hospital, with strong clinical expertise and a high staff to service user ratio. This allows us to offer exceptional levels of care and support for people with challenging behaviour and complex needs, and we are able to take referrals for people detained under the Mental Health (Care and Treatment) (Scotland) Act 2003.

When Duncan came to GAH he struggled with his behaviour. One of his ongoing goals is: “To continue to behave in a manner that shows I am mature and well-balanced, even in difficult situations”.

Duncan spent 33 months in GAH’s main assessment and rehabilitation centre, before moving into his own flat in the Eastfields Transitional Living Unit in November 2015. This new development, opened in September 2015, is a good example of our continuum of services where people who need longer term support or are preparing to live more independently can develop life skills.

Eastfields gives Duncan a high level of independence, but staff are there for him whenever he needs support. The occupational therapy team has worked with him to develop his skills for independent living and maintaining a tenancy. This has included helping Duncan to do his own cleaning and laundry, plan for and do a weekly grocery shop, and prepare and cook his own meals.

**Value of volunteering**

Duncan is now a keen cyclist and walker and takes part in regular community activities. Shortly after moving to Eastfields he also started volunteering at the Glasgow Wood Recycling Centre, a social enterprise that gives people the opportunity to volunteer and train for employment. Duncan’s role involves packaging up wood and taking it to the centre where it is made into furniture.

The team at Lambhill Stables community hub in North Glasgow also benefits from Duncan’s volunteering. He works in their café two days a week. “Duncan works really hard and has been with us for many years,” says Bjorg, the café manager. “He’s a very sociable person and enjoys chatting to everyone. Without Duncan’s support we couldn’t run many of our clubs.”

More than 17 years after his original injury, BIRT was able to support Duncan to progress with rehabilitation, helping him develop valuable volunteering roles and give his time and skills.
What are your rights when it comes to time off work if you or someone close to you experiences a brain injury? How should your return to work be managed and what adjustments can you reasonably expect your employer to make? Katherine Maxwell, Partner and Head of Employment at Moore Blatch, outlines the support you should expect, and where to turn should things go wrong.

Returning to work after a brain injury or needing to take time off to care for someone with a brain injury can be a daunting time. However, being aware of how your employer can support you and their obligations in terms of employment law can help to ease the process.

Whether you have suffered an injury yourself, or are caring for someone who has suffered an injury, it’s extremely important to keep your employer fully informed from the earliest opportunity.

Your employment rights if you are injured

Many employers will have limited, if any, experience of what a brain injury means. So don’t be surprised if they seek a medical opinion to enable them to more fully understand how the injury may affect your fitness for work.

If you are considered disabled because of your brain injury, your employer has a legal duty to make ‘reasonable adjustments’ to facilitate your return to work. This could mean a phased return to work, as well as varied start and finish times. People with a disability are protected under the Equality Act 2010.

Even if you do not have a disability, managing your return to work sensitively is key in dealing with a long-term absence successfully.

The goals your employer gives you should be reasonable and achievable. Your employer should meet with you regularly to review how you are coping, and to discuss whether any further adjustments need to be made.

‘Reasonable adjustments’ can also apply to the job you are returning to. If you have a disability, your employer has an obligation to make alterations to your role to better suit your needs. If you need specialist equipment or computer software, your employer may have a duty to provide that too.

Continued on page 10
The process of returning to work may take time. You are well within your rights to expect a period of adjustment where both you and your employer explore ways that your job can be adjusted and modified to better adapt to your needs.

The key to a successful return to work is communication. Be open and honest about your injury and what you do and don’t feel able to do. Many employers will want to do all they can to help, regardless of whether the law requires them to or not. However, how flexible an employer can be will also depend on their type of business. Public or large organisations will undoubtedly find it easier than small specialist businesses to keep a job open or make reasonable adjustments to a role.

In some cases, regretfully, an injury is such that it’s not possible to make reasonable adjustments allowing someone to return to their old job. If you are unable to return to your previous role, and your employer doesn’t have a suitable alternative role that meets your needs, they may have no option but to terminate your employment. If this happens to you, there are organisations and charities that support people with disabilities to find work, such as Scope. Some job centres now have Disability Employment Advisers (DEAs) and this may be a good first port of call.

When it comes to enabling and supporting your return to work, the law does offer some protection and recourse if your employer fails to provide the support and assistance that it should.

**Your employment rights if you care for someone who’s injured**

If you are caring for a loved one with a brain injury, you are covered under the Employment Rights Act.

For certain emergencies you have the right to take a ‘reasonable’ amount of time off unpaid to care for your loved one – this is known as ‘time off for dependents’. However, some employers may choose to continue to pay you during this time, so it’s worth checking your contract or company policy to see if you are entitled to paid leave.

Beyond that, you have a right to flexible working, which means you are eligible to alter your working hours to better suit the responsibilities you now have. You can also request to work from home, enter into a job share, or reduce your hours.

If you need to take a longer period of time off, you can also ask to take some or all of your holiday entitlement as well as your requested period of unpaid leave.

When understanding your rights as a carer, it’s important to know your employment status. If you are being paid to care for your loved one and enter into a formal employer/employee legal arrangement, then your employee rights will differ.

### Summary of your employment rights when caring for a loved one

<table>
<thead>
<tr>
<th>Time off</th>
<th>Action</th>
<th>Legal comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immediate</td>
<td>Allow unpaid time off for emergency</td>
<td>Employees have the right to take a ‘reasonable’ amount of unpaid time off to take ‘necessary’ action to deal with particular situations affecting their dependants.</td>
</tr>
<tr>
<td>Interim</td>
<td>Agree reduction in work or further unpaid time off</td>
<td>There is no legal basis for this request; it would require a voluntary agreement with your employer.</td>
</tr>
<tr>
<td>Interim</td>
<td>A period of annual leave to be taken</td>
<td>This would need to be requested in the normal way.</td>
</tr>
<tr>
<td>Long term</td>
<td>Change of hours and/or duties following a flexible working request</td>
<td>Employees with at least 26 weeks’ continuous employment can make a request for flexible working for any reason.</td>
</tr>
</tbody>
</table>

Katherine Maxwell is a Partner and Head of Employment at Moore Blatch solicitors, providing clear, pragmatic advice on a full range of employment law matters including employees’ contractual and statutory employment rights and entitlements. She has been recognised in Chambers & Partners and Legal 500 for her expertise.

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Ways to help people back into work without having a negative impact on their financial stability do still exist within the benefits system, as Welfare Benefits Advisor Phil Runciman explains.

Many people with an acquired brain injury would cherish the opportunity to return to work. Evidence suggests that employment is a positive step, improving self-confidence and avoiding isolation. However, it can also be a daunting prospect. The benefits system can be a complicated place and knowing the options available will remove the risk of falling foul of the system and losing out financially.

Three ways to return to working while claiming benefits
1. Work experience
Actively promoted by Jobcentre Plus, work experience gives people claiming benefits the opportunity to test their capacity for work while retaining all benefits. It also provides people with an opportunity to try different vocations to decide on the one that suits them best. Work coaches at the Jobcentre can discuss the options available or people can research their own opportunities.

2. Permitted work
Regulations allow people claiming benefits to undertake paid work, with certain limitations, while retaining benefits. They can work less than 16 hours without restriction. If they work more than 16 hours, an ‘appropriate person’ (someone employed by a public or local authority or community or voluntary group that provides or finds work for people with disabilities) will need to supervise. There is a ceiling on the amount of money they can earn, which is currently £120 per week. Since April 2017, there has been no limit on the length of time people can undertake permitted work. Earnings from permitted work is not taken into account when calculating Employment & Support Allowance (ESA), Housing Benefit and most Council Tax reduction schemes.

3. Part-time work
The benefits system does allow people to work part time. This may lead to an entitlement to Working Tax Credits which can increase earnings substantially. Disability benefits including Disability Living Allowance (DLA) and Personal Independence Payments (PIP) may also increase the award of Working Tax Credit through additional disability components.

Disability-related benefits
Non-means-tested benefits including Disability Living Allowance (DLA) and Personal Independence Payment (PIP) are not affected when someone returns to work. However, returning to work may prompt the Department for Work & Pensions (DWP) to undertake a new medical assessment to determine if their care and mobility needs have changed, which could lead to the award being reduced and affect any Carer’s Allowance being paid to their carer.

ESA will stop if the person claiming works 16 hours or more. The amount earned may also affect the award, unless allowed under the ‘permitted work’ rules. However, the Work Trial and Employment on Trial schemes rules allow them to retain or reclaim benefits without penalty as long as they satisfy the rules.

Universal Credit (UC) is replacing a range of benefits and will be rolled-out by 2022. UC replaces means-tested ESA, Jobseekers Allowance (JSA), Income Support (IS) and Housing Benefit as well as Tax Credits. Universal Credit removes certain restrictions such as the 16-hour rule and allows people to earn more while retaining benefits; as earnings increase, Universal Credit decreases.

It is important to for people claiming benefits to get expert advice before making the decision to return to work. That way they can establish the most effective way of managing the process that protects their rights and gives them the maximum possible income.

Phil Runciman is a Welfare Benefits Advisor with Nestor, an independent financial advice company. He has many years’ experience in the complex personal injury field.

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Vocational rehabilitation practitioners support people whose ability to work has been affected by disability, a health or mental health condition, and need assistance in returning to work.

Why is work important?
Work can meet important psychosocial needs and can be central to individual identity, social roles and social status. Conversely, there is a strong association between lack of work and health in terms of higher mortality, poorer general health and poorer mental health. Dame Carol Black summarised the advantages of employment: “For most people, their work is a key determinant of self-worth, family, esteem, identity and standing within the community, besides, of course, material progress and a means of social participation and fulfilment.”

What is vocational rehabilitation?
Vocational rehabilitation is the part of the rehabilitation process that relates to employment (or other occupation for those unable to earn an income). It embraces vocational goals as part of the rehabilitation plan. Waddell et al. have described vocational rehabilitation as “whatever helps someone with a health problem to stay at, return to and remain in work: it is an idea and an approach as much as an intervention or a service”.

The core ingredients of any vocational rehabilitation or return to work process are the relationships between the client, the actual or potential employer, the health professionals involved and any insurer involved.

Job retention: putting policies in place
It’s impossible to underestimate the role of good management in having sound absence policies which recognise the need for good communication between the employer and the employee. Employment policies should facilitate clear differentiation between absence that relates to ill health, other social factors and those which point to the need for disciplinary action.

Sound policies must of course be implemented at all levels. The development of an open and supportive culture for disabled employees can benefit all staff. Supervisors clearly are important. If managers and supervisors do not fully understand and use their absence policy properly, then inappropriate disciplinary actions or sickness absence may ensue, and the important role that co-workers can play in the vocational rehabilitation process may not be forthcoming.

Job retention after prolonged sickness absence
The important ingredients for achieving a successful return to work are the attributes of the individual concerned, the employer, the health professionals involved and any health insurer.

The first step in the return to work process is to establish a plan. This may include what the employee does or does not wish to discuss with colleagues when they first return.

The next is to establish if there are any components of the employee’s work that they can still perform and, if so, build on that. The advantage to the employer is that long-term sickness absence with its associated costs is reduced if the employer can participate in the employee’s rehabilitation in this way.

Whilst the recognition is relatively new that it is best for all concerned to facilitate an early return to work, in spite of an incomplete recovery, the processes that facilitate it are well understood. Some are covered in the Equality Act, which insists on reasonable accommodations or job modifications being made.
Examples of workplace adjustments include “doing things another way”, for example:

- allowing individuals with social anxiety to have their own desk rather than hot-desking
- improving ventilation for those with heat intolerance
- designated parking spaces for those with limited mobility
- modifying tasks, such as reducing work pressure and offering further support when pressure cannot be avoided.

The government has a key role to play in vocational rehabilitation by supporting those providing the services. The government also provides support for workers who need help in return to work, such as assessing literacy and numeracy skills, preparing a CV, preparing for job interviews and funding a suit for an interview. It may also include paying for a support worker to assist with care needs after traumatic brain injury and addressing workplace stress and mental health problems.

Finding new work
People seeking to return to a previous occupation following an extended period of leave should usually be offered an assessment of vocational skills by a suitably qualified practitioner. Success is dependent not only on the client’s previous level of education, but also the client’s previous work experience. If those supporting the person to return to work are not part of a rehabilitation programme, then there should be close liaison with any health professionals involved. This is likely to be particularly important in certain conditions such as brain injury.

A vocational assessment may be highly technical. It will cover an individual’s previous education, qualifications, employment, hobbies that might convert into a job and transferable skills, as well as medical and rehabilitation history, social and family circumstances and the current state of the labour market. One of the key factors in determining future job roles is that of the personal inclinations of the potential employee, which will not only influence job uptake but also the likelihood of sustaining the new job.

Vocational rehabilitation embraces a large number of skills which facilitate the employment of those with disability, physical or mental ill health. Although individual characteristics are important, close cooperation between the individual, health and rehabilitation professionals and supportive employers offer the best hope of employment. The government plays a key role through legislation, return to work schemes and specific support for individuals and employers in meeting the challenges of ill health and disability in the workplace. For those with severe difficulties resulting from ill health or disability, professionals with both health and employment skills are needed to provide personalised return to work services.

References

The Vocational Rehabilitation Association (VRA) is a UK-wide organisation supporting and promoting all those professionals working in vocational rehabilitation whose purpose is to maximise participation in the workforce.

The Association exists to:
- help people working in the field of disability and employment
- promote and develop their personal, professional and practical skills
- maintain their awareness of a broad range of rehabilitation issues.

Professor Andrew Frank is a former consultant in rehabilitation medicine and a founder member of the UK Rehabilitation Council. He was involved with the VRA for many years and was awarded honorary lifetime membership when he stood down as Chair in 2013. Andrew published a comprehensive review of vocational rehabilitation for non-experts in 2016.

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Responsibilities when employing a carer
We all recognise that brain injury can have a significant impact on people’s lives, and many survivors will require long-term support. One issue that can get overlooked is the employment responsibilities that come with hiring a personal support worker. Glen Miles of asb law looks at the things to keep in mind.

**Employment terms**

Employment terms, such as salary, hours of work, holiday entitlement and notice periods, are governed by legislation such as the Working Time Regulations or the National Minimum Wage. Consideration should be given to ensure that terms are not in breach of legislation and the employee’s minimum entitlements are met. These can be particularly relevant for live-in support, or on accompanied holidays.

**Managing these responsibilities – what are the options?**

1. **Using an agency**
   By far the easiest option, this removes the employment responsibility. However, the lack of control over who delivers the care can be a deal-breaker for many people.

2. **Employment through a case manager or HR service**
   This option removes some of the pressure of recruiting, but still allows people to be actively involved in selecting their carers and agreeing the scope of their role. The case manager would provide outsourced HR services to ensure the carer meets their requirements. There are also insurance backed solutions to protect the employer from claims.

3. **Direct employment**
   This is a more complex and time-consuming option as it means the individual is solely responsible for meeting their employment responsibilities. In reality, due to the vulnerable nature of the injured person, these duties will probably fall to a family member or an attorney or Deputy. If the individual chooses to pursue this option, then they would be wise to seek independent legal advice.

Making sure someone with a brain injury has the right care and support is a vital part of their rehabilitation. But the best approach for employing a carer will vary according to their individual needs. The benefits of having control over the support around them needs to be weighed against the challenge of managing employment responsibilities.
Free advice at your finger tips

LAWS Online is a FREE online service for individuals and families affected by brain injury providing access to advice on a range of legal, financial and welfare issues including:

- Mental capacity | Personal finances | Employment
- Powers of Attorney & Court of Protection | Housing
- Personal injury & criminal injury compensation claims
  - Matrimonial & family matters | Education
  - Personal health & care budgets
  - Care or treatment issues

People looking for advice simply complete a brief online questionnaire and one of our member firms will respond to the initial enquiry – usually within two working days.

LAWS Online. Making it simple to access specialist advice from experienced professionals.

For more information, go to braininjurygroup.co.uk/laws-online-support