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**EMPLOYMENT OF PERSONS WITH MENTAL DISORDERS IN  
THE UK – LEGAL ASPECTS**

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**Abstract**

This article analyzes the UK employment system of persons with mental disorders in terms of its complexity, integration and effectiveness. It indicates the significant financial damage to the economy and labor market caused by mental illnesses. The article identifies the main organizational and legal instruments of the United Kingdom used to implement the relevant state policy, including the provisions of the UN Convention on the Rights of Persons with Disabilities of 2006 and the Equality Act of 2010. It also emphasizes the importance of applying the Employment Statutory Code of Practice in order to solve and prevent problems in this area. The given research studies the problems of employment programs effectiveness for people with mental disorders in the UK. It considers the main provisions of the study «Psychological Wellbeing and Work: Improving Service Provision and Outcomes» and current measures taken by the UK Government to deal with certain problems. This includes the national strategies «Five Year Forward View for Mental Health for the NHS in England»; «Work, health and disability green paper: improving lives»; «Improving Lives: The Future of Work, Health and Disability white paper» and the Work and Health Programme. At the same time, despite the serious efforts made by the UK Government, the employment rates of people with mental disorders and the rest of the population differ significantly. The article notes the advisability of the UK experience results application, both positive and negative, in the Russian Federation mental health sphere.

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*Keywords:* Equality Act of 2010, mental health, supported employment, UK, UN Convention on the Rights of Persons with Disabilities of 2006, work and health programme



## 1. Introduction

The UK's mental health system is rated as one of the best among the countries of the Organization for Economic Cooperation and Development (OECD). A high integration of employment and medical services is among its main positive aspects (Mental Health and Work: United Kingdom. Mental Health and Work, 2014). The UK Government states that employment has a beneficial effect on mental health. It has developed, started and funded a number of initiatives aimed at work rehabilitation and employment of mentally disordered people which will be discussed below.

## 2. Problem Statement

The UK ratified the UN Convention on the Rights of Persons with Disabilities (United Nations General Assembly, 2006) in July 2009. The report on its implementation, submitted in 2011, contains a whole set of organizational and legal instruments applied in the above-mentioned area (Office for Disability Issues, 2011).

According to the report, the UK tries to ensure that people with disabilities work on an equal basis with the other ones. Developing interest and satisfying labor aspirations is the Government priority. At the same time, there is a significant gap between the level of employment of persons with and without disabilities. If in the period from 2002 to 2010 it was reduced from 36 to 29 % (Office for Disability Issues, 24 November 2011), then by the end of 2017 it increased up to 32 % (the level of employment – 48 and 80 % respectively).

Illnesses among people of working age cost the economy 100 billion pounds annually, and due to the employees' sick leave, employers lose 9 billion pounds a year. The average waiting period for psychiatric treatment in England is 12 weeks. Since 2013, the number of working age people with disabilities has increased by 400 thousand people, exceeding 7 million, of which 3.3 million are employed. Almost one in three working-age people in the UK has a long-term health condition that puts their continued involvement in work at risk. Almost one in five people of working age has mental health problems (Department for Work and Pensions, Department of Health and Social Care, 2017a, 2017b). About 40 % of claims for sick leave benefits are related to mental or behavioral disorders (Stolk et al., 2014).

In general, mental illness, according to OECD data published in 2014, is the main factor for labor market exclusion. Taking into account the loss of productivity, social benefits and medical expenses mental illness costs the UK economy 70 billion pounds annually, or 4.5 % of GDP (Mental Health and Work: United Kingdom. Mental Health and Work, 2014). At the same time, the Deputy Prime Minister of Great Britain, Nick Clegg, at the end of 2014, estimated the specified damage in the amount of more than 100 billion pounds (Deputy Prime Minister's Office..., 2014).

## 3. Research Questions

The main source of anti-discrimination legislation in the UK is currently the Equality Act 2010. It consolidated the regulative norms that were previously in force in England, Scotland and Wales, and

replaced most of them. The Act is applied, inter alia, to persons with disabilities, providing them with appropriate protection against discrimination, also including employment matters and employer's obligation to adapt the workplace reasonably (Legislation.gov.uk., 2010).

According to this law, a person has a disability if he or she has a physical or psychic/mental disability that has a significant and long-term adverse effect on his or her ability to perform normal daily activities. The long-term criterion includes a period of 12 months or more (Legislation.gov.uk., 2010).

In order to clarify the provisions application of this act, the UK Equality and Human Rights Commission developed the Employment Statutory Code of Practice in 2011. This document is intended to help employers and other concerned parties and stakeholders to understand their responsibilities. Although the Code is not legally binding, its provisions should be taken into account by the courts and tribunals while making relevant decisions (Equality and Human Rights Commission, 2011).

In 2015, the Trade Union Congress, an organization that unites and represents the majority of trade unions in England and Wales, published a study «Disability and employment: a social model study of the employment experiences of disabled people in Great Britain, with a focus on mental illness» by Emily Pfefer. It criticizes a number of programs that support employment and work rehabilitation for people with mental disorders (Trades Union Congress, 2015).

According to this study, among all subjects classified as disabled ones by the Equality Act, persons whose primary disability is associated with «mental illness, phobia, panics» (data for 2014) belong to one of the least employed groups (22.8 %). Those whose primary disability is «depression, bad nerves» are also at the low level of the employment spectrum (39.3 %). The lowest employment percentage (20.7 %) is among people with learning difficulties (Trades Union Congress, 2015).

The study «Psychological Wellbeing and Work: Improving Service Provision and Outcomes», carried out by a group of scientists from the European division of the non-profit research organization RAND Europe "Research and Development" with the support of the Ministry of Work and Pensions and the Ministry of Health of the United Kingdom, contains recommendations in the employment of people with mental disabilities including:

- using actual data and fact models to provide services that combine employment and mental health support;
- closer integration of existing treatment methods and employment services to improve outcomes in these areas;
- use of new data-based models or combined approaches;
- timely access to coordinated treatment and employment support for more people with common mental health problems (Stolk et al., 2014).

The UK Government is currently considering these proposals to improve support for people with common mental health problems and integration between employment and health services. Its relevant measures are aimed at:

- development of the relationship between psychological therapy and employment support;
- strengthen support for unemployed people to improve their stability;
- access to work and well-being assessment system online, over the phone, and in person (Department for Work and Pensions, Department of Health and Social Care, 2014).

The independent Mental Health Taskforce was established in March 2015 to develop a mental health development strategy. The result of its work was the national strategy «Five Year Forward View for Mental Health for the NHS in England» (hereinafter referred to as the Strategy), published in February 2016, which is aimed at mental health improvement through health and social care systems (HM Government, 2017; NHS, 2016).

A number of provisions in this Strategy were devoted to the issues of employment and labor rehabilitation of people suffering from mental illnesses. It noted that about 60-70 % of people with general mental health problems are employed, but only a few of them have access to specialized health services in the workplace. For people who use secondary mental health services, there is a gap of 65 % compared to the general employment rate of the population. People with mental health problems are also often involved in high-turnover, low-paid, and often part-time or temporary jobs (The independent Mental Health Taskforce, 2016).

The Five-year Strategy and its recommendations, including additional funding, have been well supported by the UK Government. In January 2017, it published its official response to it (HM Government, 2017). This document describes a set of measures that are planned to be used within the Strategy framework. Some of them are connected with employment problems and labor rehabilitation of people suffering from mental illnesses.

In November 2017, the Department for Work and Pensions and the UK Department of Health published a joint document «Improving Lives: The Future of Work, Health and Disability white paper» (hereinafter referred to as the «White paper»). It was based on public discussions of the «Work, health and disability green paper: improving lives» (hereinafter referred to as the «Green paper») (Department for Work ..., 2017b) and represents a ten-year Government strategy which aims to employ another 1 million of disabled people. Thus, the number of working disabled people should increase from 3.5 million in 2017 to 4.5 million in 2027 (Department for Work ..., 2017a). In general, this strategy supports the provisions of the «Green paper».

The Work and Health Programme has become a new tool in the sphere of employment support for persons with mental disorders in accordance with the «White paper» provisions (Powell, 2018). It was started by the UK Government in North West England and Wales in November 2017 and in the rest of England in early 2018.

This Programme provides support on a voluntary basis to persons with illnesses or disabilities, as well as to various groups of vulnerable people (homeless, former military personnel, refugees, victims of domestic violence, people with drug or alcohol addiction or those who have had such an addiction, etc.). In addition, its support is mandatory for persons who have been unemployed for more than two years.

The Programme is aimed at people who using special support will be able to find a job within 12 months. The Government expects that the majority of the program participants will be people with disabilities.

#### **4. Purpose of the Study**

For any state, effective protection of population mental health is one of the most important and urgent tasks, the successful application of which significantly affects its further progressive development.

Problems in this area, on the contrary, generate crucial economic damage and difficulties in social sphere. Employment is an important means of re-socializing people with mental health problems. In order to obtain the maximum positive effect, these measures should be applied due to the individual characteristics of the people concerned.

It is necessary, on the one hand, to interest employers in the formation and implementation of appropriate programs and projects, and, on the other, to provide affected party with conditions that allow it to carry out the work effectively. It is essential to develop and set appropriate financial and organizational instruments, as well as their legal framework. The study of the UK labor rehabilitation and employment systems involving people with mental disorders is of undoubted interest for improving the relevant activities in the Russian Federation.

## **5. Research Methods**

The basis of this study is the analysis of legal acts and documents of the United Kingdom, materials of the Organization for Economic Cooperation and Development, as well as the corresponding works by foreign scientists and researchers. The following methods have been used: dialectical materialism, synthesis, induction and deduction, historical, systemic, comparative-legal and formal-legal analysis.

## **6. Findings**

The analysis of the UK organizational and legal aspects of employment involving mentally disabled people suggests a number of conclusions.

1) The UK Government pays significant attention to the problems of employment and rehabilitation of mentally disabled people, developing and applying a set of appropriate policies and programs, ensuring inter-agency interaction and significant funding. These measures, according to international assessments, put the UK to a fairly high position in this area among other European countries.

2) Unfortunately, despite the abovementioned measures, there is still a significant gap between the employment rate of persons with mental disorders and the general population.

3) The task complex within the employment and labor rehabilitation of mentally disabled people proves the necessity of joint efforts of health, labor and social security systems involving its department staff to fulfill relevant programs.

4) The practice of applying employment programs shows that specialized organizational tools focused on the employment of people with mental disorders considering their special individual needs are more effective than those aimed at all groups of the citizens. At the same time, a number of programs are criticized for a discriminatory approach to their participants, in particular, for the marginalization of people with mental disorders, especially with its severe forms.

5) Despite the significant financial resources by the UK Government, experts note the underfunding of the mental health sector in general and measures aimed at the employment of relevant persons in particular. There is also a shortage of appropriate personnel, both within the health system and

in social services, which leads to long waiting period to get services, as well as its total inability to get it at all.

6) Certain relevant government strategies in the UK, despite the long-term usage of certain organizational tools, have no evidence of the effectiveness in one or another approach solving employment issues for people with mental disorders. This does not allow for the widespread of effective practices, being limited only by pilot projects.

## 7. Conclusion

The necessity to reduce the negative effect caused by mental illness makes it advisable to constant improvement in relevant organizational, legal and financial instruments for the employment of persons with mental disorders in the UK, which in turn brings out a high dynamic development of its legal regulation. This experience, both positive and negative, can be useful in solving relevant issues in the Russian Federation, allowing one to apply the most effective models and to avoid solutions that have proven to be ineffective.

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## References

- Department for Work and Pensions, Department of Health and Social Care. (2014). *Psychological wellbeing and work: improving service provision and outcomes*. Policy paper. <https://www.gov.uk/government/publications/psychological-wellbeing-and-work-improving-service-provision-and-outcomes>
- Department for Work and Pensions. Department of Health and Social Care. (2017a). *Improving Lives: The Future of Work, Health and Disability white paper*. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/663399/improving-lives-the-future-of-work-health-and-disability.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/663399/improving-lives-the-future-of-work-health-and-disability.PDF)
- Department for Work and Pensions. Department of Health and Social Care. (2017b). *Work, health and disability green paper: improving lives. Consultation outcome*. <https://www.gov.uk/government/consultations/work-health-and-disability-improving-lives/work-health-and-disability-green-paper-improving-lives>
- Deputy Prime Minister's Office, Department of Health and Social Care, and The Rt Hon Nick Clegg. (2014). *Mental Health Taskforce announced*. <https://www.gov.uk/government/news/mental-health-taskforce-announced>
- Equality and Human Rights Commission. (2011). *Code of Practice. Employment: Statutory Code of Practice*. Equality Act, 2010. <https://www.equalityhumanrights.com/sites/default/files/-employercode.pdf>
- HM Government. (2017). *The Government's response to the Five Year Forward View for Mental Health*. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/582120/FYFV\\_mental\\_health\\_government\\_response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/582120/FYFV_mental_health_government_response.pdf)
- Legislation.gov.uk. (2010). *Equality Act 2010* (p. 15). <https://www.legislation.gov.uk/ukpga/2010/15/contents>
- Mental Health and Work: United Kingdom. Mental Health and Work*. (2014). OECD Publishing. <https://doi.org/10.1787/9789264204997-en>
- NHS. (2016). *Mental Health Taskforce*. <https://www.england.nhs.uk/mental-health/taskforce/>

- Office for Disability Issues. (2011). *UN Convention on the Rights of Persons with Disabilities: initial report on how the UK is implementing it*. <https://www.gov.uk/government/publications/un-convention-on-the-rights-of-persons-with-disabilities-initial-report-on-how-the-uk-is-implementing-it>
- Powell, A. (2018). *Work and Health Programme*. House of Commons Library. Briefing Paper Number 7845. <http://researchbriefings.files.parliament.uk/documents/CBP-7845/CBP-7845.pdf>
- Stolk, C., Hofman, J., Hafner, M., & Janta, B. (2014). *Psychological Wellbeing and Work: Improving Service Provision and Outcomes*. RAND Europe. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/273433/psychological-wellbeing-and-work.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/273433/psychological-wellbeing-and-work.pdf)
- The independent Mental Health Taskforce. (2016). *Five Year Forward View for Mental Health for the NHS in England*. A report from the independent Mental Health Taskforce to the NHS in England. <https://www.england.nhs.uk/wp-content/uploads/2016/02/Mental-Health-Taskforce-FYFV-final.pdf>
- Trades Union Congress. (2015). *Disability and employment: a social model study of the employment experiences of disabled people in Great Britain, with a focus on mental illness*. Economic. Report Series 2015. <https://www.tuc.org.uk/sites/default/files/DisabilityandEmploymentReport.pdf>
- United Nations General Assembly. (2006). *Convention on the Rights of Persons with Disabilities (resolution A/RES/61/106)*. [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-15&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&clang=_en)