

## BREAST CANCER PATIENTS AND SURVIVORS IN THE EU WORKFORCE

BRITAIN1: TIME TO MOVE BEYOND A STRONG LAW



# This report is part of a series of profiles focusing on the main employment-related issues affecting female breast cancer patients and survivors in selected EU countries<sup>2</sup>.

Key data (UK figures)	
Crude breast cancer incidence rate per 100,000:	164.5 (2012, IARC)
Breast cancer prevalence (five-year) per 100,000:	755.1 (2012, IARC)
Labour force participation rate—general:	77.6% (2015, OECD)
Labour force participation rate—women aged 40-64:	72.7% (2015, EIU calculations from OECD data)
Unemployment rate—general:	5.7% (2015, OECD)
Unemployment rate—women aged 40-64:	3.6% (2015, EIU calculations from OECD data)

Britain had Europe's, and the world's, fifth-highest crude breast cancer incidence rate in 2012, at 164.5 per 100,000,<sup>3</sup> although this is only slightly above the average rate for western Europe (161.3 per 100,000), the region with the highest such incidence in the world. As a result, the UK has a substantial five-year prevalence of breast cancer patients and survivors in the population (755.1 per 100,000), or just over 200,000 women.

This five-year figure, although easy to use in international comparisons, greatly understates the true extent of survivorship: according to data from one UK study, in 2008 the total number of breast cancer patients and survivors in the country was about three times that of those diagnosed only within the last five years.<sup>4</sup> Looking ahead, the prevalence of survivors appears set to rise. Another British study projected that by 2020, 3% of women aged 45-64 will be battling, or have fought, breast cancer.<sup>5</sup>

Many of these same women will be employed, or want to be. British labour force participation rates for females aged 40-64 have risen more slowly than in most of Europe recently, going up from 68.9% to 72.7% between 2005 and 2015. However, the more recent figure is still comfortably above the average in the EU (68.6%) and is not far from the participation rate for all Britons of traditional working age (77.6%).

Moreover, matters relating to employment for cancer survivors in England are often seen through the prism of the country's stark employment gap for all of those living with disability. In 2013, among those of working age with any disability, only 53% were employed, while for their healthy peers the equivalent figure was 85%. As discussed below, this issue is on the political agenda, even if the specific concerns of cancer patients and survivors make up only a part of the broader discussion.

- <sup>1</sup> This article focuses on England and not the United Kingdom as a whole because key elements of health, social policy and even human rights legislation vary between the constituent nations of the UK. This article nevertheless uses UK-wide data where these are the most accessible. As England contains 84% of the British population, the UK figures are unlikely to vary greatly from those of England.
- <sup>2</sup> Although male breast cancer does occur, it is very rare, with an age-adjusted incidence of less than 1 per 100,000 in most of Europe and no clear sign of increase or decrease (Diana Ly et al., "An International Comparison of Male and Female Breast Cancer Incidence Rates", International Journal of Cancer, 2012). This study therefore deals exclusively with female breast cancer.
- <sup>3</sup> Unless otherwise stated, incidence, mortality and prevalence data are estimates by the International Agency for Research on Cancer (IARC) of the situation in 2012, the latest internationally comparable figures available.

SPONSORED BY



### BREAST CANCER PATIENTS AND SURVIVORS IN THE EU WORKFORCE BRITAIN<sup>1</sup>: TIME TO MOVE BEYOND A STRONG LAW

For England, and Britain in general, there are fewer data available than for some other European countries on the extent of the difficulties faced by breast cancer survivors when seeking to return to work. What information there is available suggests that the problem in England is similar to that in much of the EU. One study of individuals employed at the time of their cancer diagnosis—nearly half of whom had breast cancer—found that 82% returned to work. As elsewhere, workplace conditions, in particular relations with managers and colleagues, seemed to be a key factor in a successful resumption of employment. This is an important point, since 18% of cancer survivors who returned to their jobs in the UK complained of workplace discrimination.

Although these challenges are similar to those experienced by breast cancer patients and survivors elsewhere in Europe, the specific tools available to help English patients return to work are quite different from those on the continent.

On the one hand, the Equality Act of 2010, which subsumed and expanded on the Disability Discrimination Act of 2005, specifically equates a cancer diagnosis with a disability. As a result, the law has for over a decade banned employers from treating those with cancer differently than others with a disability in all areas of employment, including recruitment, terms, conditions and benefits, opportunities for promotion and training, and dismissal. It also leaves employers open to penalties in the event of proven harassment and victimisation of cancer patients or survivors. Finally, the law requires reasonable accommodation in the workplace for the needs of employees who are cancer patients or survivors. The Act's protection is not temporary: any ill-treatment because of a previous cancer diagnosis, even if the employee no longer shows signs of the disease, is covered.

According to Barbara Wilson, who founded Working with Cancer, a UK consultancy, the existence of the Equality Act changes the nature of the conversation between employer and employee. "If cancer survivors know that they have rights and employers have responsibilities, it makes it easier to ask for accommodation. It gives them the confidence to get the adjustments they need," she explains.

There are, however, weaknesses with this legislation. In Ms Wilson's experience, "relatively few employees diagnosed with cancer know that they are protected by the law forever." Moreover, although in practice many British managers are sympathetic towards their employees with cancer, 10 ultimately, in the event of a dispute, enforcement of the law relies on an individual's ability to take a case to an employment tribunal. Liz Egan, lead of the Working through Cancer Programme at Macmillan Cancer Support, a UK charity, believes that, because of the law, "many employers are taking steps not to discriminate and to make reasonable accommodations for staff with cancer."

- <sup>4</sup> Jacob Maddams *et al.,*"Cancer prevalence in the
  United Kingdom: estimates
  for 2008", *British Journal of*Cancer, 2009.
- <sup>5</sup> Jacob Maddams *et al.*, "Projections of cancer prevalence in the United Kingdom, 2010–2040", *British Journal of Cancer*, 2012.
- <sup>6</sup> Tyna Taskila et al., Returning to Work: Cancer survivors and the Health and Work Assessment and Advisory Service, 2013.
- <sup>7</sup> Ziv Amir et al., "Return to paid work after cancer: a British experience", Journal of Cancer Survivorship,
- <sup>8</sup> Ziv Amir et al., "Cancer survivors' views of work 3 years post diagnosis: a UK perspective", European Journal of Oncology Nursing, 2008.
- <sup>9</sup> "One-fifth of cancer patients face work discrimination", *BBC News*, November 7th 2016. Available at: http://www.bbc.co.uk/news/health-37861712.
- <sup>10</sup> Ziv Amir et al., "Return to Work After Cancer in the UK: Attitudes and Experiences of Line Managers", Journal of Occupational Rehabilitation, 2011.

### BREAST CANCER PATIENTS AND SURVIVORS IN THE EU WORKFORCE BRITAIN<sup>1</sup>: TIME TO MOVE BEYOND A STRONG LAW

However, she says that the law's effectiveness has been weakened because "not many people would have the motivation or are physically able to take a case to a tribunal whilst going through or recovering from cancer treatment. Hefty tribunal fees and legal costs are additional deterrents. In fact, enforcing those rights is pretty hard." Indeed, she counsels that these tribunals should be a last resort and that ongoing communication and reasonable adjustments "are key to enable job retention for staff with cancer."

While cancer patients and survivors in England have clearer legal rights than their peers in many other European countries, they lack some key regulations and institutions which are used in other European states to ease the transition back to work. For example, although the Fit for Work scheme (discussed below) encourages employers and employees to consider a phased return to work where appropriate, no provision exists in the benefit system for a partial, staged return to work during recovery from cancer, as is the case in Belgium or Finland. Instead, the long-term illness and disability benefit in the UK is the employment and support allowance, which kicks in once the employer's sick-pay obligation ends 28 weeks after an employee goes on sick leave. This allows 16 hours of work per week at most, and maximum earnings of £115.50 (US\$150) per week.

More generally, state actors play a limited role in helping women prepare for a return to work. The Learning and Work Institute, a UK think-tank dedicated to full employment, found that fewer than 10% of disabled individuals as a whole in Britain receive any formal employment support. Charities such as Macmillan, which has produced information leaflets and runs awareness campaigns for employees on their rights at work, try to fill the gap. Nevertheless, the need remains substantial.

In practice, reintegration is the responsibility of businesses and line managers. These, however, often operate without the benefit of expertise or guidelines. Occupational health is of limited assistance. In a 2011 survey only 38% of workers reported having access to occupational health services of any kind, and the best estimate is that just 13% of employees are in organisations with an occupational physician. Making matters worse, where such facilities exist, "there is poor understanding about cancer and its work impacts in occupational health," says Ms Egan. Meanwhile, 73% of firms have no formal policy covering what to do when an employee develops cancer. In practice, however sympathetic they are towards those with cancer, managers would benefit greatly from further training and information. Non-governmental organisations (NGOs) and consultancies also try to fill this void with guidebooks, kits and training programmes, but there is only so much they can do.

- <sup>11</sup> "Government aims to halve disability employment gap in UK", Guardian, October 31st 2016.
- <sup>12</sup> Macmillan Cancer Support, "Your Rights at Work When You're Affected by Cancer", 2013.
- <sup>13</sup> All Party Parliamentary Group on Occupational Safety and Health, Occupational medical workforce crisis: The need for action to keep the UK workforce healthy, 2016.
- <sup>14</sup> Tyna Taskila et al., Returning to Work: Cancer survivors and the Health and Work Assessment and Advisory Service, 2013.
- <sup>15</sup> Ziv Amir et al., "Return to Work After Cancer in the UK: Attitudes and Experiences of Line Managers", Journal of Occupational Rehabilitation, 2011.

#### BREAST CANCER PATIENTS AND SURVIVORS IN THE EU WORKFORCE BRITAIN<sup>1</sup>: TIME TO MOVE BEYOND A STRONG LAW

The government, however, has been taking steps in the right direction. In 2015 it created the voluntary Fit for Work scheme. Any employer or general practitioner can refer an employee who has been off work for more than four weeks to this service, provided the individual in question agrees. The employee then has a consultation with an occupational health specialist. Together they create a return-to-work plan, and the specialist can also refer the employee to other services where appropriate. Fit for Work should bring some improvement for cancer patients and survivors. Its success, however, will depend on how well its occupational health experts understand the specific issues created by the disease and its treatment.

Another sign of change is last year's Green Paper—a preliminary report designed to stimulate discussion—in which the government set the goal of cutting the disability gap in employment by 50%, a policy of relevance to cancer patients and survivors given their status under UK law. <sup>16</sup> Meanwhile, England's 2015 Cancer Plan includes a recommendation that "NHS [National Health Service] England should work with partners to ensure that supporting people with cancer to return to work is a key focus". <sup>17</sup>

Ms Egan believes that the Green Paper and cancer strategy "are positive steps. The next challenge is to ensure that these recommendations are implemented. There is quite a long journey to go on to ensure that happens."

Overall, English breast cancer patients and survivors seeking to stay in or return to work have some of the clearest legal protections in Europe. Now the government needs to find better practical ways to help their transition back to work.

<sup>16</sup> Work, health and disability green paper: improving lives, 2016.

<sup>17</sup> Achieving World-Class Cancer Outcomes: A Strategy for England 2015-2020, 2015. **Note:** This country report was sponsored by Pfizer. None of the interviewees received financial support or expense reimbursement from the sponsor.

SPONSORED BY

