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### Disability and employment political goals and local practice

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## **Disability and employment: Political goals and local practice**

### **Abstract**

For many years it has been a political goal in Denmark to raise the degree of employment among people with disabilities. In spite of this no progress can be seen in the field.

According to a survey from 2012, Danish job centers only pay very little attention to this problem in the local handling of employment efforts. It's a central claim in the paper that this needs to be changed, if a political desire of improving the employment situation for people with disabilities nationwide should be fulfilled.

An examination of the employment policy from 1992-2012 shows that the low priority to disability in the local job centers also has to do with the position of the issue in the employment legislation. Furthermore this position is highly affected by the understanding of disability in the political process. Changing attitudes to the question of disability can be seen as one of the reasons for the insufficient linkage between the central political goals and the local practice.

Although higher attention to disability in the local practice is the primary road to improvement of the job situation for this group, the change must therefore necessarily start at the national policy level.

The paper uses a combination of theories concerning political construction of target groups and different perspectives on implementation. The paper is based on a Ph.d.-thesis from 2014 and examinations on the position of disability in recent changes in Danish employment policy.

### **Introduction**

For many years a low employment rate among people with disabilities has been considered a political problem in Denmark (Regeringen 2004; Regeringen 2009; Regeringen 2013). In spite of this no progress can be observed in the field. If anything, the problem has grown even worse. According to the latest survey results, the difference in employment rates between people with and without disabilities rose from 32 % in 2002 to 34 % in 2014 (Larsen & Høgelund, 2015). The lack of success undoubtedly has several explanations, both among people with disabilities (the supply side), in private and public companies (the demand side) as well as in the employment

system. However, the starting point for this paper is that people with disabilities are in a weak position in the competition in the open labour market, and that improvements therefore require attention to the problem in the local employment service. The focus is the policy arena and the linkage between political goals and implementation in the employment system. The central claim to be examined here is that the position of disability in the employment policy plays an important role, and that this position among other things has to do with the understanding of the concept of disability and the social construction of people with disabilities as a target group at the central as well as the local level.

The paper builds on my Ph.d.-thesis from 2014 (Amby, 2015), supplemented by new theoretical aspects and an examination of employment legislation in the period 2012-2015. In section 2 below I start by discussing theories about construction of target groups and the great changes in the understanding of disability. In section 3 I discuss the position of disability in Danish employment legislation 1992-2012 and recent reforms and the consequences of changing discourse concerning employment and self-support. In section 4 the subject is treated from an implementation perspective on the basis of surveys and interviews in local jobcentres in 2012. Finally, section 5 contains conclusions and perspectives.

## **2. Disability and construction of target groups**

A complex relation exists between the concept of disability and disability policy. The definition of disability has crucial importance for the types of political decisions towards people with disabilities. But at the same time the content of political decisions also to a wide degree determines what is meant by disability. Therefore it is relevant here to look briefly at theories concerning construction of target groups.

### **2.1. Political and social construction of target groups**

Categories are social constructions and categorization is a natural part of human life. Categories also play an important role in politics:

*“Governance is conducted through rules, and rules are composed of categories. Every rule divides people by their identity, their behavior, or their situations, and then specifies how members of different categories are treated differently. In some deep sense, what we mean by “policy” is precisely this deliberate ordering of the world according to the principle of different treatment for different categories. This is the idea behind the notion of target groups” (Stone, 2005).*

Ingram and Schneider originally defined target groups as “...persons, groups, or firms selected for behavioral change by public policy initiatives such as statues, agency guidelines, or operational programs.” (Ingram & Schneider, 1991: 334). Two factors in particular are ascribed significance

regarding the attention of politicians regarding various target groups (Ingram & Schneider, 1993): the strength of the group (strong or weak) and how the group is constructed (positively or negatively). This produces a model with four categories of target groups: the advantaged (strong, positive), the dependents (weak, positive), the contenders (strong, negative) and the deviants (weak, negative). The four categories are shown in table 1.

**Table 1: Types of target populations**

		Constructions	
		Positive	Negative
Power	Strong	Advantaged	Contenders
	Weak	Dependents	Deviants

*Source: Ingram & Schneider, 1993*

According to Ingram and Schneider, the social construction that leads to the positioning of a group in one of the four categories has great significance for what politicians do in relation to the group in question. There is a tendency for strong groups that are looked upon positively and weak groups looked upon negatively to receive the greatest attention. A groups positioning also has consequences for the formulation of political objectives and the choice of means in relation to the group in question. The social construction of a target group requires, to begin with, the definition of a set of socially meaningful characteristics and, secondly, attributing specific values, symbols and images to these characteristics (Ingram & Schneider, 1993: 335). The demarcation of target groups is a social construction, but what is decisive for Ingram and Schneider is the demarcation of the individual group resting upon objective conditions that can be tested empirically.

The model of Ingram and Schneider has among other things been criticised for simplifying the complex relationship between social and political categories (Harrits & Møller, 2011; 2012). The social construction of a category will often be affected by other factors than the strength and whether the group is looked upon positively or negatively. The social construction of a target group often involves assessments that are not necessarily agreed upon. Furthermore it is not always an easy task to determine who to include and who to exclude from a given category (Yanow, 2003). As we shall see below, it is also the case when it comes to disability.

In this context, it is worth noticing that Ingram and Schneider place the group 'disabled' in the 'dependent' category in their model; that is, weak but looked upon positively by society. This

portrayal of the group of persons with a disability is on a general level supported by Danish results (Olsen, 2000). Positive attitudes are dominating, and people with disabilities are looked upon as a group that deserves support from society. The question is, however, whether it also holds in relation to employment and whether the policy pursued for the last 20 years can be understood as an expression of a major shift in the social construction of the disabled as a target group in Denmark. The international literature concerning social construction of target groups and the consequences for policy making has only paid little attention to the question of disability. In an examination of 111 applications of Ingram and Schneiders theory in scientific articles 141 target populations are identified (Pierce et al., 2014), but remarkably disability does not appear on this list.

## **2.2. Disability: Concept and principles**

The establishment of disability as a political and administrative category stems historically from the foundation of the industrialized capitalist society (Stone, 1985). It became necessary to find methods for defining the groups of people who were unable to support themselves through work. According to Stone disability as a category can be seen as "*... response to a long-standing policy dilemma: how to reconcile the distributive principles of work and need without undermining the productive side of the economy*" (Ibid.: 50).

As a natural consequence of this starting point the positioning of the disability area has always been closely related to welfare policy in general (Tøssebro, 2009). The area is therefore affected by the ideologically conditioned break in recent years between needs-oriented and utility-oriented approaches to welfare policy (Jensen, 2008). Persons with a disability have traditionally belonged to the core groups in welfare policy, as they could not manage on their own without support from society. Consequently, ensuring an income was a dominant theme in the political battle fought by organizations of the disabled over the course of the twentieth century, as the alternative for many would be genuine poverty. Alongside with ensuring an income, the services provided by the public sector in this period were dominated by the continuation of special institutions (*special trials*) for these groups. In the 1960s, however, a development began – particularly in the Scandinavian countries – in which it became a political objective for persons with a disability to be part of ordinary society as expressed by rallying cries related to normalization and integration.

Parallel to this was a shift in the understanding of the very concept of disability itself. Disabilities had previously been largely understood narrowly from a medical understanding. A disability was regarded as a flaw in the individual, which in most cases can be coupled together with a medical diagnosis. To begin with, attempts are made to relieve the flaw via treatment of the individual to make them able to enjoy a normal level of functioning to the greatest possible extent. The objectives related to normalization and integration made it ever more obvious that the disabled also represented a political issue which society had to deal with. In other countries – notably the US and UK – an actual rebellion was initiated against the medical model. The social model was

launched as a more correct framework for understanding the disability question (Oliver, 1990; Oliver & Barnes, 1998; Barnes, 1999). According to this model, the factors contributing to disabilities are exclusively to be found in how society is structured, as impairment is merely to be regarded as one among many natural variations between people. In the Scandinavian countries, the new orientation regarding the understanding of the disability concept landed 'somewhere in between' with the formulation of the relational conceptualization of disability (Gustavsson, Tøssebro & Traustadottir, 2005; Shakespeare, 2006). Here, impairment is still attributed significance, but it is first in relation to their surroundings that the impairment becomes a disability if the surroundings are not designed appropriately:

Impaired functioning + Barriers = Disability

It is difficult to arrive at a universal definition of disability. Göran Grönvik thus concludes that it is necessary to operate with a number of different definitions, depending on the purpose (Grönvik 2007).

The social reform in Denmark in the 1970s was marked by ideas about normalization and integration. In addition, there was linguistic shift, as the legislation no longer referred to individual groups (e.g., the blind, the deaf, the mentally disabled), speaking instead of persons with extensive physical or mental disabilities.

In 1993, the *Folketing* passed a decision on equality and the equal treatment of the disabled with other citizens (B 43, 1992/93), which states:

*"The Folketing appeals to all state and municipal authorities, as well as private enterprises, whether they receive public support or not, to live up to the principle concerning equality and the equal treatment of the disabled with other citizens and to grant consideration to and create opportunities for appropriate solutions while granting consideration to the needs of the disabled in connection with the preparation of decisions whenever consideration can at all be granted. Persons with a disability must be treated equally to other citizens in all areas of life."*

Notice the word 'appeals to' (*henstiller*) in the beginning of the quote above. Danish disability policy has traditionally been grounded in the idea that it is most constructive to call for voluntary cooperation. Since the 1990s, the disability policy in Denmark rested on four basic principles: equality, compensation, sectoral responsibility, and solidarity. Equality must primarily be understood as equality of opportunity, while solidarity signals that society must ensure that people with disabilities achieve this without it being an extra expense to them. Sector responsibility principle states that all sectors of society have their share of responsibility for ensuring that people with disabilities have the same opportunities as others. This applies to all ministries and all parts of the public administration, but it applies in principle also to citizens and corporations. Finally, compensation relates to what actually needs to be done in practice to ensure

that equal opportunity can become a reality. It can be a question of compensation in relation to the individual or simply general measures that make society more accessible to everyone, regardless of disability.

Disability policy is both defining the target group and helping to establish efforts in relation to this group. In the time when handicapped people were cared for, disability was an umbrella-term for a number of clearly defined groups, each with its medically defined characteristics. With the relational concept of disability, the disability is considered central at the individual level, even though disability first occurs with barriers in the environment. As a final consequence, it is then no longer possible to categorize people as disabled, and a categorization on the basis of disability is also associated with major challenges.

### **3. Disability and employment policy**

The new disability awareness ideally relies on each sector to take responsibility for: 1) Defining the target group with disabilities, 2) Identifying potential barriers in the environment that can lead to disability, 3) Implementing the necessary individual or collective compensatory measures.

The analysis in this section is intended to contribute to uncovering whether the principles in disability policy can be said to have had an impact on the employment area or whether these principles have instead come under the pressure of other general sets of ideas behind the developments in employment policy.

The data for the study is 166 adopted bills within labour market policy and employment related social policy in the period 1992-2012. Furthermore the final subsection deals with the reforms since 2012. 1992 is chosen as a starting point as the beginning of the 1990s was characterized by major changes both in labour market and disability policy.

#### **3.1. Disability in the general employment policy 1992-2012**

##### **3.1.1. Active labour market policy**

In the course of the 1990s, a number of major changes were made to the labour market policy, later referred to as the labour market reform. The reform began during a period with very high unemployment and was based on widespread recognition of the necessity of focusing more on the labour supply in order to alleviate structural unemployment (Goul Andersen & Pedersen, 2007; Larsen, 2006; Torfing, 2004). The reform focused on the ordinary labour market and the unemployed who were eligible for unemployment insurance. Greater emphasis was now placed on the connection between the labour markets need for qualifications and activation measures directed towards the unemployed. At the same time, the measures were made more flexible and individual-oriented, including opportunity to construct individual action plans, and effort was invested in special measures tailored to unemployed persons with special needs, while at the

same time all unemployed persons received the right to activation after a period of time. The demarcation of groups with special needs can be found in the comments to one of the first proposals in the reform (L 272, 1992/93), which states:

*“In addition to the unemployed, who are fully available to the labour market ... there will also be a large group of particularly vulnerable unemployed, who would have difficulty obtaining employment under normal conditions in the ordinary labour market. This refers to, for example, unemployed, who because of inadequate or considerably outdated qualifications cannot obtain employment under ordinary conditions ... it will be possible, among other things, to prioritize in particular unemployed persons without a qualifying education”.*

And in connection with the reference to the instruments for activation, the following is written about the target group for special job training, which is the instrument that is most clearly addressed to the weak groups:

*“The target group consists of unemployed persons who have difficulty obtaining employment under normal wage and working conditions or in job training in the ordinary labour market. The target group is therefore limited to unemployed persons who have difficulty living up to the productivity requirements in the ordinary labour market. The target group will also include persons who, for reasons other than those directly related to the labour market, can have difficulty obtaining employment under normal wage- and working conditions, including refugees and immigrants”.*

As seen in the above, persons with a disability are not referred to in this context. To the contrary, this group is clearly not considered to be part of the new active labour market policy. The state-run employment services are responsible for the employment effort, although these measures do not include those receiving social assistance, early pensions and persons with physical or mental disabilities or special social problems. These groups remain the responsibility of the municipalities, as dictated by legislation pertaining to social affairs.

All told, the labour market reform was the manifestation of a strategy for guidance and improving the qualifications of the unemployed persons eligible for unemployment insurance combined with shorter benefits periods, tighter requirements regarding availability and increased control.

### **3.1.2. Municipal activation and the inclusive labour market**

In the first half of the 1990s, legislation was also passed regarding municipal activation as a supplement to the Social Support Act. This law gathered the rules for the activation of those receiving welfare benefits in a common law, and the arrangement concerning the activation of young persons under age 25, which had existed since 1989, was expanded. At the same time,



mandatory activation for young persons aged 25 to 29 after 12 months of unemployment was also introduced. This affected both those for whom unemployment was their only problem as well as those who were dealing with problems in addition to unemployment. Those over age of 25 who were receiving welfare benefits also gained the right to have an action plan drawn up after being unemployed for three months. In 1994, the legislation was reformed such that the municipalities became authorized to carry out trials targeted towards the activation of those receiving welfare, and the law was again changed in 1995–06 together with adjustments made to the labour market reform, which included the harmonization of measures directed towards young people. The municipalities were now able to refer work to the recipients of welfare benefits and other vulnerable groups, and in this connection it was specified that young persons who were in activation programs were to be available for ordinary work. Persons with a disability are not specifically mentioned in the law on municipal activation or in the comments to the proposals in the period 1993–96. In the beginning of 1998, the rules about municipal activation were made part of the law on active social policy.

Parallel to the labour market reform and the new law on municipal activation, the Minister of Social Affairs started a debate regarding corporate social responsibility, which proved to have such considerable impact that an actual political program about this theme was in question (Bredgaard, 2004). The question became firmly entrenched on the political agenda as a result of the Minister of Social Affairs' campaign, 'It affects us all' (*Det angår os alle*) in the beginning of 1994. The campaign was aimed at motivating corporations to contribute voluntarily to the creation of more room for marginalized groups in the labour market. The campaign became a great success, among other things because it had the support of the social partners from the very beginning and was anchored in a broad regulatory network together with municipalities, corporations, and organizations on the local level (Torfing 2004). Even though the corporate campaign was a success, the debate did not lead to further legislation in the course of the first years. The gradual development 1993-98 led, however, to legislation about flex-jobs, which will be further described below.

In 2000, the municipalities became obligated to draft a written plan for those receiving welfare benefits who had problems in addition to unemployment, '*e.g., persons with mental or physical health problems or inadequate fundamental social skills*' (L 108, 2000/01). Finally, new rules for awarding pensions were introduced in 2000 for those receiving welfare benefits. In the course of the referral, two groups were to be formed: persons whose only problem was their unemployment and persons with problems in addition to unemployment. An obligation to seek work actively was introduced for the former group, and they were to report to the employment services, just as the assessment of availability was tightened.

### **3.1.3. Transferring authority and getting more people to work**

In connection with a new government in Denmark in 2001, the Ministry of Labour (*Arbejdsministeriet*) was re-named the Ministry of Employment (*Beskæftigelsesministeriet*). At the

same time, the active social policy was transferred to the Ministry of Employment, meaning that measures related to employment for both the insured unemployed and welfare recipients were gathered in the same ministry, and employment was no longer a matter of social policy. This decision must be said to have been the natural extension of the development over the years prior to the new government. As described above, there was increasingly talk about the parallels between the content in activation and the rights and obligations of the unemployed, regardless of how they provide for themselves. Nevertheless, the change sent an important signal regarding the greater emphasis that was to be placed on measures aimed at getting the weaker groups into employment.

The first major legislation involving the Ministry of Employment was passed in 2002–03 as part of a broad political settlement about getting more people in employment. The government viewed this change as a shift in the course of Danish employment policy, the purpose of which is described in the comments to the legislation (L 61, 2002/03):

*“One of the bearing elements in “More in work” (Flere i arbejde) is that the individual is to be in focus. The efforts made are to be determined by the needs of the unemployed individual rather than whether or not the unemployed individual is insured or not. Extra effort is also to be made to ensure that the weakest unemployed persons are better integrated in the labour market. The renewal of the employment policy is intended to ensure that the incentive for getting the unemployed individual directly into a job is strengthened. The focus is to be directed towards active job hunting and employment services.”*

The legislative reform in connection with ‘More in work’ meant that the legislation regarding persons with a disability/permanent impaired capacity to work formally became part of the overall employment effort. However, there was largely exclusively talk of a legal-technical integration of already-existing rules. The ‘More in work’ legislative package did not include any signals about the need to make a special effort towards these groups. The comments to the proposed legislation include an overview over the themes in the new employment policy in which youth, unemployed over age 50 and refugees/immigrants are referred to but where, for example, persons with disabilities/an impaired capacity to work are not mentioned.

#### **3.1.4. Decentralization and a single-stringed employment system**

In 2004, agreement was reached between the government and its supporting party, the Danish People’s Party, regarding a major restructuring of the administrative system in Denmark. The structural reform came into effect as of 1 January 2007, reducing the number of municipalities from 275 to 98. The 14 counties were abolished entirely and replaced by five regions with entirely different responsibilities.

In the employment area, the reform entailed the establishment of a job centre in every municipality, where the state and municipality should work together on the efforts directed towards the respective target groups. There should to be one single point of entry into the employment system for everyone. *“Focus is now placed on coherent employment measures regardless of whether the citizen receives unemployment insurance from the state or benefits from the municipality. The objective for the efforts made by the job centre is to support the individual citizen gaining employment as quickly as possible”* (L 23, 2004/05).

As part of the new employment system, four employment regions were established, which were entrusted with monitoring the development of the labour market and follow up on the efforts made by the job centres. Specialist functions were also established in connection to the employment regions, which the job centres could draw on. This included establishing a nationwide special function for employment and disabilities.

Decentralization was combined with state management by objectives (L 22, 2004/05). Ministerial objectives for the employment effort were to be declared annually, and the new job centres became responsible for drafting an employment plan on this background and carrying out an accounting of the results in the following year. In order to support the regulation, a central system was established for reporting the data on the work on the basis of detailed specifications determined by the minister.

The final step towards the decentralization of the employment policy was taken in 2008, when it was decided to gather the entire responsibility for employment-directed measures in the municipalities (L 185, 2008/09). The change came into effect as of 1 August 2009. It meant that the municipalities were responsible for all the target groups – including the insured unemployed. This work continues to take place in the job centres, which are to be an independent element in the municipal administration, and the municipalities continue to be subordinate to a regulatory concept with ministerial objectives, employment plans and the accounting of results.

‘Disability’ is not selected in the set of rules as a criterion for an independent target group, aside from recent graduates with a disability, who can be considered for employment with subsidized wages on special conditions within two years of having completed their education. Here, however, the disability criterion first becomes apparent when an individual is referred to one of the permanent benefits. The set of rules does not obligate the municipalities to be especially aware of unemployed persons with a disability among the insured unemployed and welfare recipients. Since the regulatory concept was introduced in 2007, the ministerial objectives have not specifically mentioned the disability area. The same is the case for the centrally established requirements for reporting data, which is the basis for the accounting of results in the job centres and for how the employment regions monitor the work carried out in the job centres. Disability is not defined as an independent contact group that is to be reported, and there is not to be any reporting of activities for early pensioners and recently graduated persons with a disability.

### 3.2. Specific legislation on disability and employment

Four themes are dealt with chronologically in this subsection: compensation to the disabled in business, permanent employment with subsidized wages, rehabilitation and early pension. The two first themes began receiving serious attention in Danish politics after 1990, whereas the third and fourth themes have long historical roots. The intention here is not to provide a detailed description of the development in the Danish pension system, but early pension is included because the legislation was reformed in this period, a reform that contributed in several ways to setting the frameworks and defining the use of language in the respective areas. Unless otherwise specified, the quotes illustrating the purpose and motives behind the proposed legislation in the following have been found in the comments to proposed legislation.

#### 3.2.1. Compensation to employed persons with a disability

Since 1997, Denmark has had legislation ensuring compensation to disabled in employment. The act on personal assistance made it possible to subsidize a business to provide wages for a personal assistant for an employee or a self-employed individual with a disability. The personal assistant is to assist the disabled person with the practical working functions that the individual in question cannot take care of themselves due to their disability. The practical working functions are to be seen in contrast to the actual content of the work that the person with a disability must be able to carry out without the help of an assistant.

The Compensation Act thus started with personal assistance, and it remains the most important part of the law. It was only used in ordinary positions from the beginning but was quickly extended so that the arrangement also came to include so-called flex-jobs and sheltered jobs (*skånejobs*). The personal assistance arrangement has been extended over the years so that in addition to employment conditions it also included employment policy instruments as well as continued and further education and training. Most recently, the target group has been expanded as to include persons with mental impairments. Support for aids and workplace design were financed in the early years via temporary appropriations but have since become a permanent part of the employment legislation. The other two arrangements in the legislation pertaining to compensation can hardly be called compensatory, as they contain priority to positions in the public sector and introductory support to recent graduates with a disability.

#### 3.2.2. Permanent employment with subsidized wages

Temporary jobs with subsidized wages is one of the instruments in the general employment policy. Since 1997, however, there has been a so-called flex-job arrangement in Denmark allowing permanent employment with subsidized wages for persons with an impaired capacity to work who are not receiving an early pension. The arrangement has become such a success that it has fostered a discussion since 2006 as to how to reduce the expenses related to the arrangement. In

the summer of 2012, a broad political agreement was reached in this regard, and a reform was carried through from 2013, cf. below.

The Compensation Act (*Kompensationslovgivningen*) was intended – at least in the beginning – to compensate for a disability and make the individual able to provide job performance on the same level as others. Conversely, the flex-job arrangement has been developed for the group of those who are unable to provide a full job performance, and the employer is therefore compensated via subsidized wages.

Even though permanent employment with subsidized wages had been possible since the beginning of the 1990s, a series of political decisions in the course of just a few years produced a dramatic development, meaning that the arrangement attained an entirely different function. In the course of this development, it was repeatedly emphasized how the opportunities for rehabilitation and ordinary employment had to be exhausted before flex-jobs could be allocated; nevertheless, the target group for flex-jobs undeniably grew broader than the target group for the original arrangement. This is possibly the result of, among other things, that flex-jobs were heralded as a political strategy to establish an inclusive labour market, which possibly also relates to the transition of the capacity to work criteria, whereby fewer were 'ruled out' of the labour market.

### **3.2.3. Rehabilitation**

The first Danish legislation regarding rehabilitation was passed in 1960, and rehabilitation was included as part of the Social Assistance Act in 1976. Rehabilitation assistance could be provided in the form of education and vocational training or re-schooling when it was of decisive significance for a person's future capacity to be able to provide for themselves and their family. The criterion was that an impaired capacity to work had to be in question. Up until the mid-1990s, there was only a single major change to the rules.

For many years, rehabilitation was the flagship of Danish social policy, the aim being to render a person with a reduced capacity to work capable of (again) functioning in the labour market and thereby provide for themselves. Rehabilitation has always been subordinate to other alternatives (e.g. ordinary education), but the development of the active labour market policy tools leads to a risk of rehabilitation falling far down the list of measures that can be put to use. At the same time, the conversion of the rules for refunding public expenses means that rehabilitation has become less attractive for the municipalities. In any event, we can establish that rehabilitation is used less and less. The number of persons on rehabilitation thus fell 67 percent from 2001 to 2011 (Statistics Denmark, Statistikbanken).

#### **3.2.4. Early pension**

As already mentioned, the details for the Danish pension system will not be accounted for here. But the conditions for being awarded an early pension are of interest, as they play a major role in setting the frame of reference for the legislation relating to groups that have difficulty obtaining and maintaining employment. By and large, the rules for early pension define which members of society of working age that are members of the labour force. The disability pension system was analysed and debated extensively in the course of the 1990s, which led to the reform of the system that came into effect in 2003. The disability pension legislation that came into effect in 2003 distinguished itself from the previous system on three central points: First, there was only one pension rate; second, disability-compensating benefits were transferred from the pension legislation to the Social Services Act; and, last but not least, the criterion for awarding a pension was changed, such that a pension was now to be awarded according to the capacity-to-work criterion instead of the loss-of-capacity-to-earn criterion. The capacity to work was defined here as; *“the ability to fulfil the labour market’s requirements in order to be able to carry out various concrete, specific tasks with respect to being able to earn an income so as to be able to provide for oneself”* (L 137, 2000/01).

The understanding of the ability-to-work criteria is further elaborated as follows: ‘The ability-to-work concept emphasizes a number of new characteristics, as it takes into account how a number of conditions have become more important when an individual’s opportunity to fill a position in the labour market are to be assessed – more than “merely” a degree of physical disability, which can be relieved to a much greater degree than earlier with aids. The ability-to-work concept is thus directly defined in relation to the current labour market and the requirements for being able to attend specific work functions. The ability to work has thus become a dynamic concept that changes in time as the requirements for being able to carry out specific jobs change – but also when the specific jobs themselves change due to, for example, technological developments. That the capacity-to-work concept changes and must always be in tune with labour market requirements is central, as the only reason to carry out assessments of the capacity to work is to enable the authorities to assess whether, and if so, how the position in the labour market is possible with respect to earning a living and providing for oneself’.

The legislation regarding disability and early pensions in Denmark has undergone considerable changes over the years. From the beginning, insurance against the loss of the ability to work resulting from disability was in question. Later, fokus was on graduated pension rates, where it became possible to operate with a partial capacity to work, and there were new opportunities to award a pension other than disability. The most recent change meant only one pension rate, and the assessment of a pension case is determined by whether there is an ability to work that can be put to use in the labour market and enable the individual to provide for themselves – either entirely or to some degree – on the background of an assessment of specific jobs viewed in relation to the individual’s resources. The background for an impaired capacity to work is no longer so important,

and there is no guarantee that a serious physical or mental impairment will merit a pension. The improved opportunities to compensate for a physical impairment are also included in the assessment.

### **3.3. Recent reforms**

On the basis of 18 adopted bills in the period 2012-2015 three reforms will briefly be mentioned in this subsection: The social assistance reform, the reform concerning the active labour market policy and finally the reform of early pension and flex-jobs.

#### **3.3.1. The social assistance reform**

The reform was based on a broad political agreement in 2014 with the aim that a bigger part of the recipients of social assistance should obtain an active position on the labour market. One of the key elements is to have more focus on education for younger people under the age of 30. Persons in this group, who do not have an education, will receive an education prompt, and social assistance is removed and replaced by education aid on a lower level. People over 30 who are able to work must find employment and will be met with clear demands and expectations in order to continue to receive their benefits. The same goes for young people with an education. After three months, at the latest, people who are able to work will be met with demands that they work for their social assistance, and they will be sanctioned if they fail to live up to the job-search demands.

The reform introduces a new set of categorization rules. Individuals over the age of 30 and educated persons under 30 are categorized either as ready for job having the possibility of getting a job within a shorter period of time, or ready for activity whom typically have complex problems with a need for cross-disciplinary and holistic efforts. For younger persons under 30 without an education it must be decided, whether the individual is obviously ready for education.

Two elements in the reform could potentially have relevans for people with disabilities. Firstly, recipients of social assistance with complex problems will have a right to a coordinating caseworker to ensure holistic efforts across different municipal sectors and other authorities, and to support the work with the individual employment goal. As a starting point the coordinating caseworker will follow the client through the whole process, until he or she is ready for work. Secondly vulnerable individuals receiving social assistance who are unable to take part in job-gearred efforts have the right to a mentor who will help them with their social, mental or physical problems to make them better equipped to take part in job-gearred efforts, and in the long term get a job.

The problem is, however, that handicap, disability and reduced capacity to work are totally absent in the proposed law concerning the reform. According to the comments of the proposal, mentor support is explicitly mentioned with regard to persons who are discharged from psychiatric

hospitals and persons who are going to be released from prison. Disability is not described as an eligibility criterion that gives a right e.g. to coordinating caseworker or mentor.

### **3.3.2. Reform of the active labour market policy**

As of January 2015 the first part of the reform of active labour market policy for the insured unemployed became effective. The reform includes among other issues the following elements: A more individual effort with intensified contact-procedures in cooperation between the job centre and the unemployment insurance funds, greater fokus on business-oriented offers, higher fokus on education and less fokus on guidance, more responsibility to the individual and strengthened monitoring of control and enhanced efforts to prevent long-term unemployment. Finally, the labour market policy is to a greater extent directed to meet the needs of businesses for qualified labour. This reform, too, is based on a broad political agreement.

The reform is to a large extent build on highly exhaustive analysis made in the so-called Carsten Koch-committee on the account of the active labour market policy. Neither in the report from the committee nor in the bill regarding the reform is the issue regarding unemployed with disability treated. In contrast, it is noteworthy that the political agreement and the bill for example have been able to make room to secure special attention to unemployed individuals over 50 years old.

### **3.3.3. Reform of early retirement and flex-job**

The reform, which has been discussed mostly in relation to disability, is the reform of early retirement and flex-job. A political agreement regarding this was reached in 2012, and legislation became effective from 1 January 2013.

The reforms entails first of all that it is now almost impossible for anyone under the age of 40 to be granted early retirement. Secondly, the rules regarding flexjob have been fundamentally changed. Previously, the payment of wage for the entire workinghours was payed by the employer, where half or two thirds of the employers payroll cost could be subsidied, depending on the employee's reducement of the capacity to work. In the new system the employer is only paying wage for the actual workinghours, meanwhile the employee with reduced capacity to work can get a public wage subsidy as a supplement to the wage. The limit of the wage subsidy is determined, and the model encourage especially to the creation of flexjob with few hours per week. Flexjob has a timelimit for individuels younger than the age of 40, and it is emphasized to develop the individual's ability to work and perhaps eventually lead to a higher number of working hours. Thirdly, the reforms mean that cross-disciplinary rehabilitation teams in all municipalaties have been established and resource procedures is offered prior to the decision of flex-job or early retirement.



Overall this is a significant tightening of the rules regarding early retirement, and the flex-job arrangement is now more of a social arrangement than an actual labour market system. The newly established rehabilitation team is an expression of cross-disciplinary way of thinking which can potentially lead to substantial gains for the target group. The problem is, however, that this new way of thinking isn't coming into play for the individual until all other tools in the labour market policy have been applied and then it may be too late.

### 3.4. The position of disability in Danish employment policy

On the basis of structural unemployment as a problem, a new development of the labour market policy and social policy was set in motion in the beginning of the 1990s. Many minor adjustments during the following twenty years led to a major shift (see also Larsen, 2013). While there were two distinct policy areas in the beginning of the 1990s, there is now a single-stringed employment policy in which responsibility has been decentralized and where there is a strong focus on the shortest path to employment for all of the target groups. The development was driven by factors such as substantial changes made to the instruments as well as organizational and regulatory changes. The disability area has undoubtedly been influenced by the general policy development. In the beginning of the 1990s, disability-related questions were generally still a matter for social legislation, but as the social policy gradually approached and ultimately merged together with the labour market policy, the rules in relation to disability-related questions also became part of the new employment legislation. Parallel to this, a number of initiatives were specifically aimed at the disability area, some of which later became part of the general legislation in the employment area.

Terminologically, a shift has occurred in the legislation from directly referring to specific diagnosis groups to referring to persons with extensive disabilities as a whole and referring to persons with permanent impairments. The word 'disability' now appears very rarely in Danish legislation. In the former terminology, 'disability' was exclusively regarded as a characteristic. This was criticized, which in Scandinavia led to the relational disability concept, where the impairment is tied to the individual. This shift in the language is therefore in accordance with the new disability concept. The decisive aspect is therefore more how the legislation relates to the other part of the relational disability concept: the barriers. Here, there are two paths to choose from: either try to remove or at least reduce the barriers to minimize the consequences of the impairment or provide compensation so that persons with impairments can function despite the barriers. The latter strategy is almost exclusively chosen in Denmark.

Conceptually, other interesting shifts have occurred in the course of the period. In the past, disability was almost equated with a seriously impaired capacity to earn a living (*nedsat erhvervsevne*). More recently, it became common to talk about the impaired capacity to earn a living also possibly owing to many other factors, which also led to the development of the flex-job arrangement. Individuals with a disability became a sub-group of a larger group in which an impaired capacity to work (*nedsat arbejdssevne*) was in focus. In the course of the 1990s, the loss

of the capacity to provide for oneself was replaced by an assessment of the capacity to work. This meant focusing on the individual's resources instead of their limitations, which is decisive for being able to identify a function in the dynamic labour market, which can enable individuals to provide for themselves completely or partially. A permanent impairment is included together with a long number of other factors in this assessment.

The general employment policy is now often marked by a distinction drawn between persons for whom unemployment is their only problem and those also dealing with problems other than unemployment. The first group includes unemployed persons with unemployment insurance and possibly also persons with disability/permanent impairment, who therefore in fact do have problems other than unemployment. In the second group, conversely, disability/permanent impairment is merely one among many possible problems.

At one crucial point the disability area has been strengthened in Danish employment policy in the research period; it is now an established principle that people with permanent disabilities may receive compensatory benefits that can enable them to function in the labor market. Disability-compensating arrangements have become a natural element in Danish employment policy. Conversely, the legislation by and large does not include any demands to public authorities or actors in the labour market regarding how to ensure accessibility or other general conditions that can contribute to greater inclusion.

The philosophy seems to be that making compensatory arrangements available can enable people with permanent disability to work on an equal basis with others - either in regular employment or in flex-jobs. But how the unemployed people with disabilities should be equipped to find these jobs receives only very little attention. As a result, job-ready unemployed with disabilities are subject to the same rules as any other job-ready unemployed with increased availability assessment, activation requirements and demands for job search, etc. And unemployed people with disabilities, who are considered to have reduced working capacity, are subject to the same disciplination and the same job search requirements and availability as other vulnerable groups.

The lack of awareness of disability in the general employment policy implies a risk that job-ready unemployed with disabilities do not receive the support that is needed to gain a foothold in the mainstream labor market. But in practice, it depends entirely on how the law is administered in the job centers.

#### **4. Implementation in the local employment system**

The starting point of this paper was the existence of a broadly accepted political goal about improving the employment rate for people with disabilities. In section 3 we have examined to which degree the goal has had impact in Danish employment policy. The aim of this section then is

to explore how disability is reflected in job centers handling of employment efforts. It is based on the assumption that the local employment initiatives can have a significant impact on whether a countrywide political desire to get more people with disabilities in regular employment can be realized. If it can be expected that disability often poses challenges both on the supply and demand sides of the labor market, it will be exactly in the job centers that support may be granted to address these problems.

#### 4.1. Theory and method

While the item here is to study the role of the jobcentres in solving a nationwide problem, the approach is based on a top-down perspective on implementation. According to the classical understanding six sufficient and generally necessary conditions for the effective implementation of legal objectives can be identified (Sabatier, 1986). Two of them are especially relevant here: 1) Clear and consistent objectives, 2) Implementation process legally structured to enhance compliance by implementing officials and target groups. The position of disability in Danish employment policy as described in section 3 illustrates severe problems in fulfilling these two conditions, although it is not always an easy task to determine whether goals are clear and consistent (May, 2003). It is therefore not sufficient to examine whether the job centers meet the objectives that are directly provided by the law. It should also be clarified whether the job centers utilize this broad municipal scope to do more in relation to the unemployed with disability than the law requires them to.

The analysis is inspired by the integrated implementation model (Winter, 1990; 2003; Winter & Nielsen, 2008). According to the model the implementation process takes place within the frames of a given policy design and consists of organizational and interorganizational implementation behavior, management, the behavior of street level bureaucrats and target-group behavior. Together these processes lead to implementation results in the form of performance (output) and effect on the target group (outcome), which are seen as the dependent variables in the model. From implementation results feedback mechanisms can lead back to both policy design and the implementation process itself. Finally all elements in the model can be affected by changes in the socio-economic environment.

Ideally the analysis should build on outcome/effect through information on the employment development for people with disabilities on the municipal level, but such data are not available. Instead an attempt must be made to measure output in the form of performance/efforts in the jobcentres in relation to the target group. The problem is then that such data do not exist, while disability as earlier mentioned is not included as a criterion in the central data reporting system.

Due to this lack of data on the subject, a measure of the job centers' efforts must be based on information gathered for the specific occasion. The analysis has the job centers' efforts in relation to unemployed people with disabilities as a dependent variable based on the notion that these efforts will have a positive effect on the share of unemployed people with disabilities who are

employed under ordinary conditions. Thereafter it is also examined whether the municipal policy frameworks, the management priorities and the socio-economic factors may contribute to the explanation of the variation in municipal services for unemployed people with disabilities. Data on the municipal practices were collected through document studies and a questionnaire survey among job center managers and key people in the disability field in 2012, followed by interviews with the job center manager and the key person in five job centers.

It is, to be emphasized, not a street-level analysis. Data are not gathered among front caseworkers in the general employment service (for a discussion of construction of disability as a target group among frontline workers, see e.g. Stone & Møller, 2013). Neither the problem is seen from the viewpoint of the target group (for an example of this perspective, see Marston, 2013). In this paper jobcenter managers and key persons are instead used as informants about the overall practice in the local employment authority.

#### 4.2. Efforts towards unemployed with disabilities in the local employment service

The purpose of this subsection is to investigate if the job centres pay attention to unemployed with disabilities, and whether they have efforts especially targeted towards this group in their employment service. As a part of the survey managers and key employees in the disability field were asked the following four questions, chosen on the basis of the centres' obligations in relation to support as a part of the individual contact process.

1. Does the job centre, as a permanent practice, ask all unemployed questions about disability/permanent impairment in relation to the first contact with the job centre?
2. Is disability/permanent impairment laid down as a compulsory point of attention in relation to the dialogue meetings in the individual contact process?
3. Does the job centre offer guidance meetings with special focus on the consequences of a disability/permanent impairment for job opportunities and job seeking strategy?
4. Does the job centre offer course programmes especially aimed at unemployed with disabilities/permanent impairments?

The answers to the questions were coded yes if either the manager or the key employee had answered yes, and only no if both partners had answered no. The key results are shown in table 2.

**Table 2: Positive answers to four questions about efforts to unemployed with disabilities/permanent impairments, percent.**

<b>Disability in first contact with the job centre</b>	<b>20</b>
<b>Disability in dialogue meetings in the individual contact process</b>	<b>53</b>
<b>Guidance especially on disability</b>	<b>64</b>

Source: Amby, 2015

Measured in this way a majority of job centres has disability as a compulsory point of attention in relation to the dialogue meetings in the individual contact process. Also a majority offers guidance meetings with special focus on the consequences of a disability/permanent impairment. Only a minority of the centres, however, asks questions about disability in relation to the first contact, and a minority of the centres offers courseprogrammes especially aimed at unemployed with disability/permanent impairments.

A summative index is constructed to give an overview over the results. Each effort is given the value 0, if none of the informants have answered yes, and the value 1 if one of them has answered yes.

**Table 3: Distribution of job centres on effort index.**

Value	Number	Pct.
0	17	21
1	22	27
2	26	32
3	13	16
4	4	5

Source: Amby, 2015

The table shows that 1/5 of the job centres have none of the four efforts, and almost half of the centres have maksimum 1 out of the four efforts. Only 4 job centres, or 5 %, give the answer that they have all four efforts. When taken into account that the index builds on a positive interpretation of the answers it must be fair to conclude that the job centres in general pay little attention on disability in the contact with and efforts to the unemployed in the employment service.

#### 4.3. Local political and managerial attention

The attention on a subject from municipal politicians presumably has influence both on managerial prioritization and street level behavior. In the period 2007-2014 the municipalities had a mandatory obligation to adopt local employment plans to fill out the ministerial employment goals. Table 1 shows results from an examination of the plans from 2012, looking for the words handicap, impairment and reduced functioning capacity, and how the words are used. Apparently the majority of municipalities pay only little political attention to disability in the local employment policy, as it appears in official documents.

**Table 3: Disability in local employment plans 2012, percent.**

<b>Not mentioned at all</b>	<b>26</b>
<b>Neutral reference to compensation-rules</b>	42
<b>Non-committal declaration of intent</b>	18
<b>Binding objectives</b>	14
<b>Total</b>	100
<b>N</b>	93

Source: Amby 2015, table 13.2.

Managerial goals only play a minor role in relation to disability. In the survey only 9 % of the job centre managers and 4 % among the key employees in the disability field have answered that the job centre has written goals about disability. 29 % of the key employees answer that they do not know if such goals exist.

#### 4.4. Disability as a target group in the local employment service

An interesting question could be what kind of knowledge is present in the job centres about unemployed with disabilities as a target group. The job centre managers and key employees in the disability field were asked: "Approximately what share of the job-ready unemployed in the municipality has disabilities/permanent impairments?" The answer could be put into several distinct intervals (0-5 percent, 5-9 percent etc.). The most remarkable result, however, is that a majority have put their answer in "don't know" (51 % of the managers and 76 % of the key employees in the disability field).

Furthermore the managers and key employees were asked, if the job centre has information about the type of impairment, and here only 7 % answered yes in both groups.

The lack of knowledge about size and composition of the target group has undoubtedly to do with the fact that disability isn't defined as a criterion for categorization and registration in the employment system. But it also has to do with great uncertainty about the understanding of disability and impairment as concepts. This can be illustrated by the following two examples from interviews with job centre managers:

*"I see a great difference between a permanent impairment and a disability. We see a lot of people with permanent impairment in areas we would not traditionally denote as disabilities. We are dealing with a lot of people who have impairment due to a psychological impact. And we have a lot of people with impairment due to a*

*psychological impact, which basically is not about a disability, but perhaps more a consequence of wear and tear or an injury that normally would not be described as disability. Normally, what is referred to as disability is typically when one talks about deaf, blind, hard of hearing, native defects etc. It could be a lost arm – a disability that is palpable and has a diagnosis. But after the introduction of the method of capacity to work (arbejdsevnetoden) we talk in a completely different way about it. Today a lot of different types of impairment exist.”*

*“The way I see it, the word disability is not the right word. What we generally do in our sickness benefit cases is to say that it is people with impairment. And you can have impairment in a number of different ways. It does not have to affect the way you can solve a task. There are plenty of people who get the wrong idea. When you hear the word disability it almost sounds as if they are not a part of the labour market or the labour force. And I know plenty of people with impairment, as some would call disabled, who are a perfectly normal part of the workforce, and who see themselves as part of the workforce. Whether you have a chronic condition, called diabetes or epilepsy, or you are not as tall as everybody else – what would be in the way of going to work? I don’t understand. We have spent a lot of time in the job centre articulating that we are dealing with impairment – not disability”.*

As it appears there may be many different perceptions of what is meant by disability or a permanent impairment. It is an extremely heterogeneous group where fixed criteria has not been defined regarding both the type of impairment and how severe they have to be. In reality it can first be determined in the individual case based on an overall evaluation of the person’s situation. Some of the statements question even defining people with a disability as an independent target group in relation to employment. Instead they talk about impairment that can vary from almost negligible to very severe and permanent. Based on this, it is no wonder that for the majority of the job centre managers and key employees in the survey it is difficult to quantify the job-ready unemployed who have a disability or a permanent impairment. But it also highlights a serious dilemma in relation to the measurement of job centers’ efforts regarding unemployed people with impairment. It appears to be difficult to organize a special effort to a target group that cannot be defined, and for some it may be directly irrelevant because the group should not be considered as an independent target group.

#### 4.5 Concluding remarks on implementation

The aim of this section has been to show, whether and how the employment service in the local job centres contributes to solve the social problem of low employment rate among people with disabilities. There are apparently no systematic efforts in job centers to provide support for job-ready unemployed with disabilities. There is little evidence to suggest that local authorities

generally take initiatives in this area in addition to what they are directly bound to by law. But there are wide variations between job centers. The study, however, contributes little to the explanation of this variation. There are virtually no significant correlations between local political and managerial priorities and job centers' efforts against job with disabilities, and local framework conditions do not seem to have any measurable impact.

Probably uncertainty about disability as a target group gives an important contribution to explaining the situation in the jobcentres. This uncertainty both stems from the position of disability in Danish employment policy and from a changing discourse about disability in society as a whole. In other words, both the social and political construction of the target group, and the complex relationship between them must be taken into account in trying to understand what's going on.

One might ask if it would be more fruitful to look upon disability and employment from a bottom-up perspective, because of the complex character of the problem and the lack of clear and consistent policy goals. Starting by identifying local actors, their activities objectives and strategies, it then should give the opportunity of "going backwards" in the chain from implementation to policy design (Hjern & Porter, 1981; Sabatier, 1986). Ideally knowledge about effective local solutions might lead to feedback about needs for changes at the central policy level. But also from such a point of view there would be severe methodological problems connected to the identification of local actors and in generalizing results.

## 5. Conclusion

The employment situation for people with disabilities is not directly included as part of the problem identification in the labor market and employment policy in the research period 1992-2012, and none of its instruments specifically target the problem. Disabled are not included in the definition of target groups in the general employment policy, and recent reforms seem to continue on the same path. A system has been created where the law now seeks to sort people with disabilities or reduced workability into three groups: an ever-smaller group entitled to disability pension, an ever growing group who are to find employment in flex-jobs, and finally an almost invisible group that is expected to be fully self-supporting on the ordinary labor market.

The new conceptual understanding of disability presumably has significance for the social construction of persons with a disability as a target group in employment policy. As such, it can be difficult to determine the objective conditions making up socially meaningful characteristics for distinguishing the target group. This is possibly one of the factors contributing to persons with a disability or permanent impairment not being defined as an independent target group in the active employment policy and that this group is rarely referred to when vulnerable groups are



pointed out in employment policy and in the local employment service.

Developments in both the general and in the disability-specific legislation send ambiguous signals about how disability should be considered as a target group in employment efforts. If people with disabilities are considered to be a weak group and therefore need help, it might block that disability also play a role in relation to the stronger groups of unemployed. And conversely, if it is argued that the unemployed with disabilities also may belong to the powerful groups of unemployed, this might block that they get the support they need to get jobs. In other words, there is a danger that two almost irreconcilable extreme positions are developed: Either unemployed with disabilities is a weak group that needs help, but does not belong on the ordinary labor market. Or unemployed with disabilities is a strong group that may be able to fend for themselves as other job-ready unemployed, and therefore need no special attention. As demonstrated in the implementation analysis the dilemma is apparently present in the local employment service as well.

Undoubtedly a political desire about improving the employment situation for people with disabilities still exists. But this ambition is not followed by the formulation of clear goals or the establishment of appropriate instruments in the general employment policy. As a result there only is a loose and insufficient connection between the overall policy goal and the local employment service, where outcome should be obtained.

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