



## Disability Employment Mark (Incorporated Company Version) Eligibility Criteria



**NB: The following criteria framework is specific to supported businesses who are not based with Local Authorities, and are either incorporated companies or part of an incorporated company. If you are part of a Local Authority, please ask to see the framework specific to this type of supported business.**

### Principles

- The Disability Employment Mark (DEM) is a standard for supported businesses that primarily deliver social value through the employment of people with disabilities or long-term health conditions: it provides public reassurance that a product or service comes from a supported business that goes above and beyond required expectations for employers, to create a supportive environment for employees with disabilities.
- Social Enterprise Mark CIC (SEMCIC) developed the criteria and assessment process. This was achieved in consultation with the Supported Business Steering Group<sup>1</sup>, to make sure criteria and assessment is relevant and appropriately robust.
- A full assessment for DEM requires an organisation to describe how it is meeting the criteria and submit supporting evidence in respect of this. Following this first-time full assessment against all the criteria, DEM status is subject to a regular review process, through which at least some aspects of this evidence will be re-examined and an organisation must confirm it has maintained all standards and licence terms. A full reassessment will be repeated at least once every three years. Each annual renewal will also depend upon payment of an annual licence fee.
- SEMCIC will oversee the assessments for DEM. Assessments will be reviewed by an Accreditation Panel, which is independent to SEMCIC. The Panel will comprise of individuals from different backgrounds and experience of disability or long-term health conditions. The Panel's role will be to consider and make judgements on assessments conducted, ensuring these conform with criteria expectations and setting new precedents for assessing eligibility going forward. This will include reviewing all assessments where set evidence requirements are not clearly met, and routinely examining a selection that have been approved by SEMCIC every year, to ensure consistent standards of assessment are being applied.
- Where an organisation does not currently meet any framework criteria, they may be awarded a 'Committed' DEM status, providing they:
  - can confirm their commitment to meet these criteria within a timeframe to be agreed with SEMCIC and approved by the Accreditation Panel;
  - hold Disability Confident status at 'committed', 'full' or 'leader' levels.

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<sup>1</sup> The Supported Business Steering Group comprises members of the British Association of Supported Employment and other sector stakeholders. They provide an advocacy and lobbying role for supported businesses and promoting the employment of people with disabilities and long-term health conditions. This includes regular engagement with the Department of Work and Pensions, who manage funding in support of these interests, who were also involved in the consultation around the development of DEM.

*NB: For ease of reference, the terms “disability/disabilities” also includes “long-term health conditions” (as these terms are defined under the Equality Act 2010)*

**Overarching Purpose:**

**The Disability Employment Mark has been designed to recognise organisations that provide a supportive environment for people with disabilities, which go above and beyond what might be considered reasonable workplace adjustments.**

**Rationale**

Some disabled people benefit from a culture of holistic support that may not generally be found in other workplaces.

**General Principles and Evidence Requirements**

An organisation must be able to provide evidence of a supportive environment, which is not typically available to people with most employers. The criteria that follow below describe the principles that underpin the above stated purpose, along with the nature of the evidence that can contribute towards demonstrating how each criterion is being met.

Reasonable adjustments should be first nature to the enterprise, who should be able to show how they go above and beyond what is expected by other employers.

Employees should expect and receive support for non-work-related issues, such as benefits, housing or health. A supportive culture should run through the supported business, its policies and procedures.

## The Eligibility Criteria

### **Criterion A.**

**Clearly stated social objectives, which include facilitating the employment of people with disabilities.**

#### **Rationale**

Transparent objectives are essential to conveying the organisation's primary purpose of facilitating the employment of people with disabilities.

#### **Relevant Evidence (not necessarily all compulsory)**

Governing documents.<sup>2</sup>

#### **Guidance and Evidence Requirements**

The aim of facilitating the employment of people with disabilities will be clearly articulated within the legal objects of the organisation. This may directly relate to how an organisation delivers trading activities, and/or an outcome of the trading activity. Governing documents may refer to other trading objectives and activities, but it must be clear that these are only pursued in support of achieving this primary social purpose.

If an organisation supports purposes or acts in a way that might reasonably be considered unethical or socially questionable, then this may render them ineligible.

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<sup>2</sup> The term "governing documents" refers to a company's constitution – typically memorandum and articles of association or company rules that are available in the public domain, registered with Companies House of the Financial Conduct Authority.

## **Criterion B.**

### **Demonstrate an effective business model.**

#### **Rationale**

An organisation that demonstrates robust, inclusive and self-determining governance, together with sound, ethical business practices, and financial transparency, has a greater potential to offer security of employment for people with disabilities.

#### **Relevant Evidence (not necessarily all compulsory)**

Corporate & governance structure; clearly stated lines of management accountability; List of members/ shareholders.

Business planning to meet both social and commercial objectives; Internal and external auditing processes; effective use and reporting of KPIs that inform decision making. At the very least, an organisation must be able to provide evidence of their trading history in the form of full financial statements, providing details of their annual income, as well as a cashflow forecast/budget plan for the following year.

Disability Confident Employer status; ethical policies and procedures; an equality and diversity is mandatory, but should be supported by other policies demonstrating ethical good practice, such as a living wage policy.

#### **Guidance and Evidence Requirements**

The Disability Confident scheme requires holders to have effective policies/procedures to attract, recruit and retain board members and employees with disabilities, to reinforce ethical positioning. Disability Confident Leader requires external validation and evidence of Challenge and Leadership.

Governance documentation, plans, policies etc. demonstrate intent. Levels of inclusion, published accounts, annual reports and case studies etc. provide evidence of the effectiveness of intent. The existence of an equality and diversity policy is mandatory, but supported businesses should be able to refer to other policies and practices they have in place that help demonstrate their commitment to good business practice.

Effective business planning should drive social aims through all strategies and policies as well as setting, monitoring, and reporting against social and commercial KPIs. A business plan should ideally show how the supported business is a financially sustainable for the life of the plan.

Registered corporate documents, and other supporting governing documents, should confirm independence. Independence usually means that no public or government agency, or other private, corporate bodies, hold majority ownership/control of the organisation. (There are circumstances where this can be waived, if an organisation is able to provide evidence in respect of the involvement of any corporate owners, which helps show it remains sufficiently autonomous to pursue objectives in line with all DEM requirements – please contact SEMCIC for further advice, as may be appropriate).

NB: the level of detail an organisation is able to provide in submitting evidence in respect of this criterion is not defined, as long as an organisation can show the policies and processes they have in place are fit for purpose. However, where any concerns may be identified, you may be required to submit additional information as may be appropriate to the needs and questions raised.

## **Criterion C.**

### **Generate at least 50% of income from trading.**

#### **Rationale**

50% trading income (in balance with all other annual income) is considered a minimum for organisations, who strive to fulfil the social purpose of employing people with disabilities, through their reliance on commercial activities and trading interests.

At the very least, an organisation must be able to provide evidence of their trading history in the form of full financial statements, providing details of their annual income, as well as a cashflow forecast/budget plan for the following year.

**NB:** The usual assessment of this criterion requires an organisation to provide recent financial evidence in support of how they meet requirements (reports that are no older than 18 months at the point of submitting their first application, or their annual licence renewal date). The Covid pandemic and resulting lockdown have clearly affected the trading capacities of many businesses and how they may be able to demonstrate compliance with the criterion. In light of this, for the foreseeable future, the assessment of this criterion will take into consideration these circumstances.

Provided an organisation can show they were meeting criterion requirements in the accounting period immediately before the onset of the pandemic lockdown (up to March 2020), any failure to meet it following this will **not** count against them. However, where organisations have experienced changes in their financial circumstances as a result of the pandemic, they will be expected to provide an indication of when they hope to return to the required level of 50% or more of income deriving from sources of trade (as is defined below). This will include providing a forecast of income expectations for the current financial year-end they are in.

Please note, at this stage we are not proposing any permanent change to this criterion. Arrangements will continue to be reviewed as circumstances change, with a view to returning to previous requirements. As far as is reasonable though, individual circumstances will continue to be considered and organisations will be given the opportunity to return to the required standard.

#### **Relevant Evidence (not necessarily all compulsory)**

Formal business/ departmental financial reports that show figures for the last completed financial/reporting year. These reports should be authentic, i.e. ideally, they should not be deliberately produced for the purposes of assessment - they should be part of existing reporting mechanisms the supported business produces for its management purposes, to help be effective and profitable.

A breakdown of sources of income that helps confirm how much of total annual income is derived from sources of trade.

#### **Guidance and Evidence Requirements**

Financial accounts should provide a breakdown of ALL sources of income and other payments received by the business, which confirms how much of this is derived from sources of trade (including contractual grants for employing people with disabilities).

If the service has been trading under a different guise, financial reports or accounts from the previous trading history may be considered, if the activity is the same. A cashflow/budget plan should provide a forecast of income and expenditure balances for at least the forthcoming year.

Trading income most commonly derives from the sale of goods and other services. This is typically evident in the receipt of payments and other fees, income from contracts or other agreements.

General grants that are bid for to support an organisation's activities, which are for activities not specifically commissioned by the awarding body are unlikely to qualify as trading income and will count against this. These grants are typically funds awarded to an organisation in general support of their needs, which they have solicited for support towards. Such grants may often be paid by organisations who have broad altruistic or public motives in supporting general social purposes, rather than any specific social purpose. The grants may include payments in respect of service outputs, but more likely have been agreed and calculated in respect of the organisational resources required to provide the services concerned (e.g. premises, tools, equipment, staff etc.) i.e. *service inputs*.

However, some grant income may be classed as trading income. This mainly applies to grants that are primarily paid according to strict expectations of delivering specific activities i.e. *service outputs*. Such grants are typically subject to service level agreements or other contractually defined conditions, which effectively constitutes trading income. This includes grants which have been competitively tendered for, or directly commissioned by the awarding body, to deliver services that the awarding body typically has an obligation or specific purpose in providing or supporting.

Donations or similar bequests, count against the balance when calculating the proportion of annual income that may be classed as trade. Interest payments from investments (shares, bank accounts etc.) will also count against the balance of trading income. However, interest receivable in respect of financial services that an organisation delivers as part of their core trading purposes, is trading income.

Most types of investment and loan income can be discounted from turnover *before* calculating the balance between trade and other income, provided this does not significantly and consistently exceed that element which may be classed as trading income over the previous three years. (Capital loans and investments are an exception and will generally always be discounted, whatever the level of trading income).

If an organisation is on the cusp of the 50% trading requirement, but has received an unusual payment causing them to dip below this, then trading levels in previous years and plans for future years can be considered in determining whether or not they are primarily trade dependent.

Please seek further advice from SEMCIC regarding this guidance and the definition of trading income.

## **Criterion D.**

**Principal proportion of profits (or surplus) and assets (51% or more) are used to facilitate employment for people with disabilities.**

### **Rationale**

The primary purpose of the organisation is facilitating the employment of people with disabilities, which includes being able to show how income and/or profits (surplus) have been dedicated to achieving this.

### **Relevant Evidence (not necessarily all compulsory)**

Governing documents.

Accounts (including detailed financial statements) – preferably audited and filed with relevant authority.

### **Guidance and Evidence Requirements**

There should be clauses in governing documents confirming an organisation's commitment to how profits (surplus) are distributed. The business may distribute its profits in a number of different ways that facilitate employment of people with disabilities:

- if trading activities in themselves facilitate such employment, through direct reinvestment/retention of profits in the business;
- donated to other resources for facilitating such employment;
- distributed to shareholders or members who primarily facilitate such employment.

It must be clear that at least 51% of any distributable annual profits or surpluses generated are distributed as above. Any dividend, profit, interest or similar payments made to shareholders, owners or members should not exceed 49% of the total net profits generated in that same year. However, on occasion there may be legitimate circumstances where the amount distributed to such entities exceeds 49% (e.g. late dividend claims from previous years); in such cases further clarification will be sought to justify why and to explore profit distribution trends from previous years, to ensure an overall balance has been maintained.

NB: this criterion requirement does **not** allow for the use of profits as alternative means of paying director or employee salaries (possibly to reduce tax implications), beyond the 49% distribution allowance.

The failure to generate profit (or low profits) does not constitute immediate failure to meet this criterion, but further scrutiny of the circumstances behind this may be required.

**Criterion E.**

**On dissolution of the business, the supported business distributes all remaining residual assets for social purposes.**

**Rationale**

Such a commitment on residual asset distribution, demonstrates the commitment to the primary purpose of supporting social objectives, even beyond the lifetime of the business.

**Relevant Evidence (not necessarily all compulsory)**

Governing documents.

**Guidance and Evidence Requirements**

There should be relevant clauses in governing documents, which confirm an organisation's commitment to how any residual assets would be distributed in the event of dissolution ("winding up" of the company).

Any outstanding company debts are payable before any residual assets are finally calculated. In the case of Companies Limited by Shares, shareholders may also be repaid the *nominal value* of their shareholding, prior to the distribution of remaining assets (i.e. the original price of the shares at the point they were issued – not any additional value that may have become accumulated by the business during its lifetime).



## **Criterion F.**

**The employment of people with disabilities is supported and proactively facilitated at all levels and in all aspects of the business.**

### **Rationale**

The actions a supported business take to facilitate the employment of people with disabilities demonstrates how an organisation is an exemplar employer in showing the value of employing people with disabilities.

### **Relevant Evidence (not necessarily all compulsory)**

Activities, initiatives and investment in resources that demonstrate how the organisation has provided a supportive environment for people with disabilities, which go above and beyond what might be considered reasonable workplace adjustments.

Staff development planning and reporting.

Staff turnover statistics.

Case studies of support packages.

Published annual statistics, including breakdown of people with disabilities employed in different grades and departments, including at board level.

### **Guidance and Evidence Requirements**

This is the key indicator as to whether a service is committed to the concept of inclusivity of disabled people in the workplace. Best practice would be to provide a breakdown by disability/ health condition as evidence of an inclusive working environment.

All employees with a disability or long-term health condition should have a personal development plan. Staff turnover should be monitored to measure employee satisfaction but also to ensure a healthy turnover to prevent a stagnant workforce. Employees should be supported to find ongoing employment, the success of which should be monitored; best practice will also show an element of people at least becoming employed within an Intermediate Labour Market (ILM).

A supported business must be able to explain and justify the level of disabled employment they have achieved, compared with their total workforce, along with what obstacles there are to performing better, as well as what they do to try and overcome these.