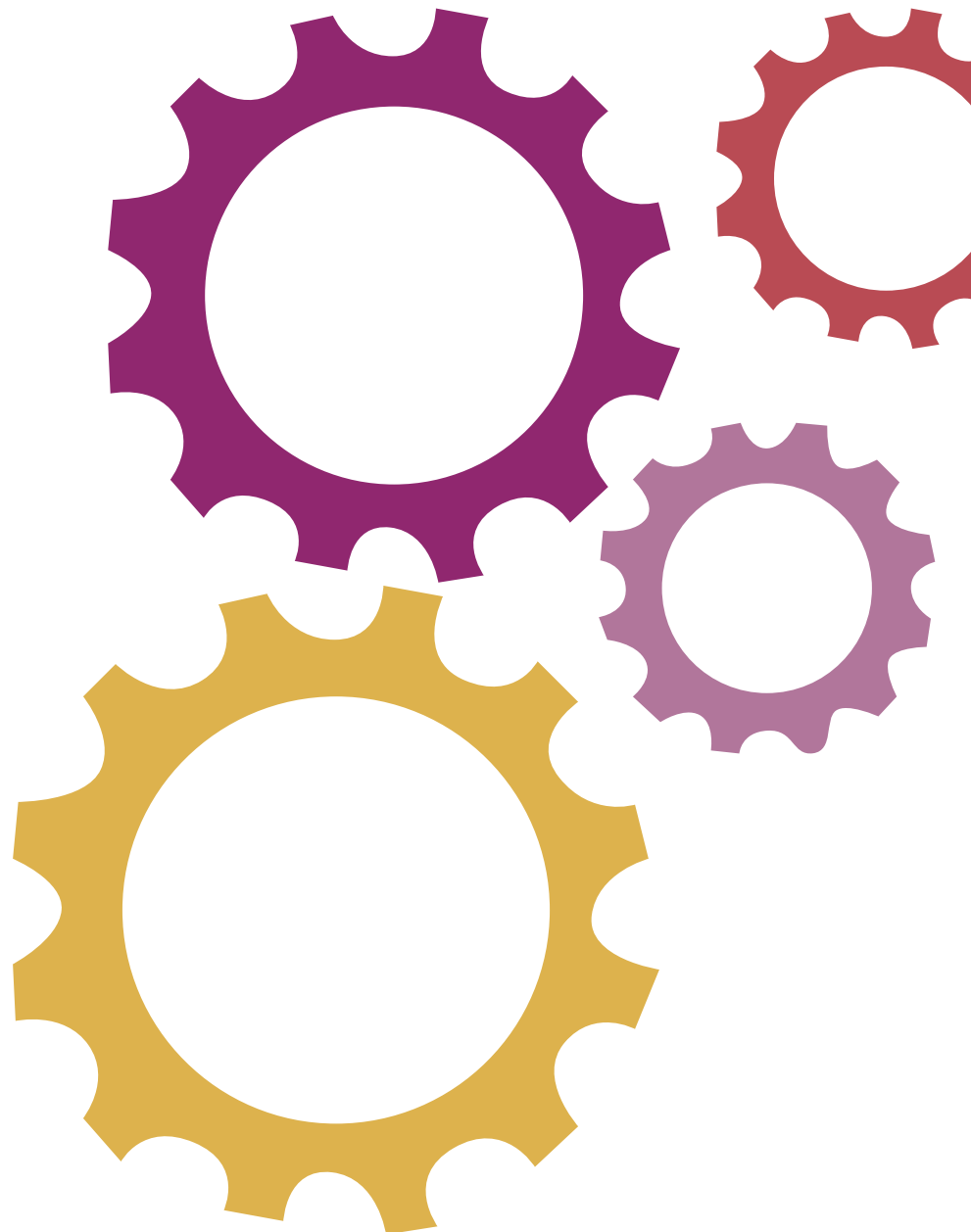


People and Culture Group Round Table

Autumn 2022



People and Culture Group

Roundtable – 21 September 2022

In our Autumn B-Corp People and Culture Group Round Table session, we explored the topic of neurodiversity and looked at the simple steps employers can take, and the tools and strategies they can put in place, to support neurodiverse employees.



Neurodiversity

What is Neurodiversity?

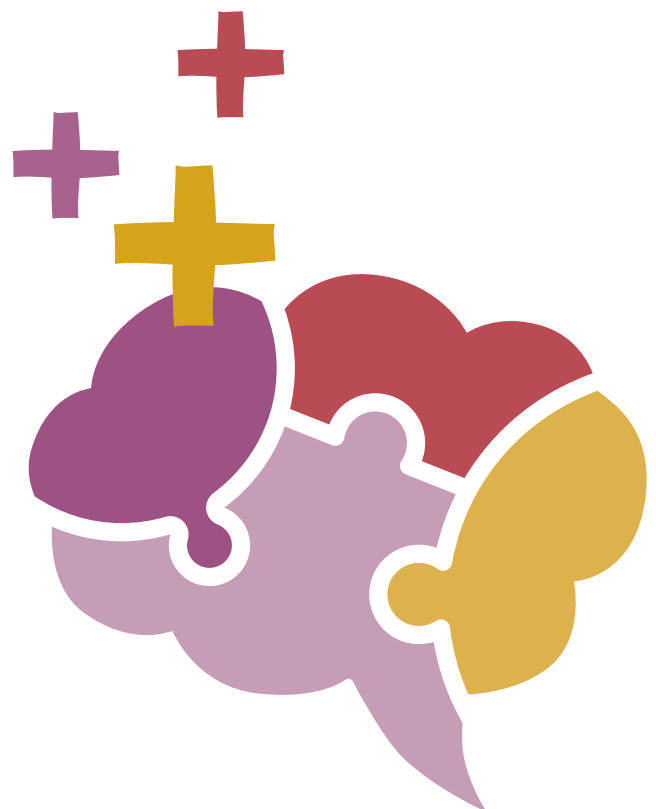
“Neurodiversity” is an umbrella term for a number of different variations in cognitive and brain function which can affect social interaction, learning style, attention span and other mental (and sometimes physical) functions. It includes conditions such as attention deficit hyperactivity disorder (“ADHD”), autism, dyslexia, dyspraxia, obsessive compulsive disorder (“OCD”) and Tourette’s syndrome. It is common for individuals to have more than one of these conditions concurrently, and for the level of severity of each to vary across a spectrum.

Neurodiversity is an issue around which there is growing awareness and dialogue, both within workplaces and the community more broadly. This is largely because the rates of diagnosis of neurodiverse conditions have increased significantly in recent years; with diagnoses of autism in particular increasing by 790% according to some **figures**.¹ It is currently estimated that around one in seven people in the UK, or 15% of the population, are **neurodiverse**.²

This is also an issue in respect of which there has been a significant shift in focus and approach in recent years; with the term “neurodiversity” increasingly being used to describe the idea that people experience and interact with the world around them in many different ways; there is no one “right” way of thinking, learning or behaving; and that because these conditions bring with them both strengths and weaknesses, the differences that they create should not be viewed solely as negative.

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¹ <https://acamh.onlinelibrary.wiley.com/doi/10.1111/jcpp.13505>

² <https://www.local.gov.uk/lga-libdem-group/our-press-releases/neurodiversity>

Neurodiversity in the workplace

How does Neurodiversity affect individuals in the workplace?

The way in which neurodiversity is likely to affect an individual in the workplace will depend very much on the specific condition they have, and how that condition manifests for them. Though there is some overlap between the effects of the various different conditions, each condition will present slightly differently for different people and so the precise way in which their condition affects them in the workplace will be very personal to them.

Whilst many with neurodiverse conditions may experience specific difficulties in the workplace, they will also have unique strengths and skills, and line managers may be able to put a number of relatively simple support measures in place to help mitigate against any difficulties and amplify specific strengths and skillsets. We have set out some (non-exhaustive) examples below.³

Condition	Key strengths	Potential difficulties	Support measures which might assist
ADHD	<ul style="list-style-type: none"> Being creative problem solvers and non-linear thinkers. The ability to “hyperfocus”. The ability to multitask. Being intuitive and empathetic. Being passionate and having a good sense of humour. 	<ul style="list-style-type: none"> Difficulties with focusing and regulating attention. Difficulties with time management and/or organisational skills. Frequently interrupting others. Fidgeting and restlessness. Less attention to detail. 	<ul style="list-style-type: none"> Being given additional time to digest information. Being provided with prioritised tasks. Be aware that they might speak fast.
Autism	<ul style="list-style-type: none"> Being “creative visionaries” and non-linear thinkers. Having an excellent memory and attention to detail. Being highly focussed, autonomous workers. Having strong special interests. Being honest and reliable. 	<ul style="list-style-type: none"> Difficulty interpreting what others are thinking or feeling. Difficulty interpreting facial expressions, body language or social cues. Difficulty regulating emotions. A tendency to engage in repetitive or routine behaviours. A need for strict consistency in daily routines. 	<ul style="list-style-type: none"> Working with managers to come up with ways of working and a structure that works for both them and the organisation. Being allowed to follow their own processes to achieve goals. Working on projects which are related to their specific areas of interest. Being given a structured work environment, and repetitive tasks (which can be comforting). Access to a safe / quiet space within the workplace that they can use as and when needed. Regular check-ins from their line manager, open lines of communication, and being given plenty of advance notice of any changes in the workplace.

Condition	Key strengths	Potential difficulties	Support measures which might assist
Dyslexia	<ul style="list-style-type: none"> Having a strong visual memory. Being creative. Being non-linear, “3D” thinkers. Being expressive, outgoing, and energetic. Being adventurous and entrepreneurial. 	<ul style="list-style-type: none"> Slower reading speeds and processing of numerical data. Weaker spelling and grammar skills. Difficulty filling in forms and writing reports. A tendency to miss and confuse appointment dates and times. Difficulty structuring work schedules. A general lack of confidence and low opinion of own capabilities. 	<ul style="list-style-type: none"> Providing projects that allow them to engage their creativity. Being aware of the extra effort that is often applied for basic tasks. Providing assistive technology, such as spell-checking or voice-to-text software. Being approachable, checking in regularly and taking action when needed; bearing in mind that a person with dyslexia may not disclose their condition or that they are struggling until they feel overwhelmed.
Dyspraxia	<ul style="list-style-type: none"> Being natural strategists, excellent problem solvers and exceptional writers. Being non-linear, creative thinkers. Being intuitive and empathetic. Being determined and innovative. 	<ul style="list-style-type: none"> Balance and movement issues, or gait abnormalities. Issues with hand-eye coordination. Difficulties with organisation and planning. Difficulty writing or using a keyboard. Social awkwardness or lack of confidence. 	<ul style="list-style-type: none"> Allowing flexibility in work style. Providing guidance for organisation and planning, particularly where several tasks need to be completed to a deadline. Breaking tasks down into smaller steps and demonstrating examples of how they are done. Giving adequate time for learning new tasks. Avoiding hand-written tasks.



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³. Credit to Yasodha Rajadurai at Exceptional Individuals for the facts and figures in this section.

The legal position: an employment law perspective

Does the condition constitute a disability?

A neurodiverse condition will constitute a disability under the Equality Act 2010 if it satisfies the legal test set out in the legislation:

- i. It must be a physical or mental impairment;
- ii. which has a substantial and adverse effect on the individual's ability to carry out day-to-day activities; and
- iii. which is long-term (i.e., lasting, or likely to last, for 12 months or more).

If this test is met, and an individual's condition therefore constitutes a disability, this will give rise to a number of rights (for the individual) and obligations (for the employer) under equality legislation.

Is the employer aware of the disability?

The rights and obligations arising under the Equality Act in respect of disabilities (which we will come on to in more detail below) are only triggered where an employer knows, or should reasonably have known, that the individual in question has a disability.

This includes express knowledge (i.e., where an employer has expressly been informed of the individual's condition), but also constructive knowledge (i.e., where there are circumstances which indicate that the individual has a disability – for example, frequent sickness absences for the same condition over an extended period of time – from which the employer should reasonably have known that they were disabled).

So if, for example, the employer is aware that an employee has a disability, and there are signs that their poor performance or misconduct is as a result of that disability, but the employer ploughs ahead nonetheless with a capability or disciplinary process without taking the disability into consideration or making any reasonable adjustments, the employer runs the risk of falling foul of anti-discrimination legislation.

A particular difficulty for employers is where an employee's disability is "hidden" or "invisible", such that it is not immediately obvious and may only impact or become evident in particular situations, or in relation to certain duties, responsibilities or tasks. In such circumstances the individual may not see their condition as a disability, and/or may not have had a formal diagnosis.



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A learning difficulty such as dyslexia is a good illustrative example of this. It is an “invisible” condition which may have gone undiagnosed, such that the employee is not aware that they have it; however, they may have difficulty carrying out certain tasks at work, or find that they are struggling to cope with work more generally, as a result of it. They may also benefit from a different, or specific, management style.

These issues are particularly common with neurodiverse conditions, and should be borne in mind when assessing whether or not an individual may be disabled and how best to support and manage them in the workplace. Further enquiries and open discussion will be crucial in the event that any suspicion of a hidden disability arises, and each instance will have to be considered on a case-by-case basis.

It is also essential that managers are made aware of these issues, and that they are given training and support to help them deal with them sensitively and constructively as and when they arise.

The employer’s obligations under the Equality Act 2010

If an individual has a condition which amounts to a disability under the Equality Act, and the employer is or should be aware of that, the individual will be protected from being discriminated against as a result of their disability.

More specifically, the Equality Act prohibits employers from:

- treating an employee less favourably because of a disability (direct discrimination);
- having provisions, criteria or practices which disproportionately disadvantage those with a disability, unless such treatment can be objectively justified (indirect discrimination);
- treating an employee unfavourably because of something arising in consequence of disability, unless such treatment can be objectively justified (discrimination arising); and
- subjecting an employee to harassment related to a disability.

In addition, the employer will also be under a positive duty to make reasonable adjustments to its workplace, practices and processes, to help alleviate any substantial disadvantage suffered by disabled employees in carrying out their work as a result of their disability.

If an individual has a condition which amounts to a disability under the Equality Act, and the employer is or should be aware of that, the individual will be protected from being discriminated against as a result of their disability.

What might reasonable adjustments look like?

From a legal perspective, the courts and Tribunals expect employers to go quite far in terms of what adjustments should reasonably be made for disabled employees; and, if necessary, to expend a fair amount of time, energy and cost putting these in place.

In practice however, it can be difficult for employers to identify the adjustments that may be needed, the extent to which making these would be reasonable, and/or how best to implement them.

The Equality and Human Rights Commission Code of Practice sets out a non-exhaustive list of examples of reasonable adjustments, and this might be a helpful starting point for employers.

For neurodiverse conditions more specifically, consideration should also be given to the below:

- How might the workplace environment or requirements of the role be contributing to the issues faced by the individual as a result of their disability?
- Could performance or conduct issues be linked to the individual's condition?

From a legal perspective, the courts and Tribunals expect employers to go quite far in terms of what adjustments should reasonably be made for disabled employees; and, if necessary, to expend a fair amount of time, energy and cost putting these in place.

- What support can be put in place to help the individual manage their condition, and the ways in which it manifests, in the workplace? This might include:
 - Implementing a different management style, having more regular check-ins, and/or ensuring open lines of communication.
 - Providing a work environment and/or processes which are structured in a different or specific way, or conversely allowing for greater flexibility in work style.
 - Allowing additional time to complete tasks, and/or assisting the employee in organising and prioritising tasks.
 - Providing software, such as spell-checking or speech-to-text, to help employees who have difficulty with reading or writing.
 - Providing additional training.
 - Access to a quiet, or “safe” space within the workplace that can be used when needed.
- Can management processes be adjusted to take the individual's specific condition, and how it manifests, into account? For example, by:
 - adjusting sickness absence trigger points for disability related absences;
 - allowing a specific companion at management meetings; or
 - allowing the individual to engage with investigations in a different format.
- Might it be reasonable to pay for additional private health support?

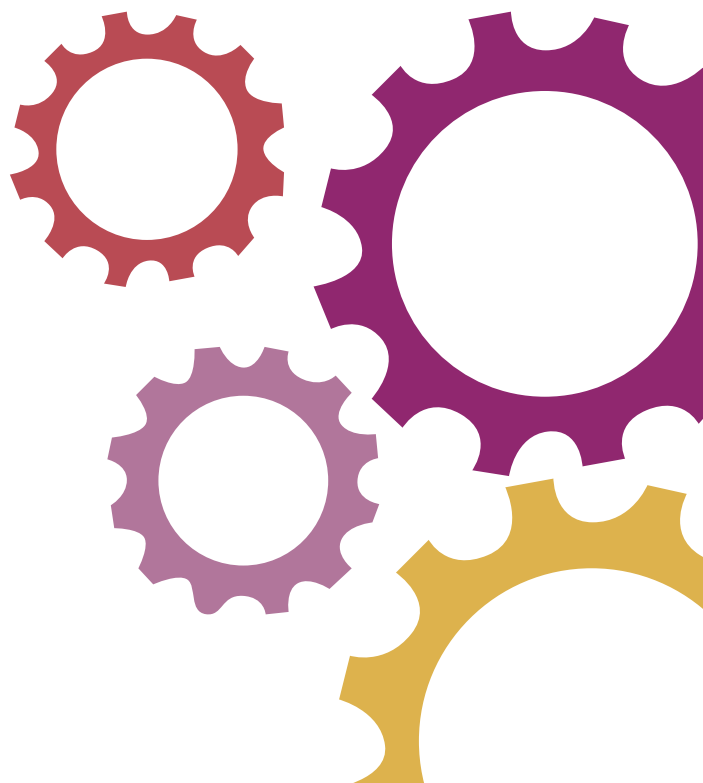
Clearly, as a starting point, it will be crucial to understand the individual's condition and how it affects them in the workplace, and to have a sensitive and open dialogue with them about both this and the types of adjustments which may support them in carrying out their work. Employers should ensure that they consult with both the employee and relevant medical experts as needed. Workplace needs assessments, which assess the individual's strengths and challenges within their role, can also be a helpful tool here.

Employers should also avoid focussing solely on the employee's areas of difficulty. Instead, consideration should be given to where their strengths lie, which tasks and ways of working might play to these and whether their role can be tailored to take this into account. For example, an employee with Autism may have excellent attention to detail and accuracy, but need a more structured working routine. Taking a more strengths-based approach is likely to be beneficial for both the individual and the organisation.

Lastly, it is important that line managers and HR teams are given adequate training and support to enable them to assess and implement appropriate reasonable adjustments as necessary. Again, open dialogue will be key here.

Employers should also avoid focussing solely on the employee's areas of difficulty. Instead, consideration should be given to where their strengths lie, which tasks and ways of working might play to these and whether their role can be tailored to take this into account.

It is important that line managers and HR teams are given adequate training and support to enable them to assess and implement appropriate reasonable adjustments as necessary.



Group Discussions

We discussed a number of key learning points in break-out groups; which are summarised below.

1. Key take-home learnings

Neurodiverse conditions affect a significant number of employees, and individuals are likely to have more than one co-existing condition.

Whilst this can bring with it a number of complexities, it is important that employers avoid thinking about individuals as being solely defined by their condition(s). Instead, focus on their skills and strengths, think about how their role might be able to be adapted to draw these out, and give careful consideration to how they can be supported in the workplace.

There has undoubtedly been a significant shift away from neurodiversity being viewed in a negative light and there being a reticence to talk openly about these conditions; as may have been the case historically. Instead, the approach and dialogue nowadays is a much more positive one; with people being more likely to discuss their conditions openly and employers increasingly taking a strength-based approach in the workplace.

Open and empathetic dialogue with staff, assessing and implementing reasonable adjustments where necessary, and providing training and support for managers and decision-makers are all key.

2. Challenges

There are, of course, still a number of challenges. Particularly around recruitment processes; understanding what reasonable adjustments might look like and how to implement these; as well as how to handle performance or other management processes if and when these become necessary.

It can also be the case that, despite the employer's best efforts, the individual does not want to engage with discussions about their condition or how it can be supported in the workplace. Or refuses to participate in a management process.

This can also place pressure on Line Managers and colleagues, who may have to help manage the situation or adapt the way they work as a result.

The best approach here is to try to have an open, empathetic dialogue with the individual about their condition and how it affects them in the workplace; speak to experts and gather medical advice about how best to support them; and take steps to ensure that adjustments, which are reasonable in the circumstances, are implemented. Once again, regular training and support for line managers and decision-makers is also key.

3. Opportunities

There are undoubtedly opportunities for many organisations to improve their recruitment processes, so as to ensure that they are attracting neurodiverse candidates for new roles and adapting recruitment processes to enable such candidates to take part on an equal footing to others.

The new world of hybrid and remote working perhaps also presents a good opportunity for additional flexibility in ways of working. It has become clear that roles can be performed in different ways, without productivity and output being adversely affected. Employers should consider having regular, open conversations

with their staff about how they like to work and what suits the needs of individuals as well as the organisation.

This also presents an opportunity for employers to take a more strengths-based approach to roles. Consider whether it is possible to focus on individuals' skillsets and adapt their roles accordingly; bring them in on projects and tasks that play to their strengths and areas of interest; take a more creative, tailored approach to roles where this is possible.

4. How can we do things differently?

Encouraging and enabling self-reporting and disclosure of neurodiverse conditions is an area in which many feel they could be doing better. This could be addressed in company policies and procedures such as, for example, an Equal Opportunities or Equality and Diversity Policy.

Weaving more open conversations and regular check-ups into one-to-one meetings, around how staff like to work and the things that might be standing in the way of them working as well as they could be, would also be useful. Key here would be building and fostering a "safe space" for employees to talk about these issues and ask for the support that they need.

Linked to the above, many felt that having more senior people within organisations talking openly about these issues – especially where they themselves are neurodiverse or have experienced mental health issues – would help to foster a more open, supportive environment and remove any stigma.

5. What help will we need to do this?

Empathetic, open dialogue with neurodiverse employees and colleagues is crucial. This can be helpful in de-stigmatising neurodiversity and ensuring a supportive working environment.

Also important is having clear, transparent processes and procedures in place which not only encourage neurodiverse employees to report their conditions and engage with conversations about them, but also help managers and decision makers to create a supportive workplace environment.

Linked to this, is ensuring that specialist advice – whether medical or professional – is obtained and engaged with when needed; to ensure best practice.

Lastly, regular training and structured support for recruitment staff, line managers and decision makers are also vital.



Key contacts



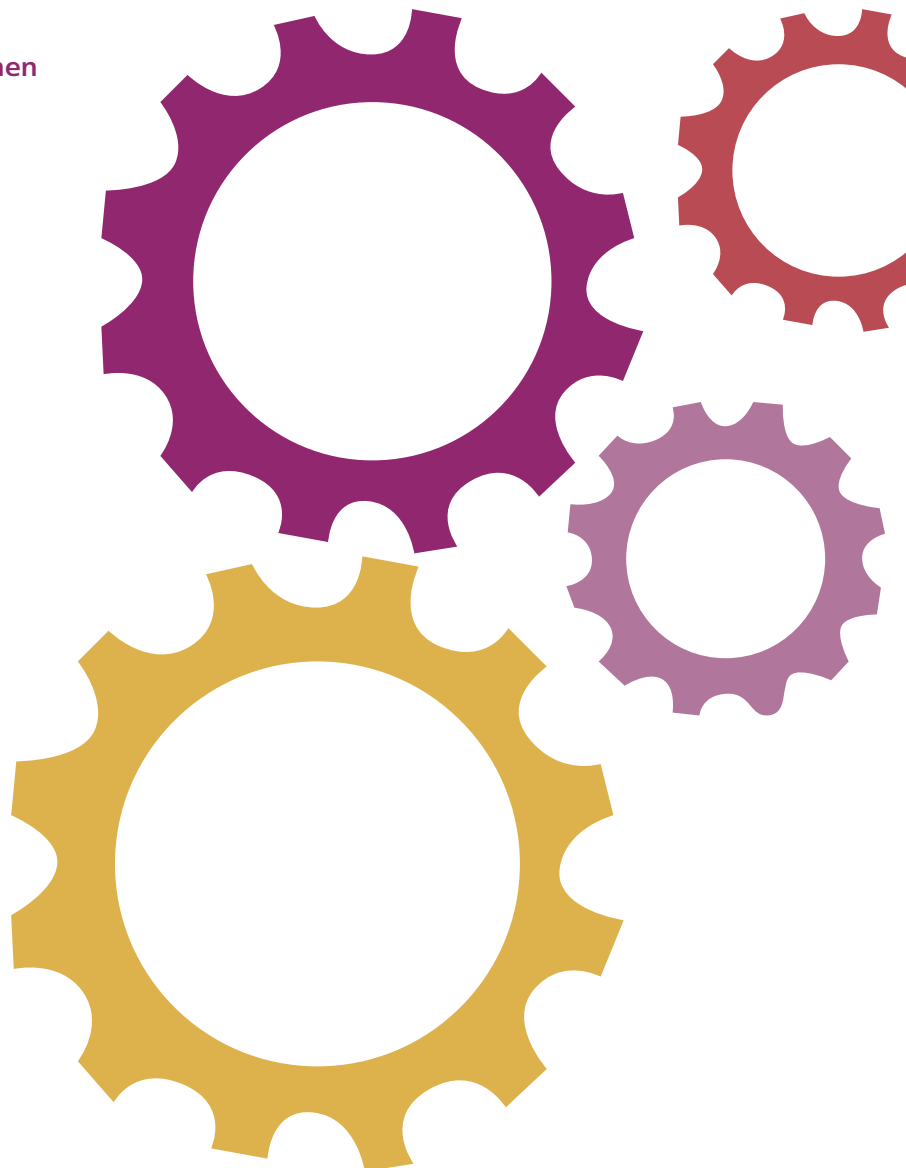
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