



**An alliance of Disabled People  
& our organisations in England**

Shadow Report  
from the

Reclaiming our Futures Alliance

On the

UK Initial Report on the  
UN Convention on the Rights of  
Persons with Disabilities

February 2017

## Introduction

This report has been prepared by **Reclaiming Our Futures Alliance** (ROFA). ROFA is an alliance of disabled people and 11 of our organisation's (DPOs) in England who have joined together to defend disabled people's rights and campaign for an inclusive society. ROFA represents 11 organisations who have a combined membership of over 100,000 members and a reach through social media to over 500,000 disabled people. We fight for equality for disabled people in England and works with sister organisations across the UK in the tradition of the international disability movement. We base our work on the social model of disability, human and civil rights in line with the UN Convention on the Rights of Persons with Disabilities (CRPD). We oppose the discriminatory and disproportionate attacks on our rights by past and current Government's. Alliance member organisations have been at the forefront of campaigning against austerity, welfare reform and inequality.

ROFA has collected lived experience evidence from thousands of disabled people to write an English Shadow Report to the UK Government's account to the UN. This was collected through member groups consulting members and an internet survey and case studies provided by individual disabled people. Responses were received from over one thousand disabled people consulted through these means. No support from the Government has been provided for the preparation of this report as the British Government disengaged from meaningful and resourced engagement with DPOs in England in 2012.

Disabled people in the UK have since 2010 experienced a continuous assault on our rights and living standards through a programme of austerity cuts impacting on every area of life. This has been both disproportionate and discriminatory, affecting disabled people more than any other population group. In spite of opposition from DPOs the Government has not had any meaningful consultation or co-production with DPOs. They have also refused to carry out meaningful individual or cumulative equality impact assessments on their measures and policies. This led ROFA members to report this serious and grave situation to the UN from 2012 onwards. In 2014 we requested the UN carry out a formal investigation under the Optional Protocol of the CRPD. We also began the preparation of this report in 2014 but because of

the delay in the inspection of the UK report caused by the inquiry we have updated this report again from our own resources in 2017.

This report documents how British Government policies since 2010 have created regression against nearly every CRPD article. ROFA welcomed the findings and recommendations of the UN inquiry and condemns the rejection of these by the Government. This demonstrates an arrogance which disabled people in England have endured over the last 7 years.

## Summary

**Article 4 – General obligations:** The Government has not incorporated the UNCRPD into domestic law. There is significant evidence that it consistently failed to give due regard to UNCRPD. There are currently no domestic mechanisms to hold the government to account for failing to have due regard to the Conventions. The government continues to use the discredited Waddell and Aylward biopsychosocial (BPS) model of Disability rather than a social model of Disability.

**Article 5 – Equality and non-discrimination:** The Equality Act 2010 is regressive in some aspects and is failing Disabled people. Section 1 of the Equality Act 2010, which requires all public bodies to take account of socio-economic disadvantage when making policy decisions has not come into force.

**Article 8 - Awareness-raising:** Negative attitudes towards disabled people remain a major issue. The government and media have falsely claimed that disability benefit fraud is a major problem. The Government has done nothing to counter this false image or promote positive images of disabled people.

**Article 9 – Accessibility:** Although some progress has been made there continues to be systemic access issues regarding transport, information and other goods and services.

**Article 10 and 25 – Life and Health:** Universal prenatal testing aimed at reducing the numbers of babies being born disabled has resulted in the rate of abortions having more than doubled in ten years. There have been attempts to weaken the legal protections to the right to life of disabled people through making assisted suicide legal. Medical professionals are using Do Not Resuscitate orders inappropriately.

**Article 13 – Access to justice:** There concerns that a lack of reasonable adjustments results in a lack of access to justice as there are disproportionate numbers of people with mental health support needs or learning difficulties in prison.

Changes in legal aid have negatively impacted on disabled people access to justice regarding employment, discrimination, social care and welfare benefit cases.

**Articles 12, 14, 15 17, 23 – Equal recognition before the law; Liberty, security and integrity of the person; Respect for home and the family:** People with mental health support needs and people with learning difficulties are losing their liberty inappropriately and placed in hospital units or residential care, often many miles from family or community and where there is a heightened risk or abuse. Asylum seekers with mental health support needs are being inappropriately detained.

**Article 16, 6 – Freedom from exploitation, violence and abuse:** Disabled people continued to experience violence and abuse and are even murdered. The Criminal Justice Joint Inspectorate recognised failings and made recommendations which have yet to be implemented. Disabled women experience disproportional level of domestic abuse.

**Article 19, 20, 26:** Disabled people's rights to independent living and inclusion in the community have seriously regressed due to severe cuts in social care and support and the closure of the Independent Living Fund. People with learning difficulties are placed in residential care and hospital units many miles from home and community, not from choice or need but because of a lack of care in the community.

**Article 23 – Respect for home and the family:** Respect for the home and family of disabled people in the UK has been severely undermined by welfare reform, particularly the removal of the spare room subsidy or bedroom tax.

**Article 24, 7– Education, disabled children** A reservation to Article 24 allows disabled pupils to be segregated into special units rather than being able to participate in mainstream education. Numbers of segregated pupils are likely to grow with the increase

in the number of Academies and the possibility of more selective schools.

Four in ten disabled children live in poverty and evidence suggests this is increasing. Disabled children are excluded from mainstream activities and leisure opportunities.

**Article 27 – Work and employment:** There continues to be a gap of over 30 percentage points in the number of Disabled people in employment compared to non-disabled people. Mainstream government employment schemes have failed to successfully support Disabled people into work. Access to Work is a successful scheme but Disabled people are experiencing cuts in funding for their support which can jeopardise employment.

**Article 28 - Adequate standard of living and social protection:** The cumulative impact of government welfare reforms have led to a severe regression in Disabled people's standard of living, the use of food banks has increased and so has the risk of evictions. The more stringent test for Employment Support Allowance has been linked to the deaths of two claimants by two Coroners. Benefit sanctions are not effective and leave disabled people struggling to cover daily living costs and have a destructive impact on mental and physical health. Disabled people are being forced to return their Motability vehicles due to narrower eligibility criteria for the mobility component of Personal Independent Payment which is replacing PIP.

**Article 29 – Participation in political and public life:** Disabled people continue to experience barriers to voting. Disabled people are underrepresented in both Houses of Parliament.

**Article 31 – Statistics and data collection:** There has been a steady decline in the collation and dissemination of disability data since 2014. Significant data gaps in limited availability of disaggregated data remain.

**Article 33 - National implementation and monitoring:**

Disproportionately high and on-going funding cuts to the Office of Disability Issues (ODI) and the Equality and Human Rights Commission (EHRC) have severely weakened the promotion, implementation and monitoring of the UNCRPD and Disabled people's rights more generally. There are currently no meaningful strategic engagement mechanisms between government and Disabled people and our organisations

## Article 4 – General obligations

- 4.1 Government welfare reform and cuts to public expenditure since 2010 continue to have a disproportionate and retrogressive impact on Deaf and Disabled people’s rights as evidenced by the recent CRPD Committee’s inquiry under article 6 of the Optional protocol<sup>1</sup>. Further measures including the cut to the Employment Support Allowance (ESA) for new applicants in the Work Related Activity Group (WRAG)<sup>2</sup> and on-going cuts to Local government and social care budgets<sup>3</sup> will compound retrogression.
- 4.2 The Government has not incorporated the UNCRPD into domestic law and there is significant evidence that it consistently failed to give due regard to UNCRPD<sup>4</sup> nor justified its retrogressive reforms with reference to the criteria established by the UN Committee on Economic, Social and Cultural Rights<sup>5</sup>.
- 4.3 There are currently no domestic mechanisms to hold the government to account for failing to have due regard to the Conventions and the resources of the Equality and Human Rights Commission to enforce equality legislation and the rights of disabled people have been severely reduced<sup>6</sup>.
- 4.4 The government continues to use the discredited Waddell and Aylward biopsychosocial (BPS) model to justify and

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<sup>1</sup> Committee on the Rights of Persons with Disabilities Inquiry concerning the United Kingdom of Great Britain and Northern Ireland carried out by the Committee under article 6 of the Optional Protocol to the Convention

Report of the Committee\* 6 October 2016

<http://www.ohchr.org/EN/HRBodies/CRPD/Pages/InquiryProcedure.aspx>

<sup>2</sup> Disability Employment Gao. Work and Pensions Committee 3 February 2017

<https://www.publications.parliament.uk/pa/cm201617/cmselect/cmworpen/56/5602.htm>

<sup>3</sup> <https://www.adass.org.uk/media/4345/key-messages-final.pdf>

<sup>4</sup> See the EHRC raised concerns the UK Government’s analyses of the impact of social security reforms lacked full consideration of CRPD obligations. See: EHRC letter to the DWP

<http://ehrcv2oszpjdinzc.devcloud.acquia-sites.com/sites/default/files/276duncansmith.pdf>, and EHRC, response to call for written evidence <https://www.equalityhumanrights.com/en/welfare-reform-and-work-bill-written-evidence-submission> [accessed: 3 June 2016].

<sup>5</sup> See paragraph 19 of Committee on Economic, Social and Cultural Rights Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland. 14 July 2016. [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/GBR/CO/6&Lang=](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/GBR/CO/6&Lang=)

<sup>6</sup> Source: <https://www.equalityhumanrights.com/en/legal-casework/our-legal-work-action>

underpin welfare reform<sup>7</sup> and failed to consult or engage with Deaf/Disabled people or our organisations on the adoption of the BPS model which is in direct opposition to the Social model of disability.

## Article 5 – Equality and non-discrimination

5.1 Inequality and discrimination still impacts on Deaf and Disabled people's daily lives. The UK's primary equality legislation, the Equality Act 2010<sup>8</sup> aims to advance equality of opportunity and promote a fair society is failing disabled people as the House of Lords Select Committee on the Equality Act 2010 and Disability found.<sup>9</sup>

5.3 The Equality Act 2010<sup>10</sup> is regressive in that it has weakened important aspects of the Public Sector Equality Duty,<sup>11</sup> compared to the Disability Discrimination Act 2005, which it replaced. For instance:

1. The necessity to consult and engage with disabled people has been weakened.
2. Disability equality schemes are no longer required.
3. Public bodies only have to set one or more equality outcome objectives across all the 9 protected characteristics.
4. These objectives need to be reviewed only every 4 years, making it possible to have no disability equality objectives for many years and still comply with the law.

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<sup>7</sup> On 17th January 2012 Hansard records that Lord Freud explained to the House of Lords that the Government's approach to welfare reform was based upon "the biopsychosocial model". He references a "Models of Sickness and Disability" document distributed to selected members of the House of Lords explaining how the BPS is different to both the medical and social models of disability: <http://www.publications.parliament.uk/pa/ld201212/ldhansrd/text/120117-0001.htm>

For a critique of Waddell and Aylward's model, examining its origins, its claims and the evidence it employs: Blaming the victim, all over again: Waddell and Aylward's biopsychosocial (BPS) model of disability (May 2016) [https://ueaeprints.uea.ac.uk/58235/1/1351\\_Shakespeare.pdf](https://ueaeprints.uea.ac.uk/58235/1/1351_Shakespeare.pdf)

<sup>8</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

<sup>9</sup> <https://www.parliament.uk/business/committees/committees-a-z/lords-select/equality-act-2010-and-disability/news-parliament-2015/equality-act-report-published/>

<sup>10</sup> <http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance/ten-key-questions-about-the-act/>

<sup>11</sup> <http://www.legislation.gov.uk/ukxi/2011/2260/introduction/made>  
<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/introduction-to-the-equality-duty/>

5.4 Section 1 of the Equality Act 2010 requires all public bodies to take account of socio-economic disadvantage when making policy decisions. It was passed by Parliament but never brought into force. The Scottish government has announced it will bring the duty into force in Scotland,<sup>12</sup> but there are no such plans currently for Westminster or the other devolved nations.

5.5 The implementation of the Equality Act is inadequate, for example, reasonable adjustments should ensure disabled people are not disadvantaged.<sup>13</sup> Yet many organisations including public bodies, fail to make adjustments, so difficulties are caused such as jeopardising access to higher education or<sup>14</sup> welfare benefits.<sup>15</sup> Disabled individuals then face the daunting prospect of taking large organisations through the courts of law.<sup>16</sup>

5.6 Unfortunately the Equality and Human Rights Commission (EHRC)'s Equality Advisory Support Service (EASS) has been outsourced. There has been considerable concern voiced about the contract being awarded to G4S, the company at the centre of abuse of young people at a detention centre<sup>17</sup> as well as other failings.<sup>18</sup> The Lords Committee on the Equality Act 2010 and disability recommended that the EASS was brought back in house to the EHRC.<sup>19</sup>

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<sup>12</sup> <https://www.equalitytrust.org.uk/joint-letter-sunday-telegraph-calls-section-1-equality-act-be-brought-force>

<sup>13</sup> <http://www.legislation.gov.uk/ukpga/2010/15/section/20>

<sup>14</sup> <http://www.disabilitynewsservice.com/student-kicked-off-degree-after-year-spent-fighting-for-adjustments/>

<sup>15</sup> <https://www.theguardian.com/uk-news/2014/feb/19/rnib-dwp-blind-court-action-benefits>

<sup>16</sup> <http://www.bbc.co.uk/news/uk-england-leeds-33444455>

<sup>17</sup> <https://www.liberty-human-rights.org.uk/sites/default/files/Joint%20NGO%20letter%20to%20Parliament%20re%20G4S%20EASS%20contract%20Final.pdf>  
<http://www.bbc.co.uk/news/uk-england-kent-35290582>

<sup>18</sup> <https://www.liberty-human-rights.org.uk/sites/default/files/Joint%20NGO%20letter%20to%20Parliament%20re%20G4S%20EASS%20contract%20Final.pdf>

<sup>19</sup> <https://www.parliament.uk/business/committees/committees-a-z/lords-select/equality-act-2010-and-disability/news-parliament-2015/equality-act-report-published/>

## Article 6 – Women with disabilities

6.1 The Special Rapporteur on Violence against Women has recognised that ‘violence against women remains a pervasive challenge throughout the United Kingdom’ and expressed concern about ‘how the current austerity measures are having a disproportionate impact, not only in the specific provision of violence against women services, but more generally, on other cross-cutting areas affecting women, such as poverty and unemployment, which are contributory factors to violence against women and girls’. She further recognises that: ‘... women from black and minority ethnic communities, women belonging to the LGBT community, and women with disabilities, are further affected by these cutbacks.’<sup>20</sup>

6.2 Research shows that disabled women are more likely to experience serious sexual assault than non-disabled women.<sup>21</sup> Disabled women are particularly vulnerable because an abusive partner may be providing ‘care’.<sup>22</sup> Despite this disproportionate impact of violence and abuse against disabled women and girls, there is only one inadequate mention of violence against disabled women and girls in the State Action Plan.<sup>23</sup> Mainstream services do not serve disabled women<sup>24</sup> and disabled women cannot easily access support or escape violence<sup>25</sup>.

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<sup>20</sup> See Press Release on the Special Rapporteur’s country mission to the United Kingdom at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14514&LangID=E>

<sup>21</sup> Smith, D.L. (2008) Disability, Gender and Intimate Partner Violence: Relationships from the Behavioral Risk Factor Surveillance System. *Sexuality and Disability* 26(1), pp.15-28.  
European Parliament (2007), Committee on Women’s rights and gender equality, *Report on the Situation of Women with Disabilities in the European Union (2006/2277/(INI))*. Finney A (2006) *Domestic violence, sexual assault and stalking: findings from the 2004/05 British Crime Survey*. Home Office Report 12/06.

<sup>21</sup> Casteel, C., Martin, S.L., Smith, J.B. (2008) National Study of Physical and Sexual Assault Among Women with Disabilities. *Injury Prevention* 14, pp.87-90.

<sup>22</sup> [http://thewomensresourcecentre.org.uk/wp-content/uploads/Appendix-36\\_General-Recommendation-18\\_Disabled-women\\_FINAL2.pdf](http://thewomensresourcecentre.org.uk/wp-content/uploads/Appendix-36_General-Recommendation-18_Disabled-women_FINAL2.pdf)

<sup>23</sup> Home Office (2011) *Call to End Violence Against Women and Girls: Action Plan*. <http://www.homeoffice.gov.uk/publications/crime/call-end-violence-women-girls/vawg-action-plan?view=Binary>

<sup>24</sup> Robinson, A., Hudson, K. (2011) Different Yet Complementary: Two Approaches to Supporting Victims of Sexual Violence in the UK. *Criminology and Criminal Justice* 11(5), pp.515-533.

<sup>25</sup> Hague et al., (2008) *Making the Links: Disabled women and domestic violence*. <http://www.womensaid.org.uk/domestic-violence-articles.asp?itemid=1722&itemTitle=Making+the+links%3A+disabled+women+and+domestic+violence&section=00010001002200080001&sectionTitle=Articles%3A+disabled+women>

6.4 Disabled women are likely to receive a double impact from the cuts to welfare benefits and local authority (LAs) budgets brought in since 2010. There have been cuts to benefits for pregnant women and families with new babies, freezing of child benefit, cuts to childcare tax credit.<sup>26</sup> In addition disabled women are subject to the other cuts to welfare benefits (see Article 28 below). 75% of disabled women lived in poverty in 2010. With the impact of the current benefit cuts, the levels of poverty are likely to increase.<sup>27</sup>

6.5 There is sexuality-based discrimination on the sexual and reproductive health of disabled Lesbian, Gay, Bi-sexual and Transgender (LGBT) women.<sup>28</sup> Also, disabled LGBT people are often actively discouraged from seeking a social life that others would take for granted, especially when reliant on homophobic family or carers, which can lead to social isolation.<sup>29</sup>

## **Article 7 - Children with disabilities**

7.1 Since the UK government's ratification of the CRPD the situation facing disabled children and young people under the age of 18, has changed very little. Most disabled young people are unaware of their rights under the CRPD. There has been little work done or commissioned by the government to promote awareness of the Convention amongst children and young people and these rights are not discussed in schools.

7.2 Four in ten disabled children live in poverty<sup>30</sup> and evidence suggests this is increasing.<sup>31</sup> Disabled children are excluded from

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<sup>26</sup> [http://www2.warwick.ac.uk/fac/soc/law/chrp/publications/unravelling\\_equality\\_full.pdf](http://www2.warwick.ac.uk/fac/soc/law/chrp/publications/unravelling_equality_full.pdf)

<sup>27</sup> The then Home Secretary, Theresa May warned the Chancellor of the Exchequer that cuts imposed in the Emergency Budget in 2010 may be in breach of the Equality Act 2010 due to the adverse effects of the cuts on women and disabled people, amongst other groups. <http://services.parliament.uk/bills/2008-09/equality.html>  
<http://www.theguardian.com/politics/2010/aug/03/budget-cuts-equality-theresa-may>  
[http://thewomensresourcecentre.org.uk/wp-content/uploads/Appendix-1\\_Impact-of-the-economic-crisis-on-womens-equality\\_FINAL2.pdf](http://thewomensresourcecentre.org.uk/wp-content/uploads/Appendix-1_Impact-of-the-economic-crisis-on-womens-equality_FINAL2.pdf)

<sup>28</sup> Women's Resource Centre (2010) In All Our Colours: Lesbian, bisexual and trans women's services in the UK. WRC: London <http://thewomensresourcecentre.org.uk/wp-content/uploads/IAOC.pdf>

<sup>29</sup> [http://thewomensresourcecentre.org.uk/wp-content/uploads/Appendix-36\\_General-Recommendation-18\\_Disabled-women\\_FINAL2.pdf](http://thewomensresourcecentre.org.uk/wp-content/uploads/Appendix-36_General-Recommendation-18_Disabled-women_FINAL2.pdf)

<sup>30</sup> <http://www.childrensociety.org.uk/what-we-do/policy-and-lobbying/child-poverty/disabled-children-and-poverty-0>

<sup>31</sup> <http://www.poverty.ac.uk/news-and-views/austerity-fall-poorest-reveals-bank-england-survey>

mainstream activities and leisure opportunities.<sup>32</sup> This is compounded by cuts to youth services in the last 6 years which has decreased participation opportunities in general.<sup>33</sup>

7.3 Since 2010 the majority of government funding has been focused on segregated provision of opportunities that does not encourage inclusion or equal access to opportunities with non-disabled peers as it did previously.

7.4 The Children and Families Act 2014,<sup>34</sup> which should in principle give disabled children and young people a greater say in decisions around their support, education and health only requires the involvement of disabled young people once they reach the age of 16.

7.5 A research project carried out by young disabled researchers<sup>35</sup> found that disabled children and young people did not understand their right to make decisions and that there are very few examples of disabled children and young people having access to mainstream decision-making, particularly those with higher support needs. Also children and young people under the age of 18 are not included in strategic decisions about services that directly affect them.

7.6 Disabled children are disproportionately associated with all forms of child abuse but there is still under reporting.<sup>36</sup> Only 10% of Area Child Protection Committees supply figures about the impairment of children placed on child protection registers in England.<sup>37</sup>

7.7 Children and young people living away from their home area, especially those in 52 week a year residential school placements are at greatest risk of violence and abuse.<sup>38</sup>

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<sup>32</sup> <http://www.c4eo.org.uk/themes/disabledchildren/default.aspx?themeid=2&accesstypeid=1>

<sup>33</sup> <http://www.cypnow.co.uk/cyp/news/1158579/youth-services-cut-by-gbp387m-in-six-years>

<sup>34</sup> <http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted>

<sup>35</sup> <https://councilfordisabledchildren.org.uk/our-work/participation/policy/research-young-peoples-participation-local-decisions-viper>

<sup>36</sup> Stalker, K., Green Lister, P., Lerpiniere, J. and McArthur, K. (2010) 'Child protection and the needs and rights of disabled children and young people: A scoping study'. [http://strathprints.strath.ac.uk/27036/1/child\\_protection\\_abridged\\_report.pdf](http://strathprints.strath.ac.uk/27036/1/child_protection_abridged_report.pdf)

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

## Article 8 - Awareness-raising

8.1 Negative attitudes towards disabled people remain a major issue in the UK, compounded by the government who have claimed that disability benefit fraud is a major problem,<sup>39</sup> when levels of fraud are extremely low.<sup>40</sup> Nonetheless, often sparked by false claims, there has been an increase in negative media coverage of disabled people<sup>41</sup> and negative attitudes have increased, as have allegations of fraud. This continues despite the fact that 85% of fraud allegations made to the DWP in the last five years were false.<sup>42</sup>

8.2 The government claims to be promoting positive attitudes towards Deaf or disabled people<sup>43</sup> but there has been no effort by the government to counter this overblown media coverage of disability benefit fraud and no government campaigns promoting positive images of disabled people other than the Disability Confident scheme.<sup>44</sup> Concerns have been raised about this scheme.<sup>45</sup> The government does propose to strengthen the scheme.<sup>46</sup>

8.2 DPO's and self-advocacy groups can raise disabled people's awareness regarding their rights. But this source of information is often jeopardised because Councils are cutting funding for local

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<sup>39</sup> "...the current system has been exploited and abused because of political fear over reforming a benefit for the disabled".<sup>39</sup>

<sup>39</sup> 'Mr Duncan Smith says the system is riddled with abuse and fraud.'<sup>39</sup>

<sup>40</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/528719/fraud-and-error-prelim-estimates-2015-16.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/528719/fraud-and-error-prelim-estimates-2015-16.pdf) Benefit fraud is at 1.1% across all benefits, 0.5% for Disability Living Allowance and 1.9 for Employment Support Allowance.

<sup>41</sup> An Ipsos Mori survey in 2013 found the public believed 24% of benefits were fraudulently claimed: <https://www.ipsos-mori.com/researchpublications/researcharchive/3188/Perceptions-are-not-reality-the-top-10-we-get-wrong.aspx>  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/528719/fraud-and-error-prelim-estimates-2015-16.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/528719/fraud-and-error-prelim-estimates-2015-16.pdf)

<sup>42</sup> <http://www.benefitfraudsolicitors.co.uk/more-than-85-of-benefit-fraud-tip-offs-are-false-dwp-reveals/>

<sup>43</sup> <https://www.gov.uk/government/news/fulfilling-potential-disabled-people-asked-to-shape-government-policy>

<sup>44</sup> <https://www.gov.uk/government/collections/disability-confident-campaign>

<sup>45</sup> <http://www.disabilitynewsservice.com/disability-confident-will-be-trivially-easy-for-employers-to-abuse-research-suggests/>

<sup>46</sup> <https://www.gov.uk/government/consultations/work-health-and-disability-improving-lives>

organisations. Disabled people will be less aware of their rights, which will also hinder their access to justice.

## **Article 9 – Accessibility**

9.1 To meet fully the requirements of Article 9 of the Convention, both national and local government need to ensure that funds and systems are in place to provide the full accessibility of public transport which has not yet been achieved, (see Appendices).

9.2 Disabled people, such as people with learning difficulties or visually impaired people are disadvantaged on a daily basis by national and local government and statutory services because vital letters such as those from support agencies, hospitals and benefits departments etc. are not provided in accessible formats such as Easy Read or large print so hospital appointments are missed and benefits stopped.<sup>47</sup> This is despite the fact that the new ‘Accessible Information Standard’<sup>48</sup> should ensure correspondence from health and social care organisations is accessible.

9.3 Access to the internet is increasingly the key means of accessing information in the UK. However access to the internet was 65% for disabled people and 88% non-disabled people in 2014.<sup>49</sup> Most UK websites are not fully accessible and are therefore of limited use to many disabled people.

9.4 “Shared surfaces” in the street environment are having an adverse impact on access for disabled people, particularly visually impaired people.<sup>50</sup> Designs should be drawn up in line with Article 9’s requirements before any further creation of “shared surfaces” in the street environment.

## **Article 10 - Right to life**

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<sup>47</sup> <https://www.theguardian.com/uk-news/2014/feb/19/rnib-dwp-blind-court-action-benefits>

<sup>48</sup> The Accessible Information Standard was introduced in August 2016, all organisations that provide NHS care or adult social care are required to follow it.

<https://www.england.nhs.uk/ourwork/accessibleinfo/>

<sup>49</sup>[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0028/81586/disabled\\_consumers\\_use\\_of\\_communications\\_services.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0028/81586/disabled_consumers_use_of_communications_services.pdf) Published 2015

<sup>50</sup> A shared surface design involves removing the kerb that has traditionally separated areas for vehicles and pedestrians creating a shared surface street.

10.1 Disability discrimination around health care starts before birth where doctors are expected to consider the probability of the disabled person's being able to live alone and to be self-supportive alongside associated cost of providing care and equipment when considering if the foetus has a "severe handicap" and falls under the criteria of an lawful abortion<sup>51</sup>. Universal prenatal testing is aimed at reducing the number of babies being born disabled through offering a pregnancy termination. Between 1995-2015 there was a 271% increase of abortions performed under the Abortion Act 1967 that allowed pregnancy terminations of disabled babies up to birth.<sup>52</sup>

10.2 Doctors have been issuing Do Not Resuscitate orders without consulting the patient and their families, in breach of the medical guidelines.<sup>53</sup> Furthermore, there have been attempts to weaken the legal protection of the right to life of disabled people though making assisted suicide<sup>54</sup> easier to be considered in certain circumstances under the PPS's CPS guidance. The courts have generally been quite lax about sentencing of people involved in assisted suicide cases.

## **Article 11 - Situations of risk and humanitarian emergencies**

11.1 'A strong Britain in an age of insecurity: the national Security Strategy 2010'<sup>55</sup> makes no mention of any strategies for disabled people. The Civil Contingencies Act (2004)<sup>56</sup> and Duty to

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<sup>51</sup> <https://www.rcog.org.uk/en/guidelines-research-services/guidelines/termination-of-pregnancy-for-fetal-abnormality-in-england-scotland-and-wales/>  
<https://www.rcog.org.uk/globalassets/documents/guidelines/terminationpregnancyreport18may2010.pdf>

<sup>52</sup> We Are All Equal Website <http://allequal.org.uk/>

<sup>53</sup> <http://www.telegraph.co.uk/news/health/elder/8829350/Elderly-patients-condemned-to-early-death-by-secret-use-of-do-not-resuscitate-orders.html>

<sup>54</sup> [http://www.cps.gov.uk/publications/prosecution/assisted\\_suicide.html](http://www.cps.gov.uk/publications/prosecution/assisted_suicide.html) Home » Prosecution Policy and Guidance » Other Guidance » Assisted Suicide » Assisted Suicide Policy Policy for Prosecutors in Respect of Cases of Encouraging or Assisting Suicide

<sup>55</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/61936/national-security-strategy.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/61936/national-security-strategy.pdf)

<sup>56</sup> <https://www.gov.uk/preparation-and-planning-for-emergencies-responsibilities-of-responder-agencies-and-others#emergency-planning>

Communicate with the public: a ten step guide<sup>57</sup> does not deal with the complexity of issues that many disabled people may face.

11.2 The 'Evacuation and Shelter Guidance' (2014)<sup>58</sup> suggests that adapted/accessible transport may not be available. This assumes that all disabled people needing adapted/accessible transport will have their own transport, which is simply not the case.<sup>59</sup>

11.3 Britain has been hit by floods in a number of areas in recent years. Information on flooding is not provided in accessible formats and therefore inadequate.<sup>60</sup>

## **Article 12 – Equal recognition before the law**

12.1 The Mental Capacity Act 2005 (MCA)<sup>61</sup> permits decisions to be made by third parties in the 'best interests'<sup>62</sup> of people assessed to lack 'mental capacity'<sup>63</sup>. Mental Disability Advocacy Centre (MDAC) found that the 'MCA 2005 is an example of a substituted decision-making regime, and is therefore prima facie incompatible with the CRPD'.<sup>64</sup> The issue of 'Best interests' is also raised as is the relatively limited role that the MCA 2005 accords to the individual's expressed wishes and feelings, or will and preferences.

12.2 Article 12(4) of the CRPD also provides that all measures that relate to the exercise of legal capacity shall "apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body." There is no such guarantee under the MCA 2005.

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<sup>57</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/60906/10\\_step\\_cycle.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/60906/10_step_cycle.pdf)

<sup>58</sup> [s/system/uploads/attachment\\_data/file/274615/Evacuation\\_and\\_Shelter\\_Guidance\\_2014.pdf](s/system/uploads/attachment_data/file/274615/Evacuation_and_Shelter_Guidance_2014.pdf)

<sup>59</sup> Lack of personal means of transport has been exacerbated through the forced return of Motability vehicles in the change from Disability Living Allowance to Personal Independence Payment. <http://www.disabilitynewsservice.com/pip-reassessments-mean-35000-will-lose-motability-vehicles-in-2016/>

<sup>60</sup> <http://www.hpa.org.uk/Topics/EmergencyResponse/ExtremeWeatherEventsAndNaturalDisasters/EffectsOfFlooding/>

<sup>61</sup> Available at: <http://www.legislation.gov.uk/ukpga/2005/9/contents>

<sup>62</sup> Mental Capacity Act 2005 Section 4

<sup>63</sup> Mental Capacity Act 2005 Section 2

<sup>64</sup> The House of Lords Committee website is:

<http://www.parliament.uk/business/committees/committees-a-z/lords-select/mental-capacity-act-2005/>

12.3 Disabled people are also concerned about the use of 'Community Treatment Orders' (CTOs) which are effectively a way of removing legal capacity without detention in hospital. They have not lead to a reduction in compulsory admissions to hospitals and their use continues to increase. On 31 March 2016 there were 5,426 people subject to a CTO, an increase of 208 compared to 2013.<sup>65</sup> There were 4,317 applications against CTOs, 132 were discharged by the first-tier tribunal.

## **Article 13 - Access to justice**

13.1 There are concerns regarding the disproportionate percentage of people with learning difficulties and mental health problems in prison. 72% of male and 70% of female sentenced prisoners have two or more mental health support needs,<sup>66</sup> 25% of women and 15% of men in prison reported symptoms indicative of psychosis. The rate among the general public is about 4%. The percentage of people with learning difficulties in the criminal justice system is about 30%<sup>67</sup>. 20–30% of offenders have learning disabilities or difficulties that interfere with their ability to cope with the criminal justice system.<sup>68</sup> We are concerned that reasonable adjustments<sup>69</sup> are not being made so disabled people do not have access to justice on an equal basis to others. Once inside prison people with learning difficulties continue to be disadvantaged with inspectors finding<sup>70</sup> that "little thought was given to the need to adapt regimes..."<sup>71</sup>

13.2 The Legal Aid Sentencing and Offenders Act 2012, introduced significant changes, which mean that legal aid is either no longer available or is far harder to access for disabled people in

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<sup>65</sup> <http://www.cqc.org.uk/content/monitoring-mental-health-act-report>

<sup>66</sup> <http://www.prisonreformtrust.org.uk/ProjectsResearch/Mentalhealth>

<sup>67</sup> <http://www.hmic.gov.uk/news/news-feed/offenders-with-learning-disabilities/>

<sup>68</sup> <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Bromley%20Briefings/Factfile%20Autumn%202014.pdf>

<sup>69</sup> <http://www.legislation.gov.uk/ukpga/2010/15/section/20>

<sup>70</sup> Inspectors found "little thought was given to the need to adapt regimes to meet the needs of prisoners with learning disabilities who may find understanding and following prison routines very difficult."

<sup>71</sup> <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Bromley%20Briefings/Autumn%202016%20Factfile.pdf>

a range of important areas of law, jeopardising disabled people's 'effective access to justice'.

13.3 The changes in law to legal aid and judicial review described below are likely to have a disproportionate impact on disabled people because disabled people are more likely to use public services and receive welfare benefits than non-disabled people.<sup>72</sup>

13.4 The Ministry of Justice conducted an equality impact assessment which concluded "that overall the proposals have the potential to impact a greater proportion of women, BAME people and ill or disabled people."<sup>73</sup>

13.5 The assessment found that, whilst 19% of the general population have a long-term illness or are disabled the figure was 58% of those receiving legal aid for welfare benefit claims.<sup>74</sup>

13.6 To get legal aid for a discrimination case, disabled people must use a telephone gateway, which is not accessible to Deaf people. Also there are now only three firms allowed to apply for legal aid for discrimination claims. This has resulted in a massive drop in the number of people getting legal aid for discrimination cases. In terms of discrimination cases there is a 77% shortfall in the predicted take-up since these restrictions were introduced.<sup>75</sup> This means that only very small numbers of disabled people are

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<sup>72</sup> Disabled people are twice as likely as non-disabled people to be social housing tenants: [http://www.papworth.org.uk/downloads/disabilityfactsandfigures2010\\_100202152740.pdf](http://www.papworth.org.uk/downloads/disabilityfactsandfigures2010_100202152740.pdf) Disabled people are more than twice as likely (66.7%) as non-disabled people (33.1%) to be receiving state benefits or tax credits : Annual population survey 2009. Disabled people are more dependent on public transport because 60% of disabled people have no car available to the household, compared to 27% of the overall population: [http://www.papworth.org.uk/downloads/disabilityfactsandfigures2010\\_100202152740.pdf](http://www.papworth.org.uk/downloads/disabilityfactsandfigures2010_100202152740.pdf) . The majority adults receiving care and support are state funded (1106000 adults receive state funded care compared to 450000 self-funders): [http://consultations.dh.gov.uk/social-care-funding/funding\\_reform/consult\\_view](http://consultations.dh.gov.uk/social-care-funding/funding_reform/consult_view)

<sup>73</sup> Reform of Legal Aid in England and Wales: Equality Impact Assessment (EIA) June 2011 <http://webarchive.nationalarchives.gov.uk/20111121205348/http://www.justice.gov.uk/downloads/consultations/legal-aid-reform-eia.pdf>, See Table 6, in particular

<sup>74</sup> See "Civil legal aid – the secret legal service", a report published by Legal Action Group in September 2013 reviewing the figures for legal aid take-up in the first quarter of 2013-14. [http://www.lag.org.uk/media/164665/legal\\_aid\\_secret\\_service2.pdf](http://www.lag.org.uk/media/164665/legal_aid_secret_service2.pdf)

<sup>75</sup> The evidential requirements have also become much stricter and many disabled people struggle to provide the necessary documents: three months of original bank statements up to the precise date of the legal aid application, a recent letter confirming receipt of benefits, details of any transactions over £150 appearing on any bank statement (whether withdrawal or deposit); the LAA often requests more than this with no specific authority or justification for doing so, delaying access to justice.

accessing legal aid for discrimination claims in the fields of employment, and goods and services.

13.7 Changes to the way judicial review is funded (implemented from 22 April 2014) are having a severe impact on disabled people's ability to challenge public bodies. This is particularly relevant regarding community care cases. Frequently the council will not settle the claim before the court case begins, but then settles shortly after proceedings start.

13.8 If this happens, there is now no guarantee that the lawyers will be paid for the work they have done in taking the case to court. The Legal Aid Agency (LAA) will exercise its discretion in deciding whether to pay or not.

13.9 Lawyers are now expected to do significant amounts of work for disabled people and risk not getting paid. This is likely to have the knock-on effect of fewer cases of this type being brought, and/or lawyers only taking the cases that are bound to win, and refusing to take on more complicated or risky challenges.

13.10 The financial eligibility rules for legal aid have been changed. Prior to April 2012, anyone on a means-tested benefit would be financially eligible for legal aid, regardless of their level of savings or how much equity they have in their property. Now, there is a cap on the amount of capital someone can have, even if they are on a means-tested benefit.<sup>76</sup>

13.12 The introduction of tribunal fees for disability discrimination cases of £1,200 has led to a drop of claims - in December 2015, the number was half the number of claims registered in 2013.<sup>77</sup>

13.13 There was a marked decrease of 43% in the number of people going to Employment Tribunal since the introduction of fees.<sup>78</sup> The fee remissions scheme benefits only the very poorest.

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<sup>76</sup> This means that a disabled person who for example is on income support or income-related Employment and Support Allowance, but has more than £8,000 in savings is no longer eligible for legal aid,<sup>76</sup> and those with savings over £3,000 have to make a significant contribution to their legal costs from their capital.

<sup>77</sup> 6,038 claims registered in 2013 against 3,385 claims in 2015, and the trend continued into 2016 <https://www.gov.uk/government/statistics/tribunals-and-gender-recognition-certificate-statistics-quarterly-july-to-september-2016>

<sup>78</sup> <https://www.harpermacleod.co.uk/hm-insights/2016/october/employment-tribunal-statistics-update-what-do-the-new-figures-tell-employers-about-claims-and-awards/>

In consequence, disabled workers are being hindered in seeking justice.

13.14 Concerns were raised in a report published in 2010 as to whether young offenders with learning difficulties and other impairments were receiving a fair trial, as a result of their difficulties in understanding the legal and judicial process.<sup>79</sup>

13.15 Despite many calls for improvement, a 2014 report found the needs of many people with learning disabilities are going unnoticed when they are arrested by police, go to court and are sentenced.<sup>80</sup>

13.16 The government will be removing the requirement to consider historic panel arrangements for tribunals for Social Security and Child Support appeals.<sup>81</sup> This could jeopardise disabled people's access to justice and access to welfare benefits. Without the requirement a lone judge, with no expertise in impairments or their impact on daily life could decide the outcome of a tribunal for vital welfare benefits.<sup>82</sup>

## **Article 14 – Liberty and security of the person**

14.1 The Mental Health Act 2005 (as amended)<sup>83</sup> permits the Deprivation of Liberty of a person on the basis of 'disability of the mind'. This is clearly in breach of the article 14 (1) (a) requirement that 'disability shall in no case justify a deprivation of liberty'.

There are significant problems with the implementation of the 'safeguards' in the Mental Capacity Act 2005 (MCA)<sup>84</sup> A 2014 post-legislative scrutiny report found<sup>85</sup> that the Deprivation of Liberty

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<sup>79</sup> Prison Reform Trust, *Seen and Heard: supporting vulnerable children in the youth justice system* (2010) [www.prisonreformtrust.org.uk/uploads/documents/SeenandHeardFINAL.pdf](http://www.prisonreformtrust.org.uk/uploads/documents/SeenandHeardFINAL.pdf)

<sup>80</sup> <http://www.hmic.gov.uk/news/news-feed/offenders-with-learning-disabilities/>

<sup>81</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/553261/joint-vision-statement.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/553261/joint-vision-statement.pdf)

<sup>82</sup> Currently many cases must be heard by a judge, a medical member and a disabled person or carer.

<sup>83</sup> <http://www.legislation.gov.uk/ukpga/2007/12/contents>

<sup>84</sup> <http://www.legislation.gov.uk/ukpga/2005/9/contents>

<sup>85</sup> 'Mental Capacity Act 2005: post-legislative scrutiny' House of Lords, HL Paper 139, 2014: <http://www.parliament.uk/business/committees/committees-a-z/lords-select/mental-capacity-act-2005/>

Safeguards (DoLS), inserted into the Mental Capacity Act in 2007 are 'not fit for purpose'<sup>86</sup> and recommended that DoLS be replaced. The report highlighted that 'evidence suggests that tens of thousands of people are being deprived of their liberty without the protection of the law...'.<sup>87</sup> Furthermore the report says 'Worse still, far from being used to protect individuals and their rights, they are sometimes used to oppress individuals, and to force upon them decisions made by others without reference to the wishes and feelings of the person concerned.'<sup>88</sup>

#### 14.2 There are other concerns because:

- 3,000 people with learning difficulties were in specialist inpatient units in September 2015.<sup>89</sup>
- These patients had an average length of stay of 1 year and 189 days.<sup>90</sup>
- 30% of people have been in ATUs for more than 5 years.<sup>91</sup>
- 24% of patients self-harmed in 2015.<sup>92</sup>
- The proportion of inpatients receiving care more than 100km away from their home and community in 2015 was 23%, an increase from 19% in 2014.
- Many are held under wholly inappropriate sections purely because local authorities and CCG commissioners fail to agree funding for appropriate housing and support.<sup>93</sup>

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<sup>86</sup> <http://www.parliament.uk/business/committees/committees-a-z/lords-select/mental-capacity-act-2005/news/mca-press-release---13-march-2014/>

<sup>87</sup> <http://www.parliament.uk/business/committees/committees-a-z/lords-select/mental-capacity-act-2005/news/mca-press-release---13-march-2014/>

<sup>88</sup> 'Mental Capacity Act 2005: post-legislative scrutiny', p. 7.

<https://www.publications.parliament.uk/pa/ld201314/ldselect/ldmentalcap/139/139.pdf>

<sup>89</sup> <http://content.digital.nhs.uk/article/6874/Learning-Disability-Census-2015-almost-half-of-inpatients-with-learning-disabilities-common-to-each-census-since-2013>

<sup>90</sup> <http://content.digital.nhs.uk/article/6874/Learning-Disability-Census-2015-almost-half-of-inpatients-with-learning-disabilities-common-to-each-census-since-2013>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/508909/ld-census-further-sep15-rep.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/508909/ld-census-further-sep15-rep.pdf)

<sup>91</sup> 7 Days of Action Campaign Group <https://theatuscandal.wordpress.com/>

<sup>92</sup> <http://content.digital.nhs.uk/article/6874/Learning-Disability-Census-2015-almost-half-of-inpatients-with-learning-disabilities-common-to-each-census-since-2013>

<sup>93</sup> 7 Days of Action Campaign Group <https://theatuscandal.wordpress.com/>

## **Article 15 – Freedom from torture or cruel, inhuman or degrading treatment or punishment**

15.1 The UK routinely detains migrants with serious mental health issues, although the policy guidance previously stated that migrants suffering from serious mental illness should normally only be detained in very exceptional circumstances. However, in 2011 a caveat was inserted into the guidance to the effect that this only applies to migrants whose serious mental illness cannot be satisfactorily managed in detention.<sup>94</sup>

15.2 The High Court has ruled that the detention of severely mentally ill people has amounted to inhuman or degrading treatment in breach of article 3 of the European Convention on Human Rights (ECHR).<sup>95</sup> Such breaches of article 3 of the ECHR are also clearly breaches of article 15 of the UNCRPD.

## **Article 16 – Freedom from exploitation, violence and abuse**

16.1 There is a lack of national strategies which protect disabled people from violent crime. Sentencing of those that perpetrate violent acts against disabled people continues to be overly lenient. This of particular concern because disabled people are almost three and half times more likely to suffer serious violence (violence with injury), and twice as likely to suffer violence without injury.<sup>96</sup>

16.2 Shockingly, disabled people continue to be abused, tortured and murdered as the reports such as the EHRC's Hidden from Plain Sight and newspapers articles reveal.<sup>97</sup> According to a recent

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<sup>94</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/307995/Chapter55.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/307995/Chapter55.pdf) Section 55.10

<sup>95</sup> <http://www.gardencourtchambers.co.uk/unlawful-detention-breaches-article-3-article-5-rights-woman-mental-illness/>

<sup>96</sup> <https://www.victimsupport.org.uk/sites/default/files/VS%20Insight%20Report%20-%20An%20easy%20target.pdf>

<sup>97</sup> [http://www.equalityhumanrights.com/sites/default/files/documents/disabilityfi/ehrc\\_hidden\\_in\\_plain\\_sight\\_3.pdf](http://www.equalityhumanrights.com/sites/default/files/documents/disabilityfi/ehrc_hidden_in_plain_sight_3.pdf)

[http://www.stamp-it-out.co.uk/docs/\\_permdocs/gettingawaywithmurder.pdf](http://www.stamp-it-out.co.uk/docs/_permdocs/gettingawaywithmurder.pdf)

<https://www.theguardian.com/uk-news/2016/feb/09/bijan-ebrahimi-murder-bristol-police-sentenced>

<https://www.theguardian.com/uk-news/2016/dec/02/lee-irving-murder-james-wheatley-jailed-life-newcastle>

<http://www.bbc.co.uk/news/uk-england-south-yorkshire-25642431>

<http://www.mirror.co.uk/news/uk-news/thugs-who-tortured-an-autistic-boy-253468>

research report incidence of abuse amongst disabled people is as much as four times higher than it is among the non-disabled population.<sup>98</sup> Government and media rhetoric about disability benefit fraud has been linked by disabled people to an increase in hostility and discrimination.<sup>99</sup> However, much abuse goes unreported<sup>100</sup> so official statistics of disability hate crime often do not reflect the scale of the problem.

16.3 People with learning difficulties are particularly at risk. As many as 9 out of 10 people with a learning disability have been a victim of hate crime and bullying<sup>101</sup> and up to 70% of women and 32% of men with learning disabilities experience sexual abuse at some point in their lives.<sup>102</sup> The CPSI<sup>103</sup> examined 151 cases of rape and found that mental health and learning difficulties were ‘frequently identified vulnerabilities’. The Criminal Justice Joint Inspectorate recognised failing and made recommendations which have yet to be implemented.<sup>104</sup>

## Article 17 – Protecting the integrity of the person

17.1 Violence or abuse in care settings or from ‘care’ providers, particularly in segregated institutions, is still a major problem in

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<http://www.theguardian.com/society/joepublic/2011/sep/13/gemma-hayter-disability-hate-crime-abuse>

<sup>98</sup> [http://lx.iriss.org.uk/sites/default/files/resources/behind\\_closed\\_doors.pdf](http://lx.iriss.org.uk/sites/default/files/resources/behind_closed_doors.pdf)

<sup>99</sup> <https://www.scope.org.uk/About-Us/Media/Press-releases/July-2012/Discrimination-increases-on-back-of-%E2%80%98benefit-scrou>

<sup>100</sup> <https://www.justiceinspectorates.gov.uk/hmic/media/a-joint-review-of-disability-hate-crime-living-in-a-different-world-20130321.pdf>

<sup>101</sup> <https://www.mencap.org.uk/blog/four-things-you-probably-didnt-know-about-disability-hate-crime>

<https://www.mencap.org.uk/blog/what-bullying>

<sup>102</sup> Cambridge, P., Beadle-Brown, J. Milne, A. Mansell, J. and Whelton B. (2011) ‘Patterns of Risk in

Adult Protection Referrals for Sexual Abuse and People with Intellectual Disability’, *Journal of Applied Research in Intellectual Disabilities* 2011, 24, 118–132

[http://thewomensresourcecentre.org.uk/wp-content/uploads/Appendix-36\\_General-Recommendation-18\\_Disabled-women\\_FINAL2.pdf](http://thewomensresourcecentre.org.uk/wp-content/uploads/Appendix-36_General-Recommendation-18_Disabled-women_FINAL2.pdf)

<sup>103</sup> CPSI: Crown Prosecution Service Inspectorate

<sup>104</sup> <https://www.justiceinspectorates.gov.uk/hmic/media/a-joint-review-of-disability-hate-crime-living-in-a-different-world-20130321.pdf>

<http://www.justiceinspectorates.gov.uk/hmic/wp-content/uploads/joint-review-of-disability-hate-crime-review.pdf>

England today<sup>105</sup>; as the inquiry into Winterbourne View<sup>106</sup> and the death of Connor Sparrowhawk<sup>107</sup> show.

17.2 There is concern that ‘unexpected deaths’ are not being investigated, particularly regarding people with learning difficulties. Just 272 of 722 ‘unexpected’ deaths were investigated under the Southern Health NHS Foundation Trust, which serves four counties in the south of England.<sup>108</sup> Only 4% of the unexpected deaths of people with learning difficulties were investigated compared to 60% of adults with mental health support needs according to an independent review<sup>109</sup>. Hospitals in England have investigated just 222 out of 1,638 deaths of patients with learning difficulties since 2011.<sup>110</sup>

17.3 The failure of the state to investigate and prevent violence or neglect of disabled people in institutions and segregated residential settings amounts to a systematic violation of the CRPD over an extended period of time.

17.4 When in prison people with learning disabilities are five times as likely as other prisoners to have been subjected to control and restraint techniques and three times more likely to have spent time in segregation.<sup>111</sup>

## **Article 18— Nationality and liberty of movement**

18.1 In 2012 new immigration rules were introduced with a higher income threshold of £18,600,<sup>112</sup> which means that thousands of people on lower income such as disabled people find it harder to

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<sup>105</sup> Hoong Sin, C., Hedges, A., Cook, C. Mguni, N., Comber, N. (2009) Office for Public Management. *Disabled people’s experiences of targeted violence and hostility*. Research Report 21.

<sup>106</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/213215/final-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213215/final-report.pdf)

<http://hosted.southglos.gov.uk/wv/report.pdf>

<sup>107</sup> <http://www.southernhealth.nhs.uk/news/report-into-death-sparrowhawk/>  
<http://www.southernhealth.nhs.uk/news/archive/2016/trust-statement-regarding-connor-sparrowhawks-death/>

<sup>108</sup> <http://www.southernhealth.nhs.uk/about/who/trust/>

<sup>109</sup> <https://www.england.nhs.uk/south/wp-content/uploads/sites/6/2015/12/mazars-rep.pdf>

<sup>110</sup> <https://www.theguardian.com/society/2015/dec/20/revealed-nhs-hospitals-investigate-1-in-7-deaths-of-vulnerable-patients>

<sup>111</sup> <http://www.prisonreformtrust.org.uk/ProjectsResearch/Mentalhealth/TroubledInside/Bradleyreviewcallsfornewapproachtooffenders>

<sup>112</sup> £18,600 is above average earnings in parts of the country

meet this threshold and obtain visas for partners from non-EU countries.

18.2 The minimum income requirement does not apply if the UK-based sponsor is in receipt of a disability related benefit or of Carer's Allowance. Instead, the 'adequate' maintenance requirements in the previous version of the Immigration Rules must be satisfied. However, the minimum income requirement will apply in subsequent applications if the sponsor's circumstances have changed.

18.2 In July 2012 a rule concerning non-EEA adult dependent relatives who will only be able to settle in the UK if they can demonstrate that long-term personal care will be provided without recourse to public funds.<sup>113</sup> The government has confirmed that between 9 July and 31 October 2012 just one visa was issued worldwide to an adult dependent relative.

## **Article 19 - Living independently and being included in the community**

19.1 Disabled people's rights to 'personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;' has been under continued attack since 2010 due to the systematic cutting of Local Authority (LA) budgets and the closure of the Independent Living Fund (ILF).

19.2 There were 5 years of funding reductions of social care budgets by LA's between 2010-2015 totalling £4.6 billion and representing 31% of real terms net budgets.<sup>114</sup> A survey of Councils in 2015-16 found that £228 million (28%) of reported "efficiencies" were in fact met by reducing levels of care packages.<sup>115</sup> There is a widening gap between needs and resources set to reach at least £2.8 billion by 2019. Public

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<sup>113</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/257359/soi-fam-mig.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257359/soi-fam-mig.pdf)

<sup>114</sup> <https://www.adass.org.uk/media/4345/key-messages-final.pdf>

<sup>115</sup> <https://www.publications.parliament.uk/pa/cm201617/cmselect/cmhealth/139/13902.htm>

spending on adult social care is set to fall to less than 1% of GDP.<sup>116</sup>

19.3 Since the Care Act was implemented in April 2015 two tiers of eligibility for social care were removed so only those with needs deemed to be critical and substantial are able to receive social care. The LA's cuts in funding for care have seriously undermined any benefits from the policy of Personalisation/Personal Budgets.

19.4 Research also showed that:

- the social care system is struggling to meet needs of older people after 6 years of cuts.
- huge pressures on the social care market.
- Many social care providers dependent on LA contracts are in difficulty.<sup>117</sup>
- Also over 1 million older disabled people have or are at risk from malnutrition. A lack of meals on wheels and inadequate levels of social care blamed.<sup>118</sup>

19.6 Recent FOIs revealed that 40 Clinical Commissioning Groups (CCGs) had drawn up their own policies, which contained phrases that suggested the CCGs would move disabled people eligible for continuing NHS healthcare into institutions against their wishes, even if the cost of the homecare package was only slightly more expensive than residential care.<sup>119</sup> North Somerset Council will consider residential care for new applications for care, when care costs are over £500 per week and the disabled person cannot afford top up fees.<sup>120</sup>

19.7 As a result of the funding cuts disabled people's support is being cut to a minimum 'clean and feed' model of care. This undermines disabled people's rights under Article 19 and makes

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<sup>116</sup> [https://www.kingsfund.org.uk/sites/files/kf/field/field\\_publication\\_file/Social\\_care\\_older\\_people\\_Kings\\_Fund\\_Sep\\_2016.pdf](https://www.kingsfund.org.uk/sites/files/kf/field/field_publication_file/Social_care_older_people_Kings_Fund_Sep_2016.pdf)

<sup>117</sup> <https://www.kingsfund.org.uk/publications/social-care-older-people>

<sup>118</sup> [https://www.theguardian.com/society/2016/nov/25/huge-rise-in-hospital-beds-in-england-taken-up-by-people-with-malnutrition?CMP=share\\_btn\\_tw](https://www.theguardian.com/society/2016/nov/25/huge-rise-in-hospital-beds-in-england-taken-up-by-people-with-malnutrition?CMP=share_btn_tw)

<sup>119</sup> <http://www.disabilitynewsservice.com/more-than-40-nhs-organisations-have-policies-of-concern-on-institutional-care/>

<sup>120</sup> <http://www.communitycare.co.uk/2017/02/22/care-package-savings-drive-risks-shift-care-home-placements/>

participation in the community and in cultural, social or political activities increasingly impossible. Independent living as a right and as a way of life is being systematically dismantled.

19.9 The Independent Living Fund (ILF) was closed to new applicants in 2010 and shut completely in June 2015 when all responsibility for funding support was transferred to LAs. There was some additional devolved funding available which after much pressure has now been extended until 2020. However, the government has not ensured that LAs must ring-fence the funding for support of ex-ILF recipients only.

19.10 The In Control survey<sup>121</sup> asked former ILF recipients about their experiences since its closure and found:

- 41% former ILF recipients had less/a lot less support.
- 33% said quality of support was worse/ a lot worse.
- 58% reported their quality of life had reduced or reduced significantly over the past 12 months.

19.11 Similarly research looking at the situation for ex-ILF recipients in London one year after closure concluded:

- Experiences were very much a postcode lottery depending on where people lived – some councils had made no reductions while in other areas between half to two thirds had experienced a cut.
- Support to leave the house could be limited, disabled people were expected to live off microwave meals, support hours for domestic tasks were reduced and in many cases there were attempts to remove night support. Many LAs are seeking to replace support hours with telecare and incontinence pads.

19.12 The government's own report on the closure of ILF, which used a small sample size, found:

- Former recipients of the ILF in England experienced a loss of support, a greater reliance on unpaid care and an "adverse" impact on their physical and mental health after its closure
- Reductions in care were unfair and denied opportunities to participate fully in society including less support for engaging in leisure activities, work and volunteering.

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<sup>121</sup> <http://www.in-control.org.uk/news/in-control-news/report-on-the-independent-living-survey-2016.aspx>

- The “heavy reduction in care” damaged physical and mental health, with effects including loneliness and weight loss.<sup>122</sup>

In spite of this report, the government still refuses to ring-fence devolved ILF funding.

19.13 There is a wide consensus that there is a crisis in the funding and provision of state funded care and support.<sup>123</sup> The LGA,<sup>124</sup> ADASS<sup>125</sup> and others have all raised concerns.

19.14 One minor change in policy allows LAs to increase council tax by a 3% social care precept. Analysis shows the precept will not cover the extra £612m cost needed to cover the “national living wage” and will widen inequalities in access to care services.<sup>126</sup>

19.15 In January 2017 the crisis grew to such a level that the Chairs of three House of Commons Select Committees urged the Prime Minister to reach a cross-party agreement on the future of health and social care funding.<sup>127</sup>

19.16 The slashing of state funded social care budgets has been grave and systematic and led to retrogression of disabled people’s rights under Article 19.

19.17 Even when eligible needs have been agreed and care offered, (with the exception of a handful of LAs where it is free), charges made towards the cost of a care package are now stringently means tested. In Newcastle a woman on ESA and DLA was paying £150 per month towards her care but changes to charging policies now mean she is paying £400 per month.

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<sup>122</sup> <http://www.disabilitynewsservice.com/dwp-report-confirms-fears-over-impact-of-ilf-closure/>

<sup>123</sup> <https://www.parliament.uk/business/news/2016/december/urgent-question-on-crisis-in-funding-social-care-12-december-2016/>  
<http://careandsupportalliance.com/about/>

<http://www.ageuk.org.uk/home-and-care/campaign-for-better-care/what-is-care-in-crisis/>

<sup>124</sup> Local Government Association: [http://www.local.gov.uk/web/guest/media-releases/-/journal\\_content/56/10180/7991319/NEWS](http://www.local.gov.uk/web/guest/media-releases/-/journal_content/56/10180/7991319/NEWS)

<sup>125</sup> <https://www.adass.org.uk/media/4214/ray-james-opening-speech-ncas-2015.pdf>  
<https://www.adass.org.uk/social-care-funding-bleak-outlook-bleaker/>

<sup>126</sup> <https://www.theguardian.com/society/2016/dec/10/tory-plans-making-social-re-worse>

<sup>127</sup> <http://www.parliament.uk/business/committees/committees-a-z/commons-select/communities-and-local-government-committee/news-parliament-2015/prime-minister-health-and-social-care-correspondence-16-17/>

19.18 Since April 2016 disabled employers of PAs are responsible for the provision of pensions. These costs are compounded by rises in the minimum wage.

19.19 The financial aspects of the Dilnot report,<sup>128</sup> which would have meant care costs would be free once a threshold of £72,000 had been paid, have been shelved indefinitely.

19.20 People with learning difficulties are placed in residential care and hospital units many miles from home and community, not from choice or need but because of a lack of care in the community,<sup>129</sup> in breach of Article 19. In 2015/16, local authorities were funding 30,240 adults with learning disabilities in residential care services, and a further 1,815 adults with learning disabilities in nursing homes.<sup>130</sup> There are also 3,000 people with learning difficulties in specialist inpatient units in September 2015.<sup>131</sup>

9.21 Disabled people have been abused and neglected when placed in hospital units or care settings,<sup>132</sup> which increases the urgency to ensure that disabled people's rights under Article 19 are placed in UK law. As a result of Connor Sparrowhawk's death due to neglect<sup>133</sup> the LBBill<sup>134</sup> campaign has been working to put much needed rights into UK law. The key elements of Draft 2 of the LBBill included the Implementation of Article 19 of the Convention on the Rights of Persons with Disabilities.<sup>135</sup> 'No Right Ignored', a

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<sup>128</sup> <http://webarchive.nationalarchives.gov.uk/20130221130239/http://dilnotcommission.dh.gov.uk/files/2011/07/Fairer-Care-Funding-Report.pdf>

<sup>129</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/508909/ld-census-further-sep15-rep.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/508909/ld-census-further-sep15-rep.pdf)

<sup>130</sup> <http://www.content.digital.nhs.uk/catalogue/PUB21934/comm-care-stat-act-eng-2015-16-rep.pdf>

<sup>131</sup> <http://content.digital.nhs.uk/article/6874/Learning-Disability-Census-2015-almost-half-of-inpatients-with-learning-disabilities-common-to-each-census-since-2013>

<sup>132</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/213215/final-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213215/final-report.pdf) <http://hosted.southglos.gov.uk/wv/report.pdf>  
<http://www.southernhealth.nhs.uk/news/report-into-death-sparrowhawk/>  
<http://www.southernhealth.nhs.uk/news/archive/2016/trust-statement-regarding-connor-sparrowhawks-death/>

<sup>133</sup> <http://www.southernhealth.nhs.uk/news/report-into-death-sparrowhawk/>  
<http://www.southernhealth.nhs.uk/news/archive/2016/trust-statement-regarding-connor-sparrowhawks-death/>

<sup>134</sup> LBBill, The Laughing Boy Bill, called so in memory of Connor Sparrowhawk:

<https://lbbill.wordpress.com/who-is-lb/>

<sup>135</sup> <https://lbbill.files.wordpress.com/2014/11/explanatory-notes-lbbill-draft-2.pdf>

government green paper<sup>136</sup> contained elements of the LBBill, but neither the green paper nor the LBBill has progressed.<sup>137</sup>

## Article 20 Personal mobility

20.1 Disability Living Allowance to assist with the extra costs associated with disability is being replaced by Personal Independence Payment resulting in a substantial reduction in support for personal mobility.

20.2 The first statistics to be published in January 2017 on PIP outcomes for 361,000 DLA claimants who have been reassessed show that 48% received a lower award or were disqualified<sup>138</sup> because eligibility for the mobility component has been reduced from being able to walk 50 metres to being able to walk 20 metres.<sup>139</sup> Motability has reported that disabled people are being forced to hand back their Motability vehicles at a rate of up to 700 a week and expects 35,000 vehicles to be handed back during 2016 as a direct result of the reassessment of DLA claimants for PIP<sup>140</sup>. The 20 metre rule had also a knock-on effect on the access to NHS wheelchairs, as the NHS has aligned the eligibility for its wheelchairs on tightened criteria.

20.3 Assistive technologies such as text to speech (text readers) devices and software are available, but mostly only if the person is using 'Access to Work', that provides technology and other assistance to disabled workers. AtW has drastically cut the range

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<sup>136</sup>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/409816/Document.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/409816/Document.pdf)

<sup>137</sup> <https://lbbill.wordpress.com/>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/475155/Gvt\\_Resp\\_Acc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/475155/Gvt_Resp_Acc.pdf)

<sup>138</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/577399/pip-statistics-to-october-2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/577399/pip-statistics-to-october-2016.pdf)

<sup>139</sup> <http://www.bbc.co.uk/news/magazine-22067379>;  
<http://disabilitynewsservice.com/2013/01/mcvey-invites-ridicule-as-she-dismisses-her-own-pip-figures/>

<sup>140</sup> <http://www.disabilitynewsservice.com/pip-reassessments-mean-35000-will-lose-motability-vehicles-in-2016/>

of products it will fund.<sup>141</sup> Deaf people are also facing more restrictions in access to sign language interpreters.<sup>142</sup>

## **Article 21. Freedom of Expression and opinion and access to information**

21.1 Alternative and Augmentative Communication (AAC) Services in the UK are now funded by NHS England and will provide assessment, review and equipment for those disabled people with the most significant communication support requirements. New 'communication centres' will be commissioned by the NHS to control access to communication aids for disabled people using criteria for the first time. For professionals to determine the inclusion or exclusion of a disabled person based upon their choice of communication is a contravention of article 21 (para b).

21.2 Facilitated Communication (FC), is used by growing numbers of disabled people around the world as their choice of communication. This choice should be protected under Article 21. Disabled people have the right to choose their method of communication and not have it dictated to them by professionals or professional organisations.

21.3 England has the largest Deaf population of the four UK nations and yet the government has no strategies to facilitate the use of sign languages in official interactions and nothing to recognise and promote the use and acquisition of sign languages. Whilst BSL<sup>143</sup> can be learnt in UK colleges, courses generally require a fee, which hinders widespread learning. Lack of access to information in sign language affects every aspect of a Deaf person's life. Lack of access to health information in sign language has resulted in significant health inequalities estimated to be an added cost to the NHS of £30 million pounds.<sup>144</sup>

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<sup>141</sup> <http://www.abilitymagazine.org.uk/Articles/Article-108-3.aspx>

<sup>142</sup> <https://www.totaljobs.com/insidejob/whats-like-deaf-employee/>

<sup>143</sup> British Sign Language

<sup>144</sup> Sign Health, *Sick of it: A report into the health of Deaf people in the UK*, 2014, p. 20.  
<http://www.signhealth.org.uk/sick-of-it-report-professionals/>

## **Article 22 – Respect for privacy**

22.1 General practitioners have been asked to create a summary of patient's medical notes and to upload them to a centralised IT system. The possibility of patients opting out of this system was not provided in accessible formats denying disabled people choice.

22.2 Private companies and researchers will be able to access data from GP records for £1<sup>145</sup> which could breach privacy for disabled people.

22.3 A failure to ensure adequate numbers of professional BSL interpreters often leads to breaches of the right to privacy of sign language users. This occurs through family members being used to convey personal confidential health or financial information which in general the family members of a non-disabled person would not have access to without that person's explicit consent.

## **Article 23 – Respect for home and the family**

23.1 People with learning difficulties can remain in hospital units for long periods not from choice but because of inadequate care in their own locality. This happened to 950 (32%) of inpatients with learning difficulties in England, even though their care plan did not suggest a need for inpatient care.<sup>146</sup>

23.2 Respect for the home and family of disabled people in the UK has been severely undermined by welfare reform. For example, financial support provided to families through tax credits and housing benefit is being limited to 2 children, so that any subsequent children born after April 2017 will not be eligible for further support unless a mother can prove they have been raped.<sup>147</sup>

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<sup>145</sup> <http://www.pulsetoday.co.uk/your-practice/practice-topics/it/private-companies-set-for-access-to-patient-data-for-just-1/1/20003879.article?&PageNo=3&SortOrder=dateadded&PageSize=10#.U3NrIoFdUn0>

<sup>146</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/508909/ld-census-further-sep15-rep.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/508909/ld-census-further-sep15-rep.pdf)

<sup>147</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/443232/50325\\_Summer\\_Budget\\_15\\_Web\\_Accessible.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/443232/50325_Summer_Budget_15_Web_Accessible.pdf)

23.3 Also from 1 April 2013, Housing Benefit and Universal Credit claimants deemed to have one 'spare' bedroom in their council or housing association home lost 14% of their housing benefit and those with two or more lost 25%.<sup>148</sup>

23.4 Many disabled people do not wish to leave their adapted properties, yet there are few accessible homes or even one bedroom homes to move to. One disabled grandmother took her own life rather than give up her home.<sup>149</sup>

23.5 The government has repeatedly defended the housing benefit reduction by pointing to the possibility of applying for Discretionary Housing Payments (DHP). But many disabled people are refused or offered a low amount of DHP because the Council has taken into account income, which it arguably should not have done.<sup>150</sup> Also discretionary payments do not give long term security in your home.

23.6 The 2013 Report by the UN Special Rapporteur on Adequate Housing called for an immediate suspension of the bedroom tax and for it to be fully evaluated in light of evidence of its negative impacts. She made particular note of the violation of Article 19.<sup>151</sup>

23.7 The government did not suspend the policy and the reduction in housing benefit is driving disabled people and their families to the courts. In November 2016 the Supreme Court found that the Government acted unlawfully against a disabled woman and her husband and full time carer, after their housing benefit was

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<sup>148</sup> In August 2016 the reduction were applied to 422,475 people with an average reduction of £15.21 a week/£790 a year. A survey of tenants found that a third of affected tenants (32%) report spending less money on food in response to the bedroom tax and a quarter (26%) report cutting back on heating and energy costs. Two thirds of affected tenants (67%) are currently finding it difficult to afford to pay their rent, compared to less than a third of non-affected tenants (31%).

<https://www.gov.uk/government/statistics/housing-benefit-caseload-statistics>

National Housing Federation January 2015: [http://s3-eu-west-](http://s3-eu-west-1.amazonaws.com/pub.housing.org.uk/WR_impact_final_report.pdf)

[1.amazonaws.com/pub.housing.org.uk/WR\\_impact\\_final\\_report.pdf](http://s3-eu-west-1.amazonaws.com/pub.housing.org.uk/WR_impact_final_report.pdf)

[PDF\]Impact of the under-occupation deduction from ... - Parliament UK](#)

<sup>149</sup> [http://www.dailymail.co.uk/news/article-2323209/Bedroom-tax-victim-Stephanie-Bottrill-hit-](http://www.dailymail.co.uk/news/article-2323209/Bedroom-tax-victim-Stephanie-Bottrill-hit-20-week-charge-dies-leaving-note-saying-Government-blame.html#ixzz2T4IIJwWg)

[20-week-charge-dies-leaving-note-saying-Government-blame.html#ixzz2T4IIJwWg](http://www.dailymail.co.uk/news/article-2323209/Bedroom-tax-victim-Stephanie-Bottrill-hit-20-week-charge-dies-leaving-note-saying-Government-blame.html#ixzz2T4IIJwWg)

<sup>150</sup> <http://www.irwinmitchell.com/personal/protecting-your-rights/human-rights/social-healthcare-law/discretionary-housing-payments-factsheet>

<sup>151</sup> [A HRC 25 54 Add.2 ENG](#)

reduced by 14% and also upheld the Court of Appeal's finding that the policy unlawfully discriminates against children with disabilities who need overnight care .<sup>152</sup>

## Article 24 – Education

24.1 The UK State Report comments: “Disabled people in the UK have the right to education on an equal basis as non-disabled people.” (para 230). This report also claims that: “Discrimination against disabled people in education is prohibited in Great Britain by the Equality Act 2010.”(para 232). Nonetheless, since ratification there is no evidence to demonstrate progress in the development of a truly inclusive education system in the UK. In fact, evidence shows the reverse is true. The legal situation in England does not comply with Art 24 or indeed the Government's own Interpretation Declaration text - *“The United Kingdom Government is committed to continuing to develop an inclusive system where parents of disabled children have increasing access to mainstream schools and staff, which have the capacity to meet the needs of disabled children..”*

Education legislation<sup>153</sup> states a ‘*presumption for mainstream*’, but this principle is significantly undermined by caveats within the law that allow Local Authorities and/or education providers to refuse a mainstream placement. This is on the basis that a disabled child being placed in a mainstream setting could be ‘incompatible with the efficient education of other pupils with whom he or she would be educated or if it is an inefficient use of resources’. In 2014 the Government replaced Inclusive Schooling Guidance with a revised SEND Code of Practice<sup>154</sup> which gives little practical advice about developing inclusive education practice.

24.2 Those disabled children with what can be considered a high level of ‘special educational needs’ (SEN) can be assessed by their Local Authority for an Education Health & Care Plan<sup>155</sup> at the

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<sup>152</sup> <https://www.leighday.co.uk/News/News-2016/November-2016/Supreme-Court-rules-Government-acted-unlawfully-ov> <https://www.supremecourt.uk/cases/uksc-2014-0129.html>

<sup>153</sup> [http://www.legislation.gov.uk/ukpga/2014/6/pdfs/ukpga\\_20140006\\_en.pdf](http://www.legislation.gov.uk/ukpga/2014/6/pdfs/ukpga_20140006_en.pdf)

<sup>154</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/398815/SEND\\_Code\\_of\\_Practice\\_January\\_2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf)

<sup>155</sup> <https://www.ipsea.org.uk/what-you-need-to-know/ehc-plans>

request of parents or the school. This is a legally binding document setting out the types and levels of support required to ensure the disabled child can access education and support services. Between 2010 and 2016 the percentage of children in England with an Education Health and Care Plan (replaced SEN Statements) attending maintained special schools increased from 38.2% to 42.9% while those attending State funded secondary schools declined from 28.8% to 23.5%<sup>156</sup>. This marks a clear retrogression in terms of ensuring an inclusive education system. This indicates a contravention of Article 24 (2b) which requires education of disabled children 'in the communities in which they live'.

24.3 In a recent Equality Act 2010 review published by the House of Lords Select Committee<sup>157</sup> there is clear evidence that despite anti-discrimination legislation, disabled children, including those with SEN, are still not accessing education equal to their non-disabled peers. According to the Department for Education, in 2014 17.9% of pupils in England had SEN. The EHRC's research 'Is Britain Fairer?'<sup>158</sup> revealed significant education inequalities.

24.4 Since ratification of the UNCRPD, the Government's priorities have been to increase competition between schools with the aim of raising pupil's examination grades and publishing performance league tables. This has resulted in greater selection and streaming of pupils by ability in and between schools. Disabled pupils have been selected out of high-performing schools into schools that have a high proportion of SEN pupils (Guardian 2016)<sup>159</sup>, placed into separate learning pathways where pupils and students are being taught in segregated classes, SEN Units or segregated off-site alternative provision (RSA 2013<sup>160</sup> DFE 2015/16).<sup>161</sup>

24.5 Furthermore the Government has plans to introduce selective education across England, by expanding grammar education and allowing mainstream schools to openly select pupils by ability and

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<sup>156</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/539158/SFR29\\_2\\_016\\_Main\\_Text.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/539158/SFR29_2_016_Main_Text.pdf)

<sup>157</sup> <https://www.publications.parliament.uk/pa/ld201516/ldselect/ldselect/117/117.pdf>

<sup>158</sup> <https://www.equalityhumanrights.com/en/britain-fairer/britain-fairer-report>

<sup>159</sup> Perraudin F (2016): [Academy trust accused of discriminating against Disabled pupils](#), Guardian 26<sup>th</sup> May 2016

<sup>160</sup> <http://www.educationengland.org.uk/documents/pdfs/2013-academies-commission.pdf>

<sup>161</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/494334/2016\\_alternative\\_provision\\_census\\_guide.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/494334/2016_alternative_provision_census_guide.pdf)

aptitude<sup>162</sup>. A recent NASEN survey reported that 65% of education professionals believe that grammar schools either never or rarely catered for disabled pupils and students with SEN.<sup>163</sup> And in areas of high selective education, disabled pupils are heavily disadvantaged by the admissions process that includes biased tests, favouring non-disabled pupils.<sup>164</sup>

24.6 Evidence shows that disabled students in further education are four times more likely to be attending segregated independent living and employment courses for learners with learning difficulties and disabilities than a mainstream accredited course<sup>165</sup>. As a result disabled young people are denied opportunities to develop their knowledge and skills in a broad subject based curriculum that enables them to access mainstream courses in post-16 settings. The Children & Families Act 2014 means that disabled students in post 16 settings will now be covered by the 'presumption for mainstream' principle, but we have grave concerns that this new requirement in law will be undermined by poor guidance for post-16 education providers and planned changes to post-16 funding arrangements.

24.7 The education system in England is not inclusive for Deaf children. In fact, it has been exclusive, inaccessible, and consistently denies opportunities for peer-peer learning, strong language role models. The education system is not committed to bi-lingualism. Teachers of the Deaf are only encouraged to commit to achieving a minimum basic Level 1 qualification in BSL. This means they are often unable to sustain even a basic conversation. In most instances Teachers of the Deaf will rely on Communication Support Workers, for whom the minimum requirement is Level 2 in BSL, far below the standards expected for interpreters (Level 6).

## Article 25 – Health

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<sup>162</sup> [https://consult.education.gov.uk/school-frameworks/schools-that-work-for-everyone/supporting\\_documents/SCHOOLS%20THAT%20WORK%20FOR%20EVERYONE%20%20FINAL.PDF](https://consult.education.gov.uk/school-frameworks/schools-that-work-for-everyone/supporting_documents/SCHOOLS%20THAT%20WORK%20FOR%20EVERYONE%20%20FINAL.PDF)

<sup>163</sup> [www.nasen.org.uk/.../download.04D3C60F-1246-4B57-BE3B691945B20CB7.html](http://www.nasen.org.uk/.../download.04D3C60F-1246-4B57-BE3B691945B20CB7.html)

<sup>164</sup> Kent Education Network (2016): [Survey shows head teachers are against selection and grammars](#)

<sup>165</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/387040/AU-CreatingAnInclusiveApprenticeshipOffer-Report-May2012.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/387040/AU-CreatingAnInclusiveApprenticeshipOffer-Report-May2012.pdf)

25.1 There are health inequalities between non-disabled and disabled people within the National Health Service<sup>166</sup> (NHS) which has led to the violation of their rights to health care on an equal basis with others. For instance, people with learning disabilities die on average 16 years sooner than people without learning disabilities<sup>167</sup> and are twice as likely to die from avoidable deaths and three times more likely to die from a cause of death that could be prevented by good quality health care.<sup>168</sup> People with mental health support needs will typically die between 15 years (for women) and 20 years (for men) earlier than a person without such needs.<sup>169</sup>

25.2 Mental Health (MH) services in the UK have seen years of underfunding and services are now in crisis. The MPs health committee has said the scale of suicides is unacceptable.<sup>170 171</sup>

- “4,820 people are recorded as having died by suicide during 2015 in England last year, but the true figure is likely to be higher.”
- A BMA report found that there has been a 44% decrease in the number of mental health beds since 2000/01, with 726 mental health patients being given out of area placements each month between March and October last year.<sup>172</sup>
- A quarter of children referred to MH Services in England including some who attempted suicide had received no support, including 13% with life threatening conditions not being allowed specialist support.<sup>173</sup>

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<sup>166</sup> [http://www.improvinghealthandlives.org.uk/uploads/doc/vid\\_8360\\_IHAL2010-01%20Health%20Inequalities4%20%283%29.pdf](http://www.improvinghealthandlives.org.uk/uploads/doc/vid_8360_IHAL2010-01%20Health%20Inequalities4%20%283%29.pdf)

<sup>167</sup> Emerson E, Madden R, Robertson J, Graham H, Hatton C, Llewellyn G. (2009) *Intellectual and Physical Disability, Social Mobility, Social Inclusion & Health: Background paper for the Marmot Review*. Lancaster: Centre for Disability Research.

<sup>168</sup> Heslop, P. (2014) *Improving Health and Lives: Confidential Inquiry into premature deaths of people with learning disabilities*. Bristol: Norah Fry Centre.

<sup>169</sup> <http://bma.org.uk/healthparity>

<sup>170</sup> <https://www.parliament.uk/business/committees/committees-a-z/commons-select/health-committee/news-parliament-20151/suicide-prevention-report-published-16-17/>

<sup>171</sup> Sarah Wollaston MP, Chair of the Health Select Committee  
<https://www.parliament.uk/business/committees/committees-a-z/commons-select/health-committee/news-parliament-20151/suicide-prevention-report-published-16-17/>

<sup>172</sup> British Medical Association BMA <https://www.bma.org.uk/news/media-centre/press-releases/2017/february/delays-from-lack-of-beds-is-now-the-new-normal>  
<https://www.parliament.uk/business/committees/committees-a-z/commons-select/health-committee/news-parliament-20151/suicide-prevention-report-published-16-17/>

<sup>173</sup> <https://www.childrenscommissioner.gov.uk/sites/default/files/publications/Children's%20Commissioner's%20Mental%20Health%20Lightning%20Review.pdf>

- RCN members have warned that CAMHS<sup>174</sup> are inadequate.<sup>175</sup>
- Due to cuts to CAMHS and family support, disabled young people are being placed in Specialist Assessment and Treatment Units which can be many miles from their family and community and where care can be inadequate.<sup>176</sup>
- Local mental health services are closing,<sup>177</sup> without support in the community there is likely to be more need for inpatient care.

25.3 The National Institute for Health and Care Excellence (NICE), has overall responsibility for approving NHS medical treatments. It uses the Quality of Life Adjusted Year (QALY)<sup>178</sup> measures to consider the cost effectiveness of medical treatments by estimating number of good quality of life years that a person will gain to carry out the activities of daily life, free from pain and mental health issues<sup>179</sup> against projected treatment and care costs.<sup>180</sup> Because the QALYS are subjective and rely upon the general population's perception of disability, disabled people can face disability-related discrimination in accessing universal treatment<sup>181</sup> and impairment / health care related treatments before and during their lives.<sup>182</sup> Doctors decide whether medical treatment will be in the disabled person's best interests but routinely decide that NICE's approved medical treatments are not in the disabled person's best interests.<sup>183</sup>

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<https://www.theguardian.com/uk-news/2016/may/28/nhs-turning-away-children-referred-for-mental-health-help>

<sup>174</sup> CAMHS (Community Adolescent Mental Health Services)

<sup>175</sup> <https://www.rcn.org.uk/news-and-events/news/childrens-mental-health-services-inadequate>

<sup>176</sup> <https://councilfordisabledchildren.org.uk/>

<https://www.theguardian.com/society/2014/nov/26/learning-disabled-people-dumped-winterbourne-view-style-units> <https://www.theguardian.com/society/2014/mar/19/connor-sparrowhawk-death-nhs-care-unit-slade-house-learning-disabilities>

<https://www.theguardian.com/society/2014/nov/26/learning-disabled-people-dumped-winterbourne-view-style-units>

<sup>177</sup> <http://www.eastlondonlines.co.uk/2017/01/outcry-at-foxley-lane-closure-announcement/>  
<http://www.wsws.org/en/articles/2017/02/18/newh-f18.html>

<sup>178</sup> <https://www.nice.org.uk/glossary?letter=q>

<sup>179</sup> QALYS <https://www.nice.org.uk/glossary?letter=q>

<sup>180</sup> Developing NICE guidelines: the manual 2014

<https://www.nice.org.uk/process/pmg20/chapter/introduction-and-overview>

<sup>181</sup> Orkambi and various cancer drugs<sup>181</sup> are amongst a range of prescribed medical treatments considered to be too expensive for disabled patients by the NHS.

<sup>182</sup> How to avoid unfair discrimination against disabled patients in healthcare resource allocation  
J Med Ethics 2012;38:3 158-162

<sup>183</sup> <http://www.gmc-uk.org/learningdisabilities/281.aspx>

## Article 26 - Habilitation and rehabilitation

26.1 The support provided to families with disabled children has also been shown to be inadequate with families needing to travel a greater distance than appropriate or face separation from their children. The system is failing with further cuts to support compounding the situation<sup>184</sup>

## Article 27 – Work and employment

27.1 There continues to be a gap in the number of disabled people in employment compared to non-disabled people due to various barriers such employer discrimination and lack of flexible working hours.<sup>185</sup>

- Disabled people are more than twice as likely to be unemployed as non-disabled people.<sup>186</sup>
- In the third quarter of 2016, 48.3% of disabled people aged 16-64 were in employment. This was a gap of 32.2 percentage points compared to non-disabled people.<sup>187</sup>
- The two most common barriers to work among adults with impairments are a lack of job opportunities (43%) and difficulty with transport (29%).<sup>188</sup>

27.2 Government programmes have often not been successful for disabled people, for instance the majority of disabled people receiving ESA have not obtained employment as a result of the

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<sup>184</sup> <http://www.scope.org.uk/Scope/media/Images/Publication%20Directory/Keep-us-close.pdf?ext=.pdf>

<sup>184</sup> <http://www.bristol.ac.uk/wtwpn/resources/facts-pwld.pdf>

<sup>185</sup> <https://www.equalityhumanrights.com/en/publication-download/research-report-88-barriers-employment-and-unfair-treatment-work-quantitative>

<sup>186</sup> <http://www.scope.org.uk/media/disability-facts-figures>  
<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/labourmarketstatusofdisabledpeoplea08>

<sup>187</sup> <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7540#fullreport>

<sup>188</sup> <http://www.papworthtrust.org.uk/sites/default/files/Disability%20Facts%20and%20Figure%202016.pdf>

Work Programme.<sup>189</sup> 21% of disabled people on Work Choice achieved a 'sustained job outcome.' Work Choice is not supporting people with more substantial impairment-related needs, as only 18% of Work Choice participants are in receipt of ESA/IB/SDB, while 53% receive JSA.<sup>190</sup> The government has new programmes to support disabled people, such as Journey 2 Work<sup>191</sup> but there are concerns about the small budget, with funding limited to a year for this programme.

27.3 The Work and Health programme is replacing the Work Programme and Work Choice,<sup>192</sup> but there will be substantial reduction in funding,<sup>193</sup> undermining government's stated intention to reduce the disability employment gap.<sup>194</sup> Also concerns about some proposals in government's Work and Health green paper,<sup>195</sup> including the possibility of mandatory activities for people in the support group,<sup>196</sup> who have more substantial impairment-related

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<sup>189</sup> Only 8.2% 'Other ESA/IB' claimants and 16% 'New ESA' claimants<sup>189</sup> had at least 3 months work after a year.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/580107/work-programme-statistics-to-september-2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/580107/work-programme-statistics-to-september-2016.pdf)

<sup>190</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/572804/work-choice-statistics-to-sep-2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/572804/work-choice-statistics-to-sep-2016.pdf) Published November 2016

People receiving ESA have more substantial impairment-related needs than those receiving JSA.

<sup>191</sup> An example is at: <http://www.wecil.co.uk/journey-employment-starts/>  
<https://www.gov.uk/specialist-employability-support/overview>

<sup>192</sup> Referrals to Work Choice and Work Programme will cease in April 2017  
<http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7845>

<sup>193</sup> The Committee said: 'The Umbrella Agreement for the Work and Health programme suggests that it will have a budget of £554 million over its lifetime. This is a manifold reduction compared to what it will replace. In comparison, the DWP states that £492 million in total has been spent on Work Choice up to 2015–16 alone, and £2.2 billion had been paid to Work Programme providers as of December 2015':

<http://www.publications.parliament.uk/pa/cm201617/cmselect/cmworpen/57/5707.htm>

<sup>194</sup> <https://hansard.parliament.uk/commons/2016-07-11/debates/160711400019/DisabilityEmploymentGap>

<sup>195</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/564038/work-and-health-green-paper-improving-lives.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/564038/work-and-health-green-paper-improving-lives.pdf)

<sup>196</sup> '...we could consider implementing a 'keep-in-touch' discussion with work coaches' for people in the support group and that it 'could be explored as a voluntary or mandatory requirement': 'People will be required to attend the Health and Work Conversation, where appropriate,' and the actions subsequently agreed 'will be captured in a new Employment and Support Allowance Claimant Commitment.'

needs than other ESA claimants so have never been subject to compulsory activities before.

27.4 New initiatives to bring work and health services closer together,<sup>197</sup> are being piloted, such as placing work coaches in GP surgeries which raises a number of concerns.

27.5 Once employment is obtained disabled people are eligible for AtW but 50% of those responding to a recent survey had experienced a change in their AtW package, the majority of which involved a reduction in support. More frequent re-assessments were also experienced, often leading to a reduced award, as well as tighter eligibility criteria for support and a higher burden of proof of need for support.

27.6 Also AtW grants awarded on or after 1 October 2015 are capped. For grants awarded from 1 October 2015 to 31 March 2016 the cap is £40,800, while for grants awarded from 1 April 2016 to 31 March 2017 the cap will be £41,400.<sup>198</sup> AtW grants awarded before 1 October 2015 will be capped from 1 April 2018.<sup>199</sup>

27.7 Support is provided for disabled people by Disability Employment Advisors (DEAs), but 'ESA claimants typically attend the Job Centre no more than twice a year'<sup>200</sup> as full-time DEAs have been reduced by 60% from 2011 to 2015, due to cuts in funding,<sup>201</sup> although the government intends to increase the numbers this is yet to happen.<sup>202</sup>

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/564038/work-and-health-green-paper-improving-lives.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/564038/work-and-health-green-paper-improving-lives.pdf)

<sup>197</sup> placing 'work coaches' in GP surgeries

<sup>198</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/527784/employer-guide-atw-dwpf03a.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/527784/employer-guide-atw-dwpf03a.pdf)

<sup>199</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/527784/employer-guide-atw-dwpf03a.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/527784/employer-guide-atw-dwpf03a.pdf)

<sup>200</sup> <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7540>

<sup>201</sup> <http://www.independent.co.uk/news/uk/politics/dwp-cuts-specialist-disability-employment-advisors-in-jobcentres-by-over-60-per-cent-a6728881.html>

<sup>202</sup>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/564038/work-and-health-green-paper-improving-lives.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/564038/work-and-health-green-paper-improving-lives.pdf) [Work Programme: background and statistics - Parliament](#)

27.8 There is concern that a new commissioning framework for BSL<sup>203</sup> services which aims to standardise pay rates will drive down pay and conditions for BSL interpreters and undermine the quality and sustainability of the profession. According to a 2016 survey of BSL interpreters, 31% of respondents indicated an intention to reduce their hours or stop interpreting<sup>204</sup>. Availability of interpreters has a direct impact on access to communication for Deaf BSL users.

## Article 28 - Adequate standard of living and social protection

28.1 There has been significant retrogression with respect to the right to an adequate standard of living due to welfare reform measures. The human rights of disabled people have been negatively impacted by:

- reforms and removal of financial disability benefit supports;<sup>205</sup>
- declining employment rights and insecurity;<sup>206</sup>
- reforms of welfare generally, putting England at a below subsistence benefit levels described as 'manifestly inadequate' in the context of Europe<sup>207</sup>; and
- a withdrawal of services and severe cuts in social care.<sup>208</sup>

28.2 The above are combined with decreasing real wages<sup>209</sup>, increasing costs of food, water, fuel<sup>210</sup> and transport<sup>211</sup>. As disabled people also face additional cost of living they are more likely to fall below 60% of median income levels into poverty<sup>212</sup>.

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<sup>203</sup> British Sign Language

<sup>204</sup> [www.nubsl.com/wp-content/uploads/2016/07/NUBSLI-Market-Conditions-Final.pdf](http://www.nubsl.com/wp-content/uploads/2016/07/NUBSLI-Market-Conditions-Final.pdf)

<sup>205</sup> Demos (2013), *Destination Unknown*

<http://www.demos.co.uk/blog/destinationunknownapril2013>

<sup>206</sup> <http://www.ons.gov.uk/ons/rel/lmac/contracts-with-no-guaranteed-hours/zero-hours-contracts/art-zero-hours.html#tab-conclusions>

<sup>207</sup> Council of Europe, *Monitoring the European Social Charter*,

[http://www.coe.int/t/dghl/monitoring/socialcharter/Conclusions/State/UKXX2\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/Conclusions/State/UKXX2_en.pdf)

<sup>208</sup> PSSRU 2013, *Changes in the Patterns of Social Care Provision 2005/6 to 2012/13*

<http://www.pssru.ac.uk/archive/pdf/dp2867.pdf>

<sup>209</sup> Joseph Rowntree Foundation (2013), *Monitoring Poverty and Social Exclusion*

<http://www.jrf.org.uk/sites/files/jrf/MPSE2013.pdf>

<sup>210</sup> <http://www.york.ac.uk/media/spsw/documents/research-and-publications/Snell-Bevan-Thomson-EAGA-Charitable-Trust-Fuel-Poverty-And-Disabled-People-Summary.pdf>

<sup>211</sup> Joseph Rowntree Foundation (2013), *Monitoring Poverty and Social Exclusion*, p. 22.

<http://www.jrf.org.uk/sites/files/jrf/MPSE2013.pdf>

<sup>212</sup> Joseph Rowntree Foundation (2004), *Disabled Peoples Living Costs*,

<http://www.jrf.org.uk/publications/disabled-peoples-costs-living>

28.3 Figures for the use of food banks increased from 61,468 in 2010 to over 1 million for one provider in 2015-16.<sup>213</sup> The main reasons for this are benefit delays and benefit changes, followed by low income in work.<sup>214</sup> Women, children and disabled people have been particularly adversely affected by an increase in food insecurity.<sup>215</sup>

28.4 The change from Disability Living Allowance to Personal Independence Payment (PIP) means 607,000 fewer (28% reduction) people will receive PIP.<sup>216</sup> This will have a severe negative impact on the standard of living of those affected and on the realisation of a range of Convention rights.

28.5 Universal Credit (UC) is a new benefit that has started to replace 6 existing benefits claimed by disabled people with a single monthly payment. Disabled people will lose under Universal Credit, for instance:

- up to 116,000 disabled people who work will be at risk of losing around £40 a week;<sup>217</sup>
- 230,000 severely disabled people who live alone, or with only a young carer – usually lone parents with school age children – will get between £28 and £58 less in benefits every week.<sup>218</sup> (See more details in the Appendices)

28.6 Since 2010 criteria and testing for access to key welfare benefits has become harsher. Assessments are driven by the intention to 'reduce disability benefit spending';<sup>219</sup> only 13% of assessment reports achieved the expected standard.<sup>220</sup> Two thirds (65%) of disabled people surveyed felt that assessors did not understand their condition.<sup>221</sup> More than three quarters (78%) of

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<sup>213</sup> <https://www.trusselltrust.org/news-and-blog/latest-stats/>

<sup>214</sup> <http://www.trusselltrust.org/stats>

<sup>215</sup> Just Fair (2013), *Going Hungry; The Human Right to Food in the UK*, <http://just-fair.co.uk/hub/single/going-hungry-the-human-right-to-food-in-the-uk/>

<sup>216</sup> *Personal Independence Payment Regulations 2013*, <http://www.parliament.uk/briefing-papers/SN06538.pdf>

<sup>217</sup> <http://www.citizensadvice.org.uk/holes-safety-net.htm>

<sup>218</sup> <http://www.citizensadvice.org.uk/holes-safety-net.htm>

<sup>219</sup> <https://www.nao.org.uk/wp-content/uploads/2016/01/Contracted-out-health-and-disability-assessments.pdf>

<sup>220</sup> <https://www.nao.org.uk/wp-content/uploads/2016/01/Contracted-out-health-and-disability-assessments.pdf>

<sup>221</sup> [http://www.rnib.org.uk/getinvolved/campaign/hardest-hit/Pages/HH\\_TippingPoint.aspx](http://www.rnib.org.uk/getinvolved/campaign/hardest-hit/Pages/HH_TippingPoint.aspx)

disabled people said their health got worse as a result of the stress caused by benefit assessment processes.<sup>222</sup> While nearly 40% of Work Capability Assessment (WCA) appeals are successful, with a third of those successful appeals involving no new evidence,<sup>223</sup> and 70% to 95% have been successful with representation.<sup>224</sup> Some people report to DPOs that they drop out of the system, rather than going through the added stress of an appeal. In addition, public inquiries have continually criticised the WCA process for getting assessments wrong.<sup>225</sup>

28.7 The harsher assessment for ESA and PIP is causing harm and distress,<sup>226</sup> including suicides, as highlighted by MPs<sup>227</sup> and the media<sup>228</sup>. Mary Hassell, a senior coroner sent a 'Prevention of future deaths report'<sup>229</sup> to the Department for Work and Pensions (DWP) following the suicide of a man found 'fit for work' by the department after undergoing the WCA<sup>230</sup>. In the report, Mary Hassell said,

"I found that the trigger for Mr O'Sullivan's suicide was his recent assessment by a DWP doctor as being fit for work".<sup>231</sup>

28.8 A similar finding by a coroner had already occurred in 2010. This coroner called for a review of the policy not to seek medical evidence from a GP or psychiatrist if the claimant has a mental health condition, but the government has ignored the coroner's advice.<sup>232</sup>

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<sup>222</sup> <http://www.parliament.uk/business/committees/committees-a-z/commons-select/public-accounts-committee/news/contract-management-of-medical-services/>

<sup>224</sup> Maidstone CAB 'wins 95% of work test benefit appeals, <http://www.bbc.co.uk/news/uk-england-kent-19436358>

<sup>225</sup> <http://www.parliament.uk/business/committees/committees-a-z/commons-select/public-accounts-committee/news/contract-management-of-medical-services/>

<sup>226</sup> <http://www.scribd.com/doc/149781564/Dpac-Report-Atos-Wca-Factfile-section-12.1>

<sup>227</sup> <http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm120904/halltext/120904h0001.htm>

<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140227/debtext/140227-0001.htm>

<sup>228</sup> <http://www.theguardian.com/society/2012/jun/20/mental-health-benefit-claimants-risk> <http://blogs.mirror.co.uk/investigations/2012/04/32-die-a-week-after-failing-in.html>

<sup>229</sup> [a prevention of future deaths \(PFD\) report,](#)

<sup>230</sup> WCA Work Capability Assessment for ESA

<sup>231</sup> [a prevention of future deaths \(PFD\) report,](#)

<sup>232</sup> <http://www.disabilitynewsservice.com/new-evidence-suggests-dwp-covered-up-coroners-wca-warning/>

28.9 There has been no independent investigation announced by the UK government. Towards the end of 2016 the Scottish criminal justice agencies rejected calls from a DDPO to investigate the failure of two DWP ministers to improve the safety of the WCA following the deaths of three benefit claimants.<sup>233</sup>

28.10 The DWP carries out 'Peer reviews' whenever 'suicide is associated with DWP activity', as well as in some other cases involving deaths of disabled people or "vulnerable" claimants',<sup>234</sup> 49 of these reviews have taken place.<sup>235</sup> The DWP started collating peer reviews from February 2012 and a DWP freedom of information response shows that 'there were seven peer reviews' in February 2012. These reviews should have been shown to Professor Harrington who was conducting an independent review of the WCA at the time, but he has no recollection of seeing them<sup>236</sup> and he believes he was also not shown a letter written by a coroner to Ministers following a suicide of a disabled person in January 2010.<sup>237</sup>

28.11 Research shows that each additional 10 000 people reassessed for ESA in each area was associated with an additional 6 suicides, 2700 cases of reported mental health problems, and the prescribing of an additional 7020 antidepressant items. The reassessment process was associated with the greatest increases in these adverse mental health outcomes in the most deprived areas of the country, widening health inequalities.<sup>238</sup>

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<sup>233</sup> <http://www.disabilitynewsservice.com/criminal-justice-agencies-reject-call-to-investigate-duncan-smiths-wca-failings/>

<sup>234</sup> <http://www.disabilitynewsservice.com/ministers-hid-secret-death-reports-from-their-fitness-for-work-test-reviewer/>

<sup>235</sup> <http://www.disabilitynewsservice.com/ministers-hid-secret-death-reports-from-their-fitness-for-work-test-reviewer/>

<sup>236</sup> <http://www.disabilitynewsservice.com/wca-death-scandal-ministers-failed-to-pass-2010-suicide-report-to-harrington/>

<sup>237</sup> <http://www.disabilitynewsservice.com/ministers-hid-secret-death-reports-from-their-fitness-for-work-test-reviewer/>

<sup>238</sup> Research conducted by Oxford and Liverpool Universities:

<http://jech.bmj.com/content/early/2015/10/26/jech-2015-206209.full>

28.12 Benefit sanctions: The total number of ESA sanctions from December 2012 to June 2016 was 82,369.<sup>239</sup> A NAO report found that sanctions for disabled people claiming ESA was not effective and there was limited evidence regarding the effectiveness of Jobseekers Allowance (JSA) sanctions.<sup>240</sup>

28.14 Evidence from disabled people shows that sanctions leave disabled people struggling to pay for food/fuel/rent as well as having a destructive impact on mental and physical health. Sanctions drive disabled people further away from employment and are not an incentive.

28.15 The British Psychological Society, the UK Council for Psychotherapy, and three other organisations, published a signed statement saying, 'Not only are we concerned that the sanctions process is undermining mental health and wellbeing – there is no clear evidence of pay-off in terms of increased employment'.<sup>241</sup>

28.16 Since April 2013 the time-limiting of ESA came into force for those in the work related activity group (WRAG) receiving contributory ESA with their payments limited to just 52 weeks. It is estimated that 700,000 disabled people will lose £4.4 billion by 2018 of ESA due to this new regulation.<sup>242</sup>

28.17 EHRC's research showed the cumulative impact of tax and welfare reforms are more negative for families containing at least one disabled person, particularly a disabled child.<sup>243</sup> There is an urgent need for government to conduct a cumulative impact assessment of the impact of welfare benefit changes as there have been no effective steps taken to ameliorate the increased impacts of poverty on disabled people, no obvious safeguards put in place, no monitoring to assess the impacts of reforms by government. (See also Article 31)

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<sup>239</sup> <https://www.gov.uk/government/statistics/jobseekers-allowance-and-employment-and-support-allowance-sanctions-decisions-made-to-june-2016> See table 2.3

<sup>240</sup> <https://www.nao.org.uk/report/benefit-sanctions/>

<sup>241</sup> <http://beta.bps.org.uk/news-and-policy/british-psychological-society-signs-statement-opposing-welfare-sanctions>

<sup>242</sup> [http://www.demos.co.uk/press\\_releases/destinationunknownapril2013](http://www.demos.co.uk/press_releases/destinationunknownapril2013)

<sup>243</sup> <https://www.equalityhumanrights.com/sites/default/files/research-report-94-cumulative-impact-assessment.pdf>

28.18 Access to public housing programs is restricted by the severe lack of social housing<sup>244</sup> and accessible properties.<sup>245</sup> Government says disabled people have priority for social housing but last available figures showed a total of 1.9 million families waiting for public housing. The number of disabled people on waiting lists increased by 17% from 2010-15.<sup>246</sup> Research found 1.8 million disabled people have an unmet housing need.<sup>247</sup> Also disabled people are being forced into debt to pay for necessary adaptations to their properties.<sup>248</sup>

## Article 29 – Participation in political and public life

29.1 Although disabled people in the UK do for the most part have formal voting rights, the percentage of disabled people that vote is very low - only 1 in 3 people in 2010<sup>249</sup> While progress has been made<sup>250</sup> almost a quarter (24%) of disabled people found it difficult to vote in person at polling stations at the general election and local elections in May 2015. More than one in six (17%) of people found it difficult to vote by post.<sup>251</sup> Deaf people are also excluded by the failure to provide interpreters for election campaigns and public debates.

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<sup>244</sup> [http://england.shelter.org.uk/campaigns/why\\_we\\_campaign/Improving\\_social\\_housing/what\\_is\\_social\\_housing](http://england.shelter.org.uk/campaigns/why_we_campaign/Improving_social_housing/what_is_social_housing)

<sup>245</sup> [http://www.sbe.hw.ac.uk/documents/Evaluation\\_of\\_the\\_LAHR\\_March\\_2011.pdf](http://www.sbe.hw.ac.uk/documents/Evaluation_of_the_LAHR_March_2011.pdf)

<sup>246</sup> <https://www.habinteg.org.uk/download.cfm?doc=docm93jijm4n1390.pdf&ver.>

<sup>247</sup> <http://www.lse.ac.uk/website-archive/newsAndMedia/news/archives/2016/07/1.8-million-disabled-people-struggling-to-find-accessible-housing.aspx>

<sup>248</sup> <http://www.muscular dystrophyuk.org/news/news/breaking-point-the-crisis-in-accessible-housing-and-adaptations/>

<sup>249</sup> <http://www.mencap.org.uk/campaigns/take-action/get-my-vote>  
<http://www.scope.org.uk/Scope/media/Documents/Publication%20Directory/Polls-apart-2010.pdf>

<sup>250</sup> [http://www.electoralcommission.org.uk/\\_data/assets/pdf\\_file/0019/150346/Easy-read-guide-voting-EW.pdf](http://www.electoralcommission.org.uk/_data/assets/pdf_file/0019/150346/Easy-read-guide-voting-EW.pdf)

<sup>251</sup> Problems included: no level access at some polling stations, inaccessible voting booths and ballot boxes, polling station staff lacking training to help and lack of large print for visually impaired people. More than one in six (17%) of people found it difficult to vote by post  
<https://www.leonardcheshire.org/support-and-information/latest-news/news-and-blogs/barriers-voting-one-four-disabled-voters-found>  
<https://www.leighday.co.uk/News/2015/May-2015/People-with-disabilities-reporting-voting-issues>

29.2 A Deaf person was prevented from serving as juror, primarily because only jurors are permitted to be present in the jury room and the sign language interpreter needed by the Deaf person was deemed not to be a juror.<sup>252</sup> Courts must recognise that the provision of sign language interpreter is a reasonable adjustment.

29.3 Approximately 19% of the population are disabled<sup>253</sup>, while less than 5% of disabled people hold public appointments.<sup>254</sup> If the numbers of disabled Members of Parliament (MPs) reflected the proportion of disabled people in the UK's there would be about 129 disabled MPs, but in January 2016 there were only 9 disabled MPs. There were just 21 disabled peers out of 760.<sup>255</sup>

29.4 The Access to Elected Office fund,<sup>256</sup> which provided grants for disabled people who wanted to be considered for selection as candidates for an election closed in March 2015.<sup>257</sup> No support is now provided for disabled candidates. This is a regressive stop as greater numbers of disabled MPs would ensure that disability dimensions of mainstream policy priorities are highlighted.<sup>258</sup> The government has not allowed job-share for MPs to enable more disabled people to stand, although a judge stated: "...there can be no doubt as to the seriousness of this issue, which is fundamental to the function of democracy, or that job-shares would increase diversity in Parliament".<sup>259</sup>

## **Article 30 – Participation in cultural life, recreation, leisure and sport**

30.1 It is difficult to assess the compliance of the UK with Article 30 because this right is not monitored at a national level.

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<sup>252</sup> <http://limpingchicken.com/2012/06/20/deaf-news-deaf-woman-rejected-for-jury-service-says-she-feels-like-a-second-class-citizen/>

<sup>253</sup> 11.5 million people in the UK who are covered by the disability provisions set out in the Equality Act. This is 19% of the population: 'Fulfilling Potential: Building Understanding Report' <http://odi.dwp.gov.uk/fulfilling-potential/index.php>

<sup>254</sup> *United Kingdom ANED 2013 Country reports on citizenship ...*

<sup>255</sup> <http://www.parliament.uk/about/mps-and-lords/about-lords/lords-types/>

<sup>256</sup> <http://www.access-to-elected-office-fund.org.uk/about-the-fund/>

<sup>257</sup> <http://www.access-to-elected-office-fund.org.uk/apply/>

<sup>258</sup> <http://www.publications.parliament.uk/pa/spconf/167/167we04.htm>

<sup>259</sup> <https://www.greenparty.org.uk/news/2015/07/29/job-share-mps-greens-will-continue-to-fight-for-a-fairer,-more-representative-parliament/>

30.2 Research revealed that for 57% of the disabled people surveyed transport was a major issue, while for 52% the price of tickets was a financial barrier.<sup>260</sup> Also regularly produced government report found that engagement in the arts, heritage and museums or galleries is lower amongst adults from 'minority groups' such as disabled people.<sup>261</sup>

30.3 An amendment peers tried to introduce to the government's policing and crime bill, to force bars, shops and restaurants to ensure their premises obeyed laws on accessibility when renewing their alcohol licences, was unfortunately defeated.<sup>262</sup>

30.4 Only 7% of all published titles were available in formats accessible for visually impaired people in 2015.<sup>263</sup> The UK government should ratify the "Marrakech Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled."<sup>264</sup>

30.5 Disabled people are also at a substantial disadvantage compared to non-disabled people when booking tickets to sporting events and more than half have had to sit in an unsheltered seating area at a sporting event.<sup>265 266</sup>

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<sup>260</sup> [file:///C:/Users/Henrietta.Doyle/Downloads/shape\\_understanding\\_disabled\\_people\\_as\\_audiences\\_2012-13.pdf](file:///C:/Users/Henrietta.Doyle/Downloads/shape_understanding_disabled_people_as_audiences_2012-13.pdf)

<sup>261</sup> "...in general, engagement among adults from lower socio-economic groups, more deprived areas of the country and minority groups (including the black and minority ethnic group and those with a disability) is still lower than among those from higher socio-economic backgrounds,..." [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/539312/Taking\\_Part\\_2015-16\\_Quarter\\_4\\_Report\\_-\\_FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/539312/Taking_Part_2015-16_Quarter_4_Report_-_FINAL.pdf)

<sup>262</sup> <http://www.disabilitynewsservice.com/labours-lazy-indifference-to-equality-condemns-access-measure-to-lords-defeat/>

<sup>263</sup> RNIB, "Availability of accessible publications", (2011). Available at: <http://www.rnib.org.uk/knowledge-and-research-hub-research-reports/reading-and-braille-research>

<sup>264</sup> <https://www.rnib.org.uk/ending-%E2%80%9Cbook-famine%E2%80%9D-%E2%80%93-latest> <http://www.wipo.int/treaties/en/ip/marrakesh/>

<sup>265</sup> <http://www.muscular dystrophyuk.org/app/uploads/2016/09/Move-the-goal-posts-final.pdf>

<sup>266</sup> In 2016 all Premier League football clubs pledged to improve their stadium facilities for disabled supporters and increase the numbers of wheelchair user spaces by August 2017, but seven Premier League clubs will not have adequate facilities for disabled fans by this date. <https://www.equalityhumanrights.com/en/our-work/news/morethird-premier-league-clubs-will-not-meet-disabled-accessibility-standards>

30.6 Disabled people are only half as likely to be physically active as non-disabled people.<sup>267</sup> Sporting activities are also largely inaccessible to Deaf people due to a lack of Deaf coaches and of BSL-English interpreters for coaching and training sessions.

## Article 31 – Statistics and data collection

31.1 The Office for Disability Issues (ODI) publishes some statistics and indicators regarding disability. The latest facts and figures on disability were published in January 2014, and have not been updated since then.<sup>268</sup> The research report section includes only one piece of research commissioned in 2013 by DWP, none for 2014, only one for 2015 and none for 2016.<sup>269</sup>

31.2 The ODI has discontinued the Life Opportunities Survey (LOS) in September 2015.<sup>270</sup> The loss of the survey will be strongly felt across the disability sector and beyond. The full potential of LOS has yet to be realised, and the rationale for its development just under a decade ago remains valid and pressing.

31.3 Article 31 imposes the duty to disaggregate the information collected. There is no data disaggregated from a gender and disability perspective, although women and disabled people have been disproportionately affected by the cuts.<sup>271</sup> Recent research concluded: ‘realistic baseline statistics need to be collected, cumulative impacts of potential cuts considered and the social return on investment in women’s services factored in to calculations’.<sup>272</sup> There is a lack of a joint strategy between the three ministries involved<sup>273</sup>.

31.4 Disabled people have repeatedly requested that the government carry out a cumulative impact assessment of the cuts

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<sup>267</sup> <http://www.efds.co.uk/how-we-help/research/1873-disabled-peoples-lifestyle-report-september-2013>

<sup>268</sup> <http://www.disabilitynewsservice.com/first-figures-on-esa-mandatory-reconsideration-show-it-is-just-a-delaying-tactic/>

<sup>269</sup> <https://www.gov.uk/government/collections/life-opportunities-survey>

<sup>270</sup> <http://www2.warwick.ac.uk/fac/soc/law/chrp/projects/spendingcuts/resources/database/reportsgroups/#Women>

<sup>271</sup> <http://www2.warwick.ac.uk/fac/soc/law/chrp/projects/spendingcuts/resources/database/reportsgroups/#Women>

<sup>272</sup> [http://www.ljmu.ac.uk/HSS/HSS\\_Docs/Women\\_at\\_the\\_Cutting\\_Edge\\_2013.pdf](http://www.ljmu.ac.uk/HSS/HSS_Docs/Women_at_the_Cutting_Edge_2013.pdf)

<sup>273</sup> Minister for Disabled People, a Minister for Equality and a Minister for Women,

to welfare benefits and social care and support. This call for has been supported by the Social Security Advisory Committee.<sup>274</sup> Yet the government has repeatedly refused to do one,<sup>275</sup> arguing that it is impossible to undertake such a complex assessment, although the Scottish government has undertaken to do it<sup>276</sup> and research undertaken for the EHRC<sup>277</sup> found “...modelling cumulative impact assessment by equality group is feasible and practicable....”<sup>278</sup>

31.6 As a whole, the UK government has been very selective in the way statistics have been published, either by delaying their publication like with ESA Mandatory Reconsiderations the DWP published the first Mandatory Reconsideration outcomes in June 2016 three years after they were introduced ,<sup>279</sup> making monitoring almost impossible.

31.7 Serious concerns regarding sanctions statistics were raised by Dr David Webster in 2015:

1. Systematic understatement of the number of sanctions and of the number of claimants affected.
2. Gross and systematic misrepresentation of sanctions as affecting only a small minority of claimants when the data show that they affect a large minority”.<sup>280</sup>

The UK Statistics Authority recommended that DWP use quarterly and yearly figures to reflect the real proportion of claimants sanctioned.<sup>281</sup>

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<sup>274</sup> <http://disabilitynewsservice.com/2014/05/dwps-own-advisers-call-for-cumulative-impact-assessment-of-welfare-reforms/>

<sup>275</sup> Column 470

<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140227/debtext/140227-0003.htm>

Column 443 & 446

<https://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130710/debtext/130710-0003.htm>

<sup>276</sup> <http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140224/debtext/140224-0001.htm>

<sup>277</sup> <https://www.equalityhumanrights.com/sites/default/files/research-report-94-cumulative-impact-assessment.pdf>

<sup>278</sup> <https://www.equalityhumanrights.com/sites/default/files/research-report-94-cumulative-impact-assessment.pdf>

<sup>279</sup> <http://www.disabilitynewsservice.com/first-figures-on-esa-mandatory-reconsideration-show-it-is-just-a-delaying-tactic/>

<sup>280</sup> <https://www.statisticsauthority.gov.uk/archive/reports---correspondence/correspondence/letter-from-dr-david-webster-to-sir-andrew-dilnot.pdf>

<sup>281</sup> [https://www.statisticsauthority.gov.uk/wp-content/uploads/2015/11/letterfromsirandrewdillnottodrdavidwebste\\_tcm97-44803.pdf](https://www.statisticsauthority.gov.uk/wp-content/uploads/2015/11/letterfromsirandrewdillnottodrdavidwebste_tcm97-44803.pdf)

31.8 In some cases, the UK government is just not collecting data needed to monitor the impact of their policies, such as with the closure of the ILF. The DWP just published a review post-closure<sup>282</sup> which documents the catastrophic impact the ILF closure had on some claimants but without seeking to know how many people were affected and in which way.

## **Article 32 – International Cooperation**

32.1 UK DPOs and their representatives had been engaged by the Department for International Development (DFID) to carry out some innovative work on disability and development cooperation in the early 2000's. However there has been no meaningful engagement since 2008. The UK Government's initial report to the United Nations on the CRPD reflects this as it does not evidence any work with UK DPOs. The beneficiaries of the disability research contracts are often mainstream charities or disability charities, not DPOs.

32.2 DFID has no examples of work with UK DPOs in development co-operation since it signed and ratified the CRPD and the Optional Protocol.<sup>283</sup>

## **Article 33 - National implementation and monitoring**

33.1 The Office of Disability Issues (ODI) located within DWP is designated by the UK as the 'focal point' for matters relating to the

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<sup>282</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/584417/independent-living-fund-post-closure-review.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/584417/independent-living-fund-post-closure-review.pdf)

<sup>283</sup> The enquiry found that: ... DFID should ensure disabled people have a central role in its work. It should step up its support for disabled people's organisations. It should also ensure disabled people participate fully in the design and delivery of DFID's own programmes. The more visible disabled people are in development work, the easier it will be to reverse the damaging patterns of discrimination that have, for so long, left disabled people behind." Parliamentary International Development Committee, 11<sup>th</sup> Report, 'Report on Disability and Development', (April, 2014).  
<http://www.publications.parliament.uk/pa/cm201314/cmselect/cmintdev/947/94702.htm>

Convention under article 33 (1).<sup>284</sup> However, ODI website shows no promotion of the UNCRPD, with only minimal references to the Convention.

33.2 The ODI (article 33 (1) focal point) is responsible for promoting positive portrayals of disabled people but has not issued any press releases challenging negative stereotypes in UK media.

33.3 The ODI claim to produce statistics on progress towards equality yet in most part they seem to adopt and work from an individual medical model approach.<sup>285</sup>

33.4 The EHRC<sup>286</sup> forms part of the Independent Mechanism established in partial fulfilment of the UK's obligations under article 33 (2). A review of the EHRC's Disability Committee has led to it losing its statutory status at the end of March 2017.<sup>287</sup> The Committee has a key role to play in the implementation of the UNCRPD in Great Britain and this loss of status is a step backwards in effective implementation and monitoring framework for the Convention.<sup>288 289</sup>

33.6 The EHRC has had its budget cut by at least 60%, its staff cut by 72% and its powers limited by the State.<sup>290</sup> It now exists on less

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<sup>284</sup> <http://odi.dwp.gov.uk/>

<sup>285</sup> The Life Opportunities Survey (LOS) argues 'The LOS follows the social model of disability and does not equate having an impairment with being disabled. People may have impairment(s) without being limited in their activities, and therefore they may not consider themselves as disabled'- which is nonsensical. In barriers to work one of the main findings was that 'family responsibilities' prevent disabled people from working. Another was: 'Having an impairment may be associated with experiencing impairment-based barriers at work. 'A health condition, illness or impairment'<sup>285</sup> was the top barrier for adults with impairment at both waves, and was a barrier reported by offset adults at Wave One, and by onset-acquired adults at Wave Two<sup>285</sup>. Thus this is not an examination of social, economic or attitudinal barriers as outlined in the social model, but what the ODI call impairment barriers, that is individual or health issues. This is a complete misunderstanding of the social model on which the Convention is based, and thus of what would constitute progress towards equality or measurement of its progress.

<sup>286</sup> Equality and Human Rights Commission

<sup>287</sup> <https://www.equalityhumanrights.com/en/who-we-are/our-commissioners-committees-and-governance/disability-committee>

<sup>288</sup> "Independent Review of the Equality and Human Rights Commission's Statutory Disability Committee", p. 29. Available at:

<http://www.equalityhumanrights.com/publication/independent-review-disability-committee>

<sup>289</sup> There were concerns that if it did not retain that status it would no longer have the requisite power and influence to continue to advance disability equality. Retaining the statutory status would mean that only a legislative change would curtail, or reduce, the Committee's functions.

<sup>290</sup> The organisation has been forced to privatise its helpline and end grant aid for discrimination cases. The reforms have resulted in the loss of grant programmes which have

than the funds provided to the previous single equality commissions, but with a wider mandate.<sup>291</sup>

33.7 The government has made no attempt to involve disabled people or their organisations in the monitoring process of CRPD and its implementation.

33.8 Regardless of this the UN has carried out an unprecedented inquiry into the UK using Optional Protocol 6. This found that the UK government was responsible for the grave and systematic violation of disabled people's human rights leading to regression of CRPD rights across 3 main areas- Article 19, Article 27 and Article 28. The government has failed to disseminate the findings of this inquiry around the UK widely and has rejected all eleven recommendations made in the report.

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provided funding for law centres, Citizens Advice offices and others to do discrimination advice and casework which has been furthered reduced by additional cuts to generic state legal aid. In addition, EHRC has been forced to end its grants to community organisations or projects that are often the first port of call for victims of discrimination and harassment.

<sup>291</sup> <http://thewomensresourcecentre.org.uk/wp-content/uploads/Appendix-6-Cuts-to-the-Equality-and-Human.pdf>

## Appendices

### Article 9 Accessibility

#### Lack of accessible transport

Only 452 out of 2,533 rail stations have step-free access.<sup>292</sup> Many of these stations are unmanned all of the time or at nights. In addition several rail companies serving southern and northern England wish to run trains without guards so there would be no staff to assist disabled people at many stations. As a result disabled people can't spontaneously travel but must book assistance for rail travel 24-48 hours in advance. Trains also run without wheelchair accessible toilets.<sup>293</sup>

Access for All funding, is available to make more stations accessible. However, the funding is likely to cut for the period 2014-19 from £102 million to £55 million. £50 million will be carried over to the next spending period, 2019-24 delaying work to make rail stations more accessible.<sup>294</sup>

### Article 28 - Adequate standard of living and social protection

Benefit change	Number of disabled people affected	Total financial loss up to 2018
Incapacity benefit	608,000	£5.6 billion
1% cap on benefit rises	3.7 million	£9 billion
Time limitation of WRAG (employment)	700,000	£4.4 billion

<sup>292</sup> <http://www.disabilitynewsservice.com/government-secretly-slashes-funding-for-rail-access-improvements/>

<sup>293</sup> <https://www.theguardian.com/society/2017/jan/02/paralympian-anne-wafula-strike-wet-herself-train-no-accessible-toilet>

<sup>294</sup> <http://www.disabilitynewsservice.com/campaigners-call-on-minister-to-reject-rail-access-funding-delay/>

and support allowance)		
Bedroom tax	420,000	£1.1 billion
Freezing child benefit	1 million	£1.7 billion
Overall Benefit Cap	142,500	£2 billion
Introduction of Personal Independent Payment	600,000	£2.2 billion
Universal Credit	446,000	£2.62 billion
Abolition of Independent Living Fund	21,000	£1.2 billion
Change to Local Housing Allowance	827,000	£2.43 billion*
Uprating and cuts to Tax Credits	545,300	£370 million
Localisation and 10% cut for Council Tax Benefit	1.38 million	£594.8 million
1% cap on various benefits and tax credits	475,900	£457 million*
<b>Total</b>	<b>3.7million</b>	<b>£28.3 billion</b>

