

Progress on disability rights in the United Kingdom

UK Independent Mechanism update
report to the UN Committee on the
Rights of Persons with Disabilities

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1. Executive summary

In August 2017, the UN Committee on the Rights of Persons with Disabilities (CRPD Committee) examined the extent to which the UK government is in compliance with the Convention on the Rights of Persons with Disabilities (UN CRPD). The CRPD Committee's main concerns and recommendations to the UK governments are set out in its 'Concluding Observations'.¹ The CRPD Committee requested information from the UK one year on from the examination on the steps taken to implement its recommendations on: **independent living; work and employment; an adequate standard of living and social protection**; as well as some related issues covered in the **CRPD Committee's 2016 inquiry report**.²

This report provides the independent view of the UK Independent Mechanism (UKIM) on the steps taken by the UK Governments to implement these recommendations since August 2017.

One year on from the CRPD Committee's examination of the UK's record on the rights of disabled people, some progress has been made, such as the:

- Independent review of the Mental Health Act 1983,
- Increase in the number of disabled people in employment and slight decrease of the disability employment gap; government initiatives to further improve disabled people's access to employment across the UK,
- Significant increase of the Access to Work payment cap,
- Proposals to introduce targets for the number of disabled people employed in the public sector in Scotland,
- Outworking of the time-limited welfare reform mitigations strategy in Northern Ireland,
- Welsh Government's Supporting People Programme, and
- Proposed measures to tackle online hate speech, harassment and abuse in the UK.

¹ CRPD Committee (2017), 'Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland', CRPD/C/GBR/CO/1. Available [here](#) [accessed: 16 July 2018].

² CRPD Committee (2016) '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'. Available [here](#). UK Government (2016) 'Observations by the United Kingdom of Great Britain and Northern Ireland on the report of the Committee on its inquiry carried out under article 6 of the Optional Protocol'. Available [here](#). [Both accessed 6 August 2018].

However, the UK has taken only limited steps to address the concerns and recommendations of the CRPD Committee. UKIM is disappointed that the UK governments have not seized on this important opportunity to reflect on and progress disability rights. We are concerned by the lack of a prompt response to the CRPD Committee's recommendations. In particular, 12 months on, there is no comprehensive UK wide strategy demonstrating how the UK will implement the CRPD Committee's recommendations. There has also been continued reluctance from the UK Government to accept the conclusions of the CRPD Committee's inquiry report on the impact of the UK Government's policies on the rights of disabled people.

We welcome the announcement in May 2018 that the UK Government is establishing a new Inter-Ministerial Group on Disability and Society. This is a positive step, which could tackle the current lack of leadership and momentum. However, the published terms of reference for the Inter-Ministerial Group do not refer to the CRPD or the CRPD Committee's recommendations, do not specifically provide for the effective participation and involvement of disabled people's organisations or disabled people, and it is not clear if, and to what extent, devolved administrations are involved in the Group.³

In the meantime, the picture emerging from the most recent evidence about disabled people's lives remains deeply concerning. Disabled people across the UK continue to face serious regression of many of their rights, as presented in this report. Social protections have been reduced and disabled people and their families continue to be some of the hardest hit. More and more disabled people are finding it difficult to live independently and be included, and participate, in their communities on an equal basis.

There are fears that the significant uncertainty in relation to Brexit will lead to a further deterioration of disabled people's rights. The lack of a devolved government in Northern Ireland is also a specific concern to that jurisdiction, with it significantly inhibiting the relevant Departments to take the required steps.

Without a clear and coordinated plan for how the UK and devolved Governments will address the UN recommendations systematically, the limited steps taken so far are unlikely to be enough to address the concerns raised by the CRPD Committee.

³ Office for Disability Issues (2018) The Inter-Ministerial Group on Disability and Society. Available [here](#). [Accessed: 15 August 2018].

2. Introduction

This submission has been produced by the United Kingdom Independent Mechanism (UKIM). The UK Government designated the Equality and Human Rights Commission (EHRC), the Equality Commission for Northern Ireland (ECNI), the Northern Ireland Human Rights Commission (NIHRC) and the Scottish Human Rights Commission (SHRC) as UKIM under Article 33 of the Convention on the Rights of Persons with Disabilities (CRPD).

How to read this report

This submission provides information about the measures taken by the UK governments to implement the CRPD Committee's recommendations, included in its concluding observations (August 2017)⁴ and its inquiry report (October 2016)⁵, on the following issues:

- Living independently and being included in the community (chapter 2),
- Adequate standard of living and social protection (chapter 3),
- Work and employment (chapter 4),
- Prejudice and negative attitudes (chapter 5),
- Access to justice (chapter 6),
- Involving disabled people and their organisations (chapter 7), and
- Dissemination of the concluding observations (chapter 8).

The information provided has been arranged thematically to provide an update on progress in the last 12 months. In each chapter, we set out a brief summary of progress, outline UKIM's key concerns in relation to the specific recommendation(s), present new evidence and outline any relevant steps taken by the UK governments.

At the end of this report, we reiterate UKIM's recommendations made to the CRPD Committee during the examination process in August 2017. Where necessary, these

⁴ CRPD Committee (2017) see note 1.

⁵ CRPD Committee (2016) see note 2.

recommendations have been updated to reflect changes in the policy context and the emergence of new evidence. For convenience, they are set out in Annex I, with updates highlighted.

Each section of the report refers to the CRPD Committee's relevant recommendations – either from the 2017 concluding observations and/or from the 2016 inquiry report. The full set of the Committee's recommendations is provided in Annex II.

Terminology

In this report, we use the term 'disabled people' rather than 'persons with disabilities'. The term 'disabled people' is recognised by the disability rights movement in the UK to align with the social and human rights model of disability, as it is considered to acknowledge the fact that people with an impairment are disabled by the barriers in the environment and society.

Key developments since August 2017

There has been little progress in the 12 months since the CRPD Committee's examination of disabled people's rights in the UK. UKIM has found an overall lack of momentum and leadership from the UK governments to promptly address the UN recommendations.

Meanwhile, disabled people across the UK continue to face serious regression of their rights to an adequate standard of living and social protection, and to live independently and be included in the community. UKIM reiterates its view that the grave and systematic violations identified by the CRPD Committee need to be addressed and that the overall approach of the UK Government towards social security protection requires an overhaul, guided by human rights standards and principles, to ensure disabled people's rights are respected, protected and fulfilled.⁶

Key developments include:

- The UK Government established an Inter-Ministerial Group on Disability and Society in 2018. However, the published terms of reference for the Inter-Ministerial Group do not refer to the CRPD or the CRPD Committee's

⁶ See also UKIM (2018) 'Briefing: Overview of key concerns about social security reforms and protecting disability rights in the United Kingdom'. Available [here](#) [Accessed: 16 July 2018]

recommendations, do not specifically provide for the effective participation and involvement of disabled people's organisations or disabled people, and it is not clear if, and to what extent, devolved administrations are involved in the Group.⁷

- In July 2018, the Secretary of State for International Development hosted the Global Disability Summit, with representatives from disabled people's organisations, civil society, governments, and the private sector. The Government presented its new 'Charter for Change', which sets out 10 commitments to achieve full inclusion of disabled people.⁸ Although the UK Government has repeatedly reiterated its commitment to making the CRPD a reality for all disabled people in the UK, and has claimed to be a global leader in disability rights,⁹ it has not incorporated CRPD rights into domestic law,¹⁰ or taken steps to implement disabled people's rights systematically across the UK.
- Following the European Union (EU) referendum in June 2016, there continues to be significant uncertainty regarding the future applicability of existing human rights protections that derive from EU law in the UK. The EU Charter of Fundamental Rights was excluded from the EU (Withdrawal) Act 2018, meaning that from 'exit day' it will no longer apply in domestic law. As a result, domestic protections are more vulnerable to repeal. The Charter goes further than the non-discrimination provisions in the Equality Act 2010 or the European Convention on Human Rights (ECHR). Article 26 of the Charter, in particular, is a useful interpretive tool to support disabled people's right to independence and integration and participation in the community.
- The EU Withdrawal Act 2018 also leaves human rights protections at risk of being changed through the use of wide-ranging delegated powers. This means that changes to fundamental rights currently protected by EU law can be made by Ministers through secondary legislation without being subject to full parliamentary scrutiny.
- The EU is itself a party to the CRPD. Under EU law, international treaties to which the EU is party have a different status than they do under UK law. For example, EU law (unlike UK law) must be interpreted consistently with the CRPD. To ensure there is no regression, and that disabled people in the UK benefit from future progress driven by the CRPD, the UK Government should ensure these

⁷ ODI (2018) 'The Inter-Ministerial Group on Disability and Society'. Available [here](#). [Accessed: 15 August 2018]

⁸ UK Government (2018) 'Global Disability Summit – Charter for Change,' Policy Paper. Available [here](#). [Accessed: 3 August 2018].

⁹ UK Parliament (Nov 2017) 'UN Committee on the Rights of Persons with Disabilities,' House of Commons Hansard, Volume 631. Available [here](#). [Accessed: 28 August 2018]

¹⁰ UK Parliament (2018) 'UN Convention on the Rights of Persons with Disabilities: Written question - HL9621'. Available [here](#). [Accessed: 3 August 2018]

protections are incorporated into UK law, e.g. by giving enhanced status to the CRPD.

- The uncertainty in Northern Ireland caused by the collapse of the devolved government (Northern Ireland Assembly and Northern Ireland Executive) continues. Consequently, there has been no formal response to the CRPD Committee's concluding observations falling within devolved competence. In the absence of Ministers to provide approval, the relevant devolved Departments have reported difficulties in obtaining the authority and resources to action the steps required to implement the CRPD Committee's recommendations.
- The Scottish Government has also made no formal response to the CRPD Committee's concluding observations falling within its devolved competence. However, the Scottish Government has set up an expert advisory group to make recommendations on 'how Scotland can continue to lead by example in human rights, including economic, social, cultural and environmental rights'. The Group will make recommendations to the First Minister before the end of December 2018.¹¹

¹¹ Scottish Government (19 March 2018) Advisory Group on Human Rights Leadership: terms of reference. Available [here](#). [Accessed: 7 August 2018]

3. The right to live independently in the community (Article 19)

CRPD Committee Concluding Observations 2017, paragraph 45:

‘The Committee recommends that the State party [...] recognizes the right to living independently and being included in the community as a subjective right, recognizes the enforceability of all its elements, and adopts rights-based policies, regulations and guidelines to ensure implementation; conducts periodic assessments in close consultation with organizations of persons with disabilities to address and prevent the negative effects of policy reforms through sufficiently funded and appropriate strategies in the area of social support and living independently; [...] and] allocates sufficient resources to ensure that support services are available, accessible, affordable, acceptable, adaptable and are sensitive to different living conditions for all persons with disabilities in urban and rural areas.’

Summary of progress

There has been limited progress on the UK governments’ implementation of the CRPD Committee’s recommendations concerning the right to live independently in the community for disabled people. Appropriate social care packages and accessible housing are two of the cornerstones of independent living. There have been some promising developments in Scotland and Wales, in relation to certain funding streams to support independent living. However, as set out below, there is also evidence that social care, particularly adult social care, is at crisis point across the UK and there is chronic shortage of accessible homes.

Key concerns

UK

The right to live independently in the community is not recognised as a statutory right in the UK and there do not appear to be any plans to change this.

The increasing demand, along with reduced funding, for social care, particularly adult social care, may be leading to a regression in disabled people's Article 19 rights to live independently in the community.¹² The shortage of accessible and adaptable homes and long delays in making existing homes accessible also has a detrimental effect on the right to live independently.¹³

England

The EHRC is concerned that, in England, the closure of the Independent Living Fund and the devolution of this function to local authorities, without ring-fencing finance for this purpose, has resulted in a postcode lottery for support.¹⁴

Wales

The EHRC is concerned that disabled people's right to independent living may be harmed by the Welsh Government's decision to potentially merge the Supporting People Programme with other budget lines from 2020.¹⁵

Concerns have been raised that when equivalent funding programmes elsewhere in the UK have been lost, disabled people's rights have been negatively impacted.

Northern Ireland

The Mental Capacity Act (Northern Ireland) 2016, while enacted, continues to have no clear timeframe for its commencement.

In Northern Ireland, the Independent Living Fund is administered by the Scottish Independent Living Fund, but restricted to existing users leading to its eventual de facto closure, but with no clear indication of future arrangements.¹⁶

Scotland

¹² UKIM (July 2017) Disability Rights in the UK - updated submission July 2017, p7. Available [here](#) [Accessed 6 July 2018]

¹³ EHRC (2018) 'Housing and disabled people: Britain's hidden crisis'. Available [here](#) [Accessed: 6 July 2018]

¹⁴ UKIM (July 2017) p52, see note 12

¹⁵ Welsh Government (July 2018) Supporting People programme. Available [here](#). [Accessed 27 August 2018]

¹⁶ UKIM (February 2017) Disability Rights in the UK, Submission to inform the List of Issues on the UK, pages 26-27. Available [here](#). [Accessed 27 August 2018]

Despite positive policy intentions, significant questions remain regarding the implementation of Self-Directed Support and access to adult social care.¹⁷

New evidence

Great Britain

The EHRC's inquiry into housing for disabled people across Great Britain (GB), published in May 2018, found that disabled people face a shortage of accessible and adaptable homes and long delays in making existing homes accessible.¹⁸ Disabled people are not getting the support they need to live independently as the provision of advice, support and advocacy is patchy and people report that they have nowhere to turn when their housing is unsuitable. The EHRC's survey of local authorities found that just over a quarter (28 per cent) of local authorities in GB set a percentage target for accessible housing.¹⁹

- In England, only 7 per cent of homes offer minimal accessibility features.²⁰
- In Scotland, 55 per cent of councils said a lack of funding for adaptations was a challenge, and only 24 per cent said the data they hold about disabled people's housing requirements was 'good' or 'very good'.
- In Wales, only 5 per cent of local authorities have a target in place for accessible housing, and only 15 per cent said that disabled people's housing needs are subject to specific discussion or scrutiny when conducting a local housing market assessment.²¹

England

Spending for adult social care in England was budgeted to be 3 per cent lower in 2017/18 than in 2009/10.²² As the population has grown over this period, this is equivalent to 9 per cent lower per person, according to the Association of Directors

¹⁷ UKIM (July 2017) p55, see note 12

¹⁸ EHRC (2018) see note 12 and EHRC (2018) 'Consultation response: Integrated Communities Strategy green paper'. Available [here](#). [Accessed 6 July 2018]

¹⁹ EHRC (2018), 'Housing and disabled people: the role of local authorities'. Available [here](#). [Accessed: 12 September 2018].

²⁰ DCLG (2015), 'English Housing Survey: Adaptations and Accessibility Report, 2014-15'. Available [here](#) [Accessed 16 July 2018].

²¹ EHRC (2018) see note 13

²² ADASS (2018) 'ADASS budget survey 2018'. Available [here](#) and [here](#). IFS (2018) 'Adult social care funding: a local or national responsibility?' Available [here](#). [Both accessed 6 July 2018]

of Adult Social Services (ADASS). This means that ‘fewer older and disabled people with more complex care and support needs getting less long-term care.’²³

In March 2018, the EHRC started legal action against 13 Clinical Commissioning Groups²⁴ because their NHS Continuing Healthcare policies restricted funding and failed to account for individual circumstances. This may force disabled people into residential care when their preference is to remain at home.^{25 26}

Research by the Care Quality Commission (CQC) found that nearly two thirds of placements in residential based mental health rehabilitation services are ‘out of area’, and very lengthy.²⁷ This means that individuals are usually placed far away from home and from the local support services that should care for them once they have been discharged.²⁸ The CQC has also reported that some patients who are subject to the Mental Health Act (MHA) 1983 continue to experience care that does not fully protect their rights or ensure their wellbeing. For example, there have been no improvements in involving patients in developing their care plans, and in making sure their views are considered in care decisions.²⁹

Northern Ireland

There is an absence of information on the extent to which disabled people with substantive needs, who are not existing Independent Living Fund users, are having their needs met through the Self-Directed Support and Direct Payments provisions. Furthermore, Direct Payments do not fund many of the activities funded by the Independent Living Fund leading to less support and control.³⁰

²³ ADASS (2018) see note 18

²⁴ Clinical Commissioning Groups (CCGs) are clinically led statutory NHS bodies responsible for the planning and commissioning of health care services for their local area.

²⁵ ‘NHS continuing healthcare’ means a package of ongoing care arranged and funded solely by the NHS where an adult has been found to have a ‘primary health need’ as set out in the NHS guidance. Such care is provided to meet needs that have arisen as a result of disability, accident or illness. See [here](#) for more information [Accessed 6 July 2018]

²⁶ All 13 CCGs EHRC started legal action against and a further 16, whose policies we assessed as being unlawful for similar reasons, have agreed to review their policies. The EHRC will assess the reviewed policies and continue to monitor NHS Continuing Healthcare.

²⁷ The median length of stay on the ward was 323 days but the patients had been in some form of mental health hospital continuously for more than twice as long (median of 683 days).

²⁸ CQC (2018), ‘Mental health rehabilitation inpatient services’. Available [here](#). [Accessed: 2 August 2018]

²⁹ CQC (2018), ‘Monitoring the Mental Health Act 2016/17’. Available [here](#). [Accessed: 2 August 2018]

³⁰ IMNI (2017) ‘Jurisdictional ‘Parallel’ Report on Implementation in Northern Ireland,’ Working Paper, p42 Available [here](#) [Accessed: 28 August 2018]

Indicator 42 of the draft Programme for Government considers the average life satisfaction score of disabled people.³¹ The Department for Communities has acknowledged that the comprehensive disaggregated data required to support Indicator 42 is lacking. The Department has conducted a scoping study to identify existing data, which recommended that a new NI disability survey is required. The Department is exploring options for such a survey, but due to the additional resources required to conduct the survey, Ministerial approval is required. With the continued suspension of the NI devolved government, it is currently not possible to obtain the required approval.

Relevant steps taken by UK governments

England

Since 2015, the UK Government has allocated additional funding to local authorities for adult social care³² through the Adult social care precept, the Better Care Fund and a commitment to fund an Adult Social Care Support Grant.³³ However, stakeholders, including ADASS, conclude that even these recent increases may not be enough to address the funding crisis in adult social care.³⁴

In March 2017, the Conservative Government announced a Green Paper on social care in England, and a public consultation. The publication of the Green Paper, which will focus on older people, has been delayed until the end of 2018.³⁵ It is unclear whether it will address issues that are faced by working age disabled people in relation to social care, and whether disabled people will be explicitly consulted.³⁶

England and Wales

³¹ Northern Ireland Executive (2017) 'Programme for Government, Delivery Plan: Indicator 42.' Available [here](#). [Accessed 28 August 2018]

³² Secretary of State for Housing, Communities and Local Government (2018) 'Final local government finance settlement 2018-2019: written statement.' Available [here](#) [Accessed 2 August 2018]

³³ See [here](#) for more information about the Adult social care precept; [here](#) for the Better Care Fund and [here](#) for the ASC support grant. [All accessed 2 August 2018]

³⁴ ADASS (2018) see note 18

³⁵ Jarret, T. (2018) 'Social care: the forthcoming Green Paper (England)'. House of Commons Library. Available [here](#). [Accessed: 6 July 2018]

³⁶ The UK Government stated that 'a parallel process' will examine social care for working age people, but no further detail has been published to date. See [here](#) for more information. [Accessed: 17 August 2018]

The independent review of the MHA 1983³⁷ published its interim report in May 2018, providing details of the issues the review is examining.³⁸ These include the rising rates of people being detained under the Act and inappropriate and/or long term placement of people with learning disabilities and/or autism in psychiatric hospitals because community support services are unable to meet their needs. The EHRC hopes that the review will make recommendations that result in fewer people facing compulsory detention and more people living independently in places/ with people of their choosing.

Wales

The Welsh Government has prioritised social care in budget allocations to local authorities since 2010, most recently through a local government settlement to maintain the assumed Welsh Government share of core spending at 2017/18 levels until 2020. The Welsh Government also provides funding which supports social care duties through the Supporting People Programme. This support helps people to live independently in their own home. The Programme has been retained for a further two years as part of the budget for 2018/19. The programme's future post-2019 is unclear, with the Welsh Government potentially merging it with nine other budget lines, with no ring fencing, causing concern for disabled people. A £60m Integrated Care fund has been introduced, which aims to support people to maintain their independence and remain in their own home. However, there has been a real terms reduction in budgets for social care services of over 12 per cent due to increasing need.³⁹

The Welsh Government is currently reviewing its Framework for Action on Independent Living.⁴⁰ After a delay, it is anticipated that the new Framework, provisionally entitled 'Action on Disability: The Right to Independent Living' will now be published in Autumn 2018. The new framework will be accompanied by an action plan that will set out a range of actions aimed at tackling some of the key barriers identified by disabled people, including those in transport, employment, housing and access to buildings and public spaces.

³⁷ The Mental Health Act Review recommendations will apply to England. They will also apply to Wales, but only in relation to non-devolved matters.

³⁸ Department of Health and Social Care (2018), 'Independent Review of the Mental Health Act: interim report'. Available [here](#). [Accessed 6 July 2018]

³⁹ Luchinskaya, D., Ogle J. and Trickey M. (2017), 'A delicate balance? Health and social care spending in Wales.' Available [here](#). [Accessed: 16 July 2018]

Northern Ireland

The draft Programme for Government Indicator 42⁴¹ includes a commitment to increase take-up of self-directed support and direct payments. However, a final plan has yet to be approved in the absence of a functioning Northern Ireland Executive. Concerns have been raised that self-directed support does not suit everyone, that too much control is given to the health trusts and that the support given is not enough to be used for more than the individual recipient's basic needs.⁴²

In the absence of an approved Programme for Government, the Northern Ireland Executive Office has developed an 'Outcomes Delivery Plan 2018-19', which reflects the responsibilities placed on departments by the previous NI Assembly and Northern Ireland Executive and sets out actions that the Departments can take without further ministerial approval.⁴³ Outcomes 8 (care and help for those in need) and 9 (a shared, welcoming and confident society that respects diversity) include a commitment to improve quality of life for disabled people. The identified actions for fulfilling these outcomes include ensuring that eight per cent of new social homes are wheelchair accessible, introducing opportunities for 200 new NI athletes in the Special Olympics and improving understanding of British Sign Language and Irish Sign Language. Progress will be measured every six months, using a number of indicators set out in the draft Programme for Government, including Indicator 42. Questions have been raised in particular regarding the plans for new accessible social homes and whether an eight per cent target for new accessible social homes is reflective of demand.⁴⁴ Also whether the new accessible social homes will be provided in a way that addresses the demand in rural and urban areas.⁴⁵

Scotland

The Scottish Government has announced funding for 31 projects delivering direct and local independent support across 31 local authority areas, through the Support in the Right Direction 2021 programme. Funding will be provided between October 2018 to March 2021 with the aim of ensuring that more people across Scotland who require social care are empowered to make choices about their support.⁴⁶

⁴¹ Northern Ireland Executive (2017) 'Programme for Government, Delivery Plan: Indicator 42.' Available [here](#). [Accessed 28 August 2018]

⁴² UNCRPD Independent Mechanism for NI Stakeholder Roundtable, 10 September 2018.

⁴³ Northern Ireland Executive (2018) 'Outcomes Delivery Plan 2018-19'. Available [here](#). [Accessed 5 September 2018]

⁴⁴ UNCRPD Independent Mechanism for NI Stakeholder Roundtable, 10 September 2018.

⁴⁵ UNCRPD Independent Mechanism for NI Stakeholder Roundtable, 10 September 2018.

⁴⁶ Self Directed Support (2018) 'Support in the Right Direction 2021 Projects.' Available [here](#). [Accessed 28 August 2018]

The Scottish Government has confirmed it will extend Free Personal Care⁴⁷ to all those under 65 years old who require it regardless of condition by 1 April 2019.⁴⁸

⁴⁷ The definition of personal care is set out in s2(28) of the Regulation of Care (Scotland) Act 2001 and includes 'care which relates to the day to day physical tasks and needs of the person cared for (as for example, but without prejudice to that generality, to eating and washing) and to mental processes related to those tasks and needs (as for example, but without prejudice to that generality, to remembering to eat and wash' and it includes personal support.

⁴⁸ Scottish Government (July 2018) 'Implementation for free personal care for under 65s.' Available [here](#) [Accessed 14 Sept 2018]

4. The right to an adequate standard of living and social protection (Article 28)

CRPD Committee Concluding Observations 2017, paragraph 59:

‘The Committee recommends that the State party [...] introduces, adopts and implements legislative frameworks to ensure that social protection policies and programmes across the State party secure income levels for all persons with disabilities and their families, by taking into account the additional costs relating to disability [...]; carries out a cumulative impact assessment, based on disaggregated data, of the recent and forthcoming reforms of the social protection system for persons with disabilities, and in close collaboration with organizations of persons with disabilities defines, implements and monitors measures to tackle retrogression in their standard of living and uses the cumulative impact assessment as a basis for policy development across the State party; [...] and] conducts a review of the conditionality and sanction regimes concerning the Employment and Support Allowance, and tackles the negative consequences on the mental health and situation of persons with disabilities.’

Summary of progress

There have been a considerable number of research projects focusing on disabled people’s standard of living and social protection. The findings of this research show the disproportionate and significantly adverse effect of welfare reform on disabled people’s rights to independent living and to an adequate standard of living and social security. However, the UK Government has failed to act on this evidence and to implement the CRPD Committee’s recommendations regarding these rights.

Key concerns

UK

Disabled people are more likely to live in poverty and material deprivation than people who are not disabled, and continue to be affected disproportionately by a range of social security reforms. Further retrogressive measures have been brought in since the CRPD Committee's inquiry concluded in 2016.⁴⁹

UKIM remains seriously concerned about the continued failure of the UK Government to conduct an assessment of the cumulative impact of multiple policy and law reforms in relation to living standards and social security on disabled people.⁵⁰ In addition, UKIM continues to call on the UK Government to assess and justify retrogressive measures against the established UN criteria, namely to determine whether they are temporary, necessary, proportionate and non-discriminatory, and that they do not undercut a core minimum level of protection.⁵¹

New evidence

UK

Research by the Joseph Rowntree Foundation found that 30 per cent of people living in a household with a disabled person live in poverty, compared to 19 per cent of households without a disabled person.⁵²

The Institute for Fiscal Studies found that people aged 25-54 with a long-standing illness are 50 per cent more likely to live in poverty and deprivation than those without. However, the gap in living standards between those with a long-standing illness and those without is likely to be an underestimate, since illness and disability are also likely to lead to higher costs of living.⁵³

The National Audit Office found that the Department for Work and Pensions (DWP) has not done enough to protect and support 'vulnerable claimants', who have experienced difficulties and hardship during the implementation of Universal Credit.⁵⁴

⁴⁹ UKIM (July 2017) p7. See note 12

⁵⁰ While the UK Government published a cumulative impact analysis of measures implemented since 2015/16, it does not look specifically at adverse impacts on individuals sharing protected characteristics and on the realisation of human rights norms. Available [here](#). [Accessed: 6 July 2018].

⁵¹ Pillay, A. (Chairperson, UN Committee on Economic, Social and Cultural Rights), Personal communication by letter 16 May 2012, CESCR/48th/SP/MAB/SW. Available [here](#). See also, Special Rapporteurs' Joint communication to the UK Government on the Welfare Reform and Work Act, Ref: AL GBR 1/2016, 08/04/2016, p. 39. Available [here](#). [Both accessed: 17 July 2018].

⁵² JSF (2017) 'UK Poverty 2017'. Available [here](#). [Accessed: 19 December 2017].

⁵³ IFS (2018), 'Living standards, poverty and inequality in the UK: 2018', p. 59. Available [here](#). [Accessed: 9 July 2018].

⁵⁴ National Audit Office (2018) 'Rolling out Universal Credit', 2.5 - 2.11. Available [here](#) [Accessed: 9 July 2018]

The UK Parliament Work and Pensions Select Committee found that since 2013, 290,000 claimants of the Personal Independence Payment (PIP) and the Employment Support Allowance (ESA) only received the correct award after challenging DWP's initial decision.^{55 56}

According to UK Government sources, 9 per cent of initial PIP decisions between April 2013 and December 2017 were appealed against, and 4 per cent overturned at an appeal hearing, while 8 per cent of ESA decisions between April 2014 and September 2017 were appealed and 4 per cent were overturned at an appeal hearing.⁵⁷

New evidence suggests that benefit sanctions have had no tangible positive effects in moving disabled people closer to paid work and that the use of sanctions may have exacerbated many disabled people's existing illnesses and impairments, especially for those with mental health conditions.⁵⁸ The EHRC review of recent social security reforms also indicates that sanctions do little to change claimant motivation, encourage hostility towards support services, and worsen relationships with job centre staff.⁵⁹

The Council of Europe's Committee of Social Rights recently concluded that the UK does not conform with the right to social security under the European Social Charter because levels of statutory sick pay, minimum levels of ESA, long term incapacity and unemployment entitlements are lower than 40 per cent of the median income, and 'manifestly inadequate'.⁶⁰

⁵⁵ House of Commons Work and Pensions Select Committee (2018) 'PIP and ESA assessments'. Available [here](#) [Accessed: 10 July 2018]

⁵⁶ Claimants who are unhappy with the initial decision made on their PIP or ESA claim can challenge it at Mandatory Reconsideration (MR). Since 2013, there have been almost one million MRs of PIP and ESA decisions. Claimants who have completed MR can go to appeal if they are still unsatisfied with DWP's decision. Rates of overturn of DWP decisions at Appeal are high. Since 2013, there have been 170,000 PIP appeals; claimants won in 108,000 cases (63 per cent). Since 2013, there have been 53,000 ESA appeals; claimants won in 32,000 cases (60 per cent) (HM Courts and Tribunal Service (2017), 'Social security and child support tribunal data, table SSCS.3'. Available [here](#). See also House of Commons Work and Pensions Select Committee (2018), 'PIP and ESA assessments'. Available [here](#). [Both accessed: 10 July 2018].

⁵⁷ House of Commons Work and Pensions Select Committee (2018), 'PIP and ESA assessments: Government Response to the Committee's Seventh Report of 2017–19'. Available [here](#). [Accessed: 10 July 2018].

⁵⁸ Dwyer, P., Jones, K., McNeill, J., Scullion, L. and Stewart, A. (2018), 'Final findings: disabled people.' Available [here](#) [accessed: 10 July 2018].

⁵⁹ EHRC (2018), 'The impact of welfare reform and welfare-to-work programmes: an evidence review'. Available [here](#). [Accessed: 11 July 2018]. See also House of Commons Work and Pensions Select Committee (2018), 'Benefit sanctions inquiry – Written evidence from Equality and Human Rights Commission (ANC0050)'. Available [here](#). [Accessed: 11 July 2018].

⁶⁰ European Committee of Social Rights (2018), Conclusions XXI-2 (2017), United Kingdom. Available [here](#). [Accessed: 31 January 2018].

Great Britain

The EHRC's analysis of the tax and welfare reforms introduced between May 2010 and January 2018 revealed that their cumulative impact on disabled people by the 2021-22 tax year will be significantly regressive. This is particularly so for policy decisions taken in the 2015-17 Parliament (the impacts of which are, for the most part, still to come). The findings include:

- Households with at least one disabled adult and a disabled child will lose over £6,500 a year (over 13 per cent of their net income),
- Disabled lone parents with at least one disabled child will lose almost £10,000 of their annual net income,
- Adults with behavioural difficulties will lose around £2,350 a year,
- Adults with learning difficulties will lose around £1,750, and
- Adults with mental health conditions will lose just over £1,799.⁶¹

Early findings from an EHRC analysis of the cumulative impact of changes to public spending indicate that certain groups, including people who are most severely disabled, are affected disproportionately by public spending cuts.⁶² The combined analysis of the public spending changes and the EHRC's earlier report on the impact of changes to tax and welfare reforms indicates that the losses in income for households where there is a higher disability score⁶³ are even greater.

England

Recent research commissioned by the Local Government Association (LGA) found that around 900,000 disabled people will see their weekly incomes fall by at least £50 a week by 2020 due to the cumulative impact of welfare reform. The average household containing a disabled person under Universal Credit will be worse off in 2020 by £51.47 per week.⁶⁴

Wales

⁶¹ EHRC (2018), 'The cumulative impact of tax and welfare reforms'. Available [here](#). [Accessed: 10 July 2018].

⁶² Forthcoming, to be published in October 2018. This report builds on earlier work by the EHRC on the cumulative impact of tax and welfare reforms (see referenced above). Together these two reports present the cumulative impact on living standards of public spending and welfare reforms in the UK.

⁶³ The disability 'score' is based on the number of functional disabilities recorded across all household members.

⁶⁴ LGA (2017) 'The Cumulative Impact of Welfare Reform: A National Picture'. Available [here](#). [Accessed: 11 July 2018].

Recent evidence indicates that 39 per cent of disabled people in Wales are living in poverty, compared to 22 per cent of non-disabled people.⁶⁵ The poverty rate for disabled people in Wales is the highest in the UK. The poverty rate among people in families that include at least one disabled person is also higher in Wales than elsewhere in the UK with 29 per cent of families in Wales with one disabled person living in poverty.⁶⁶

Northern Ireland

Only 46 per cent of new PIP claims were successful during the period June 2016 to February 2018, and 27 per cent of claimants who had previously received Disability Living Allowance (DLA) and were re-assessed for PIP, were unsuccessful and left with no access to disability-specific benefits.⁶⁷

The Department for Communities has made no advancements in the development of a robust disability strategy (including a measurable plan of action) for improving the living conditions of all disabled people and effective monitoring arrangements.

Relevant steps taken by UK governments

UK

UKIM previously shared with the CRPD Committee its concerns about the changes brought in by the Social Security (Personal Independence Payment) (Amendment) Regulations 2017.⁶⁸ In December 2017, the High Court found that the rules brought in by the 2017 Regulations that differentiate between physical and mental health issues in the award of the mobility component of PIP are unlawfully discriminatory against people with a mental health condition, in breach of the Human Rights Act 1998. The EHRC intervened in this case and put forward its view that the rule infringed and was ‘fundamentally at odds with Article 19 CRPD guarantees’. The High Court agreed.⁶⁹

⁶⁵ JRF (2018) ‘Poverty in Wales 2018’. Available [here](#). [Accessed: 18 July 2018].

⁶⁶ JRF (2018) see note 57

⁶⁷ Northern Ireland Department for Communities (May 2018) ‘Personal Independence Payment Statistics – February 2018. Available [here](#) [Accessed: 28 August 2018]

⁶⁸ The Social Security (Personal Independence Payment) (Amendment) Regulations 2017 Explanatory Note. Available [here](#) [Accessed: 18 July 2018].

⁶⁹ *RF v SSWP* [2017] EWHC 3375 (Admin), para 60 and 61. Available [here](#). [Accessed 7 August 2018]

Subsequently, DWP announced that all 1.6 million people receiving PIP would have their claim reviewed,⁷⁰ it would 'end unnecessary PIP reviews for people with the most severe health conditions', and that it is currently developing new guidance.⁷¹ Concerns have been raised by disability rights organisations over the delay in implementing the judgment pending the publication of new PIP assessment guidance.⁷²

In June 2018, the High Court found that the implementation arrangements of Universal Credit unlawfully discriminated against two severely disabled men who both saw their benefits dramatically reduced when they moved to another Local Authority area, and were therefore required to claim Universal Credit.⁷³ Before moving onto Universal Credit both men were in receipt of the Severe Disability Premium (SDP) and Enhanced Disability Premium (EDP), which were aimed at meeting the additional care needs of severely disabled people living alone with no carer. The Court found that the implementation arrangements were contrary to Article 14 ECHR in conjunction with Article 1, Protocol 1. The EHRC intervened in this case arguing that Article 14 ECHR, read with UN CRPD imposes positive obligations on the UK to address and remove the obstacles faced by disabled people in enjoying equal rights.

The DWP has committed to introduce changes that will ensure no severely disabled person in receipt of the SDP will be required to move onto Universal Credit until transitional protection is in place, and to compensate those who have lost out.⁷⁴

Northern Ireland

In addition to a number of welfare reform 'flexibilities'⁷⁵ that are specific to Northern Ireland agreed by the Executive, as part of the 'Fresh Start'⁷⁶ agreement, a Welfare Reform Mitigations Working Group was established to develop proposals to assist people through the changes to the welfare system. The Working Group produced a

⁷⁰ UK Parliament (2018), 'Personal Independence Payment: Mental Health: Written question – 124308'. Available [here](#). [Accessed 31 January 2018]

⁷¹ DWP (2018) 'Government to end unnecessary PIP reviews for people with most severe health conditions'. Available [here](#) [Accessed 11 July 2018].

⁷² Disability Rights UK (2018) 'Ten year PIP reviews for people with most severe health conditions'. Available [here](#). [Accessed 11 July 2018].

⁷³ *R (TP and AR) v Secretary of State for Work and Pensions (Universal Credit)* [2018] EWHC 1474 (Admin) Available [here](#). [Accessed 28 August 2018]

⁷⁴ UK Parliament (7 June 2018) 'Universal Credit: Written statement – HCWS745.' Available [here](#). [Accessed: 28 August 2018]

⁷⁵ These include the housing element of Universal Credit (UC) to be paid to the landlord rather than the tenant; claimants to receive fortnightly rather than monthly payments of UC; and payment of UC for joint claims can, in exceptional circumstances, be split rather than paid into a single bank account.

⁷⁶ Northern Ireland Executive (14 November 2015) 'A Fresh Start: The Stormont Agreement and Implementation Plan'. Available [here](#). [Accessed: 28 August 2018]

report which detailed a mitigation strategy,⁷⁷ subsequently approved by the Northern Ireland Executive. However, a number of the key mitigations for disabled people are limited to one year in duration.⁷⁸

The Department for Communities has funded the Law Centre NI to publish a pamphlet 'Understanding, avoiding and challenging sanctions: an Adviser Guide'.⁷⁹

The Department for Communities has introduced a 'Make the Call' Benefit Uptake Programme. It aims to improve the uptake of benefits and other Government supports and services by people who are entitled, but not claiming. By 2019, it aims to target a minimum of 100,000 people (including disabled people) with the offer of a full Benefit Entitlement Check and to secure at least £40 million in additional benefits.⁸⁰ DPOs have reported that disabled persons are afraid to engage with this programme for fear that their benefits will be reduced or completely removed.⁸¹

Scotland

The Social Security (Scotland) Act 2018⁸² established a devolved social security system that has responsibility for disability related benefits such as Carer's Allowance, DLA and PIP. While the Act reflects some elements of the right to social security, the Scottish Government rejected an amendment proposed by SHRC to incorporate this right fully into primary legislation.

⁷⁷ Northern Ireland Executive (January 2016) 'Welfare Reform Mitigations Working Group Report. Available [here](#). [Accessed: 28 August 2018]

⁷⁸ For example, supplementary payments for: those who cease to receive contributory Employment Support Allowance (ESA) and are not entitled to income-based ESA; those who, after assessment, qualify for Personal Independence Payment (PIP) at a reduced rate; those who, after assessment, are judged to have no entitlement to PIP but score at least four points; carers who lose Carer's Allowance if the person they care for does not, following assessment, qualify for Personal Independence Payment.

⁷⁹ The Welfare Changes Advice Service, 'Understanding, avoiding and challenging sanctions.' Available [here](#). [Accessed: 10 July 2018]

⁸⁰ Department for Communities, 'The "Make the Call" Benefit Uptake Programme'. Available [here](#). [Accessed 5 September 2018]

⁸¹ Meeting between Department for Communities and DPOs, Stormont, 4 September 2018.

⁸² Social Security (Scotland) Act 2018. Available [here](#). [Accessed 28 August 2018]

5. The right to work and employment (Article 27)

CRPD Committee Concluding Observations 2017, paragraph 57:

‘The Committee recommends that the State party [...] develops and decides upon an effective employment policy for persons with disabilities aimed at ensuring decent work for all persons with disabilities, bearing in mind the State party’s target of 1 million jobs for persons with disabilities, and ensures equal pay for work of equal value, focusing especially on women with disabilities, persons with psychosocial and/or intellectual disabilities and persons with visual impairments, and monitors those developments; [...] and] ensures that the legal and administrative requirements of the process to assess working capabilities, including the Work Capability Assessment, are in line with the human rights model of disability, that those who conduct the assessments are qualified and duly trained in that model, and that the assessments take into consideration work-related as well as other personal circumstances [...].’

Summary of progress

In the last 12 months, further information has become available on the failure of the UK to safeguard disabled people’s right to work and employment. The UK and devolved governments have announced a number of commitments to address these failings and to implement the relevant CRPD Committee’s recommendations, which are welcomed. However, concerns are already emerging regarding barriers to the effective implementation of these commitments, as set out below. These include limited eligibility, funding shortfalls and lack of measurable targets.

The UK Government has established an Inter-Ministerial Group on Disability and Society with increasing disability employment rates identified as one of the key aims, but there are concerns about the practical operations of this group and the omission of a specific reference to the CRPD or the CRPD Committee’s recommendations in its terms of reference. The listed membership of the Inter-Ministerial Group also does

not adequately reflect that the devolved governments also have responsibility for taking action to address the disability employment gap.⁸³

Key concerns

UK

Disabled people in the UK are much less likely to be in employment than non-disabled people. They experience barriers to finding and staying in work, and are on average paid less.⁸⁴

New evidence

UK

While the disability employment gap has narrowed slightly since 2015, disabled people are still less likely to be in employment than non-disabled people. In the UK, 50.7 per cent of disabled people aged 16-64 were in employment in April-June 2018 compared with 81.1 per cent of non-disabled people.⁸⁵ Employment rates vary considerably by type of disability or health condition, but the highest employment rate for a health condition group (difficulty in hearing) was still 13 percentage points below the equivalent figure for non-disabled working age adults. The lowest rates are for those with mental health conditions and learning difficulties.⁸⁶ Less than a quarter of people with learning difficulties, a speech impediment or mental health conditions were in employment.⁸⁷

Disabled people in the UK are paid less on average than non-disabled people.⁸⁸ A recent TUC report found that the disability pay gap (15 per cent) was higher in 2016/17 than in 2013/14, 2014/15 or 2015/16.⁸⁹ It found that, in 2017, the average hourly pay for disabled workers was £9.90, compared to £11.40 for non-disabled

⁸³ ODI (2018) see note 7

⁸⁴ UKIM (July 2017) p7, see note 12

⁸⁵ Office for National Statistics (2018), Labour market status of disabled people. August 2018: Table AO8. Available [here](#). [Accessed: 15 August 2018].

⁸⁶ House of Commons Library (2018), 'Briefing Paper: People with disabilities in employment'. Available [here](#). [Accessed: 5 July 2018].

⁸⁷ House of Commons Library (2018), 'Briefing Paper: People with disabilities in employment'. Available [here](#) [Accessed: 5 July 2018].

⁸⁸ UKIM (July 2017) see note 12

⁸⁹ TUC (2018), 'Disability employment and pay gaps 2018'. Available [here](#). See also EHRC (2017) 'The disability pay gap'. Available [here](#). EHRC (2017) 'Being disabled in Britain'. Available [here](#). [All accessed: 3 July 2018].

workers – which results in a disability pay gap of £2,730 per year. TUC also reports that disabled workers are more likely to work in lower-paid occupations than non-disabled workers.

Wales

In Wales, just 45.2 per cent of disabled people aged 16 to 64 are currently in employment, compared to 80.3 per cent of non-disabled people aged 16 to 64, with the gap being larger for disabled people who have no or few qualifications, and for those with particular conditions, such as mental health conditions or multiple impairments.⁹⁰ Only 1.5 per cent of apprenticeships in Wales are taken up by disabled people.⁹¹

Northern Ireland

Statistics published by the Northern Ireland Statistics and Research Agency⁹² show that just under one in five people (20 per cent) of working age in Northern Ireland had a disability but that:

- More than double the proportion (32 per cent) of disabled people have no qualifications compared to non-disabled people (12 per cent) at January-March 2018; and
- Non disabled people are more than twice as likely to be in employment (79 per cent) than disabled people (35 per cent).

Disabled people have reported that the Northern Ireland Statistics and Research Agency's categorisations used to encapsulate different types of disability are too restrictive and as a result, the above statistics represent a conservative estimation of the reality.⁹³

It is understood that, while structures to take forward the disability employment strategy have been established and action plans developed, the latter have yet to be implemented.

Statistics from the Department of Education show that obtaining the minimum required qualifications to gain employment continues to be a particular challenge for disabled people in Northern Ireland. In 2016/2017, of the Northern Ireland school

⁹⁰ Welsh Government (March 2018) 'Employability Plan' Available [here](#). [Accessed: 28 August 2018].

⁹¹ Welsh Government (2018), 'Unique learners in work-based learning provision by age group, gender and programme type'. Available [here](#). [Accessed: 9 May 2018].

⁹² Northern Ireland and Statistics and Research Agency (May 2018) Quartely Supplement to the Labour Market Report, January- March 2018, p3. Available [here](#) [Accessed: 28 August 2018].

⁹³ UNCRPD Independent Mechanism for NI Stakeholder Roundtable, 10 September 2018.

leavers with special educational needs at stages 1-4, 41.5 percent had at least 5 GCSE's A*-C including English and Maths. This reduced to 24.4 percent for school leavers with special educational needs at stage 5. By comparison, 78.4 percent of school leavers with no special educational needs has the equivalent qualifications.⁹⁴

Scotland

The Scottish Government's analysis of data published by a representative sample of public sector bodies showed that, on average, less than 5 per cent of staff reported as disabled, with the figures for individual public bodies varying from 0.1 to 11 per cent.⁹⁵

Relevant steps taken by UK governments

UK

In November 2017, the UK Government launched plans to increase the number of disabled people in work by one million over the next ten years. Actions to achieve this target include:

- Building capability to deliver tailored support,
- Ensuring access to personalised and tailored employment support,
- Continuously improving the assessment process, and
- Empowering those furthest away from the labour market.⁹⁶

To achieve the target of getting one million more disabled people into work, there would have to be 4.5 million disabled people in employment by 2027, an increase of 21 per cent on current levels.⁹⁷ This programme of action, and the commitment to building a comprehensive evidence base about what works for whom, why and at what cost is a very positive first step. However, UKIM would welcome clarity on ensuring that responsibilities for the strategy are embedded across all four nations and all relevant Government departments and that this accountability is demonstrated through regular monitoring and evaluation of progress. The UK Government is also committed to the Sustainable Development Goals and in

⁹⁴ Department of Education (2018) Statistical Bulletin 4/2018: Qualifications and Destinations of Northern Ireland School Leavers 2016/17. Available [here](#). [Accessed 11 September 2018].

⁹⁵ Scottish Government (2018) Increasing the Employment of Disabled People in the Public Section: a consultation available [here](#). Accessed: 28 August 2018].

⁹⁶ DWP and DH (2017), 'Improving Lives - The Future of Work, Health and Disability'. Available [here](#). [Accessed: 3 July 2018].

⁹⁷ House of Commons (2018), 'Briefing Paper: People with disabilities in employment', page 6. Available [here](#). [Accessed: 3 July 2018].

particular, Goal 8.5 to achieve, by 2030, full and productive employment and decent work for all, including disabled people, and equal pay for work of equal value.⁹⁸

The UK Government committed to engaging with external stakeholders to explore ways to improve claimants' experiences of the Work Capability Assessment (WCA).⁹⁹ While this commitment is welcome, UKIM's view is that further reform of WCA processes are urgent needed.¹⁰⁰ We also commend the new criteria and guidance for WCA assessors introduced in September 2017, allowing them to recommend that claimants with the most severe and life-limiting conditions should not be reassessed.¹⁰¹

Despite the benefits of the Access to Work scheme,¹⁰² there are concerns that it focuses on those with physical impairments¹⁰³ and that the application process can take too long.¹⁰⁴ The DWP has taken action aiming to reduce waiting times, and the proportion of Access to Work awards to people with mental health conditions has increased gradually.¹⁰⁵

The Access to Work cap was raised significantly in April 2018 to a maximum of £57,200 per year and this will be increased annually.¹⁰⁶ However, evidence indicates that some disabled people are negatively affected by the cap on the amount of

⁹⁸ In the UK, oversight sits with the Department for International Development. The Policy Paper 'Agenda 2030 – Delivering the Global Goals' (March 2017), available [here](#), outlines UK Government policy and activity against each of the Goals. However, the UK has neither adopted the UN's set of indicators nor set out its own indicators for measuring progress. The UK Government has committed to deliver a voluntary report to the UN High-level Political Forum for Sustainable Development in 2019.

⁹⁹ DWP and DH (2017), 'Improving Lives - The Future of Work, Health and Disability,' pp21-22. Available [here](#). [Accessed: 11 July 2018]. See also EHRC (2018), 'Progress on socio-economic rights in Great Britain'. Available [here](#) [Accessed: 10 July 2018].

¹⁰⁰ See concerns raised in UKIM submissions (February 2017 and July 2017), e.g. the fact that some claimants with serious health conditions or impairments were found 'fit for work', and that assessments, reassessments and poor decisions are adversely impacting on the physical and mental health of claimants.

¹⁰¹ DWP (2017), 'Policy paper: Employment and Support Allowance and Universal Credit: changes to the Work Capability Assessment from 29 September 2017'. Available [here](#) [accessed: 6 September 2018].

¹⁰² Access to Work: provides practical and financial support to disabled people and their employers. It covers GB. Reviews have found the scheme to be cost effective, with positive benefits including increased productivity and staff retention and reduced sickness absence. A similar scheme is available in NI called Access to Work (NI) It is delivered by the Department for Communities through the Preparation for Work Programmes Branch and the JobCentre.

¹⁰³ House of Commons Library (2018), 'Briefing Paper: People with disabilities in employment'. Available [here](#). [Accessed: 5 July 2018];

¹⁰⁴ House of Commons Work and Pensions Committee (2017), 'Disability employment gap – Seventh report of session 2016-17', para 46. Available [here](#). [Accessed: 18 December 2017].

¹⁰⁵ DWP (2017), 'Access to Work statistics', page 7. Available [here](#). [Accessed: 2 August 2018].

¹⁰⁶ DWP (2018), Grant to support disabled people in the workplace rises by over a third. Available [here](#). [Accessed: 3 July 2018].

financial support provided by Access to Work and in particular, Deaf people who communicate using British Sign Language.¹⁰⁷

Great Britain

In April 2017, new gender pay gap reporting requirements were introduced for all private and voluntary organisations with 250 or more employees in Britain and listed public sector bodies in England.¹⁰⁸ In Scotland¹⁰⁹ and Wales,¹¹⁰ specific equality duties apply to listed devolved public bodies. In Scotland, this includes duties on listed public bodies with over 20 employees to publish statements on equal pay for disabled employees and information about the occupational segregation of disabled and non disabled employees. Across the UK, there is no requirement on public or private employers to publish information on disability pay gaps.

Wales

The Welsh Government's Employability plan¹¹¹ recognises that too few disabled people are in work. In this plan, the Welsh Government commits to working with partners to address the issues behind these inequalities, including employer attitudes, job design and working practices. A particular commitment is to increase the number of employers who place an emphasis on creating workplaces that are inclusive and supportive environments for disabled people. The plan does not set out clear targets for improvements, instead committing the Welsh Government to working with key partners to set those targets.

In 2018, the Welsh Government launched an 'Inclusive Apprenticeship Working Group' to identify the barriers to disabled people accessing apprenticeships and to

¹⁰⁷ In *DB v Secretary of State for Work and Pensions (ESA)* [2017] UKUT 251 (AAC), available [here](#), it was decided that despite the disparate impact of the cap on Deaf users, DWP had complied with its Public Sector Equality Duty because the disparate impact could be objectively justified as a proportionate means of achieving a legitimate aim.

¹⁰⁸ The Equality Act 2010 (Gender Pay Gap Information) Regulations 2017, available [here](#) and The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017, available [here](#) [both accessed 28 August 2018]

¹⁰⁹ The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 (as amended in 2015 and 2016), information about the Scottish Specific Regulations is available [here](#). [Accessed 28 August 2018]

¹¹⁰ The Equality Act 2010 (Specific Duties) (Wales) Regulations 2011, available [here](#). [Accessed 28 August 2018]

¹¹¹ Welsh Government (March 2018) see note 85

find ways to increase the number of disabled people starting and completing apprenticeships.¹¹²

Northern Ireland

The Northern Ireland Executive's Outcomes Delivery Plan 2018-19 commits to:

- Assisting 450 disabled people into employment, education or training through the European Social Fund,
- Supporting 17,600 people through employability programmes including programmes for people with health conditions and/or disabilities, and
- Offering all new benefit claimants with a health condition or a disability a 'Health and Work Conversation' to help them make decisions about returning to work.¹¹³

In September 2017, the Permanent Secretary in the Department of Education raised concerns regarding funding for the Department highlighting a shortfall of £105 million in 2017/2018.¹¹⁴ Reduced funding may lead to a failure to put in place reasonable adjustments to ensure the inclusion of disabled children in schools. This will potentially have a negative knock-on effect on the future employability of those children affected. In May 2018, the Northern Ireland Education Authority had a public consultation on a Future Framework of Educational Provision for Children in the Early Years with Special Educational Needs in Northern Ireland.¹¹⁵ In July 2018, the Education Authority also had a public consultation on its proposed Draft Equality and Disability Action Plans 2018-2022.¹¹⁶ Depending on the outcomes of these consultations, these may have a positive effect on the future employability of the children and young people affected.

Scotland

In April 2018, a voluntary employment support service was introduced, funded by the Scottish Government.¹¹⁷ The Scottish Government also announced its intention to

¹¹² Welsh Government (2018) 'Written Response by the Welsh Government to the report produced by the Economy, Infrastructure and Skills Committee entitled Apprenticeships in Wales', p.3, available [here](#). [Accessed: 15 August 2018].

¹¹³ Executive Office (2018) Outcomes Delivery Plan, pp47-48, available [here](#) [Accessed: 28 August 2018].

¹¹⁴ BBC News Northern Ireland (25 September 2017) 'Department of Education faces £105m cash pressures,' Available [here](#) [Accessed: 28 August 2018].

¹¹⁵ NI Education Authority (2018) 'Consultation: Future Framework of Educational Provision for Children in the Early Years with Special Educational Needs in Northern Ireland,' available [here](#) [Accessed 28 August 2018].

¹¹⁶ NI Education Authority (2018) 'Public Consultation: Draft Equality and Disability Action Plans 2018-2022'. Available [here](#). [Accessed 11 September 2018].

¹¹⁷ See Fair Start Scotland website [here](#) [Accessed 28 August 2018]

publish an action plan to halve the disability employment gap.¹¹⁸ It has carried out a public consultation exercise to identify how to increase the number of disabled people employed in the public sector.¹¹⁹ As part of this consultation exercise, it proposed setting targets for number of disabled people employed in the public sector, increasing paid work experience/ internships and requiring public bodies to monitor and report on progress to achieve targets.

¹¹⁸ Scottish Government (2018) A Fairer Scotland for Disabled People available [here](#). [Accessed: 28 August 2018].

¹¹⁹ Scottish Government (2018) Increasing the Employment of Disabled People in the Public Section: a consultation available [here](#). [Accessed 28 August 2018].

6. Prejudice and negative attitudes (Articles 8, 16)

CRPD Committee Inquiry recommendations 2016, paragraph (h):

‘Take appropriate measures to combat any negative and discriminatory stereotypes or prejudice against persons with disabilities in public and the media, including that dependency on benefits is in itself a disincentive of employment; implement broad mass media campaigns, in consultation with organizations representing persons with disabilities, particularly those affected by the welfare reform, to promote them as full rights holders, in accordance with the Convention; and adopt measures to address complaints of harassment and hate crime by persons with disabilities, promptly investigate those allegations, hold the perpetrators accountable and provide fair and appropriate compensation to victims.’

Summary of progress

The UK and devolved governments have introduced a number of commitments and measures with a view to tackling prejudice and negative attitudes towards disabled people. However, the extensive data available indicates that progress to date is insufficient and, therefore not in line with the CRPD Committee’s recommendations.

Key concerns

UK

Some steps have been taken across the UK to reduce prejudice and negative attitudes towards disabled people. However, prejudice towards disabled people continues to persist. This includes negative attitudes towards disabled people

claiming social security benefits and negative assumptions about disabled people's human value and quality of life.¹²⁰

New evidence

UK

In 2017, 75 per cent of students in secondary schools and colleges with Autism and Asperger's, and 70 per cent of those with a physical disability said they had been bullied compared with 50 per cent of students with no disability.¹²¹

Great Britain

Research examining prejudice faced by disabled people found that 32 per cent of disabled people felt there was a lot of disability-related prejudice, but only 22 per cent of non-disabled people thought this was the case¹²². This indicates a gap between the reality of disabled people's lives and the public's perception. The study also found evidence that paternalist attitudes about disabled people are still prevalent:

- 75 per cent of the study's respondents thought disabled people need to be cared for some or most of the time.
- 13 per cent tended to hardly ever or never think of disabled people as the same as everyone else.

In a related study, Scope found that:

- 40 per cent of all respondents indicated that they did not feel valued by society;
- 49 per cent responded that they feel excluded from society because of their long-term impairment or health condition; and
- 42 per cent felt the UK is a good place for disabled people to live.¹²³

On a more positive note, the attitude towards disabled people receiving welfare benefits appears to be changing, albeit slowly. In 2013, 54 per cent of respondents to the British Social Attitudes Survey (BSA) stated that government should spend

¹²⁰ UKIM (July 2017) pp 17-18, see note 12

¹²¹ Ditch the Label (2017) 'The Annual Bullying Survey 2017'. Available [here](#). [Accessed: 17 August 2018].

¹²² Scope (2018), 'The disability perception gap'. Available [here](#). [Accessed: 6 July 2018].

¹²³ Scope (2018), 'Independent. Confident. Connected'. Available [here](#). [Accessed: 6 September 2018].

more on benefit claimants who are disabled people who cannot work, the percentage increased to 61 per cent in 2015 and 67 per cent in 2017.¹²⁴

England and Wales

The police registered 5,558 disability-motivated hate crime cases in England and Wales in 2016/17. This is a 53 per cent increase since 2015/16 (though this significant increase may be partly a reflection of improvements in reporting).¹²⁵ Recent research suggests a significant drop-off between the number of cases recorded by the police and the number of prosecutions.¹²⁶ Estimates from the Crime Survey for England and Wales indicate an average of 67,000 cases of disability hate crime per year.¹²⁷

The Petitions Select Committee led an inquiry into the online abuse of disabled people, which reported in August 2018.¹²⁸ The Committee produced draft recommendations for consultation, including that social media companies should be required to ensure their policies and processes are accessible to, and developed in partnership with, disabled people; and that the Government commit to introduce new legislation covering online communications by 2020, reflecting findings from the ongoing Law Commission review of the current legal framework.¹²⁹

Northern Ireland

In 2017/18, there were 48 recorded disability motivated hate crimes (down 12 from 2016/17).¹³⁰ UKIM believes the numbers of reported incidents significantly underrepresents the extent of disability hate crime throughout the UK, including NI.¹³¹

Scotland

¹²⁴ NatCen(2018), 'British social attitudes survey 2018'. Available [here](#). [Accessed: 12 July 2018].

¹²⁵ Home Office (2017), 'Hate crime, England and Wales, 2016 to 2017'. Available [here](#). [Accessed: 5 July 2018].

¹²⁶ Walters, M. et al (2017), 'Hate crime and the legal process – Options for law reform', University of Sussex, p. 70. Available [here](#). [Accessed: 5 July 2018].

¹²⁷ Walters, M. et al (2017) see note 115

¹²⁸ House of Commons Petitions Committee, First special report of session 2017-19, 'Online abuse and the experience of disabled people: draft recommendation for consultation.' Available [here](#) [Accessed 4 September 2018].

¹²⁹ See [here](#).

¹³⁰ Police Service of Northern Ireland (17 May 2018): 'Incidents and Crimes with a Hate Motivation Recorded by the Police in Northern Ireland: Quarterly Update to 31 March 2018', Table 18. Available [here](#). [Accessed: 28 August 2018].

¹³¹ UKIM (2017), 'Disability Rights in the UK', p. 44. Available [here](#) [Accessed 14 September 2018].

In 2017/18, 284 charges with an aggravation of prejudice relating to disability were reported to the police. This is 51 per cent more than in 2016/17. It has been recognised that this large increase may be partially due to increased awareness of what is a disability hate crime and of the support available to report such crime. However, this type of crime continues to be underreported compared to other forms of hate crime.¹³²

Relevant steps taken by UK governments

UK

There has been some work around disability confidence and disability champions across different industry sectors. However, UKIM is not aware of any actions to address the main concerns of the Committee and combat any negative and discriminatory stereotypes or prejudice against disabled people in public and the media. In particular, there have been no steps taken to tackle the negative attitudes towards those claiming social security benefits, and more broadly to promote the human rights model of disability. On the contrary, there are examples of government comments that have potentially reinforced negative attitudes and the stigma surrounding mental health and disability. This includes the Chancellor, Philip Hammond, stating before Parliament, 'it is almost certainly the case that by increasing participation in the workforce, including far higher levels of participation by marginal groups and very high levels of engagement in the workforce, for example of disabled people - something we should be extremely proud of - may have had an impact on overall productivity measurements.'¹³³ Many people understood this statement as indicating that the increase in disabled people in employment is partly responsible for UK's decreasing productivity.¹³⁴

New measures proposed by the UK Government to tackle online hate speech, harassment and abuse, including a social media code of practice and transparency

¹³² COPFS (2018), 'Hate Crime in Scotland, 2017-18'. Available [here](#). [Accessed: 27 July 2018].

¹³³ Independent (6 December 2017) 'Philip Hammond claims disabled people finding jobs is partly responsible for UK's falling productivity' available [here](#) [Accessed: 5 July 2018]. See also Guardian (11 April 2018) 'We know about the gender pay gap. But what about the disability pay gap?' Available [here](#) [Accessed: 6 July 2018].

¹³⁴ Scope (2017), Letter to the Prime Minister, 7 December 2017. Available [here](#). [Accessed: 5 July 2018].

reporting, may prove useful for individuals experiencing disability-related harassment, especially in relation to the process of reporting incidents.¹³⁵

England and Wales

The criminal justice and police inspectorates are currently carrying out a joint inspection focused specifically on disability hate crime.¹³⁶

Northern Ireland

The draft Programme for Government Indicator 42¹³⁷ includes a commitment by the Northern Ireland Executive to develop public awareness raising initiatives designed to counter negative attitudes about disabled people, co-designed with disabled people. There should be an initial focus on the education sector and employers that will start in 2018/19. There has been no obvious progress on this commitment to date. The Department for Communities has acknowledged that devolved Departments are limited in what they can do without Ministers in place to provide approval for new policies and additional resources.¹³⁸

Concerns have also been raised that the language of the draft Programme for Government reinforces prejudices against disabled people by focusing on disabled people as vulnerable and those in need, as opposed to rights holders.¹³⁹

Scotland

In 2017, the Scottish Government published its response to the report of the Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion.¹⁴⁰ This included commitments to establish a multi-agency delivery group with Ministerial oversight to take forward the implementation of the Advisory Group's recommendations and to consider the recommendations of the independent review of hate crime legislation, and how to implement these.

The independent review has now published its report and made a series of recommendations to the Scottish Government.¹⁴¹ It includes a recommendation for

¹³⁵ Department for Digital, Culture, Media & Sport (2018), 'Government response to the Internet Safety Strategy Green Paper'. Available [here](#). [Accessed: 6 July 2018].

¹³⁶ See [here](#) [Accessed: 6 September 2018].

¹³⁷ Northern Ireland Executive (2017) see note 28

¹³⁸ Meeting between Department for Communities and DPOs, Stormont, 4 September 2018.

¹³⁹ UNCRPD Independent Mechanism for NI Stakeholder Roundtable, 10 September 2018.

¹⁴⁰ Scottish Government (2017) 'Tackling Prejudice and Building Connected Communities – Scottish Government response to the report of the Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion.' Available [here](#). [Accessed 28 August 2018]

¹⁴¹ Lord Bracadale (2018), Final Report. Available [here](#). [Accessed 28 August 2018]

stirring up of hatred offences, also covering the online sphere, to be introduced in respect of each of the protected characteristics, including disability. Other recommendations with a potential impact on disabled people include a new provision that would allow the courts to recognise offences that involve the exploitation of vulnerable people and provisions to ensure that hate crime offences based on someone's association with a protected characteristic, such as disability, are covered by statutory aggravations. The Government has not yet published its response.

7. Access to justice (Articles 12, 13)

CRPD Committee Inquiry recommendations 2016, paragraph (f):

‘Ensure access to justice, by providing appropriate legal advice and support, including through reasonable and procedural accommodation for persons with disabilities seeking redress and reparation for the alleged violation of their rights, as covered in the present report.’

Summary of progress

There have been some promising developments in terms of reviewing access to justice for disabled people and introducing specific guidance on this issue across the UK. However, overall there has been little progress on the UK’s implementation of the relevant CRPD Committee’s recommendations.

Key concerns

UK

Education tribunals are not able to award financial compensation where there has been a finding of disability discrimination or harassment.¹⁴²

Despite newly revised guidance, there is no formal system of support for people with mental health conditions and learning disabilities in court in place across the UK.

England and Wales

There are continued barriers to accessing justice, for example in relation to social security cases. There has been a substantial decrease in the number of disabled people being granted legal aid in the wake of the legal aid reforms introduced by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). The removal of welfare benefits law from the scope of legal aid has exacerbated the

¹⁴² UKIM (July 2017) pp 10 and 63, see note 12.

impact of recent welfare reforms, which is likely to have affected disabled people disproportionately.¹⁴³

Scotland

Disabled people may be prevented from accessing justice on an equal basis with others because of significant increases in court fees in Scotland.¹⁴⁴

Despite widespread objection and concerns about proportionality, the Scottish Government continues to implement its policy of full cost recovery from civil court litigants, rather than provide publicly funded civil courts. In particular, in February 2018, it implemented further significant and targeted increases in court fees. There is a real risk that the high cost of fees will have a disproportionate effect on disabled people's ability to access justice.

The Scottish Government has also targeted significant increases in fees in the appeal courts. This raises a broader concern that this may deter access to justice in relation to the novel, complex and often untested cases involving equality and human rights arguments and may hinder the development of equality and human rights jurisprudence in Scotland.

New evidence

UK

Independent research suggests poor and inconsistent use of reasonable adjustments in the criminal justice system for defendants with mental health conditions and learning disabilities.¹⁴⁵ Particular concern has been raised about the underuse of defendant intermediaries to aid comprehension and participation during criminal justice proceedings.¹⁴⁶

Deaf people using an interpreter continue to be denied the opportunity to carry out jury service in courts, based on the common law bar on a 13th person being in the jury room. Although, since 1999, the UK Government has repeatedly indicated its

¹⁴³ EHRC (2018), 'The impact of LASPO on routes to justice'. Available [here](#) [Accessed: 6 September 2018].

¹⁴⁴ UKIM (July 2017) p 7, see note 12

¹⁴⁵ JUSTICE, *Mental Health and Fair Trial*, 2017. EHRC, *Experiences of People with a Learning Disability in the Scottish Criminal Justice System* (2017).

¹⁴⁶ JUSTICE, *Mental Health and Fair Trial*, 2017.

commitment to address the issue, there have been no changes to date.¹⁴⁷ The EHRC is providing legal assistance in a case involving a Deaf man who was told he was not required for jury service after disclosing that he was Deaf.¹⁴⁸

England and Wales

LASPO has had a detrimental impact on people's access to affordable and impartial legal advice. Applications for legal aid and expenditure on legal aid in England and Wales have continued to fall since LASPO came into force in 2013. By March 2018, the number of cases where legal aid was provided for initial advice had fallen by more than 75 per cent compared with pre-LASPO levels,¹⁴⁹ and the number of grants for legal aid for representation had fallen by 30 per cent.¹⁵⁰ The number of cases receiving funding for legal help, which provides initial legal advice and assistance, has fallen by 76 per cent since LASPO was introduced and continues to decline.¹⁵¹ The high demand for advice for disability benefits means that the almost complete removal of welfare benefits from the scope of legal aid has had a disproportionate impact on disabled people or those with a long-term health condition. People entitled to disability benefits relied on legal aid to support appeals of incorrect decisions and to provide a valuable check on decision-making concerning eligibility for welfare benefits.¹⁵²

The revisions to the financial eligibility criteria for legal aid have had a disproportionate impact on various groups, including disabled people, women, children and migrants.¹⁵³ Furthermore, there has been a 99 per cent decrease in support provided by the Legal Aid Agency for clients with disability-related welfare

¹⁴⁷ Independent (10 November 1999) 'Ban on severely deaf jurors is upheld by court.' Available [here](#) [Accessed: 15 August 2018].

¹⁴⁸ Disability News Service (23 August 2018) 'Deaf campaigner takes court action over BSL jury ban.' Available [here](#). [Accessed 29 August 2018].

¹⁴⁹ Legal Aid Agency (2018), *Legal aid statistics tables – January to March 2018*, table 5.1: Legal help and controlled legal representation matters started, available [here](#) [accessed: 6 September 2018]. For the year ending March 2013 legal help was provided in 573,737 cases, compared with 140,091 in 2017/18, a fall of 76 per cent.

¹⁵⁰ Legal Aid Agency (2018), *Legal aid statistics tables*, table 6.1: Civil representation, applications received in period and grant status. For the year ending March 2013 legal aid for representation was granted for 157,409 cases, compared with 108,890 cases in 2017/18, a fall of 31 per cent.

¹⁵¹ From 573,737 cases in 2012/13 to 140,091 in 2017/18. Legal Aid Agency (2018), *Legal aid statistics tables*, table 6.1. Available [here](#) [accessed: 6 September 2018].

¹⁵² EHRC (2018), 'The impact of LASPO on routes to justice'. Available [here](#) [Accessed: 6 September 2018].

¹⁵³ Joint Committee on Human Rights (2018), 'Enforcing Human Rights', p. 13. Available [here](#). [Accessed: 30 July 2018].

benefits issues, compared to pre-LASPO levels and the total number of such claims has plummeted from 29,801 in 2011/12 to 308 in 2016/17.¹⁵⁴

The EHRC is also concerned about the barriers to accessing legal advice in discrimination claims presented by the mandatory Civil Legal Advice (CLA) gateway. The mandatory CLA gateway dealt with just over 25,000 discrimination cases between 2013/14 and 2016/17, but only 13,000 cases were referred to CLA specialists. Of these, 16 people were referred for face-to-face advice. In the 2016/17, nil discrimination cases were referred for face-to-face advice.¹⁵⁵ The EHRC has launched an inquiry examining the extent to which victims of discrimination are able to obtain access to justice through the provision of legal aid.¹⁵⁶

Moreover, between 2012 and 2017, fewer than eight public funding certificates a year were granted under the discrimination category of work.¹⁵⁷ The Legal Aid Agency announced in 2018 that it will cancel its procurement process for its telephone gateway discrimination service from September 2018 following receipt of insufficient compliant tenders.¹⁵⁸

Relevant steps taken by UK governments

England and Wales

¹⁵⁴ House of Commons (2018), 'Legal Aid Scheme: Social Security Benefits: Written question - 130690'. Available [here](#). [Accessed: 5 July 2018]. See also Durrant, J. (2018), 'Access denied – Barriers to justice in the disability benefits system'. Zacchaeus 2000 Trust. Available [here](#). [Accessed: 11 July 2018].

¹⁵⁵ The Law Society Gazette (2018), 'News focus: legal advice gateway to nowhere'. Available [here](#). See also House of Commons (2017), 'Legal Aid Scheme: Telephone Services: Written question - 111874'. Available [here](#). [Both accessed: 5 July 2018].

¹⁵⁶ The EHRC's inquiry will examine:

- how discrimination cases are funded by legal aid
- how many individuals receive legal aid funding for discrimination claims, including representation or assistance with bringing a case in a court or tribunal, and how this compares with evidence of the number of individuals who seek advice about discrimination
- whether there are barriers to effective access to legal aid
- whether some individuals experience specific difficulties in accessing legal aid for example due to language or literacy difficulties, or because of a protected characteristic
- the operation of the mandatory telephone gateway as the access point for most discrimination advice
- in light of the above, whether legal aid provides effective access to justice for individuals who complain of discrimination, and whether improvements could be made to reduce barriers and improve access to justice.

Further information about the inquiry including the terms of reference can be found [here](#).

¹⁵⁷ Ministry of Justice (2017), 'Legal aid statistics: July to September 2017'. Available [here](#). [Accessed: 5 July 2018].

¹⁵⁸ Legal Aid Agency (2018), 'Civil news: cancellation of Civil Legal Advice procurement'. Available [here](#). [Accessed: 5 July 2018].

The UK Government review of LASPO is due to report by the end of 2018.¹⁵⁹ The EHRC has submitted a full response to the review, in which we address the negative impact of LASPO on access to justice, the particular impacts on people sharing protected characteristics including disabled people, and the effect on access to redress for human rights breaches and discrimination.¹⁶⁰

The UK Government announced a programme to modernise the courts in England and Wales in 2016, including measures such as ‘virtual hearings’ which take place over a video link, and online dispute resolution, for example in Social Security and Child Support hearings.¹⁶¹ A number of proposals in the progress may have negative consequences for disabled people, including the introduction of video hearings, which may have a negative impact on people’s ability to participate in proceedings, and the online resolution may compromise fairness and reduce opportunities for people to seek professional legal advice.¹⁶²

Alongside the modernisation programme, the UK Government has proceeded with a series of court closures, including seven further closures confirmed in July 2018.¹⁶³ The EHRC has emphasised the lack of data and robust impact assessment to underpin these decisions, and raised concerns about the potential disproportionate negative impacts on certain groups, including people with mobility impairments and those with caring responsibilities.¹⁶⁴ The increased use of online processes is intended to mitigate these impacts.¹⁶⁵ However, many of these processes are not yet in place, and they may themselves disadvantage disabled people.

A revised edition of the Equal Treatment Bench Book has been published, including detailed practical guidance on both mental and physical disability and references to the CRPD.¹⁶⁶

¹⁵⁹ Ministry of Justice (June 2018) ‘Post-implementation review of LASPO.’ Available [here](#). [Accessed: 5 July 2018].

¹⁶⁰ EHRC (2018), ‘Response to the Post-Implementation Review of the Legal Aid, Sentencing and Punishment of Offenders Act 2012’. Available [here](#) [accessed: 6 September 2018].

¹⁶¹ Lord Chancellor, Lord Chief Justice and Senior President of Tribunals (2016) *Transforming our justice system*. Ministry of Justice. Available [here](#). [Accessed: 5 July 2018].

¹⁶² EHRC (2018), ‘Inquiry response: Fit for the future: transforming the court and tribunal estate’. Available [here](#) [accessed: 6 September 2018].

¹⁶³ See [here](#). To date, the UK Government has closed more than 230 crown, county and magistrates courts, see: Response to Parliamentary Question 136450, available [here](#) [both accessed: 6 September 2018].

¹⁶⁴ EHRC (2018), ‘Inquiry response: Fit for the future: transforming the court and tribunal estate’. Available [here](#) [accessed: 6 September 2018]; Gibbs, P. (2017) *Defendants on video – conveyor belt justice or a revolution in access?* Transform Justice. Available [here](#). [Accessed: 5 July 2018].

¹⁶⁵ UK Government consultation ‘Fit for the future: transforming the court and tribunal estate’, see [here](#) [accessed: 6 September 2018].

¹⁶⁶ Courts and Tribunals Judiciary (February 2018) New edition of the Equal Treatment Bench Book launched.’ Available [here](#). [Accessed: 5 July 2018].

Wales

In an effort to tackle the scarcity of legal advice in Wales, the Welsh Government has supported the development of advice services to provide front-line advice on issues, which were previously in scope of legal aid. In 2018/19, the Welsh Government is planning to provide £5.97 million in grant funding to third sector organisations (including Citizens Advice Cymru, Shelter Cymru and Age Cymru), helping people across Wales to access free, independent advice on social welfare issues including housing, debt and welfare benefits.¹⁶⁷

Scotland

The Scottish Government has announced plans to place existing, non-statutory, Appropriate Adult services on a statutory footing.¹⁶⁸ The proposals focus on facilitating communication between vulnerable people (including, if appropriate, people with learning disabilities and mental health conditions) and the police. It does not extend to in-court support, including the distinct role of an intermediary. While welcoming the proposals, the EHRC has called on the Scottish Government to establish a statutory intermediary service or similar provisions for court proceedings at the earliest opportunity. In the meantime, EHRC considers that it should be made clear in police reports if an Appropriate Adult was present for accused or witness' interview to allow the courts to put into place any appropriate measures required to ensure safeguards are provided for court proceedings.¹⁶⁹

¹⁶⁷ National Assembly for Wales (2018) Plenary, 18 April, see [here](#) [accessed: 7 September 2018].

¹⁶⁸ Scottish Government (March 2018) 'Establishing a statutory Appropriate Adult service in Scotland, consultation document.' Available [here](#). [Accessed: 29 August 2018].

¹⁶⁹ EHRC (June 2018) 'Commission's response to the consultation on establishing a statutory appropriate adult service in Scotland.' Available [here](#). [Accessed 29 August 2018].

8. Involving disabled people and their organisations (Articles 4(3), 33(3))

CRPD Committee Inquiry recommendations 2016, paragraph (g):

‘Actively consult and engage with persons with disabilities through their representative organizations and give due consideration to their views in the design, implementation, monitoring and evaluation of any legislation, policy or programme action related to the rights addressed in the present report.’

Summary of progress

There have been some promising developments in terms of the UK and devolved governments’ stated intentions for improving the involvement of disabled people and their organisations. However, these intentions have not yet been realised and action is still required to ensure the CRPD Committee’s recommendations are implemented effectively.

Key concerns

UK

There is a continued lack of action from the UK and devolved governments on the CRPD Committee’s recommendations. This includes setting up systems that will ensure that disabled people and their organisations are involved in the design, implementation and monitoring and evaluation of legislation, policy or programmes that affect their lives.

It remains unclear how the new Inter-Ministerial Group on Disability and Society will work with disabled people and their organisations and UKIM to promote and monitor implementation of CRPD. It is particularly concerning that the UN CRPD’s requirement to effectively involve disabled people and their organisations is not specifically reflected in the Inter-Ministerial group’s terms of reference. Nor do the

terms of reference refer to the CRPD or the CRPD Committee's recommendations.¹⁷⁰

Relevant steps taken by UK governments

UK

The Office for Disability Issues (ODI) has stated that it increased its efforts to engage with disabled people and their organisations in recent months, including by creating a new role of stakeholder manager.¹⁷¹ However, this does not seem to have translated into a publicly available engagement plan or any concrete activities to date.

Northern Ireland

The draft Programme for Government Indicator 42¹⁷² includes a commitment by the Northern Ireland Executive to involve disabled people in designing a structure for monitoring the implementation of the plan including the setting up of a central regional disability forum involving disabled people. However, there is no evidence available in the public domain of progress towards realising this commitment. The Department for Communities has acknowledged that devolved Departments are limited in what they can do without Ministers in place to provide approval for new policies and additional resources.¹⁷³

Scotland

The Scottish Government delivery plan for UN CRPD includes welcome commitments to involve disabled people and their organisations in the delivery and measurement of the actions in the delivery plan¹⁷⁴. However, progress on realising these commitments is unclear.

¹⁷⁰ ODI (2018) see note 7

¹⁷¹ ODI (2018), 'Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland: initial government response'. Available [here](#). [Accessed: 7 September 2018].

¹⁷² Northern Ireland Executive (2017): Draft delivery plan for Programme for Government Indicator 42, Average life satisfaction score of people with disabilities. Available [here](#). [Accessed: 14 September 2018].

¹⁷³ Meeting between Department for Communities and DPOs, Stormont, 4 September 2018.

¹⁷⁴ Scottish Government (2016) A Fairer Scotland for Disabled People, p39. Available [here](#). [Accessed: 29 August 2018].

9. Dissemination of concluding observations and inquiry findings (Article 36)

CRPD Committee Concluding Observations 2017, paragraph 77:

‘The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and organizations of persons with disabilities, and to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats, including Easy Read, and to make them available on the government website on human rights.’

Summary of progress

There has been little progress regarding the UK and devolved governments’ dissemination of the CRPD Committee’s concluding observations and inquiry findings.

Key concerns

UK

Dissemination of the CRPD Committee’s concerns and recommendations by the UK Government and efforts to raise awareness have been minimal. Neither the concluding observations nor the inquiry report have been published on the UK Government’s website, but only the State Party reports. The CRPD Committee’s reports have also not been made available in accessible formats, including Easy Read, as requested by the CRPD Committee.

The EHRC has published the concluding observations and reproduced them in accessible formats.¹⁷⁵

UKIM's experience is that the UK governments tend to put more energy into reporting to, and examination by, the UN, and less into the follow up of UN concluding observations. Therefore, one of our continuing challenges is to develop and maintain momentum for implementation of UN human rights treaties, including the CRPD.

Scotland

The EHRC and SHRC are unaware of any efforts by the Scottish Government to disseminate the concluding observations. No information about the CRPD Committee's review of the UK or the concluding observations is available on the Disability part of the Scottish Government website.¹⁷⁶

The EHRC and SHRC asked the Scottish Government to participate in a conference about what Deaf and disabled people think the Scottish Government needs to do next to implement the CRPD Committee's recommendations. However, they were unable to participate or provide a statement explaining how they were responding to the concluding observations. A report setting out the views of over 100 Deaf and disabled people attending the conference about what needs to happen next has been sent to the Scottish Government Minister with responsibility for disability.¹⁷⁷

New evidence

Scotland

In January 2018, the Scottish Parliament Equalities and Human Rights Committee (EHRiC) launched a call for evidence as part of its Inquiry into human rights and the Scottish Parliament.¹⁷⁸ The EHRC and SHRC recommended that:¹⁷⁹

¹⁷⁵ EHRC (January 2018) 'UN Convention on the Rights of Persons with Disabilities, our work related to CRPD.' available [here](#) [Accessed: 3 August 2018].

¹⁷⁶ Scottish Government (2018) 'Disabled People,' Available [here](#). [Accessed: 29 August 2018].

¹⁷⁷ EHRC (2018) 'Disability Rights: What's next for Scotland? Report.' Available [here](#) [Accessed: 7 Sept 2018].

¹⁷⁸ Scottish Parliament (2018) 'Human Rights and the Scottish Parliament.' Available [here](#) [Accessed: 29 August 2018].

¹⁷⁹ EHRC (March 2018) 'Submission from the Equality and Human Rights Commission,' Available [here](#) and SHRC (March 2018) 'Submission from the Scottish Human Rights Commission,' available [here](#) [Both accessed: 29 August 2018]

- EHRiC scrutinises the Scottish Government’s human rights treaty reports and engages with treaty bodies by sending, where appropriate, representatives and holding debates on particular treaty bodies
- EHRiC and other relevant Scottish Parliament Committee’s use UN concluding observations and recommendations as a way to track progress towards the Scottish Government’s adoption of and compliance with international human rights standards.

Relevant steps taken by UK governments

UK

The UK Government has recently established an Inter-Ministerial Group on Disability and Society. However, there is no specific reference to the CRPD or the CRPD Committee’s recommendations. There is also no specific reference to ensuring the effective participation and involvement of disabled people and their organisations. In addition, the listed membership of this group is limited to the UK government. This overlooks the need for a coordinated approach to implementation of CRPD across the UK governments. This is particularly important given the Group’s stated remit focuses on employment, sport, transport and culture, which are all, to some degree, devolved to Northern Ireland, Scotland and Wales. The terms of reference state that ‘other ministers and officials will be invited as and when required’, but it is not clear if this extends to the devolved administrations and the extent of such a role.¹⁸⁰

¹⁸⁰ ODI (2018) see note 7

Annex I: UKIM’s recommendations

UKIM reiterates its recommendations made to the CRPD Committee during the examination process in August 2017. This list includes all recommendations relevant to the issues covered in this report. Where necessary, these recommendations have been updated to reflect changes in the policy context and the emergence of new evidence.

The right to live independently in the community (Article 19) – Independent Living Funding (ILF)	
UK-wide Recommendations	<p>The UK Government should act upon the recommendation of the Work and Pensions Select Committee to set out a clear plan for identifying where new Employment and Support Allowance Work Related Activity Group claimants have additional, unavoidable living costs relating to their condition, and ensure a financial support package is in place to adequately support all new claimants looking for and moving into work.</p> <p>The UK Government should take swift action to reform the work capability assessment to offer a more flexible, personalised approach to providing support to unemployed disabled people, including those with greatest needs and fluctuating conditions. The focus should be on identifying work potential and the types of adjustments and support that could remove barriers to individuals accessing and staying in work. This should be separate from any financial assessment. Financial support for people unable to work or where there are inadequate adjustments or personalised support in place should not be conditional on actions linked to job-seeking or subject to benefit sanctions.</p>
England Recommendations	<p>The UK Government must take steps to ensure compliance with CRPD Article 19 where it has delegated responsibility for independent living funding to local authorities in England. These steps should include:</p> <ul style="list-style-type: none"> • Providing sufficient funding to each local authority to meet the independent living needs of disabled people in their area through mechanisms (such as ring-fencing) that ensure the funding is used for that purpose.

	<ul style="list-style-type: none"> • Providing guidance to local authorities to clarify what they must do to meet the requirements of Article 19, including examples of best practice. • Putting in place a monitoring mechanism so that each local authority reports on independent living funding and activities, and service-user experience, so the UK Government can assure itself that it is complying with Article 19.
<p>Updated Wales Recommendations</p>	<p>The Welsh Government should ensure that protecting disabled people’s right to independent living is central to deciding if and how to merge the Supporting People Programme with other budget lines from 2020.</p> <p>The Welsh Government should:</p> <ul style="list-style-type: none"> • Produce a national strategy to ensure there is an adequate supply of houses built to inclusive design standards and for a review of the way that building standards are enforced. • Improve the way that data is collected and shared, both on the requirements of disabled people and on the number of adaptable homes already built. • Ensure provision of specialist support and information services to match homes to the people who need them and to ensure that they are suitably adapted. • Provide increased specialist disability advice and advocacy services to enable people to maintain their housing and right to independent living.
<p>Northern Ireland Recommendations</p>	<p>The Northern Ireland Executive should consider:</p> <ul style="list-style-type: none"> • Undertaking research into the extent to which disabled people with substantial needs, who are not existing ILF users, are having their needs met through Self Directed Support and Direct Payments provisions. • Re-opening the Independent Living Fund to new entrants.

The right to an adequate standard of living and social protection (Article 28) – Poverty, Material Deprivation and Food Insecurity

<p>UK-wide Recommendations</p>	<p>The UK and devolved governments should examine the factors behind the higher levels of poverty among disabled adults and children and develop strategies to address these factors.</p> <p>The UK and devolved governments should ensure the rights of disabled people including disabled children are prioritised within anti-poverty strategies. Disability rights in the UK: UK Independent Mechanism updated submission to the CRPD Committee.</p>
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	The UK Government should act on the findings of the July 2017 Trussell Trust report on food bank use, in particular the conclusion that an inquiry into the support and sufficiency of benefit allowances for disabled people is needed, especially in light of new reforms which may have a further negative impact.
Wales Recommendations	The Welsh Government should capture data relating to poverty and differences between disabled and non-disabled people in the Welsh Index of Multiple Deprivation.

The right to an adequate standard of living and social protection (Article 28) – Impact of Social Security Reforms

Updated UK-wide Recommendations	<p>The UK Government should monitor and publish the impact of welfare reforms on disabled people. This should include assessments of the cumulative impact of tax and social security changes and public spending reductions on disabled people.</p> <p>In relation to existing social security entitlement and any future reforms, the UK Government should address the UN criteria for non-retrogression to determine whether potentially regressive measures are temporary, necessary, proportionate and non-discriminatory, and that they do not undercut a core minimum level of protection, putting in place any mitigating measures required to safeguard disabled people’s rights.</p> <p>In order to mitigate some of the adverse impacts on disabled people, the UK Government should:</p> <ul style="list-style-type: none"> • Uprate all benefits in line with inflation and review the level of benefits to ensure it meets adequate living standards; • Reinstate the level of Work Allowance to the 2012 level; • Reinstate the Severe and Enhanced Disability Premiums under Universal Credit; • Provide increased support to disabled people placed in the Employment and Support Allowance Work Related Activity Group, which is equivalent to the support group, and acknowledges the additional, unavoidable living costs relating to their condition; • All full-time disabled students who receive DLA or PIP should be eligible for Universal Credit on the grounds of being treated as having a limited capability for work; • Carry out an equality impact assessment of the conditionality and sanctions system on claimants to ensure that sanctions are not disproportionately applied, and conditionality is reasonable and based on flexibility of easements,
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	<p>specifically for lone parent families, ethnic minority groups and disabled people;</p> <ul style="list-style-type: none"> • Introduce publicly available service standards for the social security system which sets out the rights of claimants, are fair and accessible, and measured and reported on; • Ensure that work coaches are trained to deliver tailored employment support, providing evidence of the steps taken to ensure that the specific needs of lone parents and disabled people are being met.
Scotland Recommendations	<p>The Scottish Government should ensure that Scotland's new social security system:</p> <ul style="list-style-type: none"> • Delivers progressive realisation of CRPD rights • Takes a participatory approach to the development, implementation and monitoring of social security legislation and policy, and • Is underpinned by the standards and principles of the CRPD.
Northern Ireland Recommendations	<p>The Northern Ireland Executive should consider extending and or/developing the current time-limited package of measures to mitigate any adverse impacts of social security reform.</p>

The right to work and employment (Article 27) – Employment Gaps and Barriers

Updated UK-wide Recommendations	<p>The UK and devolved governments should evaluate how well employment support programmes help disabled people find and stay in work, and take steps to improve their effectiveness. This should include a regular and transparent evaluation of progress made on the UK Government's 'Improving Lives' strategy to ensure progress is seen as a shared, long-term, priority objective across all relevant Government departments. The UK Government should:</p> <ul style="list-style-type: none"> • Introduce interim targets and a statutory reporting requirement on its commitment to a target of one million more disabled people in work over the next ten years, and • Report regularly on progress including by impairment group and identify steps if progress is insufficient. <p>The UK Government should ensure that changes to the Access to Work programme comply with Article 27 by:</p> <ul style="list-style-type: none"> • Widening support for mental health and complex health or medical conditions.
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	<ul style="list-style-type: none"> • Monitoring any adverse impact on employment opportunities, for disabled people generally and for people with sensory impairments specifically. • Introducing mitigations such as additional funding flexibilities, and extending transition arrangements. • Putting in place a publicity programme for the Access to Work scheme among employers to increase awareness. <p>To help remove barriers to recruitment and retention of disabled people, the UK Government should build training on disability law and providing reasonable adjustments into new models of support resulting from the ‘Improving Lives’ strategy (November 2017).</p>
Wales Recommendations	The Welsh Government should ensure that supporting disabled people into employment is a target within employment and skills programmes.
Scotland Recommendations	The Scottish Government should support local authorities and integrated health and social care boards to meet their obligation to provide employment support services under sections 26 and 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003.
Northern Ireland	The Northern Ireland Executive should commit to allocating the necessary resources to ensure the full implementation of ‘Supporting Equality through Inclusive Employment – An Employment Strategy for People with Disabilities’, including mainstream funding for supported employment.

The right to work and employment (Article 27) – Pay Gap

Updated UK-wide Recommendations	<p>By April 2019 UK governments should:</p> <ul style="list-style-type: none"> • Provide clear and country appropriate guidance on the classification system to be used for disability monitoring by all types of organisations and practical guidance for different types/ sizes of employers on how to collect, report on and use the data. <p>Once consistent classification, collection and reporting systems are in place to support employers to use employment data effectively, the UK Government should:</p> <ul style="list-style-type: none"> • Require private, voluntary and listed public sector employers with 250+ employees to monitor and report on disability in recruitment, retention and progression within the workplace by April 2020. • Require private, voluntary and listed public employers to publish a narrative and action plan with time bound targets, informed by analysis of
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	<p>their disability data. This analysis should help explain the factors underlying the data and focus on how to make substantive improvements to the workplace.</p>
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Prejudice and negative attitudes (Article 8)

<p>UK-wide Recommendations</p>	<p>The UK and devolved governments should:</p> <ul style="list-style-type: none"> • Resource long-term positive awareness-raising campaigns, training and education to address prejudice and negative attitudes towards all disabled people, including those with mental health conditions and those claiming social security benefits. • Ensure that government communications do not fuel prejudicial views, particularly with regard to the rights of disabled people claiming social security benefits. • Ensure that there is awareness of the CRPD among disabled people, public service providers, and throughout society.
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Disability-motivated hate crime, hostility and harassment (Articles 8, 16)

<p>UK-wide Recommendations</p>	<p>To address under-reporting of disability-motivated hate crime, the UK and devolved governments should ensure that the police and other statutory agencies evaluate their reporting and recording processes, in consultation with disabled people, and take steps to simplify them.</p> <p>The UK and devolved governments should employ consistent data collection methods across countries, the criminal justice system and within individual agencies to allow comparative and chronological analysis.</p>
<p>Updated England and Wales Recommendations</p>	<p>The UK Government should:</p> <ul style="list-style-type: none"> • Undertake without delay a full-scale review of the aggravated offences and enhanced sentencing provisions to ensure parity for all characteristics protected under hate crime law. • Monitor the use of sentencing guidelines to assess consistency in sentencing across all hate crime strands. • Conduct a review of the provision of third-party reporting of hate crime in England and Wales; evaluate the impact and sustainability of provision; highlight geographical and thematic gaps; and ensure third party and police recording systems are consistent.

	<ul style="list-style-type: none"> • Ensure the police, Crown Prosecution Service and probation services adopt and publish a single, clear definition of a disability hate crime and communicate it effectively to the public and staff.
Scotland Recommendations	The Scottish Government should implement the recommendations of the Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion.

Access to justice (Articles 12 and 13) – Legal Aid and Advice

Updated England and Wales Recommendations	<p>In its review of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) in 2018, the UK Government should consider the full range of evidence available on the impact of legal aid changes on people with certain protected characteristics. It should identify whether there have been disproportionate impacts on particular groups which may have limited their access to justice, the availability of legal advice from non-government organisations, and take effective steps to mitigate those impacts. Those responsible for the review should seek input from disabled people, wider civil society and the EHRC.</p> <p>The UK Government should further review the operation of the telephone gateway service (Civil Legal Advice) in England and Wales with regard to its accessibility and effectiveness, particularly for disabled people and parents of children with special educational needs (SEN), and mitigate any adverse impacts.</p>
Scotland Recommendations	<p>The Scottish Government, in deciding how to respond to the findings and recommendations from the independent review of legal aid, must recognise:</p> <ul style="list-style-type: none"> • Its obligations under the CRPD and take steps to ensure legal aid policy and practice takes the views of disabled people fully into account and ensures access to appropriate and suitable legal advice and assistance. • The requirements of the Public Sector Equality Duty and demonstrate that it has had due regard to the need to remove or minimise disadvantage experienced by disabled people in access to justice.

Access to justice (Articles 12 and 13) – Court and Employment Tribunals

Updated England and Wales Recommendations	In light of the Supreme Court judgment on employment tribunal fees and the fundamental rights underpinning the Court's reasoning, the UK Government should not
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	<p>introduce any new barriers to accessing employment tribunals, and should reaffirm its commitment to ensuring equal access to justice for all. The UK Government should ensure that all those who paid employment tribunal fees are reimbursed, and take steps to ensure anyone who was deterred from bringing claims because of fees has not been disadvantaged.</p> <p>We also recommend that the UK Government:</p> <ul style="list-style-type: none"> • does not proceed with any court closures until it has collected the evidence about court users necessary to conduct a meaningful equality impact assessment, and has conducted that assessment; • conducts a thorough assessment of the digital literacy of court users in order to determine the nature and content of the support required to ensure access to justice in the context of increased digitisation; and • establishes a clear evidence base setting out the impacts of virtual processes (including virtual hearings and online court processes) and the equality and human rights issues that need to be addressed before any new measures are introduced or existing pilots are extended.
<p>Scotland Recommendations</p>	<p>The Scottish Government should assess and publish the impact of the court fee increases on disabled people and include in this process an up-to-date assessment of disabled people’s access to civil legal aid. The assessments should involve disabled people and take into account their views and experiences. If any negative or disproportionate impact is identified, the Scottish Government should take mitigating action to ensure disabled people are not prevented from access to justice.</p>

Access to justice (Articles 12 and 13) – Awareness of the CRPD and Reasonable Accommodations

<p>Updated UK-wide Recommendations</p>	<p>The UK and devolved governments should take steps to develop capacity-building programmes for the judiciary on:</p> <ul style="list-style-type: none"> • The CRPD, including its principles and the jurisprudence of the CRPD Committee, and • Reasonable adjustments to ensure access to justice for disabled people.
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Access to justice (Articles 12 and 13) – Disability Discrimination in Schools

UK-wide Recommendations	The UK should allow education tribunals to award financial compensation for disability discrimination or harassment in schools.
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Access to justice (Articles 12 and 13) – Support and Protection in Criminal Justice System in Scotland

Scotland Recommendations	<p>The Scottish Government should:</p> <ul style="list-style-type: none"> • Ensure members of the Crown Office Procurator Fiscal Service have knowledge and experience of learning disability, and develop and promote good practice guidance for staff involved in the assessment of adults’ capacity to be competent reliable witnesses. • Monitor and report on when special measures are used to support disabled people, or not used, and identify the outcomes for disabled people. • Adopt an agreed police custody model to identify learning disability and make training on learning disability mandatory for police officers and staff working in police custody settings. • Introduce formal support for the accused and witnesses with learning disabilities during the court process.
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Annex II: Relevant UN recommendations

The right to live independently in the community (Article 19)	
Relevant Concluding Observations	<p>45. The Committee recommends that the State party, in line with the Committee's general comment No. 5 (2017) on living independently and being included in the community and the Committee's report on its inquiry concerning the United Kingdom of Great Britain and Northern Ireland carried out under article 6 of the Optional Protocol to the Convention:</p> <p>(a) Recognize the right to living independently and being included in the community as a subjective right, recognize the enforceability of all its elements, and adopt rights-based policies, regulations and guidelines to ensure implementation;</p> <p>(b) Conduct periodic assessments in close consultation with organizations of persons with disabilities to address and prevent the negative effects of policy reforms through sufficiently funded and appropriate strategies in the area of social support and living independently;</p> <p>(c) Provide adequate, sufficient earmarked funding to local authorities and administrations, including the devolved governments, to be able to continuously allocate adequate resources allowing persons with disabilities to live independently and be included in the community and to exercise their right to choose their place of residence and where and with whom to live;</p> <p>(d) Set up a comprehensive plan, developed in close collaboration with organizations of persons with disabilities, aimed at the deinstitutionalization of persons with disabilities, and develop community-based independent living schemes through a holistic and cross-cutting approach, including education, childcare, transport, housing, employment and social security;</p> <p>(e) Allocate sufficient resources to ensure that support services are available, accessible, affordable, acceptable, adaptable and are sensitive to different living conditions for all persons with disabilities in urban and rural areas.</p>
Relevant Inquiry Recommendations	<p>(b) Ensure that any intended measure of the welfare reform is rights-based, upholds the human rights model of disability and does not disproportionately and/or adversely</p>

	<p>affect the rights of persons with disabilities to independent living, an adequate standard of living and employment. To prevent adverse consequences, the States party should carry out human rights-based cumulative impact assessments of the whole range of intended measures that would have an impact on the rights of persons with disabilities;</p> <p>(c) Ensure that: any intended legislation and/or policy measure respects the core elements of the rights analysed in the present report; persons with disabilities retain their autonomy, choice and control over their place of residence and with whom they live; they receive appropriate and individualized support, including through personal assistance, and have access to community-based services on an equal basis with others; they have access to security social schemes that ensure income protection, including in relation to the extra cost of disability, that is compatible with an adequate standard of living and ensure their full inclusion and participation in society; and they have access and are supported in gaining employment in the open labour market on an equal basis with others;</p> <p>(e) Introduce all adjustments necessary to make all information, communications, administrative and legal procedures in relation to social security entitlements, independent living schemes and employment/unemployment-related support services fully accessible to all persons with disabilities;</p> <p>(j) Set up a mechanism and a system of human rights-based indicators to permanently monitor the impact of the different policies and programmes relating to the access and enjoyment by persons with disabilities of the right to social protection and an adequate standard of living, the right to live independently and be included in the community and the right to work, in close consultation with persons with disabilities and their representative organizations in all regions and countries that constitute the State party;</p> <p>(i) Ensure that, in the implementation of legislation, policies and programmes, special attention is paid to persons with disabilities living with a low income or in poverty and persons with disabilities at higher risk of exclusion, such as persons with intellectual, psychosocial or multiple disabilities and women, children and older persons with disabilities. Those measures should be put in place within contributive and non-contributive regimes.</p>
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The right to an adequate standard of living and social protection (Article 28)	
Relevant Concluding Observations	59. The Committee recommends that the State party, in close collaboration with organizations of persons with

	<p>disabilities across all territorial entities, in line with the Committee’s report on its inquiry concerning the United Kingdom of Great Britain and Northern Ireland carried out under article 6 of the Optional Protocol to the Convention, guided by article 28 of the Convention and implementing target 10.2 of the Sustainable Development Goals:</p> <p>(a) Introduce, adopt and implement legislative frameworks to ensure that social protection policies and programmes across the State party secure income levels for all persons with disabilities and their families, by taking into account the additional costs relating to disability, and ensuring that persons with disabilities are able to exercise their parental responsibilities. The State party must ensure that members of the new Employment and Support Allowance work-related activity group have access to full compensation of disability-related costs;</p> <p>(b) Carry out a cumulative impact assessment, based on disaggregated data, of the recent and forthcoming reforms of the social protection system for persons with disabilities, and in close collaboration with organizations of persons with disabilities define, implement and monitor measures to tackle retrogression in their standard of living and use the cumulative impact assessment as a basis for policy development across the State party;</p> <p>(c) Repeal the Personal Independence Payment (Amendment) Regulations of 2017 and ensure that eligibility criteria and assessments to access Personal Independence Payments, Employment Support Allowance and Universal Credit are in line with the human rights model of disability;</p> <p>(d) Ensure that the budget allocation is sufficient for local authorities to meet their responsibilities regarding assistance for persons with disabilities, and extend support packages to mitigate the negative impacts of social security reform in Northern Ireland;</p> <p>(e) Conduct a review of the conditionality and sanction regimes concerning the Employment and Support Allowance, and tackle the negative consequences on the mental health and situation of persons with disabilities.</p>
<p>Relevant Inquiry Recommendations</p>	<p>(a) Conduct a cumulative impact assessment of the measures adopted since 2010, referred to in the present report, on the rights to independent living and to be included in the community, social protection and employment of persons with disabilities. The State party should ensure that such assessment is rights-based and meaningfully involves persons with disabilities and their representative organizations;</p> <p>(b) Ensure that any intended measure of the welfare reform is rights-based, upholds the human rights model of disability and does not disproportionately and/or adversely</p>

	<p>affect the rights of persons with disabilities to independent living, an adequate standard of living and employment. To prevent adverse consequences, the States party should carry out human rights-based cumulative impact assessments of the whole range of intended measures that would have an impact on the rights of persons with disabilities;</p> <p>(c) Ensure that: any intended legislation and/or policy measure respects the core elements of the rights analysed in the present report; persons with disabilities retain their autonomy, choice and control over their place of residence and with whom they live; they receive appropriate and individualized support, including through personal assistance, and have access to community-based services on an equal basis with others; they have access to security social schemes that ensure income protection, including in relation to the extra cost of disability, that is compatible with an adequate standard of living and ensure their full inclusion and participation in society; and they have access and are supported in gaining employment in the open labour market on an equal basis with others;</p> <p>(d) Ensure that public budgets take into account the rights of persons with disabilities, that sufficient budget allocations are made available to cover extra costs associated with living with a disability and that appropriate mitigation measures, with appropriate budget allocations, are in place for persons with disabilities affected by austerity measures;</p> <p>(e) Introduce all adjustments necessary to make all information, communications, administrative and legal procedures in relation to social security entitlements, independent living schemes and employment/unemployment-related support services fully accessible to all persons with disabilities;</p> <p>(j) Set up a mechanism and a system of human rights-based indicators to permanently monitor the impact of the different policies and programmes relating to the access and enjoyment by persons with disabilities of the right to social protection and an adequate standard of living, the right to live independently and be included in the community and the right to work, in close consultation with persons with disabilities and their representative organizations in all regions and countries that constitute the State party;</p> <p>(i) Ensure that, in the implementation of legislation, policies and programmes, special attention is paid to persons with disabilities living with a low income or in poverty and persons with disabilities at higher risk of exclusion, such as persons with intellectual, psychosocial or multiple disabilities and women, children and older</p>
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	persons with disabilities. Those measures should be put in place within contributive and non-contributive regimes.
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The right to work and employment (Article 27)

Relevant Concluding Observations	<p>57. The Committee recommends that the State party, in close collaboration with organizations of persons with disabilities, and in line with the Committee’s report on its inquiry concerning the United Kingdom of Great Britain and Northern Ireland carried out under article 6 of the Optional Protocol to the Convention:</p> <p>(a) Develop and decide upon an effective employment policy for persons with disabilities aimed at ensuring decent work for all persons with disabilities, bearing in mind the State party’s target of 1 million jobs for persons with disabilities, and ensure equal pay for work of equal value, focusing especially on women with disabilities, persons with psychosocial and/or intellectual disabilities and persons with visual impairments, and monitor those developments;</p> <p>(b) Ensure that reasonable accommodation is provided to all persons with disabilities who require it in the workplace, that regular training on reasonable accommodation is available to employers and employees without disabilities, and that dissuasive and effective sanctions are in place in cases of denial of reasonable accommodation;</p> <p>(c) Ensure that the legal and administrative requirements of the process to assess working capabilities, including the Work Capability Assessment, are in line with the human rights model of disability, that those who conduct the assessments are qualified and duly trained in that model, and that the assessments take into consideration work-related as well as other personal circumstances. The State party must ensure that the adjustments and support necessary to access work, as well as financial support, are provided and that they are not subject to sanctions or conditional upon carrying out job seeking activities;</p> <p>(d) Withdraw its reservation to article 27 of the Convention;</p> <p>(e) Bear in mind the links between article 27 of the Convention and target 8.5 of the Sustainable Development Goals.</p>
Relevant Inquiry Recommendations	<p>(a) Conduct a cumulative impact assessment of the measures adopted since 2010, referred to in the present report, on the rights to independent living and to be included in the community, social protection and employment of persons with disabilities. The State party should ensure that such assessment is rights-based and meaningfully involves persons with disabilities and their representative organizations;</p>

	<p>(b) Ensure that any intended measure of the welfare reform is rights-based, upholds the human rights model of disability and does not disproportionately and/or adversely affect the rights of persons with disabilities to independent living, an adequate standard of living and employment. To prevent adverse consequences, the States party should carry out human rights-based cumulative impact assessments of the whole range of intended measures that would have an impact on the rights of persons with disabilities;</p> <p>(c) Ensure that: any intended legislation and/or policy measure respects the core elements of the rights analysed in the present report; persons with disabilities retain their autonomy, choice and control over their place of residence and with whom they live; they receive appropriate and individualized support, including through personal assistance, and have access to community-based services on an equal basis with others; they have access to security social schemes that ensure income protection, including in relation to the extra cost of disability, that is compatible with an adequate standard of living and ensure their full inclusion and participation in society; and they have access and are supported in gaining employment in the open labour market on an equal basis with others;</p> <p>(e) Introduce all adjustments necessary to make all information, communications, administrative and legal procedures in relation to social security entitlements, independent living schemes and employment/unemployment-related support services fully accessible to all persons with disabilities;</p> <p>(j) Set up a mechanism and a system of human rights-based indicators to permanently monitor the impact of the different policies and programmes relating to the access and enjoyment by persons with disabilities of the right to social protection and an adequate standard of living, the right to live independently and be included in the community and the right to work, in close consultation with persons with disabilities and their representative organizations in all regions and countries that constitute the State party;</p> <p>(i) Ensure that, in the implementation of legislation, policies and programmes, special attention is paid to persons with disabilities living with a low income or in poverty and persons with disabilities at higher risk of exclusion, such as persons with intellectual, psychosocial or multiple disabilities and women, children and older persons with disabilities. Those measures should be put in place within contributive and non-contributive regimes.</p>
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Prejudice and negative attitudes (Articles 8 and 16)	
Relevant Inquiry recommendations	(h) Take appropriate measures to combat any negative and discriminatory stereotypes or prejudice against persons with disabilities in public and the media, including that dependency on benefits is in itself a disincentive of employment; implement broad mass media campaigns, in consultation with organizations representing persons with disabilities, particularly those affected by the welfare reform, to promote them as full rights holders, in accordance with the Convention; and adopt measures to address complaints of harassment and hate crime by persons with disabilities, promptly investigate those allegations, hold the perpetrators accountable and provide fair and appropriate compensation to victims.

Access to justice (Articles 12 and 13)	
Relevant Inquiry recommendations	(f) Ensure access to justice, by providing appropriate legal advice and support, including through reasonable and procedural accommodation for persons with disabilities seeking redress and reparation for the alleged violation of their rights, as covered in the present report.

Involving disabled people and their organisations (Articles 3 and 4)	
Relevant Concluding Observations	All - "...in close collaboration with organizations of persons with disabilities"
Relevant Inquiry Recommendations	(g) Actively consult and engage with persons with disabilities through their representative organizations and give due consideration to their views in the design, implementation, monitoring and evaluation of any legislation, policy or programme action related to the rights addressed in the present report. (j) Set up a mechanism and a system of human rights-based indicators to permanently monitor the impact of the different policies and programmes relating to the access and enjoyment by persons with disabilities of the right to social protection and an adequate standard of living, the right to live independently and be included in the community and the right to work, in close consultation with persons with disabilities and their representative organizations in all regions and countries that constitute the State party.

Dissemination of concluding observations and inquiry findings (Article 36)	
Relevant Concluding Observations	77. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and organizations of persons with disabilities, and to persons with disabilities themselves and members of their families, in national and

	minority languages, including sign language, and in accessible formats, including Easy Read, and to make them available on the government website on human rights.
Relevant Inquiry Recommendations	(k) Respond to the present report within the time limit prescribed under the Optional Protocol, widely disseminate the Committee's findings and recommendations and provide appropriate follow-up to the recommendations of the present report, including during the consideration of the State party's initial report before the Committee.