



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

List of Issues related to the implementation of the UN Convention on the Rights of Persons with Disabilities in England

Article 4 – General Obligations

The CRPD is not enshrined in domestic legislation and we are concerned about the on-going retrogressive impact on Disabled people's rights of legislation and policy measures associated with welfare reform combined with expenditure cuts. The Government's rejection of the Disability Committee Report and all eleven recommendations suggests a lack of commitment to upholding Disabled people's rights under the UN CRPD.

Article 4 Questions:

- How does the State party demonstrate it consistently gives due regard to the UNCRPD in developing law and policy?
- Will the State party review its Response to the Disability Committee Report?
- Does the State Party plan to implement the 2016 Concluding Observations of the Committee on Economic, Social and Cultural Rights



and Committee on the Rights of the Child relating to the rights of disabled people?

- How will the State party address the concerns relating to the use of the Waddell and Aylward biopsychosocial (BPS) model within Government policymaking?

Article 13 – Access to Justice

We are concerned that Disabled people's access to justice has been curtailed through new measures introduced since 2010. A number of changes brought in through the Legal Aid Sentencing and Offenders Act 2012 (LASPO) mean that legal aid is either no longer available or is far harder to access for Disabled people in a range of important areas of law, jeopardising disabled people's 'effective access to justice'. The introduction of fees for Employment Tribunals has led to a marked decrease in the number of disability discrimination claims.

There are also serious concerns regarding the disproportionate percentage of people with learning difficulties and mental health problems in prison. We are concerned that reasonable adjustments are not being made so disabled people do not have access to justice on an equal basis to others. Despite many calls for improvement, a 2014 report found the needs of many people with learning disabilities are going unnoticed when they are arrested by police, go to court and are sentenced.

Article 13 Questions:

- Please provide information on the evaluation and monitoring being carried out by the State party with respect to the changes to legal aid introduced by the LASPO. What mitigations will be put in place for adverse impacts?
- How will the State party address any disproportionate impacts on Disabled people arising from the introduction of fees for Employment Tribunals?
- How is the State party monitoring the experiences of Disabled people within the criminal justice system and what steps are being taken to ensure appropriate reasonable adjustments are made?



Article 19 – independent living and being included in the community

(Cross-cutting articles - 5, 9, 20, 21, 23, 26, 27, 28, 29, 30)

Each nation in the UK has differing policies and programmes in relation to independent living. However, overall the evidence shows that there has been a significant retrogression of the right to independent living since the State ratified the Convention.

Disabled people have told us that this article is one of the most important as independent living relates to almost every other article set out in the UN Convention.

The main areas of concern in relation to independent living are the crisis in funding for social care provision, charges for social care and support, the closure of the Independent Living Fund and the introduction of Personal Independence Payment to replace Disability Living Allowance.

Local Authorities are failing to implement the Care Act 2014, however individual Disabled people are prevented from bringing challenges on the basis of breaches of the legislation due to changes to legal aid.

There are also significant concerns regarding the right to independent living for those people still living in long-stay hospitals and the lack of community infrastructure support to ensure that people can live independently in their own community. It is essential that the State evidences what action they have taken to monitor and ensure that people with a learning disability do not move from one institution based in a hospital to another institution located in the community.

There is evidence that the rise in detentions under the Mental Health Act at a time of a serious beds shortage is leading Trusts and CCGs to prioritise funding for acute units while closing community facilities. At the same time, Councils and CCGs are investing in extra care housing while implementing policies to limit funding for community care support. It is important for the State to evidence what it is doing to take steps to prevent re-institutionalisation as an outcome of cuts to community-based support.



Article 19 Questions:

- How is the State party monitoring English local authorities to ensure that social care support provision upholds Disabled people's rights under Article 19?
- What is the State party doing to ensure that CCGs and Mental Health Trusts are aware of the importance of complying with Article 19 in commissioning decisions that impact on Disabled people's independent living?
- Has the State party considered the potential for further retrogression under Article 19 of their proposals to replace central government grants to local authorities with 100% retention of business rates?

Article 24 - Education

(Cross-cutting articles - 5, 7, 8, 9, 13, 16, 19, 22, 23, 25, 28, 29, 30, 31)

The UK State Report highlights the legislative protections given to disabled children and adults in relation to education and some of the programmes available. However since ratification the Government has done nothing to implement Article 24 and in fact the reverse is true. Since 2010 the Government has taken an ideological position to 'reversing the bias towards inclusive education' and subsequent legislation and policies, including fundamental cuts to SEN Support services have had a devastating impact on the development of inclusive education practice across England.

As a direct consequence the number of disabled children with Special Educational Needs (SEN) in England attending special schools has increased (from 38.2% to 42.9%) while the proportion attending State-funded secondary schools has declined over the past decade (from 28.8% to 23.5%). We believe this figure does not represent the true number of Disabled children and young people in segregated settings because the Government does not disaggregate the numbers of Disabled children and young people, including those with SEN, currently in separate units, hubs, classrooms in mainstream, but with little or no access to mainstream activities including their non-disabled peers. Evidence also shows that disabled students in further education are four times more likely to be attending segregated independent living and employment courses for learners with learning difficulties and disabilities than a mainstream accredited course.



The UK Government ratified the Convention in 2009 and as part of that process entered a reservation and interpretive declaration regarding Article 24, reframing its understanding of 'general education system' to include special school settings and the right of the state to send disabled children away from their families where it is considered to be in the child's 'best interests'. We believe that these are both fundamentally incompatible with the object and purpose of the Convention and should be withdrawn.

Article 24 Questions:

- What evidence can the State party provide that it is measuring, promoting and improving the capacity for disabled children and young people including those with Special Educational Needs to be fully included in the mainstream education sector?
- What evidence can the State party provide that it is actively seeking ways to reduce the numbers of disabled children and young people excluded from mainstream education or placed in separate special school settings, units and classrooms, as suggested in General Comment No.4?
- What measures are being taken to ensure that disabled children and young people, including those with Special Educational Needs, are not discriminated against in education? Please include information on the qualifications processes, admissions criterion, exclusion policies and support arrangements?

Article 27 – Work and Employment

The Work and Health programme is replacing the Work Programme and Work Choice but with a substantial reduction in funding. This undermines the Government's stated intention to reduce the disability employment gap.

We have serious concerns about proposals in the Government's Work and Health green paper, which is underpinned by the academically discredited Waddell and Aylward bio-psycho-social model of disability. Measures which are of particular concern include the possibility of mandatory activities for people in the support group, who have more substantial impairment-related needs



than other ESA claimants and have never been subject to compulsory activities before. Initiatives to integrate work and health services involving co-location of work coaches in treatment settings and tying therapeutic interventions to employment targets threaten to negatively impact on Disabled people's access to health services and effective, ethically sound treatment.

We are disappointed that the green paper proposals miss the opportunity to reverse the proposed cut to Employment and Support Allowance for those in the Work Related Activity Group. There is a lack of robust evidence to support the Government's claim that cutting disability benefits will "incentivise" people to move into employment.

Once employment is obtained Disabled people are eligible for Access to Work but 50% of those responding to a recent survey had experienced a change in their package, the majority of which involved a reduction in support. More frequent re-assessments were also experienced, often leading to a reduced award also tighter eligibility criteria for support and a higher burden of proof of need for support. Administrative changes and payment errors by Access to Work are placing customers at risk while the introduction of a cap is effectively limiting the career aspirations of Disabled people with high support needs.

Article 27 Questions:

- Will the State party review its adherence to the bio-psycho-social model as the underpinning approach to welfare reform including consultation with Disabled people and out organisations?
- What steps will the State party take to ensure welfare reform measures do not push Disabled people into unsuitable employment that puts their mental and physical health at risk in accordance with the core rights under Article 27 to "work freely chosen or accepted"?
- How is the State party responding to concerns from professionals in the psychological therapies and mental health service users that initiatives integrating work and health are encouraging unethical and potentially harmful practices?
- Has the State party considered the impact of recent changes to Access to Work including reducing the value of individual awards and



the introduction of the cap on Deaf and Disabled people's rights under Article 27?

Article 28 - Adequate Standard of Living and Social Protection

(Cross-cutting articles - 5, 6, 7, 8, 9, 10, 13, 16, 19, 20, 23, 25, 27, 28, 30, 31)

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

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

There is a weight of evidence linking welfare reform measures to unnecessary harm and adverse impacts to standard of living experienced by Disabled people both directly as a result of changes to benefits and loss of income and indirectly through stress, anxiety and fear. Welfare reform measures have disproportionately discriminated against Disabled people without sufficient mitigations put in place. Instead of supporting Disabled people's "right to the continuous improvement of living conditions", evidence instead shows retrogression.

Disabled people and our organisations have repeatedly requested that the UK Government carry out a cumulative impact assessment of the austerity cuts on disabled people. As a whole, the UK government has been very selective in the way statistics have been published, either by delaying their publication, by providing partial or incomplete figures or selecting the most favourable way to present statistics. In some cases, the UK government is just not collecting data needed to monitor the impact of their policies, as with avoidable deaths of social security claimants, and the quantitative impact of the closure of the Independent Living Fund.

Article 28 Questions:



- What is the State party doing to address levels of poverty experienced by Disabled people and our families who may at times be unable to work?
- What is the State party doing to monitor adverse mental and physical health trends associated with benefit changes?
- How will the State Party ensure that future legislation and policies support Disabled people's rights under Article 28?
- Will the State party carry out a cumulative impact assessment to evaluate the effect on Disabled people of welfare reform measures introduced since 2010?

Article 31: Statistics and data collection

There has been a steady decline in the gathering, collating and dissemination of statistics and data relating to disability over the last 3 years. The Office for Disability Issues, once a well-respected primary source of disability equality data, has not published updated data on disability since 2014 and discontinued the Life Opportunities survey in 2015, which that year showed a decrease in the percentage of Disabled people who felt they had choice and control in their lives.

As well as a failure to update and disseminate general statistics and data on disability there remain persistent gaps in data particularly in relation to the disaggregation of data. There is no data disaggregated, for example, from a gender *and* disability perspective even though disabled women face specific issues and dual discrimination in terms of domestic violence, low paid employment, unemployment and poverty.

The Government has also failed to collect monitoring and evaluation data on the impact of key policies on Disabled people including: impact of social care cuts on Article 19 rights, the impact of sanctions and the benefit cap on Disabled people on the Employment and Support Allowance or Job Seekers Allowance and impact of cuts and operational policies on Disabled peoples Access to Work packages.

Article 31 Questions:



- How does current statistics and data collection meet the requirements of Article 31?
- Why has there been a steady decline in the gathering, collating and dissemination of statistics and data relating to disability since 2014 and what actions will the State party be taking to rectify this?
- What steps will the State party be taking to ensure data on the cumulative and specific impact of key policies and public expenditure cuts on Disabled people are captured, collated and disseminated?

Article 33 – National implementation and monitoring

We are concerned that the disproportionately high and on-going funding cuts to the Office of Disability Issues (ODI) and the Equality and Human Rights Commission (EHRC) have severely weakened the promotion, implementation and monitoring of the UNCRPD and Disabled people's rights more generally.

These funding cuts together with the ending of the statutory status of the EHRC Disability Committee (which will become an ad hoc advisory group), the failure to carry out a cumulative impact assessment of government policies and public expenditure cuts on Disabled people's rights, the failure to update and disseminate key data on disability equality issues including discontinuing the Life Opportunities survey have resulted in a significant downgrading of disability equality as a strategic goal within government.

Likewise, all the proven mechanisms of strategic engagement between the Government and Disabled people and our organisations including "Equality 2025" and the "Network of Networks" have been shut down and replaced with a twice yearly Fulfilling Potential Forum. This forum is not strategic, has explicitly excluded discussion on welfare reform at forum meetings and has a significant number of non user-led Disability charities as members.

There is currently no meaningful strategic engagement between the Government and Disabled people and our organisations.

Article 33 Questions:

- In light of the disproportionately high funding cuts to the ODI and the EHRC how will the State party ensure the ODI as the "focal point" for



Convention matters and the EHRC as the 'UK Independent Mechanism' can meet their functions to promote and monitor the UNCRPD ?

- What evidence does the State party have of changes to policy as a result of strategic engagement with Disabled people and our organisations?
- What changes have been made to strategic engagement mechanisms between Government and Disabled people and our organisations since 2010?

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