**'We must keep banging the drum,' says bus campaigner after five-year fight for justice**

The disabled activist who yesterday won a ground-breaking legal victory that protects the rights of wheelchair-users to travel on buses has said he does not regret the five years he has spent fighting the case through the courts.

[Doug Paulley](https://www.kingqueen.org.uk/), from Wetherby, near Leeds, said he hoped the victory over the public transport giant FirstGroup would be a "morale-booster" for disabled people across the country, who he said were living through "very dark and worrying" times.

But he warned that the barriers facing wheelchair-users travelling on buses were "not going to change overnight".

He said the legal case had been "about achieving cultural change, which is never easy or quick, and it's a struggle to make that happen, and hopefully what lots of people have achieved today is one step towards something approaching cultural change.

"I think it's worth it in terms of the pressure for change and the potential for change; it has got a lot of people thinking and taking about it, which can only improve awareness."

The Supreme Court [ruled unanimously yesterday](https://www.supremecourt.uk/cases/uksc-2015-0025.html) (Wednesday) that First Bus had breached its duty to make reasonable adjustments for disabled people under the Equality Act through its "first come, first served" policy on the use of wheelchair spaces.

It was the first case of disability discrimination in service provision to be heard by the country's highest court.

Paulley had been planning to travel to Leeds to visit his parents in February 2012, but was prevented from entering a bus because the driver refused to insist that a mother with a sleeping child in a pushchair should move from the only wheelchair space.

After he launched a legal case for discrimination, the county court ruled that wheelchair-users should have priority in the use of dedicated wheelchair spaces, and that First Bus's policy breached the Equality Act.

The court of appeal then over-turned that ruling and said instead that a bus driver needed only to request – and not demand – that a non-disabled passenger should vacate the space if it was needed by a wheelchair-user.

But the Supreme Court yesterday ruled unanimously that disabled passengers have a right to priority access over the wheelchair space on a bus - although failing to award any damages to Paulley - and that a driver must do more than simply ask a non-disabled passenger to move.

The ruling should mean that bus drivers are now "required" to ask passengers blocking the space to move, said Paulley, and are then "required to ask them if they have a genuine reason for not doing so if they refuse", and "required" to take measures to pressure them into doing so if they will still not move.

These measures should probably include refusing to drive off for several minutes, in order to shame the passenger blocking the space into moving, although the driver will not have the legal power to throw them off the bus.

Paulley said: "I think the bus industry, the public transport industry and possibly other industries too will be going away and studying this in quite some detail.

"I don't think a lot of it is going to be overnight. I don't think this is going to be a universal panacea.

"It would be nice if it was, but it's a step towards it. We must keep banging the drum."

He said he hoped the government would now make changes to clarify and strengthen the rights of wheelchair-users through the government's bus services bill, which has just started its progress through the Commons.

Penny Mordaunt, the minister for disabled people, said on Twitter immediately after the ruling that she would now be speaking to the Department for Transport "re clarity, good practice & powers a transport operator has to ensure this ruling become a reality".

Alan Benson, chair of London's user-led accessible transport charity [Transport for All](http://www.transportforall.org.uk/) (TfA), welcomed the judgment, although he said TfA "would have liked to see it go further and make it a requirement of the driver to get people to move or a requirement that people move when asked".

He said he was frustrated at the lack of clarity in the judgment - which had different judgments delivered by six of the seven justices - but he said it was still "a day for celebration".

He said: "Today it's about the victory; tomorrow we need to look at what the next steps are.

"I think there are a lot of conversations going on this afternoon about just what it means."

He added: "It is an incredibly difficult climate, where disabled people's rights and freedoms are being chipped away at every day, where disabled people in society are increasingly the victims of hate crime, verbal and physical abuse.

"I think they are looking for every morale boost they can find and I think this has got to be one of them."

Chris Fry, from [Unity Law](http://www.unity-law.co.uk/), who has represented Paulley throughout his legal battle, said the decision establishes what he called the "Paulley Principle": that bus companies have to give priority use of the wheelchair space to disabled customers.

He said immediate changes needed to be made by First Group and other transport companies.

Baroness [Sal] Brinton, the disabled Liberal Democrat peer and party president, and herself a wheelchair-user, said: "I am delighted that Doug Paulley has won this important Supreme Court case.

"The Paulley Principle is vital to make sure that disabled travellers are not treated as second-class citizens.

"In the detail of the judgement, the Supreme Court judges say that there need to be legislative changes to make this happen, not least to give bus drivers the power to require a passenger to move.

"Following the minister’s comments on [my amendments in the bus service bill](http://www.disabilitynewsservice.com/baroness-campbell-vows-to-fight-on-over-access-to-buses/), saying he was waiting for the outcome of this case, I will now be asking him to ensure that the legislation is enacted as swiftly as possible."

David Isaac, chair of the Equality and Human Rights Commission, which funded Paulley's appeal, said: "Public transport is essential for disabled people to live independently, yet bus companies have not made it easy for this to happen.

"This is a victory for disabled people’s rights. The success of this case means bus companies will have to end 'first come, first served' polices, increasing peace of mind for disabled people."

Paulley paid tribute to the years of support he has received that have made the victory possible from disabled people's organisations and individual disabled people and their allies, including Unity Law, Transport for All and the website Mumsnet, all of which had "gone out of their way to support this and make this change".

Paulley said he did not know when he would attempt his next bus journey, following the Supreme Court ruling.

He said the incident with First Bus in 2012 had seriously knocked his confidence about travelling on buses as a wheelchair-user, and the incident still affected him.

He said: "I have various mental health issues... and that fear of confrontation does genuinely cause an issue for me, so I don't know."

**19 January 2017**

**Anger after bus giant 'tries to weasel out' of Supreme Court discrimination ruling**

The bus company at the centre of a ground-breaking Supreme Court case has been accused of trying to "weasel out" of the unanimous conclusion that its policies unlawfully discriminated against wheelchair-users.

Seven Supreme Court justices [ruled yesterday](https://www.supremecourt.uk/cases/uksc-2015-0025.html) (Wednesday) that First Bus had breached its duty to make reasonable adjustments for disabled people under the Equality Act.

The ruling was the culmination of a five-year legal battle by disabled activist Doug Paulley, from Wetherby, near Leeds, who took the case against First Bus - part of the public transport giant FirstGroup - following an incident in February 2012.

Paulley had been planning to travel to Leeds to see his parents, but was prevented from entering the bus because the driver refused to insist that a mother with a sleeping child in a pushchair should move from the wheelchair space.

The county court originally ruled that wheelchair-users should have priority in the use of dedicated wheelchair spaces, and that the "first come, first served" policy of First Bus breached the Equality Act.

The court of appeal then over-turned that ruling and said instead that a bus driver needed only to request – and not demand – that a non-disabled passenger vacate the space if it was needed by a wheelchair-user.

Yesterday, in the first case of disability discrimination in service provision to be heard by the country's highest court, the seven Supreme Court justices unanimously allowed Paulley's appeal, although they did not grant him damages.

They ruled that FirstGroup’s policy that required a driver simply to request a non-wheelchair user to vacate the space, without taking any further steps, was unjustified.

They ruled instead that if a bus driver who had made such a request concluded that the refusal to move was unreasonable, he or she should consider further steps to pressurise them to vacate the space, but short of throwing them off the bus.

Although the Supreme Court justices did not explicitly state in their judgments that First Bus had discriminated against Paulley, the case centred on whether the company's policy was discriminatory under the Equality Act.

And a spokesman for the Supreme Court said that, even though he could not comment any further than the judgment, "it is clear that the court has decided that FirstGroup didn't meet their obligations under the Equality Act 2010".

FirstGroup claimed that it welcomed the ruling, which it said had provided "welcome clarity for bus operators, our drivers and our customers".

But it added: "We recognise how important it is that bus services are accessible for all customers... we are therefore also pleased that the Supreme Court found that we did not discriminate against Mr Paulley."

When Disability News Service asked FirstGroup why it insisted that the Supreme Court found there had been no discrimination, when the ruling was clear that there had been discrimination, a spokesman said this was because no damages had been awarded to Paulley.

And he said the Supreme Court had "made no finding as to whether Mr Paulley had in fact been disadvantaged by our policy of requesting other passengers to move from the wheelchair space".

Paulley said he was angry with FirstGroup's response, and added: "I think they are trying to argue that black is white.

"It's a pathetic policy of trying to weasel out of what is clearly the Supreme Court's intent which was to make it clear that First Bus could and should have done more and that they are culpable for not doing so."

[He had written in his blog](https://www.kingqueen.org.uk): "This case was specifically about whether or not FirstGroup discriminated against me, by failing to make sufficient adjustment to try to ensure that the wheelchair space was available to me, when I needed to travel that day in February 2012.

"It ruled on whether their policies and practices are discriminatory. All seven judges found in my favour.

"FirstGroup were found to be in breach of their duty to make such adjustments. As all agree, a failure to make such adjustments is discrimination, as specifically defined by the Equality Act 2010.

"So how can FirstGroup, in all conscience, claim that the Supreme Court decided that FirstGroup didn't discriminate against me?"

Alan Benson, chair of the user-led accessible transport charity [Transport for All](http://www.transportforall.org.uk/) - which has supported Paulley through his case - said FirstGroup was "wrong" in its refusal to accept that it had been found to have discriminated.

He said: "The appeal was upheld. They didn't do what they should have done. Their press office, their lawyers, can frame it in whatever language they like."

**19 January 2017**

**Government denies missing stats would expose failure of disability strategy**

The government has failed to provide annual figures that could have exposed the failure of its much-criticised disability strategy.

The last time the Office for Disability Issues (ODI) provided an update for its Fulfilling Potential strategy was in November 2015, in [its second annual progress report](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/478912/fulfilling-potential-outcomes-and-indicators-second-progress-report.pdf).

That report provided a series of measurements for how well the government was doing in achieving disability equality across social participation, education, employment, income, choice and control, housing, transport and other areas.

Because most of the sources of its data used a definition of disability taken from the Equality Act, rather than its predecessor legislation, the Disability Discrimination Act, the 2015 report said that the figures could not be directly compared with previous years.

Instead, the report said, figures showing how disabled people's experiences had changed during that year would be produced in 2016.

But no such figures have been published.

[Separate research by the Office for National Statistics](http://www.disabilitynewsservice.com/choice-and-control-have-plunged-under-tories-say-government-figures/), included in an ODI report in August 2015, had shown the proportion of disabled people who said they frequently had choice and control over their lives had plunged from 76 per cent in 2008 to just 65 per cent in 2014, a fall of more than 14 per cent (or 11 percentage points) in just six years.

There will be concerns that the government has failed to publish updated figures because they would show further such falls and demonstrate that cuts to spending in areas such as social care, including the closure of the Independent Living Fund, and disability benefits, are having a damaging effect on disabled people's right to independent living, and their access to education, housing, transport and other services.

The failure to publish the figures also casts fresh doubt on the government's commitment to Fulfilling Potential, which was launched in 2012, and to the ODI itself.

[Last February, ODI announced](http://www.disabilitynewsservice.com/ministers-withdraw-support-from-their-own-disability-network/) that it was withdrawing much of its support from a disability network it set up only three years earlier as part of Fulfilling Potential, a move that civil servants described as a cost-cutting measure.

ODI said that it would no longer provide the four part-time members of staff who ran the secretariat for the [Disability Action Alliance](http://disabilityactionalliance.org.uk/), and would instead hand a one-year grant of £69,500 to the user-led charity [Disability Rights UK (DRUK)](http://www.disabilityrightsuk.org/) to run the network.

Meanwhile, women and equalities minister (and education secretary) Nicky Morgan (who has since been sacked) [said last July](http://www.disabilitynewsservice.com/governments-response-to-equality-act-report-is-disgusting-travesty/) that the government would be reviewing the disability strategy over the summer and autumn.

She made that comment as part of her response to [an inquiry by a House of Lords committee](http://www.parliament.uk/business/committees/committees-a-z/lords-select/equality-act-2010-and-disability/) into the impact of the Equality Act on disabled people, which concluded that the government was failing to protect disabled people from discrimination.

A Department for Work and Pensions spokeswoman declined today to say if the government was planning to scrap Fulfilling Potential.

But she said in a statement: "We are committed to improving the lives of disabled people and increasing their participation in society.

"The Lords select committee and other reports have highlighted that disabled people expect different outcomes to the ones in 2013 for Fulfilling Potential, and we continue to explore ways of ensuring that disability rights are a reality for all disabled people.

"After taking account of feedback from disabled people’s organisations about the value of the Fulfilling Potential outcomes and indicators framework, we decided not to publish an update last year.

"We are exploring alternative options to provide more user-friendly and appropriate information for disabled people.

"We spend more on disabled people and people with health conditions (nearly £50 billion) than the OECD average, and countries such as Canada, France and the USA, according to the OECD itself."

She denied that the failure to publish the updated figures made it look as if the government had something to hide.

She said that DWP "publishes a wide range of data about disabled people on GOV.UK each year including on welfare, expenditure, and the prevalence of disability.

"The framework also uses a range of other data sources which are available online."

She said the government was "obviously committed to the Office for Disability Issues and they continue to work with the minister for disabled people on a range of issues across government".

She added: "The move of the Disability Action Alliance from the Office for Disability Issues to other member organisations was part of a natural progression for the alliance.

"The Office for Disability Issues continues to play an active role within the alliance, sitting on the steering group and actively supporting its flagship project on disabled people in public life."

Asked whether the decision to update the ODI website just four times in 2016, compared to 18 in 2015, signified a falling level of commitment to its work, the spokeswoman stressed again the government's commitment to ODI, and added: "Updates to the website are not indicative of the breadth of work they do, nor do they reflect all of the collaborative projects they are working on at any given time."

**19 January 2017**

**Department of Health ignores NHS continuing healthcare human rights warnings**

Campaigners have warned more than 40 NHS primary care organisations across England that policies which could see service-users with complex healthcare needs forced into institutions are a breach of disabled people's human rights.

Despite the warning, the Department of Health last night (Wednesday) refused to say if it had any concerns about the policies on NHS continuing healthcare (NHS CHC), or whether they complied with its own guidelines.

Research on the policies, [published last week](http://disabilityunited.co.uk/2017/01/nhs-staff-can-decide-disabled-people-live-even-choice/) by disabled campaigner Fleur Perry, showed at least 44 clinical commissioning groups (CCGs) - and probably many more - would be willing to move disabled people with high-cost support packages into residential or nursing homes against their wishes.

Perry, who edits the website [Disability United](http://disabilityunited.co.uk/), is herself a recipient of NHS CHC.

Her research, using freedom of information requests, showed that the 44 CCGs had drawn up policies containing "concerning" phrases that suggested they would move disabled people eligible for NHS CHC out of their homes and into institutions against their wishes, even if the cost of a homecare package was only slightly more expensive than residential care.

Most of the other CCGs that responded to her requests said they relied on the Department of Health's [National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213137/National-Framework-for-NHS-CHC-NHS-FNC-Nov-2012.pdf), and the NHS England [Operating Model for NHS Continuing Health Care](https://www.england.nhs.uk/wp-content/uploads/2015/03/ops-model-cont-hlthcr.pdf)\*.

Perry's research has alarmed disabled activists and other campaigners for independent living.

[Jenny Morris](https://jennymorrisnet.blogspot.co.uk/), a member of the Independent Living Strategy Group, which is chaired by the disabled crossbench peer Baroness [Jane] Campbell, said the group was "extremely concerned" by the research.

Morris, who helped write the Labour government’s Improving the Life Chances of Disabled People white paper, said: "This is taking us back to a time when disabled people were not considered to be equal citizens.

"It is also a denial of human rights to a private and family life, and a direct contravention of article 19 of the United Nations Convention on the Rights of Persons with Disabilities, which states that disabled people have the 'right to live in the community with choices equal to others'.

"The UK government has signed up to and ratified this convention and CCGs as public bodies should not be taking decisions such as this."

Rob Greig, [chief executive of the National Development Team for inclusion](http://www.ndti.org.uk/about-ndti/ndti-people/rob-greig/) (NDTi) - which works with charities and government departments, including the Department of Health, to promote inclusion and independent living - said the research was "seriously concerning".

He said it was not a surprise that such policies existed but he was surprised at "the blatancy with which it was acknowledged [by CCGs] and the extent to which it was found".

Greig, a former national director for learning difficulties and currently a member of the Equality and Human Rights Commission's (EHRC) disability committee, said he would bring Perry's research to the EHRC's attention this week.

But he said that, because of the continuing reductions in EHRC's budget and its expertise on disability, he was not sure if it had the "capacity to continue to raise and take up issues such as this".

He said that NHS England needed to be "asking questions of those authorities that have responded in this way", and added: "If they are breaching human rights then the human rights legislation needs to be brought into play."

He said the culture within the health sector meant health professionals "don't automatically think of the human and civic rights arguments when it comes to designing people's services".

He added: "Therefore it's not right but perhaps not surprising that the healthcare system will not consider the impact on people's rights and personal autonomy when deciding what sort of service they want to put someone in."

In response to one NHS consultant who suggested on Twitter that the solution to the CCG policies was for people receiving NHS CHC to ask for a personal health budget (PHB) - giving them control over how their CCG funding was spent - Greig said this might be a solution for only a limited number of people.

He said: "I think it's on record that the number of people receiving personal health budgets is pretty low at the moment.

"In the right circumstances it might be a solution for some people. It would not be accurate to say that it could be a widespread solution to this."

Greig suggested that using a PHB might only work if someone receiving NHS CHC, with a support system in place, was able to use the flexibility provided by a PHB to spend their allocated budget "in a more cost-effective way", but only if the CCG was not allocating resources to those receiving PHBs from a perspective of "we are doing this to save money".

Sue Bott, deputy chief executive of [Disability Rights UK](https://www.disabilityrightsuk.org/), said: "PHBs are certainly the way to gain control over how your health needs are met, but we do need to challenge those CCGs who have a policy of limiting PHBs to the cost of residential care.

"CCGs need to understand the principles of independent living and how meeting support needs contributes to disabled people’s right to be full citizens in their communities."

A Department of Health (DH) spokeswoman refused to say if DH was concerned about the 44 policies or if it believed they complied with its framework\*.

But she said in a statement: "Every person with complex needs should be offered the right level of care for them, in the right environment.

"We expect all CCGs to follow the National Framework for NHS Continuing Healthcare\*, and continued independence should be considered as part of the overall approach to care planning."

She added: "As CCGs are statutory bodies in their own right, it does not fall to the Department of Health to approve an individual CCG's approach.

"All CCGs are provided with national guidance which helps inform their policies.

"From 2015 to 2016, NHS Continuing Healthcare has been included in the quality assurance processes for CCGs.

"This will help make sure that all CHC assessments are consistent across the NHS, and that they comply with the CHC National Framework."

NHS England had failed to comment by noon today (Thursday).

*\*The NHS England operating model stresses that "personalisation should be at the heart of all NHS Continuing Healthcare assessments and the provision of care and support", and calls for "innovative, personalised packages of care".*

*The Department of Health national framework says CCGs "should commission services using models that maximise personalisation and individual control and that reflect the individual’s preferences, as far as possible", and that although cost can be taken into account, it "has to be balanced against other factors in the individual case, such as an individual’s desire to continue to live in a family environment".*

*The framework points to* [*a 2005 human rights legal case*](http://www.in-control.org.uk/media/33617/independent%20user%20trust%20judgement%20.pdf) *in which the high court found that forcing a woman who needed constant nursing care into an institution would infringe her right to a family life under article eight of the* [*European Convention on Human Rights*](http://www.echr.coe.int/Documents/Convention_ENG.pdf)*, and that article eight should be given "considerable" weight in such cases, although the cost of a package "is a factor which can properly be taken into account".*

**19 January 2017**

**Sayce announces retirement, as 'she is shortlisted' for EHRC appointment**

The chief executive of the UK's most prominent national disabled people's organisation (DPO) has announced that she is to retire from her post.

Liz Sayce has headed Disability Rights UK (DR UK) [since it was formed in 2012](http://www.disabilitynewsservice.com/radar-ncil-and-da-set-to-merge-trio-want-a-stronger-voice/) through a merger of three other organisations - RADAR, the National Centre for Independent Living, and Disability Alliance - and was previously chief executive of RADAR.

She said that she had decided that "the time is right to retire from full-time work" and "work at a different pace", and would leave her post at the end of May.

But Sayce said this morning (Thursday) that her retirement was not connected with the current recruitment of a new disability commissioner for the Equality and Human Rights Commission (EHRC) - an appointment due to be announced by the government this month - after a source suggested that her name had been on the shortlist.

Sayce had not clarified by 1pm today whether she had been on the shortlist, or indeed whether she was set to be EHRC's new disability commissioner.

Earlier in the week, she told Disability News Service that she was most proud, firstly, of helping to bring together "three organisations of quite different cultures and priorities" and creating a single organisation with "one clear philosophy and objectives, and an organisation that is led by disabled people" and has "real influence and strength".

Sayce said that 86 per cent of DR UK's trustees and more than three-fifths of its staff had lived experience of disability, while all of its voting members were disabled people or DPOs.

Secondly, she said, she was proud of securing funding for "innovative work" [such as the DRILL programme](http://www.disabilitynewsservice.com/funding-set-to-help-researchers-drill-down-into-independent-living-barriers/), which is "about disabled people creating our own knowledge, which I think could have far-reaching impact".

She said: "As well as the important campaigning, what we want to do is really move the agenda forward and I think we have made a start on that."

She also pointed to other DR UK projects, such as its [I Can Make It campaign](https://www.disabilityrightsuk.org/how-we-can-help/i-can-make-it) to create new job opportunities for young disabled people, and its [Leadership Academy](https://www.disabilityrightsuk.org/how-we-can-help/leadership).

She said: "It feels like an important first stage for the organisation has been achieved.

"For me, personally, it feels like the right time to move on. I am ready for a different phase of life.

"I am going to remain very interested in disability rights, but it's time for me to move on from being in an executive role running an organisation, having done that for 10 years."

Sayce said that she would like to do more "writing and thinking" after her retirement, although she has not yet decided what she will write about.

She confirmed that her replacement would be another disabled person, and said that DR UK's board would be likely to recruit a replacement who would take forward their strategic plan for 2016-19.

She added: "Having said that, the world is always changing, and a new person will come with new ideas."

She said that one of the biggest challenges facing her successor would be how to ensure that DR UK "has real presence and networks and engagement across the country and is not just a sort of London-based, policy-type organisation but really has links and networks around the country".

One of her regrets, she said, was that she had not been able to spend more time herself with other DPOs around the country, something the board had said would be a priority for DR UK's "next phase".

Another challenge will be to ensure there continues to be a "diverse funding mix", as DR UK had "worked quite hard to ensure we are not overly dependant on resources from one particular source" and to "spread the income for purposes of sustainability".

She said that DR UK was now in a "sustainable financial position", and was expecting to report a financial surplus this year (as it had last year), following past [concerns about the charity's pensions deficit](http://www.disabilitynewsservice.com/disability-rights-uk-staves-off-threat-from-pensions-black-hole/).

That deficit arose unexpectedly following fluctuations in the financial markets, as a result of a final salary pension scheme which been closed to new members by RADAR years before DR UK's formation, a situation which she said had been "very challenging" and had meant spending "a huge amount of time and energy on sorting that out".

Sayce accepted that DR UK had not had a close relationships with the disabled people's anti-cuts movement, such as [Disabled People Against Cuts](http://dpac.uk.net/), but she said there were signs of improvement.

She said: "There has been some fragmentation [across the sector]. I think there are the beginnings of a desire for more coming together to see where there are areas where we can agree and where we can push in a more united way."

One such group, she said, had been convened by the disabled crossbench peer Lord [Colin] Low.

Lord Low's Disability Fightback group, which also involves Sayce, Sir Bert Massie, Baroness [Jane] Campbell, and more than 30 disability charities, as well as a representative of the Spartacus online campaign group, and the DPO Inclusion London, representing the Reclaiming Our Futures Alliance (ROFA), a national anti-cuts network of user-led organisations.

Tracey Lazard, chief executive of [Inclusion London](https://www.inclusionlondon.org.uk/), said Disability Fightback appeared to involve only two DPOs, and was focused more on "getting the charities to up their game and be more vocal in their oppisition to government".

She said: "If it was a genuine attempt to get a group to really involve DPOs it is woefully falling short.

"DPAC is not represented and we are the only DPO representing ROFA."

She said Inclusion London would continue to be involved in Disability Fightback but would not waste energy trying to encourage non-user-led charities to be more critical of the government "because they have shed-loads more resources than we have and we are far more effective in being the authentic voice of disabled people and their organisations".

But she said ROFA would "welcome the charities working on the priorities of disabled people themselves and that's the purpose of our involvement in Disability Fightback, along with [pushing] the principles of the social model of disability and a human rights approach."

Sayce said there had also been a meeting of chief executives of DPOs and of members of the Disability Charities Consortium, to "explore whether there are areas where we can speak more with one voice", although one of the DPOs that attended said it had not reached agreement on any key issues.

She said: "Sometimes there are differences of view [across the sector] of what we are actually aiming for.

"Often there are differences of view about how we should go about things and I think if we can debate those, sometimes we can do things in a very complementary way.

"I think the beginnings of those dialogues are really, really important. Long may they continue and grow.

"Very often the objectives are the same, but people go about things in different ways and then disagree about that."

Sayce [had said earlier, in a statement](https://www.disabilityrightsuk.org/news/2017/january/important-message-dr-uk-ceo-liz-sayce), that she and DR UK had "worked with partners to shape debate, inform policy and campaign" during her time in charge, including raising the profile of peer support for employment, as well as "influencing apprenticeships to be more inclusive and campaigning successfully for specific changes to proposals on issues including personal independence payment, housing benefit and social care".

But she warned that there had been "a damaging slippage in debate on disability to seeing support in terms of protecting so called 'vulnerable' people - rather than support being a springboard to equal participation, an investment in people's potential.

"And the prevalence of poverty amongst disabled people places deep restrictions on participating in ordinary activities in our communities.

"On top of that, many DPOs struggle financially with sustained cuts in public funding."

Anna Beales, chair of DR UK, paid tribute to Sayce's work, and said: "We're very sorry to see Liz go, but appreciate the reasons why and wish her all the very best in her retirement from full-time work.

"We are grateful for the time, energy and commitment she has brought to both RADAR and Disability Rights UK over the years, as well as the wider sector.

"She will leave us with a solid legacy which we will continue to build on, and ensure that DR UK continues to be 'disabled people leading change'."

**19 January 2017**

**Fresh evidence that DWP bars email communication from disabled claimants**

Fresh evidence has emerged that the Department for Work and Pensions (DWP) has refused to allow benefit claimants to communicate via email, despite its claims that it allows disabled people with "valid reasons" to do so.

Last week, one disabled PIP claimant, Mark Lucas, [told how he was taking legal action](http://www.disabilitynewsservice.com/pip-claimant-set-to-take-dwp-to-court-over-refusal-to-allow-him-to-use-email/) against DWP for refusing to allow him to communicate with its civil servants via email as a reasonable adjustment under the Equality Act.

DWP insisted in its response that "claimants are entitled to request to receive all communications from the department by email on the grounds of disability under the Equality Act 2010".

But after Lucas's story was published, other disabled people have come forward to cast doubt on that response, and have described how DWP has refused to let them deal with their benefit claims by email.

One claimant, disabled campaigner Graham Kirwan, who represents Dudley Centre for Inclusive Living on accessible information issues, told Disability News Service (DNS) that DWP paid him £1,700 damages to settle his claim against the department for refusing to communicate with him by email over his personal independence payment (PIP) claim.

In settling the case, which Kirwan took himself as a "litigant in person", DWP admitted that it had failed to make reasonable adjustments for him, stating: "The Department accepts that it has not sent you communications in your required format and that it has taken an unreasonably long time to agree and make the reasonable adjustments you have requested."

Kirwan had previously been a long-term claimant of disability living allowance (DLA), but had his payments suspended when he failed to respond to letters asking him to apply for PIP, its working-age replacement, letters that he says he never received and that would not have been accessible to him anyway.

Kirwan, who is partially-sighted, has computer software that can magnify text, but it does not usually work with scanned or PDF documents.

He was told by DWP to use the charity Citizens Advice to help with his PIP application, but he wanted to fill it in himself so he could be sure the answers were accurate.

Now, thanks to his legal victory, Kirwan - who was also responsible in 2015 for persuading NHS England to publish its first [accessible information standard](http://www.england.nhs.uk/accessibleinfo), thanks to another legal action - has secured a promise that DWP will communicate with him only via email.

Another disabled benefit claimant, David\*, told DNS this week how DWP has repeatedly refused to allow him to communicate via email, even though he can become easily confused on the telephone.

He said: "It significantly discriminates against me as I am unable to either reliably answer the phone, or when I do so answer questions reliably and sensibly, causing both immediate stress and worsening of my conditions, and the real likelihood of bad decisions."

Dr Sarah Campbell, principal co-author of the Spartacus report, which led to the [We Are Spartacus online movement](http://wearespartacus.org.uk/), has been told "many times" by DWP that it will not allow her to contact the department by email - rather than by telephone and post - when she is eventually transferred from DLA to PIP.

She [first raised concerns in 2013](http://www.disabilitynewsservice.com/government-admits-there-can-be-no-pip-online-applications/) that DWP was not allowing claimants to apply for PIP online.

At the time, DWP said it was "working with disability groups and claimants as PIP is rolled out to see which parts of the process should be made online, and this is likely to be put in place after the independent review in 2014".

But Campbell said: "It seems nothing has changed since the issues were raised. I know I will struggle with the initial phone call (concentrating for that long is difficult and I am concerned I will provide wrong info) and then there is the form itself.

"I have contacted the DWP many times about this from the moment PIP was introduced.

"I have categorically been told every time that I cannot contact them electronically, nor can I send an electronic version of the form."

A fourth claimant, Susan\*, has told DNS how DWP has repeatedly refused to allow her to communicate via email, even though she cannot use the telephone.

The way she gets around this is by emailing the DWP complaints department, and asking it to forward her email to the relevant benefit team.

DNS has seen one email to Susan from the DWP complaints department in 2013 in which the civil servant says: "I can assure you that I have requested an urgent response from Newcastle Benefit Centre but I am unable to confirm that it will be today and unfortunately customers are only able to contact the Benefit Centres either by post or phone."

Another, from 2015, confirms that her local benefit centre does "not have a central email address for claimant contact".

Lucas advised other disabled claimants who face a DWP refusal to allow them to communicate via email to take similar legal action to his.

He said that some claimants in England and Wales who face discrimination might be able to use legal aid to secure free and confidential advice from [Civil Legal Advice](https://www.gov.uk/civil-legal-advice).

DWP has declined to comment on the fresh evidence provided by DNS, despite having more than two days to do so.

A DWP spokesman had asked if the deadline could be extended to the end of today (Thursday) - about six hours after DNS's weekly stories are sent to subscribers - because DNS had already submitted requests for DWP comments on two other detailed stories this week.

When it was pointed out that this would not be possible, he directed DNS to the DWP comment on last week's story.

DWP said in its statement last week: "Claimants are entitled to request to receive all communications from the department by email on the grounds of disability under the Equality Act 2010.

"When such a request is received, it must be for a valid reason which relates to the individual’s disability, that is, the customer finds it more difficult or they are unable to communicate and use our services through usual communication and contact routes because of their disability.

"We would also seek to explore whether alternative adjustments (eg large print/Braille) may suffice, but if this is not possible then email communications may be agreed.

"We don’t email claimants as a matter of course due to the potential risks these pose to citizens and DWP.

"In addition DWP must operate within its legislative framework and follow our business processes including records management. Therefore email correspondence must be carefully managed."

*\*Not their real names*

**19 January 2017**

**Solicitor general appeals sentences on 'disability hate crime' murder**

The solicitor general has agreed to appeal the allegedly "unduly lenient" sentences handed down to three people jailed for offences connected with the murder of a disabled man who was imprisoned and tortured to death.

But the solicitor general, the Tory MP Robert Buckland, has refused to appeal against the sentence handed to James Wheatley, the man who murdered 24-year-old Lee Irving.

His decisions have caused further confusion about the law on sentencing disability hate crimes, and its application by the criminal justice system.

Wheatley, 29, from Kenton Bar, Newcastle, repeatedly kicked, punched and stamped on Irving in attacks that took place over nine days, leaving him with multiple broken bones and other injuries.

After he died, his body was taken on a pushchair through a housing estate and dumped on a patch of grass near the A1.

Wheatley was found guilty of murder and was sentenced to life in prison, and will have to serve at least 23 years.

But if the murder had been dealt with by the judge as a disability hate crime, he would have had to serve a minimum of 30 years in prison.

Three other defendants – Wheatley’s mother Julie Mills, 52, girlfriend Nicole Lawrence, 22, and lodger Barry Imray, 35 – were also jailed for offences connected with Irving’s death, Mills to eight years, Lawrence to four years, and Imray to three.

Northumbria police and the Crown Prosecution Service (CPS) had treated Irving’s death as a disability hate crime, but the judge had instead increased Wheatley’s sentence on the less serious basis of Irving’s "vulnerability", after deciding there was not enough evidence to prove any of the offences were motivated by disability-related hostility.

Lee’s aunt, Lisa Irving, told Disability News Service that the family were "immensely thankful that the attorney general has decided to reopen this case".

She joined with the [Disability Hate Crime Network (DHCN)](https://www.facebook.com/groups/disabilityhatecrimenetwork/?fref=ts) late last year to write to the attorney general to ask him to appeal the sentences on the grounds that the offences were disability hate crimes\*.

She said last night (Wednesday): "The trial was particularly harrowing for our family and friends to endure, though it was important we attended and showed our support.

"This concluded with what we believed to be inadequate sentencing, not just for Julie and Nikki, but for James also."

She believes that Imray, who himself has learning difficulties, was probably a victim of disability hate crime himself and was forced by Wheatley to help him cover up his crimes.

She added: "To be told the motivation for the murder was not Lee’s disability is hard to comprehend.

"Lee was targeted, manipulated and isolated because of his disabilities.

"Someone without Lee’s condition would have been able to potentially spot signs of danger, as well as able to remove themselves from any harmful situation.

"Make no mistake, this was very much a crime motivated by disability."

She added: "No words will ever portray the hurt and anguish [of] Lee’s death to the full extent, but it is imperative that the correct sentences are handed out for our sense of closure and justice, as well as a deterrent for others, so it is particularly disappointing that James' sentence has not been re-examined."

CPS also wrote to the attorney general late last year, "to seek leave to appeal the sentences of Barry Imray, Julie Mills and Nicole Lawrence, on the grounds that the original sentences did not adequately reflect the severity of their offending".

But a CPS spokesman had failed to say by 1pm today (Thursday) whether part of its argument was that the offences should have been sentenced as disability hate crimes, and why it did not seek leave to appeal Wheatley's sentence.

Anne Novis, a DHCN coordinator who leads for [Inclusion London](https://www.inclusionlondon.org.uk/) on disability hate crime, said she was disappointed that the Wheatley sentence had not been referred to the court of appeal, although she welcomed the decision to look again at the sentencing in the other cases.

She said the case highlighted the continuing confusion in the criminal justice system about its treatment of "vulnerability" and disability hate crime.

She said she hoped that the issue of disability hate crime would be addressed in the appeal hearing, but she added: "Being so disappointed in the past around sentencing, I wouldn't get my hopes up in respect of a just outcome."

A spokeswoman for Buckland has declined to say whether disability hate crime played any part in the decision to appeal.

She confirmed that the sentences for Mills, Lawrence and Imray had been referred to the court of appeal under the [Unduly Lenient Sentence scheme](https://www.gov.uk/government/news/unduly-lenient-sentence-scheme-ensuring-justice-for-victims-of-crime-and-their-families--2), with the hearing set for 7 March.

She added: "After careful consideration, the solicitor general has decided not to refer the life sentence passed on James Wheatley to the court of appeal.

"He concluded that the minimum term of 23 years to be served by the offender before he will be considered for release would not be increased by the court of appeal."

She said she could not comment on "the arguments in respect of the three sentences", which "will be set out by counsel at the court of appeal hearing".

*\*Section 146 of the Criminal Justice Act 2003 imposes a duty on the court to increase sentences for offences motivated by disability-related hostility, while the Legal Aid, Sentencing and Punishment of Offenders Act 2012 doubles to 30 years the starting point for sentences for disability hate crime murders*

**19 January 2017**

**Equality watchdog puts 18 questions on access to every Premier League club**

The equality watchdog has asked every Premier League football club to explain how they are complying with their legal duties to provide reasonable adjustments for disabled supporters under the Equality Act.

Rebecca Hilsenrath, chief executive of the Equality and Human Rights Commission (EHRC), wrote on 21 December to all 20 Premier League clubs, asking them to answer 18 questions about how they were complying with the act.

The clubs have until 10 February to reply to the questions, but EHRC has warned that it will take legal action against any clubs that cannot prove they are complying with the law.

EHRC released the contents of its letter this week as the Commons culture, media and sport committee published its [report into the accessibility of sports grounds](http://www.parliament.uk/business/committees/committees-a-z/commons-select/culture-media-and-sport-committee/news-parliament-2015/accessibility-sports-stadia-report-published-16-17/).

The committee's report says that it is "completely unacceptable that a number of Premier League clubs - some of the richest sporting organisations in the UK - have failed to carry out even basic adaptations in over 20 years".

It adds: "It is high time that sports clubs, particularly those with available finance such as those in football’s Premier League, changed their mindset."

The Premier League promised in 2015 that every one of its clubs would meet strict access standards by August 2017.

It is due to release its own report this month on the progress made by each club, but [Disability News Service reported two weeks ago](http://www.disabilitynewsservice.com/premier-league-club-admits-it-will-break-promise-on-wheelchair-spaces/) that Watford had already admitted that it would breach the Premier League's pledge.

The committee says in its report that it is "not convinced that the Premier League would impose suitable penalties" on clubs that fail to meet the pledge.

And it says that it supports EHRC's promise to take legal action against any clubs that "continue to flout the law".

The disabled supporters’ charity [Level Playing Field](http://www.levelplayingfield.org.uk/) welcomed this week's report and said that it "validates many of the issues LPF has been campaigning for", including the lack of accessible information, difficulties booking tickets, inaccessible transport, availability of appropriate seating and provision for fans with hearing and sight loss.

Tony Taylor, chair of Level Playing Field, said: "This hard hitting report confirms what we as an organisation have been saying for many years - that all too often, disabled sports fans have an inequality of matchday experience.

"We know from our own personal experiences that attending a football match or other sporting event really does make a difference for disabled people.

"We will continue to provide expert, user-led advice to clubs to facilitate this, but also to ensure that disabled fans do not have barriers placed before them when buying their tickets and can turn up at a game with the minimum of fuss, taking their place alongside fellow supporters to support their teams.

"Surely, in the 21st century, that is not too much to ask?"

Damian Collins, the Tory MP who chairs the committee, said: "When we see examples of good practice at some clubs that are already providing disabled supporters with a good experience when they attend matches, it is especially disappointing that some of the rich clubs are not doing more.

"Sports fans with disabilities are not asking for a large number of expensive changes - only to have their needs taken into account in the way sports stadia are designed and operated."

He warned that clubs should consider it "a reputational risk - and one which sponsors would have to take seriously - if clubs continue to fail to engage with reasonable adjustments and are also therefore actually in breach of the law".

In October, the Premier League was branded dishonest by the equality watchdog’s disability commissioner, Lord [Chris] Holmes, over its attitude to access and inclusion.

[He told MPs on the committee](http://www.parliamentlive.tv/Event/Index/29f2247a-dc89-4cad-89a9-df353ad7f110) that there had not been "anything like an inclusive culture" in the Premier League and among Premier League clubs, which was "a great shame when it is our only national game".

Among the 18 questions EHRC has put to the 20 Premier League clubs, it has asked clubs to provide a dated copy of their most recent accessibility audit, and the dates of all previous such audits since 2003; details of measures taken to assist disabled supporters to travel to, enter and exit their stadium; and the number and location of their spaces for wheelchair-users.

EHRC also asked the clubs for evidence that these issues had been discussed at senior levels in the last 18 months.

Once it has analysed the information, the watchdog plans to publish a report on its website, alongside the names of any clubs that have failed to respond to its questions.

David Isaac, EHRC's chair, said: "Disabled fans have been patronised for decades with every excuse in the book: that there is no demand for disabled access tickets, old stadia cannot be adapted, and even new stadia and stands won’t be compliant for years.

"These clubs are not only breaking promises to their die-hard fans, they are breaking the law."

He added: "Let’s be clear, teams who are non-compliant will face legal action."

In a statement, the Premier League said: "The clubs are working hard to enhance disabled fan access and facilities in their stadiums.

"The scale and scope of the commitment made by clubs in this area is unprecedented for a single sport or sector, and the timescale is ambitious.

"Following consultation with specialist architects, extensive improvements are being undertaken and rapid progress is being made.

"At some grounds, particularly older ones, there are challenging built environment issues and, given that stadiums are in use throughout the football season, there is a limited period in which significant structural work can be done.

"For the clubs which are working through those challenges, cost is not the determining factor.

"Instead they are working through issues relating to planning, how to deal with new stadium development plans, how best to manage fan disruption or, in certain cases where they don't own their facility, having to work with third parties.

"At the end of this month we will present to the Department for Culture, Media and Sport, the Department for Work and Pensions, EHRC and the culture, media and sport select committee an interim report which details each club's progress ahead of a final report due in August.

"It of course remains the case that it falls to the EHRC to form its own view as to whether the adjustments being made are reasonable, as required by legislation."

**19 January 2017**

**News provided by John Pring at** [**www.disabilitynewsservice.com**](http://www.disabilitynewsservice.com)