**Second Follow Up Submission to the 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**

# Introduction

1. This submission has been put together by Disabled People Against Cuts and Inclusion London, who are both members of the Reclaiming Our Futures Alliance, an England-wide network of grassroots Deaf and Disabled People’s Organisations.

# Terminology

2. We use the term “Disabled people” rather than the term “persons with disabilities” as employed by the UNCRPD. This respects the theory, principles and terminology agreed by the UK Disabled people’s movement. It does not conflict with the definition of disability used by the UNCRPD. Similarly, we use “learning difficulties” and “people with “mental health conditions/support needs” rather than “people with intellectual/psychosocial disabilities” to respect the self-identification of these groups in the UK.

# Executive Summary

3. Since the publication of the Disability Committee’s inquiry report in November 2016, new measures have been adopted in relation to matters covered by the inquiry which are having an adverse impact on Disabled people. These are in addition to the continuing harm being caused by the measures that were subject to investigation through the inquiry. The UK Government had not changed its approach to welfare reform which is contrary to a human rights model of disability[[1]](#footnote-1).

4. Nevertheless, there are opportunities as outlined below which could influence change. Moreover, the inquiry has had a positive impact in raising awareness of the retrogression of Disabled people’s rights and the importance of the UNCRPD as a progressive tool, for example, on 2nd December 2016, the Scottish Government adopted a national action plan to implement the UNCRPD while the Labour party manifesto for the recent General Election in June 2017 made a commitment to enshrine the UNCRPD in domestic legislation.

**New legislation/policy/implementation measures since November 2016**

5. There have been no new policies or legislation relating to the commissioning and delivery of social care since the Care Act 2014. The Care Act is not being implemented. Inadequate funding for social care is a major reason for this. The future funding of social care is subject to consultation with a view to formulating new policy. There is major concern that current proposals will lead to even greater inadequacies in social care funding. Disabled People’s Organisations are lobbying to ensure consultation will address the costs of adequate independent living support for working age Disabled adults.

6. The Prime Minister has been strong on rhetoric about the need to address the treatment of people with mental health support needs, yet has dismissed calls for greater funding, and failed to either acknowledge the impact of cuts or announce measures capable of addressing the growing crisis in mental health support provision. The Government has committed to reforming mental health legislation with a review of the Mental Health Act 1983.

7. The Department for Work and Pensions and Department of Health ran a consultation from October 2016 until February 2017 seeking views on how to halve the disability employment gap and outlining new measures which will further extend conditionality so that, with few exemptions, all Disabled people claiming out of work benefits will be required to engage in mandatory work related activity.

8. Since November 2016 a number of new measures have been introduced which further impact on Disabled people’s standard of living and social protection. These include the lowering of the benefit cap, changes to Personal Independent Payment (PIP) regulations restricting eligibility, the implementation of the cut to Employment Support Allowance (ESA) for new claimants in the Work Related Activity Group (WRAG) and three other benefit cuts brought in on 1 April 2017 that were subject to no prior announcement, impact assessment or consultation.

**Concrete impacts of new measures**

9. The roll out of the Health and Work Conversation is in an early stage but early indications suggest it will increase stress and distress experienced by claimants and will act as a further barrier preventing Disabled people unable to earn a living from paid employment from accessing adequate levels of social protection.

10. No data is collected relating to the impact of the benefit cap on Disabled people but analysis by the DWP suggests that 3,100 households with someone claiming ESA were already affected by the benefit cap, and they and others are now affected by its further reduction.

11. According to the Government’s own Equality Analysis, 164,000 claimants in the current caseload (14%) will have support reduced or removed as a result of the regulation changes to Personal Independence Payment (PIP). Of these 143,000 claimants will lose support altogether. The main group of Disabled people affected are people who experience psychological distress. Reducing or removing PIP from people with mental health support needs in this way will adversely impact on their ability to travel and access support to manage their condition.

12. The cut to Employment and Support Allowance (ESA) rates for Disabled people in the Work Related Activity Group (WRAG) cut was introduced for new claimants from 1 April 2017 and as yet there is no data relating to its specific impact. However, it is reasonable to assume that reducing this benefit by one third will have an adverse impact on Disabled people.

**Further deterioration**

13. The situation in social care and mental health support provision has further deteriorated, with a direct adverse impact on independent living for Disabled people with learning difficulties, physical and sensory impairment and mental health support needs.

14. The UK is facing a social care funding crisis. The social care market is dangerously unstable with unsustainable staff shortages and care companies handing contracts back to Local Authorities due to insufficient funding. Evidence suggests we are reaching a tipping point which will mean even more poor social care support, less choice and more unmet need.

15. In order to make savings, many Local Authorities have brought in or increased their charges for social care services. Disabled People’s Organisations are concerned about Disabled people going without social care support they need because they cannot afford the charges.

16. Increasing cuts to social care support are eroding Disabled people’s right to independent living. Disabled people are reporting significantly reduced levels of choice and control over their support. Personal budgets are being targeted for cuts and both Local Authorities (LAs) and Clinical Commissioning Groups (CCGs) are increasingly adopting maximum expenditure policies.

17. Years of austerity have left Personal Assistance in a very fragile state. The difficulties and risks of using Direct Payments (DP) to employ Personal Assistants (PAs) are increasing. Support for Disabled people to manage their DP is often virtually non-existent as DP support contracts are cut to the bone and Disabled People’s Organisations are increasingly forced to close through lack of funding.

18. Mental health services are continuing to close despite rising need and the negative outcomes experienced by services as a direct result of closures.

19. Declining community support accompanied by investment in institutional-based care is increasingly undermining the right to independent living of people with learning difficulties and autism and people with mental health support needs.

20. Deaf and Disabled people are continuing to experience difficulties in accessing disability employment support through the Government’s Access to Work scheme on a scale indicative of systemic issues. Frequent administrative and financial errors as well as constant reviews undertaken with a view to forcing reductions in support are causing considerable stress. Additionally, changes to guidelines are negative impacting on the employment opportunities of Deaf BSL users and wheelchair users.

21. Employment rates for people with learning difficulties and people in contact with secondary mental health services are continuing to drop year on year.

22. The situation has further deteriorated with respect to the adverse impacts on Disabled people’s right to an adequate standard of living and social protection directly caused by legislation, policy and measures associated with welfare reform. Poverty is increasing, there are even greater strains on Disabled people’s mental health and well-being due to the stress of the benefit assessment processes and increasing numbers of Disabled people are having essential benefits removed. There have been more tragic cases of deaths and suicides linked to removal of benefits since the inquiry report was published.

23. Whereas the original inquiry focused more on the impacts of the WCA, we are now, in addition to those, experiencing the disastrous effects of both the PIP and the UC roll out, hitting millions of Disabled people. In many cases, Disabled people are subject to both the WCA and the PIP assessment which then has a financial as well as psychological cumulative impact.

24. The Government continues to ignore evidence that directly associates these benefit assessments with avoidable harm caused to Disabled people. The DWP persists in enforcing conditionality despite evidence that this approach not only causes harm but also discourages rather than incentivises Disabled people into employment. Half of households using foodbanks include a Disabled person.

25. The Government has just published the latest statistics on sanctions for ESA claimants, and the first statistics on sanctions under Universal Credit. The ESA sanction statistics show that between the 3rd December 2012 and the 31st December 2016, 71,543 ESA claimants were sanctioned. The statistics about sanctions under Universal Credit do not disaggregate the figures. Without more meaningful figures from DWP, it is impossible to know how many disabled people have been sanctioned.

26. There are high numbers of Disabled people being reassessed under PIP and having their benefit reduced or removed. More than half of those receiving the higher rate mobility component of DLA have had support reduced or removed upon reassessment for PIP. Recently published figures also highlight concern for people living with HIV losing their entitlement.

27. The PIP assessment process itself is fundamentally flawed and unfit for purpose. Issues with the assessment process include evidence of widespread inaccuracy in assessment reports and dishonesty by assessors. There is a high rate of decisions over-turned at appeal stage.

28. Delays in getting accurate decisions have a severely detrimental impact on Disabled people and their families, including distress, aggravating health conditions, isolation, inability to engage in work focused activity, debt and arrears, resulting in greater strain on the NHS and reliance on foodbanks.

29. The roll out of Universal Credit is causing a further deterioration of the situation leading to widespread calls for it to be halted. According to current Government targets, by 2022 over seven million households will receive Universal Credit including 58% of households with a Disabled adult.

30. Around 450,000 Disabled people and their families will be financially worse off under UC through cuts to the child disability additions and to the Severe Disability Premium.

31. Experiences with UC roll out to date highlight a number of issues that are adversely affecting claimants. Payment delays, of up to six weeks and longer, are causing serious financial insecurity, with many being forced into debt. Statistically tenants are more likely to go into arrears on UC than under the previous system where Housing Benefit was paid directly to the Landlord.

32. Administrative problems with UC have caused a decline in the number of private sector landlords prepared to rent to people on benefits. This is exacerbating the housing crisis still further.

**Challenges and opportunities**

33. In the short term to medium term there are a number of challenges standing in the way of change. The UK Government has shown a consistent lack of respect towards their obligations under international human rights treaties and the views and recommendations of UN committees and rapporteurs.

34. Brexit is such an enormous issue it is dominating the Parliamentary timetable as well as political discussion and media interest. Disabled people were not mentioned in the Queen’s Speech at all except under promises to tackle discrimination. Meanwhile, new policy proposals as outlined above either currently or soon to be rolled out will nevertheless go ahead which will adversely impact Disabled people and our families.

35. An additional challenge in the short to medium term is presented by the reliance of the Conservative Party upon the Democratic Unionist Party (DUP) to uphold their minority government. The DUP have a reputation as an anti-equalities party and Disabled people in NI have less protection under the law than their counterparts in the rest of the UK.

36. However, there are also a number of factors which indicate a strong potential for change in the short to medium term. The actors most resistant to change are the Conservative UK Government but they are now a minority Government, extremely weak, lacking confidence in their ability to push anything through Parliament and more vulnerable to pressure than they were before.

37. This weakness, alongside the demands of Brexit negotiations, explains their decision not to push through many of their election manifesto pledges. Proposals to replace the Human Rights Act with a British Bill of Rights from the 2015 Conservative election manifesto were not included in the Queen’s Speech in June 2017 and in May 2017 Theresa May announced that UK will remain part of the European Convention of Human Rights for the next Parliament.

38. The current minority Government is deeply unpopular with the Grenfell tragedy in June 2017 heightening tensions with grassroots communities. The horror of so many people including entire families burning to death in entirely avoidable circumstances has widened and strengthened the call to end austerity measures, having demonstrated in the most brutal of ways how cuts do literally kill.

39. Meanwhile, opposition parties have been consistent in their support of Disabled people’s rights with a number of firm commitments to protecting Disabled people’s rights under the UNCRPD included in the 2017 election manifestos of both the Labour Party and the Scottish National Party (SNP.

40. One of the biggest opportunities to influence change on the matters covered by the inquiry is presented by devolution with significant new powers being devolved to Scotland and, within England, to Greater Manchester and London. The holders of those devolved powers are key actors at a domestic level.

41. In October 2016, First Minister of Scotland, Nicola Sturgeon, pledged to use the new powers to safeguard Disabled people’s rights The announcement was delivered alongside the launch of Scotland’s UNCRPD delivery plan. Progress in Scotland will not only benefit Disabled people there but increase pressure on the UK Government.

42. Pressure is mounting on the UK Government to address the crises in social care and in mental health provision with constant and sustained media attention. This played an important role in the Chancellor’s promise in the Spring 2017 budget of an additional £2 billion to fund social care, Theresa May’s announcement of a consultation later in the year on funding for social care and inclusion of in the Queen’s Speech in June 2017 of a review Mental Health legislation.

43.There are significant tensions between Local Authorities in England and central government concerning funding for social care which also present an opportunity to trigger change. Pressure on Local Authorities to uphold their responsibilities under the UNCRPD to uphold Disabled people’s Article 19 rights could add to tensions between councils and the UK Government who are failing to ensure adequate funding to enable this.

44. Another opportunity has recently been presented by a landmark legal ruling concerning the unlawfulness of the UK Government’s introduction of employment tribunal fees which potentially has wider implications for the lawfulness of Mandatory Reconsideration and sanctions.

45. A final factor to mention is the election of two new Disabled MPs to Parliament in May 2017, Marsah De Cordova and Jared O’Mara. Both have a track record of campaigning within the Disabled People’s Rights Movement and opposing welfare reform and in their newly elected roles have already started speaking out against the negative impacts of austerity measures on Disabled people.

46. The increase in numbers of Disabled MPs, although small, has been widely welcomed and O’Mara has set about challenging inaccessibility within Parliament which could open the way for more Disabled people to enter Parliament in the future.

**Inquiry follow up**

47. We thank the disability committee for the time and attention they have given to issues affecting Disabled people in the UK relating to targeted and systematic breaches of the UNCRPD by the UK Government. Disabled people’s rights now have an unprecedented public and political profile within the UK and we believe strongly that the Committee should follow up on the inquiry.

48. This is of greater importance given the lack of national mechanism on reporting and follow up and concerns as to how seriously the UK Government will take into account the recommendations arising from the routine examination under the UNCRPD.

49. There have been a number of extremely positive outcomes from the inquiry. The profile of Disabled people’s rights and awareness of the UNCRPD has been greatly strengthened within the UK, not only among Disabled people and at a political level but across wider society.

50. Disabled People’s Organisations have been campaigning for enshrinement of the UNCRPD in domestic legislation since it was ratified either years ago. We are now, thanks to the inquiry, significantly nearer achieving that objective.

51. The existence of a number of opportunities in the short to medium term as outlined above, in particular the devolution of new powers to Scotland and the regions, means we are hopeful that there will ultimately be a more positive conclusion to the inquiry. We believe a follow-up to the inquiry is needed to reach that conclusion.

52. Disabled people in the UK were given great hope by the fact that the UN was holding its inquiry. Its findings provided validation for the millions struggling and in despair and to those who have devoted their lives to exposing and challenging the injustices and retrogression that the disability committee investigated. Disabled people, their families and the wider community would feel greatly disillusioned if the inquiry were to end at this stage with complete rejection by the current UK Government.

53. We are ashamed of the UK Government’s lack of respect towards the disability committee and concerned that it sets a bad example to other State parties. It also publicly undermines the UNCRPD, raising the question of what point there is in ratification of the treaty if State parties then proceed to ignore their obligations towards progressive realisation, are dishonest in their presentation of information to the committee responsible for monitoring implementation and not only dismiss the views and recommendations of the independent experts on the committee but also seek to publicly discredit them.

# After the inquiry report became public (Nov. 2, 2016) which are the major legislative or policy or implementation measures that have been adopted in relation to the matters covered by the inquiry?

## **Article 19**

54. There have been no new policies or legislation relating to the commissioning and delivery of social care since the Care Act 2014. As explained in the various shadow reports and civil society responses to the List of Issues, the Care Act is not being implemented. Inadequate funding for social care is a major reason for this.

55. Central Government criticises Local Authorities for failing to meet the independent living needs of Disabled people while Local Authorities blame Central Government for funding cuts that they pass on to Disabled people through reductions in support packages and service closures. Disabled people are left to either suffer under the impact of those cuts or, for those still eligible for legal aid, to battle it out with their Local Authority through individual legal challenges[[2]](#footnote-2).

56. The future funding of social care is subject to consultation with a view to formulating new policy. In February 2017 the Government published its response to the Department for Communities and Local Government “Self-sufficient local government: 100% Business Rates Retention” consultation. This confirmed the welcome news that in response to negative feedback to the Government’s proposal to devolve Attendance Allowance to Local Authorities[[3]](#footnote-3), this will not now go ahead, but that the Government does intend to press ahead with plans for self-sufficient local government[[4]](#footnote-4). There is major concern that this will lead to even greater inadequacies in social care funding[[5]](#footnote-5).

57. A consultation on future funding for social care has also been promised for later this year. This was in response to controversy surrounding a proposal in the Conservative party 2017 General Election manifesto which came to be known as “the dementia tax”[[6]](#footnote-6). There was a negative public response to placing greater financial responsibility onto individuals to fund their own social care needs in old age. Disabled People’s Organisations are currently lobbying to ensure the consultation will also take account of the costs of adequate independent living support for working age Disabled adults.

58. Mental health was the chosen focus of Theresa May’s first major speech on health, given on 9 January 2017[[7]](#footnote-7). She was strong on rhetoric, expressing her drive to tackle the “burning injustice” of inadequate mental health treatment, but dismissed the call for extra funding.

59. At best the limited measures announced will do no more than sticking a plaster over a gaping wound. They include:

* Every secondary school in the country to be offered mental health first aid training.
* A new partnership with employers to improve mental health support in the workplace.
* A commitment to invest £15million in community-based services.
* Investing in and expanding digital mental health services.
* A formal review of the mental health debt form with a view to ending the practice of GPs charging up to £300 for a form for to prove when people in debt have mental health issues.
* Support NHS England’s commitment to eliminate inappropriate placements to inpatient beds for children and young people by 2021

60. These measures, announced at the start of the year, have failed to improve the situation with demand for support rising as support services are subject to further cuts. Lack of support for children and young people experiencing severe mental distress has become a national scandal[[8]](#footnote-8). On 3 August 2017, the UK’s most senior family judge ordered his judgement in a private case be made public in order to expose what he described as a “well-known scandal - the disgraceful and utterly shaming lack of proper provision”. [[9]](#footnote-9) It was only through this intervention and warning by Justice Munby that the nation would have “blood on its hands” that a bed was found for a suicidal teenager due to be released from a secure unit. [[10]](#footnote-10)

61. The Conservative manifesto promised the reform of mental health legislation with the “first new Mental Health Bill for thirty-five years”.[[11]](#footnote-11) This was confirmed in the Queen’s speech on 21 June 2017[[12]](#footnote-12). The Government’s considerations in reviewing the legislation will include:

* Looking at why rates of detention are increasing and take the necessary action to improve service responses;
* Examining the disproportionate number of those from certain ethnic backgrounds, in particular black people, who are detained under the Act;
* Reviewing the use of Community Treatment Orders.

62. This announcement comes within a context of crisis within mental health provision that cannot be addressed without a radical shift in Government approach including an acknowledgement of the impact of cuts and measures to reverse these[[13]](#footnote-13).

63. Our particular concern relates to the wider issues raised about the Government’s whole approach to rights. Our well-founded fears are that in the context of huge austerity cuts and the complete disregard of a rights based approach to health services, people in mental health distress will be left without rights to treatment and/or services.

## **Article 27**

64. On 31 October 2016, the Department for Work and Pensions and Department of Health launched a public consultation on its Green paper “Work, health and disability: Improving lives”. The consultation closed on 17 February 2017. According to the consultation web page, responses to the consultation are still being analysed. However, steps to roll out the proposals put forward in the paper were being taken even before the consultation closed[[14]](#footnote-14).

65. The stated aim of the consultation was to seek views on how to halve the disability employment gap. However, proposals in the green paper fail to offer any new solutions to tackling the real world barriers to employment that Disabled people face while reducing funding for disability employment support.[[15]](#footnote-15)

66. More worryingly, the paper outlines the extension of measures that are proven to dis-incentivise employment and to cause avoidable harm to Disabled people, namely conditionality and sanctions. There is also a failure to acknowledge the potentially damaging effects that unsuitable work can have with an over-riding emphasis on removing out of work benefits from Disabled people.[[16]](#footnote-16)

67. One of the greatest causes for concern is the roll out of the mandatory Health and Work Conversation (HWC) [[17]](#footnote-17) with a Work Coach[[18]](#footnote-18) as posited in the green paper, which will be introduced in the autumn 2017. This is a new stage in the process of claiming Universal Credit (UC) for claimants with a “Fit Note”[[19]](#footnote-19) which will now take place before the Work Capability Assessment (WCA). The HWC will take place within 4 weeks of a UC claim and failure to attend will result in a sanction and removal of all income for a period of time ranging from 4 weeks to 3 years.

68. Failure to engage sufficiently in the HWC will also result in a sanction. What 'engage' means is at the discretion of the Work Coach. As part of the HWC, the Work Coach and the claimant will have to build the Claimant Commitment, representing agreed activities that the claimant commits to undertake. Failure to do this will result in a sanction.

69. The HWC will apply to the majority of claimants and there are very few categories who are exempt[[20]](#footnote-20). This is based on the view that all Disabled people regardless of impairment or health condition will benefit from work. It differs from the previous system whereby Disabled people found “not fit for work” through the WCA and placed in the Support Group were exempt from work related activity[[21]](#footnote-21). Everyone will now need to engage in work related activity or face benefit sanctions.

70. The HWC was trialled with success at the beginning of the year with the support of several disability organisations, but it was on a voluntary basis. [[22]](#footnote-22) It is not clear why the Government decided to make the HWC mandatory, but it means that sanctions for disabled people are built into the system from day 1, and that even with a Fit Note, they are considered fit enough for All Work Related Requirements (Availability for work, Work search, Work preparation, Work related activities) unless these are negotiated down with the Work Coach.

71. Training for Work Coaches is being carried out by the Behaviour Insights Team (BIT – also known as “the Nudge Unit”) with the aim of teaching them how to move Disabled people from a “fixed” to a “growth” mind-set.[[23]](#footnote-23) This approach is based on a view that it is the negative ideas that Disabled people hold that prevent us from finding employment and that with a more positive attitude we would no longer need social security. There are concerns that this approach involves an inappropriate use of therapeutic techniques by unqualified practitioners and could potentially constitutes psychological abuse[[24]](#footnote-24).

## **Article 28**

72. Since November 2016 a number of new measures have been introduced which further impact on Disabled people’s standard of living and social protection.

**Lowering of the benefit cap – 7 November 2016**

73. The benefit cap was lowered from £26,000 to £23,000 in London and £20,000 elsewhere. Claimants entitled to DLA/PIP, ESA in the Support Group are exempt but that leaves many Disabled people still potentially affected. Specifically, this includes those in the Work Related Activity Group (WRAG) of ESA who do not receive the highest rates of either DLA or PIP, and those who are Disabled but have been found fit for work.

**Change to Personal Independence Payment (PIP) regulations – 16 March 2017**

74. Changes to the PIP regulations were brought in using emergency legislation and an exemption to bypass scrutiny by the Social Security Advisory Committee. The regulations make amendments to the Schedule to the principal PIP regulations setting out the PIP eligibility criteria “in order to clarify the drafting and reverse the effect” of two Upper Tribunal judgments, which the Government claims had “interpreted that Schedule in ways which the Government did not intend.”[[25]](#footnote-25)

75. The first judgment relates to the PIP daily living activity 3 (“managing therapy or monitoring a health condition”); while the second judgment relates to mobility activity 1 (“planning and following journeys”), specifically the assessment scores for those unable to undertake journeys due to psychological distress.

76. To receive the mobility component of PIP you have to score at least 8 points based on a list of ‘descriptors’. The Government’s changes mean that people who experience psychological distress can no longer score points on three specific descriptors:

* Cannot plan the route of a journey (8 points)
* Cannot follow the route of an unfamiliar journey without another person, assistance dog or orientation aid (10 points)
* Cannot follow the route of a familiar journey without another person, an assistance dog or an orientation aid (12 points)

77. The Social Security (Personal Independence Payment) (Amendment) Regulations 2017 (SI 2017/194) were laid before Parliament on 23 February and came into force on 16 March. The regulations are subject to the negative procedure – i.e. they automatically become law without debate unless there is an objection from either House.

78. Contrary to claims made by the Government, a weight of evidence shows that the changes to the regulations in fact move away from the original intent of PIP as articulated by Ministers in statements made prior to 2014.[[26]](#footnote-26) The Government Response to the consultation on PIP in 2012 clearly expresses the intention of PIP to assess need rather than make decisions on the basis of impairment labels[[27]](#footnote-27). The decisions by the Upper Tribunal gave clarification to how the descriptors were being interpreted in line with that original intent.

79. Since the Government’s changes to the regulations alter rather than restore that original intention, according to due process they should have gone through Parliament.

**Benefit cuts - 1st April 2017**

80. The Welfare Reform and Work Act 2016 which received royal assent on 16 March 2016 introduced a measure to reduce Employment and Support Allowance (ESA) for new claimants in the Work Related Activity Group (WRAG) by £30 per week, bringing it into alignment with Job Seekers’ Allowance payments. It was widely opposed with two revolts in the House of Lords and a Conservative party back-bench rebellion but eventually passed through Parliament.[[28]](#footnote-28) This cut to ESA WRAG came into force on 1 April 2017.

81. Another raft of benefit cuts affecting Disabled people were brought in on 1 April 2017 without any form of Government announcement, statement of policy intent, or impact assessment and subject to no prior consultation. These include:

* a 55% per week reduction in the rate of Employment and Support Allowance/Universal Credit for under 25 year olds;
* full-time Disabled students not being eligible for Universal Credit until they have received a Work Capability Assessment;
* the freezing of the lower Disabled child element of Universal Credit.

# 2. What are the concrete impacts produced by the above-mentioned measures on persons with disabilities? Provide figures/data if possible.

**Health and Work Conversation**

82. This new system is only in its early stages of roll out so there is little evidence of impact and no statistical data available. Two issues have to date been brought to our attention:

1. Categories of exemption from the HWC are not being communicated to claimants or GPs. We know this from anecdotal evidence. Disabled People Against Cuts (DPAC) was contacted by the brother of a claimant in the Support Group. He is his sister’s Appointee due to mental capacity issues. On the grounds of having a life-threatening illness she should have been exempted, yet was called for a Health and Work Conversation, and threatened with loss of benefits if she did not attend.
2. The processing of Fit Notes seems to take as long as 6 weeks according to anecdotal evidence, and until then claimants are considered fit for work and face full conditionality. This means being subject to benefit sanctions for non-engagement in work related activity.

83. DPAC is monitoring the situation and will report as soon as more is known about the impacts of the HWC.

**Lowering of the benefit cap**

84. Analysis by the DWP suggests that 3,100 households with someone claiming ESA were already affected by the benefit cap, and they and others are now affected by its further reduction. Figures published by the DWP in May show that in just one month more than 10,000 Disabled people had their benefits slashed after the government introduced the lower cap, often by more than £100 or even £150 a week. This represented about 15 per cent of the total affected by the cap.[[29]](#footnote-29)

85. A Parliamentary Research Briefing[[30]](#footnote-30) quotes the Equality Impact Assessment (EIA) undertaken in 2012 which says: “Of the households who lose from this policy, based on internal modelling, we expect roughly half will contain somebody who is classed as disabled under the Equality Act.” These people are the least likely to move into work to escape the benefit cap and to offset the shortfall in income by moving into work or cutting their expenditure.

86. The risk of eviction was also recognised in the EIA:

“The cap is likely to affect where different family types will be able to live. Housing Benefit may no longer cover housing costs and some households may go into rent arrears. This will require expense and effort by landlords and the courts to evict and seek to recoup rent arrears. Some households are likely to present as homeless, and may as a result need to move into more expensive temporary accommodation, at a cost to the local authority. It is not possible to quantify these costs because they are based on behavioural changes which are difficult to assess robustly”.

87. No data is collected relating to the impact of the benefit cap on Disabled people but overall five families in the UK are made homeless every hour. The number of families accepted as homeless increased by 32% in the last year.[[31]](#footnote-31)

**PIP regulation changes**

88. According to the Government’s own Equality Analysis, 164,000 claimants in the current caseload (14%) will have support reduced or removed as a result of the regulation changes. Of these 143,000 claimants will lose support altogether.[[32]](#footnote-32) The main group of Disabled people affected are people who experience psychological distress. Reducing or removing PIP from people with mental health support needs in this way will adversely impact on their ability to travel and access support to manage their condition.

89. The following implications of the regulation changes have been put together by members of Mental Health Resistance Network:

* Mental health problems are sometimes associated with social isolation, which in turn is associated with increased risk of suicide. As noted above suicides are increasing. Some people could be completely excluded from society, others at risk of self-harm.
* With the closure of many mental health services people are having to travel further to access support whilst at the same time the Disabled Freedom Pass is being withdrawn from people with mental health problems. Even home treatment (crisis) teams often don't visit people at home any more but instead you have to go daily to where they are based. Without PIP to help with travel costs, people may stop accessing the support services they need.
* People with severe mental health problems often have to travel to be given medication, for example where they have depot injection (sometimes on a Community Treatment Order).
* People with mental health problems have a significantly shorter life expectancy than the general population and are now facing further barriers to access physical healthcare. In addition, some psychiatric medications require ongoing health monitoring, such as blood testing for Lithium and Clozapine. We need to be able to travel as much as, or even more than, anyone else.
* Psychiatric medications can be very powerful and require monitoring, for example Clozapine can be fatal. People with certain mental health issues can need help to ensure they take the correct dose, or even take their medications at all. Denying points for both mobility and help managing treatment can be a double whammy.

**ESA WRAG cut**

90. The cut to Employment and Support Allowance for those in the Work Related Activity Group (ESA WRAG) was introduced for new claimants from 1 April 2017 and as yet there is no data relating to its specific impact.

91. The Equality and Human Rights Commission has stated its concerns that the proposed reduction will "cause unnecessary hardship and anxiety to people who have been independently assessed and found unfit for work"[[33]](#footnote-33).

92. The main arguments against this proposal are:

* On average, claimants claim JSA for six months, while more than half of ESA WRAG recipients are on welfare support for more than two years[[34]](#footnote-34). Such long time periods are linked to higher associated costs of illness and disability.
* ​The rate of the new benefit does not factor in the costs of disability. Half the claimants in the WRAG don’t claim Personal Independence Payments[[35]](#footnote-35) and therefore have no other income.
* The decision is not evidence-based – there are no studies or evidence of the effect of different disability benefits levels on the likelihood to enter work, in the UK or internationally.[[36]](#footnote-36)
* Research has shown that the cut will move Disabled people further from the Labour market.[[37]](#footnote-37)

# 3. Has the situation further deteriorated? in which way? are there specific groups of persons with disabilities particularly affected?

## **Article 19**

**Social care**

93. The situation in social care and mental health support provision has further deteriorated, with a direct adverse impact on independent living for Disabled people with learning difficulties, physical and sensory impairment and mental health support needs.

94. The UK is facing a social care funding crisis. Funding made available by the Government through the Better Care Fund is insufficient to address the size and depth of the funding crisis. [[38]](#footnote-38) Additional funding for social care available through the Council tax social care precept will be swallowed up by demographic pressures and additional costs for providers of implementing the National Living Wage set to rise for a second time in April 2017. [[39]](#footnote-39)

95. Recent reports have highlighted the serious impact of inadequate funding for social care, and significant differentials in local spend between different Local Authorities.[[40]](#footnote-40) Research published in June 2017 by the Association of Directors of Adult Social Services (ADASS) revealed that Councils are still having to make 8 per cent cuts in overall budgets for a second year in succession due to increasing costs and demand. Directors plan to make further savings of £824 million in 2017/18, taking cumulative savings in adult social care since 2010 to £6.3 billion.[[41]](#footnote-41)

96. As a result, the social care market is dangerously unstable with unsustainable staff shortages[[42]](#footnote-42) and care companies handing contracts back to Local Authorities due to insufficient funding.[[43]](#footnote-43) Evidence suggests we are reaching a tipping point which will mean even more poor social care support, less choice and more unmet need. In July 2017 the Care Quality Commission warned in its report The State of Adult Social Care Services 2014 that “too many people are receiving care in care homes and from home-care services that is not good enough”.[[44]](#footnote-44)

97. In order to make savings, many Local Authorities have brought in or increased their charges for social care services. In April 2017, Tower Hamlets Council, who were one of the remaining few not have a home care charging policy, introduced charging.[[45]](#footnote-45) This year a number of other Councils have consulted on proposals with a view to increasing their charges.[[46]](#footnote-46) Disabled People’s Organisations are concerned about Disabled people going without social care support that they need because they cannot afford the charges.

98. Increasing cuts to social care support are eroding Disabled people’s right to independent living. A third of respondents (33%) to the Independent Living Survey published In Control in November 2016 said that the level of choice and control they enjoyed over their support had reduced or reduced significantly[[47]](#footnote-47).

99. The Post-ILF Closure Review study commissioned by the Department for Work and Pensions and published in January 2017 found that former recipients of the Independent Living Fund (ILF) in England experienced a loss of support, a greater reliance on unpaid care and an “adverse” impact on their physical and mental health after its closure due to worry, or the physical demands of having to perform everyday activities without the support of a carer; heavy reductions in care produced effects including loneliness, weight loss and frailty and denied opportunities to participate fully in society including less support for engaging in leisure activities, work and volunteering.[[48]](#footnote-48)

100. In February 2017, information leaked by a whistle-blower revealed that a private company commissioned by one Local Authority to carry out social care assessments offered bonuses to assessors who cut Disabled people’s support packages. Personal budget packages, originally designed to give more choice and control, were targeted as providing the best opportunities to cut funding.[[49]](#footnote-49)

101. Local Authorities (LAs) and Clinical Commissioning Groups (CCGs) are increasingly adopting maximum expenditure policies in order to make savings.[[50]](#footnote-50) According to these policies, a Disabled person’s wishes to live in the community care be over-ridden if the cost of community support exceeds the cost of a residential placement. Such policies are in clear breach of UNCRPD Article 19 and yet the Government has taken no action to stop this practice and the Department of Health has to date failed to respond to concerns[[51]](#footnote-51).

102. Years of austerity have left Personal Assistance in a very fragile state[[52]](#footnote-52). According to a 2017 Skills for Care report, the percentage of Direct Payment recipients employing their own staff has reduced from 64% in 2008 to 45% in 2015.[[53]](#footnote-53)

103. The difficulties and risks of employing Personal Assistants (PAs) through LA-funded Direct Payments/Personal Budgets[[54]](#footnote-54)are increasing. Disabled people struggle to recruit PAs on the low hourly rates paid by Local Authorities, which are sometimes reduced retrospectively leaving the Disabled person to make up the shortfall between what they owe their PA and the amount they have received. Adult service departments tend to have a poor understanding of Disabled people’s legal obligations as employers and are reluctant to increase awards in line with legal rulings on pay, leaving Disabled people vulnerable to legal action for no fault of their own.[[55]](#footnote-55)

104. A forthcoming report from In Control will publish research into the increasing use of pre-payment cards by Local Authorities showing how this practice restricts choice and control, subjects Disabled people to unfettered monitoring and in many cases is being implemented in contravention to Care Act guidance. [[56]](#footnote-56)

105. Support for Disabled people to manage their DP is often virtually non-existent as DP support contracts are cut to the bone and Disabled People’s Organisations are increasingly forced to close through lack of funding.

**Mental health**

106. Mental health services are continuing to close despite rising need and the negative outcomes experienced as a direct result of closures. A report published in July 2017 by Camden Healthwatch recorded extreme experiences of distress including suicide attempts, anxiety and isolation directly linked to the closure of the Highgate Day Centre as a cost-cutting move by Camden Council. The report says: “The very high number of reports off negative mental health, including suicidal thoughts, give cause for serious concern. Over seven months, Healthwatch obtained “evidence of increased use of emergency services, hospital and crisis house admissions that appear to be a direct consequence of changed.”[[57]](#footnote-57)

107. Similar closures with similar results are happening across the country. For example, in January, Croydon CCG voted through the decommissioning of Foxley Lane, a specialist women’s mental health service. The decision was taken despite overwhelming opposition from women, their families and local mental health workers who have personal experience of the life-saving benefits of the facility which cannot be replicated by the alternative services on offer.[[58]](#footnote-58) The CCG, which is in special financial measures, and consultants at the South London and Maudsley argued that at a time of chronic bed shortages for inpatient care under the Mental Health Act, the cost of the service for the numbers of women admitted each year (55 for 2015-16) cannot be justified.

108. Mental health service users in Newham in February 2017 similarly tried without success to stop the closure of an Acute Day Hospital in their borough. The service, which provided an alternative to hospital admission, was closed by health provider East London NHS Foundation Trust (ELFT) in order to make budget savings. Service users opposing its closure spoke of the lifeline that the service gave them.[[59]](#footnote-59)

109. In both of these above cases, commissioners justified the closure of community services by claiming that home treatment would provide an adequate alternative. As evidenced by the example of the Highgate Day centre closure, the role that community-based services play in reducing isolation and providing a “safe space” cannot be replicated by home treatment with the result that crises and hospital admissions ensue. It is therefore little wonder that detentions under the Mental Health Act (which are more expensive than funding placements in community-based services) have increased.

**Institutionalisation/lack of community support options**

110. Declining community support accompanied by investment in institutional-based care is increasingly undermining the right to independent living of people with learning difficulties and autism and people with mental health support needs. In the above example of Foxley Lane, the closure of the women’s community-based facility was accompanied by investment in a new women only acute ward at the local Bethlem hospital.

111. A new study by the Centre for Disability Research (CeDR) at Lancaster University evidences how people with learning difficulties have been turned into commodities in a healthcare industry driven by profits and generating millions of pounds a year. The report found that the Government spent £477m last year on keeping just 2,500 people with learning difficulties and autism in hospital, with more than half of those in beds provided by the private sector. The report, called “A trade in people: The inpatient healthcare economy for people with learning disabilities and/or Autism Spectrum Disorder”, argues that the privatisation of the NHS encouraged the development of a healthcare economy, which sees growing numbers of private units opening and is turning people into “commodities and liabilities”.[[60]](#footnote-60)

112. A report published by the Education Policy Institute (EPI) in July 2017 showed how children experiencing serious mental distress are becoming trapped in NHS psychiatric units, unable to leave because community-based support is unavailable. NHS figures show that between October 2015 and September 2016 children and young people in England spent almost 9,000 days in hospital after being declared fit to be discharged. Some end up stuck in units for several months. The total number of what the EPI termed “wasted days” was 42% higher between December 2016 and February 2017 than in the same period in 2015-16.

113. In January alone this year, under-18s spent 804 delayed days in mental health inpatient units, compared to 553 the previous January. The report also found that inpatient mental health services for young people on average fail to meet 7 per cent of minimum standards, meaning this provision represents “a significant threat to young people’s safety, rights or dignity”. [[61]](#footnote-61)

## **Article 27**

114. Deaf and Disabled people are continuing to experience difficulties in accessing disability employment support through the Government’s Access to Work scheme on a scale indicative of systemic issues. Frequent administrative and financial errors as well as constant reviews undertaken with a view to forcing reductions in support are causing considerable stress. Additionally, changes to guidelines are negatively impacting on the employment opportunities of Deaf BSL users and wheelchair users:

* Contributions towards the costs of wheelchairs. Disabled workers who require funding for wheelchairs to enable them to engage in employment are now expected to provide a substantial contribution towards the costs. This can be several thousand pounds and simply unaffordable.
* The cap. From October 2015 new Access to Work claimants have been subject to a cap limiting awards. As a consequence, Deaf and Disabled people with high support needs are finding their employment options limited. In one example a Deaf Chief Executive of a Disabled People’s Organisation can only communicate with colleagues three out of five days a week and in another example a Deaf woman had the offer of a job with a Local Authority withdrawn after they discovered she would be unable to access full-time communication support under the new Access to Work rules.

115. Employment rates for people with learning difficulties and people in contact with secondary mental health services are continuing to drop year on year. The latest figures from 2015-16, showed that 5.8% of adults with learning difficulties aged 18-64 and known to Councils with Adult Social Services Responsibilities were in paid employment. This figure has been steadily dropping since a high point of 7.1% in 2011-12. In 2015-16, 6.7% of adults aged 18-69 in contact with secondary mental health services were known to be in paid employment at the time of their assessment or latest review. This is down from 9.5% in 2010 – 11. [[62]](#footnote-62)

## **Article 28**

116. The situation has further deteriorated with respect to the adverse impacts on Disabled people’s right to an adequate standard of living and social protection directly caused by legislation, policy and measures associated with welfare reform. Poverty is likely to be increasing, there are even greater strains on Disabled people’s mental health and well-being due to the stress of benefit assessment processes and increasing numbers of Disabled people are having essential benefits removed. There have been more tragic cases of deaths and suicides linked to removal of benefits since the inquiry report was published.[[63]](#footnote-63)

117. Whereas the original inquiry focused more on the impacts of the WCA, we are now, in addition to those, experiencing the disastrous effects of both the PIP and he UC roll out. Numbers of Disabled people claiming DLA/PIP[[64]](#footnote-64) are significantly higher than those claiming ESA (DLA/PIP= 3,771,627, ESA = 2,372,736)[[65]](#footnote-65), thus problems with PIP are having an even wider impact. In many cases, Disabled people are subject to both the WCA and the PIP assessment which then has a financial as well as psychological cumulative impact[[66]](#footnote-66).

118. The Government continues to ignore evidence that directly associates these benefit assessments with avoidable harm caused to Disabled people.[[67]](#footnote-67) Research from Heriot Watt university published in February 2017 shows that mental health discrimination is built into the design of the WCA and yet there has been a failure to carry out any fundamental redesign of the process.[[68]](#footnote-68) Proposals in the green paper “Improving Lives” such as the introduction of the mandatory Health and Work Conversation are more likely to dramatically increase than alleviate the adverse impacts.

119. The DWP persists in enforcing conditionality despite evidence that this approach not only causes harm but also discourages rather than incentivises Disabled people into employment. Preliminary analysis carried out by the NAO which the DWP has failed to follow up found that sanctions on Employment and Support Allowance claimants actually reduced the time they spent in employment. [[69]](#footnote-69)

120. The government has just published the latest statistics on sanctions for ESA claimants, and the first statistics on sanctions under Universal Credit[[70]](#footnote-70). The ESA sanction statistics show that between the 3rd December 2012 and the 31st December 2016, 71,543 ESA claimants were sanctioned. Just over half of those claimants (40,288) had their benefits sanctioned for less than four weeks and the average length of a sanction was 28 days. 5,739 ESA claimants were sanctioned for 27 weeks or more (more than 6 months), and 6,579 ESA claimants were sanctioned for 14 to 26 weeks. The statistics about sanctions under Universal Credit do not disaggregate the figures.[[71]](#footnote-71) Without more meaningful figures from DWP, it is impossible to know how many disabled people have been sanctioned.

**Food poverty**

121. Findings recently published from the single biggest nationwide study on foodbank use showed that over 50% of households using foodbanks included a Disabled person and 75% experienced ill health in their household[[72]](#footnote-72).

**PIP**

122. There are high numbers of Disabled people being reassessed under PIP and having their benefit reduced or removed. Figures obtained from the DWP through an FOI request in June 2017 show that more than half (around 128,000) of those who previously received the higher rate mobility component of DLA lost out on reassessment. Of those reassessed between October 2013 and October 2016, about 65,000 had their entitlement reduced to the standard PIP mobility rate, and about 63,000 lost their entitlement to mobility support altogether.[[73]](#footnote-73)

123. Figures obtained in April 2017 revealed that 51,000 Disabled people have had to hand back their Motability vehicles as a result of the PIP reassessment process since it began four years ago and that about 900 Disabled people are now having to return their vehicles every week.[[74]](#footnote-74)

124. Research published in July 2017 by the National AIDS Trust (NAT) found that only three-fifths of people living with HIV were found eligible for PIP after being reassessed. Its report shows that only 63 per cent of the 1,000 people with HIV who were previously receiving DLA and had been reassessed for PIP were awarded the new benefit and confirms has confirmed long-standing fears that people with HIV would not receive the support they needed under PIP.[[75]](#footnote-75)

125. The PIP assessment process itself is fundamentally flawed and unfit for purpose. It has been the subject of an inquiry by the Work and Pensions Select Committee which is temporarily suspended due to the General Election and subsequent decision by the Government not to elect Select Committee representatives until Parliament returns in September 2017. [[76]](#footnote-76)

126. Issues with the assessment process include evidence of widespread inaccuracy in assessment reports and dishonesty by assessors. The extent to which false information is included in assessment reports cannot be attributed to one or two negligent assessors but indicates systemic failings with the current PIP assessment process. More than 200 cases in which Disabled people have described how healthcare professionals employed by Atos and Capita lied in their written PIP assessment reports have been compiled through an eight month investigation by Disability News Service. The Government has refused to investigate the issue.[[77]](#footnote-77)

127. Assessors not only lack the expertise to make accurate decisions, they often also lack the understanding to be able to conduct assessments in a way that is accessible and appropriate for people with different impairments.

128. A high level of decisions (64%[[78]](#footnote-78)) are over-turned at appeal stage. A central factor in this is that evidence from the Disabled person is only properly considered at appeal stage, while Mandatory Reconsideration (MR)[[79]](#footnote-79) is more often nothing more than an exercise in rubber stamping an incorrect decision. The MR decision-maker is even less qualified than the original assessor and not confident to challenge decisions made by the healthcare professional at assessment stage.

129. An FOI response obtained in May 2017 revealed a Department for Work and Pensions Performance Measure that 80% of original assessment decisions should be upheld at the Mandatory Reconsideration stage.[[80]](#footnote-80) This target acts as a major barrier to justice for Disabled people seeking redress against unfair and inaccurate benefit decisions.

130. In cases involving Disabled people with self-injurious behaviour and suicidal ideation, questions asked by assessors are unethical and dangerous whilst also failing to positively contribute to accurate decision-making. Assessors routinely ask Disabled people detailed questions over previous suicide attempts including questions such as “why haven’t you killed yourself yet?” There is no safeguarding policy and assessors do not signpost claimants experiencing clear mental distress for support.[[81]](#footnote-81)

131. Delays in getting accurate decisions have a severely detrimental impact on Disabled people and their families, including distress, aggravating health conditions, isolation, inability to engage in work focused activity, debt and arrears, resulting in greater strain on the NHS and reliance on foodbanks.[[82]](#footnote-82)

**Universal Credit (UC)[[83]](#footnote-83)**

132. The roll out of UC is causing a further deterioration of the situation and evidence of its impact to date has led to widespread calls for it to be halted. By 2022 over seven million households will receive Universal Credit including 58% of households with a Disabled adult.

133. The full service will be digital. Disabled people represent a disproportionate number of people who do not have internet at home[[84]](#footnote-84) and yet are most likely to make a claim for UC[[85]](#footnote-85).

134. General issues affecting all UC claimants also affect Disabled people. UC has 7 waiting days built into it so that following a successful application the benefit will be back-dated to seven days after the application was made, meaning seven days with potentially no income. This waiting period is more than twice as long as previously.

135. As UC is paid in arrears, all claimants have a wait of at least five or six weeks between applying for the benefit and receiving their first payment. In reality, many claimants have to wait over 10 weeks. This has led to a high level of debt among UC claimants, compared with claimants on other benefits, some claimants facing evictions as rent cannot be paid and others resorting to foodbanks. In addition, there is now a 39 week wait before a claimant can get any help with the cost of a mortgage and the Mortgage Interest Payments will become a repayable loan from April 2018.

136. Disabled people and their families will be worse off under UC through cuts to the child disability additions and to the Severe Disability Premium. This includes:

* up to 230,000 severely disabled people who do not have another adult to assist them;
* 100,000 disabled children and their families;
* 116,000 disabled people who work.[[86]](#footnote-86)

137.The removal of the Severe Disability Premium (SDP) will result in a loss of £62.45 a week. The SDP has always been recognised as essential income to alleviate some of the additional barriers faced by Disabled people who live alone face. AS SDP bumps up the needs allowance for Housing Benefit/Local Housing Allowance, its removal will lead to a further reduction in benefit for Disabled people on low incomes.[[87]](#footnote-87) In practice the amount people lose will be variable but could mean that some Disabled people lose up to £124.90 per week.

138. Evidence from the roll out of Universal Credit to date highlights a number of serious problems. Within one year from 2016 – 2017, Citizens Advice Bureau (CAB) supported more than 30,000 people with Universal Credit issues, with a quarter (25%) also needing help with debt issues. Calls from CAB to halt the roll out have been widely supported by for example the Residential Landlords’ Association (RLA)[[88]](#footnote-88) as well as Disabled People’s Organisations.

139. In its report Delivering on Universal Credit, CAB revealed that delays of payments, of up to six weeks and longer, are causing people serious financial insecurity, with many being forced into debt. It found 39% of people are waiting more than the six weeks it should take to receive their first payment. Just over 1 in 10 (11%) are waiting over 10 weeks without the benefit and 57% are having to borrow money while waiting for their first payment. The warning comes ahead of the planned rapid expansion of the scheme across England and Wales in October.[[89]](#footnote-89)

140. The report also reveals that people are having problems with the application process. These range from difficulties using a computer or with the online system, to issues getting hold of the right evidence to support their claim.

141. When things go wrong the research shows people are not able to get the help they need: nearly a third (30%) of people said they had to make more than 10 calls to the Universal Credit helpline during their application process, often having to wait over 30 minutes to get through.

143. RLA have also been campaigning for the roll out of UC to be halted while administrative problems are sorted out. Research carried out by RLA in 2016 found that 25 per cent of landlords with tenants in receipt of Universal Credit said that they had tenants in rent arrears.[[90]](#footnote-90)

144. Research published by RLA in July 2017 into the impact of welfare reform on access to homes for under 35’s found a decline in numbers of landlords prepared to rent to people on benefits. Two-thirds were not willing to let to Housing Benefit/Universal Credit (HB/UC) claimants. The report cites evidence that many landlords are seeking a reduction of risk, particularly in relation to arrears and the administration of welfare payments and highlights the major challenge that this poses to the Government’s policy approach to the private-sector rented sector which it favours over social housing.[[91]](#footnote-91)

145. There is a chronic shortage of suitable and accessible housing for Disabled people[[92]](#footnote-92). Problems with the administration of UC is further deteriorating the situation and adding to the housing difficulties that Disabled people face.

# 4. What are the scenarios in the short and medium terms? Is there any possibility to foresee a change? which are the actors at domestic level which could promote/trigger/ facilitate a change of the situation? Which are the ones which are opposed to any change?

146. In the short term to medium term there are a number of challenges standing in the way of change. The UK Government has shown a consistent lack of respect towards their obligations under international human rights treaties and the views and recommendations of UN committees and rapporteurs[[93]](#footnote-93). This has led to the formation of a cross-treaty civil society alliance who have started meeting to look at partnership working opportunities to address this issue[[94]](#footnote-94) and in which we are involved.

147. Brexit is such an enormous issue it is dominating the Parliamentary timetable as well as political discussion and media interest. This year’s Queen’s Speech, given on 21 June 2017, presented a legislative timetable for the next two years, rather than the usual one year, dominated by preparations for Brexit. Eight of the 27 bills and draft bills announced in the Speech are specifically targeted at delivering EU withdrawal and several of the others cover only relatively minor reforms.[[95]](#footnote-95)

148. There was relief that one of the few Conservative election manifesto pledges to make it into the programme included the introduction of new legislation for mental health, however mental health organisations have called for firmer commitments to a comprehensive review and a clear timeline as this is an urgent issue for so many people.

149. The consultation on funding for social care promised for later this year also presents an important opportunity, however given the desperate state of the social care crisis, what is needed is much stronger action undertaken urgently. It is also notable that communications regarding the proposed consultation have to date omitted any mention of Disabled people, focusing instead on the ageing population and “increasing numbers of over 75s”.[[96]](#footnote-96) Disabled people and our organisations have begun to lobby for inclusion within the consultation of issues relating to upholding the right to independent living for Disabled people.

150. Disabled people were not mentioned in the Queen’s Speech at all except under promises to tackle discrimination. Meanwhile, new policy proposals as outlined above either currently or soon to be rolled out will nevertheless go ahead which will adversely impact Disabled people and our families. As demonstrated by the changes to the PIP regulations[[97]](#footnote-97), the Government is prepared to use measures that bypass the scrutiny of Parliament. With the demands of Brexit on the Parliamentary timetable there is concern that this will become more common. Opposition parties and Peers in the House of Lords will also have less time and opportunity to hold the Government to account on disability issues and present challenges to new policy measures. This again is of significant concern.

151. An additional challenge in the short to medium term is presented by the reliance of the Conservative Party upon the Democratic Unionist Party (DUP) to uphold their minority government. The DUP have a reputation as an anti-equalities party and, as covered in the Final UK-wide Civil Society Response to the List of issues[[98]](#footnote-98) in relation to the initial report of the United Kingdom of Great Britain and Northern Ireland, the Equality Act 2010 does not cover Northern Ireland (NI) and Disabled people in NI have less protection under the law than their counterparts in the rest of the UK.[[99]](#footnote-99)

152. However, there are also a number of factors which indicate a strong potential for change in the short to medium term. The actors most resistant to change are the Conservative UK Government but they are now a minority Government, extremely weak, lacking confidence in their ability to push anything through Parliament and more vulnerable to pressure than they were before. The Government is failing even by its own standards: the key aim of the Coalition/Conservative Governments has been to reduce the deficit and yet the budget deficit is rising.[[100]](#footnote-100)

153. This weakness, alongside the demands of Brexit negotiations, explains their decision not to push through many of their election manifesto pledges. There was a policy u-turn before the election had even happened concerning the “dementia tax”[[101]](#footnote-101). Disabled people’s and human rights organisations are relieved that proposals to replace the Human Rights Act with a British Bill of Rights from the 2015 Conservative election manifesto were not included in the Queen’s Speech[[102]](#footnote-102) and in May 2017 Theresa May announced that UK will remain part of the European Convention of Human Rights for the next Parliament.[[103]](#footnote-103)

154. The current minority Government is deeply unpopular with the Grenfell tragedy in June 2017 heightening tensions with grassroots communities. The Government and Conservative Council of Kensington and Chelsea have been accused by many of causing murder through deliberate under-investment in social housing and cost-cutting measures targeted at the poorest in society.[[104]](#footnote-104) A number of those who were killed in the fire, unable to escape the burning building, were Disabled people.[[105]](#footnote-105) The horror of so many people including entire families burning to death in entirely avoidable circumstances has widened and strengthened the call to end austerity measures, having demonstrated in the most brutal of ways how cuts do literally kill.

155. Meanwhile, opposition parties have been consistent in their support of Disabled people’s rights. Generation Election 2017 manifesto pledges included a commitment from Labour to repeal a number of the cuts in social security support for Disabled people highlighted through the inquiry process and campaigning by Disabled people as having a detrimental impact.[[106]](#footnote-106) In social care, they responded to Disabled people’s calls for a national system capable of upholding our Article 19 rights with a pledge to urgently address the funding crisis with increased investment and to begin work towards a national care service.[[107]](#footnote-107)

156. The SNP manifesto included a section entitled “Protecting disabled people from Tory cuts” and pledged support to put pressure on the UK Government to reverse and address social security cuts and measures that are having an adverse impact including the Work Capability Assessment, assessment for Personal Independence Payment and cut to ESA WRAG.[[108]](#footnote-108) They outlined the measures they have taken since 2013 to mitigate some aspects of the cuts including the establishment of a Scottish Independent Living Fund[[109]](#footnote-109) and made a number of pledges to press the UK Government on issues relevant to Disabled people’s rights.[[110]](#footnote-110) Regarding the UN inquiry the manifesto states that “ The UK government should fully engage with the investigation, implement its findings and work towards the incorporation of the Convention in UK law.”

157. One of the biggest opportunities to influence change on the matters covered by the inquiry is presented by devolution with significant new powers being devolved to Scotland and, within England, to Greater Manchester and London, both of which are held by Labour. The holders of those devolved powers are key actors at a domestic level with the potential to facilitate change. They are also members of political parties that have consistently supported the inquiry and its findings.

158. In October 2016, First Minister of Scotland, Nicola Sturgeon, pledged to use the new powers to safeguard Disabled people’s rights by ending welfare reform measures that have caused harm and distress, including abolition of the bedroom tax, the outsourcing of benefit assessments to private contractors and re-introducing lifetime benefits awards for Disabled people with unchanging conditions. [[111]](#footnote-111) The announcement was delivered alongside the launch of Scotland’s UNCRPD delivery plan.[[112]](#footnote-112) Progress in Scotland will not only benefit Disabled people in Scotland but increase pressure on the UK Government.

159. In January 2017 it was announced that funding and responsibility for the new Work and Health Programme will be devolved to the cities of London and Greater Manchester.[[113]](#footnote-113) As discussed above[[114]](#footnote-114), there is immense concern amongst Disabled people, our organisations and supporters regarding the new Work and Health Programme and its potential to worsen the current situation. Devolution presents an opportunity to influence its roll out in ways that are more compatible with a human rights approach. We would welcome specific reference to the obligations of devolved regions within recommendations from the disability committee.

160. Pressure is mounting on the UK Government to address the crises in social care and in mental health provision. The prevalence of abuse in social care settings, funding and staffing shortages and unsustainability of the sector are all the subject of constant media attention.[[115]](#footnote-115) This played an important role in the Chancellor’s promise in the Spring 2017 budget of an additional £2 billion over three years for fund social care[[116]](#footnote-116) and Theresa May’s announcement of a consultation later in the year on funding for social.

161. The Government has been pressed into announcing action on the mental health situation in response to the national scandal that cuts to Child and Adolescent Mental Health Service (CAMHS) have become[[117]](#footnote-117) and media attention focused on rising detentions under the Mental Health Act, the amount of police time spent on incidents relating to people with mental health support needs and the critical mental health beds shortage.

162. There are significant tensions between Local Authorities in England and central government concerning funding for social care which also present an opportunity to trigger change. In November 2015 two Conservative councils won a judicial review against the Department of Health on the grounds that they had not been given enough money to implement the Care Act 2014.[[118]](#footnote-118) At the beginning of 2017 a row over social care funding for Surrey County Council divided members of the Conservative Party. Freedom of Information requests submitted by the BBC revealed that Chancellor Philip Hammond, along with other senior Conservative MPs, lobbied the Department for Communities and Local Government on Surrey’s behalf. Surrey County Council leader David Hodge promised to hold a referendum of Surrey residents on imposing a 15% rise in council tax to make up the council’s social care funding shortfall. This was a dramatic and controversial move aimed to draw attention to the funding crisis but was called off at the last moment amidst rumours of a “sweetheart deal”.[[119]](#footnote-119) Pressures on Local Authorities to uphold their responsibilities under the UNCRPD to uphold Disabled people’s Article 19 rights could add to tensions between councils and the UK Government who are failing to ensure adequate funding to enable this.

163. Another opportunity has recently been presented by a landmark legal ruling concerning the unlawfulness of the UK Government’s introduction of employment tribunal fees.[[120]](#footnote-120) On 26 July 2017 the Supreme Court ruled that the introduction of employment tribunal fees was unlawful under UK and EU law. Paragraph 66 of the judgment states that: “The constitutional right of access to the courts is inherent in the rule of law.”[[121]](#footnote-121) Not only does this ruling directly benefit Disabled people[[122]](#footnote-122) but there are wider implications for the lawfulness of two key issues relating to welfare reform, namely Mandatory Reconsideration[[123]](#footnote-123) and sanctions.[[124]](#footnote-124)

164. Making use of this opportunity will require activity on the part of Disabled people and public lawyers. As actors at a domestic level both groups continue to work tirelessly to defend Disabled people’s rights and reverse adverse decisions relating to matters covered by the inquiry.

165. A final factor to mention is the election of two new Disabled MPs to Parliament in May 2017, Marsah De Cordova and Jared O’Mara. Both have a track record of campaigning within the Disabled People’s Rights Movement and opposing welfare reform and in their newly elected roles have already started speaking out against the negative impacts of austerity measures on Disabled people.

166. In July, O’Mara, who ousted former Deputy Prime Minister Nick Clegg from his Sheffield Hallam seat, publicly accused the Conservatives of introducing a system of “eugenics”. He said that the Government has “completely torn up the welfare system” by shutting down the Independent Living Fund and making cuts to disability and social care benefits and declared his support for efforts to bring a criminal prosecution against Tory ministers over claims that the Department for Work and Pension’s (DWP) “fitness to work” tests have led to the deaths of benefit claimants.[[125]](#footnote-125)

167. The increase in numbers of Disabled MPs, although small[[126]](#footnote-126), has been widely welcomed and O’Mara has set about challenging inaccessibility within Parliament which could open the way for more Disabled people to enter Parliament in the future.[[127]](#footnote-127)

# 5. Shall the Committee continue with its follow-up on the inquiry?

168. We thank the disability committee for the time and attention they have given to issues affecting Disabled people in the UK relating to targeted and systematic breaches of the UNCRPD by the UK Government. Disabled people’s rights now have an unprecedented public and political profile within the UK we believe strongly that the Committee should follow up on the inquiry.

169. This is of greater importance given the lack of national mechanism on reporting and follow up and concerns as to how seriously the UK Government will take into account the recommendations arising from the routine examination under the UNCRPD.

170. There have been a number of extremely positive outcomes from the inquiry. The profile of Disabled people’s rights and awareness of the UNCRPD has been greatly strengthened within the UK, not only among Disabled people and at a political level but across wider society.

171. Disabled People’s Organisations have been campaigning for enshrinement of the UNCRPD in domestic legislation since it was ratified eight years ago. We are now, thanks to the inquiry, significantly nearer achieving that objective. The Labour Party 2017 General Election manifesto included a commitment to “build on the previous Labour government’s commitment to people with disabilities in 2009 as signatories to the UN Convention on the Rights of Persons with Disabilities and incorporate it into UK law.”[[128]](#footnote-128)

172. On 2 December 2016 the Scottish Government published “A Fairer Scotland for Disabled People - Our Delivery Plan to 2021 for the United Nations Convention on the Rights of Persons with Disabilities”.[[129]](#footnote-129) This sets an example that Disabled people and our organisations within the other UK nations are lobbying our politicians to follow. The Scottish delivery plan could go further and the continuation of the inquiry will support Disabled people and their organisations in Scotland to pursue this.

173. The Equality and Human Rights Commission has recently announced that through its S31 Project,[[130]](#footnote-130) it will carry out a cumulative impact assessment of welfare reforms on groups with protected characteristics. The need for a cumulative impact assessment was one of the key recommendations of the inquiry report.[[131]](#footnote-131) Without the type and level of resources available to Government, this assessment will be more limited and cannot include cuts to social care. There remains a need for the UK Government to carry out a full CIA, meanwhile this action by the EHRC is welcome.

174. Another example of how the inquiry is being used to progress Disabled people’s rights in the UK comes from the recent Davey vs Oxfordshire County Council legal case.[[132]](#footnote-132) The Equality and Human Rights Commission intervened in the case[[133]](#footnote-133) with a written submission that relied heavily on the UK Government’s response to the inquiry report as evidence to demonstrate the intentions of the Care Act 2014 to increase choice and control. If successful, Davey’s appeal will set an important case law precedent concerning interpretation of the Care Act that will positively impact on Disabled people’s Article 19 rights.

175. The existence of a number of opportunities in the short to medium term as outlined above, in particular the devolution of new powers to Scotland and the regions, means we are hopeful that there will ultimately be a more positive conclusion to the inquiry. We believe a follow-up to the inquiry is needed to reach that conclusion.

176. Disabled people in the UK were given great hope by the fact that the UN was holding its inquiry. Its findings provided validation for the millions struggling and in despair and to those who have devoted their lives to exposing and challenging the injustices and retrogression that the disability committee investigated. Disabled people, their families and the wider community would feel greatly disillusioned if the inquiry were to end at this stage with complete rejection by the current UK Government.

177. We are ashamed of the UK Government’s lack of respect towards the disability committee and concerned that it sets a bad example to other State parties. It also publicly undermines the UNCRPD, raising the question of what point there is in ratification of the treaty if State parties then proceed to ignore their obligations towards progressive realisation, are dishonest in their presentation of information to the committee responsible for monitoring implementation and not only dismiss the views and recommendations of the independent experts on the committee but also seek to publicly discredit them.

Abbreviations

AtW Access to Work

CAMHS Child and Adolescent Mental Health Services

CCG Clinical Commissioning Group

DHP Discretionary Housing Payment

DLA Disability Living Allowance

DWP Department for Work and Pensions

ESA Employment and Support Allowance

FFW Fit For Work

FOI Freedom Of Information

ILF Independent Living Fund

JSA Job Seekers Allowance

LA Local Authority

MR Mandatory Reconsideration

PIP Personal Independence Payment

SDP Severe Disability Premium

SG Support Group

WPC Work and Pensions Committee

WRAG Work Related Activity Group

1. “Blaming the victim, all over again: Waddell and Aylward’s biopsychosocial (BPS) model of disability” by Shakespeare et al (May 2016) critiques Waddell and Aylward’s model, examining its origins, its claims and the evidence it employs and argues that any potential benefit it may have offered has been eclipsed by its role in Coalition/Conservative government social welfare policies that have blamed the victim and justified restriction of entitlements.

   http://journals.sagepub.com/doi/abs/10.1177/0261018316649120

   "In the Expectation of Recovery: misleading medical research and welfare reform” by George Faulkner (April 2016) explains how pain and fatigue have been reclassified as recovery, with medical researchers fighting to keep important information from the public; furthermore misleading medical research is disguised behind layers of complex jargon and statistical manipulation, taking careful work to expose the array of falsehoods that lie hidden behind the press releases, research papers and briefings.

   https://www.centreforwelfarereform.org/uploads/attachment/492/in-the-expectation-of-recovery.pdf [↑](#footnote-ref-1)
2. In the recent Davey vs Oxfordshire County Council case, the Local Authority (LA) tried to argue that once the LA agree to a care plan, they have the power to come up with a different, cheaper way to meet needs in order to reduce support package costs. They lost on this point which would have set a dangerous case law precedent and removed Disabled people’s choice and control over the support they receive. Unfortunately, the LA won on other points including it being reasonable to expect that if a Disabled person wants to go on trips which mean leaving the house for more than three hours at a time then it is their responsibility to find unpaid support to do so. An appeal was granted which was heard on 17 August and we await the judgment. http://www.bailii.org/ew/cases/EWHC/Admin/2017/354.html [↑](#footnote-ref-2)
3. Attendance Allowance is a social security benefit for older people with care needs. In December 2015 the Government announced that it would consider “giving more responsibility to councils in England, and to Wales, to support older people with care needs – including people who, under the current system, would be supported through Attendance Allowance.” The proposal was put forward within the context of proposed wider changes to local government finance and powers, including allowing local councils to retain 100% of business rates collected in their area, while at the same time devolving additional responsibilities to local authorities. This was followed up with a consultation launched in July 2016 on the business rates reform. As part of this, the Government sought views on a range of functions and responsibilities that could be funded locally from retained business rates. http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7729 [↑](#footnote-ref-3)
4. https://www.gov.uk/government/consultations/self-sufficient-local-government-100-business-rates-retention [↑](#footnote-ref-4)
5. The King’s Fund response to the consultation states that: “There are some significant issues that require careful assessment if the benefits of this shift are to be realised. The ability of more affluent and economically advantaged areas being able to raise more through business rates than areas with higher levels of deprivation need to be recognised and quantified and an effective equalisation mechanism put in place. Without this, areas with the poorest health outcomes and highest levels of need for publicly funded social care could be further disadvantaged.” https://www.kingsfund.org.uk/publications/articles/self-sufficient-local-government-100-cent-business-rates-retention [↑](#footnote-ref-5)
6. The proposal was to introduce a single capital floor set at £100,000. Individuals requiring social care support would be required to pay for their own social care whether in residential care or receiving support at home up until they reached the capital floor. [↑](#footnote-ref-6)
7. https://www.gov.uk/government/news/prime-minister-unveils-plans-to-transform-mental-health-support [↑](#footnote-ref-7)
8. In a report published in May 2016, the Children’s Commissioner reported that 3,000 children and young people had been referred to CAMHS mental health services with a life-threatening condition like suicide, self-harm, psychosis or anorexia nervosa but 14 per cent were not allocated any provision and more than half went on a waiting list. http://www.scie-socialcareonline.org.uk/lightning-review-access-to-child-and-adolescent-mental-health-services-may-2016/r/a11G000000G60OFIAZ [↑](#footnote-ref-8)
9. https://www.scribd.com/document/355434666/Neutral-Citation-Number-2017-EWHC-2036-Fam#from\_embed [↑](#footnote-ref-9)
10. He added: “We are, even in these times of austerity, one of the richest countries in the world. Our children and young people are our future… It is a disgrace to any country with pretensions to civilisation, compassion and, dare one say it, basic human decency, that a judge in 2017 should be faced with the problems thrown up by this case and should have to express himself in such terms.” https://www.theguardian.com/society/2017/aug/03/judge-warns-of-blood-on-our-hands-if-suicidal-girl-is-forced-out-of-secure-care [↑](#footnote-ref-10)
11. [https://www.conservatives.com/manifesto p.57](https://www.conservatives.com/manifesto%20p.57). The Mental Health Act 1983 has not been fully updated since its introduction although it was amended in 2007. [↑](#footnote-ref-11)
12. https://www.gov.uk/government/publications/queens-speech-2017-background-briefing-notes [↑](#footnote-ref-12)
13. Mental health services have also suffered with real terms cuts of over £600 million to the budgets of Mental Health Trusts since 2010. Analysis carried out by the BBC and Community Care suggests mental health trusts suffered a real terms cut of 8.25% to their budgets, the equivalent of £598 million. Freedom of Information requests, annual reports and other research was used to compare the budgets of mental health trusts in England in 2010/11 with 2014/15: http://www.bbc.co.uk/news/health-31970871. Up to 15,000 beds have been lost in the past 15 years and many people are forced to travel miles to get support as units are shut and crisis teams merged to save money. Experts have warned that 75% of patients do not get the treatment they need. Figures from the NHS’s health and social care information centre, obtained through a parliamentary question, show that the number of qualified nurses working in psychiatry dropped by 10.8% from 41,320 in 2010 to 36,870 in 2015. The King’s Fund think-tank found that evidence of poor quality care is widespread, with less than a fifth of people feeling they received appropriate care in a crisis. <https://www.kingsfund.org.uk/publications/mental-health-under-pressure>

    Over the same period the numbers of those seeking treatment rose from 500,000 to 1.7 million. <http://www.mind.org.uk/information-support/types-of-mental-health-problems/statistics-and-facts-about-mental-health/key-facts-and-statistics/>

    Figures from the Health and Social Care Information Centre show that detentions under the Mental Health Act have risen dramatically with a 10% rise in detentions between 2013/2014 and 2014/15. This is the fastest on record. <http://content.digital.nhs.uk/catalogue/PUB18803/inp-det-m-h-a-1983-sup-com-eng-14-15-rep.pdf>

    The suicide rate has increased. The number of suicides among women in the UK has increased to its highest level since 2005. Figures from the Office for National Statistics released at the end of 2016 show that 6,188 people in the UK intentionally took their own lives in 2015, up from 6,122 in 2014.

    The number of unexpected patient deaths reported by England's mental health trusts has risen by almost 50% in three years. Thirty-three mental health trusts out of a total of 57 in England responded to Freedom of Information requests carried out by the BBC programme Panorama. In 2012/13, the trusts reported a total of 2,067 unexpected deaths. By 2015/16 that had risen to 3,160. [↑](#footnote-ref-13)
14. http://www.disabilitynewsservice.com/dwp-presentation-on-esa-plans-confirms-worst-fears-about-green-paper/ [↑](#footnote-ref-14)
15. Funding for the new ‘Work and Health’ programme is just one fifth of the funding that the Work Programme had [↑](#footnote-ref-15)
16. For Inclusion London’s full report see: https://www.inclusionlondon.org.uk/campaigns-and-policy/facts-and-information/employment/improving-lives-work-health-disability-green-paper-inclusion-londons-response/

    Spartacus Network have produced a 237 response entitled “Smokescreen” that carefully details the dangers posed by the green paper: https://spartacusnetwork.wordpress.com/

    A joint response by professional bodies representing the psychological therapies highlights the dangers of pushing Disabled people into unsuitable employment and calls for an end to: http://www.bps.org.uk/system/files/consultationpapers/responses/final%20joint%20Green%20Paper%20response%20BPS%20BACP%20UKCP%20BPC%20BABCP.pdf [↑](#footnote-ref-16)
17. https://www.whatdotheyknow.com/request/414134/response/1002759/attach/3/HWC%20Operational%20Instructions%202556.pdf [↑](#footnote-ref-17)
18. Work Coaches are DWP staff, who received 55 days training, not all about disability. They have no medical training https://www.whatdotheyknow.com/request/377018/response/917543/attach/3/FOI%204749.pdf [↑](#footnote-ref-18)
19. A “fit note” is a statement from a GP that he/she judges the person not fit for work. [↑](#footnote-ref-19)
20. Exemptions include terminal illness (for a prognosis of under 6 months to live), undergoing certain treatments for cancer, suffering from a life threatening disease or fif attendance at a HWB could pose a serious risk to self or others. https://www.whatdotheyknow.com/request/404506/response/985785/attach/3/HWC%20Exemptions.pdf [↑](#footnote-ref-20)
21. Under UC, the categories “Limited Capacity for Work” and “Limited Capacity for Work Related Activity” will replace the Work Related Activity group (WRAG) and Support group of Employment Support Allowance (ESA). [↑](#footnote-ref-21)
22. https://www.gov.uk/government/publications/employment-and-support-allowance-trials-2015 [↑](#footnote-ref-22)
23. <https://www.whatdotheyknow.com/request/403081/response/1002168/attach/8/HWC%20full%20e%20learning%20material%20BIT%20040117.pdf> [↑](#footnote-ref-23)
24. https://mrfrankzola.wordpress.com/2017/07/26/dwps-behaviour-science-bs-growth-mindset-resolutely-trashed-by-academics/ [↑](#footnote-ref-24)
25. DWP, Explanatory Memorandum to The Social Security (Personal Independence Payment) (Amendment) Regulations 2017, para 2.1 [↑](#footnote-ref-25)
26. “PIP is based on an assessment of individual need. It will not consider what impairment an individual has, labelling them simply on this basis. Instead it will consider how their impairment affects their life, considering their ability to carry out a range of everyday activities.”

    <https://www.gov.uk/government/publications/2010-to-2015-government-policy-welfare-reform/2010-to-2015-government-policy-welfare-reform#appendix-6-introducing-personal-independence-payment>

    “Reform of this benefit needs to follow a social rather than medical model based on a person’s needs and the barriers they face rather than their individual disability.”

    <https://www.gov.uk/government/news/welfare-reform-disability-living-allowance-for-the-21st-century>

    “The Personal Independence Payment has been designed to better reflect today’s understanding of disability, particularly to update our thinking on mental health and fluctuating conditions…The new assessment looks at an individual’s ability to carry out a broad range of everyday activities such as washing, dressing, cooking and getting around…. In the past, higher rate mobility was focussed on individuals with a physical disability. Now claimants will be able to get the enhanced rate if their condition means they can’t plan and follow a familiar journey unassisted… The assessment criteria are fairer because they give equal weight to needs arising from physical, mental and cognitive conditions.”

    This same statement was made by both Esther McVey in 2013 and Mike Penning in 2014.

    https://www.gov.uk/government/news/new-benefit-better-reflects-todays-understanding-of-disability-says-mcvey

    <https://www.gov.uk/government/news/personal-independence-payment-rolls-out-to-existing-claimants-in-northern-england>

    In one Upper Tribunal case, HL v SSWP (PIP) [2015], the Secretary of State made the concession that psychological distress was a valid factor in determining whether mobility activity descriptor 1f was satisfied. The Department for Work and Pensions subsequently said that concession had been a mistake. [↑](#footnote-ref-26)
27. Paragraph 6.14 of the 2012 Consultation Response says: “Concern was raised that the activity takes insufficient account of the impact of mental health conditions on mobility. We do not consider this the case. Individuals could potentially score in a number of descriptors in the activity if they cannot go outside to commence journeys because of their condition or need prompting or another person to accompany them to make a journey.” [↑](#footnote-ref-27)
28. http://researchbriefings.files.parliament.uk/documents/CBP-7649/CBP-7649.pdf [↑](#footnote-ref-28)
29. <https://www.gov.uk/government/statistics/benefit-cap-number-of-households-capped-to-february-2017>

    The figures They also show that at least 32,000 households lost up to £50 every week – although it is not known how many of these were ESA claimants – while another 22,000 lost between £50 and £100 a week, and 8,500 lost between £100 and £150 a week. In all, at least 66,000 households had their benefits capped in February, an increase of 46,000 since the new, lower cap was introduced. The true figure is likely to be even higher, because some local authorities were not included in the February statistics. http://www.disabilitynewsservice.com/lower-benefit-cap-sees-income-slashed-for-more-than-10000-disabled-people/ [↑](#footnote-ref-29)
30. <http://researchbriefings.files.parliament.uk/documents/SN06294/SN06294.pdf> [↑](#footnote-ref-30)
31. <http://www.independent.co.uk/news/uk/politics/homeless-rough-sleeping-figures-increase-rise-conservatives-housing-shelter-vertical-rush-a7550251.html> [↑](#footnote-ref-31)
32. https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/593392/pip-assessment-criteria-equality-analysis.pdf [↑](#footnote-ref-32)
33. <http://www.equalityhumanrights.com/sites/default/files/uploads/documents/Parli_Briefings/Welfare%20Reform%20and%20Work%20Bill%20Lords%20Report%20Stage%20Briefing%20Clauses%2011%20to%2014%20FINAL.pdf> [↑](#footnote-ref-33)
34. <https://hansard.parliament.uk/commons/2016-11-30/debates/7E82E75D-63A3-460C-952E-0B29BE98620B/ESAAndPersonalIndependencePayments> [↑](#footnote-ref-34)
35. <http://www.mind.org.uk/media/3170647/esa-wrag-review-december-2015.pdf> [↑](#footnote-ref-35)
36. For more detail on this see section on ESA WRAG cut in Inclusion London response to the green paper: <https://www.inclusionlondon.org.uk/campaigns-and-policy/facts-and-information/employment/improving-lives-work-health-disability-green-paper-inclusion-londons-response/> [↑](#footnote-ref-36)
37. <http://www.mind.org.uk/media/3170647/esa-wrag-review-december-2015.pdf> [↑](#footnote-ref-37)
38. A report from the National Audit Office has shown that the Better Care Fund has failed to ease pressure on NHS hospitals or to save. The total Better Care Fund budget for 2015/16 was £5.3bn (some local authorities added extra money to the £3.8bn earmarked by the government). Within the first year of the Fund being introduced: the number of emergency hospital admissions has gone up, not down; the number of people stuck in hospital because they have no suitable care package available to them in the community - be that a place in a care home or adequate homecare - has also risen. <https://www.nao.org.uk/report/health-and-social-care-integration/>

    An investigation by The Observer in December 2016 revealed that data from 98 of the 151 local authorities in England with statutory responsibility for social care showed only 218 (42%) of 515 targets to improve social care in their area had been met, with the other 297 (58%) missed.

    <https://www.theguardian.com/society/2016/dec/10/tory-plans-making-social-care-worse> [↑](#footnote-ref-38)
39. Even where the precept is implemented there is still a large shortfall in funding: [https://sentinelnews.co.uk/2016/04/05/osborne-tax-leaves-adult-care-services-facing-billion-pound-black-hole/](https://sentinelnews.co.uk/2016/04/05/osborne-tax-leaves-adult-care-services-facing-billion-pound-black-hole/%20)

    King’s Fund analysis of how the precept was used by Councils this year (2016/17) shows that it is deeply flawed as a way of securing sustainable funding for adult social care. It was used by 95% of councils, but raised just £382 million – less than 3% of what Councils plan to spend on adult social care. It will not even cover the £612 million estimated cost of the National Living Wage this year, let alone demographic and other cost pressures. Increasing the precept from 2 to 3% will barely make a dent in this, and many councils will be mindful of the impact of council tax rises on working families with low incomes. https://www.kingsfund.org.uk/publications/social-care-older-people

    Not all Councils have chosen to implement the social care precept. For 2016-7, 5% chose not to: <http://www.localgov.co.uk/Widespread-council-take-up-of-social-care-precept/40595>

    There are concerns that in poorer areas with greater social care needs Local Authorities will be less able to raise revenue this way. Dr Fernández, London School of Economics, explained that a 2% increase in council tax will not translate into the same increased revenue for local councils across the country. This is important because wealthier councils with the greatest opportunity to raise resources are also those likely to be faced with least demand for social care. Ray James, president of the Association of Directors of Adult Social Services (ADASS) said :“In the most affluent areas you will raise about two-thirds of your council spend through council tax. In the most deprived areas you will raise less than 20% of your council spend through council tax. The precept raises least money in areas of greatest need.” The 10 most affluent areas will raise more than two and a half times (£41m) the amount of the 10 areas with the greatest level of pensioner need (£17m). https://www.kingsfund.org.uk/publications/social-care-older-people [↑](#footnote-ref-39)
40. Communities and Local Government Committee, “Major Reform of Social Care Funding and Provision Needed,” Commons Select Committee Report (London: Communities and Local Government Committee, March 2017), <https://www.parliament.uk/business/committees/committees-a-z/commons-select/communities-and-local-government-committee/news-parliament-2015/adult-social-care-full-report-published-16-17/>; David Phillips and Polly Simpson, “National Standards, Local Risks: The Geography of Local Authority Funded Social Care, 2009–10 to 2015–16” (London: The Institute for Fiscal Studies, April 5, 2017), <https://www.ifs.org.uk/publications/9122>. [↑](#footnote-ref-40)
41. <https://www.adass.org.uk/adass-budget-survey-2017-difficult-decisions-and-more-cuts-need-to-be-made>

    The survey also found: Directors have major concerns about the sustainability of the care market. Failure within the provider market has affected at least 69 per cent of councils in the last 6 months, while 74 per cent of responders believe that providers are facing quality challenges; In almost all areas, the existing Better Care Fund (BCF) is providing no more resources in real terms than the existing NHS transfer to adult social care in 2014/15; The increasing needs of working age adults are having an increasing financial impact. This year’s older people’s services account for 1.1 per cent of the total 2.8 per cent reported pressures on adult social care budgets, while those for working age people account for more, at 1.7 per cent; Reduced budgets are making it harder for councils to manage the tension between spending on statutory duties, and prevention and early intervention – the most important priority area to make savings and reduce future need. But spend on prevention forms 6.3 per cent of budgets this year, which is less than last year. Less than 7 per cent of Directors feel at all optimistic about the future financial state of the local health and care economy in their own areas. [↑](#footnote-ref-41)
42. A 2016 report by Skills for Care estimated that 340,000 social care employees leave their jobs each year. http://www.skillsforcare.org.uk/NMDS-SC-intelligence/NMDS-SC/Workforce-data-and-publications/State-of-the-adult-social-care-sector.aspx [↑](#footnote-ref-42)
43. An investigation by BBC Panorama in March 2017 found that almost half of councils in the UK who responded to a survey had care contracts handed back to them because they did not pay enough to deliver the services. 95 UK out of 197 councils had home care contracts cancelled by private companies struggling to deliver services on the funding offered, an investigation and as a result, a quarter of the UK’s 2,500 home care providers were at risk of insolvency. Almost 70 had closed down in the past three months. https://www.cips.org/supply-management/news/2017/march/half-of-councils-have-had-care-contracts-handed-back/ [↑](#footnote-ref-43)
44. Andrea Sutcliffe, Chief Inspector of Adult Social Care at the Care Quality Commission, said: "there is still too much poor care, some providers are failing to improve, and there is even some deterioration. It appears to be increasingly difficult for some providers to deliver the safe, high quality and compassionate care people deserve and have every right to expect. With demand for social care expected to rise over the next two decades, this is more worrying than ever. Last October, CQC gave a stark warning that adult social care was approaching a tipping point. This was driven by more people with increasingly complex conditions needing care but in a challenging economic climate, facing greater difficulties in accessing the care they need” .http://www.cqc.org.uk/news/stories/state-adult-social-care-services-2014-2017-report-published [↑](#footnote-ref-44)
45. <https://www.whatdotheyknow.com/request/care_charging_84#incoming-909785> [↑](#footnote-ref-45)
46. For example, earlier this year Camden Council consulted on plans to increase care charges from September 2017 with a decision to go ahead passed in June. Enfield Council has now similarly launched a consultation to increase its care charges. Both Councils have cited the crisis in funding for adult social care as the reason for the increases.

    <https://www.camden.gov.uk/ccm/content/social-care-and-health/about-social-care/asc-changes/>

    http://www.enfield.gov.uk/info/867/current\_consultations/3983/social\_care\_charging\_policy\_consultation [↑](#footnote-ref-46)
47. Findings from the survey also showed: significant numbers reported more restrictions on how support money could be used; 58% reported their quality of life had reduced or reduced significantly over the past 12 months; 38% have to rely more on family and friends; 25% told support would be reduced because of cuts/savings and/or limits to the amount of money for a particular service. The survey also asked former ILF recipients about their experiences since its closure and found: 41% former ILF recipients had less/a lot less support; 33% said quality of support was worse/ a lot worse; 34% of former ILF recipients reported new restrictions placed on support. <http://www.in-control.org.uk/news/in-control-news/report-on-the-independent-living-survey-2016.aspx> [↑](#footnote-ref-47)
48. https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/584417/independent-living-fund-post-closure-review.pdf [↑](#footnote-ref-48)
49. It can be strongly argued that this breached Disabled people’s rights under the Care Act 2014, however the LA could only have been challenged if a Disabled person directly affected had taken a case against them. Those individuals were either unaware of their rights, lacked the necessary support or were too frightened to take action.

    <https://www.disabilitynewsservice.com/immoral-capita-offered-200-bonuses-to-social-workers-to-slash-care-packages/> [↑](#footnote-ref-49)
50. For example, a ‘fair care policy’ approved by North Somerset council promises to review new applications for home care packages that exceed the cost of meeting the same eligible needs through a care home placement. The policy will apply to packages costing the council £500 a week or more. Where reviews find “insufficient” council funding is available for a person’s “preferred” package, the council will propose an alternative placement or offer the option of paying top-up fees. The council estimates the policy will save £700,000 over the next four years. An impact assessment suggests the changes could lead to an increase in residential care placements and a reduction in community care packages among the service user group affected.

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

    Following a judicial review, the High Court rejected a challenge to Worcestershire Council’s “maximum expenditure policy”, which sets a limit on the amount the council will spend on supporting a disabled adult in the community equivalent to the cost of meeting their eligible needs in a care home. [↑](#footnote-ref-50)
51. http://www.disabilitynewsservice.com/department-of-health-ignores-nhs-continuing-healthcare-human-rights-warnings/ [↑](#footnote-ref-51)
52. https://www.disabilitynewsservice.com/years-of-austerity-have-left-personal-assistance-in-very-fragile-state/ [↑](#footnote-ref-52)
53. http://www.skillsforcare.org.uk/Documents/NMDS-SC-and-intelligence/NMDS-SC/Analysis-pages/Size-and-Structure-2017.pdf [↑](#footnote-ref-53)
54. The two terms are used fairly interchangeably. A Direct Payment refers to a payment that is given to a Disabled person in order to buy their own support. A Personal Budget is an amount of money awarded by a LA to meet a Disabled person’s social care support needs. A Personal Budget can be received as a Direct Payment. [↑](#footnote-ref-54)
55. We currently have a situation where current situation where Disabled people are being chased by HM Revenue and Customs for minimum wage back-pay for overnight “sleep in” shifts following an employment tribunal ruling. Some Local Authorities have refused to acknowledge the tribunal ruling and to cover the back pay. Central Government has reacted by temporarily suspending enforcement activity by HMRC – until 2 October and scrapping fines for those who failed to pay sleep-in staff the minimum wage before 26 July 2017, however individual Disabled people have been nevertheless left liable.

    https://www.disabilitynewsservice.com/pa-employers-are-facing-probes-into-sleep-in-minimum-wage-back-pay/ [↑](#footnote-ref-55)
56. The research finds that: 66 Local Authorities in England reported that they used prepayment cards, many others were introducing or considering introducing them; Well over a million pounds a year is spent on fees and costs just to operate the cards; An estimated £1.2 million has been spent by 66 local authorities introducing the schemes; Two card providers dominate the market providing services to 75 % of all local authorities using cards. [↑](#footnote-ref-56)
57. <http://healthwatchcamden.co.uk/resources/healthwatch-camden-audio-diary-project-highgate-day-centre>. [↑](#footnote-ref-57)
58. https://insidecroydon.com/2016/11/25/please-dont-close-foxley-lane-it-saves-womens-lives/

    <http://www.croydonadvertiser.co.uk/women-only-mental-health-facility-in-purley-set-to-close-to-save-500k-a-year/story-29929281-detail/story.html>

    Even the local residents’ Association where the facility was based were opposed to its closure: http://www.kenleyra.org.uk/index.php/2016/10/19/closure-of-foxley-lane-womens-service/ [↑](#footnote-ref-58)
59. http://www.newhamrecorder.co.uk/news/health/patients-fears-as-mental-health-day-centre-faces-the-axe-1-4890250 [↑](#footnote-ref-59)
60. http://www.independent.co.uk/news/uk/home-news/learning-disabilities-nhs-privatisation-healthcare-industry-commodity-study-profit-million-pounds-a7811686.html [↑](#footnote-ref-60)
61. <https://epi.org.uk/report/inpatient-children-mental-health/>

    Workforce shortages were also highlighted as a key challenge: 1 in 9 (12 per cent) inpatient units fail to meet basic requirements for staff to patient ratios; Nearly a quarter (24 per cent) of units struggle to employ permanent staff – up from 17 per cent since 2014/15. Temporary bank and agency staff make up 19 per cent of child mental health inpatient pay costs; Staffing shortages affect the quality of patient care. [↑](#footnote-ref-61)
62. Statistics taken from the Adult Social Care Outcomes Framework. 2010-11 was the last year of the NIS indicators and the Social Care and Mental Health indicators were replaced by the Adult Social Care Outcomes Framework for 2011 – 12 onwards. <https://www.base-uk.org/key-facts-and-data> [↑](#footnote-ref-62)
63. Two of the examples from this year:

    In February 2017, we heard how a Disabled woman took her own life just two days after being told her Personal Independent Payment appeal had failed. The body of Susan Margaret Roberts was discovered by a care worker at her warden-assisted flat near Tunbridge Wells, Kent, surrounded by letters telling her that she had been found ineligible

    http://www.disabilitynewsservice.com/pip-investigation-woman-took-her-own-life-two-days-after-learning-of-failed-pip-appeal/

    In January 2017, Lawrence Bond collapsed and died just minutes after leaving a back-to-work appointment. He was reportedly awaiting the result of an appeal against being found fit for work and therefore ineligible for employment and support allowance (ESA). An inquest will be heard later this year.

    http://www.disabilitynewsservice.com/coroner-orders-inquest-into-fit-for-work-man-who-collapsed-after-leaving-jobcentre/ [↑](#footnote-ref-63)
64. PIP replaced Disability Living Allowance. The process of migrating claimants from DLA over to PIP is not yet complete. [↑](#footnote-ref-64)
65. https://www.gov.uk/government/collections/dwp-statistical-summaries [↑](#footnote-ref-65)
66. Receipt of the ESA uplift is dependent upon receiving the daily living component PIP. [↑](#footnote-ref-66)
67. As cited in the shadow reports, a study published by researchers in Liverpool and Oxford universities in November 2015 associated the WCA reassessment process for Incapacity Benefit claimants with an extra 590 suicides, 279,000 additional cases of self-reported mental health problems, and the prescribing of a further 725,000 anti-depressants across England as a whole.

    There is also the evidence from individual peer reviews. In May 2016, after 21 months of campaigning by Disability News Service, ministers were finally forced to publish 49 “peer reviews”, internal reports written by civil servants after investigations into suicides and other deaths linked to benefit claims. The documents have been heavily redacted but most of the un-redacted information relates to recommendations for improvements. This shows that ministers were repeatedly warned by their own civil servants that their policies to assess people for out-of-work disability benefits were putting the lives of “vulnerable” claimants at risk. http://www.disabilitynewsservice.com/comment-long-awaited-peer-reviews-suggest-ministers-failed-to-act-after-deaths-of-vulnerable-claimants/ [↑](#footnote-ref-67)
68. https://www.hw.ac.uk/about/news/mental-health-discrimination-built-into-work.htm [↑](#footnote-ref-68)
69. The NAO report published in November 2016 states that the Government is not going enough to find out how sanctions affect people on benefits. The report found that the DWP has the data to track how sanctions affect people’s behaviour and employment outcomes but has not analysed it. The NAO itself carried out some preliminary research which the DWP has failed to follow up. https://www.nao.org.uk/report/benefit-sanctions/ [↑](#footnote-ref-69)
70. <https://www.gov.uk/government/statistics/jobseekers-allowance-employment-and-support-allowance-and-universal-credit-sanctions-decisions-made-to-march-2017> [↑](#footnote-ref-70)
71. JSA and ESA have disappeared under UC. [↑](#footnote-ref-71)
72. https://www.trusselltrust.org/wp-content/uploads/sites/2/2017/06/OU\_Report\_final\_01\_08\_online.pdf [↑](#footnote-ref-72)
73. https://www.disabilityrightsuk.org/sites/default/files/pdf/FoI%202440%20reply.pdf [↑](#footnote-ref-73)
74. http://www.bbc.co.uk/news/uk-39575293 [↑](#footnote-ref-74)
75. <http://www.nat.org.uk/sites/default/files/publications/PIP%20and%20HIV%20Report%20online%20v.3.pdf>

    The research also found that: “The stress which the face-to-face consultation causes people living with HIV indicates it is not currently a suitable process to gather evidence from people with complex support needs. This is especially pronounced in the case of stigmatised conditions like HIV.”

    One charity that works with NAT, River House, described yesterday to Disability News Service how a 57-year-old man who was diagnosed in October2016 with HIV and also had chronic obstructive pulmonary disease, had been awarded zero points after a PIP assessment in April 2017. His MR was refused in late June 2017.

    By this time, his health had deteriorated even further and he was admitted to hospital, where he was diagnosed with untreatable lung cancer. He died at the end of July 2017 before he could receive the DWP’s decision on a fresh PIP application. https://www.disabilitynewsservice.com/people-living-with-hiv-have-been-failed-by-pip/ [↑](#footnote-ref-75)
76. The scope of the inquiry was originally to the Committee discussed issues with the PIP application, assessment and appeals process. It also considered whether there are any specific groups of claimants that are particularly likely to appeal against DWP decisions, and what the impact is on claimants of delays in obtaining an accurate assessment. In response to the weight of evidence presented concerning inaccuracy of assessments, the Committee sought additional written evidence from a number of organisations including Inclusion London. This evidence has been published on the WPC website but the Committee did not have time to progress the inquiry before the 2017 General Election was called.

    <http://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/inquiries/parliament-2015/inquiry4/>

    <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/work-and-pensions-committee/personal-independence-payment/written/69130.html>

    https://www.disabilitynewsservice.com/election-forces-mps-to-abandon-pip-inquiry-but-evidence-backs-up-dishonesty-claims/ [↑](#footnote-ref-76)
77. <https://www.disabilitynewsservice.com/pip-investigation-200-cases-of-dishonesty-and-still-dwp-atos-and-capita-refuse-to-act/>

    In one of the latest cases passed to DNS, a woman Disabled as a result of stage three breast cancer has described how she requested a copy of her assessment report after she was told that she had been turned down for PIP and had been awarded zero points (a claimant needs eight points for the PIP standard rate and 12 for the enhanced rate). She said she was “utterly shocked” when she read the report because it was “full of complete lies”, including the assessor stating that her daughter takes her shopping every week, when she lives in Northern Ireland and her daughter has lived in England for the last 16 years. Another claimant said of her PIP assessor: “She lied 11 times on the report despite my sending in a large amount of letters/documents outlining my conditions and support from specialists. “She asked my carer questions, too, and wrote the opposite of most of the things we told her.” A third claimant, who stayed in his wheelchair throughout his PIP assessment, was said by his assessor to have got up from the wheelchair and walked about. [↑](#footnote-ref-77)
78. <https://www.gov.uk/government/statistics/tribunals-and-gender-recognitions-certificates-statistics-quarterly-january-to-march-2017-and-2016-to-2017> See Main table, tab SSCS3 [↑](#footnote-ref-78)
79. Before claimants can appeal against a benefit decision, they must go through MR. This is an additional stage where the decision is looked at again, usually by a different decision maker, within the DWP. As below, the DWP operates a target whereby 80% of MR’s must uphold the original decision. [↑](#footnote-ref-79)
80. Department for Work and Pensions to Brian Tanning, “Response to Freedom of Information Request ‘KPIs for Reconsiderations and Disputes’.,” May 15, 2017, https://www.whatdotheyknow.com/request/402400/response/978248/attach/html/2/FOI%201740%20response.pdf.html. [↑](#footnote-ref-80)
81. http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/work-and-pensions-committee/personal-independence-payment/written/69130.html

    https://www.disabilitynewsservice.com/pip-investigation-horrific-suicide-question-sparks-fresh-assessment-inquiry-calls/ [↑](#footnote-ref-81)
82. For case studies evidencing these impacts see Inclusion London’s written submission to the WPC: http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/work-and-pensions-committee/personal-independence-payment/written/69130.html

    One service-user with HIV described to Disability News service how he had to start using foodbanks after his PIP was suddenly stopped because he missed a renewal deadline by just two days after he was diagnosed with cancer. DWP refused to reconsider removing his PIP and he had to wait more than 16 weeks to be assessed again. He said: “From the moment that my PIP stopped, I lost the uplift in my ESA that I received because I was now not receiving PIP. While I waited to be assessed for PIP and again for ESA, I had to borrow small amounts of money from friends [and]organisations that support people living with HIV and I was a regular visitor to local food banks.” https://www.disabilitynewsservice.com/people-living-with-hiv-have-been-failed-by-pip/ [↑](#footnote-ref-82)
83. Universal Credit was designed to make work pay - instead of people seeing their income drop when they move off benefits and into low-paid work. It was also an attempt to simplify the system by merging a string of working-age benefits and tax credits into one single payment, called universal credit.

    Six working-age benefits are merged into one: income-based jobseeker's allowance, income-related employment and support allowance, income support, child tax credit, working tax credit and housing benefit.

    Universal credit is paid once a month, rather than fortnightly or weekly, and go directly into a bank account. People claiming housing benefit receive the money as part of their benefit payment and then have to pay the landlord.

    The system was plagued from its very beginning with IT problems and had to be reset in 2015.

    Today, in practical terms, the government is running 3 parallel benefit systems: 1) The legacy benefit system (all the old benefits which are not included in UC); 2) The UC 'live system' (a transitional regime until Full Service is implemented); The 'Full service’ system (fully digital). The 3 systems coexist to allow an incremental roll-out of UC, but many claimants found themselves unable to navigate the system and DWP staff do not always understand how it works.

    https://www.civilserviceworld.com/articles/feature/has-reset-saved-universal-credit

    http://www.cpag.org.uk/content/universal-credit-full-steam-ahead [↑](#footnote-ref-83)
84. https://www.goodthingsfoundation.org/sites/default/files/research-publications/digital\_nation\_2016\_a4.pdf [↑](#footnote-ref-84)
85. https://www.goodthingsfoundation.org/sites/default/files/research-publications/digital\_nation\_2016\_a4.pdf [↑](#footnote-ref-85)
86. https://www.disabilityrightsuk.org/sites/default/files/pdf/holesinthesafetynet.pdf [↑](#footnote-ref-86)
87. The amount of Housing Benefit that claimants receive is tapered if their earnings are above the needs allowance. [↑](#footnote-ref-87)
88. RLA’s main concern is the way in which the housing costs element is paid direct to the tenant instead of the landlord, as well as the six week delay before the first Universal Credit payment is made to the claimant. https://news.rla.org.uk/13187-2/ [↑](#footnote-ref-88)
89. https://www.citizensadvice.org.uk/Global/CitizensAdvice/welfare%20publications/Delivering%20on%20Universal%20Credit%20-%20report.pdf [↑](#footnote-ref-89)
90. https://news.rla.org.uk/13187-2/ [↑](#footnote-ref-90)
91. https://research.rla.org.uk/report/access-homes-under-35s-impact-welfare-reform-renting/ [↑](#footnote-ref-91)
92. As outlined in the shadow reports. [↑](#footnote-ref-92)
93. The UK does not currently have a national mechanism on reporting and follow-up for engaging with international human rights mechanisms.

    The UK Government publicly dismissed and discredited the [“Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context”](http://www.ohchr.org/EN/Issues/Housing/Pages/CountryVisits.aspx) published in early 2014. Housing minister Kris Hopkins said: "This partisan report is completely discredited, and it is disappointing that the United Nations has allowed itself to be associated with a misleading Marxist diatribe." https://www.theguardian.com/society/2014/feb/03/ministers-savage-un-report-abolition-bedroom-tax

    In January 2017 the Ministry of Justice wrote to the Equality and Human Rights Committee refusing to provide information about implementation of the Concluding Observations of the Committee on Economic, Social and Cultural Rights before 2021. http://docs.wixstatic.com/ugd/8a2436\_f73bc86d064748b4ba5d321705d7b859.pdf [↑](#footnote-ref-93)
94. The Treaty monitoring civil society network includes civil society organisations involved in shadow reporting under the Convention on the Rights of the Child, Convention on the Elimination of Discrimination Against Women, International Covenant of Economic, Social and Cultural Rights and Convention on the Rights of Persons with Disabilities as well as Amnesty International and the Equality and Human Rights Commission. One of our first priorities is to lobby for the UK to adopt a national mechanism on reporting and follow-up. [↑](#footnote-ref-94)
95. https://www.gov.uk/government/speeches/queens-speech-2017 [↑](#footnote-ref-95)
96. https://www.gov.uk/government/publications/queens-speech-2017-background-briefing-notes [↑](#footnote-ref-96)
97. See para.s 74 – 79 above. [↑](#footnote-ref-97)
98. in relation to the initial report of the United Kingdom of Great Britain and Northern Ireland. http://tbinternet.ohchr.org/\_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1158&Lang=en [↑](#footnote-ref-98)
99. Also, there has at no stage in the shadow reporting process been any funding made available to support the participation of Disabled people and their civil society organisations in Northern Ireland. [↑](#footnote-ref-99)
100. In July 2017 it was reported that Government borrowing had risen by more than expected to £6.9bn in June – almost 50% higher than in the same month last year. Some analysts said the bigger-than-expected deficit in June meant the final figure could exceed £60bn before any extra money has been allocated for public services. The Office for Budget Responsibility – the UK’s fiscal watchdog - Britain’s public finances are in worse shape to withstand a recession than they were on the eve of the 2007 financial crash a decade ago and face the twin threat of a fresh downturn and Brexit. http://budgetresponsibility.org.uk/frr/fiscal-risk-report-july-2017/ [↑](#footnote-ref-100)
101. See para. 57 above. [↑](#footnote-ref-101)
102. There were fears that a British bill of righs would considerably weaken domestic human rights legislsation. [↑](#footnote-ref-102)
103. Theresa May has given several indications previously of her desire to lead Britain out of the ECHR. In April 2016 during the Brexit referendum campaign Theresa May said that Britain should withdraw from the ECHR regardless of the EU referendum result and in December 2016 it was reported that she would campaign to leave the ECHR in the 2020 election. This was before the 2017 election was announced. https://www.theguardian.com/politics/2016/apr/25/uk-must-leave-european-convention-on-human-rights-theresa-may-eu-referendum

     http://www.independent.co.uk/news/uk/politics/theresa-may-campaign-leave-european-convention-on-human-rights-2020-general-election-brexit-a7499951.html [↑](#footnote-ref-103)
104. “It is alleged, the Royal Borough of Kensington and Chelsea would not pay the extra £5,000 or so for fire-resistant cladding. Nor could it find the cash, despite a budget surplus, to instal proper sprinkler systems on the rotting interior of the building.” http://www.newstatesman.com/politics/uk/2017/07/murder-numbers-legacy-grenfell-tower-fire [↑](#footnote-ref-104)
105. This Disabled woman survived (http://www.mirror.co.uk/news/uk-news/hero-son-saves-disabled-mum-10631950) but others did not. http://www.huffingtonpost.co.uk/fran-springfield/grenfell-tower-neglect\_b\_17239116.html [↑](#footnote-ref-105)
106. . They promised “a new Social Security Bill published in our first year in office” and “to change the culture of the social security system, from one that demonises people not in work to one that is supportive and enabling”. They made the following commitments: “increase Employment and Support Allowance (ESA) by £30 per week for those in the work-related activity group, and repeal cuts in the UC limited capacity for work element; increase Carer’s Allowance by £11 to the level of Jobseekers’ Allowance; implement the court decision on Personal Independence Payment (PIP) so that there is real parity of esteem between those with physical and mental-health conditions; scrap the Work Capability and Personal Independence Payment assessments and replace them with a personalised, holistic assessment process that provides each individual with a tailored plan, building on their strengths and addressing barriers; Labour will end the privatisation of assessments; end the pointless stress of reassessments for people with severe long-term conditions.”

     http://www.labour.org.uk/index.php/manifesto2017

     The Green party also promised to “Redress benefits injustice with a social security system that gives everyone confidence they will get support when they need it, including disabled people.” https://www.greenparty.org.uk/green-guarantee/all-manifestos-alternative-formats.html [↑](#footnote-ref-106)
107. “In our first term, Labour will lay the foundations of a National Care Service for England. Our first urgent task will be to address the immediate funding crisis. We will increase the social care budgets by a further £8 billion over the lifetime of the next Parliament, including an additional £1 billion for the first year.” [↑](#footnote-ref-107)
108. The SNP manifesto notes “The Tory government is driving disabled people and those with illnesses into poverty by cutting their incomes”. https://www.snp.org/manifesto [↑](#footnote-ref-108)
109. “Since 2013, the Scottish Government has spent over £100 million a year to protect people from the worst aspects of Tory welfare cuts. • We are fully mitigating the Bedroom Tax in Scotland, protecting over 70,000 households, and we will abolish the tax completely when we have the powers. • Since 2013, the Scottish Welfare Fund has provided a vital lifeline with awards totalling £124 million to over 241,000 households in their time of greatest need, helping them to live independently and buy essentials such as nappies, food and cookers. • We are safeguarding support for over 2,800 disabled people across Scotland with the new Scottish Independent Living Fund, which was set up in July 2015. • We have extended the Scottish Welfare Fund on an interim basis to ensure no vulnerable young person is victim to the UK government’s decision to remove housing support for 18-21 year olds. • We have invested over £1 billion in the Council Tax Reduction scheme which helps over a half a million households. We have restored Westminster’s cut and extended the child allowance in the Council Tax Reduction scheme by 25 per cent, benefiting 77,000 low-income households by an average of £173 per year or around £15 per month. This boost for low income families will help nearly 140,000 children across Scotland. And we will not apply the two child cap to this or any other Scottish social security scheme.” [↑](#footnote-ref-109)
110. Also to press for strengthened provisions relating to Equality Impact Assessments and support cross-party efforts at Westminster to recognise BSL as a UK language in law and strengthen the rights of BSL users. [↑](#footnote-ref-110)
111. The SNP election manifesto made the following commitments: “The social security powers being devolved to the Scottish Parliament are limited, but they give us the opportunity to take a different approach – one with fairness, dignity and respect at its heart, shaped by experts and the people of Scotland. Here are just some of the actions the SNP Scottish Government is taking. • The SNP will abolish the Bedroom Tax. • The SNP will increase Carer’s Allowance to the level of Jobseekers Allowance. • We will protect the Winter Fuel Payment, and extend the eligibility to families with severely disabled children. • We don’t believe that profit should ever be a motive in making decisions on, or assessing people’s health and eligibility for benefits. So the SNP has ruled out the private sector having any involvement in assessments for Scotland’s social security benefits. • Disability benefits are intended to support people with the additional cost of living with a disability. We will not means-test disability benefits. • We want to stop the revolving door of disability assessments and reintroduce long term awards for those with long term conditions. That’s why we have established a Disability Benefits Assessment Commission to provide recommendations and guidance on eligibility and conditions.

     • The SNP Scottish Government will offer a new Best Start Grant worth £1,900 to a two child family - £1,400 more than the UK Sure Start Maternity Grant.” [↑](#footnote-ref-111)
112. http://www.scotsman.com/news/politics/sturgeon-pledges-to-use-new-powers-to-safeguard-disability-rights-1-4265509 [↑](#footnote-ref-112)
113. https://www.gov.uk/government/news/greater-manchester-and-london-handed-new-disability-powers [↑](#footnote-ref-113)
114. Para.s 67 – 71. [↑](#footnote-ref-114)
115. Here are a few examples from the BBC from just the three months following publication of the inquiry report: Social care simply not adequately funded adequately – November 2016 <http://www.bbc.co.uk/news/av/health-38094612/social-care-simply-not-funded-adequately> ; Councils angry at social care offer – December 2016 <http://www.bbc.co.uk/news/uk-politics-38319342> ;

     Social care “a crisis made in Downing Street” – December 2016 <http://www.bbc.co.uk/news/uk-politics-38315259> ; Ministers consider council tax rise to cover social care funding – December 2016 <http://www.bbc.co.uk/news/uk-38286145> ; Reality check: is social care getting more money? – December 2016 <http://www.bbc.co.uk/news/health-38157200> ; Social care funding shortfall urgent – December 2016 <http://www.bbc.co.uk/news/av/uk-politics-38294749/social-care-funding-shortfall-urgent-says-lib-dem-norman-lamb> ; Cost of Care: I get no help - January 2017 <http://www.bbc.co.uk/news/av/health-30919509/cost-of-care-i-get-no-help-says-87-year-old-woman> ; Care calculator: 'Home care has cost us all our savings' – January 2017 ; Cost of care: 'You have to make cold-hearted calculations' – January 2017 <http://www.bbc.co.uk/news/av/health-30919510/cost-of-care-you-have-to-make-cold-hearted-calculations> ; Council criticised over malnourished care home patient – January 2017 <http://www.bbc.co.uk/news/uk-england-berkshire-38516429> [↑](#footnote-ref-115)
116. This funding is insufficient to fill the gap. Mark Porter, council chair of the British Medical Association, said the Budget “does nothing to address the gaping hole in NHS finances. There is a £30bn gap to fill and we should be increasing the UK’s health spending by at least £10.3bn to match that of other leading European economies. The NHS and social care are at breaking point and have been failed by party politics for too long. We need politicians from all sides to come together to agree a long-term solution to the challenges facing health and social care.” <http://www.independent.co.uk/news/uk/politics/budget-2017-latest-news-philip-hammond-party-of-nhs-social-care-2-billion-conservatives-tories-a7618581.html> The Labour party 2017 election manifesto pledged an additional £8 billion for social care. [↑](#footnote-ref-116)
117. See para. 60 and footnote 8 above [↑](#footnote-ref-117)
118. R (West Berkshire DC and Wokingham BC) v Secretary of State for Health CO/1273/15. DATE: 02 Nov 2015

     After the Court granted permission to apply for judicial review the government conceded that decisions it had made relating to funding the Care Act 2014 had been flawed. http://www.landmarkchambers.co.uk/cases.aspx?id=3879 [↑](#footnote-ref-118)
119. Correspondence from Surrey MP, Jonathan Lord, said he had discussed the issue with Sajid Javid, Secretary of State for Communities and Local Government and “he’s doing something for us”. In an email to the council’s leader David Hodge and fellow Surrey Tory MPs in January, Lord suggested Javid might have “£40m hidden under the departmental sofa” for the council, and suggested other councils’ budgets could be trimmed to help. <https://www.theguardian.com/society/2017/mar/08/philip-hammond-among-mps-lobbying-for-surrey-county-council-in-funding-row> [↑](#footnote-ref-119)
120. Thanks to Paul Spicker for drawing our attention to this: http://blog.spicker.uk/5890-2/ [↑](#footnote-ref-120)
121. In his judgment, the Judge, Lord Reed, emphasised strongly that access to justice was fundamental to the rule of law: “At the heart of the concept of the rule of law is the idea that society is governed by law. Parliament exists primarily in order to make laws for society in this country. Democratic procedures exist primarily in order to ensure that the Parliament which makes those laws includes Members of Parliament who are chosen by the people of this country and are accountable to them. Courts exist in order to ensure that the laws made by Parliament, and the common law created by the courts themselves, are applied and enforced. That role includes ensuring that the executive branch of government carries out its functions in accordance with the law. In order for the courts to perform that role, people must in principle have unimpeded access to them. Without such access, laws are liable to become a dead letter, the work done by Parliament may be rendered nugatory, and the democratic election of Members of Parliament may become a meaningless charade.” https://www.supremecourt.uk/cases/docs/uksc-2015-0233-judgment.pdf [↑](#footnote-ref-121)
122. Although at a future date the Government can decide to reintroduce fees at a different level, in the short term fees have not only ended but will be refunded from when they were first introduced. [↑](#footnote-ref-122)
123. Mandatory Reconsideration deliberately creates a barrier between the claimant and the courts. Evidence to Parliament by HH Judge Robert Martin, President of the Social Entitlement Chamber of the First-tier Tribunal, stated that “the introduction of MR, rather than leading to a justified reduction in appeals, might discourage claimants who might have had “winnable” cases from appealing, because they found the process too onerous impediments to the right of access to the courts can constitute a serious hindrance even if they do not make access completely impossible.” https://publications.parliament.uk/pa/cm201415/cmselect/cmworpen/302/30209.htm [↑](#footnote-ref-123)
124. Through the sanctions regime case of sanctions penalties are imposed without a hearing and prior to any consideration of objections.   Professor Michael Adler has argued that the current sanctions regime is not consistent with the established principles of the rule of law. https://ukconstitutionallaw.org/2015/10/23/austerity-and-public-law-michael-adler-benefit-sanctions-and-the-rule-of-law/ [↑](#footnote-ref-124)
125. http://www.independent.co.uk/News/uk/home-news/jared-o-mara-labour-disabled-mp-eugenics-conservatives-tories-cuts-austerity-benefits-sheffield-a7830611.html [↑](#footnote-ref-125)
126. With just five MPs who openly identify as Disabled people, they represent less than 1% of MPs in Westminster. [↑](#footnote-ref-126)
127. The speaker has granted him permission to wear a t-shirt not to have to wear a tie in the Commons Chamber as he cannot do buttons up. Other male MPs are now also permitted not to have to wear ties. https://www.disabilitynewsservice.com/disabled-mp-forced-to-miss-commons-debates-because-he-has-nowhere-to-sit/ [↑](#footnote-ref-127)
128. http://www.labour.org.uk/index.php/manifesto2017 [↑](#footnote-ref-128)
129. http://www.gov.scot/Publications/2016/12/3778 [↑](#footnote-ref-129)
130. https://www.equalityhumanrights.com/en/inquiries-and-investigations/section-31-assessment-hm-treasury/background-s31-project [↑](#footnote-ref-130)
131. Recommendation 114 (a) [↑](#footnote-ref-131)
132. Heard in the Court of Appeal on 17 August 2017 [↑](#footnote-ref-132)
133. As did Inclusion London with the support of public lawyers committed to defending Disabled people’s rights to independent living under Article 19 of the UNCRPD. The EHRC have not yet published their written submission but ours can be found here: https://www.inclusionlondon.org.uk/campaigns-and-policy/facts-and-information/independent-living-social-care-and-health/inclusion-londons-intervention-r-davey-v-oxfordshire-county-council-case/ [↑](#footnote-ref-133)