

Disabled people

In 2012/13 there were approximately 12.2 million Disabled adults and children in the UK. The estimated percentage of the population who were disabled is around 19 per cent.ⁱ

1.0 Article I UN Declaration of Human rightsⁱⁱ (UNDHR)

1.1 Equality Act 2010

Public Sector Equality Duties/Specific Duties

The Equality Act 2010ⁱⁱⁱ has weakened the Public Sector Equality Duty (PSED), particularly the Specific Duties^{iv}, compared to the Disability Discrimination Act,^v (DDA), which it replaced. For instance, only one or more equality outcome objectives across all protected groups are required every four years, allowing public bodies to have no objectives involving Disabled people over four years or longer. While the DDA required public bodies to produce and implement a Disability Equality Scheme (DES) every four years and produce an annual report on progress.^{vi}

This reform of the law is retrogressive for the equality of Disabled people.

The Equality Act 2010 should be amended to include the provisions for a DES as under the DDA.

1.2 Lack of reasonable adjustments

The Equality Act requires reasonable adjustments to ensure Disabled people are not put at a substantial disadvantage;^{vii} yet many organisations including public bodies, fail to do this, as a result, access to high education^{viii} and health services^{ix} is jeopardised or hampered, for instance. Individual Disabled people are left to fight large organisations through the courts of law^x.

1.3 Jury service

A Deaf person was prevented from serving as juror, primarily because only jurors are permitted to be present in the jury room (the sign language interpreter needed by the Deaf person would constitute a '13th person'),^{xi} yet the interpreter would only translate what the Deaf person says. Courts must recognise that the provision of sign language interpreter is a reasonable adjustment and does not constitute a 13th member of a jury.

1.4 Rise in disability hate crime

Since 2010 the government has made frequent references to welfare benefit fraud and abuse, which the media have reported, yet fraud regarding Disabled people's benefits is very low,^{xii} e.g. a newspaper reported that the Minister of Work and Pensions said:

"...the current system has been exploited and abused because of political fear over reforming a benefit for the disabled".^{xiii} Also:

'Mr Duncan Smith says the system is riddled with abuse and fraud.'^{xiv}

1.5 This narrative has been matched with marked a rise in disability hate crime, which Disabled people have linked to the benefit fraudsters rhetoric.^{xv} The government claims to be promoting positive attitudes towards Disabled people^{xvi} but Disabled people's over whelming experience shows the opposite is true.

Disabled people's 'equal in dignity and rights' under Article 1 UNDHR and 'honour and reputation' under Article 12 UNDHR and rights under Article 16 UN Convention on the Rights of Persons with Disabilities (UNCRPD)^{xvii} are regressing.

Government must stop portraying Disabled people as benefit fraudsters and promote positive images of Disabled people.

2.0 Article 7 UNDHR

Disability Hate Crime (DHC)

Disabled people lack equality before the law - DHC does not have parity in law with other hate crime strands, breaching Article 7.

Laws covering areas such as racially or religiously aggravated offences ^{xviii} should also cover DHC.

2.1 There is also a problem with the reporting/recording of DHC by the police; Only 1,985 DHCs were recorded in 2013-14,^{xix} yet about 62,000 disability motivated hate crimes are committed on average in one year.^{xx} Only 7 out of 810 cases that were 'flagged' as DHC by the Crown Prosecution Service (CPS) ended with magistrates or judges increasing the sentence.^{xxi}

2.2 Impact of LASPO Act 2012^{xxii}

Legal aid is provided by government to help meet the costs of legal advice and representation in a court or tribunal.^{xxiii} However, the LASPO Act 2012, introduced changes so legal aid is harder to access for Disabled people regarding discrimination cases. There has been a 77% shortfall in the predicted take-up of discrimination cases since these restrictions were introduced. ^{xxiv} Only small numbers of Disabled people are accessing legal aid for discrimination claims in the fields of employment, and goods and services.^{xxv}

There has been a regression in Disabled people's rights under Article 7 UNDHR: Disabled people are not 'equal before the law' and not have 'equal protection against any discrimination' and also regression in Article 13 UNCRPD.^{xxvi}

3.0 Article 10 UNDHR

3.1 Disabled offenders

There is disproportionate percentage of people with learning difficulties or mental health support needs in prison:

72% of male and 70% of female sentenced prisoners have two or more mental health conditions.^{.xxvii} In 2013, 25% of women and 15% of men in prison reported symptoms indicative of psychosis. The rate among the general public is about 4%.^{.xxviii}

3.2 Up to 250,000 people with learning difficulties or mental health support needs or are on the autistic spectrum are not receiving the support of an ‘appropriate adult’ while being detained or questioned by police, despite it being a legal requirement.^{.xxix} 20–30% of offenders have learning disabilities or difficulties that interfere with their ability to cope with the criminal justice system.^{.xxx} We are concerned that reasonable adjustments ^{.xxxi}are not being made. Police must ensure Disabled people have access to ‘an appropriate adult’.

Disabled suspects do not have ‘full equality to a fair and public hearing’, breaching Article 10 UNDHR and also Article 13 UNCRPD.

The Crown Prosecution Service must ensure that reasonable adjustments are in place for Disabled people throughout the court process.

4.0 Article 16 UNDHR

4.1 Healthcare providers can question Disabled women’s right to have children even suggesting abortion or sterilisation, particularly if the Disabled woman is said to have any degree of learning difficulties.^{.xxxii}

Article 16 of UNDHR and Article 23 UNCRPD is being breached.

The Department of Health should ensure that health professionals do not apply any form of coercion on Disabled people to undergo an abortion or sterilisation.

5.0 Article 21 UNDHR

5.1 The government closed the 'Access to Elected Office Fund', which was created to fund 'disability-related costs you pay as part of standing for election'.^{xxxiii}

This is a regressive move regarding Disabled people's 'right to take part in the government of this country' under Article 21 UNDHR and Article 29 UNCPRD.

The government should re-open the fund.

5.2 Inaccessible voting stations: Disabled reported that voting stations were still not accessible after the 2015 election, which can make it difficult or impossible to vote or prevent a secret ballot,^{xxxiv} jeopardising the right to choose a representative under Article 21. The Electoral Commission^{xxxv} should ensure all voting methods are fully accessible, including access to voting stations.

6.0 Article 23 UNDHR

6.1 Nearly half (49%) of Disabled people in the UK are employed compared with 76.7% for non-disabled people, an employment gap of 30.1 percentage points.^{xxxvi} The gap has been static for many years.^{xxxvii} The employment rate of people with learning difficulties and mental health support needs is even lower and is about 14%.

6.2 The government pledged to halve disability employment gap,^{xxxviii} but at the same time are cutting funding for employment support.^{xxxix} The Government needs to provide well-funded intensive, long term employment support for Disabled people together with support for employers.

Disabled people continue to experience attitudinal discrimination and physical and institutional barriers, which prevent employment,^{xl} breaching Article 23 UNDHR and Article 27 UNCRPD.

6.3 The Welfare Reform and Work Act 2016^{xli} introduced a reduction in the payments for new claimants in the Employment Support Allowance (ESA) for those in the Work Related Activity Group (WRAG) from £102.15a week to £73.10. By far the largest impairment group affected have 'Mental and Behavioural Disorders,' (approximately 250,000 people) so are more vulnerable to stress caused by the extra financial strain and the additional pressure to move towards employment.^{xlii}

This welfare reform is a regressive move in Disabled people's right to employment under Article 23 UNDHR and should be repealed.

6.4 Access to Work

The Access to Work (AtW) scheme was designed to ensure that Disabled employees enjoy the same opportunities as non-disabled. The government is trying to expand the number of AtW users with a marginal increase in the budget to the detriment of existing users whose support is being cut^{xliii} as a result Disabled people are saying AtW is broken.^{xliv} 'Substantial additional funding¹ for AtW is urgently needed.

Disabled people's right to access to employment under Article 23 UNDHR has regressed due to cuts in AtW support.

¹ <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmworkpen/481/481.pdf>

7.0 Article 25 UNDHR

7.1 Impact of welfare benefit changes and cuts

Disabled people's right to an adequate standard of living is seriously in regression - poverty rates for Disabled people are rising:

- Households where at least one member was disabled who were in "absolute poverty" rose from 27% in 2012-13 to 30% in 2013-14.^{xlv}
- Disabled adults are twice as likely as non-Disabled adults to live in persistent poverty.^{xlvi}

7.2 The Welfare Reform Act 2012 brought in cuts and changes in welfare benefits including:

- Disability Living Allowance (DLA) abolished, replaced by Personal Independence Payment (PIP)
- Changes to Housing Benefit, including the Spare Room Subsidy removal/social housing size criteria, (commonly known as 'the bedroom tax').
- Harsher 'work-related requirements' ^{xlvii} including a tougher sanctions regime.^{xlvi}

7.3 Disabled people are being disproportionately impacted as research conducted for the Equality and Human Rights Commission (EHRC) revealed:

"The impacts of tax and welfare reforms are more negative for families containing at least one disabled person, particularly a disabled child, and that these negative impacts are particularly strong for low income families".^{xlix}

1.20 Despite numerous callsⁱ the government has repeatedly refusedⁱⁱ to undertake a cumulative impact assessment.

The government should urgently undertake a cumulative impact assessment on the impact of cuts and changes to welfare benefits on Disabled people.

7.4 Impact on Disabled people

Changes to welfare benefits including tighter eligibility have resulted in many Disabled people finding it difficult to pay basic household bills and are at risk of eviction, as the evidence from a Disabled People's Organisations below shows:

“People with schizophrenia and severe mental health problems often come to us for support at a crisis point, when they have had no income for some time, and are on the point of eviction. The person has often applied for ESA but been found fit for work. Our advocacy worker has to negotiate with housing department to avoid evictions. ”

7.5 A Disabled person on DLA since 2008 was reassessed for PIP, but was deemed no longer eligible for part of her benefit also payments were delayed, as a result:

“We go to court in Feb. (2016) for re-possession of our house we've been in for 30 yrs.....”.

Another case:

“...threat of eviction due to not being able to pay council tax or the bedroom tax! ...applied for a DHP and been refused.” (2013)

7.6 PIP eligibility tightened - loss of Motability vehicles

Eligibility for the enhanced rate of the mobility component of was tightened under PIP:^{lii} “Under DLA, the walking distance was 50 metres, which was in the Department for Transport guidance on inclusive mobility. The new distance of 20 metres is just under two London bus lengths, and is unrecognised in any other setting”.^{liii}

7.8 Due to this change many Disabled people are no longer eligible for a Motability vehicle, which enables travel away from home. According to Motability, who lease the vehicles about 700 vehicles a week are being handed back and they expect 35,000 vehicles to be returned by Disabled people during

2016.^{liv} As a result many Disabled people's ability to be included and participate in the community is lost, breaching Article 19 UNCRDP.

7.9 Sanctions

The government introduced a harsher sanctions system for Jobseekers Allowance (JSA) and ESA if the rules for claiming are not followed. Benefit can be stopped from 4 weeks up to 3 years^{lv} causing great hardship and distress as illustrated by the case below:

“My benefits are sanctioned over Christmas for arriving to a work programme 5 mins & 15 minutes late on 2 appointments. I've no money until the 5th January, i cannot get a budgeting loan as they say i owe them to much already i have no food no electric no heating & 2 young children. I'm in desperate need of some form of help, is there anything i can do?” (2013)

7.10 Work Capability Assessment (WCA)

Since 2010 criteria and testing for key welfare benefits has become harsher, particularly for ESA and PIP. Assessments are driven by the intention to 'reduce disability benefit spending';^{lvi} only 13% of assessment reports achieved the expected standard.^{lvii} The WCA is causing harm and distress, including suicides:^{lviii} Mary Hassell, a senior coroner sent a 'Prevention of future deaths report'^{lix} to the Department for Work and Pensions (DWP) following the suicide of a man found 'fit for work' by the department after undergoing the WCA. In the report, Mary Hassell said,

“I found that the trigger for Mr O'Sullivan's suicide was his recent assessment by a DWP doctor as being fit for work”.

7.11 A similar finding by a coroner had already occurred in 2010. This coroner called for a review of the policy not to seek medical evidence from a GP or psychiatrist if the claimant has a mental health condition, but the government has ignored the coroner's advice.^{lx}

7.12 Cuts in social care and support

In June 2015 a total of £4.6 billion budget reductions for adult social care had been made in England.^{lxi} Funding from central government is now totally inadequate, also local authorities have failed to protect their social care budgets leading to a rise of a "clean and feed" model of care. Reviews and re-assessments for care and support are carried out with the aim of making reductions in support irrespective of need. Often no support is provided to visit family or friends outside the home or participate in any activities outside the home. The government took the decision to close the Independent Living Fund in June 2015;^{lxii} some users are currently fighting drastic cuts to their support.

7.13 Due to welfare benefit reforms and cuts in social care and support Disabled people are experiencing a marked regression in rights to:

- A standard of living adequate for the health and well-being under Article 25 UNDHR
- Freely to participate in the cultural life of the community, to enjoy the arts under Article 27 UNDHR
- Economic, social and cultural rights under Article 22 UNDHR
- Articles 19, 28 and 30 UNCRPD.

7.14 Health inequalities

Disabled continue to experience health inequalities or instance:

- The death rate for people with learning difficulties is more than twice that of the general population.^{lxiii} According to an inquiry which reviewed the deaths of 247 people with learning difficulties, 37% of the deaths were considered avoidable.^{lxiv}
- People with a mental health support needs will typically die between 15 years (for women) and 20 years (for men) earlier than someone without.^{lxv} One in three of the 100,000 people with 'avoidable deaths' every year have a mental health support need.^{lxvi} 28% of people, who

have had a stroke and have schizophrenia die, compared with 12% of people without schizophrenia.^{lxvii}

- There were at least 13 restraint-related deaths of people detained under the Mental Health Act 1983. Eight of these occurred in a single year (2011).^{lxviii}

Disabled people's equal right to medical care under Article 25 UNDRH and Article 25 UNCRPD and the Equality Act 2010 is being breached.

The Department of Health should ensure parity of health care for all Disabled people.

8.0 Article 26 UNDRH

8.1 There is 'presumption of mainstream education' for children with Special Educational Needs (SEN).^{lxix} However, Section 316 of the 1996 Education Act^{lxx} allows for an exemption, as a result numbers of children with SEN attending maintained special schools increased from 86,670 in 2009 to 93,345 in 2013.^{lxxi} Also government is promoting Academies, which can be reluctant to take children with Special Needs.^{lxxii}

There has been retrogression in inclusive education, which does not comply with Article 24 UNCRD.

The government should revoke Section 316 of the 1996 Education Act

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