

## EQUALITY COMMISSION FOR NORTHERN IRELAND

### Response to the consultation on the [Department of Work and Pensions Modernising Support Health and Disability Green Paper](#)

July 2024

#### **Executive Summary**

- i. The Equality Commission for Northern Ireland (The Commission) is concerned that the Department's proposals, as set out in the Green Paper, may lead to a significant regression in UNCRPD rights for disabled people in Northern Ireland.
- ii. When carrying out its functions, DWP is subject to the Public Sector Equality Duty. The current consultation does not provide information as to how the public sector duty has been applied to these proposals.
- iii. As the part of the joint designated UNCRPD Independent Mechanism for Northern Ireland (IMNI), the Commission has highlighted concerns regarding aspects of welfare reform considered to have an adverse impact on the rights of disabled people to independent living, employment and adequate standard of social protection.
- iv. In March 2024, the United Nations Committee on the Rights of Persons with Disabilities reported that there has been no significant progress for disabled people throughout the UK concerning their right to live independently. They also concluded that the UK Government has failed to take all appropriate measures to address grave and systematic violations of the human rights of disabled people and has failed to eliminate the root causes of inequality and discrimination.

v. The Commission has identified a number of specific concerns and issues relating to the changes proposed by the Department, in the context of UNCRPD obligations. These can be summarised as follow:

- **UNCRPD Article 28: Adequate standard of living and social protection:** The Commission is concerned that, if progressed, the Department's proposals may cause a significant regression in Article 28 Rights for many disabled people living in the UK, including in Northern Ireland.
- **Impact of Welfare Reform policies:** The Commission has highlighted concerns about the damaging impact of welfare reform policies on the health and wellbeing of vulnerable claimants and that they have resulted in a struggle for many disabled people to maintain an adequate standard of living.
- **Perceived sustainability of current model:** The Commission is concerned that the Department may not have taken adequate account of the impact of relevant environmental factors when considering the rise in disability claimants. These include the disproportionate impact of the cost-of-living crisis on disabled people and the post pandemic rise in mental ill-health.
- **Rationale for disability benefit cuts:** The Commission is aware of widespread perceptions that the reasons for proposed reductions to disability benefits are politically motivated and directly linked to proposed reductions in income tax.
- **UNCRPD Article 8: Awareness raising:** The Commission is aware of concerns expressed by the UNCRPD Committee that Government Ministers have used "hostile and misleading rhetoric" to portray disabled people as "undeserving citizens", in breach of the UNCRPD Article 8 (b) obligation to 'combat stereotypes: prejudices and harmful practices'.
- **UNCRPD Article 27: Work and employment:** The Commission is concerned that the proposed reforms would not achieve their stated objective of reducing economic inactivity. In March 2024, the Work and Pensions Commons Select Committee pointed to evidence that shortfalls in the support provided through health and disability benefits are found to have a negative physical and mental health impact on claimants, which could in turn affect their ability to work.

- **Proposed assessment reform:** The Commission is concerned with the proposal that eligibility for PIP should be based more on condition. The same diagnosed condition can have a very different impact on different people. Protection from disability discrimination afforded under the Equality Act 2010 and the Disability Discrimination Act 1995 is based on impact as opposed to specific condition eligibility specifically for this reason.
- **Proposed eligibility reform:** The Commission notes that while the Department has advanced proposals to potentially merge, remove, rewrite or add eligibility criteria for PIP, this is not based on an expert evidenced review to justify such changes. We note the concerns of some disability sector stakeholders that the proposed changes are designed to reduce costs rather than improve PIP assessments.
- **Supporting the cost of disability proposals:** Given the UN Committee on the Rights of Persons with Disabilities' emphasis on the importance of cash transfers, the Commission is concerned about proposals to move away from cash payments towards catalogue, voucher or receipt-based scheme or one-off grants. We are also concerned by the Department's assessment that PIP models are not intended to fully cover the additional costs related to a person's disability.
- **Aligning support proposals:** The Commission highlights the risks of aligning PIP with local authority and NHS services. The quality and availability of such services vary significantly by region; local authorities and the Department of Health and HSC Trusts are unlikely to have the resources to take on additional provision given the current financial crisis experienced by public services. In addition, such an approach would limit disabled claimants' opportunity to make their own decisions about what their priorities are and how to maintain their personal independence.
- **Potential Impact of Proposals on Support Services:** The Commission notes the concerns of many stakeholders who believe that the proposed changes would have significant negative resource implications for other areas of public service delivery.

# 1 Introduction

- 1.1 The Equality Commission for Northern Ireland (ECNI) welcomes the opportunity to respond to the consultation by the Department for Work and Pensions (DWP) on the Modernising Support Health and Disability Green Paper.<sup>1</sup>
- 1.2 Our response provides feedback on equality matters associated with:
- specific aspects of the proposed changes;
  - the application of Public Sector Equality Duty and Section 75 of the Northern Ireland Act 1998 to promote equality of opportunity and good relations within any new planning framework; and
  - consideration of the UN Convention on the Rights of Persons with Disabilities (UNCPRD).
- 1.3 The response draws on our work across a range of policy areas including that derived from our role as part of the 'Independent Mechanism' in Northern Ireland under the United Nations Convention on the Rights of Persons with Disabilities (UNCPRD)<sup>2</sup> as well as our work to promote equality and ensure the effectiveness of the Section 75 duties.<sup>3</sup>
- 1.4 The Commission has previously called on both the Northern Ireland Executive and the DWP to identify and commit to specific measures which will mitigate the adverse impact of welfare reform on the promotion of equality of opportunity, or any alternate policies which might better promote equality of opportunity.<sup>4</sup>
- 1.5 As the jointly designated UNCPRD Independent Mechanism for Northern Ireland (IMNI), the Commission have recently

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<sup>1</sup> Department for Work and Pensions (2024) [Modernising Support – Health & Disability Green Paper](#).

<sup>2</sup> ECNI and the Northern Ireland Human Rights Commission jointly perform the role of 'Independent Mechanism' in Northern Ireland (IMNI) to promote, protect and monitor the implementation of the United Nations Convention on the Rights of Persons with Disabilities (UNCPRD). Together with the Equality and Human Rights Commission (EHRC) and the Scottish Human Rights Commission (SHRC), we are designated as the United Kingdom Independent Mechanism (UKIM).

<sup>3</sup> Our powers and duties derive from a number of statutes which have been enacted over the last decades, providing protection against discrimination on the grounds of age, disability, race, religion and political opinion, sex and sexual orientation. We also have responsibilities arising from the Northern Ireland Act 1998 in respect of the statutory equality and good relations duties.

<sup>4</sup> See: [ECNI - Welfare Reform policy recommendations - Addressing Inequality](#).

highlighted a series of concerns regarding aspects of welfare reform which have had an adverse impact on the rights of disabled people in NI to independent living, employment and adequate standard of living and social protection.<sup>5</sup>

- 1.6 On the 22 March 2024, the UNCRPD Committee published its report on progress made by the United Kingdom of Great Britain and Northern Ireland since the 2016 Inquiry into the impacts of welfare reforms on the rights of disabled people.<sup>6</sup>
- 1.7 The Committee found that 2017 recommendations have not yet been fulfilled<sup>7</sup>; that the State party has failed to take all appropriate measures to address grave and systematic violations of the human rights of persons with disabilities and has failed to eliminate the root causes of inequality and discrimination. The UN Committee has made a series of recommendations that are highlighted in section four of this submission.

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<sup>5</sup> Independent Mechanism for Northern Ireland (2023): [Jurisdictional 'Parallel' Report on the implementation, in Northern Ireland, of the recommendations by the Committee on the Rights of Persons with Disabilities in its 2016 report on an Inquiry carried out under Article 6 of the Optional Protocol, into the United Kingdom.](#)

<sup>6</sup> United Nations Committee on the Rights of Persons with Disabilities (22 March 2024): [Report on follow-up to the inquiry concerning the United Kingdom of Great Britain and Northern Ireland.](#)

<sup>7</sup> The UN's 2016 Inquiry examined the impacts of welfare reforms since 2010 on the rights of disabled people to independent living; work and employment; and standard of living and social protection. The UN Committee's [2016 Inquiry report](#) found 'grave and systemic' violations of the Convention and made 11 recommendations for improvement.

## **2 Section 75 Obligations and Public Sector Equality Duty**

- 2.1 Section 75 of the Northern Ireland Act 1998 imposes a statutory duty on designated public authorities in Northern Ireland, including government departments, to have due regard to the need to promote equality of opportunity (on nine grounds) and to have regard to the desirability of promoting good relations (on a subset of the nine grounds) when it carries out its functions.<sup>8</sup>
- 2.2 In order to have the regard that is due, designated public authorities are expected to implement the commitments and arrangements set out in their equality schemes which include the policy development tools of conducting screenings and /or Equality Impact Assessments (EQIAs).
- 2.3 When carrying out its functions, DWP is subject to the Public Sector Equality Duty.<sup>9</sup> The current consultation does not provide information as to how the public sector duty has been applied to these proposals. The Equality and Human Rights Commission (EHRC) may provide advice in relation to the application of this GB duty.<sup>10</sup>
- 2.4 The consultation (at paragraph 14) references that responsibility for health and disability benefits lies with both the UK Government and Devolved Administrations and advises that DWP will continue to work with the Devolved Administrations to consider the implications of the proposals in this Green Paper in Scotland, Wales and Northern Ireland.
- 2.5 As DWP is aware, social security in Northern Ireland is almost entirely devolved (or “transferred”) and is the responsibility of the Department for Communities (aside from HMRC benefits and tax credits). By long-standing convention, however, Northern Ireland maintains “parity” with social security, child maintenance, and pension systems in Great Britain.

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<sup>8</sup> See: [ECNI - Section 75 duties for Public Authorities.](#)

<sup>9</sup> See: [Public Sector Equality Duty: - GOV.UK \(www.gov.uk\).](#)

<sup>10</sup> See: [Homepage | EHRC \(equalityhumanrights.com\)](#)

- 2.6 Since 2016, the Northern Ireland Executive have allocated funding to provide a ‘mitigation package’ of measures to reduce the impact of the UK Government’s welfare reforms on the most vulnerable claimants.<sup>11</sup>
- 2.7 To some extent the social security “parity” convention is recognised in law, by section 87 of the Northern Ireland Act 1998 which states that:
- “The Secretary of State and the Northern Ireland Minister having responsibility for social security (“the Northern Ireland Minister”) shall from time to time consult one another with a view to securing that, to the extent agreed between them, the legislation to which this section applies provides single systems of social security, child support and pensions for the United Kingdom.”<sup>12</sup>*
- 2.8 Therefore, while the Department for Communities (DfC) and the NI Executive have responsibilities in relation to these proposals, the “parity” convention provides the overall policy framework within which any proposals will be considered in Northern Ireland. Given the potential for these policy proposals to impact on a large number of people, and specifically disabled people, it is important that equality is appropriately considered at the policy development stage. It is therefore presumed that section 87 of the Northern Ireland Act 1998 will ensure that open consultation occurs and that this will include consideration of the potential equality impacts of these proposals in Northern Ireland.
- 2.9 In this regard and of relevance to these proposals, it is noted that DfC is currently consulting on an Equality Impact Assessment (EQIA) of its budget allocation for 2024-20.<sup>13</sup> The EQIA sets out, at paragraph 5.21 (page 42), in an assessment of impacts in relation to disability, that employment programmes have or may be cut or cease to exist.

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<sup>11</sup> See: House of Commons Library (2022): [An introduction to social security in the UK](#)

<sup>12</sup> [Section 87 of the Northern Ireland Act 1998](#), pp. 28-29.

<sup>13</sup> See: [Consultation on Department for Communities Budget 2024-25 allocations](#)

2.10 The EQIA also states, at paragraph 5.1: *‘Furthermore, in the absence of the Department’s Resource bids being met for parity delivery of social security, similar to the Department of Work and Pensions (DWP) in GB, work in the following areas will be unable to progress – h) An extension of the Department’s very successful JobStart Scheme (16-24), and other parity employment support interventions.*

*Furthermore, given the absence of parity funding and continued year-on-year squeeze on Budgets, the Department will be undertaking further review of its existing suite Budget 2024-25 / Equality Impact Assessment of employment programmes and their longer-term viability.’*

2.11 The Commission advises that where there are a number of public authorities that have responsibility for aspects of a policy, for example, where one public authority has responsibility for developing the policy proposal and another public authority has a role in the implementation of that policy, that each public authority should ensure that the policy area for which it has responsibility is equality assessed. This may include working collaboratively and sharing information.<sup>14</sup>

2.12 The Commission therefore stresses the importance of ensuring that the equality and good relations impacts of these proposals are considered at the policy development stage as they relate to the context in Northern Ireland.

2.13 The Equality Commission for NI can provide further advice regarding Section 75 of the NI Act by contacting us via our telephone number 02890 500 600 or our via our website.<sup>15</sup>

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<sup>14</sup> Equality Commission for Northern Ireland (2018): [Section 75 Demonstrating Effective Leadership](#)

<sup>15</sup> Equality Commission for Northern Ireland: [Section 75 duties for Public Authorities](#)



### 3 UNCRPD Obligations

- 3.1 Article 19 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) requires State Parties to recognize that persons with disabilities have the right to live independently and be included in the community.<sup>16</sup>
- 3.2 States Parties to the Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:
- Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;
  - Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;
  - Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.
- 3.3 The UNCRPD Committee’s General Comment No. 5 (2017), on living independently and being included in the community, notes that: “*Programmes and entitlements to support living independently in the community must cover disability-related costs.*”<sup>17</sup>
- 3.4 Article 25 of the Convention requires State Parties to recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability.<sup>18</sup>

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<sup>16</sup> [UNCRPD Article 19 – Living independently and being included in the community.](#)

<sup>17</sup> United Nations Committee on the Rights of Persons with Disabilities (2017): [General Comment No.5 on Living independently and being included in the community](#), paragraph 59, p.12.

<sup>18</sup> [UNCRPD Article 25 – Health.](#)

- 3.5 UNCRPD Article 27<sup>19</sup> requires State Parties to recognize that persons with disabilities have the right to work on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities.
- 3.6 UNCRPD Article 28<sup>20</sup> requires State Parties to recognize that persons with disabilities have the right to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.
- 3.7 State Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:
- To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;
  - To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;
  - To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;
  - To ensure access by persons with disabilities to public housing programmes;
  - To ensure equal access by persons with disabilities to retirement benefits and programmes.

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<sup>19</sup> [UNCRPD Article 27 – Work and employment.](#)

<sup>20</sup> [UNCRPD - Article 28 – Adequate standard of living and social protection.](#)

## 4 UNCRPD Inquiry into the impact of welfare reforms in the UK

- 4.1 On the 22 March 2024, the UN Committee on the Rights of Persons with Disabilities published its report on progress made by the United Kingdom of Great Britain and Northern Ireland since the Committee's 2016 Inquiry into the impacts of welfare reforms on the rights of disabled people.<sup>21</sup>
- 4.2 The Committee found that the recommendations in its 2016 Inquiry report<sup>22</sup> have not yet fulfilled; that the State party has failed to take all appropriate measures to address grave and systematic violations of the human rights of persons with disabilities and has failed to eliminate the root causes of inequality and discrimination.
- 4.3 The Committee expressed concern that 'there has been no significant progress for disabled people throughout the UK concerning their right to living independently and being included in the community'. It describes some actions undertaken to provide financial support, accessible housing, and transport, as inadequate considering the cost-of-living crisis.
- 4.4 The Committee called on the State party to urgently take specific actions<sup>23</sup>, including:
- **'Develop a consistent framework to implement obligations.** The Committee remains concerned about the insufficient national consistency in meeting obligations under the Convention across the UK. The obligation to closely consult and actively involve disabled people in decision-making affecting their lives has been largely unaddressed.

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<sup>21</sup> United Nations Committee on the Rights of Persons with Disabilities (2024): [Report on follow-up to the inquiry concerning the United Kingdom of Great Britain and Northern Ireland.](#)

<sup>22</sup> The UN's 2016 Inquiry examined the impacts of welfare reforms since 2010 on the rights of disabled people to independent living; work and employment; and social protection. [The Inquiry report](#) found 'grave and systemic' violations of the Convention and made 11 recommendations for improvement.

<sup>23</sup> United Nations Committee on the Rights of Persons with Disabilities (2024): [Report on follow-up to the inquiry concerning the United Kingdom of Great Britain and Northern Ireland. Para 90.](#)

- **Promote the right of persons with disabilities to retain the amount of personal assistance necessary to live independently.** The Personal Independence Payment / Adult Disability Payment is not sufficient to cover the extra costs of living with disabilities and the eligibility criteria are contrary to the human rights model of disability.

The Committee is also deeply concerned that personal assistance designed to cover bare subsistence is being offered to disabled people instead of the amount of personal assistance required to fully live independently.<sup>24</sup>

- **Examine the impact of the Work Capability Assessment.** The Work Capability Assessment (WCA) process is not trauma informed, not sufficiently linked to other services and support, and not suitable to assist people to be job ready.

The WCA process is complex and onerous which means that many applicants opt out of completing the application. There are also concerns that plans to replace the WCA with a single health and disability functional assessment could likely increase the risks for disabled people to be deemed ineligible for one or more payments.

- **Ensure that persons with disabilities are adequately supported through social security payments, including adjusting benefit amounts to reflect the additional costs of living with disabilities.** In 2023 the Special Rapporteur on extreme poverty and human rights found that the UK was in violation of international law in relation to its duty to provide a level of social protection which ensured an adequate standard of living, including for disabled people.

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<sup>24</sup> Ibid, para 77.

- **Take measures to prevent, review and respond to occurrences of ‘unexpected deaths’ and ‘benefit deaths’.** The Committee was appalled by reports of “benefit deaths” referring to fatalities among disabled people in the State party, subsequent to their engagement with the process for determining eligibility for benefits. The evidence received revealed a disturbingly consistent theme: disabled people resorting to suicide following the denial of an adequate standard of living and social protection, starkly contradicting the foundational principles enshrined in the Convention.

In addition to numerous personal accounts concerning benefit deaths, a research study shared with the Committee indicated a correlation between the government's initiative to reevaluate incapacity benefits through the Work Capability Assessment (WCA) and an estimated six hundred suicides over a span of three years. Testimonies have also been received regarding the minimal, unsuitable, and/or abusive responses to individuals' mental health emergencies that are frequently precipitated by the benefits assessment procedure.

- **Amend Hate Crime laws to ensure nationally consistent protections for disabled people across the UK.** The Committee noted with concern that the cross-cutting obligation in article 8 to combat stereotypes, prejudices and harmful practices in relation to articles 19, 27, and 28 have been largely ignored. There is a pervasive framework and rhetoric that devalues disabled people and undermines their human dignity.

Reforms within social welfare benefits are premised on a notion that disabled people are undeserving and wilfully avoiding employment (“skiving off”) and defrauding the system. This has resulted in hate speech and hostility towards disabled people.’

## 5 Prevent exacerbation of existing inequalities.

- 5.1 The Commission emphasises the importance of ensuring progress to tackle long-standing inequalities and prevent the exacerbation of existing inequalities experienced by people with disabilities.
- 5.2 The Joseph Rowntree Foundation have highlighted that: *‘Disabled people face a higher risk of poverty and have done so for at least the last 20 years. This is driven partly by the additional costs associated with disability and ill-health, and partly by many disabled people being less able to access work. With potential for work often limited, disabled people and/or families where someone is disabled frequently rely on benefits as a source of income, which at current rates will almost inevitably lead to higher poverty rates’.*<sup>25</sup>
- 5.3 Disabled people are more likely to experience poverty than non-disabled people<sup>26</sup> and an additional three million non-disabled people in poverty in the UK live in a household where someone is disabled, meaning that, overall, nearly half of the 14 million people in poverty in the UK are affected by disability. Poverty is especially high among families where there is a disabled adult at nearly 33%. If there is also a disabled child, the poverty rate is 40% – more than twice the rate where there is no disability.<sup>27</sup>
- 5.4 The Disability equality charity Scope UK has highlighted that: *‘Life costs more for disabled people and their families, spending more on essential goods and services like, heating, insurance, equipment, and therapies. These extra costs mean disabled people have less money in their pocket than non-disabled people or go without. The result is that disabled people are more likely to have a lower standard of living, even when they earn the same’.*<sup>28</sup>

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<sup>25</sup> Joseph Rowntree Foundation (2022): [UK Poverty 2022 - the essential guide to understanding poverty in the UK](#), p. 57.

<sup>26</sup> Reed, H. and Portes, J. (2019): [Cumulative impact assessment of tax and social security reforms in Northern Ireland](#) (NIHRC)), paragraph 7.2, p. 101.

<sup>27</sup> Joseph Rowntree Foundation (2020): [UK Poverty 2019/20](#), p. 7.

<sup>28</sup> Scope (2024): [Extra Costs](#)

## 6 Specific comments and responses to questions

6.1 Over the following pages, the Commission will seek to highlight a number of specific concerns in the context of UNCRPD obligations. Responses to consultation questions are also provided. These can be summarised as follow:

- **UNCRPD Article 28: Adequate standard of living and social protection:** The Commission is concerned that, if progressed, the Department’s proposals may cause a significant regression in Article 28 Rights for many disabled people living in the UK, including in Northern Ireland.
- **Knock-on impacts of Welfare Reform policies:** The Commission has highlighted concerns about the damaging knock-on impacts of welfare reform policies on the health of vulnerable claimants and that they have resulted in a struggle for many disabled people to maintain an adequate standard of living.
- **Perceived sustainability of current model:** The Commission is concerned that the Department may not have taken adequate account of the impact of relevant environmental factors when considering the rise in disability claimants. These include the disproportionate impact of the cost-of-living crisis on disabled people and the post pandemic rise in mental ill-health.
- **Perception of politically motivated reasons for cuts:** The Commission is aware of widespread perceptions that the reasons for proposed cuts are politically motivated and are directly linked to proposed measures to reduce income tax levels.
- **UNCRPD Article 8: Obligation to Combat Stereotypes:** The Commission is aware of concerns that Government Ministers have used “*hostile and misleading rhetoric*” to portray them as “*undeserving citizens*”. We would remind the Department of the UNCRPD Article 8: Obligation to Combat stereotypes: prejudices and harmful practices.
- **UNCRPD Article 27 - The Right to Work:** The Commission are not convinced that the proposed reforms

would achieve their stated objective of reducing economic inactivity.

- ***Proposed assessment reform:*** The Commission is concerned with the proposal that eligibility for PIP should be based more on condition. The same diagnosed condition can have a very different impact on different people. Protection from disability discrimination afforded under the Equality Act 2010 is based on impact as opposed to specific condition eligibility specifically for this reason.
- ***Proposed eligibility reform:*** The Commission is concerned with proposals to potentially merge, remove, rewrite or add eligibility criteria for PIP. The Department has not undertaken an expert evidenced review to justify such changes and we would share concerns of stakeholders that the proposed changes are designed to reduce costs rather than improve PIP assessments.
- ***Supporting the cost of disability proposals:*** The Commission is concerned with proposals to move away from cash payments towards catalogue, voucher or receipt-based scheme or one-off grants. We are also concerned by the Department's assessment that PIP models are not intended to fully cover the additional costs related to a person's disability.
- ***Aligning support proposals:*** The Commission are concerned with proposals to align PIP with local authority and NHS services. The quality and availability of such services vary significantly by region; Local authorities and NHS trusts are unlikely to have the resources to take on additional provision. In addition, such an approach would limit disabled claimants' opportunity to make their own decisions about what their priorities are and how to maintain their personal independence.
- ***Potential impact of proposals on support services:*** The Commission shares the concerns of many stakeholders who believe that the proposed changes would have significant negative resource implications for other areas of public service delivery.



## ***UNCRPD Article 28: Adequate standard of living and social protection***

- 6.2 The Commission is concerned that, if progressed, the Department's proposals may cause a significant regression in Article 28 rights for many disabled people living in the UK, including in Northern Ireland.<sup>29</sup>
- 6.3 When considering the UK Government's Article 28 obligations, the UNCRPD Committee highlighted the UN Special Rapporteur on extreme poverty 2023 conclusion that: '*the UK was in violation of international law in relation to its duty to provide a level of social protection which ensured an adequate standard of living, including for disabled people.*'<sup>30</sup>
- 6.4 In July 2024, a coalition of ten leading disability charities have written to newly appointed Secretary of State for Work and Pensions urging her not to '*condemn disabled people to a life of poverty*' by progressing the proposed changes to the Work Capability Assessment and Personal Independent Payments.<sup>31</sup>
- 6.5 In March 2024, the Work and Pensions Commons Select Committee published a report into Benefit levels in the UK which set out a wide range of evidence suggesting that benefit levels are too low, and that claimants are often not able to afford daily living costs and extra costs associated with having a health condition or disability.<sup>32</sup>
- 6.6 The Committee recommends that the DWP set out a new benchmark for benefits that adequately considers living costs and suggests using the methodology outlined in the Joseph Rowntree Foundation and Trussell Trust 'essentials guarantee' initiative.
- 6.7 The Joseph Rowntree Foundation and the Trussell Trust have highlighted how social security benefits rates have failed to keep pace with the increasing cost of living. Their research has revealed that the basic rate of Universal Credit falls short of

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<sup>29</sup> [Article 28 UNCRPD](#) requires State Parties to: "recognize that persons with disabilities have the right an adequate standard of social protection;" and to: "the continuous improvement of living conditions."

<sup>30</sup> UN Committee on the Rights of Persons with Disabilities (2024): [Report on follow-up to the inquiry concerning the United Kingdom of Great Britain and Northern Ireland](#), paragraph 85, p.12

<sup>31</sup> Anela Anwar et al (5 July 2024): [Plans to tighten the Work Capability Assessment from 2025](#)

<sup>32</sup> House of Commons Work and Pensions Committee (13 March 2024): [Benefit levels in the UK](#)

what is needed to afford essentials and is now at its lowest ever level as a proportion of average earnings.<sup>33</sup>

- 6.8 Research shows that ‘current benefit levels in NI are at an ‘all-time low’. In 1948, unemployment benefit was equivalent to 20% of average weekly earnings; today’s equivalent (universal credit standard allowance) has fallen to 12.5%. The most recent uprating in April 2023 means that working age social protection is being maintained at the greatly diminished level of adequacy it had reached by the late 2010s’.<sup>34</sup>
- 6.9 A recent report by Disability Rights UK found that three quarters of people referred to Trussell Trust food banks report that they or a member of their house is disabled.<sup>35</sup>
- 6.10 Research by the Ipsos Mori and the Trussell Trust (2023) found that nearly two thirds of people referred to food banks in the Trussell Trust network in Northern Ireland are disabled.<sup>36</sup>

### ***Adverse impact of Welfare Reform policies***

- 6.11 As part of UKIM, the Commission have highlighted concerns about the adverse impact of welfare reform policies on the health of vulnerable claimants. UKIM have warned that current processes are causing distress, poverty and avoidable deaths because the disability benefits system is so difficult to navigate. This in turn has a negative impact on the economy as other public services are put under increasing pressure.<sup>37</sup>
- 6.12 2016<sup>38</sup> and 2024<sup>39</sup> UNCRPD Committee inquiry reports have highlighted how disabled people have been disproportionately affected by social security reforms and that they had resulted in a struggle for many disabled people to maintain an adequate standard of living.

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<sup>33</sup> The Trussell Trust and the Joseph Rowntree Trust (2023): [An Essentials Guarantee](#) (Full Report), pp. 3 and 15; See also Joseph Rowntree Trust (2022): [Fifty years of benefit uprating](#).

<sup>34</sup> Fitzpatrick, C. (2023): [‘Imagining a new social security system in a new Ireland’](#), Agenda NI.

<sup>35</sup> Trussell Trust (2023): Disability and Financial Hardship, p 4.

<sup>36</sup> Ipsos and the Trussell Trust (2023): [Hunger in Northern Ireland](#), p. 13.

<sup>37</sup> UK Independent Mechanism (2013): [Seven Years On: disabled people’s rights to independent living, employment and standard of living in the UK](#)

<sup>38</sup> UN Committee on the Rights of Persons with Disabilities (2016): [Inquiry concerning the UK carried out by the Committee under article 6 of the Optional Protocol to the Convention, Report of the Committee](#)

<sup>39</sup> UN Committee on the Rights of Persons with Disabilities (2024): [Report on follow-up to the inquiry concerning the United Kingdom of Great Britain and Northern Ireland](#).

### ***Perceived sustainability of current model***

- 6.13 A number of disability stakeholders, including Disability Rights UK, have raised concerns that the proposed changes are predicated on a perceived need to radically cut expenditure on the personal independence payment (PIP) benefit.<sup>40</sup>
- 6.14 The former Secretary of State for Work and Pensions, Mel Stride, expressed concern about the sustainability of the current model in the forward to the Green Paper. These concerns were made on the basis that: “*Over the coming 5 years, PIP spending is expected to grow by 63% and that there are now over 33,000 new awards for PIP per month compared to 17,000 before the pandemic.*”<sup>41</sup>
- 6.15 Concerns around anticipated rises in PIP spending do not appear to consider evidence indicating that the prevalence of depressive, anxiety, and insomnia symptoms is now significantly higher in the UK relative to pre-pandemic epidemiological data.<sup>42</sup>
- 6.16 Furthermore, the civil liberty restrictions put in place by the UK Government during the pandemic can be seen to have had a direct impact on a deterioration in mental health, particularly amongst children and young people.<sup>43</sup>

### ***Rationale for disability benefit cuts***

- 6.17 During the March 2024 Inquiry Hearing, Professor Rosemary Kayess, the Chair of the UNCRPD Committee, observed that: “*We see a reform agenda that is framed in a political narrative that demonises disabled people, including proposals to cut disability benefits to reward working people by cutting taxes, which tells disabled people they are undeserving citizens.*”<sup>44 45</sup>

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<sup>40</sup> Disability Rights UK (30 April 2024): [PIP Reform Green Paper's Clear Agenda Is Reducing Financial Support To Disabled People Says DR UK | Disability Rights UK](#)

<sup>41</sup> DWP (2024) [Modernising Support – Health and Disability Green Paper, Ministerial Forward.](#)

<sup>42</sup> Pieh C, et al (2021): [Mental Health During COVID-19 Lockdown in the United Kingdom.](#)

<sup>43</sup> See: Mental Health Foundation (2020): [Impact of lockdown on mental health of children & young people.](#) and Panchal et al (2023): [The impact of COVID-19 lockdown on child and adolescent mental health: systematic review.](#)

<sup>44</sup> The Big Issue (18 March 2024): [UK government 'demonises' disabled people on benefits, UN warns](#)

<sup>45</sup> Disability News Service (21 March 2024): [UN committee asks government: 'Why are you demonising disabled people?'](#)

- 6.18 In the run up to the recent general election, former Prime Minister Rishi Sunak directly linked plans to reduce income tax levels with proposed changes and cuts to welfare benefits.<sup>46</sup>
- 6.19 Inclusion London<sup>47</sup> expressed concern about Mr Sunak’s subsequently outlined ‘*moral mission*’ to reform welfare<sup>48</sup> describing the proposals as a “*brutal ideological attack on Disabled people, after 10 years of austerity, disproportionate Covid deaths and a cost-of-living crisis;*” and evidence of “*renewed hostility towards Disabled people who are now portrayed as costing too much, which may lead to an increase in hate crimes, discrimination and injustice.*”<sup>49</sup>

### ***UNCRPD Article 8: Obligation to combat stereotypes, prejudices and harmful practices***

- 6.20 The UN CRPD Committee have noted with concern that the cross-cutting obligation in article 8 to combat stereotypes, prejudices and harmful practices in relation to articles 19, 27, and 28 have been largely ignored by the UK Government.<sup>50</sup>
- 6.21 The Committee noted that: “*There is a pervasive framework and rhetoric that devalues disabled people and undermines their human dignity. Reforms within social welfare benefits are premised on a notion that disabled people are undeserving and wilfully avoiding employment (“skiving off”) and defrauding the system. This has resulted in hate speech and hostility towards disabled people.*”<sup>51</sup>

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<sup>46</sup> The Guardian (7 January 2024): [Sunak says he wants to reduce workers' taxes this year and may cut benefits](#)

<sup>47</sup> An umbrella group supporting over 70 Deaf and Disabled Organisations working across London.

<sup>48</sup> The Rt Hon Rishi Sunak MP, The Rt Hon Mel Stride MP and The Rt Hon Victoria Atkins MP (19 April 2024): [Benefits system to be reviewed as PM outlines "moral mission" to reform welfare](#)

<sup>49</sup> Inclusion London (19 April 2024): [Response to Govt disability benefits announcement - Inclusion London](#)

<sup>50</sup> United Nations Committee on the Rights of Persons with Disabilities [Report on follow-up to the inquiry concerning the United Kingdom of Great Britain and Northern Ireland](#), paragraph 74, p. 11.

<sup>51</sup> United Nations Committee on the Rights of Persons with Disabilities (22 March 2024): [Report on follow-up to the inquiry concerning the United Kingdom of Great Britain & Northern Ireland. Para 74.](#)

- 6.22 In April 2024, former Prime Minister Rishi Sunak was accused by stakeholders of “*whipping up hostility towards disabled people, and demonising and scapegoating claimants of disability benefits*” by suggesting that the current system in being ‘*misused*’ and must be ‘*harder to exploit*’ due to the increase in successful PIP claims which are “*driving up the cost of the disability benefits bill at an unsustainable rate*”.<sup>52 53</sup>
- 6.23 The Disability Poverty Campaign Group described Sunak’s speech as “*chilling*” and “*threatening*” and continued a linguistic trend that was “*stigmatising, harmful, and inaccurate*”.<sup>54</sup>
- 6.24 MPs have also expressed concerns raised by constituents. For example, when introducing a Westminster debate on disability benefits in March 2024, the Labour MP Tanmanjeet Singh Dhesi expressed disappointment regarding: “*a punitive culture towards disabled applicants*” and “*divisive rhetoric about the most vulnerable in our society from Government Ministers*.”<sup>55</sup>

### ***UNCRPD Article 27: Work and employment***

- 6.25 The Commission are concerned that the proposed reforms may not achieve their stated objective of reducing economic inactivity.<sup>56</sup> We would be concerned that they may instead increase the risk of seriously ill and disabled people living in poverty and the threat of sanctions.
- 6.26 In their March 2024 report into Benefit levels in the UK, the Work and Pensions Commons Select Committee pointed to evidence that shortfalls in the support provided through health and disability benefits are found to have a negative physical and mental health impact on claimants, which could in turn affect their ability to work.<sup>57</sup>

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<sup>52</sup> Disability News Service (25 April 2024): [Sunak’s ‘chilling, threatening’ speech on benefits ‘demonised disabled people’](#)

<sup>53</sup> Note: In May 2024, DWP figures showed that overpayment of personal independence payment (PIP) due to fraud had dropped to 0.0 per cent, a fall from 0.2 per cent the previous year. See: [Fraud and error in the benefit system statistics, 2023 to 2024 estimates - GOV.UK \(www.gov.uk\)](#)

<sup>54</sup> Disability Rights UK (April 2024): [Disability Poverty Campaign Group respond to the PM.](#)

<sup>55</sup> [Disability Benefits - Hansard - UK Parliament](#)

<sup>56</sup> DWP (2024) [Modernising Support – Health and Disability Green Paper. Para 1.](#)

<sup>57</sup> Work and Pensions Commons Select Committee (March 2024): [Benefit levels in the UK.](#)

6.27 Ten disability and poverty charities have highlighted Office for Budget Responsibility (OBR) estimates that the planned changes to the Work Capability Assessment (WCA) would mean 424,000 people with serious mobility or mental health issues would be denied extra Universal Credit worth over £400 a month and protection from sanctions. The OBR estimates that just three per cent of these people would be expected to move into work in the subsequent four years.<sup>58</sup>

### ***Proposed assessment reform***<sup>59</sup>

6.28 The Commission is concerned about the proposal that eligibility for PIP should be based more on condition.<sup>60</sup> <sup>61</sup> The same diagnosed condition can have a very different impact on different people and can also vary over time, especially if it is a condition that is known to deteriorate. Protection from disability discrimination afforded under the Equality Act 2010<sup>62</sup> and the Disability Discrimination Act 1995<sup>63</sup> is based on impact as opposed to specific condition eligibility specifically for this reason.<sup>64</sup>

6.29 The Commission would be broadly supportive of the proposal that people with specific health conditions could qualify for PIP without an assessment,<sup>65</sup> if the award rate would was not automatically fixed and the impact on the individual was fully taken into account.

6.30 The Commission broadly agrees with the proposal that PIP claimants should not be subject to an award review if they have a specific health condition or disability.<sup>66</sup> This would be based on circumstances where a condition is very likely to remain the same or can only deteriorate and the claimant is already on the highest rates of PIP.

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<sup>58</sup> Anwar, A. et al (5 July 2024): [Plans to tighten the Work Capability Assessment from 2025](#)

<sup>59</sup> [Chapter 1 - Modernising support for independent living: the health and disability green paper](#)

<sup>60</sup> Q1. What are your views on an assessment that places more emphasis on condition rather than the functional impact of a condition on the person?

<sup>61</sup> Q7. Do you agree or disagree that eligibility for PIP should be based more on condition?

<sup>62</sup> [Equality Act 2010](#)

<sup>63</sup> [Disability Discrimination Act 1995](#)

<sup>64</sup> In the Equality Act, a disability means a physical or a mental condition which has a substantial and long-term impact on a person's ability to do normal day to day activities. See: [Disability discrimination.](#)

<sup>65</sup> Q2. What are your views on people receiving PIP without an assessment if they have specific health conditions or a disability as evidenced by a healthcare professional?

<sup>66</sup> Q3. What are your views on PIP claimants not being subject to an award review if they have a specific health condition or disability as evidenced by a healthcare professional?

- 6.31 The Commission is concerned with the proposal that a mandatory requirement for eligibility for PIP should involve the provision of evidence or a formal diagnosis by a medical expert.<sup>67</sup> This is on the basis of reasons highlighted in paragraph 6.28 and because, in some cases, a claimant may have to wait years for a formal diagnosis.
- 6.32 Furthermore, unless a mandatory requirement is placed on medical experts to provide the required evidence and the additional resources are provided to enable this to happen (as such a requirement would inevitably impact on NHS resources), then some claimants may be disadvantaged.<sup>68</sup> Either medical experts would be diverted from caring for patients because they had benefit claims to deal with or they simply may not prioritise benefits applications with the result that claimants could wait many months for the necessary evidence.
- 6.33 The Commission considers that the most effective and fair way to determine eligibility for conditions that fluctuate or vary in severity by collecting, and properly assessing, detailed evidence from the claimant, including from medical professionals involved in his/her treatment or care.<sup>69</sup>
- 6.34 The Commission acknowledges that improved digitalisation of NHS systems, including the availability of patients' personal access to own health records, may assist claimants to support their assessment for eligibility for PIP.<sup>70</sup> However, reasonable adjustments will be required to accommodate claimants who may struggle with digital access and application processes.

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<sup>67</sup> Q4. Do you agree or disagree on making provision of evidence or a formal diagnosis by a medical expert a mandatory requirement for eligibility for PIP?

<sup>68</sup> Q6. How could we prevent the provision of evidence or a formal diagnosis by a medical expert from impacting the NHS?

<sup>69</sup> Q7. Do you agree or disagree that eligibility for PIP should be based more on condition?

<sup>70</sup> See: [Chapter 1 - Modernising support for independent living: the health and disability green paper](#) Para 67.

### ***Proposed eligibility reform***<sup>71</sup>

- 6.35 The Commission is concerned with proposals to potentially merge, remove, rewrite or add eligibility criteria for PIP<sup>72 73 74</sup>, when the Department has not undertaken an expert evidenced review to justify any significant changes.
- 6.36 The Commission notes the concerns of many disability stakeholders that the proposed changes are solely designed to reduce costs rather than improve PIP assessments.<sup>75</sup>
- 6.37 Stakeholders have also raised concerns that the proposed changes would have a significant adverse impact on people with mental health or neurodiverse conditions. For example, the British Medical Association Mental Health Lead has described the proposed approach: '*as cruel as it is ineffective*'<sup>76</sup>; and the Chief Executive of the leading mental health charity MIND has warned that changes to eligibility criteria would take away crucial financial support from people with mental health problems and do nothing to help them secure or retain employment.<sup>77</sup>

### ***Supporting the Cost of Disability Proposals***<sup>78</sup>

- 6.38 The Commission is concerned by the Department's assessment that both current and proposed models of PIP are not intended to fully cover the additional costs and needs related to a person's health condition or disability.<sup>79</sup>
- 6.39 The UN Committee on the Rights of Persons with Disabilities' General Comment No. 5 (2017), on 'Independent living and being included in the community', confirms that programmes and entitlements to support living independently in the community must cover disability-related costs<sup>80</sup> (our emphasis).

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<sup>71</sup> [Chapter 2 - Modernising support for independent living: the health and disability green paper](#)

<sup>72</sup> Q12. Do you think any of the PIP activities measure similar functions and could be merged?

<sup>73</sup> Q13. Do you think any of the PIP activities should be removed or re-written and why?

<sup>74</sup> Q14. Should we consider adding any new activities? If so, which activities and why?

<sup>75</sup> Disability News Service (May 2024): [DWP's 'brutal' green paper suggests replacing PIP with vouchers or one-off grants](#).

<sup>76</sup> British Medical Association (29 April 2024): [BMA responds to proposed welfare reforms](#).

<sup>77</sup> MIND (29 April 2024): [Taking away crucial support will "make things worse"](#)

<sup>78</sup> [Chapter 3 - Modernising support for independent living: the health and disability green paper](#)

<sup>79</sup> [Modernising support for independent living: the health and disability green paper - GOV.UK \(www.gov.uk\)](#), paras 79 to 82.

<sup>80</sup> United Nations Committee on the Rights of Persons with Disabilities (2017): [General Comment No.5 on Living independently and being included in the community](#), paragraph 59, p.12.



- 6.40 As highlighted in section five, disabled people face a higher risk of poverty due to the additional costs associated with disability and often being less able to access work.
- 6.41 There is also significant evidence to indicate that disabled people have been disproportionately impacted by the cost-of-living crisis, with charity Scope estimating households with a disabled person face extra costs of £975 a month. The average extra costs rise to £1,248 per month where there are two disabled adults in the household and at least two children.<sup>81</sup>
- 6.42 The Commission shares concerns of some stakeholders regarding the wording of question eighteen<sup>82</sup> which could be interpreted as asking stakeholders to decide if it is more important that disabled people get their medication, eat properly or heat their homes etc.<sup>83</sup> No one should have to choose between these things - their relative importance will vary depending on the individual's impairment. Disabled people are currently free to spend their PIP in the ways which they consider will best enable their independence.
- 6.43 The Commission is concerned about proposals to move away from cash payments towards systems such as a catalogue/shop scheme, a voucher scheme, a receipt-based scheme or one-off grants.<sup>84</sup>
- 6.44 UNCRPD General Comment No.5, 'Living independently and being included in the community', sets out that 'Cash transfers such as disability allowances represent one of the forms in which States parties provide support for persons with disabilities in line with articles 19 and 28 of the Convention. Such cash transfers often acknowledge disability-related expenses and facilitate the full inclusion of persons with disabilities in the community.'

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<sup>81</sup> Scope (2024): [Disability Price Tag](#). Scope also found that disability related extra costs are equivalent to 63% of a disabled household's income, after housing costs.

<sup>82</sup> Q18. Which extra costs incurred by disabled people are the most important for a new scheme to address? Please rank the following options in your order of importance:

<sup>83</sup> Benefits and Work (30 April 2024): [Replace PIP with a catalogue and decide whether food or medication is more important for disabled people - 2024 PIP changes Green Paper](#)

<sup>84</sup> Questions 20 to 24.

- 6.45 Cash transfers also tackle situations of poverty and extreme poverty that persons with disabilities may face. **States parties must not add to the hardship faced by persons with disabilities by reducing their income in times of economic or financial crisis or through austerity measures that are inconsistent with human rights standards'** (our emphasis).<sup>85</sup>
- 6.46 Catalogue or voucher schemes are likely to be stigmatising and could potentially limit choice, quality and value for money options. A receipt-based scheme would have cost and processing implications and would require the claimant to already have the money to purchase the item they require or else they simply would not be able to obtain it. Although there are already grant schemes to help with large capital outlays, it would be difficult to administer multiple one-off payments to address the ongoing additional costs of being disabled.
- 6.47 Access to support or treatment should already be available from the NHS or local authority, regardless of whether you are a PIP claimant or not. Such support should not be seen as a replacement for benefits supporting personal independence.<sup>86</sup>

### ***Aligning support proposals***<sup>87</sup>

- 6.48 The Commission is also concerned with proposals to align PIP with local authority and NHS services. The quality and availability of such services vary significantly by region; local authorities and HSC trusts are already overwhelmed by costs<sup>88</sup> and are unlikely to have the resources to take on additional provision. In addition, such an approach may remove or limit disabled claimants' opportunity to make their own decisions about what their priorities are and how to maintain their personal independence.

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<sup>85</sup> United Nations Committee on the Rights of Persons with Disabilities (2017): [General Comment No.5 on Living independently and being included in the community](#), paragraph 62, p.12.

<sup>86</sup> Q27. Instead of cash payment, are there some people who would benefit more from improved access to support or treatment (for example, respite care, mental health provision or physiotherapy)?

<sup>87</sup> [Chapter 4 - Modernising support for independent living: the health and disability green paper](#)

<sup>88</sup> See for example: BBCNI News (26 April 2024): [Stormont budget means 'people at risk of harm'](#), [Robin Swann says](#); BBCNI News (1 May 2024): [Stormont budget: health trusts savings plans to be published](#)

## ***Potential knock-on impact of the proposals on other public services***

- 6.49 The Commission shares the concerns of many stakeholders who believe that the proposed changes would have significant negative resource implications for other areas of public service delivery.
- 6.50 For example, Disability News Service have highlighted concerns that: *“many disabled people’s household incomes may be severely reduced, increasing levels of poverty. This in turn may lead to more disabled people living in care home environments or sectioned or hospitalised increasing spending on social care and putting further strain on NHS spending and waiting lists. Increasing numbers of disabled people living alone may possibly die from increased isolation and neglect. Suicide and homelessness may also be increased risks.”*<sup>89</sup>

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**Public Policy & Strategic Engagement**  
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<sup>89</sup> Disability News Service (2 May 2024): [PIP claimants ask government: ‘Why should we have to fight to live?’](#)

