

Disability Policies and Programmes: How does Northern Ireland Measure Up?

An Update for ECNI

Summary paper of Interim Findings for Expert Seminar on 21 February 2014

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Contents

- Context: UNCRPD & Northern Ireland
- Considering the 3 priority areas from the previous research
- Identifying current substantive shortfalls

Context: UNCRPD & Northern Ireland

In 2010, the Equality Commission commissioned a research report on **‘Disability Policies and Programmes: How does Northern Ireland Measure up?’** This Report identified a range of shortfalls in public policy and programmes against the UN Convention on the Rights of Persons with Disabilities (UNCRPD). This research project to update the earlier work is considering whether anything has changed since then.

The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) was adopted by United Nations General Assembly in December 2006. The UK agreed to be bound by the UNCRPD in 2009.

The UNCRPD aims to:

promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.” (Article 1)

UNCRPD Rights include:

- Equality and non-discrimination
- Accessibility
- Right to life
- Education
- Employment
- Health and Social Security
- Independent living
- Participation in political life
- Participation in cultural, recreation and leisure activities
- Freedom from torture
- Access to justice
- Home and family

How the UNCRPD Works: implementation and monitoring

The Northern Ireland Government is obliged to implement the rights contained in the UNCRPD. How well it is doing so is looked at by the UN Committee on the Rights of Persons with Disabilities.

The UK submitted its initial State party report in 2011 which describes how the UK is putting the UNCRPD into practice. The UK due to be questioned by the Committee on the UK Report in 2015.

Findings from the 2010 Research

The research carried out in 2010 identified a range of shortfalls and gaps in key policies and programmes relevant to the UNCRPD.

It identified 3 key cross cutting areas fundamental to fulfilling requirements of the Convention where there were large shortfalls:

- Awareness-raising (Article 8)
- Participation in Public and Political Life (Article 29)
- Access to Information and Statistics and Data Collection (Articles 9, 21 and 31)

The current project is interested in what people think about these in 2013. Are these the areas of the UNCRPD which are still most relevant for Northern Ireland today?

Key areas of substantive shortfall as of 2013

The current research project is looking at:

- What are the key policy developments since 2010 and what is their significance with respect to the CRPD?
- What are the **current** substantive shortfalls between policy and programme delivery in NI relative to the UNCRPD?

The current research has identified an initial list of key areas of substantial shortfall of policies and programmes in Northern Ireland.

These key areas relate to the following articles of the UNCRPD:

- Article 5: Equality and non-discrimination
- Article 12: Equal recognition before the law
- Article 24: Education
- Article 25: Health
- Article 28: Adequate standard of living and social protection

For each of these 5 articles of the UNCRPD information is provided below on:

- The UN Committee's views on important policies and programmes
- Relevant Northern Ireland developments in policies and programmes
- Initial Recommendations from the current research on shortfalls between policies and programmes in NI and the UNCRPD

We would like people's views on whether the policies and programmes identified are the most significant to emerge since 2010. We would also like to know what people think about the areas we are suggesting there are the most significant gaps.

Article 5: Equality and non-discrimination

UN Committee views

- The UNCRPD includes a social model of disability
- Anti-discrimination legislation
 - must address intersectional discrimination
 - should cover perceived disability and association with a person with a disability
 - should include a principle of indirect discrimination
- Enforcement of anti-discrimination law
 - must include simplified judicial and administrative processes so that complaints can be made

- must involve remedies for breaches of anti-discrimination law which go beyond financial compensation to include remedies to change behaviour

Important NI Policies and Programmes

- Disability Strategy 2012-2015 is silent on legislative reform;
- There have been no Executive proposals to reform disability discrimination law;
- In ‘Strengthening Protection for Disabled People Proposals for Reform’ (March 2012), the ECNI set out its proposals for legislative reform;
- The IMNI produced ‘A Position Paper on the Initial United Kingdom State Party Report’ (January 2013), relying to some extent on the ECNI proposals.

Initial Recommendations on Shortfalls

- Implementation of disability discrimination law in NI through policies and programmes should
 - include a definition of disability based on the social model
 - cover intersectional discrimination
 - include indirect discrimination
 - provide for a revised ‘discrimination arising from disability’ principle
- Enforcement procedures
 - should not include high tribunal fees
 - should include remedies beyond compensation

Article 12: Equal recognition before the law

UN Committee views

- Training at all levels of the state on ‘the recognition of the legal capacity of persons with disabilities’;
- Setting up of ‘decision making support services’;

- Gathering of 'data and information on persons with disabilities who have been declared legally incapable'; and
- Review of 'all current legislation which is based on a substitute decision-making model that deprives persons with disabilities of their legal capacity'.

Important NI Policies and Programmes

A Public Consultation on the Northern Ireland Mental Capacity Bill is expected in March 2014:

- No information on planned training programmes to support implementation
- No information on services to support decision making
- Project planned by DHSSPS on review of legislation relating to children with mental disabilities

Initial Recommendations on Shortfalls

Policies and programmes should exist in NI which:

- Provide support for independent decision-making;
- Gather data on disabled people subject to the new law;
- Review all legislation relating to legal capacity.

Article 24: Education

UN Committee views

- All students should be provided with required support;
- Decisions on placement should be subject to appeal;
- Allocation of sufficient financial and human resources;
- Targets to increase participation by students with disabilities in all levels of education and training;
- Training teachers and all other educational staff to enable them to work in inclusive educational settings;
- Quality teacher training for people with disabilities

Important NI Policies and Programmes

- Disability Strategy 2012-2015 does not explicitly address inclusive education;
- Special Educational Needs and Inclusion Review
 - Replacement of statements of special educational needs with coordinated support plans;
- There is concern that proposals will lead to reduced level of provision and protection from some children and young people with disabilities.

Initial Recommendations on Shortfalls

- Policies and programmes should exist which ensure that **all** children and young people with disabilities have the same right to required support;
- There should be a right of appeal;
- Transitions planning should be provided for all young people with disabilities;
- Initial Teacher Education should include mandatory disability training (including sign language), and be accessible.

Article 25: Health

UN Committee views

- Access to health, including sexual and reproductive health;
- Gathering statistics so that access to health services can be planned for disabled people;
- Policies should recognise the necessity of free and informed consent for medical procedures, including in mental health;
- Accessibility of public health information, including on HIV&AIDS;
- Targeting of public health information for disabled people;

Important NI Policies and Programmes

- 'Transforming your care: A review of health and social care in Northern Ireland' (2011).

- Increasing evidence from England & Wales of differences in health outcomes between disabled and non-disabled people, yet no NI policies and programmes to address this difference.

Initial Recommendations on Shortfalls

- Too early to robustly assess the compliance of policies and programmes emerging from ‘Transforming Your Care’ with the obligations of the CRPD, but a programme of formal monitoring of its impact on people with disabilities is likely required.
- Policies and programmes should exist to enable measurement of health outcomes for disabled people and address differences.

Article 28: Adequate standard of living and social protection

UN Committee views

- Social security legislation must be inclusive;
- Assessments should be individually based;
- Should be uniform standards;
- Social security legislation must be accessible;
- Public policies and adequate resources are required;
- Measures should be adopted to eliminate barriers.

Important NI Policies and Programmes

- Promotion of Article 28 is strategic priority of Disability Strategy 2012-2015;
- Proposed welfare reform:
 - Introduction of Universal Credit
 - Replacement of DLA for 16-64 year olds with PIP
 - Introduction of bedroom tax
- There is concern that welfare reforms will have a disproportionate impact on disabled people in NI and that it will negatively impact on disabled people’s standard of living.

Initial Recommendations on Shortfalls

- Any welfare reforms should include policies and programmes to mitigate the disproportionate impact they will have on disabled people in Northern Ireland;
- Any reforms should follow the social, not medical, model of disability;
- Policies and programmes should monitor the impact of reforms on disabled people's standard of living.

Summary

The **key** areas where there have been significant policy developments since 2010 and where substantive shortfalls appear to exist as of 31 Dec 2013 are:

- Equality and non-discrimination
- Equal recognition before the law
- Education
- Health
- Adequate standard of living

There continues to be shortfalls in the 3 cross-cutting areas identified in the previous report; i.e.

- Awareness-raising,
- Participation in public and political life, and
- Access to information and Statistics and data collection