

UNCRPD examination of UK State Party

23 August 2017: Opening statement of the UK Independent Mechanism and its constituent members

1.

Through ratification of the Convention and the Optional Protocol, the UK and devolved governments made a commitment to comply with the standards in the Convention, and raised an expectation that the rights of disabled people would at last be realised. Almost a decade on, we find ourselves in Geneva reporting on a UK in which:

- The cumulative impact of social security reforms has led to a finding by this Committee of grave and systematic violations of the right to an adequate standard of living and social protection, the right to live independently, and the right to employment. The Committee's clear and measured recommendations, based on overwhelming evidence, have not received meaningful consideration, and further regressive measures have since been put in place.
- There continue to be gaps in legal protections provided by the Equality Act 2010, and legislation in Northern Ireland provides a lower level of protection from disability discrimination than in the rest of the UK.
- Disabled people, in particular children, continue to encounter difficulties in accessing mental health services, and people with learning disabilities or autism continue to be excluded from their communities by being placed in psychiatric hospitals inappropriately, or for lengthy time periods.
- The full inclusion of disabled children in our education system is not being realised in practice.
- In prisons, hospitals, nursing homes and other settings disabled people continue to be subject to physical, chemical and mechanical restraint, and there is no consistent human rights based approach to address this problem.
- Third parties continue to make decisions for disabled people on the basis of their perceived best interests, and legislative attempts to promote supported decision making have not led to the required paradigm shift.

- Disabled people increasingly feel they are not meaningfully and actively included in decision making processes, a reality which is reflected by the number of disabled people who have had to travel to Geneva to have their voices heard.

We would like to see recommendations from the Committee on all these areas, and on other concerns raised in UKIM's shadow report.

2.

In addition, while the Scottish Government publicly commits to CRPD, action remains patchy in reality. Firstly, disabled people continue to be omitted from key policy areas concerning them. For example, the Scottish Government's work on tackling child poverty does not acknowledge or address the additional support and resources disabled children need to achieve the same outcomes as others.

Secondly, a range of policies, while positive in intent, are not adequately supported to deliver disabled people's rights in practice. For example, self-directed support, which claims to provide choice and control over independent living, has led to limited choice, cuts to personal budgets and to some groups being excluded. And legislation regarding legal capacity has led to increasing amounts of substitute decision-making.

Lastly, new legislation restricts disabled children's access to justice in respect of additional support needs by introducing unnecessary assessments of their capacity.

3.

In Northern Ireland we would welcome a recommendation from the Committee that the Northern Ireland Executive reforms the Disability Discrimination Act, in line with the recommendations of the Equality Commission. This would harmonise, simplify and strengthen the legislation; ensure protection against indirect discrimination and discrimination arising from disability; and reflect the definition of disability in Article 1 of the Convention.

We would also welcome a recommendation that the Northern Ireland Executive addresses the under-representation of disabled people in public life, and ensures the active involvement of disabled people in the development of a

disability strategy and action plan to eliminate key inequalities and mainstream disability rights across Government Departments.

4.

In England and Wales, changes to legal aid continue to obstruct disabled people's access to justice across a range of vital areas, including housing and social security. We would welcome a recommendation from the Committee for a full review of the impact of the changes on disabled people, and for immediate action to safeguard disabled people's access to justice.

Finally, on the legal framework for protection of rights:

We also wish to stress our view that the UK Government's reply to the Committee's List of Issues overstates the ability of the Equality Act 2010 to make Convention rights a reality. The Equality Act does not cover the full scope of the CRPD, and does not negate the need to enhance the status of the Convention in domestic law.

The UK's planned exit from the EU may pose a significant risk of regression in disability rights protections. The UK Government must ensure this does not happen.

We would like to see the UK Government commit to protecting and strengthening disabled people's rights within the post-Brexit legal framework. This should be developed with the meaningful and active involvement of disabled people, throughout the negotiation process.

We look forward to observing the constructive dialogue over the next two days, and to working with UK officials back at home to take forward the resulting recommendations.

24 August 2017: Closing statement of the UK Independent Mechanism and its constituent members

We thank the Committee for this opportunity to make a closing statement, and for their probing questions over the past two days. We also take this moment to recognise the extensive and invaluable contributions of Deaf and Disabled People's Organisations leading up to and during this session.

We commend the UK for sending a delegation with representation from across key UK Government departments and the devolved administrations.

This long-anticipated dialogue leaves much to reflect on:

- From the outset, we have been struck by the disconnect between the UK delegation's replies to many questions, and the lived experiences of disabled people. For example, we heard from the UK delegation that 'legal aid provides equal access to justice' and that social security is sufficient. This stands in stark contrast to overwhelming evidence to the contrary.
- We note with concern that the UK delegation has chosen to focus on describing measures on paper, with little or no evidence of whether these are delivering disabled people's rights in practice.
- We are disappointed that the devolved administrations did not provide information in response to all relevant questions. For example, substitute decision making and Deprivation of Liberty were not addressed by the Scotland and Northern Ireland administrations.

We want to see progress on the issues raised in this dialogue. We are also united with Deaf and Disabled People's Organisations here today in the conviction that there needs to be swift progress on two areas of overarching importance.

Firstly: We want to see the UK and devolved governments safeguard and strengthen disabled people's rights. In particular, they must:

- Address the gaps and inconsistencies in legal protections for disability discrimination across the UK, and in the legal basis for Sign Language rights. This includes bringing into force outstanding provisions of the

Equality Act 2010, and addressing the lower level protection in Northern Ireland.

- They should also take steps to embed CRPD rights in domestic law as we leave the EU. This must include maintaining the protections within the Human Rights Act going forward.

Secondly: Over the past 10 years there has been a lack of joined up working between the four focal points in the UK. Going forward we need a cohesive approach to the implementation of the Convention. We urge the UK and devolved governments to put in place a coordinated UK- wide action plan to implement the Committee's recommendations.

These two priority areas must be addressed with formalised and fully resourced arrangements for the meaningful involvement of disabled people.

Inclusive discussions in preparation for this examination have demonstrated the value of the principle of 'nothing about us without us.' Deaf and Disabled People's Organisations have put forward practical solutions that will improve the lives of disabled people in the UK.

At the start of this dialogue the UK independent mechanism set out key problems faced by disabled people in the UK. Through this dialogue, we hope the UK will recognise that real progress can happen only when there is a willingness to acknowledge shortcomings and resolve to do better. We look forward to working with Governments and Deaf and Disabled People's Organisations to realise the promises set out in this Convention.