

# Progress Towards the Implementation of the UNCRPD in Northern Ireland

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Equality Commission

FOR NORTHERN IRELAND



Disability  
Action



# **Progress Towards the Implementation of the UNCRPD in Northern Ireland**

## **Executive Summary**

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“Enough with lip service and nods to what should be done - try doing  
something to the benefit of disabled people”

*Disabled woman with a long-term health condition, aged 65+*

## Introduction

This report is a review of the work on the United Nations Convention ('the Convention') on the Rights of Persons with Disabilities (UNCRPD)<sup>1</sup> undertaken within Northern Ireland (NI). The UNCRPD<sup>2</sup> is a global international human rights treaty setting out the human rights of deaf and disabled people. The review was undertaken by Disability Action on behalf of the Equality Commission for Northern Ireland. The Equality Commission for Northern Ireland, as part of the Independent Mechanism for Northern Ireland,<sup>3</sup> has contracted research to develop a series of expert papers to set out evidence of any substantive shortfalls of public policies and programme delivery set against the key requirements of the UN Convention on the Rights of Persons with Disabilities (UNCRPD)<sup>4</sup> which the UK Government signed up to in 2009.

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<sup>1</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly](#) (accessed 4 November 2021).

<sup>2</sup> Ibid.

<sup>3</sup> The Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission have been jointly designated as the Independent Mechanism for Northern Ireland (IMNI) to promote, protect and monitor the implementation of the United Nation Convention on the Rights of Persons with Disabilities in Northern Ireland. Together with the Equality and Human Rights Commission in England and Wales and the Human Rights Commission in Scotland they are also part of the United Kingdom Mechanism (UKIM) which reports to the UN Committee on the Rights of Persons with Disabilities on how well each of the devolved nations and the UK Government as a whole, are progressing with implementation of the UNCRPD.

<sup>4</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly](#) (accessed 4 November 2021).

The UN Convention on the Rights of Persons with Disabilities (UNCRPD)<sup>5</sup> is an international agreement, drawn up by States with the involvement of d/Deaf and disabled people, which affirms that deaf and disabled people have the same rights as non-disabled people. The implementation of the UNCRPD within the NI context has been slow. That said, the UNCRPD remains an important catalyst for social change with respect to the rights of d/Deaf and disabled people.

### **The Northern Ireland Context**

The Northern Ireland Assembly and Executive have experienced instability during the reporting period<sup>6</sup>. The collapse of the institutions in 2016 led to a hiatus, linked to the legacy of the recent violent conflict, which further complicated the legislative challenges within the region. NI as a region continues to face significant challenges arising from underfunding and the complexities associated with addressing legislative gaps and deficits related to the legacy of direct rule. The political institutions became operational again in early 2020 but have since experienced further challenges including the ongoing Covid-19 crisis and the implications of Brexit.

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<sup>5</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly](#)

<sup>6</sup> From September 2017 to February 2022.

A further political crisis emerged in February 2022 when First Minister Paul Givan resigned in protest at the lack of progress made within negotiations between the UK Government and the EU<sup>7</sup> with respect to the Northern Ireland Protocol<sup>8</sup>. At the time of writing the political institutions remained unstable and while legislation in progress could proceed, the Executive is unable to fully and effectively function. The Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022<sup>9</sup> has provided for an extension of the period of time allowed to appoint Ministers before the Secretary of State is obliged to propose a date for an election<sup>10</sup>.

## **Report on Progress by d/Deaf and Disabled People**

A survey of individuals regarding the impact of the UNCRPD on the lives of d/Deaf and disabled people was undertaken between 10 November and 20 December 2021.

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<sup>7</sup> Irish Times (2022): [Paul Givan resigns as First Minister of Northern Ireland in DUP protocol protest](#) (accessed 19 February 2022).

<sup>8</sup> DfEEU (2018): [UK Government commitment to “no diminution of rights, safeguards and equality of opportunity” in Northern Ireland: What does it mean and how will it be implemented?](#) (accessed 29 November 2021).

<sup>9</sup> [Northern Ireland \(Ministers, Elections and Petitions of Concern\) Act 2022](#) (accessed 13 February 2022).

<sup>10</sup> [Explanatory Notes](#), Northern Ireland (Ministers, Elections and Petitions of Concern) Bill, p3 (accessed 13 February 2022).

The survey collected qualitative and quantitative data from 84 individuals via a snowball sampling strategy in partnership with DPOs and Civic Society across the region.

- 89% (74) of respondents felt that disabled people continue to find it difficult to find and keep a job;
- 88% (73) of respondents indicated that they believe there are negative attitudes and discrimination towards d/Deaf and disabled people in NI. 67% indicated that they did not believe that d/Deaf and disabled people are adequately protected against discrimination in NI;
- 82% of respondents reported that there were not enough opportunities for d/Deaf and disabled people to be involved in the planning process in response to Covid-19;
- 80% of respondents believed that there was not enough planning in place to protect d/Deaf and disabled people during the Covid-19 pandemic;
- 81% (67) of respondents believe that buildings, housing, and transport are inaccessible to d/Deaf and disabled people;
- 78% (65) of respondents did not feel that d/Deaf and disabled people have enough money to have a decent life;

- 76% (63) of respondents indicated that d/Deaf and disabled people do not have enough access to support to live independently;
- 72% (60) of respondents felt that d/Deaf and disabled people find it hard to get help and support when they have a legal problem, with 63% (52) indicating that there is not enough financial support for d/Deaf and disabled people when they are seeking to access justice in NI;
- 65% (54) of respondents felt that the rights of d/Deaf and disabled women were not given enough attention;
- 61% (51) of respondents felt that d/Deaf and disabled people still experience problems voting in elections and taking part in politics;
- 59% (49) of respondents believe that d/Deaf and disabled children's rights are unprotected;
- 57% (47) of respondents indicated that they do not think that d/Deaf and disabled children and people are able to fully take part in education.

Qualitative data collected through the surveys provided a source of rich data about the current experiences of d/deaf and disabled people within NI. Key themes emerging from the data demonstrated:

- regression of the rights of d/Deaf and disabled people due to the ongoing damaging impact of austerity and welfare reform on the lives of d/Deaf and disabled people;
- extensive experiences of discrimination;
- the negative impact of Covid-19 on the physical and mental health of d/Deaf and disabled people, including the collapse of health and social care services, increased reliance on food banks, isolation, and continuing difficulties in accessing medicine and healthcare;
- concerns regarding the use of Do Not Resuscitate Orders (DNRs);
- barriers to accessing healthcare;
- lack of provision of social care resulting in people remaining within institutions and hospitals;
- the absence of d/Deaf and disabled people within Covid-19 planning and a lack of services and measures addressing the needs and requirements of d/Deaf and disabled people;
- lack of opportunities for independent living experienced by many d/Deaf and disabled people within the region coupled with reductions in funding;
- barriers to accessing and continuing in education;
- concerns regarding the use of restraint in education settings;



- the absence of play and social experiences for d/Deaf and disabled children;
- poor availability of changing places toilets resulting in d/Deaf and disabled people having to change on dirty toilet or bathroom floors;
- ongoing stigma associated with mental health challenges;
- lack of access to legal redress;
- lack of access to hate crime advocacy;
- high levels of bullying and hate crime;
- high levels of abuse and violence;
- lack of opportunities for d/Deaf and disabled people to participate in decision making;
- under-representation in politics and barriers to voting;
- the need for effective legislation to protect the rights of d/Deaf and disabled people and enforcement measures to effect change;
- extensive evidence of experiences of employment and workplace discrimination;
- little to no access to accessible housing;
- lack of accessible transport and barriers in access to forms of accessible transport which are currently available, due to the need to pre-book, restricted timescales, or poor provision;

- challenges for people with hidden disabilities in terms of discrimination;
- lack of voice for d/Deaf and disabled women;
- absence of differentiated data;
- levels of frustration at the lack of progress to protect the rights of d/Deaf and disabled people.

### **Incorporation of the UNCRPD in Northern Ireland**

Northern Ireland has yet to incorporate the UNCRPD into domestic law. There has been a persistent absence of concrete measures to incorporate the UNCRPD, coupled with a lack of indicators through which to evaluate progress. There is limited evidence of the adoption of a human rights based approach to disability and an absence of participatory approaches to deliver concrete outcomes to advance the rights of d/Deaf and disabled people. Consequently there are significant gaps in the implementation of the UNCRPD In Northern Ireland.

The continued lack of progress regarding the incorporation of the UNCRPD into law is linked to continuing delays in both the development and implementation of subsequent disability strategies and an absence of progressive change to improve the lives of d/Deaf and disabled people. The report of the Disability Strategy Expert Advisory Panel has concluded that the devolved administration in NI has not taken adequate steps to progress the implementation of the Convention<sup>11</sup>. The panel noted that the Convention is not directly incorporated into domestic law and that the NI Executive has not given the Convention due consideration in the development of policy and legislation<sup>12 13</sup>. The Chief Commissioner of the Equality Commission for Northern Ireland has stated that lack of progress to close the gaps in legal protections between equality law in Northern Ireland and Great Britain has positioned the region in the “dark ages” with respect to equality to such an extent that there is a “serious risk of falling way behind, to not being a developed country”.<sup>14</sup>

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<sup>11</sup> Department for Communities (2020): [Disability Strategy Expert Advisory Panel: Report and Recommendations](#), p.12 (accessed 10 October 2021).

<sup>12</sup> Ibid, pp.12-14.

<sup>13</sup> Professor Brice Dickson has referred to the power of the Northern Ireland Assembly to incorporate international human rights conventions being overlooked. See: Dickson, B. (2021): [Implications for the Protection of Human Rights in a United Ireland](#), *Irish Studies in International Affairs*, 2021, Vol. 32, No. 2, Analysing and Researching Ireland, North and South (2021), pp. 589-610 and p.594.

<sup>14</sup> The Irish Times (2021): [Northern Ireland 'in dark ages' in terms of equality laws](#), 20 October 2021 (accessed 5 November 2021).

The report of the Disability Strategy Expert Advisory Panel provides a framework through which to address current gaps associated with the UNCRPD<sup>15</sup>. At the time of writing, work with respect to the development of the Disability Strategy remained ongoing. There are concerns regarding the potential for the Strategy to be delivered within the current mandate due to the recent political crisis triggered by the resignation of the First Minister from the Executive<sup>16</sup>. Although progress with respect to advancing the draft Disability Strategy should be acknowledged, the extent to which the recommendations of the Expert Advisory Panel and the Co-Design Group will be reflected in the final Strategy remains to be seen. There is currently no coherent delivery plan to address the requirements of the Convention within the NI context.

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<sup>15</sup> DfC (2020): [Disability Strategy and Expert Advisory Panel: Report and Recommendations](#), pp.12-14 (accessed 10 October 2021).

<sup>16</sup> Irish Times (2022): [Paul Givan resigns as First Minister of Northern Ireland in DUP protocol protest](#) (accessed 19 February 2022).

## Non Compliance with the UNCRPD

There are several areas of policy, practice and legislation within NI which are non-compliant with the UNCRPD. These include: The Mental Health and Capacity Act (2016)<sup>17</sup>; inadequate protections against disability discrimination<sup>18</sup>; the continued use of involuntary ECT<sup>19</sup>; the use of restraint and seclusion in both health and educational settings<sup>20</sup>; evidence of abuse and degrading treatment within institutional settings<sup>21</sup>; inadequate play and leisure facilities for d/Deaf and disabled children<sup>22</sup>; lack of access to appropriate toileting facilities<sup>23</sup>; the under-representation of d/Deaf and disabled people in decision making<sup>24</sup>; and increasing levels of disability hate crime<sup>25</sup>.

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<sup>17</sup> [Mental Capacity Act \(NI\) 2016](#) (accessed 3 November 2021).

<sup>18</sup> DfC (2020): [Disability Strategy Expert Advisory Panel: Report and Recommendations](#), p.62 (accessed 10 October 2021).

<sup>19</sup> Regulation and Qualitative Improvement Authority (2017): [Annual Report on the Administration of Electroconvulsive Therapy in Northern Ireland](#), p.4.

<sup>20</sup> Department of Health (2021): [Public Consultation on Regional Policy on the Use of Restrictive Practices in Health and Social Care Settings](#).

<sup>21</sup> DfC (2020): [Disability Strategy Expert Advisory Panel: Report and Recommendations](#), pp.49-54 (accessed 10 October 2021).

<sup>22</sup> Mae Murray Foundation (2020): [Are Play Spaces Accessible to All?](#) (accessed 26 December 2021).

<sup>23</sup> Ibid.

<sup>24</sup> DfC (2020): [Disability Strategy Expert Advisory Panel: Report and Recommendations](#), p.109 (accessed 10 October 2021).

<sup>25</sup> Police Service of Northern Ireland (2021): [Incidents and Crimes with a Hate Motivation Recorded by the PSNI: Update 30<sup>th</sup> June 2021](#) (accessed 4 November 2021).

## Retrogression of Existing Rights

d/Deaf and disabled people raised concerns with respect to the retrogression of rights in the context of:

- the continued impact of Welfare Reform<sup>26</sup>;
- reductions in social care funding<sup>27</sup>;
- the closure of the Independent Living Fund to new applicants<sup>28</sup>;
- The continued lack of accessible transport and public services<sup>29</sup>;
- The impact of Brexit on the retrogression of rights<sup>30</sup>;
- The impact of the Covid-19 crisis, including the collapse of services, inappropriate use of Do Not Resuscitate orders and withdrawal of medical treatment<sup>31</sup>;

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<sup>26</sup> Equality and Human Rights Commission (2020): [The cumulative impact of tax and welfare reforms](#), pp.15-16 (accessed 3 November 2021).

<sup>27</sup> British Medical Association (2020): [Social care in Northern Ireland](#) (accessed 21 February 2022).

<sup>28</sup> O'Neill, E. and Fitzpatrick, F. (2020): [Independent Living Fund Northern Ireland Impact Evaluation](#), Foreword (accessed 5 Nov 2021).

<sup>29</sup> DfC (2020): [Disability Strategy and Expert Advisory Panel: Report and Recommendations](#), p.72 (accessed 10 October 2021).

<sup>30</sup> Prime Minister's Office (8 December 2017): [Joint report on progress during phase 1 of negotiations under Article 50 TEU on the UK's orderly withdrawal from the EU](#), , para 53. p.8, London: HMSO (accessed 29 November 2021).

<sup>31</sup> Equality Commission for Northern Ireland (2020): [People with disabilities must not be left behind by response to COVID-19](#) (accessed 28 December 2021).

- The ongoing impact of the reduction of public finance budgets and austerity on public service delivery<sup>32</sup>;
- Under-resourcing of DPOs<sup>33</sup>.

The NI Executive and Assembly yet to provide a strategy to prevent retrogression of the rights of disabled people. It is not clear, yet, what the outcomes of the Disability Strategy or the extent to which the UNCRPD will be embedded in the Strategy. The Disability Strategy Expert Advisory Panel have recommended that the Strategy explores ways in which the UNCRPD can best be given legal effect in Northern Ireland<sup>34</sup>.

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<sup>32</sup> Women's Policy Group (NI) (2020): [Covid-19 Feminist Recovery Plan: Summary of Recommendations](#). 4.1, 1.2, 1.4, 3.2, 4.2, 2.3 (accessed 30 October 2021).

<sup>33</sup> Disability Action (2021): [DPOs are chronically underfunded](#) (accessed 30 November 2021).

<sup>34</sup> DfC (2020): [Disability Strategy Expert Advisory Panel: Report and Recommendations](#), p.12 (accessed 10 October 2021).

## The Right to Life

The right to life is a fundamental principle of international human rights law. Covid-19 has brought the Right to Life of d/Deaf and disabled people to the fore. A disproportionate number of d/Deaf and disabled people have died due to Covid-19. The Northern Ireland Statistics and Research Agency (NISRA) published an equality group analysis of wave one deaths due to Covid-19 which showed that disabled people were 40% more likely to die of Covid-19<sup>35</sup>. People with learning disability have experienced greater excess deaths from Covid-19 as well as being disproportionately affected by the lock-down procedures implemented by the UK Government and the devolved administration<sup>36</sup>. There have been instances in which medical treatment has been withheld or withdrawn from d/Deaf and disabled people with devastating impacts<sup>37</sup>. Disabled people and their families, including parents of autistic children and carers of people with learning disabilities, are reporting that they have been asked to complete Do Not Resuscitate (DNR) orders, in case they become critically ill, with no consultation<sup>38</sup>.

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<sup>35</sup> NISRA (2021): [Covid-19 Deaths and Equality - Wave One](#).

<sup>36</sup> ARC (NI) (2020): [A review of the impact of COVID-19 on learning disability services provided mainly by the voluntary sector in Northern Ireland](#), p.16.

<sup>37</sup> Ruck Keene, A.C.E. and Lee, A. (2019): [Withdrawing life-sustaining treatment: a stock-take of the legal and ethical position](#), J Med Ethics. 2019 Dec;45 (12):794-799.

<sup>38</sup> Byrne, B. (ND): [How the pandemic is further alienating the disabled community](#) (accessed 21 December 2021).



## Dignity, Choice and Control

Dignity, choice and control are of extreme importance to d/Deaf and disabled people. Dignity, choice and control are relevant to a range of UNCRPD Articles, including: Article 12 Equal recognition before the law<sup>39</sup>; Article 14 Liberty and security of person<sup>40</sup>; Article 15 Freedom from torture or cruel inhuman or degrading treatment<sup>41</sup>; Article 19 Independent Living<sup>42</sup>; Article 23 Respect for home and family<sup>43</sup>; Article 25 Health<sup>44</sup>; Article 26 Habilitation and rehabilitation<sup>45</sup>; and Article 28 Adequate Standard of Living<sup>46</sup>.

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<sup>39</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly](#), 24 January 2007, A/RES/61/106 Article 12 (accessed 4 November 2021).

<sup>40</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly](#), 24 January 2007, A/RES/61/106 Article 14 (accessed 4 November 2021).

<sup>41</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly](#), 24 January 2007, A/RES/61/106 Article 15 (accessed 4 November 2021).

<sup>42</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly](#), 24 January 2007, A/RES/61/106 Article 19 (accessed 4 November 2021).

<sup>43</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly](#), 24 January 2007, A/RES/61/106 Article 23 (accessed 4 November 2021).

<sup>44</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly](#), 24 January 2007, A/RES/61/106 Article 25 (accessed 4 November 2021).

<sup>45</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly, 24 January 2007](#), A/RES/61/106 Article 26 (accessed 4 November 2021).

<sup>46</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly](#), 24 January 2007, A/RES/61/106 Article 28 (accessed 4 November 2021).

d/Deaf and disabled people raised the importance of choice and having control over their lives.

The key challenges raised by d/Deaf and disabled people include:

- implementation of the Mental Capacity Act (NI);
- the application of capacity legislation for children and young people<sup>47</sup>;
- deprivation of liberty<sup>48</sup>;
- inhuman and degrading treatment<sup>49</sup>;
- use of restraint and seclusion<sup>50</sup>;
- abuse in residential and community settings<sup>51</sup>.
- resettlement from long-stay hospitals and assessment and treatment units<sup>52</sup>;

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<sup>47</sup> Children's Law Centre (No Date): [Written Evidence to the Ad Hoc Joint Committee on the Mental Capacity Bill](#), para 2.2, p.2 (accessed 4 Nov 2021).

<sup>48</sup> DfC (2020): [Disability Strategy and Expert Advisory Panel: Report and Recommendations](#), p.37 (accessed 10 October 2021).

<sup>49</sup> Matthews, A (2015): [Case Study: Law Centre for Northern Ireland Litigation in Respect of Resettlement into the Community \(Muckamore Abbey\)](#) (accessed 30 December 2021).

<sup>50</sup> British Association of Social Workers (NI) (2021): [BASW NI policy statement concerning restraint and seclusion of children and young people in schools and educational facilities](#) (accessed 30 December 2021).

<sup>51</sup> Department of Health (2020): [Swann announces Public Inquiry into Muckamore Abbey Hospital](#) (accessed 20 October 2021).

<sup>52</sup> Northern Ireland Housing Executive (2014): [The Hospital Resettlement Programme in NI after the Bamford Review](#) (accessed 10 October 2021).

- enjoyment of home and family life<sup>53</sup>;
- health inequalities and mortality rates<sup>54</sup>;
- lack of habilitation for children and young people<sup>55</sup>.

## **The Absence of Full Protection Against Disability Discrimination**

d/Deaf and disabled people are concerned about the continued lack of progress within NI to provide comprehensive and adequate protection against multiple and intersectional discrimination. People in NI remain inadequately protected with respect to direct and indirect disability-based discrimination and against discrimination by association. There has been no movement to address the CRPD Committee's recommendation to provide legal protection against multiple and intersectional discrimination<sup>56</sup>. d/Deaf and disabled people continue to have less protection than their UK counterparts<sup>57</sup>.

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<sup>53</sup> Taggart, L. (2021): [The impact of COVID-19 on people with learning disabilities in Northern Ireland: Implications for policy and practice](#), para 3.4 (accessed 21 December 2021).

<sup>54</sup> Northern Ireland Statistics and Research Agency (2021): [Covid-19 Deaths and Equality - Wave One](#) (accessed 2 February 2021).

<sup>55</sup> Belfast Telegraph (2015): [Parents of visually-impaired children speak out over lack of specialist care](#) (accessed 2 January 2022).

<sup>56</sup> Committee on the Rights of Persons with Disabilities (2017): [Concluding Observations on the initial report of the United Kingdom of Great Britain and Northern Ireland](#), CRPD/C/GBR/CO/1, paragraphs 12 and 13, p.3 (accessed 5 November 2021)

<sup>57</sup> A review undertaken by the Equality Commission in NI in 2014, cited in Byrne, B., Harper, C., Irvine R. S., Russell H. and Fitzpatrick, B. (2014): [UNCRPD: Shortfalls in](#)

The recommendations made by the Equality Commission in 2012<sup>58</sup> on the need to reform disability rights law have yet to be addressed. d/Deaf and disabled people in NI continue to be unprotected against indirect discrimination as a result of the outcome of the Malcolm Case<sup>59</sup>. In GB, the Equality Act 2010 ensures that policies and practices which unintentionally place d/Deaf and disabled people at a substantial disadvantage can be challenged. No comparable changes have been made in NI.

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[public policy and programme delivery in Northern Ireland relative to the Articles of the UNCRPD](#) at pp.56-57, concluded that there were seven significant areas of divergence between GB and NI as the result of the lack of progress with respect to extending the protections within the Equality Act 2010 to NI including:

- the definition of disability;
- protection against perceived and associative discrimination;
- protection against indirect discrimination;
- protection against discrimination arising out of disability;
- protection against intersectional discrimination;
- access to remedies;
- increased powers for tribunals.

To date there have been no attempts by the NI Executive and Assembly to address the deficit in disability equality legislative provisions in Northern Ireland. The continued existence of diverse and separate pieces of legislation for different equality grounds results in the legal system in Northern Ireland being more complex, less accessible and, in some cases, affording weaker protections.

<sup>58</sup> Equality Commission for Northern Ireland (2012): [Strengthening Protection for Disabled People - Proposals for Reform](#), pp.3-8 (accessed 23 October 2021).

<sup>59</sup> Equality and Human Rights Commission (ND): [The Malcolm Case](#) (accessed 25 December 2021).

## Accessibility

Articles of the UNCRPD relating to accessibility include: Article 4 General obligations<sup>60</sup>; Article 9 Accessibility<sup>61</sup>; 20 Personal Mobility<sup>62</sup>; Article 24 Education<sup>63</sup>; Article 27 Work and employment<sup>64</sup>; Article 28 Adequate standard of living and social protection<sup>65</sup>; Article 29 Participation in Public Life<sup>66</sup>; Article 30 Participation in cultural life, recreation, leisure, and sport<sup>67</sup>.

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<sup>60</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly, 24 January 2007, A/RES/61/106 Article 4](#) (accessed 4 November 2021).

<sup>61</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly, 24 January 2007, A/RES/61/106 Article 9](#) (accessed 4 November 2021).

<sup>62</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly, 24 January 2007, A/RES/61/106 Article 20](#) (accessed 4 November 2021).

<sup>63</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly, 24 January 2007, A/RES/61/106 Article 24](#) (accessed 4 November 2021).

<sup>64</sup> UN General Assembly: [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly, 24 January 2007, A/RES/61/106 Article 27](#) (accessed 4 November 2021).

<sup>65</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly, 24 January 2007, A/RES/61/106 Article 28](#) (accessed 4 November 2021).

<sup>66</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly, 24 January 2007, A/RES/61/106 Article 29](#) (accessed 4 November 2021).

<sup>67</sup> UN General Assembly (2007): [Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly, 24 January 2007, A/RES/61/106 Article 30](#) (accessed 4 November 2021).

Research has indicated that d/Deaf and disabled people experience significant barriers in accessing transport with respect to both physical accessibility and availability of service<sup>68</sup>. There are challenges with respect to disability awareness amongst staff employed by transport companies<sup>69</sup>. Whilst there have been some improvements<sup>70</sup> in recent years to transport infrastructure, these are largely within the greater Belfast area and inequalities in access persist in other parts of the region<sup>71</sup>. There are ongoing challenges concerning public transport associated with service costs, provision, and timetabling<sup>72</sup>, resulting in d/Deaf and disabled people having no choice but to access costly private solutions.

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<sup>68</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): [Disability Programmes and Policies how does Northern Ireland measure up?](#) p.106 (accessed.

<sup>69</sup> Independent Mechanism for Northern Ireland (2017): [United Nations Convention on the Rights of Persons with Disabilities Jurisdictional 'Parallel' Report on Implementation in Northern Ireland: Working Paper](#), p.22.

<sup>70</sup> Improvements in transport infrastructure include:

- the [Disability Action Transport Scheme](#) for people living in towns and cities who find it difficult to use public transport;
- [Translink Easibus](#) services which are mainly operational in Belfast provide accessible local bus services for (but not exclusively mobility impaired people);
- [Shopmobility](#) provides financial support for schemes in Ballymena, Belfast, Carrickfergus, Cookstown, Dungannon, Enniskillen, Lisburn, Derry/Londonderry (known as Foyle), Magherafelt, Newry and Omagh. These schemes lend manual and powered wheelchairs and powered scooters to members of the public with limited mobility to shop and use leisure and commercial facilities.

<sup>71</sup> DfC (2020): [Disability Strategy Expert Advisory Panel: Report and Recommendations](#), p.78 (accessed 10 October 2021).

<sup>72</sup> Harper, C., McClenahan, S., Byrne, B. and Russell, H. (2012): [Disability Programmes and Policies how does Northern Ireland measure up?](#) pp.165-186 .

Access remains an issue in many rural parts of Northern Ireland. d/Deaf and disabled people living in rural areas can face considerable challenges in accessing transport. Budget cuts to public services including accessible and affordable community transport in urban and rural areas have meant that the priority that should be given to making independent living a reality for all d/Deaf and deaf and disabled people has been undermined<sup>73</sup>. d/Deaf and disabled people living in rural areas face increased barriers to accessing services and transport<sup>74</sup>.

d/Deaf and disabled people also face challenges due to inaccessible pedestrian environments which can restrict access to local services and facilities including transport and other opportunities. Challenges include the overuse of street furniture<sup>75</sup>, pavement advertising and vehicle parking on pavements<sup>76</sup>.

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<sup>73</sup> Inclusive Mobility Transport Advisory Committee (2019): [IMTAC Annual Report](#), p.9 (accessed 12 December 2021).

<sup>74</sup> DfC (2020): [Disability Strategy Expert Advisory Panel: Report and Recommendations](#), p.79 (accessed 10 October 2021).

<sup>75</sup> The use of street furniture has increased in the context of the pandemic as outside hospitality has been encouraged in the context of public health.

<sup>76</sup> DfC (2020): [Disability Strategy Expert Advisory Panel: Report and Recommendations](#). p.79 (accessed 10 October 2021).

## Participation in Decision Making

The importance of participation is core to the UNCRPD and represents a key theme within the UN Committee's concluding remarks in 2017.<sup>77</sup>

Participation and engagement were a key priority for d/Deaf and disabled people and DPOs<sup>78</sup>. It is therefore essential that the NI Executive and Assembly improve the participation and engagement of d/Deaf and disabled people and their representatives at all levels in order to progress a right based approach to disability policy and legislation. d/Deaf and disabled people need to have power and control over all areas of our lives.

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<sup>77</sup> Committee on the Rights of Persons with Disabilities (2017): [Concluding Observations on the initial report of the United Kingdom of Great Britain and Northern Ireland](#), CRPD/C/GBR/CO/1, paras 9-10 (Accessed 29 November 2021).

<sup>78</sup> Flynn, E. (2011): [From Rhetoric to Action](#), Cambridge: Cambridge University Press.



## The Rights of d/Deaf and Disabled Children

There has been little progress with respect to advancing the rights of d/Deaf and disabled children. d/Deaf and disabled children remain more likely to live in poverty in comparison with others<sup>79</sup>. There has been little with respect to developing a policy framework to address levels of poverty among families with children with disabilities.

There continues to be increases in reported increase in incidents of bullying, hate speech and hate crime against d/Deaf and disabled children. ECNI has identified the lack of accessible childcare as a particular issue for parents of d/Deaf and disabled children<sup>80</sup>. At the time of writing no action had been taken to address hate crime or hate speech directed at children and young people with disabilities.

The Disability Strategy Expert Advisory Panel report identifies a range of barriers that children with disabilities experience including the attainment gap between children with and without special educational needs, barriers in accessing essential support services, the challenges in the delivery of SEN, informal exclusions, and segregation<sup>81</sup>.

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<sup>79</sup> Child Poverty Alliance (2014): [Beneath the Surface](#) (accessed 4 November 2021).

<sup>80</sup> ECNI (2013): '[Childcare – Maximising the Economic Participation of Women](#)', page 43.

<sup>81</sup> DfC (2020): [Disability Strategy Expert Advisory Panel: Report and Recommendations](#), pp.90-93 (accessed 10 October 2021).

There are concerns regarding the provision of adolescent mental health services to children with learning disabilities. The NI Commissioner for Children and Young People (2018) report 'Still Waiting' raises serious concerns about the accessibility of Child and Adolescent Mental Health Services by young people with learning disabilities<sup>82</sup>.

There is evidence to suggest that children and young people with disabilities have difficulty accessing the legal system and that persons appointed to represent disabled children in court are not always aware of the issues affecting disabled children or adults relating to their access to the justice system<sup>83</sup>.

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<sup>82</sup> Northern Ireland Commissioner for Children and Young People (2018): [Still Waiting? A rights-based review of mental health support and services for children and young people in Northern Ireland](#), p.14. Belfast.

<sup>83</sup> Northwest Forum of People with Disabilities Casework (2018): A deaf child with communication issues was not engaged with by the social worker appointed to represent the child's interests in the court system on the grounds that that it would be too difficult and expensive to provide a sign language interpreter to ascertain the child's views. The Forum made representation on behalf of the child that with some effort and minimal resources the child's views could be ascertained as to the wishes of the child and the allegations of physical abuse.

There is limited data through which to monitor progress with respect to d/Deaf and disabled children, therefore there continues to be an absence of indicators through which to monitor progress. There are challenges associated with ensuring that d/Deaf and disabled children have the right to express their views on matters which affect them.

The Northern Ireland NGO Stakeholder Report (2020)<sup>84</sup> to inform the UN Committee on the Rights of the Child 's consideration of a list of issues documents historic shortfalls with respect to human rights model of disability and the absence of data or monitoring mechanisms to assist the development and evaluation of policy. The report notes a significant lack of data relating to the experience of d/Deaf and disabled children and young people who require sign language.

There are challenges associated with ensuring that d/Deaf and disabled children have the right to express their views on matters which affect them. There is a lack of statistics and evidence regarding the lived experience of d/Deaf and disabled children available to policymakers.

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<sup>84</sup> Children's Law Centre (2020): [NI NGO Stakeholder Report to Inform the UN Committee on the Rights of the Child: List of Issues Prior to Reporting](#), p.18 (accessed 20 October 2021).

## The Rights of d/Deaf and Disabled Women

The rights of d/Deaf women and girls have yet to be mainstreamed into disability and gender related policies by the Executive, in closed consultation with d/Deaf disabled women and girls and the organisations which represent them.

Evidence suggests that d/Deaf and disabled women are two times more likely to suffer physical abuse from an intimate partner than non-disabled women<sup>85</sup>. d/Deaf and disabled women who experience domestic abuse face compound oppressions<sup>86</sup>. Women's Aid Northern Ireland report that 41% of women in refuges and 41% of women accessing outreach services have a disability<sup>87</sup>. There is a lack of specialist services for deaf and deaf and disabled people experiencing domestic violence and many services are inaccessible<sup>88</sup>.

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<sup>85</sup> Slayter, E. (2009): Intimate partner violence against women with disabilities: implications for disability service case management practice. *Journal of Aggression, Maltreatment and Trauma* 2009, 18:182–199. doi:10.1080/10926770802675668; reference in Breckenridge et al. *BMC Pregnancy and Childbirth* 2014, 14:234. Available at <http://www.biomedcentral.com/1471-2393/14/234> (accessed 30 October 2021).

<sup>86</sup> Nixon, J. (2009): Domestic violence and women with disabilities: locating the issue on the periphery of social movements, *Disability & Society* 2009, 24:77–89.

<sup>87</sup> Women's Aid Federation NI (2020): [Annual Report 2019-2020](#) (accessed 2 November 2021).

<sup>88</sup> DfC (2020): [Disability Strategy and Expert Advisory Panel: Report and Recommendations](#), p.118 (accessed 10 October 2021).

There are barriers to d/Deaf and disabled women regarding access to health services including: maternity services; cervical and breast screening services; sexual and reproductive healthcare services<sup>89</sup>. The current Department of Health Maternity Strategy<sup>90</sup> makes little reference to the experience of disabled women. Health screenings such as cervical examinations and mammograms can be especially difficult with no support, information, accessible equipment or transport<sup>91</sup>.

## **Monitoring and Evaluation**

There is limited evidence of the incorporation or implementation of the UNCRPD across Executive Departments, legislation, policies and programmes. There are significant gaps in the collection of disability statistics and limited availability of disaggregated data. There is no official collection of appropriate data related to the lived experience of deaf and deaf and disabled people or the impact of changes in legislation with respect to disability in Northern Ireland. This is further compounded by the absence of a clear agreed definition of disability<sup>92</sup>.

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<sup>89</sup> Ibid, p.117.

<sup>90</sup> DoH (2012): [A strategy for maternity care in Northern Ireland 2012 – 2018](#) (accessed 29 October 2021).

<sup>91</sup> DfC (2020): [Disability Strategy and Expert Advisory Panel: Report and Recommendations](#), p.118 (accessed 10 October 2021).

<sup>92</sup> DfC (2020): [Disability Expert Advisory Panel Report and Recommendations](#), p.25 (accessed 15 December 2021).

## **Conclusions**

This research has provided an overview of the current position regarding progress with respect to the obligations and provisions in the UNCRPD in NI. In so doing it has taken explicit account of both the UNCRPD articles and the subsequent observations made by the UN Committee in 2017. Ultimately, the research has identified a range of shortfalls in delivery in Northern Ireland relative to the UNCRPD and has outlined recommendations for change. This report provides information to IMNI to assist with the independent monitoring role with respect to the UNCRPD.

Previous reports employed a prioritisation framework to identify which rights were considered to be most pressing. The authors of this report did not employ such an approach. Rather the report benchmarks progress across the majority of articles within the UNCRPD and promotes the voice of d/Deaf and disabled people.

Progress with respect to the Disability Strategy will be core to the realisation of the rights and protections within the UNCRPD. At the time of writing, there are concerns that the cross-departmental aspects of the strategy combined with reductions in the Executive budget could slow progress.

Covid-19 has brought the importance of the UNCRPD to the fore emphasising the need to protect the lives of d/Deaf and disabled people and to ensure equal recognition before the law. The extent of abuse in Muckamore Abbey provides an urgency to ensuring that the rights of d/Deaf and disabled people are upheld. It is also worth noting that this report is the third in a series of reports on progress with respect to the UNCRPD which has called for similar protections for d/Deaf and disabled people in NI to those which d/Deaf and disabled people in the rest of the UK enjoy.

Welfare reform continues to have significant adverse impacts on the right of d/Deaf and disabled people to an adequate standard of living.

The mitigations package and the actions taken to close the gaps within the package are welcome and provide protections but do not address all of the adverse impacts of welfare reform. Accessibility continues to pose significant challenges to independent living.

It is hoped that this report will act both as a source of evidence and a stimulus for change.

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