

# United Nations Convention on the Rights of Persons with Disabilities

## UK Independent Mechanism

Seven Years On: disabled people's  
rights to independent living,  
employment and standard of living  
in the UK

August 2023



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## Introduction

### About this submission

The United Kingdom Independent Mechanism (UKIM) has prepared this joint submission to support the United Nations Committee on the Rights of Persons with Disabilities' (the Committee) follow-up review of its 2016 inquiry into the UK. It provides a summary of developments related to the rights of disabled people in the UK from 2016 to the time of submission, in relation to the inquiry topics.

This submission is structured in three parts:

- Chapter 1 provides contextual information on notable developments in the UK and devolved nations since the 2016 inquiry.
- Chapter 2 offers an assessment of progress made against recommendations from the Committee's 2016 inquiry, written by each organisation according to their remit.
- Chapter 3 provides supplementary recommendations proposed by individual UKIM members for consideration by the Committee.

All sections of this submission were informed by consultations with disabled people and their organisations. Although this submission refers to various official data sources, these may not always fully reflect or capture the experiences of those with different conditions or impairments, and it is important that the views of disabled people on the language and categories used to describe disability are properly taken into account. Disabled people are not a homogeneous group, and an increasing number of people in the UK with mental or physical conditions or impairments do not necessarily define themselves as disabled. UKIM members use the term 'disabled people' in our own analysis, reflecting our engagement with disabled people's organisations (DPOs) and other stakeholders.

### Devolution

The UK includes four nations and regions – England, Scotland, Wales and Northern Ireland. Great Britain includes England, Scotland and Wales. The UK Parliament is the supreme legislative body of the UK, but it has devolved various powers to the Scottish Parliament, the Welsh Parliament (Senedd) and the Northern Ireland Assembly. The UK Parliament maintains responsibility for policy matters that have not been devolved and for England.

Non-devolved matters differ depending on the jurisdiction, but generally include immigration, social security and national security. The rest – including education, employment, health, housing, culture and transport – sit with the devolved institutions.

In line with the UK's constitutional make-up, the UK Parliament has delegated much of its implementation responsibilities in the context of Scotland, Wales and Northern Ireland to the respective devolved institutions. Therefore, responsibility for implementing UN human rights treaties lies with both the UK-wide and devolved institutions.

The UK has three national human rights institutions and two equality bodies that advise on and promote human rights within their specific mandates and devolved competencies. In a human rights context, the Equality and Human Rights Commission's (EHRC) remit is England and Wales, and those issues in Scotland that are reserved to the UK Parliament; the Scottish Human Rights Commission's (SHRC) remit is Scotland; and the Northern Ireland Human Rights Commission's (NIHRC) remit is Northern Ireland. In an equality context, the EHRC's remit is Great Britain, and the Equality Commission for Northern Ireland's (ECNI) remit is Northern Ireland.

## About UKIM

In 2009 the UK Government designated the EHRC, the ECNI, the NIHRC and the SHRC as UKIM under Article 33(2) of the United Nations Convention on the Rights of Persons with Disabilities (CRPD). UKIM is tasked with promoting, protecting and monitoring implementation of the CRPD across the UK.

Our organisations are independent from the UK Government and parliament, and the devolved governments, executives, parliaments and assemblies. Our individual institutions work collaboratively but with varied strategic and operational priorities. This report is organised to reflect our separate jurisdictional mandates. In Northern Ireland, ECNI and NIHRC form the Independent Mechanism for Northern Ireland (IMNI).

## Chapter 1: Context

There have been several important legal, policy and cultural developments with considerable impacts for disabled people that have been seen across the UK since the Committee's inquiry was published in 2016.

Since 2016, significant new social security powers have been devolved to the Scottish Parliament and Government under the Scotland Act 2016. This includes Adult Disability Payment, Child Disability Payment and delivery of some aspects of the Universal Credit (UC) payment, the UK's main out of work and low-income entitlement. Several new payments only available in Scotland have also been created using devolved powers. This is an ongoing process. The Scottish Government is currently scheduled to have completed the planned rollout of its new devolved benefits, delivered by Social Security Scotland, in 2025.

In 2020, the UK withdrew from the European Union (EU) under the European Union (Withdrawal Agreement) Act. Among other changes, this withdrawal has resulted in reduced migration which has had implications for some medical and social care specialties.<sup>1</sup> EU funding sources and development programmes, which supported certain community services and charities in the UK, are no longer available. The UK Government has only replaced some of this funding through the UK Shared Prosperity Fund.<sup>2</sup> These developments may have impacts for disabled people.

Following the UK's withdrawal from the EU, an additional protection for disabled people has been incorporated into Northern Ireland law.<sup>3</sup> In Article 2 of the Windsor Framework, the UK Government has committed to ensuring that certain rights, safeguards and equality of opportunity protections are not diminished as a result of UK withdrawal.<sup>4</sup> The UK Government and the Northern Ireland Assembly and Executive are prohibited from acting in a way

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<sup>1</sup> Nuffield Trust (2022), [Health and Brexit: six years on](#).

<sup>2</sup> Brien, P. (2022), [The UK Shared Prosperity Fund](#), House of Commons Library.

<sup>3</sup> Pursuant to Sections 78A-78E78E of the [Northern Ireland Act 1998](#), the NIHR and ECNI are mandated to oversee the UK Government's commitment in Article 2, Windsor Framework (formerly known as the [Protocol on Ireland/Northern Ireland](#)) to the [UK-EU Withdrawal Agreement 2020](#).

<sup>4</sup> Article 2 of the Windsor Framework (formerly known as the [Protocol on Ireland/Northern Ireland](#)) to the [UK-EU Withdrawal Agreement 2020](#).

that is incompatible with it.<sup>5</sup> It provides specific, enhanced protection against discrimination in the directives in Annex 1 of the Windsor Framework, including on the grounds of disability in employment and vocational training.<sup>6</sup> Northern Ireland law must keep pace with improvements made by the EU to the minimum levels of protection in the Annex 1 directives after 1 January 2020.<sup>7</sup> As the EU acceded to the CRPD prior to UK withdrawal,<sup>8</sup> the overriding obligation to promote, protect and implement the CRPD through EU law and policy is also relevant to the interpretation of Windsor Framework Article 2. It also informs interpretation of related EU measures that set standards below which the law in Northern Ireland should not fall.<sup>9</sup>

Northern Ireland has also been without a fully functioning Northern Ireland Executive and Northern Ireland Assembly since February 2022. This is the second suspension period since the publication of the Committee's inquiry report, with a previous suspension running from January 2017 until January 2020. Between February and October 2022, the Northern Ireland Ministers continued in a caretaking capacity. In October 2022, as experienced during the previous suspension, responsibility for managing devolved issues moved to Northern Ireland's Head of the Civil Service and Departmental Permanent Secretaries. Since February 2022, no new policies, legislation or funding have been able to progress, and this will remain the case until the Northern Ireland Executive and Northern Ireland Assembly are reinstated.<sup>10</sup>

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<sup>5</sup> Section 7A of the [European Union \(Withdrawal\) Act 2018](#) gives effect to all the rights, obligations and remedies arising under the UK-EU Withdrawal Agreement in UK law without the need for further enactment. The Northern Ireland Act has also been amended to prohibit the Northern Ireland Assembly and Northern Ireland departments from acting in a way that is incompatible with Article 2 of the Windsor Framework.

<sup>6</sup> Directive 2000/78/EC, [EU Council Directive on Establishing a General Framework for Equal Treatment in Employment and Occupation 2000](#).

<sup>7</sup> Article 13 of the Windsor Framework to the [UK-EU Withdrawal Agreement 2020](#). This includes keeping pace with relevant current and future CJEU case law relating to this Directive.

<sup>8</sup> [Council Decision 2010/48/EC](#) concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities, 26 November 2009.

<sup>9</sup> Article 4 of the [UK-EU Withdrawal Agreement](#). For a list of EU measures identified by the NIHR and ECNI, see NIHR and ECNI (2022), [Working Paper: The Scope of Article 2\(1\) of the Ireland/Northern Ireland Protocol](#).

<sup>10</sup> Department for Communities (2022), Letters from Department for Communities to Northern Ireland Human Rights Commission and Equality Commission Northern Ireland, 18 July 2022. The Department for Communities have also indicated that in the absence of an Executive and in the context of proposed budget cuts, consideration is being given to putting on hold work to develop and deliver a Disability Strategy, an Anti-Poverty strategy for Northern Ireland and a Disability Employment Strategy, with the potential for staff resources to be diverted elsewhere. See Correspondence from Equality Commission to Department for Communities, 8 June 2023; and reply by Department on 12 June 2023.



The COVID-19 pandemic also highlighted and exacerbated existing inequalities experienced by disabled people. Disabled people were at a greater risk of death from COVID-19 compared to non-disabled people.<sup>11</sup> They also experienced greater barriers to full and equal participation in society, including through unequal access to healthcare, to public health information in accessible formats and to vital food and medicines.<sup>12</sup> In care settings, visits became restricted, some disabled people were denied essential treatment and reports suggest that ‘do not resuscitate’ (DNR) notices were applied to some people’s care plans without consultation.<sup>13</sup> UKIM previously highlighted our concerns pre-pandemic about inappropriate use of DNR notices.<sup>14</sup>

High inflation and ongoing cost-of-living increases across the UK have added additional pressures on every aspect of society, including food and energy costs. Disabled people and their households are particularly affected, as they are already more likely to live in poverty and to face higher costs related to their conditions or impairments. They are now spending an even greater proportion of their income on essentials.<sup>15</sup> Many of these challenges have affected disabled people differently, and solutions must be inclusive of all disabled people. Tailored approaches should meet the needs and address specific barriers faced by people with different impairments and conditions, as well as address intersectional challenges faced by disabled people who share other protected characteristics and face compounding forms of disadvantage.

The UK Government has submitted follow-up reports to the Committee since the inquiry in 2016, although there was a gap in reporting during the COVID-19 pandemic. It published its most recent follow-up report in December 2022.

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There have been a number of unsuccessful attempts by Government to deliver an effective Disability Strategy, since the launch of the Promoting Social Inclusion Working Group on Disability in 2004, including the Office of the First Minister and Deputy First Minister Disability Strategy 2012-2015, and preparatory work for a Department for Communities Disability Strategy since 2020. Disabled people in Northern Ireland have been waiting for twenty years for a strategy to deliver disability equality. See Equality Commission for Northern Ireland (2023), [Response by the Equality Commission for Northern Ireland to the Consultation by the Department for Communities on its Spending Plans for 2023-2024 Equality Impact Assessment](#), pp. 4-5.

<sup>11</sup> During the period from March to mid-July 2020, disabled people made up 59.5% of all deaths from COVID-19 in England and Wales. See Office for National Statistics (2020), [Coronavirus \(COVID-19\) related deaths by disability status, England and Wales: 2 March to 14 July 2020](#).

<sup>12</sup> For instance, see Equality and Human Rights Commission (2020), [Evidence to the Women and Equalities Committee sub-inquiry on coronavirus, disability and access to services](#).

<sup>13</sup> For instance, see Equality and Human Rights Commission (2020), [Equality and human rights in residential care in England during coronavirus](#).

<sup>14</sup> UKIM (2017), [Disability rights UK: Independent Mechanism Submission to inform the CRPD List of Issues on the UK](#).

<sup>15</sup> Weston, T. (2022), [Cost of living: impact of rising costs on disabled people](#), House of Lords Library.

UKIM calls on the State Party to use this inquiry review as an opportunity to accelerate implementation of the inquiry recommendations and increase compliance with its human rights obligations.

## Key issues

There are several priority issues that require addressing across jurisdictions. UKIM would like to highlight for particular consideration by the Committee:

- Slow progress towards implementing the Committee's 2016 inquiry recommendations.
- Gaps in meaningful engagement between governments and disabled people across many parts of the UK.
- Limited availability of official data that reflects the intersectional experiences and outcomes for disabled people.
- Lack of cumulative impact assessments of social security and tax reforms conducted by governments to inform decision-making.
- Design and level of support offered by the social security system does not reflect the needs of disabled people. For example, that many disabled people live in poverty or on low incomes, and they are disproportionately affected by cost-of-living increases.
- Disproportionate impact of the COVID-19 pandemic on the human rights of disabled people.
- The lack of social care provision, which has led to acute violations of disabled people's human rights.



## Chapter 2: Progress assessments

### 114(a): Cumulative impact assessment

“The Committee recommends that the state party conduct a cumulative impact assessment of the measures adopted since 2010, which are referred to in the present report, on the rights to independent living and to be included in the community, to social protection and to employment of persons with disabilities. The State party should ensure that such an assessment is rights-based and meaningfully involves persons with disabilities and their representative organizations.”

There has been **no progress** towards implementing recommendation 114(a). This recommendation is still relevant for all parts of the UK, and the current cost-of-living crisis, which has disproportionately impacted disabled people,<sup>16</sup> among other groups, has further underscored the need for greater awareness and consideration of the cumulative impact of welfare reforms.

### UK / England<sup>17</sup>

The UK Government has not conducted a cumulative impact assessment of its tax and social security reforms since 2010. It maintains that consideration of equality impacts of policies under the Public Sector Equality Duty (PSED),<sup>18</sup> as established by the Equality Act 2010, is sufficient,<sup>19</sup> and it has stated

<sup>16</sup> Office for National Statistics (2022), [Impact of Increased cost of living on adults across Great Britain: June to September 2022](#).

<sup>17</sup> Please note that, throughout all ‘UK / England’ sections of this report, legislative and policy developments apply widely to the UK unless otherwise specified as applying to one or more specific jurisdictions.

<sup>18</sup> The PSED, which applies in England, Scotland and Wales, requires public bodies – including central government departments – to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different groups when carrying out their activities. In Scotland and Wales there is an additional requirement to demonstrate this due regard through equality impact assessments. In England, many public bodies also meet their duty to have due regard through undertaking equality impact assessments.

<sup>19</sup> Disability Unit, UK Government (2022), [UN Committee on the Rights of Persons with Disabilities 2016 Inquiry - UK 2022 follow-up report](#).

previously that any such assessment of tax and welfare reforms would be too complex to conduct.<sup>20</sup>

In 2018, the EHRC published its own cumulative impact assessment of the welfare reform and welfare-to-work programmes introduced in England, Scotland and Wales from 2010-2015,<sup>21</sup> providing a model for a government assessment. This showed that the changes to taxes and transfer payments (including benefits, tax credits and the introduction of Universal Credit) announced between 2010 and 2015 had disproportionately negative impacts on several protected characteristic groups, including disabled people, certain ethnic minority groups and women, with the largest impacts felt by those on lower incomes.

Although there are few other examples of cumulative impact assessments, one study of welfare reforms across Great Britain in 2017 showed that households including a person in receipt of disability benefits were more heavily impacted by reforms than other households.<sup>22</sup> Separate 2017 analysis of welfare reforms across the UK showed that children living in a family where someone was disabled were at greater risk of poverty – a gap that has widened since 2010/11.<sup>23</sup>

## Wales

Although social security is not devolved in Wales, the Welsh Government has undertaken some analysis of the impacts of the UK Government's welfare reforms on households in Wales, most recently in 2019.<sup>24</sup> As part of its Strategic Integrated Impact Assessment on its annual budget, the Welsh Government also identifies cumulative impacts across ministerial portfolios.<sup>25</sup>

## Scotland

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<sup>20</sup> See 2013 response from the UK Government to the [petition for a parliamentary debate around cumulative impact assessments](#).

<sup>21</sup> Equality and Human Rights Commission (2018), [The impact of welfare reform and welfare-to-work programmes: an evidence review](#); See also Equality and Human Rights Commission (2018), [The Cumulative impact of tax and welfare reforms](#).

<sup>22</sup> Policy in Practice (2017), [The Cumulative Impacts of Welfare Reform: a national picture](#).

<sup>23</sup> Child Poverty Action Group (2017), [The Austerity Generation: the impact of a decade of cuts on family incomes and child poverty](#).

<sup>24</sup> Welsh Government (2019), [Analysis of the impact of the UK Government's welfare reforms on households in Wales](#).

<sup>25</sup> Welsh Government (2022), [Draft budget 2023-24: A budget in hard times](#).

The Scottish Government has undertaken some generalised impact assessments of devolved income tax which include a limited focus on effects for disabled people.<sup>26</sup> However a specific analysis of cumulative impacts for disabled people across Scottish policy is lacking. DPOs note that disability competence in policy and practice is persistently lacking at Scottish Government, National Health Service (NHS) and local authority levels.<sup>27</sup> Impact assessments and other policy-making tools continue to be highly siloed and unable to take sufficient account of interlinking or multi-faceted needs.

Scottish Government is required to undertake equality impact assessments as part of all policy development processes. It also produces an equality and fairer budget statement (EFBS) as part of documents supporting the national budget process. The EFBS is a post-hoc rationalisation of prospective spending decisions and is not a cumulative analysis but does consider notable allocations by disability.<sup>28</sup> The Scottish Government's Programme for Government 2021–2022<sup>29</sup> committed to a new disability equality plan, but it is not yet clear when this will be published.

## Northern Ireland

The Northern Ireland Executive has also not developed a methodology for assessing the cumulative impact of tax and social security reforms. However, the value of such a methodology has been demonstrated by the work of the NIHRC.

In 2019, the NIHRC utilised a methodology for calculating the cumulative impact of tax and social security reforms to identify a clear relationship between household disability 'score' and the proportion of households losing from the reforms. 32% of households containing no members with functional disabilities lose from the reforms, in comparison to 66% of households with a disability score of 5.<sup>30</sup>

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<sup>26</sup> Office of the Chief Economic Adviser, Scottish Government (2021), [Income tax: cumulative impact on income levels and equality](#).

<sup>27</sup> Meeting of the Scottish Independent Living Coalition (SILC) to discuss the 2016 UN CRPD Inquiry (2023) Report for Scottish Human Rights Commission (forthcoming).

<sup>28</sup> Scottish Government (2022), [Equality and Fairer Scotland: Budget Statement 2023-24](#).

<sup>29</sup> The Scottish Government (2021), [A Fairer, Greener Scotland: Programme for Government 2021-22](#).

<sup>30</sup> Reed, H. and Portes, J. (2019), [Cumulative impact assessment of tax and social security reforms in Northern Ireland](#), NIHRC.

The current cost-of-living crisis has disproportionately impacted disabled people. Wide ranging cuts<sup>31</sup> have been proposed by government departments as a result of the budget for 2023-24 allocated by the Secretary of State for Northern Ireland.<sup>32</sup> These two factors have further underscored the need for greater awareness and consideration of the cumulative impact of policy decisions.<sup>33</sup>

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<sup>31</sup> For a selection of Departmental Equality Impact Assessments of 2023-24 budgets which outline impacts for disabled people, see Department of Education (2023), [EQIA Consultation Report on the 2023-24 resource budget](#). This analysis indicates that disabled people will experience major negative impacts from budget reductions to special educational needs (SEN), School Holiday Food Grants and Healthy Happy Minds, as well as minor negative impacts from budget reductions to Belfast Wide Early Years Pilot under Fair Start, Playboard Northern Ireland Play Policy, EA Block Grant, Entitlement Framework, Engage Programme and Extended Schools. Department of Health (2023), [Department of Health Budget 2023-24 Equality Impact Assessment](#). The analysis sets out proposals for reductions in funding which are likely to have an adverse impact on the right to independent living for older and disabled people. These include reducing payments for support services provided by the Community and Voluntary Sector, a reduction in the amount of Community Aids and Adaptations to clients living in their own homes, a reduction in nursing and residential care placements and restrictions of domiciliary care packages. Department for Communities (2023), [Budget 2023-24 Equality Impact Assessment](#). This analysis shows cuts to programmes such as the Supporting People Programme, which supports people to live independently. It also shows funding challenges on the administration of Universal Credit, in addition to potential closure of the Affordable Warmth Scheme to new applicants. Pausing of funding for Labour Market Partnerships (from 1 July 2023) will cause adverse impacts across Section 75 groups, especially in the context of the removal of European Social Fund (ESF) funding as “LMPs not only help those seeking work, but they are also a critical intervention to help people with a disability or health condition to remain in work.” Department for Infrastructure (2023), [Budget 2023-24 Equality Impact Assessment Public Consultation](#). Reductions in the budget to areas such as public transport, road maintenance, and community transport will likely have differential negative impacts on disabled people and older people. While some decisions are not within the power of the Permanent Secretary to take under the Northern Ireland Act 2022, community transport services (such as Rural ‘Dial a Lift’, Urban ‘Disability Action Transport Service’ and Shopmobility services) are not funded beyond 30 June 2023.

<sup>32</sup> See Northern Ireland Office and The Rt Hon Chris Heaton-Harris MP (27 April 2023), [Northern Ireland Secretary announces 2023-24 Budget and contingency plans for governance](#); Department of Finance (27 April 2023), [Department of Finance statement on 2023/24 Northern Ireland Budget](#); BBC Northern Ireland (27 April 2023), [Stormont budget: NI secretary denies setting out 'punishment budget'](#); BBC Northern Ireland (27 April 2023), [As it happened: Angry reaction to Stormont budget cuts](#); BBC Northern Ireland (2 May 2023), [Stormont budget: £800m needs to be found in cuts and charges - report](#); Children’s Law Centre Northern Ireland (22 June 2023), [Protect Children from Budget Cuts or Face Legal Action](#); Irish News (29 June 2023), [School funding cut for special educational needs staff](#); Fitzpatrick, C., Loader, R., McCartney, S., McConnell, B., McMullen, J., Murray, C., Orr, K., Purdy, N. and Simms, V. (June 2023), [The Consequences of the Cuts to Education for Children and Young People in Northern Ireland](#).

Department for Communities officials have advised that consideration is being given to pausing action to progress the Disability Strategy, the Anti-Poverty Strategy and the Disability Employment Strategy diverting resources elsewhere because of the budget cuts.

<sup>33</sup> For example, cuts to community transport for disabled people will impact on independent living, including access to employment, health facilities, sporting and cultural facilities.

Public Authorities in Northern Ireland are required to fulfil their obligations under Section 75 of Northern Ireland Act 1998,<sup>34</sup> including to have due regard for the need to promote equality of opportunity.<sup>35</sup>

Public authorities should consider the potential for Section 75 analysis<sup>36</sup> and equality proofing tools (screening and equality impact assessment) being used to inform, and be informed by, cumulative impact assessment.

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<sup>34</sup> Section 75 of the [Northern Ireland Act 1998](#).

<sup>35</sup> See [Section 75 duties](#).

<sup>36</sup> See also IMNI recommendation to the Committee regarding Inquiry recommendation 114(i).

## 114(b): Rights-based welfare reform

“Ensure that any intended measure of the welfare reform is rights-based, upholds the human rights model of disability and does not disproportionately and/or adversely affect the rights of persons with disabilities to independent living, to an adequate standard of living and to employment. To prevent adverse consequences, the State party should carry out human rights-based cumulative impact assessments of the whole range of intended measures that would have an impact on the rights of persons with disabilities.”

There has been **limited progress** towards implementing recommendation 114(b), and it remains relevant. Although some measures, such as temporary changes to social security during the COVID-19 pandemic, have supported disabled people’s standard of living, these measures have since been withdrawn, and concerns about the efficacy and effects of the welfare system remain. In Northern Ireland some limited mitigations to social security reforms have been extended. Across the UK, impacts on the mental and physical health of disabled people, and on standard of living and poverty, suggest that the welfare system does not align with the human rights model of disability outlined in the CRPD. In addition, the UK Government has not undertaken consultation with disabled people across the UK and their organisations in relation to its welfare programmes. UKIM notes the introduction of some rights-based protections in the Scottish Social Security framework, but regrets that thus far this has not yet led to material improvement in disabled people’s rights.

### UK / England

Although the UK Government has not made rights-based welfare reforms, it recently published the Health and Disability White Paper,<sup>37</sup> which commits to improving the interaction of disabled claimants with the benefits system. It also introduced some interim measures during the COVID-19 pandemic to support disabled people and other groups. Specifically, in addition to measures to support individuals and businesses,<sup>38</sup> the Government introduced temporary

<sup>37</sup> Department for Work and Pensions (2023), [Transforming Support: The Health and Disability White Paper](#).

<sup>38</sup> For instance, see the [Coronavirus Job Retention Scheme](#), the [Self-Employment Income Support Scheme](#) and the [Bounce Back Loan Scheme](#).



increases to Universal Credit and the Working Tax Credit.<sup>39</sup> Estimates show that this government action during the pandemic insulated some 690,000 people from poverty across the UK in the winter of 2020,<sup>40</sup> although it is unclear how many disabled people are included in this estimate.

However, these uplifts ended in October 2021 despite early analysis which warned that ending the Universal Credit uplift could bring half a million low-income households into poverty, and that 1.7 million of those experiencing the cut would have already been unable to work due to caring responsibilities, illness or being disabled.<sup>41</sup> In 2021, the UN Special Rapporteur on Extreme Poverty and Human Rights raised concerns about human rights retrogression in a letter to the UK Government, stating that removal of the uplift was unlikely to conform to international human rights law and standards.<sup>42</sup>

There are also concerns about the adverse impact of existing welfare policies on the health of claimants in vulnerable situations, including disabled people. In 2018, the death of a man in Nottingham city was widely publicised, where his benefit payments were stopped and, as a result, he was unable to pay for basic essentials such as food or utilities.<sup>43</sup> Connections between increased psychological distress and the introduction of Universal Credit have also been studied.<sup>44</sup> The All Party Parliamentary Group on Health in all Policies, which examined the impacts of the Welfare Reform and Work Act 2016 on disabled people and children, noted concern about mental health effects from specific aspects of the social security system.<sup>45</sup> In addition, the Work and Pensions Committee recently released findings from its inquiry into health assessments for benefits, which found that health assessments for benefits can cause psychological distress for many claimants.<sup>46</sup>

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<sup>39</sup> HM Treasury (2020), [Speech: The Chancellor Rishi Sunak provides an updated statement on coronavirus](#).

<sup>40</sup> WPI Economics (2020), [Poverty during the COVID-19 Crisis](#), (Figure 2).

<sup>41</sup> Joseph Rowntree Foundation (2021), [Biggest ever overnight cut to social security makes a mockery of levelling up](#).

<sup>42</sup> Special Rapporteur on Extreme Poverty and Human Rights (2021), [Letter to the UK Government: mandate of the Special Rapporteur on extreme poverty and human rights](#).

<sup>43</sup> Nottingham City Safeguarding Adults Board (2022), [Nottingham City Safeguarding Adults Board: Safeguarding Adults Review 'Billy'](#).

<sup>44</sup> Wickham et al (2020), [Effects on mental health of a UK welfare reform, Universal Credit: a longitudinal controlled study](#).

<sup>45</sup> For more information on the general physical and mental health impacts of welfare reforms since 2016, see All Party Parliamentary Group on Health in all Policies (2021), [Five Years On: the health effects of the 2016 welfare reform and work act on children and disabled people](#).

<sup>46</sup> House of Commons Work and Pensions Committee (2023), [Health assessments for benefits](#).

Concerns have also been raised by DPOs and others about deaths by suicide of disabled claimants and potential links to their experiences of navigating the social security system.<sup>47</sup> The EHRC is currently in negotiations with the Department for Work and Pensions (DWP) to enter into a legally binding agreement to improve its treatment of disabled benefits claimants.<sup>48</sup> This is in response to serious concerns about failures to meet the needs of its customers with mental health impairments and learning disabilities.

There are also concerns about the conditionality and sanction regimes introduced by the Welfare Reform Act 2012. Research has found that sanctions can cause severe financial and psychological distress for disabled people, and that welfare conditionality exacerbates many disabled people's existing illnesses and impairments.<sup>49</sup> The Work and Pensions Committee concluded in its 2018 inquiry into the effectiveness of sanctions that, "at best, evidence on the effectiveness of sanctions is mixed, and at worst, it shows them to be counterproductive."<sup>50</sup> The Special Rapporteur on Extreme Poverty and Human Rights recommended that the DWP conduct an independent review of the effectiveness of reforms to welfare conditionality and sanctions introduced since 2012, as well as instruct its staff to explore more constructive and less punitive approaches to encouraging compliance.<sup>51</sup>

## Wales

Although social security is not devolved in Wales, research has recently identified the possible benefits and feasibility of devolving the social security system to the Welsh Government to better meet the needs of people in Wales.<sup>52</sup>

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<sup>47</sup> National Audit Office (2020), [Information held by the Department for Work and Pensions on deaths by suicide of benefit claimants](#).

<sup>48</sup> Equality and Human Rights Commission (2022), [EHRC taking action to improve the treatment of disabled benefit claimants](#).

<sup>49</sup> For instance, see Welfare Conditionality (2018), [Final findings report: Welfare Conditionality Project \(2013-2018\)](#); Work and Pensions Committee (2018), [Benefits Sanctions](#).

<sup>50</sup> Work and Pensions Committee (2018), [Benefits Sanctions](#).

<sup>51</sup> UN Special Rapporteur on Extreme Poverty and Human Rights (2018), [Statement on Visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights](#).

<sup>52</sup> For instance, see National Assembly for Wales: Equality, Local Government and Communities Committee (2019), [Benefits in Wales: Options for better delivery](#); Bevan Foundation (2020), [A Welsh benefits system, how it can help solve poverty](#); Wales Centre for Public Policy (2020), [Administering social security in Wales: evidence on potential reforms](#); Bevan Foundation (2023), [A common approach to Welsh benefits: feasibility study](#).

The Welsh Government also funds services such as Advicelink Cymru<sup>53</sup> and the ‘Claim What’s Yours’ helpline and benefit take-up campaign. These aim to ensure low-income households are aware of how to maximise their benefit entitlement.

## Scotland

Social security in Scotland remains largely legislated for and administered at UK level, including the majority of income replacement benefits.<sup>54</sup> The Social Security (Scotland) Act 2018 established a devolved social security system that has responsibility for three new benefit entitlements for disabled people: Adult Disability Payment (ADP),<sup>55</sup> Child Disability Payment (CDP)<sup>56</sup> and Age Disability Allowance (ADA).<sup>57</sup> To date, two out of three are being delivered<sup>58</sup> despite delays in rollout caused by the COVID-19 pandemic and other factors.<sup>59</sup> The Scottish Government has also introduced some new benefits and mitigation measures in response to COVID-19 and the cost-of-living crisis during this period.<sup>60</sup>

The establishment of the new Social Security Scotland agency and system took a welcome human rights-based approach, citing human rights to social security on the face of the Act,<sup>61</sup> but failed to include an obligation to comply with international standards or to demonstrate due regard.<sup>62</sup> The Special Rapporteur on Extreme Poverty and Human Rights raised concerns in 2018, observing that “the absence of a legal remedy or a more robust reference to

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<sup>53</sup> Citizen’s advice (n.d.), [Advicelink Cymru](#).

<sup>54</sup> This includes Universal Credit, the UK’s main income replacement support, and pension-related entitlements.

<sup>55</sup> ADP replaces Personal Independence Payment and working age Disability Living Allowance.

<sup>56</sup> CDP replaces Disability Living Allowance.

<sup>57</sup> ADA will replace Attendance Allowance once it is operationalised.

<sup>58</sup> CDP was launched in July 2021 (a year later than planned due to COVID-19), beginning with a pilot in 3 areas, followed by a national rollout in November 2021. Adult Disability Payment began a phased rollout in Spring 2022 for new Scottish applicants only, followed by a national rollout in summer 2022.

<sup>59</sup> Audit Scotland (2022), [Social security: Progress on implementing the devolved benefits](#).

<sup>60</sup> For example, Child Winter Heating Assistance launched in November 2022 as a new benefit for families with disabled children in receipt of highest rate of care component of the CDP. The Scottish Government has also proposed a new benefit as an extra payment to help carers in Scotland who get the UK-wide Carer’s Allowance, the Carer Support Payment, due to launch in 2024.

<sup>61</sup> One of the principles of social security in Scotland is that it should contribute to reducing poverty.

<sup>62</sup> A due regard duty would have meant a significant additional step in strengthening this legislation and filling an accountability gap in relation to the right to social security. See Scottish Human Rights Commission (2018), [Commission calls for ‘due regard duty’ to advance right to social security](#).

international standards in the Social Security (Scotland) Act is significant and should be addressed.”<sup>63</sup>

A number of measures to include disabled people in the design of new social security payments and its administration were established at the outset, including a co-designed Social Security Charter that emphasises human dignity and rights, and a lived experience reference group.<sup>64</sup> However, there has been widespread concern that the Scottish Government’s focus on “safe and secure transition” of responsibility<sup>65</sup> has impeded innovative redesign.<sup>66</sup> Delays in rolling out disability benefits have resulted in fears that the agency will fail to “live up to the principles and values outlined at its inception.”<sup>67</sup>

ADP (which replaces the UK Personal Independence Payment – PIP – and working age Disability Living Allowance – DLA) and CDP (which replaces DLA) are provided by Social Security Scotland to meet additional costs of living with a disability. ADP is made up of two parts - a daily living component and a mobility component.<sup>68</sup> The length of time Social Security Scotland takes to process both ADP and CDP has increased and can take over six months in complex cases,<sup>69</sup> causing significant hardship for disabled people and their families and carers.

Social Security Scotland has been criticised for transposition of the same flawed eligibility criteria for the mobility component of ADP as its UK counterpart, which fails to adopt a social and human rights model of disability or acknowledge the numerous barriers to mobility that are external to the impairment.<sup>70</sup> It has also been criticised for being biased towards physical

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<sup>63</sup> Special Rapporteur on Extreme Poverty and Human Rights (2018), [Statement on Visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights](#).

<sup>64</sup> See Social Security Scotland (2019), [Our Charter](#); Scottish Government (n.d.), [Social Security Experience Panels: publications](#).

<sup>65</sup> Whereby eligibility criteria and payment levels set by the UK Department for Work and Pensions was transferred to the newly introduced Scottish benefits in order to avoid having two different sets of eligibility criteria while case transfer is taking place. Case transfer is expected to be completed by 2025.

<sup>66</sup> See Audit Scotland (2022), [Scottish benefits roll-out successful but challenges remain](#).

<sup>67</sup> Joseph Rowntree Foundation (2021), [How social security can deliver for disabled people in Scotland](#).

<sup>68</sup> CDP consists of a care and a mobility component.

<sup>69</sup> Scottish Parliament Information Centre (2023), [Scottish Social Security: Application Processing Times](#).

<sup>70</sup> Citizens Advice Scotland (2023), [Support for disabled people is essential. But can we please get it right?](#); Lived Experience Research Group (n.d.), [Views of the Lived Experience Leadership Group on the Scottish Government’s consultation on the Adult Disability Payment \(ADP\) Regulations](#).

disability.<sup>71</sup> The benefit remains age banded, meaning that people who reach pension age before they claim ADP are unable to claim the mobility component.

The level of ADP is comparable to the rest of the UK<sup>72</sup> and the £20 a week temporary uplift in Universal Credit and Working Tax Credit given during COVID-19 was not matched with similar cash assistance for those in receipt of disability benefits.<sup>73</sup> The Commission considers that devolved social security levels do not sufficiently improve the adequacy of the welfare system. While the Scottish Government automatically uprated all Scottish payments in line with inflation for 2023-24,<sup>74</sup> levels do not account for the additional costs reported by disabled people, requiring difficult choices about essential equipment.<sup>75</sup>

Take up of devolved benefits is inconsistent.<sup>76</sup> A lack of awareness about people's entitlement to disability assistance and a general distrust in the social security system coupled with the complexity of eligibility criteria may discourage people from applying for benefits they are entitled to and lead to underclaiming.<sup>77</sup> While the agency is intended to have a more flexible approach to applications, DPOs in Scotland have highlighted cases where applications have been declined and where they have refused to deal with disabled people's representatives.<sup>78</sup> Access to Independent Advocacy was legislated for under Section 10 of the Social Security (Scotland) Act and a four-year contract was awarded to VoiceAbility to deliver advocacy services to

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<sup>71</sup> For example, see See Me (n.d.), [Consultation on Adult Disability Payment See Me response](#).

<sup>72</sup> The Daily Living is paid at £26.90 per week and £71.00 per week for the enhanced reward. See [What Adult Disability Payment is](#).

<sup>73</sup> Joseph Rowntree Foundation (2021), [How social security can deliver for disabled people in Scotland](#). See also Scottish Parliament (2021), [The Social Security Response to COVID-19](#).

<sup>74</sup> Scottish Government (2023), [Social Security \(Scotland\) Act 2018: Devolved Social Security Assistance, Uprating for Inflation - A report in fulfilment of section 86A: Duty to consider effects of inflation](#).

<sup>75</sup> Meeting of SILC to discuss the 2016 UN CRPD Inquiry (2023) Report for Scottish Human Rights Commission (forthcoming).

<sup>76</sup> For instance, see Scottish Government (2022), [Take-up rates of Scottish benefits: October 2022](#).

<sup>77</sup> Joseph Rowntree Foundation (2021), [How social security can deliver for disabled people in Scotland](#). See also Scottish Parliament, Social Security Committee (2020), [Benefit Take-up](#).

<sup>78</sup> Meeting of SILC to discuss the 2016 UN CRPD Inquiry (2023) Report for Scottish Human Rights Commission (forthcoming).



anyone who self-identifies as disabled<sup>79</sup> to support them to access Social Security Scotland benefits.<sup>80</sup>

### Independent Living Fund

The Independent Living Fund (ILF) Scotland was established in July 2015 following the UK Government's closure of the UK ILF to new applicants in 2010, to mitigate the impact of this element of the welfare reform agenda and safeguard the rights of disabled people in Scotland to live independent lives.<sup>81</sup>

The public body ILF Scotland administers the fund on behalf of the Scottish Government. The fund enables disabled people with high support needs to choose to live in their communities. However, since 2015, the ILF administered by the Scottish Government has been closed to new applicants, ensuring continuity for those disabled people who had previously been in receipt of the UK Government ILF scheme.

On transfer from the UK the ILF was supporting just over 3,000 disabled people in Scotland with high support needs (as of July 2015). Remaining closed since that year, and largely because of the death of existing recipients over time, the 2015 Fund as of July 2023 supports just under 1,000 of that inherited population through a lifetime award. The award is on average nearly £500 a week.

The Scottish Government has faced calls to reopen the ILF to new applicants, particularly in the face of the cost-of-living crisis and the difficulties in social care resourcing. It has said that it is "committed to re-opening this Fund on securing a sufficient long-term resource."<sup>82</sup> The ILF has publicly said it is ready to administer the ILF to new people. However, at this point in time, it has not reopened.<sup>83</sup>

## **Northern Ireland**

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<sup>79</sup> VoiceAbility (n.d.), [Support to access benefits in Scotland](#).

<sup>80</sup> Audit Scotland (2022), [Social security: progress on implementing the devolved benefits](#); Social Security Scotland (2023), [New Independent Advocacy Service opens](#).

<sup>81</sup> Scottish Government (n.d.), [Independent Living Fund](#).

<sup>82</sup> Scottish Government (n.d.), [Independent Living Fund](#).

<sup>83</sup> Healthandcare.scot (2023), [ILF: "We stand ready to reopen"](#).



In 2015, the Fresh Start Agreement committed to implementing the social security reforms legislated for by the UK Parliament in 2012.<sup>84</sup> The agreement also included funding for a package of measures, worth up to £585 million over four years (up to March 2020), paid for by Northern Ireland Executive funds, to 'mitigate' some of the reforms.<sup>85</sup>

In 2022, bedroom tax mitigations were extended indefinitely.<sup>86</sup> All other existing mitigations were extended until March 2025.<sup>87</sup>

Despite these measures, a Disability Action survey in 2021 found that 78% of disabled respondents felt that disabled people did not have enough money to have a decent life.<sup>88</sup>

An independent review of welfare mitigations in 2021<sup>89</sup> made recommendations for further mitigations by the Northern Ireland Executive. However, in the absence of a functioning Executive, these recommendations cannot be advanced.

The Northern Ireland Executive has established a Welfare Reform Composite Evaluation Framework to measure the impact of welfare reform implementation in Northern Ireland and subsequent mitigations introduced.<sup>90</sup> Although the Department undertook some preliminary research<sup>91</sup> to establish a baseline, an indicative timetable for outputs from the framework has not yet been placed in the public domain. The Northern Ireland Audit Office

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<sup>84</sup> Northern Ireland Office (2015), [A Fresh Start – The Stormont Agreement and Implementation Plan](#), paras 3.1-3.6. The UK Parliament legislated for equivalent reforms to those introduced in Great Britain by the Welfare Reform Act 2012.

<sup>85</sup> It should be noted that most of the key mitigation measures concerning changes to disability-related social security benefits were limited to duration of one year only. See Evason, E. (2016), [Welfare Reform Mitigations Working Group report](#), pp. 7-10.

<sup>86</sup> Department for Communities (1 March 2022), [Press Release: 37,000 now have long-term protection from the bedroom tax](#).

<sup>87</sup> [The Welfare Supplementary Payment \(Amendment\) Regulations \(NI\) 2022](#). The 2022 Regulations also ensure that claimants do not lose their bedroom tax if they move home and that any person who is responsible for children can get an extra payment to cover the benefit cap with the payment being the full value of the cut to their benefits.

<sup>88</sup> Toman, N. et al (2022), [Progress towards the Implementation of UN CRPD in Northern Ireland](#), p. 72.

<sup>89</sup> Ibid, p. 6.

<sup>90</sup> Including surveys, focus groups, consultations and an analysis of administrative data. See UK Cabinet Office Disability Unit (December 2022), [UN Committee on the Rights of Persons with Disabilities 23016 Inquiry - 2022 UK follow-up report](#); Northern Ireland Audit Office (2019), [Welfare Reforms in Northern Ireland](#), p. 60.

<sup>91</sup> See Department for Communities (n.d.), [Welfare changes briefing and evaluation framework](#).

recommends that the Department publish a detailed plan and indicative timetable for the expected outputs.<sup>92</sup>

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<sup>92</sup> Northern Ireland Audit Office (2019), [Welfare Reforms in Northern Ireland](#).

The Northern Ireland Audit Office has noted that, “This outcomes-based evaluation strategy focuses on the impact on the claimant population, wider society and the economy...with the end of the mitigation period looming, there is a need for up-to-date research which will inform future decisions on interventions and resourcing”, p. 60.

## 114(c): Legislation and policy change

“Ensure that any intended legislation and/or policy measure respects the core elements of the rights analysed in the present report, that persons with disabilities retain their autonomy, choice and control over their place of residence and with whom they live, that they receive appropriate and individualized support, including through personal assistance, and have access to community-based services on an equal basis with others, that they have access to security social schemes that ensure income protection, including in relation to the extra cost of disability, compatible with an adequate standard of living and ensure their full inclusion and participation in society, and that they have access to and are supported in gaining employment in the open labour market on an equal basis with others.”

There has been **some progress** towards implementing recommendation 114(c); for instance, the employment gap across the UK between disabled people and non-disabled people is narrowing. However, this recommendation remains relevant. Further legislation and policy changes are required to ensure that rights of disabled people are upheld and protected, particularly in light of the disproportionate challenges that disabled people experienced during the pandemic and during the ongoing cost-of-living crisis, as well as the rise in inappropriate treatment and detention in social care settings.

### UK / England

Several measures have been introduced by the UK Government that relate to disabled people’s rights to work and employment, standard of living, social protection and independent living. A National Disability Strategy was published in 2021, which aimed to remove barriers to disabled people’s full and equal participation in society.<sup>93</sup> While the strategy was UK-wide, its implementation sits with the UK Government in respect of reserved areas only. However, a 2022 High Court judgment found that the Strategy was unlawful due to failures to properly consult disabled people, and some of the proposed actions were paused.<sup>94</sup> The Court of Appeal overturned this ruling in

<sup>93</sup> Department for Work and Pensions, Disability Unit and Equality Hub (2021), [National Disability Strategy](#).

<sup>94</sup> R (Binder & Others) v Secretary of State for Work and Pensions.

July 2023. The UK Government has more recently announced its intentions to produce a Disability Action Plan in 2023.<sup>95</sup>

### Work and employment

A 2017 policy paper entitled 'Improving Lives: The Future of Work, Health and Disability'<sup>96</sup> set out measures to reduce the disability employment gap and move 1 million more disabled people into employment by 2027. Many areas set out in this plan are devolved to Scotland, Wales and Northern Ireland, and it is for each administration to consider how to take forward this agenda. This was followed by 2021's Health is Everyone's Business consultation, which aimed to reduce ill-health related job loss by improving workplace support for disabled people.<sup>97</sup> From December 2021 to April 2022, the UK Government also held a consultation on requiring employers to monitor and report on disability,<sup>98</sup> which was welcome. This consultation was for stakeholders in England, Wales, Scotland and those organisations in Northern Ireland who are subject to employment and equality law in Great Britain.

Employment rates for disabled people across the UK remain lower than employment rates of non-disabled people; however, the disabled employment gap has been narrowing gradually over time.<sup>99</sup> Furthermore, disabled workers generally earn significantly less than non-disabled workers, and this gap has widened over time.<sup>100</sup> The EHRC has recommended that the UK Government introduce mandatory disability pay and employment reporting.<sup>101</sup> The EHRC has also recommended that the UK Government assesses the effectiveness of the Voluntary Reporting Framework or the Disability Confident Scheme on

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<sup>95</sup> Disability Unit (2022), [Press Release: New Disability Action Plan confirmed for 2023 as minister meets Paralympians and opens pioneering lab at Olympic Park](#).

<sup>96</sup> Department for Work and Pensions and the Department of Health (2017), [Improving Lives: The future of work, health and disability](#).

<sup>97</sup> Department for Work and Pensions (2021), [Government response: health is everyone's business](#).

<sup>98</sup> Disability Unit (2021), [Disability workforce reporting](#).

<sup>99</sup> The employment rate for disabled people (52.6%) was significantly lower than the employment rate of non-disabled people (82.5%) in July to September 2022. However, this disability employment gap of 29.8 percentage points has narrowed by 4.4 percentage points since the same quarter in 2013. For more information, see Department of Work and Pensions (2023), [Official Statistics: Employment of disabled people in 2022](#).

<sup>100</sup> Ibid.

<sup>101</sup> For instance, see Equality Human Rights Commission (2022), [Consultation response: disability workforce reporting](#).

improving employment outcomes for disabled people to inform future policy development.<sup>102</sup>

### Standard of living and social protection

In March 2023 the Government published the Health and Disability White Paper,<sup>103</sup> which intends to introduce some welcome changes, including employment support programmes for disabled people, improved accessibility of forms and a new ‘tell us once’ service for reasonable adjustment requests, among others. Many disabled people also received a temporary uplift to Universal Credit and Workers’ Tax Credit during the COVID-19 pandemic. Similarly, in 2022, the UK Government announced various one-off cost-of-living support payments to support disabled people, among other groups.<sup>104</sup>

Despite these steps, there remain concerns that benefits and other financial support offered to disabled people do not go far enough, considering in particular how disabled people have been impacted by recent cost-of-living increases<sup>105</sup> and the COVID-19 pandemic.<sup>106</sup> In addition, while some features of the Health and Disability White paper were welcomed by disability stakeholders, in particular the removal of the Work Capability Assessment (WCA), there are concerns about whether its ambition to apply sanctions more effectively will result in harsher sanctions.<sup>107</sup> There are also concerns about the WCA being replaced with the PIP assessment, notably because those who do not have long-term disabilities and do not qualify for PIP might be

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<sup>102</sup> For instance, see Equality and Human Rights Commission (2021), [Submission to the Work and Pensions Select Committee Inquiry on the Disability Employment Gap](#).

<sup>103</sup> Department for Work and Pensions (2023), [Transforming Support: The Health and Disability White Paper](#).

<sup>104</sup> HM Treasury (2022), [Cost of living support factsheet: 26 May 2022](#).

<sup>105</sup> For instance, see Scope (2022), [Information page on cost-of-living](#) (2022); Weston, T. (2022), [Cost of living: impact of rising costs on disabled people](#), House of Lords Library; ONS (2023), [Impact of increased cost of living on adults across Great Britain: September 2022 to January 2023](#).

<sup>106</sup> For instance, see ONS (2022), [Coronavirus and the social impacts on disabled people in Great Britain: March 2020 to December 2021](#); Scott, E. (2021), [COVID-19 pandemic: impact on people with disabilities](#), House of Lords Library; Joseph Rowntree Foundation (2020), [The financial impact of COVID-19 on disabled people and carers](#); Inclusion London (2020), [Abandoned, forgotten and ignored – the impact of COVID-19 on Disabled people](#).

<sup>107</sup> For more details on sanctions, see the Chancellor’s Budget 2023 statement, which highlighted announcements related to the 2023 Health and Disability White Paper: HM Treasury (2023), [Spring Budget 2023](#); for reactions to the Health and Disability White Paper from DPOs, see, for instance, Disability Rights UK (2023), [Health and Disability White Paper: support not sanctions needed says DR UK](#).

unable to claim the health component of Universal Credit they need in future.<sup>108</sup>

### Independent living

The UK Government's commitment to raising accessibility standards for new homes in England, informed by outcomes from a public consultation held in 2020,<sup>109</sup> were welcome. In 2018 the UK Government published its Inclusive Transport Strategy,<sup>110</sup> which aimed to provide equal access for disabled people using the transport system by 2030. However, recent written evidence to the Transport Select Committee's accessible transport inquiry indicates that many accessibility issues persist for disabled people using transportation.<sup>111</sup> For several years, the EHRC has raised concerns about inadequate physical design of transport modes and stations, as well as attitudinal barriers experienced by disabled people as a result of poor staff training or knowledge.<sup>112</sup>

In 2019, the Access to Cash review was published, showing that certain groups were at risk of being left behind in the move towards a cashless society.<sup>113</sup> In 2019, HM Treasury announced it would create and chair the Joint Authorities Cash Strategy (JACS) Group,<sup>114</sup> which would work to ensure access to cash for those who need it. In the March 2020 Budget,<sup>115</sup> the UK Government committed to legislate to protect access to cash in the UK, bringing forward a bill in 2022 which would guarantee customers "reasonable

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<sup>108</sup> For concerns of this nature from DPOs, see, for instance, oral evidence related to the Health and Disability White Paper from Disability Rights UK, Inclusion London, and others: House of Commons Women and Equalities Committee (2023), [Oral evidence: National Disability Strategy](#).

<sup>109</sup> Department for Levelling up, Housing and Communities (2022), [Raising accessibility standards for new homes: summary of consultation responses and government responses](#).

<sup>110</sup> Department for Transport (2020), [Inclusive Transport Strategy: achieving equal access for disabled people](#).

<sup>111</sup> Transport Select Committee (2023), [Accessible Transport: legal obligations inquiry, written evidence](#).

<sup>112</sup> For instance, see Equality and Human Rights Commission (2019), [Letter to Williams Rail Review regarding accessible and affordable transport](#); Equality and Human Rights Commission (2020), [Response to the Office of Rail and Road Consultation on accessible travel policy guidance](#); Equality and Human Rights Commission (2020), [Evidence to the Transport Committee inquiry on the implications of coronavirus for transport](#); Equality and Human Rights Commission (2023), [Evidence to the Transport Committee inquiry into accessible transport and legal obligations](#).

<sup>113</sup> Access to Cash Review (2019), [Access to Cash Review Final Report](#).

<sup>114</sup> HM Treasury and the Rt Hon Philip Hammond (2019), [Cash here to stay as government commits to protecting access](#).

<sup>115</sup> HM Treasury (2020), [Budget 2020](#).



access” for withdrawal and deposit facilities.<sup>116</sup> Despite this, the prevalence of cashless transactions has continued to grow since the COVID-19 pandemic, and research shows that many disabled people, as well as other groups, face increased isolation as a result.<sup>117</sup>

The 2021 People at the Heart of Care White Paper<sup>118</sup> and the 2022 Joining Up Care White Paper<sup>119</sup> together aimed to provide more choice, control and independence in adult social care across England. The UK Government announced additional reforms to social care in 2021, committing to a cost cap on the amount that anyone in England will spend on care over their lifetime.<sup>120</sup> However, implementation of these reforms has been delayed until 2025.

In 2022 the UK Government published its draft Mental Health Bill<sup>121</sup> to replace the current mental health legislation following an independent review in 2018.<sup>122</sup> The provisions of the draft Bill extended to England and, with some exceptions, Wales. The stated intention is to provide individuals with greater choice and autonomy over their care and treatment, while also reducing the inappropriate detention of people with learning disabilities and autism. Relatedly, it released the Building the Right Support Action Plan<sup>123</sup> in 2022 to strengthen community support for people with learning disabilities and autism in England. In addition, the UK Government formally established Integrated Care Boards (ICBs) under the Health and Care Act 2022,<sup>124</sup> which are local bodies in England responsible for planning and funding health services in their area to improve outcomes.<sup>125</sup>

Many of these reforms are welcome, in particular the UK Government’s plan to reform the Mental Health Act to ensure that people have greater control

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<sup>116</sup> UK Parliament, Parliamentary Bills (2023), [Financial Services and Markets Bill](#).

<sup>117</sup> Royal Society for Arts (2022), [The cash census: Britain’s relationship with cash and digital payments](#).

<sup>118</sup> Department of Health and Social Care (2021), [People at the Heart of Care: adult social care reform white paper](#).

<sup>119</sup> Department of Health and Social Care (2022), [Health and Social Care Integration: joining up care for people, places and populations](#).

<sup>120</sup> Department of Health and Social Care (2021), [Adult social care charging reform: further details](#).

<sup>121</sup> Department of Health and Social Care (2022), [Draft Mental Health Bill](#).

<sup>122</sup> Department of Health and Social Care (2018), [Independent report: Modernising the Mental Health Act – final report from the independent review](#).

<sup>123</sup> Department of Health and Social Care (2022), [Building the right support for people with a learning disability and autistic people](#).

<sup>124</sup> [Health and Care Act 2022](#).

<sup>125</sup> For more information about Integrated Care Boards, see NHS England (n.d.) [What are integrated care systems?](#)

over their treatment and receive dignity and respect. However, the EHRC has noted that the draft Mental Health Bill<sup>126</sup> and the Building the Right Support Action Plan<sup>127</sup> could do more to limit inappropriate detention. At the end of March 2023, there were 2,065 inpatients with a learning disability and / or autism.<sup>128</sup> This evidence also showed that 55% had a length of stay of two years or more, and 17% of those had a total length of stay of ten years or more.<sup>129</sup> A review in 2020 also found many examples of care that was ‘undignified, inhumane and that potentially breached people’s basic human rights’.<sup>130</sup> There have been recent allegations of serious abuse, including physical and verbal mistreatment of patients by staff at care facilities, such as the Edenfield Centre mental health unit.<sup>131</sup>

In 2021, the EHRC developed a model for incorporating the right to independent living in the UK and made a series of recommendations to the UK Government which have not been implemented.<sup>132</sup>

## Wales

In its 2021 Programme for Government, the Welsh Government committed to incorporating the CRPD into Welsh law.<sup>133</sup> The Welsh Government has established a Human Rights Advisory Group to provide advice on how to take forward this commitment. In May 2022, the Welsh Government published its response to research it commissioned into how best to strengthen equality and human rights in Wales.<sup>134</sup> It accepted in principle a recommendation to

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<sup>126</sup> For instance, see Equality and Human Rights Commission (2022), [Written evidence submitted by the Equality and Human Rights Commission](#).

<sup>127</sup> For instance, see Equality and Human Rights Commission (2022), [Statement on the Department of Health and Social Care’s Building Better Support plan](#).

<sup>128</sup> NHS Digital (2023), [Learning disability services monthly statistics from Assuring Transformation dataset, Tables 2.7](#).

<sup>129</sup> Ibid.

<sup>130</sup> Care Quality Commission (2020), [Out of sight – who cares?](#)

<sup>131</sup> Equality and Human Rights Commission (2022), [Our response to allegations about mistreatment of people in Edenfield Centre Mental Health Unit](#).

<sup>132</sup> Equality and Human Rights Commission (2021), [Strengthening the right to independent living](#).

<sup>133</sup> Welsh Government (2021), [Welsh Government Programme for government: update](#).

<sup>134</sup> Welsh Government (2021), [Strengthening and advancing equality and human rights in Wales](#).

introduce primary legislation to give effect to international human rights law in Welsh law, including through a Human Rights (Wales) Act.<sup>135</sup>

In September 2019 the Welsh Government also published an action plan on disability,<sup>136</sup> which aims to support people with impairments to effectively participate in society on an equal basis with others by removing barriers. In July 2021, in response to the report 'Locked out: liberating disabled people's lives and rights in Wales beyond COVID-19',<sup>137</sup> the Welsh Government committed to forming a taskforce and working with disabled people and their organisations to co-produce a new disability equality action plan.<sup>138</sup> This has been welcomed by some DPOs. In addition, priority areas in the Welsh Government's 2022 Learning Disability Strategic Action Plan<sup>139</sup> include supporting independent living; improving access to services through increased access to advocacy; reducing health inequalities and avoidable deaths; social care; education; employment and housing.

### Independent living

In 2019, the Welsh Government issued the Housing Adaptations Service Standard.<sup>140</sup> In 2021 the Welsh Government also updated and simplified the Welsh Development Quality Requirements for building all publicly-funded affordable housing schemes in Wales.<sup>141</sup> They retain the accessibility requirement for all homes to meet the Lifetime Homes Standard.

In 2020, the EHRC published research which found that transport strategies and policies lacked action to address inequalities for older and disabled people.<sup>142</sup> The Welsh Government's 2021 Programme for Government committed to making the public transport system in Wales more accessible. This sits alongside the Welsh Government's 2021 National Transport Strategy

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<sup>135</sup> Welsh Government (2022), [Strengthening and Advancing Equality and Human Rights in Wales research report: Welsh Government response](#).

<sup>136</sup> Welsh Government (2019), [Action on Disability: The right to independent living framework and action plan](#).

<sup>137</sup> Welsh Government's Disability Equality Forum (2021), [Locked out: Liberating disabled people's lives and rights in Wales beyond COVID-19](#).

<sup>138</sup> Welsh Government (2021), [Response to the Welsh Government Disability Equality Forum's report on the impact that COVID-19 had on disabled people](#).

<sup>139</sup> Welsh Government (2022), [Learning Disability Strategic Action Plan 2022-26](#).

<sup>140</sup> Welsh Government (2019), [Housing Adaptations: standards of service](#).

<sup>141</sup> Welsh Government (2021), [Welsh Development Quality Requirements 2021 Creating beautiful homes and places](#).

<sup>142</sup> Equality and Human Rights Commission (2020), [Accessible public transport for older and disabled people in Wales](#).

Llwybr Newydd,<sup>143</sup> which included commitments to invest in upgrading transport services and infrastructure to ensure they are accessible, and to use inclusive design principles in investments decisions. In 2022, the Welsh Government invested £10 million to ensure 11 rail stations have step free access.<sup>144</sup>

### Work and employment

In 2022, the Welsh Government published the Stronger, Fairer, Greener Wales plan,<sup>145</sup> with a focus on improving labour market outcomes for disabled people and other groups. The Real Living Wage in Wales has also been introduced for social care workers with the aim to support the sustainability of the social care system and improve outcomes.<sup>146</sup> The Welsh Government has also employed a network of Disabled People's Employment Champions, supported by Business Wales Disabled People's Employment Advisors, to provide advice, information and support to employers across Wales.<sup>147</sup> Despite this progress, the latest data on disability from the Welsh Government shows that the disability pay gap in Wales was 11.6% in 2021.<sup>148</sup> While this is down from the peak of 15.1% in 2019, it is still higher than between 2016 and 2018.

## **Scotland**

### Independent living

The COVID-19 pandemic had a profound impact on social care delivery in Scotland, leading to significant gaps in the realisation of human rights for people who rely on such support, including both users and unpaid carers.<sup>149</sup> This has compounded pre-existing challenges across the Scottish social care system.

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<sup>143</sup> Welsh Government (2021), [Llwybr newydd: The Wales transport strategy](#).

<sup>144</sup> Welsh Government (2022), [Welsh Government Annual Report 2022](#).

<sup>145</sup> Welsh Government (2022), [Stronger, Fairer, Greener Wales: a plan for employability and skills](#).

<sup>146</sup> Welsh Government (2022), [Press Release: Social care workers in Wales to receive real living wage uplift](#).

<sup>147</sup> Welsh Government (n.d.), [Disabled People's Employment](#).

<sup>148</sup> Welsh Government (2022), [Wellbeing of Wales](#).

<sup>149</sup> Scottish Human Rights Commission (2020), [COVID-19, Social Care and Human Rights: Impact Monitoring Report](#).

There were reports of reduction and / or removal of care packages during the pandemic<sup>150</sup> resulting in people being left without essential care.<sup>151</sup> The full scale of the cessation or reduction of care packages is not known because several Health and Social Care Partnerships failed to provide data, and others provided it in a form that was not comparable. In Glasgow, where only people with ‘critical’ needs were receiving support, almost 2,000 people’s care packages were affected.<sup>152</sup>

Challenges of reducing budgets and increasing demand continued to worsen at a pace exacerbated by the pandemic. Glasgow's Health and Social Care Partnership published budget cuts of nearly £22 million in March 2023, with the Partnership suggesting that the cuts could result in 13-month waits for care packages.<sup>153</sup> Shortages in provisions leave disabled people trapped at home with no support or in unsuitable residential settings and displace responsibility for support back onto family and friends, denying disabled people autonomy in their support needs.

Many people who have learning disabilities and autism in Scotland are being denied their rights to autonomy, choice and control over their place of residence and with whom they live. They are also being denied access to community-based services on an equal basis with others. Government data confirms that 705 people were placed out-of-area in Scotland as at 2017,<sup>154</sup> 79 people were placed outside of Scotland and 67 people experienced delayed discharge in hospital settings.<sup>155</sup> More than 22% had been in hospital for more than ten years, and another 9% had been in hospital for five to ten years. Only 12% had been admitted less than a year, although this data does

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<sup>150</sup> A Freedom of Information request showed that in the region of 4,000 care packages had been ceased or reduced across Scotland compared to January 2020. Research in Glasgow found almost 2,000 people’s care packages were affected. For more information, see Scottish Human Rights Commission (2021), [Comments on the UK’s 40<sup>th</sup> Report on the Implementation of the European Charter](#).

<sup>151</sup> Ibid. The report detailed how the removal of care plans during COVID-19 had a direct and detrimental effect on people’s rights, including potential unlawful interferences and non-compliance with rights contained in the European Convention on Human Rights and the CRPD.

<sup>152</sup> Glasgow Disability Alliance (n.d.), [Supercharged: A Human Catastrophe Glasgow Disability Alliance](#). More than half of the members of Glasgow Disability Alliance who took part in their lockdown surveys report that they were worried about food, money and medication.

<sup>153</sup> Glasgow City Integration Joint Board (March 2023), [ITEM No 07 - IJB Financial Allocations and Budgets 2023-2024](#).

<sup>154</sup> ‘Out-of-area’ is defined as living within a placement not within the individual’s funding authority. This could include living in either an NHS or a private hospital. Scottish Government (2019), [Coming Home – A Report on Out-of-Area Placements and Delayed Discharge for People with Learning Disabilities and Complex Needs](#).

<sup>155</sup> Scottish Government (2022), [Coming Home Implementation: report from the Working Group on Complex Care and Delayed Discharge](#).



have limitations as explained in the full report. The majority of those placed out-of-area or delayed in hospital had behaviour that staff found challenging. This was often a reason for social care service breakdown.<sup>156</sup>

Social Care delivery in Scotland faces several crises: inadequate resourcing,<sup>157</sup> high levels of vacancies<sup>158</sup> and geographical variations in care costs.<sup>159</sup> Localised frameworks increase complexity when individuals move. The Scottish Government is pursuing legislation to create a National Care Service that would restructure social care provision under a national framework.<sup>160</sup> It is therefore concerning that the commitment to human rights has not been embedded into the proposals, and there are widespread concerns about adequacy of resource.<sup>161</sup>

While Scottish Government has committed to ending the practice of care charging<sup>162</sup> this remains unimplemented, and in practice charges are increasing in many parts of Scotland. In January 2023, the Supreme Court held that Glasgow City Council's charging policy for community care services, which allows only certain deductions when assessing the claimant's contribution, was not discriminatory under the Equality Act 2010.<sup>163</sup> The Court said local authorities should consider the expenditure that results from an individual's disability and make reasonable deductions when calculating any contribution. The Court also said it was up to the individual to satisfy the local authority that they had insufficient means and it was not 'practicable' for them to pay.

The Social Care (Self Directed Support) (Scotland) Act 2013<sup>164</sup> was intended to ensure that social care be provided in a way which gives people greater choice, dignity and control in their lives,<sup>165</sup> by providing options for control of

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<sup>156</sup> Scottish Government (2022), [Coming Home Implementation: report from the Working Group on Complex Care and Delayed Discharge](#).

<sup>157</sup> BMA (n.d.), [Social care in Scotland](#); University of Strathclyde (2022), [Demand and expenditure for adult social care in Scotland](#).

<sup>158</sup> Scottish Social Services Council (2021), [The 2021 Staff vacancies in care services report](#).

<sup>159</sup> Scottish Government (2021), [Independent Review of Adult Social Care in Scotland](#).

<sup>160</sup> Scottish Government (2022), [National Care Service Bill Published](#).

<sup>161</sup> Scottish Human Rights Commission (2021), [A National Care Service for Scotland consultation response](#); COSLA (2021), [COSLA Response – National Care Service Consultation](#).

<sup>162</sup> Home Care (2021), [Scotland's election: Nicola Sturgeon vows to scrap all charges for care and support at home](#).

<sup>163</sup> McCue (as guardian for Andrew McCue) v Glasgow City Council (Scotland) (2023) UKSC 1.

<sup>164</sup> [Social Care \(Self-directed Support\) \(Scotland\) Act 2013](#).

<sup>165</sup> Care Inspectorate (2019), [Thematic review of self-directed support in Scotland](#).



individual budgets. While the Act is stronger than previous policy and legislation, there have been a range of challenges to its implementation, and it has not been made available to people as intended.<sup>166</sup> Reviews and reports looking at the delivery of SDS since 2014<sup>167</sup> have revealed patchy and unequal access, as well as limited co-production, issues around workforce recruitment, training and awareness,<sup>168</sup> lack of transparency in recording decisions,<sup>169</sup> bureaucratic and unwieldy processes,<sup>170</sup> unequal access to independent advocacy and budgetary pressures.<sup>171</sup> This has meant that the extent to which individuals have been able to access all four SDS options equally and exercise real choice and control has been limited.

### Standard of living and social protection

As in the rest of the UK, poverty rates are higher for disabled people than the general population. Unemployment, underemployment and economic inactivity rates are also disproportionately high for disabled people.<sup>172</sup> The Scottish Government made a commitment to reduce the barriers to employment for disabled people and halve the disabled employment gap as part of the Fairer Scotland for Disabled People Delivery Plan;<sup>173</sup> however, DPOs have characterised the commitment to halve the disability employment gap by 2038 as unambitious.<sup>174</sup> While some progress has been made towards increasing the number of disabled people entering employment in Scotland since 2016,<sup>175</sup> the disability pay gap has worsened over the same period.<sup>176</sup> The

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<sup>166</sup> Scottish Human Rights Commission (2020), [COVID-19, Social Care and Human Rights Monitoring Report](#).

<sup>167</sup> Care Inspectorate (2019), [Thematic review of self-directed support in Scotland](#). Also see Scottish Parliament Health and Social Care Committee (2021), [The Future of Social Care and Support in Scotland](#).

<sup>168</sup> Audit Scotland (2017), [Self-directed support: 2017 progress report](#).

<sup>169</sup> Care Inspectorate (2019), [Thematic review of self-directed support in Scotland](#).

<sup>170</sup> Iriss (2021), [Self-directed support: ten years on](#).

<sup>171</sup> Audit Scotland (2017), [Self-directed support: 2017 progress report](#).

<sup>172</sup> 51% of all people in poverty are living in a household where someone is disabled – despite disabled people accounting for around 20% of the population. See [Scottish Government \(2023\), Poverty and Income Inequality in Scotland 2019-22](#).

<sup>173</sup> Targets were set to increase employment of disabled people to 50% by 2023 and 60% by 2030. See Scottish Government (2016), [A Fairer Scotland for Disabled People: delivery plan](#).

<sup>174</sup> Meeting of SILC to discuss the 2016 UN CRPD Inquiry (2023) Report for Scottish Human Rights Commission (forthcoming).

<sup>175</sup> In September 2022, the disability employment gap in Scotland was 31.0%, a reduction of 4.8% since 2016.

<sup>176</sup> See UNISON Scotland (2022), [UNISON Year of Disabled Workers 2022](#); Enable Scotland (2023), [Response 1045491638 to Disabled employment gap inquiry – Scottish Parliament – Citizen Space](#).

disability pay gap in Scotland was 18.5% in April 2021, the highest in the UK.<sup>177</sup>

Barriers for disabled people in employment remain significant and interlinked, including lacking the right qualifications and transition support from education to employment,<sup>178</sup> prejudice and negative attitudes,<sup>179</sup> lack of career progression,<sup>180</sup> inflexible working practices, lack support in the workplace and failure to make reasonable adjustments.<sup>181</sup> There is particularly low understanding in relation to neurodivergence and mental health conditions,<sup>182</sup> highlighting a need for disability training for employers.

Action to support disabled people currently in work and to support disabled people into work has been taken in Scotland in relation to publication of a Fair Work Action Plan in Dec 2022.<sup>183</sup> In addition, public agencies such as Social Security Scotland are taking a proactive approach to recruiting, training and supporting disabled people,<sup>184</sup> and there is positive work being undertaken to support employers to promote mentally healthy workplaces as part of the Mental Health Transition and Recovery Plan.<sup>185</sup> A Disabled Young People (Transition to Adulthood) (Scotland) Bill<sup>186</sup> is being considered by the Scottish parliament<sup>187</sup> and work is underway to increase the number of applications

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<sup>177</sup> In 2021, the median pay for a disabled worker in Scotland was £11.54 per hour compared with £14.16 for a non-disabled worker. See Skills Development Scotland (2023), [Response 797699761 to Disabled employment gap inquiry](#); Office for National Statistics (2022), [Disability pay gaps in the UK: 2021](#).

<sup>178</sup> For example, see Enable Scotland (2023), [Response 1045491638 to Disabled employment gap inquiry](#); ALLIANCE (2023), [Response 79452293 to Disabled employment gap inquiry](#).

<sup>179</sup> For example, see Scottish Autism (2023), [Response 627670627 to Disabled employment gap inquiry](#).

<sup>180</sup> For example, see Disability Equality Scotland (2023), [Response 210580279 to Disabled employment gap inquiry](#).

<sup>181</sup> See, for instance, Glasgow Disability Alliance (2022), [Ending Poverty and Removing Barriers to Work for Disabled People in Glasgow beyond COVID-19](#); Inclusion Scotland (2023), [Response 343474598 to Disabled employment gap inquiry](#).

<sup>182</sup> See Disability Equality Scotland (2023), [Response 210580279 to Disabled employment gap inquiry](#); SAMH (2023), [Response 337193243 to Disabled employment gap inquiry](#).

<sup>183</sup> Scottish Government (2022), [Fair Work action plan: becoming a leading Fair Work nation by 2025](#).

<sup>184</sup> Scottish Government (2021), [Fairer Scotland for disabled people - employment action plan: progress report – year 2](#).

<sup>185</sup> Scottish Government (2020), [Coronavirus \(COVID-19\): mental health - transition and recovery plan - summary](#).

<sup>186</sup> This is seen as integral to providing disabled young people with better support in transitioning from school into education, training or work opportunity on a more equal footing.

<sup>187</sup> Scottish Parliament (2020), [Disabled Children and Young People \(Transitions to Adulthood\) \(Scotland\) Bill](#).

from disabled people to public boards in Scotland.<sup>188</sup> However, just 32% of disabled people who engaged in Fair Start – Scotland’s national employability programme – between April 2018 and September 2022 actually started paid work. Just 23% stayed in work for 3 months, 19% for 6 months and 14% for 12 months.<sup>189</sup> This suggests that positive policy is not yet translating into sufficient practical support.

In addition to specific challenges experienced by disabled people, there are also intersectional barriers in relation to class, gender, ethnicity, sexual orientation and age. Disabled women, for example, face dual labour market disadvantages and experience an even higher disability pay gap.<sup>190</sup>

Mainstream employability programmes are failing to integrate considerations of gendered barriers to employment. People with learning disabilities have ‘catastrophically low opportunities for work’,<sup>191</sup> with Enable Scotland noting that of the 23,584 adults with learning disabilities known to Local Authorities, just 4.1% of these are in employment.<sup>192</sup> People experiencing mental health problems or mental ill-health represent one of the biggest cohorts of people unable to work due to sickness,<sup>193</sup> while Autistic people have also faced significant levels of exclusion.<sup>194</sup>

## Northern Ireland

Northern Ireland continues to lack a disability national action plan and has operated without a Northern Ireland Executive wide strategy relating to the rights of disabled people since 2018. The New Decade, New Approach

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<sup>188</sup> The ethical Standards commissioner has set the Scottish Government a target that 15% of applications for public boards should be from disabled people.

A pilot project ‘Access to Public Boards Appointments in which six disabled people were given opportunity to shadow public boards over a 12-month period highlighted the talents of disabled people, as well highlighting barriers they faced. See Inclusion Scotland (2021), [Access to Public Appointments Evaluation Report](#).

<sup>189</sup> Scottish Government (2023), [Scotland's Devolved Employment Services: statistical summary February 2023](#).

<sup>190</sup> In addition to the barriers outlined above, they also face barriers around childcare and inflexible working practices meaning they are more likely to be concentrated in part-time, low paid and low status jobs. In 2021, disabled women earned on average 11% less than non-disabled women, 13% less than disabled men and 24% less than non-disabled men. See Close the Gap (2023), [Response 866074028 to Disabled employment gap inquiry](#).

<sup>191</sup> Glasgow DPO Network and the University of Glasgow (2022), [Ending Poverty and Removing Barriers to Work for Disabled People in Glasgow beyond COVID-19](#).

<sup>192</sup> See Enable Scotland (n.d), [Response 1045491638 to Disabled employment gap inquiry](#).

<sup>193</sup> See SAMH (2023), [Response 337193243 to Disabled employment gap inquiry](#).

<sup>194</sup> See Scottish Autism (2023), [Response 627670627 to Disabled employment gap inquiry](#).

agreement, which brought an end to the previous suspension of the Northern Ireland Assembly, included a commitment to publish a disability strategy for Northern Ireland.<sup>195</sup> The Department for Communities appointed a Disability Strategy Expert Advisory Panel and undertook ongoing engagement with a Co-Design Group and a cross-departmental working group of key stakeholders. In 2021, the Expert Panel published its report, highlighting a focus on the general principles of the CRPD, as a guide to inform the development of a Disability Strategy.<sup>196</sup> The plan to consult on the strategy in early 2022 has been delayed, and the Department for Communities has advised that it cannot be progressed until a new Executive is in place.<sup>197</sup>

Disabled people and their organisations continue to operate in a policy vacuum. As set out in this report, the absence of a disability strategy<sup>198</sup> has hampered discussions relating to the development and design of policy initiatives to address the rights of disabled people.

### Accessible Housing

The Disability Strategy Expert Advisory Panel has reported that there continues to be a lack of accessible and affordable housing for people with a range of disabilities.<sup>199</sup>

Long delays in accessing housing restricts the realisation by disabled people in Northern Ireland of the right to live independently.<sup>200</sup> Demand for social care is increasing and access to funding is decreasing.<sup>201</sup> In a 2018 study by Disability Action on adult social care, 74% of respondents reported that disabled people have little or no choice and control in relation to social care in Northern Ireland.<sup>202</sup>

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<sup>195</sup> UK Government and Irish Government (2020), [New Decade, New Approach](#), p. 27.

<sup>196</sup> Department for Communities (2020), [Disability Strategy Expert Advisory Panel – report and recommendations](#).

<sup>197</sup> Correspondence from the Department for Communities to the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission, 18 July 2022.

<sup>198</sup> Equality Commission for Northern Ireland (2023), [Response by the Equality Commission for Northern Ireland to the Consultation by the Department for Communities on its Spending – Plans for 2023-2024 Equality Impact Assessment](#), pp. 4-5.

<sup>199</sup> Department for Social Development/Department for Health, Social Services and Public Safety (2016), [Inter-Departmental Review of Housing Adaptations Services: Final Report and Action Plan](#); Department for Communities (2021), [NI Homelessness Bulletin](#).

<sup>200</sup> They Work For You (2021), [Social Housing: East Belfast, Joanne Bunting, DUP](#).

<sup>201</sup> British Medical Association (2020), [Social care in Northern Ireland](#).

<sup>202</sup> Disability Action (2018), [Reform of Adult Social Care in Northern Ireland Briefing Paper](#), p. 7.

Despite a commitment in 1995 to resettle all long-stay patients from the three learning disability hospitals in Northern Ireland to accommodation offering a better life for the patient,<sup>203</sup> the number of disabled people in institutional and residential settings has increased. Austerity measures, including welfare reform, have been cited as a factor for this increase.<sup>204</sup> People with a learning disability continue to remain in hospital, even though they no longer need treatment and could be resettled into the community.<sup>205</sup> Funding has not matched the levels identified in the Bamford Review of Mental Health and Learning Disability, as necessary to support resettlement.<sup>206</sup> Concern has also been expressed about deaf and disabled people staying long term<sup>207</sup> in assessment and treatment units.<sup>208</sup>

The main institutional residential setting for disabled people in Northern Ireland is Muckamore Abbey Hospital. Disturbingly, allegations of abuse at Muckamore Abbey Hospital in 2017 have resulted in criminal investigations<sup>209</sup> and a public inquiry.<sup>210</sup>

In October 2022, the Department of Health issued a public consultation on the future of Muckamore Abbey Hospital.<sup>211</sup> IMNI welcomed the proposal to close Muckamore Abbey Hospital but recommended that the department commit to ensuring that resettlement of patients is aligned to the rights set out in CRPD Article 19 and elaborated on in the Committee's General Comment No. 5.<sup>212</sup>

In relation to housing for disabled people, the Disability Strategy Expert Advisory Panel<sup>213</sup> recommended that the definition of "homelessness" is

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<sup>203</sup> NIAO (2009), [Resettlement of Long-Stay Patients from Learning Disability Hospitals](#), para 3, p. 2.

<sup>204</sup> Centre for Welfare Reform (2017), [Back to Bedlam What Kind of Future Faces People with a Learning Disability?](#)

<sup>205</sup> NIHE (2014), [The Hospital Resettlement Programme in NI after the Bamford Review](#)

<sup>206</sup> Disability Action (2017), [Alternative Report on the Implementation of the Convention on the Rights of Persons with Disabilities in Northern Ireland](#), para 2.13.3, p. 25.

<sup>207</sup> More than two years.

<sup>208</sup> Ibid.

<sup>209</sup> Graham, S. (2018), [Police probing more than 70 allegations of 'ill treatment' at Muckamore hospital](#), Irish News, 15 August 2018.

<sup>210</sup> Department of Health (2020), [Swann announces Public Inquiry into Muckamore Abbey Hospital](#).

<sup>211</sup> See Department of Health (2022), [Public consultation on the future of Muckamore Abbey Hospital](#).

<sup>212</sup> Equality Commission for Northern Ireland (January 2023), [Response to the consultation by the Department of Health on the future of Muckamore Abbey Hospital](#), p. 10.

<sup>213</sup> Department for Communities (2020), [Disability Strategy Expert Advisory Panel: Report and recommendations](#).



revised to consider the accessibility of properties as the criteria for securing maximum points on the waiting list for priority housing.

In addition, it called for the Northern Ireland Executive to, “recognise personal assistants as distinct from carers in adult social care, and ensure they are available to all disabled people including people with learning disabilities and people who have experience of mental health services.”<sup>214</sup>

### Independent living

The closure of the ILF to new applicants from 2010 has severely limited disabled people’s choice, control and independence.<sup>215</sup>

In 2020, an ILF Working Group<sup>216</sup> was convened by the Department of Health<sup>217</sup> to help develop a briefing for the Health Minister on the feasibility and long-term sustainability of re-opening the ILF to new users.<sup>218</sup> Although the Group has prepared a number of options for reopening the ILF, in the absence of a functioning Northern Ireland Executive (and Health Minister), it is not possible to progress this project.<sup>219</sup>

There is no statutory right to independent living recognised in UK or Northern Ireland law. A survey carried out by Disability Action (2021) found that 76% (63) of deaf and disabled respondents indicated that they do not have enough access to support to live independently.<sup>220</sup>

The absence of an integrated strategy for independent living combined with little or no co-ordination between services relating to education, childcare, transport, housing, employment and social security programmes undermines policies which, if all working together, would support disabled people to live independently.

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<sup>214</sup> Ibid, p. 38.

<sup>215</sup> Department for Communities (2020), [Disability Strategy and Expert Advisory Panel: Report and Recommendations](#), p. 34.

<sup>216</sup> Which included a number of disabled people and their organisations.

<sup>217</sup> Disability News Service (2020), [Northern Ireland to consider expansion of Independent Living Fund](#).

<sup>218</sup> Including helping to develop the eligibility criteria for new applications.

<sup>219</sup> The Group no longer meets.

<sup>220</sup> Toman, N. et al (2022), [Progress towards the Implementation of UN CRPD in Northern Ireland](#), p. 72.



The roll-out of Self Directed Support as a model for choice and control for disabled people in Northern Ireland has been limited and remains in the early stages of development.<sup>221</sup>

### Work and employment

Northern Ireland has the lowest employment rate for disabled people in the UK with 36.4% of disabled people in employment compared to 80.3% of people without a disability,<sup>222</sup> a disability employment gap of 43.9%.

The preponderance of workers with mental health disabilities in the sectors hardest hit by COVID-19 meant that they were particularly vulnerable to job losses caused by the pandemic and the economic response to it.<sup>223</sup>

While the UK Government asserts that employment is the route out of poverty, a 2022 Institute for Fiscal Studies report<sup>224</sup> found that although a reduction in disability benefits is associated with an increase in the likelihood of being in paid work, four years after such a reduction 47% were not in paid work - with an increase in rates of income poverty among this group.<sup>225</sup>

An analysis of barriers to the employability of people with a disability in Northern Ireland highlighted the attitude of employers, workplace accessibility and a lack of educational opportunities for disabled people.<sup>226</sup>

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<sup>221</sup> Department for Communities (2020), [Disability Strategy Expert Advisory Panel - Report and Recommendations](#), p. 36. The Panel also notes that there is a need to reform adult social care to enhance the independence of d/Deaf and disabled people.

<sup>222</sup> NISRA (2021), [Quarterly Labour Force Survey Tables – August 2021](#). 52.3% of disabled people were in employment in 2021 in Great Britain. See Powell, A. (2021), [Disabled people in employment](#), House of Commons Library, p. 5. The figure for Europe is 50.6%. See Institute of Entrepreneurship Development (2021), [The Status of Employment and disability in the EU in 2021](#).

Northern Ireland has a disability pay gap of approximately 12.5%, lower than the overall disability pay gap for the UK (19.6%). See Trade Union Congress (2020), [Disability pay and employment gaps](#).

<sup>223</sup> Roberts, J., et al. (2021), [Written evidence from Jennifer Roberts, Mark Bryan, Andrew Bryce, Nigel Rice, Cristina Sechel, University of Sheffield and University of York \(DEG0132\)](#), para 5.

<sup>224</sup> Institute for Fiscal Studies (2022), [Living standards of working-age disability benefits recipients in the UK](#).

<sup>225</sup> Ibid, p. 2. IFS found that a reduction in an individual's disability benefits is associated with an increase in the likelihood of being in relative poverty of 7 percentage points and that this association persists four years after the event (when 28% of this group are in income poverty).

<sup>226</sup> McQuaid R. et al (2013), [DELNI Economic Inactivity Strategy: Literature Review Project](#).

Research by the Department for Work and Pensions (2023) found that a sanction leads the average claimant to exit less quickly from Universal Credit into 'Pay As You Earn' (PAYE) earnings and to earn less upon exiting.<sup>227</sup>

Disability discrimination remains the most common enquiry to the ECNI (49.5% in 2020/21).<sup>228</sup> Failure to make reasonable adjustments is a common concern.<sup>229</sup> Independent research (2021) has highlighted gaps in legislative protection between Northern Ireland and Great Britain as a significant factor contributing to ongoing inequality and discrimination experienced by disabled people in the labour market.<sup>230</sup>

As noted in Chapter 1, additional legal protections for disabled people have been incorporated into Northern Ireland law in accordance with Windsor Framework Article 2. This includes an obligation for Northern Ireland law to be amended to take account of any EU law developments that enhance minimum standards of protection under the EU Equality Framework Directive<sup>231</sup> and associated caselaw of the Court of Justice of the European Union (CJEU).<sup>232</sup>

Concerns have been raised by disability stakeholders in Northern Ireland regarding the impact of EU withdrawal, and the associated loss of funding via the European Social Fund (ESF) on the supported employment sector.<sup>233</sup> The UK Government's replacement fund, the UK Shared Prosperity Fund, does

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<sup>227</sup> Department for Work and Pensions (2023), [The impact of benefit sanctions on employment outcomes](#), p. 4; See also Disability Rights UK (12 April 2023), [Sanctions ineffective as a way of getting people into jobs or to work more hours, finds suppressed DWP report](#).

<sup>228</sup> Equality Commission for Northern Ireland (2021), [Annual Report and Accounts](#), p. 18.

<sup>229</sup> Disability Action (2016), [Hard at Work: Employment and Disability in NI](#).

<sup>230</sup> Toman, N. et al (2022), [Progress towards the Implementation of UN CRPD in Northern Ireland](#), p. 406; Department for Communities (2020), [Disability Strategy Expert Advisory Panel: Report and Recommendations](#), p. 83.

<sup>231</sup> Directive 2000/78/EC, '[Council Directive on Establishing a General Framework for Equal Treatment in Employment and Occupation](#),' 27 November 2000.

<sup>232</sup> See, for example, CJEU decision in the case of Szpital Kliniczny im. dra J. Babińskiego Samodzielny Publiczny Zakład Opieki Zdrowotnej w Krakowie, [Case C-16/19, EU:C:2021:64](#). The CJEU ruled that, under Article 1 of the Framework Equality Directive, the definition of 'disability discrimination' should include discrimination between persons with disabilities. It also ruled under Article 2 of this Directive any form of discrimination that is inextricably linked to a protected characteristic, amounts to direct discrimination, rather than indirect discrimination. ECNI and NIHR have called on the Northern Ireland Executive and relevant Departments to ensure that Northern Ireland disability law gives effect to this CJEU decision and have called for reform of the disability equality legislation. See Equality Commission for Northern Ireland, Northern Ireland Human Rights Commission and Irish Human Rights and Equality Commission (2023), [Policy Recommendations: European Union developments in Equality and Human Rights: The impact of Brexit on the divergence of rights and best practice on the island of Ireland](#).

<sup>233</sup> O'Connell, R. and Cunningham, T. (2022), [Impact of Brexit on s75 Equality Groups in Northern Ireland: EU Funding](#), Ulster University for the Equality Commission for Northern Ireland.

not provide the same standard of support to disabled people accessing employment as the ESF in Northern Ireland.<sup>234</sup>

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<sup>234</sup> Ibid pp. 407-410; BBC Northern Ireland News (2 April 2023), [UK Shared Prosperity Fund not a replacement for EU funding says Mencap](#).

## 114(d): Public budgets

“Ensure that public budgets take into account the rights of persons with disabilities, that sufficient budget allocations are made available to cover the extra costs associated with living with a disability and that appropriate mitigation measures, with appropriate budget allocations, are in place for persons with disabilities affected by austerity measures.”

There has been **some progress** towards implementing recommendation 114(d), but it remains relevant across the UK. While additional payment supports for disabled people<sup>235</sup> are welcome, they remain insufficient to address current cost-of living challenges.<sup>236</sup> In Northern Ireland the budget allocated by the UK Government has led to the proposal of wide-ranging cuts by Northern Ireland departments which will impact adversely on disabled people.<sup>237</sup> The UK’s withdrawal from the EU has also resulted in the reduction of some funding for community services which supported disabled people,<sup>238</sup> among other groups.

### UK / England

The UK Government’s most recent Spending Review in 2021 allocated further funding for employment support schemes and school places for children with special educational needs and disabilities (SEND) in England.<sup>239</sup> In addition, £400 million of the £2 billion additional funding for schools, announced in the

<sup>235</sup> Department for Work and Pensions (2023), [Guidance: Cost of Living Payments 2023-2024](#).

<sup>236</sup> For instance see Weston, T. (2022), [Cost of Living: Impact of rising costs on disabled people](#), House of Lords Library; Disability Rights UK (2022), [DR UK says £150 September Cost of Living payment to disabled people ‘nowhere near enough’](#).

<sup>237</sup> For instance, see Northern Ireland Office and The Rt Hon Chris Heaton-Harris MP (27 April 2023), [Northern Ireland Secretary announces 2023-24 Budget and contingency plans for governance](#); Department of Finance (27 April 2023), [Department of Finance statement on 2023/24 Northern Ireland Budget](#); Children’s Law Centre Northern Ireland (22 June 2023), [Protect Children from Budget Cuts or Face Legal Action](#); Fitzpatrick, C., Loader, R., McCartney, S., McConnell, B., McMullen, J., Murray, C., Orr, K., Purdy, N. and Simms, V. (June 2023), [The Consequences of the Cuts to Education for Children and Young People in Northern Ireland](#).

Department for Communities officials have advised that consideration is being given to pausing action to progress the Disability Strategy, the Anti-Poverty Strategy and the Disability Employment Strategy diverting resources elsewhere because of the budget cuts.

<sup>238</sup> For instance, see Dr Eve Hepburn for the Scottish Government (2020), [Brexit: social and equality impacts](#).

<sup>239</sup> HM Treasury (2021), [Autumn Budget and Spending Review 2021](#).

Autumn Statement,<sup>240</sup> will be allocated to local authorities' high needs budgets in 2023/24.<sup>241</sup> In 2023/24, high needs funding will be rising to £10.1 billion, an increase of over 50% from the 2019/20 allocations. In the 2022 Autumn Statement, the UK Government also announced benefit uprating and cost-of-living support, including cost-of-living payments for those on disability benefits in England, Scotland and Wales, among other groups.<sup>242</sup> More recently, in its 2023 Spring Budget, it also introduced Universal Support, a voluntary employment scheme for disabled people in England and Wales, whereby the Government will spend up to £4,000 per person to support disabled people into employment.<sup>243</sup> As part of implementing the People at the Heart of Care White Paper, in 2023 the UK Government also allocated an additional £102 million over two years to increase funding for housing adaptations in England.<sup>244</sup> This will be distributed as a top up to the £573 million per year Disabled Facilities Grant. The UK Government has also advised that inflation-linked benefits and tax credits will rise by 10.1% from April 2023, in line with the Consumer Prices Index (CPI) rate of inflation in September 2022.<sup>245</sup>

While additional supports are welcome, many DPOs remain concerned that these uplifts do not go far enough to support disabled people, in part because the extra costs associated with disability, such as energy and food, have been disproportionately impacted by inflation.<sup>246</sup> Data on the impact of increased cost of living on adults across Great Britain shows that over half of disabled adults (55%) report finding it difficult to pay their energy bills, compared to 40% of non-disabled people.<sup>247</sup>

The UK's withdrawal from the European Union has also had an impact on public funding. Prior to the European Union (Withdrawal Agreement) Act 2020, the UK received funds from EU funding sources and development

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<sup>240</sup> HM Treasury (2022), [Autumn Statement](#).

<sup>241</sup> Education and Skills Funding Agency (2023), [High needs funding: 2023 to 2024 operational guide](#).

<sup>242</sup> HM Treasury (2022), [Autumn Statement 2022: Cost of living Support Factsheet](#).

<sup>243</sup> HM Treasury (2023), [Spring Budget 2023](#).

<sup>244</sup> Department of Health and Social Care (2023), [Next steps to put People at the Heart of Care](#).

<sup>245</sup> Kirk-Wade, E. and Harker, R. (2022), [Benefit Uprating 2023/24](#), House of Commons Library.

<sup>246</sup> For more on cost-of-living impacts, see Weston, T. (2022), [Cost of Living: impact of rising costs on disabled people](#), House of Lords Library. For more on poverty and cost associated with disability, see Joseph Rowntree Foundation (2022), [From Disability to Destitution](#).

<sup>247</sup> ONS (2022), [Impact of increased cost of living on adults across Great Britain: June to September 2022](#).

programmes.<sup>248</sup> There are concerns about the impact this reduction in spending across all parts of the UK will have on certain community services and charities, which may impact disabled people in the long term.<sup>249</sup>

## Wales

The Welsh Government committed to invest £18 million of additional funding for children and young people with additional learning needs (ALN) in 2022.<sup>250</sup> The Welsh Government also increased its housing budget to provide aids and home adaptations for disabled people from £17.66 million in 2020/21 to £19.5 million in 2022/23.

Alongside its draft budgets, the Welsh Government also publishes Strategic Integrated Impact Assessments (SIIA) to identify trends and cumulative impacts, in addition to considering the Public Sector Equality Duty and the Socio-Economic Duty, among others. However, the Senedd's Equality and Social Justice Committee has maintained that the SIIA should be updated to include a more detailed account of how draft budget decisions impact different groups.<sup>251</sup>

In population terms, Wales received the largest share of the UK's regional development funding from the EU, largely because West Wales and the Valleys was one of the UK's only two "less developed" regions under the EU's classification.<sup>252</sup> The UK Government's Shared Prosperity Fund (UKSPF), which was intended to replace this funding, will result in £772 million less than the EU funding would have been in Wales over the 2022-2025 period.<sup>253</sup>

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<sup>248</sup> The majority of EU funding in the UK came from the European Structural and Investment (ESI) funds and the European Agriculture Guarantee Fund. Both the European Social Fund and the European Regional Development Fund sit under ESI. For more information, see Brian, P. (2020), [EU Funding in the UK](#), House of Commons Library.

<sup>249</sup> Resources for change and the Wales Council for Voluntary Action (2019), [Empowering Communities in the context of Brexit: Research findings, analysis and recommendations for support to third sector organisations in Wales](#).

<sup>250</sup> Welsh Government (2022), [Written statement: Additional funding for Additional Learning Needs provision](#).

<sup>251</sup> Welsh Parliament, Equality and Social Justice Committee (2023), [Welsh Government Draft Budget 2023-24](#).

<sup>252</sup> For more on investment in Wales after Brexit, see Welsh Government (2017), [Regional Investment in Wales after Brexit](#). For more on the UK Shared Prosperity Fund, see Brien, P. (2022), [The UK Shared Prosperity Fund](#), House of Commons Library.

<sup>253</sup> Rebecca Evans MS, Minister for Finance and Local Government (2022), [Written Statement: Loss of funding to Wales as a result of the UK Government's arrangements for replacement EU funding](#).



## Scotland

Human rights, equality and socio-economic considerations are not routinely applied to the budget process in Scotland.<sup>254</sup> Work is underway to build capacity on human rights budgeting in relation to the Scottish budget<sup>255</sup> and some steps have been taken by the Scottish Parliament to apply human rights principles to pre-budget scrutiny,<sup>256</sup> however, budget decisions in Scotland are not taken with Scotland's human rights obligations in mind,<sup>257</sup> and there remains a lack of human rights technical expertise at both Scottish Government and local authority level.<sup>258</sup>

This is also the case in consideration of the requirements of the Public Sector Equality Duty and Fairer Scotland socioeconomic duties that Government should be considering in the preparation of its budgets.

The current budgetary process lacks the necessary transparency<sup>259</sup> to analyse whether budgetary allocation sufficiently addresses the additional and rising costs associated with living with a disability. Access to timely, transparent, detailed and accessible financial information, both in terms of the Scottish Government's decisions on allocation and expenditure of resource

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<sup>254</sup> The Scottish Government publishes an Equality and Fairer Scotland Budget Statement alongside each budget but there remains little assessment of whether budgetary decisions enable better human rights realisation and little evidence of human rights considerations influencing budget decisions. Concerns have been raised about the 'retrofitting' of equality and human rights impact assessments into their processes.

<sup>255</sup> For example, see the work of [the Equality and Human Rights Budgeting Group](#).

<sup>256</sup> For example see Scottish Parliament (2022), [Budget scrutiny 2023/24 \(The Impact of Human Rights Budgeting\)](#). As part of its 2023/24 pre-budget scrutiny, the Equality, Human Rights and Civil Justice committee was interested in how the Scottish Government will make sure equality considerations are enshrined in the budget process and are used to inform tax and spending decisions. The Committee is also undertaking work on minimum core obligations. See Scottish Parliament (2021), [Minimum Core Obligations](#).

<sup>257</sup> For instance, around progressive realisation, minimum core, maximising available resources and non-retrogression.

<sup>258</sup> Scottish Parliament Information Centre (SPICe) (2022), [Human rights budgeting](#).

<sup>259</sup> Scotland scored 43 in the Open Budget Survey – a relatively low score – a key factor being that Scotland does not produce 4 out of 8 key fiscal documents. Some progress has been made via the creation of a five-year fiscal transparency project led by the Scottish Exchequer and the inclusion of fiscal transparency goals within the Open Government Partnership Action Plan, but there is a way to go yet. See Scottish Human Rights Commission (2022), [Social Justice and Social Scrutiny Committee Pre-Budget Scrutiny 2023-24](#). See also Scottish Human Rights Commission (2022), [Equality, Human Rights and Civil Justice Committee Pre-Budget Scrutiny 2023-24: The Impact of Human Rights Budgeting](#).

and in terms of income harnessed through its tax powers,<sup>260</sup> is required for more effective scrutiny. Many of the funds which support the right to independent living for disabled people are allocated at a local level via local authorities or health boards and therefore greater transparency is also needed between national and local budgetary data.<sup>261</sup>

There is, however, widespread evidence that the current financial allocation is not meeting need, as outcomes for disabled people in Scotland have deteriorated significantly throughout the COVID-19 pandemic and subsequent cost-of-living crisis. Local authorities have been subject to budget cuts at a time when rising demand for social care has outstripped investment.<sup>262</sup> During the pandemic, many people had their social care support reduced or completely stopped,<sup>263</sup> while social care assessments were suspended for some months.<sup>264</sup> The pandemic exacerbated pre-existing inadequacies in the models of social care access, funding, procurement and commissioning as well as poverty levels among those in receipt of disability benefits.<sup>265</sup>

While there has been increased national,<sup>266</sup> as well as local,<sup>267</sup> spending on social care over the past five years,<sup>268</sup> the cost of delivering social care has risen faster than inflation.<sup>269</sup> Inclusion Scotland has highlighted that a combination of Local Authority budget constraints, inflexibility, a lack of adequate infrastructure and poor advice provision has led to poorer experiences and outcomes for disabled people.<sup>270</sup> Eligibility models set by

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<sup>260</sup> The Scottish Parliament has devolved tax raising powers that generated around 35% of tax revenue raised in Scotland in 2021/22, see Watts, R. (2022), [Human rights budgeting](#), Scottish Parliament.

<sup>261</sup> Scottish Human Rights Commission (2022), [Equality, Human Rights and Civil Justice Committee Pre-Budget Scrutiny 2023-24: The Impact of Human Rights Budgeting](#).

<sup>262</sup> Inclusion Scotland (2020), [Rights at Risk](#).

<sup>263</sup> Scottish Human Rights Commission (2020), [COVID-19, Social Care and Human Rights: Impact Monitoring Report](#).

<sup>264</sup> Scottish Parliament (2021), [Report on the impact of the COVID-19 pandemic on equalities and human rights](#).

<sup>265</sup> Scottish Human Rights Commission (2020), [COVID-19, Social Care and Human Rights: Impact Monitoring Report](#).

<sup>266</sup> Scottish Parliament Information Centre (SPICe) (2022), [Human rights budgeting](#).

<sup>267</sup> Audit Scotland (2023), [Local government in Scotland Overview 2023](#).

<sup>268</sup> Data from Local Authorities showed that spending on adult social care services for adults with learning disabilities increased by 11.9% in real terms over five years up to 2020/21. See Scottish Parliament Information Centre (SPICe) (2022), [Human rights budgeting](#).

<sup>269</sup> Ibid.

<sup>270</sup> Inclusion Scotland (2020), [Rights at Risk](#).

each of Scotland’s 32 local authorities vary, which creates unequal access to social care. However, they generally have a high threshold and are based on a medical model, which restricts access to care, support, independence and well-being.<sup>271</sup> A report published this year by Audit Scotland found “signs that the sector is in crisis, with growing backlogs, declining satisfaction and no clear picture of demand or unmet need.”<sup>272</sup>

## Northern Ireland

### Standard of living and social protection

The Committee has called upon the State Party to ensure that eligibility criteria and assessments to access PIP, Employment Support Allowance and Universal Credit are in line with the human rights model of disability.<sup>273</sup>

In its 2019 report to the Department for Communities on the Independent Review of PIP Process and Compliance with Recommendations of the Committee, IMNI highlighted multiple significant shortfalls in process with regard to meeting human rights standards.<sup>274</sup>

IMNI concluded that “The Department for Communities accepted the majority of the Committee’s 2016 and 2017 recommendations. However, acceptance does not equate to explicitly complying with these recommendations... there is still a long way to go in terms of the Department for Communities fully and effectively implementing the Committee’s recommendations.”<sup>275</sup>

IMNI recommended that the approach adopted in the social security system in Scotland, as a case of good practice, particularly for the protection of the rights of disabled people, be considered in Northern Ireland.<sup>276</sup> The

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<sup>271</sup> Scottish Care (2019), [The human right to social care: a potential for Scotland](#). See also Scottish Government (2021), [Adult social care: independent review](#), ch. 3.

<sup>272</sup> Audit Scotland (2023), [Local government in Scotland Overview 2023](#).

<sup>273</sup> UN 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](#), para 59(c), p. 14.

<sup>274</sup> Independent Mechanism for Northern Ireland (2020), [Report on the Department for Communities to Independent Review of PIP Process and Compliance with Recommendations of the UN CRPD Committee](#).

<sup>275</sup> Independent Mechanism for Northern Ireland (2020), [Report on the Department for Communities to Independent Review of PIP Process and Compliance with Recommendations of the UN CRPD Committee](#), para 5.1, pp. 45-46.

<sup>276</sup> The introduction of a principles-based approach to social security, as enshrined in the [Social Security \(Scotland\) Act 2018](#), and also in Social Security Scotland (2019), [Our Charter](#). IMNI recommended that, further to this, the Scottish approach may be examined with regards to the

Department for Communities' Disability Strategy Expert Advisory Panel has also endorsed this approach.<sup>277</sup>

The UK Government has planned to raise inflation-linked benefits and tax credits by 10.1% from April 2023, in line with the CPI rate of inflation in September 2022. However, the Joseph Rowntree Foundation and the Trussell Trust have revealed that the basic rate of Universal Credit falls short of what is needed to afford essentials and is now at its lowest ever level as a proportion of average earnings.<sup>278</sup>

Reports from several sources have shown how social security benefits rates have failed to keep pace with the increasing cost of living.<sup>279</sup>

Fitzpatrick states that:

“Current benefit levels in Northern Ireland are at an ‘all-time low’. When a centralised system of social security was introduced in Great Britain 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>280</sup>

Research by Ipsos Mori and the Trussell Trust found that nearly two thirds of people referred to food banks in the Trussell Trust network in Northern Ireland are disabled.<sup>281</sup> The research also highlighted that, for most people referred to

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possibility of the future implementation of a similar principles-based approach in Northern Ireland, including adopting the principle of social security as a human right, in accordance with ICESCR, Article 9, and necessary to the access and enjoyment of other human rights.

<sup>277</sup> Department for Communities (2020), [Disability Strategy Expert Advisory Panel – report and recommendations](#), pp. 42 and 47.

<sup>278</sup>The Trussell Trust and the Joseph Rowntree Trust (2023), [An Essentials Guarantee](#), pp. 3 and 15. See also Joseph Rowntree Trust (2022), [Fifty years of benefit uprating](#). The report shows that in eight out of ten benefits upratings between 2013 and 2022, the basic rate of employment benefits had lost value with a freeze in benefits imposed during 2016-2019.

<sup>279</sup> Loughborough University (2023), [The minimum income standard for the United Kingdom](#); Resolution Foundation (13 October 2022), [The Long Squeeze](#); Arnold, S., Caddick, D. and Krebel, L. (2021), [How our benefits system was hollowed out over ten years](#), New Economics Foundation; Resolution Foundation (16 October 2019), [The benefit freeze has ended, but erosion of the social security safety net continues](#); UN Special Rapporteur on Extreme Poverty and Human Rights (2019), [Visit to the United Kingdom of Great Britain and Northern Ireland: Report of the Special Rapporteur on extreme poverty and human rights](#), p. 9; Rutherford, T. (2013), [Historical rates of social security benefits](#), House of Commons Library.

<sup>280</sup> Fitzpatrick, F. (2023), [Imagining a new social security system in a new Ireland](#), Agenda NI.

<sup>281</sup> Ipsos and the Trussell Trust (2023), [Hunger in Northern Ireland](#), p. 13.

food banks in the Trussell Trust network, the design and delivery of the social security system are major contributors to their inability to afford the essentials.<sup>282</sup>

The Northern Ireland Executive has a legal duty to introduce an anti-poverty strategy.<sup>283</sup> A draft strategy has been developed by an Expert Advisory Panel which takes an intersectional approach.<sup>284</sup> The associated Anti-Poverty Strategy Co-Design Group has now published its recommendations.<sup>285</sup> However, in the absence of a functioning Northern Ireland Executive, it will not be possible to progress this strategy.

As noted above, the budget for 2023/24 allocated to Northern Ireland by the Secretary of State has resulted in wide-ranging cuts proposed by Northern Ireland Departments impacting on disabled people. These decisions are being taken by civil servants in the absence of a functioning Northern Ireland Executive.

A report by the Resolution Foundation<sup>286</sup> found that disabled people had a median household income 44% lower than that of other adults of working age, leaving them at significant risk to rising costs.<sup>287</sup> The Foundation also found that 41% of people with a disability said they couldn't afford to keep their homes warm, compared to 23% of non-disabled people. In addition, 31% of people with a disability say they have had to reduce their expenditure on food, compared to 18% of non-disabled people.<sup>288</sup>

The Joseph Rowntree Foundation has highlighted a gap of 12 percentage points in poverty rates between disabled and non-disabled people.<sup>289</sup>

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<sup>282</sup> Ibid, p. 41.

<sup>283</sup> Under [Section 28E](#) of the Northern Ireland Act 1998 as amended by the St. Andrews Agreement in 2006. In 2020, the Department for Communities established an Anti-Poverty Co-Design Group to advise on the development of the strategy but at the time of writing, it has yet to be finalised.

<sup>284</sup> Anti-Poverty Strategy Expert Advisory Panel (2020), [Recommendations for an Anti-Poverty Strategy](#), Department for Communities.

<sup>285</sup> Anti-Poverty Co-Design Group (2022), [Recommendations on the development of an anti-poverty strategy for Northern Ireland](#). Annex B of the report provides a detailed account of the link between disability and poverty.

<sup>286</sup> El Dessouky, O. and McCurdy, C. (2023), [Costly differences – Living standards for working-age people with disabilities](#).

<sup>287</sup> Ibid, p. 3.

<sup>288</sup> Ibid.

<sup>289</sup> The poverty rate for disabled people is 32%. The difference is particularly stark for working age adults: those who are disabled are more than twice as likely to live in poverty than those who are not (38% and 17% respectively). Figures are based on After Housing Costs income, excluding extra-cost



The Institute for Fiscal Studies has reported that there are around 1 million people in the UK who are disabled and in the most materially deprived tenth of the population but not receiving disability benefits.<sup>290</sup>

A report by the Mental Health Foundation has noted the link between rising poverty, financial stress and an increased risk of mental health problems and lower mental wellbeing.<sup>291</sup>

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disability benefits from household income. See Joseph Rowntree Foundation (2022), [UK Poverty 2022 – The essential guide to understanding poverty in the UK](#), pp. 57-58.

<sup>290</sup> Institute for Fiscal Studies (2022), [Living standards of working-age disability benefits recipients in the UK](#), p. 2.

<sup>291</sup> The Mental Health Foundation (2023), [Mental Health and the Cost of Living Crisis – another pandemic in the making?](#) The report identifies people with disabilities as a high-risk group (p. 35). The Institute for Fiscal Studies has found that four-fifths of the rise in the number of disability benefit recipients over the last two decades is accounted for by psychiatric conditions. See Institute for Fiscal Studies (2022), [Living standards of working-age disability benefits recipients in the UK](#), p. 3.



## 14(e): Accessible communication

“Introduce the adjustments necessary to make all information, communications, administrative and legal procedures in relation to social security entitlements, independent living schemes and employment/unemployment-related support services fully accessible to all persons with disabilities.”

There has been **some progress** in implementing recommendation 114(e), but it remains relevant. Critical information sharing throughout the COVID-19 pandemic and the continued acceleration towards digital services demonstrates the importance of building greater understanding and consideration of accessibility. Information, communications, administrative and legal procedures should be based on robust evidence of the needs and impacts of digital services for disabled people. Digital-first approaches can enhance access to services and amenities for some disabled people but create new barriers for others. A review of the system for assessing the eligibility of social security benefits to disabled people is required to ensure accessibility.

### UK / England

Some steps have been taken to improve accessible communications, information and processes for disabled people. The British Sign Language (BSL) Act 2022 legally recognised BSL as a language of England, Scotland and Wales. The UK Government has appointed a BSL Advisory Board to advise on the use of BSL in public communication and policy delivery, as well as to advise on how to tackle key issues facing deaf people.<sup>292</sup> The UK Government also introduced a Disability and Accessibility Ambassadors programme in 2021,<sup>293</sup> whereby industry leaders across sectors work to ensure businesses provide access to disabled customers. New accessibility regulations also came into force in 2018 under the Public Sector Bodies (Websites and Mobile Applications) (No.2) Accessibility Regulations 2018.

<sup>292</sup> Disability Unit, Equality Hub, Government Equalities Office (2023), [News story: BSL users appointed to board advising government on key issues for Deaf people.](#)

<sup>293</sup> Disability Unit (2021), [News story: New Disability and Access Ambassadors to support rights of disabled consumers.](#)

Despite these regulations, the most recent Central Digital and Data Office’s accessibility monitoring report for 2020/21 showed accessibility issues on nearly all tested public body websites and mobile applications across the UK, though many of these issues have since been resolved.<sup>294</sup>

The UK Government continues to implement its digital-by-default programme, first outlined in the 2012 Government Digital Strategy. The Special Rapporteur on Extreme Poverty and Human Rights raised concerns in 2018 about the digital benefits system in particular, noting that Universal Credit’s digital transition had implications for those living in poverty, older people, women, people who do not speak English and disabled people.<sup>295</sup> According to a 2018 DWP survey, only 54% of all claimants were able to apply independently online, without assistance.<sup>296</sup>

In August 2020, the DWP entered into a legally binding agreement with the EHRC under section 23 of the Equality Act 2006 to improve support for deaf customers accessing its services by telephone.<sup>297</sup> This includes providing BSL interpreters and other reasonable adjustments. This agreement has now concluded, and there have been some improvements including the expansion of the Video Relay Service for BSL users, a better equality analysis approach and a better customer information system to identify people’s communication needs, among others.<sup>298</sup>

The 2023 Health and Disability White Paper aims to support disabled people into work and to improve aspects of the social security system.<sup>299</sup> This includes plans to improve the design of application forms and make them accessible online and to establish a ‘tell us once’ service for reasonable adjustment requests. Any improvements to the accessibility of services are welcome. However, provision of service must adhere to the statutory duty to

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<sup>294</sup> There is a requirement for monitoring reports to be published every three years. For most recent, see Central Digital and Data Office (2021), [Corporate Report: Accessibility monitoring of public sector websites and mobile apps 2020-2021](#).

<sup>295</sup> UN Special Rapporteur on Extreme Poverty and Human Rights (2018), [Statement on Visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights](#).

<sup>296</sup> National Audit Office (2018), [Rolling Out Universal Credit, report by the Comptroller and Auditor General, Department for work and Pensions](#).

<sup>297</sup> Equality and Human Rights Commission (2020), [DWP enters legal agreement to improve services for deaf customers](#).

<sup>298</sup> For more information on the outcomes of this agreement between the EHRC and the DWP, see Equality and Human Rights Commission (2021), [Ensuring deaf customers can access services from DWP](#).

<sup>299</sup> Department for Work and Pensions (2023), [Transforming Support: The Health and Disability White Paper](#).

provide both anticipatory reasonable adjustments and reasonable adjustments to those who require them.<sup>300</sup> The EHRC has previously noted that digital delivery presents both opportunities and risks for disabled people. The EHRC has also noted that it is essential the DWP offers a broad range of communication methods to enable disabled people, people with health conditions and those who are digitally excluded to engage effectively with the social security system.<sup>301</sup>

Digital-by-default approaches impact disabled people in other areas. The EHRC raised concerns in a 2020 report about digital justice processes limiting access to justice for disabled people. The report highlighted how data collection on the needs of defendants with cognitive impairments, mental health conditions and/or neuro-diverse conditions had not been sufficiently gathered in England, Scotland or Wales to inform a shift to online court proceedings.<sup>302</sup> A 2023 EHRC inquiry into challenging adult social care decisions in England and Wales found that information on challenging decisions is often difficult to follow and primarily available online. While most local authorities provided information on how to challenge social care decisions in accessible formats, these were not always publicly available, and most people would need to take steps to request them.<sup>303</sup>

The COVID-19 pandemic also saw governments and public bodies fail to consider accessible communication and reasonable adjustments when sharing crucial health and safety information.<sup>304</sup> For instance, a judge ruled that the UK Government excluded deaf people by failing to provide BSL interpretation for televised COVID-19 briefings,<sup>305</sup> and accessible versions of 'shield letters' were reportedly not distributed properly.<sup>306</sup>

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<sup>300</sup> Notably, 2022 research about Universal Credit claimants with mental health conditions by the Child Action Poverty Group (CPAG) revealed that claimants were not asked if they needed alternative methods of communication, and how their mental health affected their ability to interact with the Universal Credit system. See Child Poverty Action Group (2022), [Making adjustments? The experiences of universal credit claimants with mental health problems](#).

<sup>301</sup> Equality and Human Rights Commission (2021), [Consultation response: Shaping the Future of Support: the health and disability green paper](#).

<sup>302</sup> Equality and Human Rights Commission (2020), [Inclusive justice: a system designed for all](#).

<sup>303</sup> Equality and Human Rights Commission (2023), [Challenging adult social care decisions in England and Wales](#).

<sup>304</sup> For more research into the impact of COVID-19 on disabled people more generally, including access to services and communication, see House of Commons Women and Equalities Committee (2020), [Unequal Impact? Coronavirus, disability and access to services](#).

<sup>305</sup> R (on the application of Katherine Rowley) v Minister for the Cabinet Office.

<sup>306</sup> For instance, see press release from disability charities expressing concern over accessible public health information during the pandemic: RNIB (2020), [Not accessible, not acceptable!](#)

## Wales

In Wales, the outcome of an inquiry into disabled peoples' experiences of the pandemic culminated in the 2021 report 'Locked out: liberating disabled people's lives and rights in Wales beyond COVID-19.' This report highlighted similar issues relating to a lack of accessible public health information, as well as the impacts of digital exclusion on disabled people.<sup>307</sup> A Disability Rights Taskforce was established to address many of the barriers highlighted in the 'Locked Out' report, and also to create a new Cross-Government Disability Rights Action Plan, set to be published in 2024. One of the priority areas for this Taskforce is access to services, including accessible communications.<sup>308</sup>

## Scotland

There have been some steps taken to improve accessible communication, information and processes for disabled people. Social Security Scotland published its Digital and Technology Strategy in 2022 which sets out how it intends to promote benefits and improve accessibility to those using its services. New accessibility regulations also came into force in 2018 under the Public Sector Bodies (Websites and Mobile Applications) (No.2) Accessibility Regulations 2018. However, there remains a lack of centralised function with Scottish Government and other DPOs described a lack of consistency in the accessibility of communications and information needed to engage with devolved agencies and public policy-making.<sup>309</sup>

The Scottish Government continues to implement a digital-by-default programme for public services, outlined in the 2021 Updated Digital Strategy for Scotland. There is little evidence to date of the impact of these strategies for disabled people.

It is particularly concerning that there is evidence raised by Scottish DPOs of limited accessibility across vital services such as social security, welfare rights

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<sup>307</sup> Welsh Government (2021), [Locked Out: liberating disabled people's lives and rights in Wales beyond COVID-19](#).

<sup>308</sup> Welsh Government (2022), [Cabinet paper: Disability – update on the Disability Rights Taskforce](#).

<sup>309</sup> Meeting of SILC to discuss the 2016 UN CRPD Inquiry (2023) Report for Scottish Human Rights Commission (forthcoming).

and social care, excluding disabled people from vital support – including physical accessibility.<sup>310</sup>

## Northern Ireland

The Anti-Poverty Strategy Expert Advisory Panel have recommended an engagement programme targeted towards deaf and disabled people to provide information regarding welfare mitigation strategies and new provision.<sup>311</sup> Similarly, the Disability Strategy Expert Advisory Panel has highlighted the need to facilitate the use of self-directed support and direct payments. This includes accessible information to ensure all disabled people can access and use these options.<sup>312</sup>

In 2017, the High Court found that changes to PIP mobility descriptors unlawfully discriminated against claimants with poor mental health, thus violating Articles 8 and 14 of the European Convention on Human Rights (ECHR).<sup>313</sup>

In 2020, the Department for Communities (DfC) sponsored a second independent review of the assessment process for the PIP.<sup>314</sup> The review found that, while some claimants have noticed improvements, “the current process is not a positive experience for everyone and is still viewed by many with mistrust and suspicion. Evidence gathered...suggests more work needs to be done.”<sup>315</sup> DfC has published its response to the independent review, accepting most of its recommendations in full.<sup>316</sup>

In 2021, the Northern Ireland Public Service Ombudsman (NIPSO) found that DfC repeatedly failed to ensure that Capita’s Disability Assessors<sup>317</sup>

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<sup>310</sup> Meeting of SILC to discuss the 2016 UN CRPD Inquiry (2023) Report for Scottish Human Rights Commission (forthcoming).

<sup>311</sup> Department for Communities (2021), [Report from the Anti-Poverty Strategy Expert Advisory Panel](#), para 24, p. 8.

<sup>312</sup> Disability Strategy Expert Advisory Panel (2020), [Disability Strategy Expert Advisory Panel - Report and Recommendations](#), pp. 36 and 38. IMNI recommends that accessible communications should include alternatives to digital formats.

<sup>313</sup> RF v Secretary of State for Work and Pensions and Others [2017] EWHC 3375.

<sup>314</sup> Marie Cavanagh (2020), [Personal Independence Payment: a Second Independent Review of the Assessment Process](#), Department for Communities.

<sup>315</sup> Ibid., p. 9.

<sup>316</sup> Department for Communities (2021), [The Second Independent Review of the Personal Independence Payment Assessment Process - Department for Communities' Response](#).

<sup>317</sup> Capita is contracted by DfC to carry out disability assessments of claimants.



appropriately completed requests for further evidence from health professionals. This was described as a missed opportunity “to gather specific, appropriate and useful evidence.”<sup>318</sup> NIPSO found "systemic maladministration, having identified repeated failures which are likely to reoccur if left remedied."<sup>319</sup> DfC stated it would "carefully consider all the recommendations of the report."<sup>320</sup>

Toman et al<sup>321</sup> have highlighted that 4% of individual PIP decisions made between April 2013 and December 2017 were overturned on appeal.<sup>322</sup> Only 48% of new PIP claims within Northern Ireland were successful during the period of June 2016 to February 2021.<sup>323</sup> 27% of claimants who had previously received Disability Living Allowance (DLA) and were reassessed for PIP were unsuccessful and were left with no access to disability-specific benefits between June 2016 and February 2018.<sup>324</sup> In 2021, the UK Government held a public consultation on shaping further social security support, which included proposals to amend arrangements for the assessment of those seeking social security supports.<sup>325</sup> Similar proposals have not been brought forward with respect to Northern Ireland.

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<sup>318</sup> Northern Ireland Public Service Ombudsman (2021), [PIP and the Value of Further Evidence: An Investigation by the Northern Ireland Public Ombudsman into Personal Independence Payment](#), p. 82.

<sup>319</sup> Northern Ireland Public Service Ombudsman (2021), [PIP and the Value of Further Evidence: An Investigation by the Northern Ireland Public Ombudsman into Personal Independence Payment](#), p. 6.

<sup>320</sup> Department for Communities (June 2021), [Press Release: Communities Minister Commits to Further Improvements in PIP Delivery](#).

<sup>321</sup> Toman, N. et al (2022), [Progress towards the Implementation of UN CRPD in Northern Ireland](#), p. 508.

<sup>322</sup> Department for Communities (2018), [Personal Independence Payment \(PIP\) – Experimental Statistics \(February \(2018\)\)](#), p. 1. See Department for Communities (n.d), [Personal Independence Payment statistics](#).

<sup>323</sup> Department for Communities (February 2021), [Personal Independence Payments \(PIP\) - Experimental Statistics \(February 2021\)](#), p. 1.

<sup>324</sup> Department for Communities (February 2018), [Personal Independence Payments \(PIP\) - Experimental Statistics \(February 2021\)](#), p. 1.

<sup>325</sup> UK Government (2021), [Shaping future support: the health and disability green paper](#).

## 114(f): Access to justice

“Ensure access to justice by providing appropriate legal advice and support, including through reasonable and procedural accommodation for persons with disabilities seeking redress and reparation for the alleged violation of their rights, as covered in the present report.”

There has been **no progress** towards implementing recommendation 114(f), and it remains relevant. Across the UK, very few people who apply for legal aid in discrimination cases obtain it, including disabled people. In addition, the lack of legal aid to challenge decisions related to the welfare system, as well as the inadequate support available for navigating social care decisions, has meant that many disabled people continue to experience unequal access to justice.

### UK / England

In February 2019, the UK Government published its post-implementation review<sup>326</sup> of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) alongside the Legal Support Action Plan,<sup>327</sup> which committed to improving access to legal aid and to a review of the means test for legal aid in England and Wales. However, the review did not fundamentally change LASPO as the basis for providing legal aid.

LASPO largely removed the ability for people in England and Wales to receive legal aid in areas including employment, housing and social welfare. LASPO has also exacerbated challenges for those navigating the welfare benefits system, including disabled people,<sup>328</sup> and specific concerns have been raised about its negative impacts on people with mental health conditions.<sup>329</sup> Concerns have also been raised about children who are challenging decisions over school exclusion – an issue which disproportionately impacts disabled

<sup>326</sup> Ministry of Justice (2019), [Post-implementation review of Part 1 of LASPO](#).

<sup>327</sup> Ministry of Justice (2019), [Legal Support Action Plan](#).

<sup>328</sup> Equality and Human Rights Commission (2018), [The impact of LASPO on routes to justice](#).

<sup>329</sup> For instance, see Mind (2018), [An unjust system? How changes to the justice system have affected people with mental health problems](#); Joint Committee on Human Rights (2018), [Inquiry on enforcing human rights](#).

children.<sup>330</sup> In 2021, the House of Commons Justice Committee published a report calling for urgent legal aid reforms to secure a just system.<sup>331</sup>

While legal aid remains available for discrimination cases, an EHRC inquiry in 2019 found that individuals face barriers to obtaining help.<sup>332</sup> The inquiry found that eligibility thresholds for legal aid exclude people from accessing legal aid for discrimination cases even though they cannot afford to pay their own legal costs, and that very few people who apply for legal aid in discrimination cases obtain it. The EHRC recommended that the UK Government should change the Lord Chancellor's guidance for civil legal aid to improve the guidance available to decision-makers and improve access to legal aid in discrimination cases, but this has not been done. The EHRC has also recommended that it should be given the responsibility to control the operation of a helpline to support and provide expert advice on equality issues.<sup>333</sup>

The COVID-19 pandemic also presented new challenges for disabled people's access to justice. Judicial processes moved online during the pandemic, and many continue virtually. In January 2021, HM Courts and Tribunals Service published a Vulnerability Action Plan<sup>334</sup> to support access to justice during the pandemic, which included commitments to continuously improve staff guidance to support disabled people during remote hearings. The EHRC has raised concerns about the shift to online processes for many legal procedures and services, including a lack of data on the impact this will have on defendants with cognitive impairments, mental health conditions and / or neurodiversity, and a lack of clear regulatory oversight to monitor the effective participation of defendants and accused people, among other issues.<sup>335</sup>

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<sup>330</sup> Legal matters relating to education cases, including school exclusions, admissions, bullying and negligence issues, were removed from scope by LASPO. While legal aid remains in scope in special educational needs (SEN) cases, it is not available for representation at the first-tier tribunal, or for expert attendance at a hearing. See Coram Children's Legal Centre (2018), [Rights without remedies: Legal aid and access to justice for children](#).

<sup>331</sup> House of Commons Justice Committee (2021), [The Future of Legal Aid](#).

<sup>332</sup> Equality and Human Rights Commission (2019), [Access to legal aid for discrimination cases](#).

<sup>333</sup> The Equality and Advisory Support Service (EASS) replaced the EHRC's telephone helpline in 2012. This helpline advises and assists individuals on issues related to equality and human rights. In response to the EHRC's calls to regain operational control of the public helpline, the 2018 Tailored Review of the Commission recommended that, "The Commission, in partnership with the Government Equalities Office, should plan a broader user-focused, multi-channel, approach to advice provision." For more information, see Government Equalities Office (2018), [EHRC Tailored Review](#).

<sup>334</sup> HM Courts and Tribunals Service (2020), [Vulnerability action plan](#).

<sup>335</sup> Equality and Human Rights Commission (2020), [Inclusive Justice: a system designed for all](#).

The EHRC's 2023 inquiry into adult social care also found that the social care system is failing those who try to challenge local authority decisions, and that information is not always clear or accessible.<sup>336</sup> Access to legal aid is difficult, and when people do access it, they can struggle to get the right help due to a lack of community care legal aid solicitors.<sup>337</sup>

Similarly, the EHRC has recommended that Mental Health Act reforms go further to ensure that people detained can effectively challenge the use of compulsory powers, including through ensuring they are notified of their rights. Evidence suggests many patients detained under the Mental Health Act do not have their rights explained to them at the point of detention, in the right format or at appropriate intervals throughout their treatment.<sup>338</sup>

## Wales

The UK Government is responsible for most areas of justice in Wales. However, some aspects of justice are devolved to the Senedd and Welsh Government, including areas which relate to youth justice; administrative law development; devolved dispute resolution, including Welsh Tribunals; crime prevention and rehabilitation of offenders; aspects of family law and policy development; and supporting advice, advocacy services and the legal sector to promote access to justice.<sup>339</sup> The Welsh Government has responded to legal aid cuts under LASPO by providing extra resources and funding to advice services.<sup>340</sup>

In 2018, the EHRC highlighted its concerns about reductions in funding for advice services leaving substantial gaps in access to justice in a submission to the Commission on Justice in Wales.<sup>341</sup> The Commission on Justice for Wales recommended that funding for legal aid and third sector advice and assistance should be brought together in Wales to form a single fund under

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<sup>336</sup> Equality and Human Rights Commission (2023), [Inquiry into challenging decisions about adult social care](#).

<sup>337</sup> Ibid.

<sup>338</sup> For instance, a report found that half of patients taking part in interviews did not fully understand their rights, and although information about their rights was given on admission, it was not repeated in time to make an appeal about their detention to the Mental Health Tribunal: Care Quality Commission (2022), [Monitoring the Mental Health Act in 2020/21](#).

<sup>339</sup> See Welsh Parliament (2021), [Justice in Wales: oversight and accountability](#).

<sup>340</sup> For a breakdown of which legal aid and advice services are funded by Welsh Government, see Commission on Justice in Wales (2019), [Justice in Wales for the people in Wales](#).

<sup>341</sup> Equality and Human Rights Commission (2018), [Response of the Equality and Human Rights Commission to the Commission on Justice in Wales Call for Evidence](#).

the direction of an independent body.<sup>342</sup> In 2020 the Single Advice Fund made £8 million in grant funding available to encourage better collaboration amongst advice services to meet the increasing demand for generalist advice and improve the availability of specialist advice services.<sup>343</sup>

## Scotland

Accessibility of legal processes is also an issue across criminal<sup>344</sup> and civil procedure in Scotland, with barriers to getting advice including lack of availability, inaccessible information and buildings, not being listened to, costs, lack of legal aid and discriminatory attitudes.<sup>345</sup> Costs associated with reasonable adjustments are not met by legal aid. Increased use of technology and remote trials has the potential to improve accessibility for some disabled people but there has been a lack of consultation with disabled people and their organisations about how to mitigate other barriers to communication.

In 2021, the EHRC used its powers under Section 23 of the Equality Act 2006 and entered into a legal agreement with the Scottish Legal Aid Board (SLAB). This followed concerns that SLAB were not always sufficiently assessing the impact of their policies on different groups. The agreement committed SLAB to improving their assessment and review of the impact of their policies on people with protected characteristics, including those with disabilities, which will put equality considerations at the centre of their work.

## Northern Ireland

Independent research commissioned by ECNI noted that deaf and disabled people have reported significant challenges accessing advice and support to obtain their benefit entitlements.<sup>346</sup>

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<sup>342</sup> Commission on Justice in Wales (2019), [Justice in Wales for the People of Wales](#).

<sup>343</sup> Equality and Human Rights Commission (2018), [Response of the Equality and Human Rights Commission to the Commission on Justice in Wales Call for Evidence](#).

<sup>344</sup> Analysis of the Scottish Crime and Justice Survey (SCJS) showed that disabled people have less confidence in the criminal justice system (CJS) and are consistently less likely to agree it treats those accused of a crime as innocent until proven guilty (70.1% in 2017/18) than non-disabled people (74.6%). DPOs suggest that people with learning disabilities are more likely to be diverted into the forensic system, meaning that they are detained for longer periods or subject to greater restrictions.

<sup>345</sup> Meeting of SILC to discuss the 2016 UN CRPD Inquiry (2023) Report for Scottish Human Rights Commission (forthcoming).

<sup>346</sup> Toman, N. et al (2022), [Progress towards the Implementation of UN CRPD in Northern Ireland](#), p. 508.



The research also highlighted findings by The View Digital<sup>347</sup> of a survey of Northern Ireland advice workers, highlighting fears for claimants' rights in the 'broken social security system':

- 75% of cases advice workers anticipated a denial of the minimum essential level of benefits required to access food, housing and healthcare.
- 55% of claimants were not able to access professional advice and representation at each stage of the social security assessment process.
- 83% of claimants were not informed by the department about the criteria used to assess their eligibility for the benefit they applied for.
- 80% of claimants did not fully understand the nature of the assessment process – a figure which rose to 98% of Universal Credit claimants.<sup>348</sup>

ECNI has a role in ensuring the effective application of equality laws in Northern Ireland, including a duty to provide advice to anyone who believes they have experienced unlawful discrimination on various grounds, including disability.<sup>349</sup> However, ECNI is constrained by limited resources from supporting every alleged case of discrimination.<sup>350</sup>

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<sup>347</sup> The View Digital (6 September 2021), [Advice workers fear for claimants' rights in 'broken social security system' in Northern Ireland](#).

<sup>348</sup> Ibid.

<sup>349</sup> This means providing legal advice and, in some instances, representation for people taking cases of disability discrimination to Tribunals and Courts. See Equality Commission Northern Ireland (2022), [Policy for the provision of legal advice and assistance to individuals](#).

<sup>350</sup> Toman, N. et al (2022), [Progress towards the Implementation of UN CRPD in Northern Ireland](#).

## 114(g): Consulting and actively involving disabled people and their representative organisations

“Actively consult and engage with persons with disabilities through their representative organizations and give due consideration to their views in the design, implementation, monitoring and evaluation of any legislation, policy or programme related to the rights addressed in the present report.”

There has been **some progress** towards implementing recommendation 114(g) in parts of the UK, although it remains relevant. While there has been improved consultation in Scotland and active collaboration in Wales, engagement between governments and disabled people requires improvement in some other areas of the UK, considering in particular the High Court judgement regarding the UK Government’s National Disability Strategy.

### UK / England

The UK Government committed to removing barriers to disabled people’s full and equal participation in society through a National Disability Strategy,<sup>351</sup> which was published in 2021.<sup>352</sup> However, the government’s approach to engaging disabled people during the strategy’s development was criticised by some DPOs,<sup>353</sup> and a 2022 High Court judgment found that the strategy was unlawful due to failures to properly consult disabled people.<sup>354</sup> This ruling has since been overturned by the Court of Appeal.

The UK Government continues to work with the Disability Charities Consortium (DCC), made up of several UK-based disability charities. DPOs set up a new forum (DPO Forum England) in 2021, and the UK Government began working with the forum in 2022. There are no similar channels for Northern Ireland, Scotland or Wales-based DPOs to engage with the UK Government on reserved or UK-wide matters.

<sup>351</sup> Disability Unit (2020), [A national disability strategy for disabled people to remove barriers and increase participation](#).

<sup>352</sup> Department for Work and Pensions; Disability Unit; Equality Hub (2021), [National Disability Strategy](#).

<sup>353</sup> Disability Rights UK (2021), [Our Voices – letter to Justin Tomlinson re National Disability Strategy](#).

<sup>354</sup> R(Binder & Others) v Secretary of State for Work and Pensions.

## Wales

In response to the report 'Locked out: liberating disabled people's lives and rights in Wales beyond COVID-19',<sup>355</sup> the Welsh Government formed a Disability Rights Taskforce,<sup>356</sup> in addition to its Disability Equality Forum. This taskforce includes disabled people and aims to create a new Cross-Government Disability Rights Action Plan. Each of the taskforce's working groups is chaired by a disabled person, and the Welsh Government has committed to a process of co-production with disabled people in the creation of the Action Plan. It is set to be published in March 2024.<sup>357</sup>

As part of the strategy of the Welsh Government's Equality, Race and Disability Evidence Units,<sup>358</sup> the Disability Disparity Evidence Unit has committed to co-producing work with disabled people and their organisations where possible.

## Scotland

The Scottish Government undertakes regular open consultation with stakeholder groups as part of policy development, with a range of accessible mechanisms utilised, including easy read and BSL formats as well as bespoke consultation events. However, DPOs note that approaches are often inconsistently employed and where they are, question the extent to which involvement of DPOs and disabled people leads to changes in outcomes and resultant 'consultation fatigue'.<sup>359</sup>

For example, DPOs highlight the lack of consultation prior to the decision to remove the requirement for face masks in health and social care settings. Disabled people have been one of the groups most acutely affected by COVID-19 related measures; however, DPOs and other non-governmental organisations have highlighted the lack of response to collective calls. Several DPOs are funded through national grants schemes for equality and

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<sup>355</sup> Welsh Government's Disability Equality Forum (2021), [Locked out: Liberating disabled peoples lives and rights in Wales beyond COVID-19](#).

<sup>356</sup> Welsh Government (2021), [Response to the Welsh Government Disability Equality Forum's report on the impact that COVID-19 had on disabled people](#).

<sup>357</sup> Welsh Government (2023), [Disability Rights Taskforce: What we do](#).

<sup>358</sup> Welsh Government (2022), [Equality, Race and Disability Evidence Units Strategy](#).

<sup>359</sup> Meeting of SILC to discuss the 2016 UN CRPD Inquiry (2023) Report for Scottish Human Rights Commission (forthcoming).

human rights; however, there is no specific ringfencing for DPOs nor firm processes for ensuring additional costs for reasonable adjustments are adequate. Other avenues for funding often fail to provide flexibility on spending for adjustments necessary for DPOs to apply.<sup>360</sup>

There is also a lack of meaningful participation of disabled people in the budget process. Scotland remains well below what is considered to be acceptable by international best practice standards in terms of public participation in the budget.<sup>361</sup> Glasgow Disability Alliance's 'Budgeting for Equality' six-month action research project found that disabled people in Scotland want to be involved in how public money is spent but face multiple and complex barriers<sup>362</sup> to their participation.<sup>363</sup>

## Northern Ireland

The Northern Ireland Executive, in the Draft Programme for Government 2016, committed to involve disabled people in a "central regional disability forum."<sup>364</sup> This commitment has never been realised and is interlinked with the need for a disability strategy for Northern Ireland. The Disability Strategy Expert Advisory Panel notes that, "The absence of a Northern Ireland wide governance framework involving...disabled people and their organisations and their limited access to key decision-making structures...has been a persistent challenge in the development of policies and legislative measures that affect...disabled people."<sup>365</sup> The Panel recommended that the Northern Ireland Executive develop an Northern Ireland Disability Forum to work with government and with deaf and disabled people in a leadership role.<sup>366</sup> Some three years later this commitment remains unrealised.

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<sup>360</sup> Meeting of SILC to discuss the 2016 UN CRPD Inquiry (2023) Report for Scottish Human Rights Commission (forthcoming).

<sup>361</sup> Scottish Human Rights Commission (2022), [Equality, Human Rights and Civil Justice Committee Pre-Budget Scrutiny 2023-24: The Impact of Human Rights Budgeting](#).

<sup>362</sup> Including physical barriers (inaccessible transport and built environment), unmet support needs, poverty, inaccessible or inadequate opportunities for work and learning, negative attitudes, isolation and lack of confidence and feel of having no voice.

<sup>363</sup> Glasgow Disability Alliance (2019), [Budgeting For Equality](#).

<sup>364</sup> Department for Communities (2016), Programme for Government Delivery Plan Indicator 42: Average life satisfaction score of people with disabilities. See also Disability Strategy Expert Advisory Panel (2020), [Disability Strategy Expert Advisory Panel: Report and Recommendations](#), p. 16.

<sup>365</sup> Disability Strategy Expert Advisory Panel (2020), [Report and Recommendations](#), p. 16.

<sup>366</sup> Ibid, p.18. The Report also recommends, inter alia, that the Executive:

## 114(h): Reducing negative or discriminatory stereotypes

“Take appropriate measures to combat any negative and discriminatory stereotypes or prejudice against persons with disabilities in public and the media, including the assertion that dependency on benefits is in itself a disincentive to seeking employment, implement broad mass media campaigns, in consultation with organizations representing persons with disabilities, particularly those affected by the welfare reform, to promote them as full rights holders, in accordance with the Convention, and adopt measures to address complaints of harassment and hate crime by persons with disabilities, promptly investigate those allegations, hold the perpetrators accountable and provide fair and appropriate compensation to victims.”

**Little progress** has been made in implementing recommendation 114(h), and it is still relevant. Although some positive steps have been taken to combat bullying, more needs to be done to tackle negative stereotypes or prejudice against disabled people in the public and media, as well as to tackle disability-related hate crime.

### UK / England

In 2021 the UK Government announced new funding to tackle bullying in schools in England, including for children with special educational needs and disabilities (SEND).<sup>367</sup> Although children with SEND are more likely to experience bullying compared to their peers,<sup>368</sup> tackling identity-based bullying is not a mandatory part of teacher training, and there is no mandatory duty on

- Work with women, girls, children and young people, older people, ethnic minorities, people with learning disabilities and mental health issues, deaf people and others to ensure their direct participation and involvement in such a Forum;
- Prioritise the views of deaf and disabled people and their representative organisations.
- Fund and support the operation of DPOs to engage effectively in decision making and support the expansion of DPOs across Northern Ireland;
- Fund deaf and disabled people’s participation in the monitoring framework using models of good practice elsewhere.

<sup>367</sup> Department for Education (2021), [New funding to combat bullying in education: everything you need to know](#).

<sup>368</sup> For instance, see Chatzitheochari, S., Parsons, S. and Platt, L. (2016), [Doubly Disadvantaged? Bullying Experiences among Disabled Children and Young People in England](#), *Sociology*, 50(4), 695–713; Anti Bullying Alliance (2021), [Reducing Bullying in Schools: a summary of findings from the independent evaluation of the all together programme 2017-2021](#).



schools in England to record and report incidents of bullying. The EHRC made recommendations in its most recent report to the UN Committee on the Rights of the Child that teacher training should include guidance on how to recognise, respond to and counter identity-based bullying.<sup>369</sup>

Research published in 2018 showed that prejudiced views against disabled people have continued to grow in England and Wales since 2000.<sup>370</sup> The UK Government conducted its UK Disability Survey in 2021, which examined perceived barriers facing disabled people related to negative or discriminatory attitudes, and the subsequent need to improve people's understanding and awareness.<sup>371</sup> Results show that 39% of respondents (members of the public) believe that negative attitudes of disabled people act as a barrier to disabled people's participation in the workplace.<sup>372</sup>

The Crime Survey for England and Wales indicates that hate crimes motivated by disability have decreased from 2007/08 to 2019/20; a similar trend is also seen for hate crimes motivated by race and sexual orientation.<sup>373</sup> The UK Government has not implemented the Law Commission's 2021 recommendation that hate crime legislation should be updated to ensure that victims of disability hate crime receive the same level of protection as other groups.<sup>374</sup> This recommendation was also made previously by the EHRC as part of its inquiry into disability-related harassment.<sup>375</sup>

## Wales

The Welsh Government has made some progress around tackling identity-based bullying, for example by requiring schools to address all forms of bullying in its Curriculum for Wales Relationships and Sexuality Education Code.<sup>376</sup> However, tackling identity-based bullying is not a mandatory part of

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<sup>369</sup> Equality and Human Rights Commission (2023), [Children's rights in Great Britain: submission to the UN](#).

<sup>370</sup> Scope (2018), [The Disability Perception Gap](#).

<sup>371</sup> Disability Unit (2021), [UK Disability Survey research report](#).

<sup>372</sup> Ibid. Note, it is unclear how participants for this survey were recruited or how they participated, therefore it is uncertain how representative this sample is.

<sup>373</sup> Allen, G. and Zayed, Y. (2022), [Hate Crime Statistics](#), House of Commons Library.

<sup>374</sup> Law Commission (2021), [Reforms to protect disabled and LGBT+ victims, criminalise extremist misogynist 'incel' hate material, and safeguard free speech](#).

<sup>375</sup> Equality and Human Rights Commission (2011), [Hidden in plain sight: inquiry into disability-related harassment](#).

<sup>376</sup> Welsh Government (2019), [Rights, respect, equality: guidance for schools](#).

teacher training, and there is no mandatory duty on schools in Wales to record and report incidents of bullying.

In 2021 the Welsh Government launched its Hate Hurts Wales campaign<sup>377</sup> aimed at raising awareness and tackling hate crime, including disability hate crime.

## Scotland

Disability-aggravated hate crimes recorded by the police have increased over time, accelerating in 2019/20 and reaching their highest recorded level in 2021/22, more than double the number recorded in 2014/15.<sup>378</sup> There is no data available on disability related hate crime by impairment type.

The Scottish Parliament passed the Hate Crime and Public Order (Scotland) Act 2021 which introduced a new offence of stirring up hatred covering a number of characteristics, including disability. To support implementation, the Scottish Government set up a Hate Crime Strategic Partnership Group to oversee delivery of its 2022 Hate Crime Strategy. The Government launched a refreshed Hate Crime Strategy in March 2023. Initiatives include public awareness campaigns of hate crimes against different groups, including disabled people. Timescales and delivery priorities have not yet been articulated.

In 2018 the Scottish Government introduced guidance for the recording and monitoring of bullying in schools and developed a national, uniform approach across Scotland. Recent research<sup>379</sup> by Education Scotland suggested that many schools are not using this system consistently. In response the Scottish Government have committed to carry out a review of the guidance.

In 2019 the EHRC and the Children and Young People's Commissioner Scotland (CYPCS) found use of restraint and seclusion on school pupils was inconsistent and largely unmonitored after its No Safe Place investigation.<sup>380</sup> Subsequent court action was taken against the Scottish Government, resulting in commitments to produce effective and human rights-compliant national

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<sup>377</sup> Welsh Government (n.d.), [Hate hurts Wales](#).

<sup>378</sup> Scottish Government (2023), [Justice Analytical Services \(JAS\) Safer Communities and Justice Statistic Monthly Data Report: June 2023 edition](#).

<sup>379</sup> Education Scotland (2023), [Approaches to recording and monitoring incidents of bullying in schools: National thematic review](#).

<sup>380</sup> Children and Young People's Commission for Scotland (2020), [No Safe Place](#).

guidance to direct local authorities, schools and staff in the lawful use of restraint and seclusion.

The SHRC,<sup>381</sup> DPOs<sup>382</sup> and a wide range of other stakeholders<sup>383</sup> raised significant concerns about the Scottish Government’s guidance for healthcare settings during COVID-19, including that this was frequently reliant on blanket approaches and ultimately discriminatory. There is little official data to confirm how many Do Not Attempt Cardiopulmonary Resuscitation (DNR) orders were actually made and applied.

## Northern Ireland

A recent research report has highlighted “persistent prejudice towards disabled people, including negative attitudes towards disabled people claiming social security benefits” noting that, at the time of writing, there is no coordinated strategy to raise awareness of the diverse experience of disability within Northern Ireland.<sup>384</sup>

In 2021, the Addressing Bullying in Schools (Northern Ireland) Act 2016 came into force.<sup>385</sup> The 2016 Act places statutory duties on schools to take steps to prevent bullying and to record bullying incidents. However, the 2016 Act does not place a requirement on schools to report incidences of bullying to the Department of Education or the Education Authority Northern Ireland.<sup>386</sup>

Hate crimes against disabled people in Northern Ireland increased from 63 in 2018-19 to 93 in 2020-2021 and have continued to increase.<sup>387</sup> UKIM believes

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<sup>381</sup> Scottish Human Rights Commission (2020), [COVID-19 Guidance: Clinical Advice](#).

<sup>382</sup> Inclusion Scotland (2020), [Rights at Risk](#).

<sup>383</sup> See, for example, Age Scotland (2020), [Age Scotland voices serious concerns over DNAR forms](#).

<sup>384</sup> Toman, N. et al (2022), [Progress towards the Implementation of UN CRPD in Northern Ireland](#), p. 224.

<sup>385</sup> Department of Education (April 2021), [Press Release: Schools to implement Addressing Bullying Act, 21 April 2021](#).

<sup>386</sup> To provide an overview of numerical trends in bullying across equality grounds.

<sup>387</sup> Police Service of Northern Ireland (December 2021), [Trends in Hate Motivated Incidents and Crimes Recorded by Police in Northern Ireland 2004/5 to 2021/22](#), table 1.1, p. 6. The latest statistics, for the period 1 April 2022 to 31 March 2023 show an increase in disability hate crimes to 102, the highest financial year level since the recording of these motivations began in 2005/06. See Police Service Northern Ireland (16 May 2023), [Incidents and Crimes with a Hate Motivation Recorded by Police in Northern Ireland - Update to 31st March 2023](#), p. 4.

IMNI notes the recommendations made by Judge Marrinan (2020), [Hate Crime Legislation in Northern Ireland – Independent Review](#). See also Equality Commission for Northern Ireland (2020), [Response to consultation: Hate Crime Legislation in Northern Ireland, Independent Review](#).

the number of reported incidents to police services across the UK significantly under-represents the extent of disability hate crime and this is reflected in the figures of reported hate crime in Northern Ireland.<sup>388</sup>

The EU Victims' Directive falls within scope of Windsor Framework Article 2.<sup>389</sup> It recognises that victims of hate crime are at a high risk of secondary and repeat victimisation and, as such, will benefit from special protection measures during criminal proceedings, with particular attention paid to victims of hate crime, gender-based violence and disabled victims.<sup>390</sup>

Following the Independent Hate Crime Review in 2020,<sup>391</sup> and the Department of Justice response to the Review,<sup>392</sup> the first of a two-stage public consultation was launched in 2022 seeking responses on improving the effectiveness of Northern Ireland hate crime legislation.<sup>393</sup> Both NIHRC and ECNI responded to the consultation within their respective remits highlighting the need for a victim-centred approach in line with the CRPD<sup>394</sup> and the EU Victims' Directive.<sup>395</sup> The Department of Justice has put in place a dedicated Hate Crime Branch to take forward work on implementing the Independent Review's recommendations.<sup>396</sup>

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<sup>388</sup> UK Independent Mechanism (2017), [Disability Rights in the UK](#), pp. 149 and 72.

<sup>389</sup> Directive 2012/29/EU, '[Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime](#)', 25 October 2012.

<sup>390</sup> Article 22, Directive 2012/29/EU, '[Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime](#)', 25 October 2012. Article 8 and Recitals 56-58, Directive 2012/29/EU, 'Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.

<sup>391</sup> Independent Hate Crime Review Team (2020), [Hate Crime Legislation in NI: Independent Review](#), Department of Justice.

<sup>392</sup> Department of Justice (2021), [Review of Hate Crime Legislation in Northern Ireland – Departmental Response](#).

<sup>393</sup> Department of Justice (2022), [Improving the effectiveness of Hate Crime legislation in Northern Ireland - A Public Consultation and Call for Views](#).

<sup>394</sup> CRPD/C/GBR/CO/1 (29 August 2017), para 19.

<sup>395</sup> Northern Ireland Human Rights Commission (2022), '[Response to Public Consultation on Improving the Effectiveness of Hate Crime Legislation in NI](#)'; Equality Commission for Northern Ireland (2022), [Response to consultation: Department of Justice – Improving the effectiveness of Hate Crime Legislation in Northern Ireland](#).

<sup>396</sup> Department of Justice (2021), [Review of Hate Crime Legislation in Northern Ireland - Departmental Response](#), p. 13.

## 114(i): Considering disabled people at risk in the implementation of policies and programmes

“Ensure that, in the implementation of legislation, policies and programmes, special attention is paid to persons with disabilities living on a low income or in poverty and to persons with disabilities at higher risk of exclusion, such as persons with intellectual, psychosocial or multiple disabilities and women, children and older persons with disabilities. Those measures should be put in place within contributive and non-contributive regimes.”

There has been **limited progress** in implementing recommendation 114(i), and it remains relevant. There continues to be a disproportionate number of disabled people living on a low income or in poverty, disabled people experience long waiting periods for benefits eligibility decisions and are more likely to use resources such as food banks. Across the UK, there is a lack of comprehensive, disaggregated equality data to facilitate the monitoring of the impact of policy and programmes on disabled persons to ensure that targeted actions can be taken.

### UK / England

The Public Sector Equality Duty (part of the Equality Act 2010, which applies in England, Scotland and Wales) requires public bodies – including central government departments – to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. This includes a requirement to have regard to the impact of legislation, policies and programmes on disabled people.

Despite these requirements, disabled people continue to be disproportionately at risk of low income or poverty. According to research from 2023, poverty rates for disabled people across the UK are nine percentage points above rates for those who are not disabled,<sup>397</sup> and this is particularly high among working-age adults who are almost twice as likely to live in poverty compared to non-disabled working-age adults.<sup>398</sup> Before the pandemic, single adult

<sup>397</sup> Here, relative poverty is defined as the percentage of households below 60% of the contemporary median income, after housing costs. See Joseph Rowntree Foundation (2023), [UK Poverty 2023: The essential guide to understanding poverty in the UK](#).

<sup>398</sup> Ibid.



families with a disabled family member were four times more likely to be behind on the payment of bills.<sup>399</sup>

Disability rights stakeholders in England have raised specific concerns that the Minimum Income Guarantee – the amount set aside to cover daily expenses when individuals contribute to social care through their local authorities – does not provide enough money for disabled people to live on, after care costs.<sup>400</sup> Many organisations and campaigners are also concerned that the one-off £150 disability cost-of-living payment,<sup>401</sup> introduced by the UK Government in 2022 and available across the United Kingdom, does not go far enough to support disabled people.<sup>402</sup>

Evidence from 2022 indicates that, while 53% of those receiving disability benefits across the UK are in the most materially deprived fifth of the population, many claimants experience five-month waiting times between applying for and receiving benefits.<sup>403</sup> Even the shorter, five-week wait period for means-tested benefits such as Universal Credit can result in households with no or insufficient savings taking on debt to cover their costs in the meantime.<sup>404</sup> By mid-2020, 41% of disabled people in the UK who were referred to food banks were indebted to the DWP, meaning they took on advances or other forms of debt directly from the DWP, which are then deducted from their subsequent benefits payments.<sup>405</sup> In early 2020, 66% of households referred to foodbanks included one or more disabled person.<sup>406</sup>

## Wales

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<sup>399</sup> Ibid.

<sup>400</sup> Disability Rights UK (2023), [Government announce Minimum Income Guarantee rise](#).

<sup>401</sup> For more on the disability cost-of-living payment, see HM Treasury (2022), [Cost of living support factsheet: 26 May 2022](#).

<sup>402</sup> For instance, see Scope (2022), [Calls for the introduction of a social tariff to support disabled people with the highest energy costs](#); Scope (2023), [Disability Price Tag 2023: the extra cost of disability](#).

<sup>403</sup> IFS (2022), [Living Standards of working-age disability benefit recipients in the UK](#).

<sup>404</sup> See, for instance Policy in Practice (2019), [Financial resilience and the transition to universal credit](#); Trussell Trust (2021), [The State of Hunger: Building the evidence on poverty, destitution, and food insecurity in the UK](#).

<sup>405</sup> Trussell Trust (2021), [The State of Hunger: Building the evidence on poverty, destitution, and food insecurity in the UK](#).

<sup>406</sup> Ibid.

Disabled people in Wales also face disproportionately high poverty levels.<sup>407</sup> For the period from April 2021 to March 2022, children and working-age people who lived with a disabled person had a higher risk of living in relative income poverty.<sup>408</sup> In 2021/22, just under one in five people with a limiting or long-standing illness or disability lived in a household in material deprivation.<sup>409</sup>

The Welsh Government committed to reviewing the Public Sector Equality Duty in Wales with a view to ensuring better performance and has established a working group to advise it.

In addition, the Socio-Economic Duty came into force in Wales in March 2021, requiring that public bodies in Wales have due regard to reducing inequalities related to socio-economic disadvantage in their strategic decision-making.

## Scotland

Before the COVID-19 pandemic, disabled people in Scotland were more likely to experience both relative and absolute poverty, and there is now growing evidence that the pandemic has pushed more disabled people into poverty.<sup>410</sup> DPOs in Scotland have raised concerns that the current levels of benefits are failing to keep pace with rising living costs.

Inclusion Scotland has identified the key drivers of poverty for disabled people in Scotland, including benefit cuts / inadequate benefits, low pay, high disability related costs (including care costs, specialist equipment, taxis for instance), social care support costs, high energy costs (both for heating costs and to operate specialist equipment) and digital exclusion.<sup>411</sup> In a survey of disabled people,<sup>412</sup> over 75% of respondents reported that they were “going without or cutting back” on essentials like food, heating and energy, as well as medication and personal hygiene items. Respondents reported being fearful of hospitalisation or dying at home.

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<sup>407</sup> Welsh Government (2023), [Relative income poverty: April 2021 to March 2022](#).

<sup>408</sup> Welsh Government (2021), [Relative income poverty: April 2021 to March 2022](#).

<sup>409</sup> Welsh Government (2022), [Wellbeing of Wales 2022](#).

<sup>410</sup> Inclusion Scotland (2022) Disabled People, [Poverty, and the Cost of Living Crisis](#).

<sup>411</sup> Inclusion Scotland (2022) Disabled People, [Poverty, and the Cost of Living Crisis](#).

<sup>412</sup> Inclusion Scotland (2022) Disabled People, [Poverty, and the Cost of Living Crisis](#).

Scottish local authorities operate a Scottish Welfare Fund (SWF) that issues grants to households in crisis. Applications increased sharply at the start of the pandemic (50% between March 2019 and 2020). Scottish Government increased funding for the SWF in 2020; however, a consistent underspend is present in most local authorities.<sup>413</sup> Data is not disaggregated by households with a disabled person.<sup>414</sup>

## Northern Ireland

There continues to be a disproportionate number of disabled people living on a low income or in poverty. They are particularly vulnerable to waiting periods when receiving benefits and are more likely to use resources such as food banks.<sup>415</sup>

There is a need for Government, Departments and Public Authorities to collect comprehensive equality data to identify equality impacts, shape targeted actions to advance equality and to address key gaps in equality data.<sup>416</sup>

All key measures of Government (including across the Programme for Government and key strategies) should not only be tracked in aggregate but also across the full range of equality grounds, including disability. The key measures of government will be more fully delivered if they target and track delivery across the full range of equality groups. Embedding equality into all key measures would further assist equality considerations to come to the fore and be a core component of delivery.

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<sup>413</sup> Poverty and Inequality Commission (2020), [Poverty and inequality commission Scottish welfare fund briefing](#).

<sup>414</sup> Scottish Government (2023), [Scottish Welfare Fund Statistics: Update to 30 September 2022](#).

<sup>415</sup> See, for example, Northern Ireland Human Rights Commission (2019), [Cumulative impact of tax and social security reforms in Northern Ireland](#), paragraph 7.2, p. 101; Joseph Rowntree Foundation (2022), [UK Poverty 2022 – The essential guide to understanding poverty in the UK](#), pp. 57-58; The Trussell Trust (2021); [State of Hunger](#), pp. 11 and 13; Anti-Poverty Strategy Co-Design Group (November 2022), [Recommendations on the development of an Anti-Poverty Strategy for Northern Ireland](#), Annex B, pp. 80-92.

<sup>416</sup> You can see a summary of ECNI published recommendations at [www.equalityni.org/equalitydata](http://www.equalityni.org/equalitydata).

## 114(j): Establishing mechanisms and indicators to monitor impact

“Set up a mechanism and a system of human rights-based indicators to permanently monitor the impact of the different policies and programmes relating to the access to and enjoyment by persons with disabilities of the right to social protection and an adequate standard of living, the right to live independently and to be included in the community and the right to work, in close consultation with persons with disabilities and their representative organizations in all regions and countries that constitute the State party.”

There has been **no progress** towards implementing recommendation 114(j), and it remains relevant. The UK Government has not established a mechanism within government to monitor its human rights obligations or the impact of policies and programmes on human rights, including on the rights of disabled people. No such mechanism has been established within devolved jurisdictions.

### UK / England

In 2019, the UK Government formed a Disability Unit within the Equality Hub in the Cabinet Office, replacing the Office for Disability Issues. The Disability Unit is responsible for ensuring the views of disabled people are brought into the policy-making process, working with other departments to consider barriers faced by disabled people in their policy-making processes and co-ordinating work related to the CRPD, among other priorities.<sup>417</sup>

The UK Government maintains that the EHRC is adequate for monitoring human rights and equality issues in Great Britain, and that the Office for National Statistics is sufficient for the publication of statistics on disability.<sup>418</sup> While the EHRC does monitor human rights and equality issues, its remit is only for England and Wales and those issues in Scotland that are reserved to the UK Parliament. The Scottish Human Rights Commission’s remit is Scotland, the Northern Ireland Human Rights Commission’s remit is Northern

<sup>417</sup> Visit: Disability Unit (n.d.), [About Us](#).

<sup>418</sup> Disability Unit, UK Government (2022), [UN Committee on the Rights of Persons with Disabilities 2016 Inquiry - UK 2022 follow-up report](#).

Ireland, and the Equality Commission for Northern Ireland's remit also covers Northern Ireland.

The EHRC may, in pursuance of its duties under sections 8 and 9 of the Equality Act 2006, give advice or guidance about the effect or operation of any enactment. Under its mandate, the EHRC also continues to monitor human rights and equality using its legal, inquiry and research functions, and it has a statutory requirement to publish a report on progress towards equality and human rights in Great Britain every five years. However, the EHRC has also called for the UK Government to increase its powers by implementing section 28(8) of the Equality Act 2006, which would enable it to support human rights cases relating to disability, including arranging for legal advice to help disabled people seek redress for breaches of their human rights.

The EHRC also supports the creation of a National Mechanism for Implementation, Reporting and Follow-up (NMIRF) on international human rights obligations. In support of this monitoring, EHRC developed an online Human Rights Tracker tool to monitor to what extent the UK and Welsh Governments are putting their human rights duties into practice,<sup>419</sup> but this is no substitute for a formal, government-led mechanism.

## Wales

In January 2022, the Welsh Government created distinct evidence units in relation to inequalities in Wales, one of which is the Disability Disparity Unit.<sup>420</sup> The aims of the unit are to improve the availability, quality, level of detail and accessibility of evidence about disabled people so that the Welsh Government can fully understand the level and types of inequalities disabled people experience across Wales.

## Scotland

While there has been a notable increase of human rights-related language in Scottish national level policies, there is a noted implementation gap across all areas of policy and practice that limits realisation of rights, including for disabled people. Accountability for implementation, protection and progressive realisation of human rights is fragmented and often weak.

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<sup>419</sup> [Visit the Human Rights Tracker.](#)

<sup>420</sup> Welsh Government (2022), [Equality, Race and Disability Evidence Units Strategy.](#)



A system of human-rights based indicators to monitor impacts of policies for all groups is currently lacking. The Scottish Government has a National Performance Framework (NPF) linked, in part, to the sustainable development goals (SDGs); however, it is not possible to determine progress due to a lack of inbuilt targets. 'Equality / inequality' is not a specific outcome. Equality is instead alluded to in the 'Values' of the NPF. While there was a commitment in 2018 to develop a human rights outcome this has not been delivered and the only indicators developed foreground civil and political rights.

The Scottish Government has also previously indicated support to develop a system for tracking and reporting on progress under international human rights treaties. Work to implement this has stalled due to prioritisation of the pandemic and cost of living.

The Scottish Government's commitment to incorporation of human rights treaties including the CRPD will require development of a mechanism to measure progress, including read across to the NPF. The Office of the High Commissioner for Human Rights has developed specific indicators for disabled people's human rights with an SDG perspective that should inform development of performance measurement tools.

## Northern Ireland

Research undertaken in respect of Northern Ireland highlights the lack of progress in the development of a mechanism and indicators to measure the implementation of CRPD rights.<sup>421</sup> Indicators would accompany a disability strategy. The absence of a disability strategy means that discussions on the use of human rights-based indicators in Northern Ireland have not taken place.<sup>422</sup>

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<sup>421</sup> Toman, N. et al (2022), [Progress towards the Implementation of UNCRPD in Northern Ireland](#), pp. 16, 19, 34, 55, 58, 59, 84, 96.

<sup>422</sup> In May 2023 Department for Communities officials informed stakeholders that in the face of spending cuts associated with its budget for 2023-24, work on the Social Strategies, including the Disability Strategy and the Anti-Poverty Strategy, would be suspended and staff currently working on these would be redeployed. See also Department for Communities (May 2023), [Budget 2023-2024 Equality Impact Assessment](#), para 7.4, p. 16.

## 114(k): Responding under the Optional Protocol

“Respond to the present report within the time limit prescribed under the Optional Protocol, widely disseminate the Committee’s findings and recommendations and provide appropriate follow-up to the recommendations of the present report, including during the consideration of the State party’s initial report before the Committee.”

There has been **some progress** towards implementing recommendation 114(k). The UK Government has responded to the Committee’s recommendations, although it has not widely disseminated the inquiry findings.

### UK / England

The UK Government responded to the recommendations from the Committee’s inquiry, most recently in December 2022,<sup>423</sup> although there was a notable gap in update reports during the COVID-19 pandemic. The UK Government has not widely disseminated the Committee’s findings and recommendations from 2016.

### Scotland

The Scottish Government participates in the UK’s annual follow up reporting; however, no standalone work to promote the findings of the 2016 inquiry has been undertaken.<sup>424</sup> As a number of key policy levers relevant to the inquiry have now been devolved to Scotland, it is essential that the findings of the inquiry and follow-up procedure are integrated into development of devolved policy and services.

<sup>423</sup> Disability Unit, UK Government (2022), [UN Committee on the Rights of Persons with Disabilities 2016 inquiry – UK 2022 follow-up report](#).

<sup>424</sup> For instance, see Disability Unit, UK Government (2021), [UN Committee on the Rights of Persons with Disabilities 2016 inquiry – UK 2021 follow-up report](#); Disability Unit, UK Government (2022), [UN Committee on the Rights of Persons with Disabilities 2016 inquiry – UK 2022 follow-up report](#).

There is cross-party<sup>425</sup> support for stronger human rights laws in Scotland and the Scottish Government has committed<sup>426</sup> to introducing new legislation incorporating a range of UN treaties into Scots law. The legislation would include the CRPD; the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on the Elimination of All Forms of Racial Discrimination (CERD); the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); and developing further protections for environmental rights, older persons and lesbian, gay, bisexual and trans (LGBT+) people. These proposals would enable domestic courts to review compliance with international standards and the Scottish Government has indicated this will include new obligations for public bodies, including Scottish Government and Scottish Parliament, to demonstrate compliance across devolved policy, such as duties to conduct human rights impact assessments. Proposals for the Bill are currently being consulted on.<sup>427</sup>

There is strong support for incorporation among DPOs. The Scottish Human Rights Commission called for the legislation to ensure the strongest protection possible within the devolution settlement, including the CRPD. Successful implementation will require dedicated resources to deliver progressive realisation of rights and for capacity building to support access to justice.<sup>428</sup>

## Northern Ireland

The Northern Ireland Executive has not undertaken any work to promote the findings of the 2016 inquiry.

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<sup>425</sup> The Scottish Parliament passed motions in support of the Act in [2014](#), [2017](#) and again on 4 March [2021](#). There have been many recent expressions of support for strengthening human rights in the Scottish Parliament, for example during consideration of the [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Bill](#).

Increased focus on international human rights standards has also been reflected in references to international human rights instruments in Scottish domestic legislation. Examples include the [Community Empowerment \(Scotland\) Act 2015](#); s. 1 of the [Land Reform \(Scotland\) Act 2016](#); and the [Social Security \(Scotland\) Act 2018](#), and s.1(1) of the [Children and Young People \(Scotland\) Act 2014](#).

<sup>426</sup> See First Minister's Advisory Group on Human Rights Leadership (2018), [Recommendations for a new human rights framework to improve people's lives](#) and National Taskforce for Human Rights Leadership (2021), [National Taskforce for Human Rights Leadership Report](#). Accepted by Scottish Government in: Scottish Government (2021), [New Human Rights Bill](#).

<sup>427</sup> Scottish Government (2023), [A Human Rights Bill for Scotland: consultation](#).

<sup>428</sup> Sufficient resourcing will be required for capacity building and a commitment to the maximisation of available resources will be required in order to deliver progressive realisation.

There is a growing body of support for the incorporation of the CRPD within domestic law in Northern Ireland.<sup>429</sup>

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<sup>429</sup> See [Disabled People's Parliament](#) at 2.07.00; Alliance Party (2022), [Assembly Election Manifesto 2022](#), p.16; Sinn Féin (2022), [Assembly Election Manifesto 2022](#), p.18; Social Democratic and Labour Party (2022), [Assembly Election Manifesto 2022](#), p. 36.

## Chapter 3: Supplementary recommendations for consideration

Individual UKIM members have proposed supplementary recommendations for consideration by the Committee, in respect of the devolved context and their organisational remits.

### Scottish Human Rights Commission

The Scottish Human Rights Commission recommends that the Committee consider how its findings from the UK Inquiry be implemented in Scotland and that:

#### 114(a): Cumulative Impact Assessment

- The Scottish Government should conduct a cumulative impact assessment of devolved policy measures, taking into account wider UK analysis of tax and welfare spending decisions. This should be accompanied by training and guidance on impact assessments for devolved public bodies aimed at improving disability competence and intersectional analysis.
- Gaps in availability and quality of data must be addressed across all policy areas in Scotland, including data capable of being analysed by more than one characteristic in order to assess intersectional and compounded impacts.

#### 114(b): Rights-based welfare reform

- The Scottish Government should ensure that it continuously reviews the rollout of the devolved social security system, including carrying out cumulative impact assessments to ensure it reflects the human rights model of disability, the Public Sector Equality Duty, Scotland Specific Duties and the Fairer Scotland Socio-economic Duty.
- The Scottish Government should take steps to improve public awareness about the new benefits and make access to independent advocacy and advice widely available.
- The Scottish Government should enhance the legal status of the right to social security as part of the planned incorporation of ICESCR and CRPD.

#### 114(c) Legislation / Policy Change



- The Scottish Government should deliver existing commitments to end social care charging and ensure that disabled people and DPOs are actively and meaningfully engaged in the design of the National Care Service proposals, including timescales and sufficient resourcing considerations. This must include investment in staffing to ensure available and tailored care-packages which support the right to independent living.
- The Scottish Government should deliver existing commitments to end long term hospital detention of people who have a learning disability and / or autism.
- The Scottish Government should develop targeted employability support for disabled people and improve training and guidance for employers to ensure that disabled people are adequately supported throughout application and ultimately in their workplace.
- The Scottish Government should develop a rights-based disability strategy, co-designed with disabled people and with measurable outcomes, to support disabled people's right to an adequate standard of living.

#### 114(d) Public Budgets

- The Scottish Government should adopt human rights budgeting, and ensure that it meets its obligations under the Equality Act 2010 Public Sector Equality Duty, Scotland Specific Duties and Fairer Scotland Duty as part of the annual national budget process. Public bodies should undertake equality and human rights budgeting and good quality equality and human rights impact assessments to ensure sufficient resources are available to realise disabled people's human rights.

#### 114(f) Access to Justice

- The Scottish Government should ensure that legal aid is available to meet reasonable adjustments required to engage with the justice system, including advice and participation in remote judicial and quasi-judicial processes.

114(g) Consulting and Actively Involving Disabled People and their Representative Organisations, 114(i) Considering Disabled People at Risk in the Implementation of Policies or Programmes and 114(j) Establishing Mechanisms and Indicators to Monitor Impact

- The Scottish Government should set out comprehensive priorities and actions to promote disabled people's human rights as part of the

incorporation process. Information campaigns to tackle prejudice against disabled people, for example anti-hate awareness campaigns to support implementation of the new Act, should be developed in partnership with disabled people and their networks. The COVID-19 inquiry should consider the human rights of disabled people at every stage of the pandemic and the Scottish Government should act on any recommendations to prevent future violations.

- The Scottish Government should develop a system for implementation, reporting and follow up that allows human rights progress to be tracked and measured. This system should integrate the OHCHR indicators on the CRPD.
- The Scottish Government should ensure sufficient budget to support awareness, monitoring and implementation of the CRPD within devolved policy areas – including health and social care and social security - and ensure that disabled people, DPOs and wide civil society are meaningfully involved in consultation during the incorporation process.

## Independent Mechanism for Northern Ireland (IMNI)

IMNI recommends that:

### 114(a): Cumulative Impact Assessment

- The Committee continue to call on the UK Government and devolved administrations to develop a methodology to assess the cumulative impact of tax and social security reforms.
- the Committee call upon the Secretary of State for Northern Ireland and Northern Ireland Departments to ensure that further budget cuts do not exacerbate an already difficult situation for disabled people.

### 114(b): Rights-based welfare reform

- The Committee explore what steps the Northern Ireland Executive will take to sustain and expand the measures to mitigate the detrimental effects of social security reforms in Northern Ireland. Such measures should ensure that disabled people are guaranteed an adequate standard of living.

### 114(c) Legislation / Policy Change

- The Northern Ireland Executive take immediate steps to finalise, publish and effectively implement a robust disability strategy for Northern Ireland. This should be accompanied by a measurable plan of action for improving the living conditions of all disabled people and effective monitoring arrangements. The Disability Strategy should embed consideration of Windsor Framework Article 2 and include monitoring of EU developments in respect of the six Annex 1 Equality Directives, including relevant CJEU case law.

### Accessible Housing

- The Northern Ireland Executive take steps to increase provision of appropriate accommodation, and related social care, to meet the specific needs of a range of equality groups, advancing the right to independent living.

### Independent Living

- The Department for Communities reopens the Independent Living Fund for new claimants in Northern Ireland and ensures the fund is resourced to meet demand on a long-term basis.

### Work and Employment

- The Department for Communities develop and implement, in partnership with disabled people and their representative organisations, an effective Disability Employment Strategy that aims to reduce the disability employment gap in Northern Ireland.
- The Department for the Economy ensure provision of long-term funding arrangements for existing and new disability employment projects.
- The Northern Ireland Executive takes immediate action to develop and implement an effective anti-poverty strategy, which includes specific measures to address the additional costs arising from having a disability and supports disabled people into employment.
- The Northern Ireland Executive, Northern Ireland Assembly and the Department for Communities should reform the disability equality legislation. They should ensure that disability-related discrimination is replaced by provisions prohibiting indirect discrimination and discrimination arising from disability and the use of disability or health related questions in job applications is prohibited.

## 114(d) Public Budgets

### Adequate standard of living and social protection

- The Department for Communities explore the feasibility of introducing a human rights-based model of social security, drawing on that adopted by the Scottish Government.
- The Department for Work and Pensions consider the establishment of an independent process to ensure that the rates of social security benefits are calculated at a level that reflects essential costs, such as food, utilities and vital household goods.

#### 114(e) Accessible Communication

- The Northern Ireland Executive review current arrangements for raising awareness of social security entitlement amongst disabled people.
- The UK Government and Northern Ireland Executive take steps to ensure that the systems for assessing the eligibility of social security benefits to disabled people are reviewed to ensure they are accessible.

#### 114(f) Access to Justice

- The Northern Ireland Executive take steps to assess (i) the availability of credible advice on eligibility for social security benefits to disabled people; (ii) the availability of legal advice and support to assist a disabled person in challenging an initial assessment.

#### 114(g) Consulting and Actively Involving Disabled People and their Representative Organisations

- The Northern Ireland Executive takes immediate steps to introduce a disability strategy with an accompanying Disability Forum to be composed of disabled people and their representative groups. This should be sufficiently resourced on a long-term basis.

#### 114(h) Reducing Negative or Discriminatory Stereotypes

- The Northern Ireland Executive implement specific long-term measures to eliminate disability discrimination; to tackle prejudicial attitudes; and to promote values of acceptance and respect for difference, including:
  - developing key awareness-raising actions e.g. public awareness strategies and campaigns, based on the human rights-based approach to disability, with different target audience groups;
  - continuing to raise awareness of, challenge and seek to eradicate disability hate crime;

- the development of hate crime legislation that carefully considers and ensures compliance with Windsor Framework Article 2;
- the adoption of a victim-centred approach when investigating, prosecuting and remedying disability hate crime;
- promoting disability awareness throughout all levels of the education system from an early age; and
- including disability awareness in pre-school, primary and secondary school curriculums.

#### 114(i) Considering Disabled People at Risk in the Implementation of Policies or Programmes

- IMNI reiterates the importance of public authorities in Northern Ireland using the equality appraisal tools, associated with their duties under Section 75 of the Northern Ireland Act 1998, to assess the impact of policies and programmes on disabled people. Where adverse impacts are identified, public authorities should consider alternative policies and mitigating actions.
- The monitoring of all key government measures by equality ground (including disability) and the routine collection of equality disaggregated data to facilitate this.

#### 114(j) Establishing Mechanisms and Indicators to Monitor Impact

- The Northern Ireland Executive takes immediate steps to finalise and publish a Disability Strategy for Northern Ireland accompanied by indicators that reflect the attainment of CRPD rights.