

Submission to the UN Universal Periodic Review UK's examination (13th Session - June 2012)



Joint submission by Disability Rights Watch UK

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I: Background to this submission

1. In this submission, we have focused on the UK Government's performance on its human rights obligations and commitments as they relate to disabled people - principally under the UN Convention on the Rights of Persons with Disabilities (CRPD). This joint submission has been prepared by a loose coalition of organisations as part of the Disability Rights Watch UK project run by UK Disabled People's Council (UKDPC). The project aims to ensure that disabled people, disabled people's organisations (DPOs) and disability organisations, are fully involved in monitoring the UK's performance in implementing the UN CRPD. .

2. The coalition members include the following organisations which have contributed to preparing this submission: UK Disabled People's Council, Norfolk Coalition of Disabled People, Alliance for Inclusive Education, Inclusion London, The Guide Dogs for the Blind Association, Disability Alliance, Disability Equality North West, Equalities National Council, Action on Hearing Loss, Disability Action Northern Ireland, Mencap, Royal National Institute of Blind People, Radar, Scope, Sense, Learning Disability Coalition, Capability Scotland.

II. Summary:

3. Whilst all issues covered in this submission are of critical importance to the UK being able to meet its obligations under the CRPD, we would ask the Council to give the most urgent consideration to the following key concerns emerging from developments in Government policy and action:

- The failure on the part of the Government to take concrete steps towards withdrawing its four reservations and the interpretative declaration to the CRPD
- A lack of Government's commitment to incorporate the CRPD into domestic law
- A lack of Government leadership on disability issues and particularly the failure to create an adequate mechanism to ensure effective cross-government work on disability
- The proposals to weaken or not to implement important provisions of the Equality Act
- The disproportionate impact of the Government's spending cuts and reforms to the welfare system on disabled people
- The proposals to restrict the scope of civil legal aid and the adverse effect of this on disabled people's access to justice
- The reduction to Access to Work support which is crucial for disabled people to stay in employment

III. International framework and obligations:

Implementation of the UN Convention on the Rights of Persons with Disabilities

4. The ratification of the UN CRPD on 8 June 2009 and its Optional Protocol on 7 August 2009 has been a progressive act on the part of the UK Government. However, despite its stated commitment to the Convention, the UK also entered four reservations and an interpretative declarationⁱ.

5. When the proposals for reservations were scrutinised prior to the Government's ratification of the Convention, they were the subject of widespread criticism from civil society and parliamentary scrutiny committees, including the Joint Committee on Human Rights, on grounds that they were unnecessary or contrary to the object and purpose of the Conventionⁱⁱ. The Government's review of the immigration reservation is currently underwayⁱⁱⁱ. We recommend that the Government take account of all the evidence about the incompatibility of this reservation with the principles of the Convention (such as that submitted by the Equality and Human Rights Commission^{iv}), and move to withdraw it.

6. Despite this, it is regrettable that as it stands, the Government continues to maintain the four reservations and the interpretative declaration to the CRPD. We strongly encourage the Government to reconsider its reservations and interpretative declaration so as to withdraw them immediately.

7. As regards the implementation of article 35, we are concerned about the delay of the Government to submit its Initial Report to the UN Committee on the Rights of Persons with Disabilities. The Government has issued and consulted on the draft report about its compliance with the UN CRPD^v, however the final report is yet to be published and submitted to the UN Committee. We recommend that the Government submits its report as a matter of urgent priority. In addition, the quality of the draft report is disappointing as this fails to critically assess the extent to which the Government is complying with the CRPD. Worryingly, the report also glosses over the concerns raised by disabled people as to the impact of some of the planned reforms, such as around the effect of welfare reforms and reforms in education, which risk undermining progress made in implementing the CRPD. s

8. As it stands, the provisions in the Convention may be used by the courts if these are relevant to any question arising in any proceedings. However, the failure to fully incorporate its provisions into domestic law limits the opportunities disabled people have to enforce their rights. We are disappointed that the Government has yet to express any intentions in this regard. The Government should take appropriate

legal measures to ensure the effective incorporation of its obligations under the CRPD into UK domestic law.

9. The Government has designated an ‘independent mechanism’ under article 33(2) of the CRPD. This role is being carried out by the Equality and Human Rights Commission in England (and the equivalent commissions in the devolved nations). However, article 33(2) of the Convention requires a ‘framework’ to ‘promote, protect and monitor implementation’ which is more than the independent mechanism. The UK should move to create such a framework, ensuring that civil society, and in particular disabled people and their representative organisations, are involved and participate fully in the monitoring process as required by article 33(3) of the Convention.

Recommendation:

- **The Government should take steps to remove all of the reservations and interpretative declaration made to the CRPD as a matter of urgent priority.**

IV. Achievements and best practice:

Measures to improve disabled people's participation in public and political life

10. The Government has introduced a number of positive measures which are designed to improve the participation of disabled people in public and political life, taking into account the compelling evidence that exists that disabled people continue to be greatly under-represented in elected office^{vi}. In particular, the Government has consulted on establishing an Access to Elected Office Fund which would cover the extra costs disabled candidates incur as a direct result of their impairment when running for elected office. £1 million has been allocated annually between 2011/12 and 2013/14 for this purpose^{vii}.

Recommendation:

- **In taking this commitment forward, the Government should ensure the successful implementation of the fund and consider how best to support disabled people seeking to stand for public office beyond this Parliament.**
- **Building on these measures, the Government should also bring into force section 106 of the Equality Act 2010, which would require political parties to report on the diversity of their election candidates^{viii}. This would provide an effective way of assessing the impact that the introduction of the Access of Election Office Fund has had in practice.**

Measures to better record disability hate crime and improve sentencing

11. The priority given to disability hate crime issue is welcome. The Government has acted on the Coalition Agreement commitment to 'promote better recording of hate crimes against disabled people, which are frequently not centrally recorded^{ix} and ensure this data is systematically recorded by police forces. Efforts to tackle disability hate crime have thus far been hampered by a lack of data on the extent of disability hate crime^x. The police forces have only just begun centrally recording statistics, and the first data is expected to be published in 2012.

12. In addition, the Government has promised to amend the legislation as part of the Legal Aid, Sentencing and Punishment of Offenders Bill to increase the minimum sentences imposed on individuals who commit murders which are motivated by prejudice or hostility to disabled people, to thirty years^{xi}. This will be a positive development when implemented, though the ability for the Attorney General to review sentences that are unduly lenient remains stronger for victims of racist and religiously motivated crime than for victims of disability hate crime. This is due to inconsistencies in the legal framework which provides specific offences for racist hate crime that do not exist for other forms of hate crime. Consideration should be given to how to best provide equal protection of law for all forms of hate crime.

13. However, despite some increased efforts to tackle disability hate crime, a major inquiry undertaken by the Equality and Human Rights Commission has found that police and other public authorities do not

respond effectively to the issue of disability hate crime^{xii}. The EHRC's report highlighted that 'the failure of public agencies to share intelligence, co-ordinate their responses and treat harassment as a priority meant that opportunities to bring harassment to an end were missed'^{xiii}. These findings were corroborated by the various inquiries of the Independent Police Complaints Commission in response to serious cases where due to this inaction, the violence experienced subsequently escalated resulting in the death of disabled people involved, such as the case of Fiona Pilkington and her daughter where police failed to pick up the on-going abuse^{xiv}. The Government is still to advance a cross government hate crime action plan to replace that of the previous administration. This is hampering the efforts to implement essential cross agency responses.

Recommendation:

- **The UK Government should progress as soon as possible the publication of its hate crime action plan to ensure the police, local authorities, housing authorities and other public authorities work more effectively together to tackle disability hate crime.**
- **The Attorney General's power to review unduly lenient sentences should be extended to include all disability hate crime, with movement towards the creation of specific offences for disability hate crime.**

V. Challenges and constraints:

Equality Act and weakening of protection against discrimination

14. The period since the first UPR review (2008-2012) has seen disabled people being afforded a greater level of protection against discrimination with the passing of the Equality Act 2010. However, notwithstanding the advances in protection from discrimination introduced through the Equality Act 2010, there has since been significant weakening of important provisions in the Act relating to how public bodies in England are required to achieve equality for disabled people^{xv}.

15. Under the Disability Discrimination Act of 1995 and 2005 (DDA), which preceded the Equality Act, there was a duty which required all public authorities to promote disability equality and eliminate disability discrimination. This general duty was underpinned by a set of specific requirements (specific duties) such as the duty on all public authorities to conduct a disability impact assessment of all new and existing policies and practices. These duties resulted in an improved understanding among public bodies of the impact of their policies on disabled people^{xvi}.

16. The Equality Act introduced a new Single Public Sector Equality Duty encompassing all of the protected characteristics in the Act, including disability. The new duty has, however, been undermined by the Government's failure in England to set a robust set of specific duties such as those that existed under the previous DDA. In particular, the new regulations that came into force lack an explicit requirement for public bodies to engage with disabled people in delivering services and carrying out other functions. This is a retrograde step considering the emphasis on involvement which was a core component of the duty under the DDA.

17. The potential for this to lead to a reduced commitment among public bodies to tackling inequalities is a great cause for concern. The changes set out in the regulations would allow public bodies to only commit to a minimum of one objective relating to equality - for instance, a public body could set an objective relating to race equality, but no objectives to other areas of equality, such as disability. There is a risk that a large number of public bodies will fail to identify and take measures to remove structural discrimination, leaving the roots of discrimination faced by disabled people unchallenged.

18. Furthermore, despite strong cross-party support when passed in Parliament, the Equality Act was subject to a UK Government web-based public consultation (the 'Red Tape Challenge') on whether any of the provisions contained in the Act should be scrapped, which raises further doubts over the commitment to this legislation on the part of the Government. We are deeply concerned about the

repeated portrayal of this legislation, by the Government in recent months, as being overly burdensome. Whilst we welcome the Home Secretary Theresa May's subsequent reassurance that the Government does not intend to repeal the Act^{xvii}, there remains a significant degree of uncertainty of changes which may be made to the Act as a result of this exercise.

Recommendation:

- **The Government should commit to a programme of full implementation of the Equality Act 2010, including the sections in the Act which have not yet been brought into force, and ensure that there is no regression from the current levels of protection.**

Potential weakening of human rights protection

19. Building on one of its pledges, the Coalition Government has established in 2011 an independent Commission to investigate the case for developing a UK Bill of Rights^{xviii}. Since the Commission was formed, many organisations in the human rights community have voiced grave concerns that this represents as an attempt to weaken existing legal protections and seeks to undermine the Human Rights Act 1998 (HRA). The HRA, which is the main way in which the European Convention on Human Rights is given effect in the UK, also acts to protect many of the rights contained in the UN CRPD. Any weakening of the HRA would therefore inevitably result in a failure on the part of the UK to meet its obligations under the Convention.

20. Human rights protection afforded by the HRA protection has had a positive impact on disabled people's lives, particularly by establishing a culture of respect for human rights within public services. The Government's review of the implementation of the HRA carried out by the former Department for Constitutional Affairs concluded that 'the Human Rights Act leads to better policy outcomes, by ensuring that the needs of all members of the UK's increasingly diverse population are appropriately considered. It promotes greater personalisation and therefore better public services'^{xix}.

21. Notwithstanding this, there remains much potential to improve the scope of protection that disabled people enjoy at the domestic level. The HRA does not address the particular circumstances of disabled people in the way that the CRPD does. If existing rights are preserved, the development of a Bill of Rights could present an opportunity to strengthen disabled people's rights by giving a greater effect to the provisions in the UN CRPD at the domestic level. We would advocate for using the language of CRPD in any Bill of Rights and enshrining this in UK law.

Recommendation:

- **The Government should ensure that the legal protection offered to disabled people by the Human Rights Act 1998 is not threatened and, if a Bill of Rights is introduced, that the HRA is only enhanced to further the protection of rights that disabled people enjoy in line with the CRPD.**
- **Any UK Bill of Rights should respect the particular circumstances of Northern Ireland through the creation of a distinct Bill of Rights for Northern Ireland as envisaged in the Good Friday Agreement.**

Weakening of disability within Government infrastructure

22. A new disability strategy is expected by spring 2011 (following public consultation). The new director of the Office for Disability Issues Jeremy Moore has stated in a recent speech that the Government's aim is 'to publish an initial discussion document outlining the Government's strategic vision in December', with a view for the final strategy to be published in spring 'after a period of discussion with disabled people, their organisations and others'^{xx}. This is welcome, and we hope that the new strategy to be grounded in the UK's obligations under the CRPD. Nevertheless, the new strategy has also given rise to concerns, particularly as it is still unclear as to whether it will set the direction for Government action towards progressing disability equality in line with the Convention in the long term.

23. Furthermore, we are concerned about the weakening of the role and remit of the Office of Disability Issues and of the Minister for Disabled People, with whom lies the responsibility for the promotion across Government of disabled people's rights lies. Despite originally being designated as the champion for disabled people across government, both the ODI and the Minister have increasingly failed to fulfil this role and have focused more narrowly on welfare and work (which in the UK come under the remit of the Department and Work and Pensions) agenda.

24. These developments have to be stood next to the Government's proposals to reform the Equality and Human Rights Commission (EHRC), which will result in a significant reduction in the resources of the Commission, as well as narrowing of its role and remit^{xxi}. Of particular concern is stripping the powers that the Commission currently has and leaving it with only legalistic levers to deliver equality. This would not be enough to tackle some of the inequalities that persist, nor would it enable the Commission to deliver substantive equality for disabled people. It is vital that the EHRC be adequately equipped to continue to address the more challenging inequalities that affect disabled people.

Recommendation:

- **The Government's forthcoming strategy should include specific reference to the rights and provisions of the CRPD, and explain how these underpin its goals, and how future policy and activities will build towards the full protection described by the Convention.**
- **The Government should review the role and remit of the ODI and the Minister for Disabled People, with a view to putting it on a more strategic footing, and should not undermine the EHRC's mandate to promote equality and human rights.**
- **The Government should ensure that the ODI is adequately resourced to be in a position to enable cross-cutting work across departments, and to ensure disability is fully mainstreamed within Government.**

Disproportionate impact of public spending cuts on disabled people

25. There are grave concerns that the impact of welfare reform package announced by the Government in 2010 has been felt disproportionately by disabled people^{xxii}. In particular, the Government plans to reduce expenditure by 20 per cent on the Disability Living Allowance (DLA), which is an allowance awarded to disabled people as recognition of the additional costs of living with a disability^{xxiii}, would be particularly detrimental to disabled people. This represents a cut of £2.17 billion which will affect more than 835,000 disabled people^{xxiv} who would lose their entitlement to DLA. This support is crucial for disabled people, enabling a more independent life and participation in the community, and for some it helps achieve an adequate standard of living. The withdrawal of this benefit is likely to lead to substantial regression, rather than the progressive realisation of their human rights.

26. The Government is also consulting on a new assessment for establishing eligibility for the Personal Independence Payment (PIP), which will replace DLA in 2013. The reduction in budget is likely to be achieved through tighter eligibility criteria that will see those disabled people judged not to have the most serious needs, removed from DLA/PIP. This will have huge implications for the well-being, independence and enjoyment of human rights for around 652,000 disabled people currently receiving low rate care DLA payments for whom the new PIP will not provide an equivalent level of support^{xxv}.

27. It is generally accepted that plans to reduce the deficit will adversely impact on the Government's ability to fulfil its obligations under the Convention and on the realisation of disabled people's rights. About 400,000 disabled people will also lose Employment and Support Allowance (ESA) once this out of work support becomes time limited to one year for people who have previously paid National Insurance contributions^{xxvi}. This policy will place an arbitrary time limit on contributory ESA, which is not based on any evidence of how long it takes an ESA claimant to find work or improve their health^{xxvii}.

28. The impact of the proposed welfare measures is likely to be cumulative and far reaching. The Government has also announced that the Independent Living Fund – which provides financial assistance

to disabled people and helps councils support disabled people with the highest needs across the UK – will be permanently closed to new applicants, with no announcement as to what funding might replace it^{xxviii}. At the same time, tightening of eligibility for social care and support by local Government mean that more disabled people will find themselves without adequate support to live independently and participate in their local communities. Because of a 26 per cent reduction in central Government funding, 81 per cent of local councils have been forced to restrict support to those disabled people with only the highest (substantial and critical) needs^{xxix}.

29. This is putting pressure on an already stretched care and support system in the UK which is approaching crisis point^{xxx}. Despite two independent commissions on the reform of funding^{xxxi} and modernising care and support^{xxxii}, the Government is continuing to consult^{xxxiii} on plans rather than seeking a viable cross-party model that guarantees protection and assistance as required under the CRPD. Existing legislation restricts disabled people freedom of movement^{xxxiv} and does not adequately provide for assessed level of need^{xxxv}.

30. Cuts to programmes that support independent living at the national and local level, and the failure to take progressive action on the continuing care crisis, is putting at risk the infrastructure that enables disabled people to participate in, and contribute to society. This trend is further exacerbated by the funding for disabled people's organisations (DPOs) being drastically reduced, which threatens the very existence of many of them^{xxxvi}.

Recommendation:

- **The Government must use the scrutiny powers available to initiate an independent review of the value for money and compliance of reforms with human rights mechanisms by the Public Accounts Committee, National Audit Office and Joint Committee on Human Rights and use their recommendations for revisiting planned reforms to welfare and support.**
- **The Government must commit to addressing the care crisis and ensuring modernised system promotes disabled people's rights to freedom of movement and provides adequate support that covers the true cost of need.**

Reduction in support for disabled children and their families

31. The Government has set out its plans for introducing the new Universal Credit, the aim of which is to merge all benefits and tax credits into a single scheme. The Government estimates that this will take 350,000 children out of poverty^{xxxvii}. Questions have, however, been raised as to whether these ambitions can be realised in practice. Analysis has revealed that disabled children and their families could lose out significantly in terms of the support they receive compared to the current system. Under the new Universal Credit which will see the disability element of child tax credit replaced with a 'disability addition' for the child within household benefits entitlements, around 100,000 families could see their support cut in half from a maximum of £52 per week, down to £25.95^{xxxviii}.

32. A predicted estimate of the losses in income that families with disabled children would see as a result of this change has been calculated to amount up to £1366 per year^{xxxix}. Removing this support risks undermining the Government's own commitment to reduce child poverty, through its first ever child poverty strategy, published in April 2011. At present, the Government only has a partial picture, at best, of the levels of poverty among disabled children, as statistics take no account of the additional costs faced by families with disabled children^{xl}.

33. In addition, in May 2010, the coalition Government's programme promised to remove the bias away from inclusion in the education system. The subsequent Special Educational Needs (SEN) Green Paper proposes to reform the support children with SEN receive^{xli}, but the assumption underpinning the Government's policy is fundamentally incompatible with the right to inclusive education set out in the Convention and in fact does not reflect the reality for parents who struggle to get the right level of support for their child in mainstream education.

Recommendation:

- **The Government must ensure disabled children and their families do not lose out in the shift to the new benefits system under the Universal Credit, and that disabled children's ability to participate and be included into society is not undermined as a consequence of the Government's reforms of the SEN system.**

Impact of proposals to restrict legal aid in terms of access to justice

34. The Legal Aid, Sentencing and Punishment of Offenders Bill^{xlii}, currently passing through Parliament, sets out measures which would remove civil legal aid from a number of areas of law, including housing, education, welfare benefits and employment. The House of Commons Justice Select Committee has raised concerns that the changes could adversely impact particular groups, as the Government conceded that it was not certain of the impact, including on disabled people, due to information gaps^{xliii}.

35. The equality impact assessments that examine the proposals to restrict the categories of cases for which legal aid will be provided in the future highlighted that disabled people rely more on legal aid than other groups and that there is a very real risk that they will be disproportionately impacted by the proposed changes^{xliv}. This difference is greater in certain areas of law to be taken out of scope: for example, disabled people make up 58 per cent of those who receive legal aid for welfare benefits cases and who would be denied specialist legal advice if these proposals are implemented (with at least 78,000 disabled people losing access to legal aid as a result)^{xlv}. This will effectively leave many disabled people unable to enforce their rights, undermining the UK Government's obligations under the CRPD.

Recommendation:

- **The Government should commit to retaining the current level of legal aid funding for social welfare law, and ensure that all disabled people have access to good quality publicly funded legal advice when they need it and in cases where their rights are affected.**

Reductions in employment support and lack of access to employment opportunities

36. Cuts to work-related benefits, such as Employment Support Allowance, are happening as in-work support is being reduced. An independent review into supporting disabled people getting and staying in work focused strongly on the need to expand and improve Access to Work^{xlvi}, which is a core scheme that provides funds for adaptations and equipment to support disabled people in the workplace. However, there is growing evidence about disabled people having had their level of support reduced or changes being made to the kinds of support that can be funded. Government statistics reveal that fewer disabled people are getting crucial support through this scheme^{xlvii}: just 13,280 of new customers were given funding in 2010-11, compared to 16,500 in 2009-10^{xlviii}. A reduction in Access to Work support would substantially restrict the employment opportunities disabled people have, as the cost for adaptations would have to be met by employers or disabled people themselves.

37. Furthermore, there is a range of specialist disability employment provision in place. The Government has replaced all welfare-to-work schemes into a single 'Work Programme' which was introduced in 2011. It intends to offer a personalised package of support to disabled people out of work. There has been concern, however, that by continuing to use models similar to previous employment initiatives, the Work Programme will have similarly low success rates^{xlix}. In the black box and payment by result approaches that the Government is pursuing in its funding of the Work Programme, the Government has failed to avoid the 'creaming' of those disabled people needing more support who have more complex barriers and are a greater distance from the workplace (with providers of the Work Programme focusing instead on the most job-ready clients).

38. Similarly, the accompanying 'Work Choice' scheme is tailored to suit the needs of each individual disabled person and provides specialised support to find employment and to keep employment once a job has been found and started. Underfunding of this specialist support means that in reality very few disabled

people will be able to get a place on the scheme, with only 13,000 places for Work Choice available each year¹.

39. When exploring disability employment support, the emphasis has been placed primarily on incentivising benefit recipients to work. This, however, overlooks the need to incentivise employers to make reasonable adjustment for disabled applicants. To improve the current low rates of employment for disabled people, there needs to be a greater recognition of the disadvantage disabled people face in the labour market, due to the lack of jobs and persisting negative attitudes. This is particularly relevant as the Government considers reforming sheltered employment and residential training colleges, and moving disabled people into mainstream work opportunities. While we generally welcome the direction that an independent review has recently recommended^{li}, the Government must also consider the transitional protection for thousands of disabled people currently located in sheltered employment and those in residential training colleges.

Recommendation:

- **The Government should commit to a review of the Work Programme after a year to monitor how effective the models are, and see how providers are meeting the needs of disabled people with more complex needs, who may move closer to towards the labour market, but would require support over a longer period.**
- **The Government should implement the recommendations to expand and guarantee increased investment into Access to Work set out by the independent review.**
- **The Government should address the need for transitional protection for disabled people in Remploy factories and those in residential training colleges.**

Negative portrayal of disabled people

40. Issues around disabled people receiving welfare benefits are frequently presented in a negative light. A study on the coverage of disability issues in the media demonstrates that there has been an increase in articles focused on disability benefit and fraud and that negative reporting of disabled people as 'undeserving' has become commonplace within media^{lii}. It also highlighted the repetitive use of derogatory or negative terms such as 'scrounger', 'cheat' and 'skiver' in association with disabled people^{liii}. It concluded that 'this strength of fraud as a tabloid theme conflicts with the reality of levels of incapacity benefit fraud' and detracts from 'problems in lack of labour market demand, economic policies or discrimination^{liiv}'. Worryingly, research has also shown that this may be contributing to stigmatisation, victimisation and exclusion of disabled people^{liv}. There are concerns that negative media coverage of disability issues has been exacerbated by misrepresentation of statistics on disability related benefits in Department for Work and Pensions (DWP) press releases^{lvi}.

Recommendation:

- **Within the announced review into UK press standards^{lvii}, the Government should address the need for greater accountability for how issues affecting disabled people, and particularly those claiming state benefits, are covered in the media.**

Private health and social care provision

41. Victimisation, neglect and ill-treatment of disabled people in privately-run residential care establishments are a real cause for concern. A range of Convention breaches have been documented in the recent case at Winterbourne View care home, Bristol. A BBC programme in May 2011 exposed the systematic abuse of people with learning disabilities and autism, including instances where residents were routinely kicked, taunted, dragged into showers while fully clothed, pinned down and slapped^{lviii}. There have been increasing concerns about private care being profit-driven and their capability to uphold human rights, whilst seeking to exploit economies of scale and undertaking risks that put those rights at peril.

42. The recent care home crisis is an example of growing trend of privatisation of Government services, which will only be accelerated under the Government plans to allow private companies to bid for most

public services. Within the context of the health reforms, the Government is proposing to create new structures such as GP consortia to take charge of commissioning almost all NHS services, which could be taken over by private companies. Furthermore, this is occurring against a wider context increasingly focused on the personalisation of services, reflecting the expectations that disabled people should be able to exercise choice and control over any support they may need^{lix}. This includes a range of options, including having a direct payment or a personal budget to arrange support, and represents a positive step towards realising disabled people's rights in the CRPD, but does raise questions as to whether a greater connection with human rights is needed within a system of self-directed support. Taken together, these developments pose the risk of further blurring the human rights obligations of organisations involved in the provision, commissioning and regulation of health and social care.

Recommendation:

- **With both health and social care to be significantly reformed, the Government must undertake a review into whether current human rights protection is sufficient to protect disabled people's rights, and how any new structures created under planned reforms will need to be able to evidence their compliance with human rights of disabled people.**

Failure to protect right to life

43. In recent months, there has been an on-going public debate about assisted suicide^{lx}, with many arguing about the urgency of the need to reform the law to legalise assisted suicide. The context for this debate has been set by an increase in the number of cases where there may have been sufficient evidence to charge a person with aiding a suicide, but where the Crown Prosecution Service has made a decision not to pursue a prosecution. Guidance on when prosecutions should be brought has been published by the Crown Prosecution Service in 2009^{lxi}. There have been no prosecutions resulting from the last 44 cases since the guidelines came into force^{lxii}. This creates a real danger of inadvertently weakening legal protection of disabled people's right to life, which would run counter to the obligations under the CRPD. Should reform of the law allow assisted suicide to be introduced, there will be a great risk of disabled people being subject to coercion to end their own lives, however tight the safeguards.

Recommendation:

- **The Government must avoid weakening the legal protection disabled people currently enjoy of their right to life, by decriminalising the offence of aiding a person to commit suicide.**

Statistics and Data

44. The availability of appropriate disaggregated accessible information and statistics under Article 31 and 21 UNCRPD to the State, the independent monitoring body, civil society and crucially disabled people and their representatives is central to evidence-based policy making and to an effective monitoring process under Article 33 UNCRPD.

Recommendation

- **The Government should collect data and statistics to facilitate CRPD implementation, in line with its obligations under CRPD.**

References

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- ^{iv} Equality and Human Rights Commission (2011), Response to the Home Office consultation: Review of the immigration reservation, http://www.equalityhumanrights.com/uploaded_files/consultations/ho_crpd_consultation_response.doc <http://www.equalityhumanrights.com/legal-and-policy/consultation-responses/response-to-home-office-consultation-review-of-immigration-reservation/>
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- ^{vi} House of Commons (2010), Speaker's Conference on Parliamentary Representation Final Report, <http://www.publications.parliament.uk/pa/spconf/239/239i.pdf>
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- ^{viii} This provision in Equality Act following from recommendation of the Speaker's Conference on Parliamentary representation, <http://www.publications.parliament.uk/pa/spconf/239/239i.pdf>
- ^{ix} Ministry of Justice (2011), MOJ Equalities Annual Review 2010-2011, <http://www.justice.gov.uk/downloads/publications/corporate-reports/MoJ/equalities-annual-review-2010-2011.pdf>
- ^x Only data available is Association of Chief Police Officers (ACPO) figures which shows an increase by one fifth of incidence of disability hate crime in 2010, though a variety of reports have indicated that this is in all likelihood a great underestimation of the extent of disability hate crime, <http://www.acpo.presscentre.com/Press-Releases/ACPO-publishes-hate-crime-data-for-2010-111.aspx>
- ^{xi} Parliamentary debate at Report stage of the Legal Aid, Sentencing and Punishment of Offenders Bill, <http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm111101/debtext/111101-0002.htm#11110173000002>
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