



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland

Addendum

Information received from the United Kingdom of Great Britain and Northern Ireland on follow-up to the concluding observations*

[Date received: 5 September 2018]

* The present document is being issued without formal editing.



Introduction

1. This is the response of the United Kingdom of Great Britain and Northern Ireland to paragraphs 73 and 74 of the Concluding Observations (UN ref. CRPD/C/GBR/CO/1), which concern the recommendations set out in paragraphs 45 (independent living and being included in the community), 57 (work and employment), 59 (adequate standard of living and social protection) and the recommendations made by the Committee in its 2016 inquiry report (UN ref. CRPD/C/15/4) carried out under article 6 the Optional Protocol to the Convention (OP-CRPD).

2. The UK, Welsh and Scottish Governments, and the Northern Ireland Executive share a commitment to supporting and improving the lives of disabled people. This response provides information on policies and services that are delivered nationally, and policies that have been devolved which enable the devolved administrations to provide tailor-made complementary or additional services to address the particular needs of disabled people across the UK and Northern Ireland.

Section 1: Independent living and being included in the community – response to recommendations in paragraph 45 (a–e) of the concluding observations

Recommendation 45 (a)

3. Independent living is a core part of the wellbeing principle of the Care Act 2014,¹ which consolidated and modernised the framework of care and support law in England.

4. The Care Act 2014 supports an individual's control of their day-to-day life, suitability of living accommodation and contribution to society – and requires local authorities to consider each person's views, wishes, feelings and beliefs. It also prioritises independence and wellbeing at an early stage and throughout a person's care journey. This is done through better support and advice for individuals and their careers, better housing options and, if needed, services to help people in their own homes. Integrated Personal Commissioning and personal health budgets are also available to give disabled people and those with more complex long-term conditions control over their own health and wellbeing.

5. The Care Act 2014 places a duty on English Local Authorities to assess any adult with care and support needs, and to meet the needs of people assessed as eligible for support, based on means testing. In cases where the cost of care would reduce a person's income significantly the authority will bear some cost.

6. We are also committed to the principle of supported decision-making and this principle is enshrined in the Mental Capacity Act 2005 which requires that all practicable steps be taken to help a person make a decision before they are treated as lacking capacity to make that decision.

7. Since 2017, the Welsh Government has been reviewing its Framework for Action on Independent Living,² which will set out what it is doing to promote an inclusive and enabling society. It has sought the views of disabled people through workshops and a public survey. A steering group of disability stakeholders, chaired by the Chief Executive of Disability Wales, is overseeing the review. Welsh Government officials have been identifying cross cutting actions for inclusion in a new plan. The revised Framework will include clear targets and monitoring arrangements.

8. The code of practice in relation to Part 2 of the Social Services and Well-being (Wales) Act 2014³ was developed to provide local authorities with guidance on their duties

¹ <http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>.

² <https://gov.wales/topics/people-and-communities/equality-diversity/rightsequality/disability/framework-for-action/?lang=en>.

³ <https://gov.wales/topics/health/socialcare/act/?lang=en>.

to seek to promote the well-being of people who need care and support and carers who need support. This directly refers to the Convention, stating that: ... ‘when exercising social services functions in relation to disabled people who need care and support and disabled carers who need support, local authorities must have due regard to the UNCRPD’.

9. The Scottish Government is committed to improving the quality of care in Scotland and wants to ensure that everyone who requires care has access to the highest standards of care in every setting, whether in their own home or a care home. The integration of health and social care services is the most significant change that has been made to the way people are cared for in their communities since the creation of the NHS. Integrated authorities are continuously working on sharing their knowledge and experiences, capturing the learning from what doesn’t work as well. Home care clients now receive on average more than double the number of hours of care that they received in 2000.

10. Local Authorities in Scotland as the strategic housing authority have the responsibility for assessing housing requirements in their area and setting out in the Local Housing Strategy and Strategic Housing Investment Plans⁴ how these requirements will be met.

11. The Scottish Government has an established housing planning framework which we continually look to evolve and improve. We have committed to bring forward, in the refreshed Local Housing Strategy guidance, a requirement for all Local authorities to introduce a realistic target across all tenures for the delivery of wheelchair accessible housing. The refreshed Local Housing Strategy guidance is due to be published in Summer 2019 and will also consider the broader equalities responsibilities of local authorities as well as the way in which disabled people and disabled peoples groups can have meaningful input into the development of the Local Housing Strategy.

12. In Northern Ireland, the central objectives of community care services⁵ are to:

- Help people remain in their own homes, or in as near a domestic environment as possible, for as long as they wish and it is safe and appropriate to do so;
- Provide practical support to carers to support them in their caring role; and
- Ensure that residential care, nursing home care and hospital care is reserved for those people whose care needs cannot be met in any other way.

13. Everyone, regardless of whether their care needs are short or long term and whether these needs are complex or not, has the right to approach their local Health and Social Care Trust to access the care management process and receive appropriate levels of support and advice as required. This also applies to service users who are in a position to cover the full costs of their residential care or nursing home care.

14. The Mental Capacity Act⁶ (Northern Ireland) 2016 (MCA) was enacted by the Northern Ireland Assembly in 2016 but is not yet commenced. When commenced the Act will provide a statutory framework for acts in relation to care, treatment and personal welfare for those who are 16 and over and lack capacity to consent.

Recommendation 45 (b)

15. In England, the UK Government has committed to publishing a Green Paper, by autumn 2018, setting out proposals for the reform of adult social care. Following best practice from other consultation all content will be accessible for disabled people. We are also taking forward a programme of work which is being led jointly by the Department of Health and Social Care and the Ministry of Housing Communities and Local Government, focussed on working-age adults with care needs.

16. We are running five projects to evaluate and inform implementation of the Care Act 2014 and provide a better understanding of how local authorities are implementing the Care Act 2014 in relation to care planning and the support that facilitates personalisation, choice,

⁴ <http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/105204.aspx>.

⁵ <https://www.health-ni.gov.uk/articles/community-care>.

⁶ <http://www.legislation.gov.uk/nia/2016/18/contents/enacted>.

control and good care outcomes. We have commissioned research that examines personalised services, such as a project led by the University of Birmingham on ‘Shaping personalised outcomes – how is the Care Act 2014 promoting the personalisation of care and support’ which is due to be completed in August 2019. The project will also identify good practice, and lessons which can be shared across the care sector.

17. The UK Government recognises the importance of collaboration with people with lived experience, the voluntary sector and statutory bodies. The Department of Health and Social Care engages extensively with self-advocates representing the views and experiences of disabled people, their families, carers, and representative organisations when developing policy. This includes the Transforming Care Stakeholder Roundtable, the Learning Disability Advisory Group, the Health and Wellbeing Alliance, and the groups formed as part of the refreshed governance arrangements in support of the Autism Strategy.⁷

18. In 2015 the UK Government transferred the Independent Living Fund (ILF), with budgets in England to local authorities, enabling more local decisions on adult social care provision. The Welsh Government established a new £26m per year Welsh Independent Living Grant which ran until March 2018 to enable authorities to continue support payments to former ILF recipients in Wales.

19. Following subsequent engagement with stakeholder representatives, in 2016 the Welsh Government announced that by 31 March 2019 all former ILF recipients will have their support needs met through social care assessment and provision under the Social Services and Well-being (Wales) Act 2014.⁸ Disabled people’s needs are assessed against their desired well-being outcomes, including their desire to live independently, and a future care and support plan is agreed to meet these. The Welsh Government is providing £27m per year to local authorities from 2018–19 for implementation.

20. In Scotland, the Independent Living Fund (ILF), transferred from UK Government, currently supports 2,400 people. A new fund, the ILF Transition Scheme opened in 2017 to support young disabled people as they enter into independent adulthood. The fund was developed through joint work between the Scottish Government and disabled people, including young people and their organisations, and currently funds more than 400 young people.

21. The Scottish Government is working to remove the distinction in the availability of free personal care between those over and under the age of 65, with a full extension of free personal care to under 65s in April 2019.

22. The Department of Health through an inter-government agreement with the Scottish Government, through ILF Scotland, continues to ensure that ILF payments are made to severely disabled people with intensive care needs in Northern Ireland. This funding is used to pay either for care agency staff, or for the recipient to employ their own personal assistant.

Recommendation 45 (c)

23. In 2016/17 the UK Government spent £16.8bn for social care funding, delivered through Local Authorities. In England a further £9.4bn dedicated funding for social care has been made available between 2017/18 and 2019/20. This is a significant investment and will ensure that councils can increase the capacity of the social care system, including support to meet the social care needs of people with disabilities. This funding is made up of the:

- Improved Better Care Fund grant, provided to improve local services targeted at elderly and vulnerable people which will be £1.5bn in 2019/20;
- An adult social care precept, which enables councils to raise local funds to support social care in 2018/19;

⁷ <https://www.gov.uk/government/publications/think-autism-strategy-governance-refresh-2018>.

⁸ <http://www.legislation.gov.uk/anaw/2014/4/contents/enacted>.

- A new £240m Adult Social Care grant in 2017/18, derived from savings made from reform to the New Homes Bonus;
- An additional £2bn announced at Spring Budget 2017 for councils to spend on social care;
- A further £150m Adult Social Care Support Grant in 2018/19. This grant will be allocated according to relative needs and will further help support the care market.

24. Supported housing helps underpin the government's obligation to support the most vulnerable, including disabled people with support needs. To understand how best to fund the supported housing sector, the Ministry for Housing, Communities and Local Government and the Department for Work and Pensions (DWP) have consulted and worked closely with the sector, seeking views from a wide range of stakeholders, including those representing disabled people about the funding model for this sector. The Government recently published a response in August 2018 to the earlier consultation. This confirmed that funding for housing costs for all supported accommodation, including such accommodation for disabled people, will remain in the welfare system, alongside development of additional and robust oversight of the sector to deliver quality and value for money. The Government believes this affirms its clear commitment to putting in place sustainable funding arrangements for supported housing.

25. The UK Government recognises the essential role aids and adaptations play in allowing disabled people to live safely and independently. In England funding for the Disabled Facilities Grant⁹ (DFG) which supports older and disabled people on low-incomes to adapt their homes to make them safe and suitable for their needs, such as installing stair lifts, ramps or bathroom adaptations has increased from £220m in 2015/16. The Autumn Budget 2017 provided an additional £42m for the remainder of the 2017/18 financial year, totalling £473m. Funding for the DFG was £468m in 2018/19 and will rise further to £505m by 2019/20. This funding is accessed by disabled people through their local councils.

26. In 2018–19, the Scottish Government's overall package of additional direct investment in social care and integration totals over £550m. Social care expenditure for adults is around £3bn per year within the overall £8.5bn of funding for local services, which Integration Authorities are now responsible for and which was previously managed separately by NHS Boards and Local Authorities.

27. The Scottish Government has also committed an additional investment of £10m to enhance the ILF quantum of funding inherited from the UK Government since 2015.

28. The Welsh Government provides:

- Almost £32.5 m in 2016/17 to local authorities for DFG via a General Capital Grant to help adapt homes for disabled people;
- £4m in 2018/19 to local authorities for 'ENABLE – Support for Independent Living' to improve support for disabled people wanting to live independently in their own home.

29. The Supporting People Programme¹⁰ in Wales helps disabled people to find and keep a home or accommodation, and to live as independently as possible, for example by funding a bed in supported accommodation or a support worker. Local authorities administer the grant. The spend for 2017/18 included £29.4m on services for people with learning disabilities, £1.4m for people with physical and/or sensory disabilities and £13.4m for people with mental health issues.

30. In Northern Ireland, the Department of Health is taking forward a reform of adult care and support services. This extends to services such as self-directed support, domiciliary care, residential care and nursing home care. To inform this process it is intended that there will be a big conversation with the wider public on key issues such as attitudes to age, disability, independence and risk.

⁹ <https://www.gov.uk/disabled-facilities-grants>.

¹⁰ <https://gov.wales/topics/housing-and-regeneration/services-and-support/supporting-people/?lang=en>.

31. The Northern Ireland Government launched the Inter-Departmental Review of Housing Adaptations Services in 2010. Prior to completion of the final report and action plan, significant work with people with disabilities, occupational therapists, housing designers and providers has been undertaken and this has resulted in some actions being progressed where there has been broad support.

32. The Supporting People Programme¹¹ in Northern Ireland aims to provide:

- A better quality of life for vulnerable people to live more independently and maintain their tenancies;
- Housing related support to prevent problems that can often lead to hospitalisation, institutional care or homelessness;
- Help to smooth the transition to independent living for those leaving an institutionalised environment.

33. The Programme worth a total of £72.8m (2018/19), is delivered by the Housing Executive and currently supports over 18,500 vulnerable people to live independently through the provision of housing support services.

34. Most services are accommodation based providing accommodation and housing support services in one location which can be hostel, sheltered housing or other type of supported housing accommodation. The majority of providers are from the Community and Voluntary Sector with Housing Associations as their accommodation landlords. A number of accommodation services, particularly for those with disabilities and for older people with special needs, are jointly commissioned with Health and Social Care Trusts.

35. In Northern Ireland the 2017/18 budget for 2017/18 for DFG was £9.5m and the proposed budget for 2018/19 is £9.5m.

36. The Department of Finance Rate Rebate scheme replaces a system of rates support that was previously paid through Housing Benefit. It was established in 2017/18 in response to welfare reform and the introduction of Universal Credit (UC). Disabled people in receipt of UC are eligible for help under this new scheme depending on the amount of their income.

Recommendation 45 (d)

37. Independent living is central to the wellbeing principle of the Care Act 2014 as set out in paragraphs 3 to 6 above.

38. The Transforming Care programme¹² aims to improve health outcomes and quality of life for people with a learning disability and/or autism, including those with a mental health condition, who have challenging behaviour. Its focus is improving community-based support, so that people are less likely to be admitted as inpatients because of their learning disability, and discharging long-stay inpatients into the community.

39. 'Building the Right Support (2015)¹³ set a target of a 35–50% reduction by March 2019 in the number of people with learning disability of all ages who are inpatients. The inpatient total at the end of May was 2,400 which represents 16.5% decrease since 2015.

40. The programme specifically addresses factors which result in people being needlessly admitted as inpatients, but also complements other programmes creating integrated health, education and social care support for children and young people with special educational needs, and increasing the proportion of people with learning disabilities in employment.

41. The Transforming Care Stakeholder Roundtable, which is central to the Transforming Care assurance process, includes self-advocates, carers, family members and organisations representing the lived experience of people with disabilities.

¹¹ https://www.nihe.gov.uk/iisengine/cmengine.dll/2/index/advice/supporting_people.htm.

¹² <https://www.england.nhs.uk/learning-disabilities/care/>.

¹³ <https://www.england.nhs.uk/wp-content/uploads/2015/10/ld-nat-imp-plan-oct15.pdf>.

42. The DFG helps people to be as independent as possible in their own homes, enabling them to remain a part of their community. Through ensuring that a person's home is safe and suitable, it can support faster hospital discharge, reduce hospital admissions, and reduce and/or delay a care need, including the need to move to residential care.

43. An independent review of the DFG in England was completed in July 2018. The scope of the review was to assess how the DFG is currently working, and make evidence-based recommendations on how it could change in the future. Consultation events allowed interested parties to contribute to the review. The Government is currently considering the report's recommendations.

44. The Physical and Sensory Disability Strategy and Action Plan¹⁴ was developed to help achieve and improve outcomes, services and support for people in Northern Ireland who have a physical, communication or sensory disability. It's intended to provide the strategic direction for the further development of services for disabled people. The strategy addresses the needs of all age groups, regardless of the cause of their disability. In accordance with the articles and principles of the Convention, it promotes; dignity and respect for individual differences, social inclusion and acceptance of the individual by society, independence and life opportunities, informed choices, anti-discrimination in service provision and equality of opportunity and access to services and facilities.

45. The Northern Ireland Housing Executive (NIHE) carry out ongoing surveys across all their services including the DFG. Feedback continues to be generally positive, however timescales for applications are of concern. In recent years NIHE have embarked on a Journey to Excellence Programme¹⁵ to improve and streamline their customer service. Part of this programme is reviewing the DFG process to identify and put in place ongoing improvements in administration of grants to customers.

46. The Welsh Government began a cross government review of learning disability policy, services and funding in Wales in February 2017 to identify where action could potentially be taken to build on existing good practice. The included engagement with over 2,000 people.

47. The review made recommendations in five areas: Early Years; Housing; Social Care; Health and Well-being; and Education, Employment and Skills. The Welsh Government's Cabinet has considered the review and will soon issue a Written Statement.

48. The Welsh Government promotes the role of non-clinical support in a social model of health and wellbeing. As part of this agenda, it is committed to delivering a social prescribing pilot for mental health, to link people with mental health problems to community-based support.

49. The Scottish Government published its 10 year Mental Health Strategy¹⁶ in March 2017. The Strategy lays out the Government's aspiration to work towards achieving parity between mental and physical health, and contains an initial set of 40 actions. Those include work contributing to whole systems change, primary care transformation, and how employers can support employees experiencing poor mental health. The strategy also recognises as a theme the importance of human rights and as part of this, has committed to actions around reviewing various aspects of mental health and incapacity legislation.

Recommendation 45 (e)

50. UK Government Spending Review plans for social care consider the needs of people using social care.

51. Costs of future care needs are agreed through spending review discussions with HM Treasury, Department of Health and Social Care, and Ministry of Housing Communities and Local Government, and are met through a mix of central grant, NHS transfer, council tax and business rates.

¹⁴ <https://www.health-ni.gov.uk/publications/physical-and-sensory-disability-strategy-and-action-plan>.

¹⁵ https://www.nihe.gov.uk/customer_excellence_strategy.pdf.

¹⁶ <https://www.gov.scot/Publications/2017/03/1750>.

52. We regularly monitor risk in the social care system, including possible links to funding, and respond to this working across Government. In addition, we are working with the Ministry for Housing, Communities and Local Government to effectively monitor local authorities' use of additional funding for social care in this Spending Review period, to better understand the impact this is having on the sector.

Section 2: Work and employment – response to recommendations in paragraph 57 (a–e) of the concluding observations

Recommendation 57 (a)

53. The UK Government is committed to supporting disabled people to reach their potential. This is why we committed to get one million more disabled people into work over the next ten years. This means supporting people who can work to stay in or enter work.

54. Our employment policies and support are proving effective – the number of disabled people in work in the UK increased by almost 600,000 in 4 years to reach around 3.5 million in 2017.

55. To help achieve the one million target, in 2015 we set up a joint departmental unit between the Department of Work and Pensions and the Department of Health and Social Care Work to oversee the successful delivery of this commitment and ensure a joined up approach across the welfare, workplace and health sectors.

56. We also introduced our Personal Support Package¹⁷ which expands and improves support for people with disabilities and health conditions, with examples shown in the following paragraphs. It includes £330m of funding over four years from April 2017 for a range of new interventions providing tailored support to individual claimants.

57. Local offices, which provide employment support and welfare (Jobcentres) have recruited 300 additional disability employment advisors to provide tailored support, on site to disabled people. Additionally we have recruited 200 Community Partners, designed to strengthen local links with employers and services to support disabled people into employment.

58. We have introduced the Health and Work Conversation for Employment and Support Allowance (ESA) claimants and it is being used flexibly for UC customers. The Health and Work Conversation helps the work coach to build rapport with the claimant. It is a claimant centred conversation which includes tools to help claimants plan for a goal that is important to them and build their motivation to achieve it.

59. The Work and Health Programme has total contracted value of around £500m from 2018 to 2023 to support disabled people into sustained employment.

60. We also spent £104m on the demand-led Access to Work¹⁸ scheme in 2016/17 – up from £96m in 2015/16. Access to Work provides a tailored grant for equipment, adaptations or personal assistants to those who are eligible so that disabled people have the same access to work opportunities as everyone else. The number of beneficiaries rose 8% to over 25,000 in this period.

61. In April 2018 we announced the Access to Work Tech Fund, which will waive the mandatory contribution medium and large employers were required to pay towards the cost of assistive technology required by disabled employees. This encourages engagement with the Access to Work scheme, helps Employers to make a significant savings and boosts demand and funding for the market, whilst helping smooth the way for disabled employees to access the equipment they need.

62. The UK Government is also supporting the creation of more job opportunities for disabled people by working with employers and entrepreneurs. Our Small Employer Offer

¹⁷ <https://www.gov.scot/Publications/2017/03/1750>.

¹⁸ <https://www.gov.uk/access-to-work>.

helps and encourages local small employers to offer job opportunities to disabled people and people with health conditions, with in-work support available for both the employer and employee, with £3m per year committed from April 2017 to March 2019. The New Enterprise Allowance¹⁹ provides free mentoring support and helped around 25,250 disabled people to start up their own business, with funding of up to £30m per year until March 2020.

63. The Disability Confident²⁰ scheme gives employers the tools to confidently recruit, retain and develop disabled employees. There are over 7,000 employers signed up to Disability Confident. All of the main Government departments have achieved Disability Confident Leaders, as have 70% of local authorities. A recent innovation has been the establishment of a series of Specialist Themed events, in which Disability Confident Leaders share their knowledge and experience on specific topics with other Disability Confident employers, which include mental health, workplace adjustments and recruitment, with others to follow.

64. We have a number positive case studies about Disability Confident including one from Fujitsu who says: Since becoming disability confident, Fujitsu has significantly increased the number of people with disabilities on its graduate recruitment programme – 20% of the cohort last September had disabilities. Fujitsu has also seen an increase in the number of employees declaring they have a disability, which allows the company to better provide adjustments or support.

65. We are investing up to £115m to build the evidence of what works to support people into work. This includes: more than doubling the number of Employment Advisers in Improving Access to Psychological Therapies services; Tri-work: Supported Work Experience in Schools, providing a supported work experience placement of up to two weeks for pupils in Year 10 or 11 who have special educational needs; mental health trials; and the Work and Health Innovation Fund.

66. Poor mental health costs the UK economy between £74bn and £99bn a year and employers between £33bn and £42bn a year. Thriving at Work: The Stevenson/Farmer Review of Mental Health sets out a business case for action and recommends that all employers should adopt mental health standards to encourage an open and transparent organisational culture that supports employees' mental health. The Prime Minister welcomed the review and made a commitment for the Civil Service and NHS England to abide by the recommendations.

67. The Welsh Government's Employability Plan,²¹ published March 2018, focuses on individualised employment support, the responsibility of employers to support staff, closing skills gaps and preparing for a radically changing labour market. The Plan commits to increasing the number of employers who create inclusive and supportive workplaces for disabled people.

68. The Scottish Government committed to reducing, by at least half, the employment gap between disabled people and the rest of the working age population in its December 2016 publication 'A Fairer Scotland for Disabled People'.²² Throughout 2017 the Scottish Government has engaged extensively with disabled people, their representative organisations, and employers which culminated in a major congress on Disability, Employment and the Workplace. We are consulting on increasing employment of disabled people in the public sector, including exploring target setting.

69. Health and Work Support is a two year pilot in Fife and Dundee starting in 2018, to trial new solutions to improve employment outcomes for disabled people and people with health conditions, particularly those who are struggling to stay at work or recently unemployed.

70. The Scottish Government will publish a cross-Government Disability Employment Action Plan in autumn 2018. This is being developed alongside disabled people's

¹⁹ <https://www.gov.uk/government/collections/new-enterprise-allowance-campaign>.

²⁰ <https://www.gov.uk/government/collections/disability-confident-campaign>.

²¹ <https://gov.wales/docs/dcells/publications/180319-employability-plan-en.pdf>.

²² <http://www.gov.scot/Publications/2016/12/3778>.

organisations, local authorities and unions. The plan will cover specific employability-related and wider policy actions such as enhancing accessible public transport. In addition, the Scottish Government has committed £1m in ensuring that Scotland's employers have the skills necessary to tap into the vast well of talent that exists in Scotland's disabled community.

71. From 1 April 2018 the Scottish Government introduced its new employability service, Fair Start Scotland. The service is designed to give tailored support to individuals who want help to find and stay in work, and for whom work is a reasonable objective. The service is entirely voluntary and sanctions do not apply for anyone that chooses not to participate. Disabled people are a key target group for our new service and we are pleased with the rate of referrals that are being made to Fair Start Scotland throughout the country. The service aims to help a minimum of 38,000 people over three years of referrals, with disabled people a priority group.

72. The Scottish Government has run an internship programme for disabled candidates since 2015 and has committed to run it until 2021. The programme has attracted a high calibre of applicants, many of whom have gone on to permanent positions.

Recommendation 57 (b)

73. The Equality Act 2010²³ requires employers to make reasonable adjustments in relation to a disabled employee's job where the employer can be reasonably expected to know of the disability. These adjustments help ensure that disabled employees are not placed at a substantial disadvantage compared to their non-disabled colleagues. In Northern Ireland this is covered by the Disability Discrimination Act²⁴ 1995 (Amendment) Regulations (Northern Ireland) 2004.

74. The definition of employment in the Equality Act 2010 is wide, and the relevant duties apply not only to employees in the narrow sense, but also to job applicants, interviewees and to further categories of people such as barristers and partners. The failure of an employer to make reasonable adjustments for a disabled employee or job applicant, or discounting a job application simply because the applicant is disabled, would amount to direct disability discrimination under the Equality Act 2010.

75. The duty on employers in Great Britain to make reasonable adjustments also extends to the physical features of the workplace itself, such as accessibility to the workplace and the facilities available to employees.

76. The Government has conducted a review into protections from workplace discrimination related to mental health, focusing on people with moderate to fluctuating conditions and other conditions that do not meet the current definition of disability in the Equality Act 2010. We are now developing proposals and further announcements will be made in due course.

77. The UK Government has made guidance²⁵ available to employers and public sector organisations on their responsibilities under the legislation. Additionally to help employers be more disability confident there is guidance²⁶ to increase their understanding of disability and their duties, as well as information about support available to them such as Access to Work which can help towards the costs of making reasonable adjustments.

78. Further guidance²⁷ is also available to employers and employees on their rights and responsibilities under legislation through the independent national equalities body, the Equality and Human Rights Commission (EHRC). Guidance is also available from the Advisory, Conciliation and Arbitration Service (ACAS) and company to company support through the best practice hub.

²³ <https://www.gov.uk/guidance/equality-act-2010-guidance>.

²⁴ <https://www.nidirect.gov.uk/articles/employment-rights-and-disability-discrimination-act>.

²⁵ <https://www.gov.uk/government/publications/equality-act-guidance>.

²⁶ <https://www.gov.uk/government/publications/employing-disabled-people-and-people-with-health-conditions/employing-disabled-people-and-people-with-health-conditions>.

²⁷ <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-guidance>.

79. The Equality Act 2010 provides a remedy for a person who has been subject to discrimination in the workplace because of disability. This can include perceived disability, even if the person is not actually disabled, or discrimination because of a person's association with a disabled person. A remedy is also available where an employer has not met their duty to provide reasonable adjustments. In such cases, the disabled person can make a discrimination claim to an Employment Tribunal.

80. The EHRC is taking action to improve enforcement of the reasonable adjustments duty against non-compliant employers and service providers. The EHRC may also take legal action against employers where there is evidence of systematic breaches of the law. It has launched a legal support project to help individuals who have experienced disability discrimination pursue their claims and access justice. Under this project, £189,000 has been provided for legal assistance across 94 cases in areas including employment, education and public services. A review of the EHRC is considering the Commission's powers and whether they remain appropriate. A report will be published in due course. The Women and Equalities Committee has also launched an inquiry into the enforcement of the Equality Act 2010, calling for evidence until October 2018.²⁸

81. The Equality and Advisory Support Service (EASS) helpline provides free bespoke advice and in-depth support to individuals with any discrimination concerns. The EASS and EHRC have a joint Memorandum of Understanding that covers the exchange of information between the two organisations and how they work in partnership. Additionally, ACAS provides authoritative and impartial advice in relation to employment discrimination, and the Citizens Advice Bureau offers free independent legal advice to employees and employers alike.

Recommendation 57 (c)

82. The Work Capability Assessment (WCA) is a functional assessment that determines a person's eligibility for Employment Support Allowance (ESA) and the equivalent UC health elements. It is an assessment tool recognising biological, psychological and social factors affecting a person's capability to carry out work or work-related activity. It is not condition based.

83. We continue to introduce improvements to the WCA following stakeholder engagement and independent reviews. The recent publication 'Improving Lives: The Future of Health, Work and Disability'²⁹ sets out our vision and next steps to best support people to remain in or return to work. As part of this consultation we consulted on WCA reform, however there was no consensus on what the right model of WCA reform would look like. We will therefore focus on testing new approaches to build our evidence base for future reform.

84. The WCA aligns with the social model of disability as it is based on the understanding that the barriers to work are societal; therefore, those with functional capability above a certain threshold can, with the correct support and opportunities, work. The DWP publishes an online guide to help people understand how we make decisions which affect them and includes some of the guidance for healthcare professionals performing the assessment.³⁰

85. WCA is used to determine whether a claimant has limited capability for work, or limited capability for work and work-related activity, or is fit for work.

86. Claimants assessed as not being able to undertake work and work-related activity are placed in the ESA Support Group or the UC equivalent, and are not subject to any work-related activity or sanctions.

²⁸ <https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/news-parliament-2017/enforcing-the-equality-act-launch-17-19/>.

²⁹ <https://www.gov.uk/government/publications/improving-lives-the-future-of-work-health-and-disability>.

³⁰ <https://www.gov.uk/government/publications/work-capability-assessment-handbook-for-healthcare-professionals>.

87. Claimants, capable of some work-related activity are placed in the work-related activity group or the UC equivalent. They are not required to look for, find or take up a job but are required to engage in activities that prepare them for work. This includes work-focused interviews and work-related activity such as skills training, financial learning and support and volunteering opportunities tailored to the claimant.

88. Work-related activity can be one or more defined activities that help move claimants closer to a position where they may be ready to search for and take up work in the future. We recognise it is different for each individual and must be appropriate and reasonable, taking into account their individual circumstances, their physical and mental health and any learning or cognitive issues they might have. Claimants will not be asked to undertake anything that is unrealistic or could put their health at risk.

89. For this group a sanction can only be given for failure to attend a work focused interview or engage with the work-related activity offered without good reason.

90. Imposing a sanction is not something we do lightly. Claimants are given every opportunity to explain why they failed to meet their agreed conditionality requirements, before a decision is made. Each month, less than 1% of ESA claimants are sanctioned. The percentage of ESA claimants with a drop in payment due to a sanction is down 0.1 percentage points to 0.2% from June 2017.

91. We place additional emphasis on protecting more vulnerable ESA or UC recipients before a sanction is considered. Before applying sanctions, we can undertake home visits for claimants who have a mental health condition or learning disability, or condition which affects communication/cognition to ensure we have all the information available.

Recommendation 57 (d)

92. In December 2017, the Minister for Defence People and Veterans agreed to a review of the reservation in the context of a modern Armed Forces. The review will commence in due course. It is hoped that this review, and other wider policy changes, will inspire other signatories to review their own policies.

93. The review forms part of a broader effort to modernise Defence. The Ministry of Defence (MoD) has committed to a Diversity and Inclusion strategy³¹ that recognises disability in the Civil Service and Armed Forces Personnel. The Defence People with a Significant Illness (DPSI) project, commissioned in Apr 2017, considers disability in the Armed Forces and the need for change to realise potential within the Armed Forces.

94. The DPSI project will assist the MoD to create a disability positive culture through policy and guidance; the creation of a peer to peer network; healthcare promotion and awareness and communication. Policy will recognise the needs of service persons and their families diagnosed with, or caring for a person diagnosed with, illness and resulting disability.

Recommendation 57 (e)

95. We are committed to promoting and delivering the Sustainable Development Goals (SDGs). The most effective way to do this is by ensuring that the Goals are fully embedded within the existing planning and performance framework, and in particular Single Departmental Plans which set out government departments objectives and how they will be achieved. High level summaries of current plans were published on 23 May,³² together with examples of how the Government's programme will contribute towards the SDGs.³³

96. We will contribute to SDG 8 delivery and aim to achieve full and productive employment and decent work for all women and men, including for young people and disabled people, through a range of activity, including by:

³¹ <https://www.gov.uk/government/organisations/ministry-of-defence/about/recruitment>.

³² <https://www.gov.uk/government/collections/a-country-that-works-for-everyone-the-governments-plan>.

³³ <https://www.gov.uk/government/publications/implementing-the-sustainable-development-goals/implementing-the-sustainable-development-goals>.

- Ensuring the stability of the macroeconomic environment and financial system;
- Supporting economic growth and improved productivity by ensuring work always pays and people are supported to find and progress in work; and
- Helping to reduce the disadvantages faced by disabled people and people with health conditions through the welfare system and the labour market.

97. The principle of equal pay for work of equal value is already protected in the Equality Act 2010.

98. Further information on the UK's approach to the 2030 Agenda and the SDGs is available online.³⁴

Section 3: Adequate standard of living and social protection – response to recommendations in paragraph 59 (a–e) of the concluding observations

Recommendation 59 (a)

99. The UK Government is absolutely committed to providing financial support for those who need it. We provide a wide-range of benefits including additional support elements to better reflect the financial needs of people with long term health conditions or disabilities.

100. We will be spending an estimated £54bn in 2018/19 just on benefits to support those with long term health conditions and disabilities, up from £44.7bn in 2010/11 – the highest ever.

101. The way we deliver benefits is also changing, we are replacing six legacy benefits (such as Employment Support Allowance) with a single simple system called UC. Under UC disabled people claim different elements dependant on their circumstance.

Universal Credit

102. UC encourages people into work. It replaces the complex and confusing allowances and premia of the old system where a disabled person choosing to work might be left financially worse off or be disqualified from certain financial support.

103. We have increased the higher rate for more severely disabled people. This allows greater financial help for many people in the Support Group who do not currently qualify for all possible premiums. This rate is payable based on the outcome of a WCA, which is used to determine whether the claimant has limited capability for work, limited capability for work and work-related activity, or is fit for work.

104. We are not currently migrating any claimants from legacy benefits to UC who have not had a change in their circumstances. From 2019, when we start to migrate claimants, households will get transitional protection against any shortfall between their UC entitlement and their legacy benefit. There will be no cash losers at the point of migration in the absence of a change of circumstances.

Personal Independence Payment

105. Spending for the demand-led, extra costs disability benefits – PIP, Disability Living Allowance (DLA) and Attendance Allowance (AA) – has risen by £5.4bn since 2010 and is at a record high this year of £24.9bn. And spending on these benefits will be higher every year to 2022 than it was in 2010.

106. PIP, which is replacing DLA for working age people, is a new and more focussed benefit that provides non-means tested, non-contributory, tax-free support for disabled people who need it most and contributes to the extra costs disabled people face to help them

³⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/603500/Agenda-2030-Report4.pdf.

lead full, active and independent lives. It is available to individuals regardless of their work, education or training status. PIP was developed through extensive consultation with experts in disability and engagement with stakeholders, including disabled people and their representative organisations. PIP can be paid at one of eight rates varying between £22.65 and £145.35 a week (£1,177.80 and £7,558.20 a year).

107. Nearly 1.8 million people are now in receipt of PIP. And more support is now going to those who need it the most – overall, 30% of claimants are receiving the highest level of support under PIP compared to 15% of working age claimants under the previous system, DLA.

Legacy disability support

108. ESA is an income-replacement benefit which provides support to people with a health condition or disability that face barriers to work. It looks at what work a person can do, rather than focussing on what they cannot. ESA integrates a contributory and an income-related benefit into a single structure.

109. New ESA claimants, from April 2017 receive a rate of benefits on a par with those job-seeking without health conditions and we have protected in regulations existing claimants who leave temporarily, for example to try working and then return. This change did not affect anyone whose ability to work is significantly limited by their health condition.

110. This change enables the Government to focus money on providing practical employment support that will make a significant difference to the life chances of those with limited capability for work. This new funding is worth £60m in 2017/18 rising to £100m in 2020/21 and will support those with limited capability for work to move towards and into suitable employment.

111. To ensure the impact of these changes is fully realised the Government published its assessment of the impacts of the change to the work-related activity component on 20 July 2015.³⁵ As stated in the report, concerning the main affected groups, no families will see a cash loss as a result of the policy.

112. The Scottish Government is committed to providing a rights based social security system that is fully accessible to all, with a right to independent advocacy for those who need it. Some social security benefits for disabled people are being devolved to Scotland. These are DLA, PIP and AA. These benefits aim to help people with the additional costs incurred as a result of their disability or condition, and will help people live independently in their community. These benefits are being co-designed with people who receive benefits, to ensure that we provide a service that meets people's needs and delivers dignity and respect.

Recommendation 59 (b)

113. Since 2010, and at each annual Budget, the UK Government has published cumulative analysis of the impacts of our tax, welfare and public spending policies on households. It has also published Impact Assessments of individual changes to welfare and use of public funding. However, we have not conducted a cumulative assessment of welfare reform as the full impacts on specific households of all government spending such as on education, health, and other non-financial support cannot be reliably modelled.

Recommendation 59 (c)

114. The eligibility criteria for PIP and UC and the approach of the WCA are set out in our response to recommendations 57 (c) and 59 (a).

115. PIP is a new and more focussed benefit that provides non-means tested, non-contributory, tax-free support for disabled people who need it most and contributes to the extra costs disabled people face to help them lead full, active and independent lives. The PIP assessment considers the overall impact of a claimant's health condition or impairment

³⁵ <http://www.parliament.uk/documents/impact-assessments/IA15-006B.pdf>.

on their functional ability, rather than focusing on a particular diagnosis. The eligibility criteria are intended to represent a reasonable proxy for the impact on individuals of disability-related costs. For example, individuals who have difficulties getting out are likely to have higher utility bills, while those who need support planning a journey and moving about are likely to have higher transport costs.

116. We are constantly looking at ways to improve the overall PIP claimant experience. We have delivered a number of improvements to: the customer journey; communications such as letters and text messages; the assessment; and our decision making.

117. And we will continue to make further improvements, for example:

- Exploring options to video record PIP face-to-face assessments if the claimant so chooses;
- Commissioning external contractors to conduct independent research to support improvements to the PIP2 'How your disability affects you' questionnaire;
- Introducing revised guidance which will ensure that those awarded the highest level of benefit, with needs which will not improve, receive an ongoing award with a light touch review at the 10 year point.

118. The High Court of England and Wales set aside the Personal Independence Payment (Amendment) Regulations 2017 in relation to mobility activity 1 in December 2017. The UK Government confirmed on 19 January 2018 that it would not appeal the judgment.

119. On 25 June 2018 the DWP made changes to its guidance to reflect the earlier Upper Tribunal judgment ("MH") from November 2016 which the 2017 regulations sought to reverse. Furthermore, the DWP began a complex administrative exercise on 25 June 2018 to identify claimants who might be entitled to a higher award of PIP. Individuals identified as affected by the judgment will have all payments backdated to the effective date in each individual's claim, which in most cases is either the date of the MH judgment (28 November 2016) or the date of claim, whichever is later. We now expect around 200,000 claimants in Great Britain will gain by 2023/24 as a result of the implementation of this judgment.

120. While the High Court judgement did not apply to the legislation in Northern Ireland, corresponding amendments have been made through the Personal Independence Payment (Amendment) Regulations (Northern Ireland) 2018.³⁶ The Department for Communities intends to mirror the approach being taken by DWP in relation to revisiting all PIP cases potentially impacted by the judgment.

Recommendation 59 (d)

121. The Government periodically assesses resourcing requirements for English local authorities as part of each Spending Review. Informed by advice from departments across Government, HM Treasury and Ministers decide on the total funding which local government will require over the period to remain sustainable whilst delivering Government's objectives. The Government is already working with local councils on a Fair Funding Review,³⁷ to thoroughly consider how to introduce a more up-to-date, transparent and responsive approach to funding local services.

122. The Welsh Government's Local Government Revenue and Capital Settlement provides funding for essential public services. Over the next two years, the funding allocated for the social care within the overall settlement is being prioritised to maintain the Welsh Government share of core spending at the level of 2017/18.

123. For 2018–19, this settlement includes over £90m currently provided as specific grants covering £30m of social care grants, £27m for the Independent Living Grant and £35m of the Single Revenue Grant.

³⁶ <http://www.legislation.gov.uk/nisr/2018/121/contents/made>.

³⁷ <https://www.gov.uk/government/consultations/fair-funding-review-a-review-of-relative-needs-and-resources>.

124. The Northern Ireland Executive has committed to providing funding of £501m over a four year period from 2016/17 to 2019/20 to mitigate the transition to new welfare benefit entitlements. This includes specific funding of £145m for people with a disability. This support is provided in the form of direct financial assistance to affected claimants.

125. Mitigation payments are generally made for a period of up to one calendar year. Any change to the amount, or the duration, of the existing statutory mitigation schemes will require the approval of the NI Executive, which is not possible in the absence of a government.

126. Alongside the current funding allocation, the Northern Ireland Executive has committed to a review of the welfare mitigation schemes in the 2018/19 financial year.

127. Ten of the eleven social security benefits being devolved to Scotland are demand-led: spend is driven by the number of people who have a claim, based on rates and eligibility criteria set in legislation, rather than by the amount allocated in a budget. The funding for existing benefits will be transferred through the Fiscal Framework but increases in demand-led spending and new policy choices which give rise to additional spending will require new budget cover, funded from the Scottish budget envelope.

Recommendation 59 (e)

128. The UK Government believes that conditionality and sanctions are an important part of a fair and effective welfare system. It is right that there is a system in place to encourage claimants to do everything they can to prepare for or find work.

129. We keep the operation of the conditionality and sanction policies and processes under continuous review to ensure the system is clear, fair and effective in promoting positive behaviours.

130. We recognise the importance of understanding how a mental health condition impacts someone's ability to prepare for and look for work. That is why we have improved the training for Work Coaches, offering additional mental health training and increased the number of Disability Employment Advisers who can provide additional support.

131. Conditionality requirements are tailored to the claimant's needs and circumstances and must be reasonable and achievable for the individual claimant. The mix of voluntary and mandatory activities should be continually reviewed, to help the claimant prepare for work, whilst recognising their health condition or disability.

132. In ESA, only those in the Work Related Activity Group (WRAG) have mandatory conditionality requirements and can, therefore, be sanctioned. They can be asked to attend work focused interviews and take-up work preparation to help them move closer to work, and can be sanctioned if they fail to do so without good reason. They are not, however, required to look for work or be available for work and cannot be sanctioned if they fail to do this.

133. If a referral for a sanction is made, a Decision Maker will take all the claimant's individual circumstances into account, including any health condition or disability, and any evidence of a good reason for not undertaking their conditionality requirements before deciding whether a sanction is warranted.

134. As already explained in our response to Recommendation 57 (c), imposing a sanction is not something we do lightly. Claimants are given every opportunity to explain why they failed to meet their agreed conditionality requirements, before a decision is made. In February 2018, the percentage of UC claimants with a drop in payment due to a sanction was 4.1%, down 0.5 percentage points from November 2017. The percentage of Jobseeker's Allowance claimants with a drop in payment due to a sanction in September 2017 was 0.3%. The percentage of ESA claimants with a drop in payment due to a sanction is down 0.1 percentage points to 0.2% from June 2017.

135. For the minority of claimants who are sanctioned, we have a well-established system of hardship payments, available as a safeguard if a claimant demonstrates that they cannot meet their immediate and most essential needs, including accommodation, heating, food and hygiene, as a result of their sanction.

136. Families and individuals in Scotland who require emergency aid can apply for a grant through the Scottish Welfare Fund.³⁸ The fund is a vital lifeline for people across Scotland providing £38m per annum to local authorities, who administer the fund on behalf of the Scottish Government. From 1 April 2013 to 31 December 2017 285,720 individual households have been helped with awards totalling £155.8m.

Section 4: Follow up information on the recommendations made by the Committee in paragraph 114 of its inquiry report

137. This section provides further information, following the UK response of 3 November 2016 (UN ref. CRPD/C/17/R.3) in relation to the recommendations made by the Committee in its inquiry carried out under article 6 of the Optional Protocol to the Convention. Where we have already provided relevant information earlier in this response we refer back to that.

Recommendation 114 (a)

138. The earlier response to 59b sets out UK Government's approach to cumulative analysis of the impacts of our tax, welfare and public spending policies on households.

Recommendation 114 (b)

139. The UK Government believes that the legal obligations placed on the public sector under the Public Sector Equality Duty³⁹ (PSED) set out in the Equality Act 2010 provides a mechanism for identifying unintended or disproportionate impacts of policies on those with protected characteristics, including disabled people or certain groups of disabled people.

140. The PSED places a proactive equality duty on public bodies, and those exercising public functions, to consider the potential effects of key decisions on groups with protected characteristics. Public bodies must be able to show how they have considered equality issues when they develop, implement and review policies, services and processes. This approach also ensures that organisations that provide services or functions on behalf of public sector bodies have the same obligations to consider equality issues when making key decisions about public services.

141. Public sector bodies are encouraged to gather data on service users in order to conduct equality analysis that will inform decisions on policy and service delivery, including consulting with disabled groups where relevant. Where the equality analysis identifies disproportionate impacts on disabled people, organisations should consider options for removing or reducing the likelihood of negative consequences. This can include adaptations to the overall approach, and measures to mitigate against the possible disproportionate impacts or transitional arrangements.

142. The UK believes that the PSED is aligned with a rights-based approach. It places a legal duty on all public bodies to consider the impact of policies on disabled people. This means also considering how policies affect how people are able to live their lives. Additionally, the Human Rights Act 1998, which extends to the whole of the UK, gives further effect to the European Convention on Human Rights as set out in the Act (the Convention Rights). The Act requires: all legislation to be interpreted and given effect as far as possible in a way that is compatible with the Convention Rights; the Minister introducing a Bill to Parliament to make a statement on the Bill's compatibility with the Convention Rights; and makes it unlawful for a public authority to act incompatibly with the Convention Rights.

143. The Social Security (Scotland) Act 2018 creates a new public service for Scotland, by underpinning the safe and secure transition of eleven welfare benefits, including disability benefits. This is the biggest transfer of powers since the creation of the Scottish Parliament in 1999. The Act was informed by stakeholders, including many disabled

³⁸ <https://beta.gov.scot/policies/social-security/income-related-benefits/>.

³⁹ <http://www.legislation.gov.uk/ukxi/2011/2260/contents/made>.

people's organisations. The Act creates a distinct rights-based system with dignity, fairness and respect at its heart. The Scottish Government are committed to improving the way benefits are delivered for disabled people by removing unnecessary barriers to claiming support, and reducing the number of face-to-face assessments. The Act includes the right to independent advocacy for those with a disability who need additional support to engage with the system including the right to have a supporter at all stages of the process, and the right to challenge decisions without financial support being cut.

144. The response to 59b sets out UK Government's approach to cumulative analysis of the impacts of our tax, welfare and public spending policies on households.

Recommendation 114 (c)

145. The UK is committed to enabling disabled people to have greater autonomy, choice and control. In Section 1 we cited the Care Act 2014, which has the concept of independent living as a core part of the wellbeing principle, as an example of this. Other examples include Access to Work, which helps people who need additional support in order to work.

146. ESA provides support to people with a health condition or disability that face barriers to work and looks at what work a person can do, rather than focussing on what they cannot. ESA integrates a contributory and an income-related element into a single structure. Entitlement is based on an assessment of an individual's functionality and the benefit they receive is set accordingly.

147. People found to have limited capability for work and work-related activity are placed in the Support Group. Claimants entitled to income-related ESA will automatically be entitled to the Enhanced Disability Premium and if they receive a qualifying benefit such as middle or highest rate care DLA, daily living component of PIP, or Armed Forces Independent Payment (AFIP), and live alone or are treated as living alone, an additional Severe Disability Premium.

148. People with limited capability for work are given support to prepare for a return to work in the future. This support includes skills training, financial support and volunteering opportunities tailored to the individual. Section 2 provide more details on this support, including the new Personal Support Package launched in April 2017, for people with health conditions on ESA and UC.

149. The earlier responses to recommendations 45 (a–e) set out a number of approaches to support independent living, through existing policy, legislation, significant funding committed, future reform, and listening to disabled people.

150. Additionally, the number of personal health budgets has risen by 200% in the last two years with 22,895 people having a personal health budget in England in the first nine months of 2017/18. In 2017/18 the Integrated Personal Care⁴⁰ programme expanded to cover 42 Clinical Commissioning Groups. It is designed to give people greater choice in their personal care, with sites reporting around 48,000 care plans since the programme began. Further expansion is planned for 2018/19.

151. In March 2018, the Secretary of State for Health and Social Care announced a consultation on increasing rights to personal health budgets, which would enable access by more disabled people. He also announced the launch of an Integrated Health and Social Care Pilot that will assess the impact of having a single health and social care assessment and holistic plan for each person currently eligible for a 'Needs Assessment' under the Care Act 2014.

Recommendation 114 (d)

152. The UK Government is absolutely committed to providing financial support for those who need it. We provide a wide-range of benefits including additional support elements to better reflect the financial needs of people with long term health conditions or

⁴⁰ <https://www.england.nhs.uk/ipc/>.

disabilities, and the extra costs they may bear, as set out in our response to recommendation 59 (a).

153. As of April 2018 a greater proportion of people are receiving the highest value of award than previously, with 30% of current PIP recipients receiving the highest level of support compared to 15% for DLA, when PIP was first introduced. PIP also ensures closer parity between those with mental and physical health conditions which was not the case with DLA. Hence 32% of PIP recipients with a mental health condition receive the enhanced rate mobility component compared to 10% for the DLA equivalent, and 66% of PIP recipients with a mental health condition receive the enhanced rate daily living component compared to 22% for the DLA equivalent.

154. Both DLA and PIP are increased in line with inflation. For example, we have increased the rate of DLA paid to the most disabled children by more than £100 a month since 2010. We have also increased the enhanced rates of PIP by nearly £570 a year since it was introduced in 2013.

155. The Government recognises the importance of keeping people mobile enabling them to participate fully in society. The Motability Scheme⁴¹ enables disabled people to exchange their higher rate mobility component of DLA, enhanced rate mobility component of PIP, War Pensions Mobility Supplement or AFIP award to lease a new car, scooter or powered wheelchair, there are more people on the Motability Scheme than there were in 2010. The UK Government worked with Motability to design an extensive transitional support package worth £175m for DLA claimants who lose entitlement to the Scheme following PIP reassessment to enable them to remain mobile. This support includes a lump sum of up to £2,000, the option to extend their lease for 6 months and the right to buy their car. The Scheme is popular with claimants, around a third of those eligible elect to join and there are high satisfaction levels (98%).

156. Our responses to 45c and 45e set out the significant investment being made to social care, with Councils given access to up to £9.4bn more dedicated funding for social care between 2017/18 and 2019/20. This will ensure that councils can increase the capacity of the social care system, including support to meet the social care needs of people with disabilities.

157. Spending review plans for social care continue to consider the needs of those using care, and we regularly monitor risks in the care system, including links to funding.

158. The Welsh Government established the Budget Advisory Group for Equality⁴² to assist in embedding equality considerations into our spending plans. Membership includes representatives of organisations with equality expertise and experience, including Disability Wales.

159. The role of the group includes: assisting in the analysis of equality evidence to improve the Welsh Government's future Equality Impact Assessment (EIA) of the Budget; and increasing the commitment and awareness of mainstreaming equality in future budgets across the Welsh Government and wider Welsh Public Sector.

Recommendation 114 (e)

160. Under the Equality Act 2010, all public bodies, employers and service providers are required to make reasonable adjustments to any element of a job or service which places a disabled person at a substantial disadvantage compared to a non-disabled person. This can include providing information in alternative formats, or where appropriate providing interpretation services.

161. The Minister for Disabled People, Health and Work acknowledges the importance of access to information, and convenes a cross sector Taskforce on accessible communications. The purpose is to work alongside a range of external disability stakeholders to ensure that

⁴¹ <https://www.motability.co.uk/>.

⁴² <https://gov.wales/topics/people-and-communities/equality-diversity/budget-advisory-group-for-equality/?lang=en>.

the DWP improves its communications with disabled people. Learning from this Taskforce is shared with the wider government communications network ensuring greater awareness of the communications needs of disabled people.

162. In relation to the services mentioned in the recommendation, the DWP ensures alternative copies of communications are produced and are easily accessible, including braille, large print and audio copies. DWP is continuing to improve methods of communication with disabled claimants including by using email, Next Generation Text which helps people use the telephone system, arranging home visits or private interview rooms as a reasonable adjustment, and the Video Relay Service which provides video interpretation. DWP is also committed to producing more products in accessible electronic format and Easy Read, and is leading on developing cross Government standards for Easy Read.

163. Scotland has legislation that recognises British Sign Language⁴³ (BSL). The BSL (Scotland) Act 2015 places a duty on Scottish Ministers to promote the use and understanding of BSL.

Recommendation 114 (f)

164. Disabled people's access to the courts in relation to disputed welfare benefit decisions as interpreted in the Committee's 2016 inquiry report⁴⁴ requires clarification. Legal aid was not available for representation in cases before the first-tier tribunal even prior to the introduction of the Legal Aid Sentencing and Punishment of Offenders Act 2012⁴⁵ in April 2013, though it was available for legal advice. This was because this tribunal is informal and non-adversarial, and as such there was no need for legal representation. Legal aid continues to provide access to justice, for those eligible, in the highest priority cases, including disputes with Local Authorities about community care services for disabled people, and for discrimination and welfare benefit claims relating to contravention of the Equality Act 2010.

165. Legal aid is also available for judicial reviews, including those relating to welfare benefit policies. Advice for discrimination matters is provided through the Civil Legal Advice service,⁴⁶ an accessible helpline and online tool, which offers a range of adaptations and reasonable adjustments. Changes to legal aid have not restricted access to the appeals process. Nor has mandatory reconsideration, introduced in 2013 to allow earlier correction of decisions, with the right of appeal still available if required.

166. Scotland's new rights based social security system will be co-designed with individuals' current experience that will be grounded on the principles of dignity, fairness, respect and which aims to get decisions right first time, whereby an individual will have a right to request a re-determination if they think the Scottish social security agency has not made the right decision. If the re-determination is not concluded in the prescribed time limit or the individual is dissatisfied with their re-determination they will have a right of appeal to the First-tier Tribunal in the Scottish Tribunals, which subject to certain conditions being met may attract legal aid for legal advice short of representation. Where a further appeal can be made to the Upper Tribunal, legal aid will incorporate representation.

Recommendation 114 (g)

167. The UK has a strong record of engaging with disabled people to inform policy making across government. However we do continually seek to improve our practices and services are increasingly informed by disabled people, for example we are reinvigorating our Office for Disability Issues stakeholder engagement later this year to ensure we engage

⁴³ <http://www.legislation.gov.uk/asp/2015/11/contents/enacted>.

⁴⁴ UNCRPD inquiry report (UN ref. CRPD/C/17/R.3), paragraph 92 http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2f15%2fR.2%2fRev.1&Lang=en.

⁴⁵ <http://www.legislation.gov.uk/ukpga/2012/10/contents>.

⁴⁶ <https://www.gov.uk/civil-legal-advice>.

with more Disabled People's User Led Organisations, smaller local stakeholders and individuals.

168. During the consultation following the 'Improving Lives: the Work, Health and Disability Green Paper',⁴⁷ we received around 6,000 responses following close engagement with stakeholders and 166 accessible events. These views informed our strategy and vision to see one million more disabled people in employment by 2027, which we published in November 2017, 'Improving Lives: the future of Work, Health and Disability'.⁴⁸

169. We are committed to working in partnership with stakeholders, including disabled people and people with long term health conditions, to achieve our vision and to inform the design of support that will be most useful. We have worked closely with charities, representative organisations and stakeholders, as well as with people with long term health conditions themselves. For example, we drew on the expertise of stakeholder representative groups when we developed the criteria for ending reassessments for customers with the most severe health conditions.

170. We ran several accessible events with stakeholders including disabled peoples organisations for two recent consultations on the draft transport Accessibility Action Plan and on the Cycling and Walking Investment Strategy.⁴⁹ Safety Review. Another consultation on widening eligibility for the Blue Badge⁵⁰ scheme which helps disabled people with severe mobility conditions to park closer to their destination received around 6,000 responses.

171. The Welsh Government's Disability Equality Forum is chaired by the Leader of the House and Chief Whip and is made up of disabled and non-disabled people with a range of expertise. The Forum provides an opportunity for stakeholders to advise the Welsh Government, and the wider public sector, on the key issues that affect disabled people in Wales. It is also a forum for sharing best practice.

172. Disability Wales has been awarded grant of £500,000 from 2017 to 2020, from our Equality and Inclusion Grant Programme, to be the representative body for disabled people and their organisations in Wales and work with the Welsh Government and other public bodies to ensure the views of disabled people are heard.

173. The Scottish Government is committed to involving people with direct experience of benefits. Over 2,400 volunteers from across Scotland have signed up to work with Scottish Government as part of the Experience Panels.⁵¹ The Scottish Government is determined that the new Scottish social security system is built to support those people who need it most.

Recommendation 114 (h)

174. The UK recognises the rights of all disabled people, including those in care of the state, to live with dignity, respect and integrity. We combat stereotypes, discrimination, harassment and hate crime through a wide range of programmes in various settings.

175. We take our responsibility to tackle Disability Hate Crime and promote positive attitudes towards disabled people extremely seriously. We have a strong legislative framework to tackle hate crime, including provisions for the court to increase a sentence where the offence was motivated by hostility towards a person's disability.

176. Work is under way to improve attitudes towards disabled people and raise awareness of Disability Hate Crime through the Hate Crime Action Plan⁵² that was published in July 2016 by the Home Office. The four year, cross-Government action plan, focuses on five key areas. These are; preventing hate crime by challenging beliefs and attitudes, responding

⁴⁷ <https://www.gov.uk/government/consultations/work-health-and-disability-improving-lives>.

⁴⁸ <https://www.gov.uk/government/publications/improving-lives-the-future-of-work-health-and-disability>.

⁴⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/512895/cycling-and-walking-investment-strategy.pdf.

⁵⁰ <https://www.gov.uk/browse/driving/disability-health-condition>.

⁵¹ <https://beta.gov.scot/policies/social-security/engagement-on-social-security/>.

⁵² <https://www.gov.uk/government/publications/hate-crime-action-plan-2016>.

to hate crime within our communities, increasing the reporting of hate crime, improving support for victims of hate crime and building our understanding of hate crime.

177. The Home Office and Ministry of Housing, Communities and Local Government are refreshing the action plan later this year, and are working with stakeholders to ensure it remains fit for purpose. The plan has specific actions focused on disability hate crime, and includes work to identify and share best practice examples of tackling disability hate crime, guidance from the Crown Prosecution Service for hate crime victims/witnesses who have a learning disability, and community led projects focused on tackling disability hate crime. We continue to work alongside key stakeholders to understand what works well and to identify what more can be done to protect victims from disability hate crime.

178. All schools are legally required to have a behaviour policy with measures to prevent all forms of bullying among pupils. They have the freedom to develop their own anti-bullying strategies appropriate to their environment but are held to account via Ofsted.

179. We are providing £1.75m of funding, over 2 years for four anti-bullying organisations to support schools tackle bullying. This funding includes projects targeting bullying of particular groups, such as those with special educational needs and those who are victims of hate related bullying, along with a project to report bullying online. The project led by the Anti-Bullying Alliance is focused on tackling bullying related to special educational needs and disability. It includes face-to-face training for teachers along with helplines and online information for parents of children with special educational needs and disabilities.

180. Our Internet Safety Strategy aims to make the UK the safest place in the world to be online as part of wider work on the Digital Charter.⁵³ We expect all social media platforms to sign up to our code of practice and annual online safety transparency reporting to safeguard users and ensure consistent standards. The code requires platforms maintain a clear and transparent reporting process for users to report abuse targeting disability. We encourage companies to specify the number of reports of abuse targeting disability in their transparency reporting. We recently announced a forthcoming White Paper that will set out proposals for future legislation to cover the full range of legal and illegal online harms.

181. Disability Confident has signed up over 7,000 businesses. It gets employers to think differently about disability and to take action to improve how they attract, recruit and retain disabled workers.

182. The Welsh Government continues to tackle hate crime in partnership with members of the Hate Crime Criminal Justice Board Cymru (HCCJBC), including the four Police forces, Police and Crime Commissioners, Crown Prosecution Service, other Criminal Justice agencies, Victim Support and other third sector representatives. The HCCJBC is working with the Disability Equality Forum, convened by the Welsh Government, to examine how we can improve disability hate crime reporting, support for victims, and bringing perpetrators to justice.

183. In 2016/17 338 disability hate crime cases were reported to the police in Wales, up 39% on the previous year. This partly demonstrates increased rates of reporting, which reflects the work of the Welsh Government, the Police, and the third sector to encourage victims to report and to improve case handling. Rates of satisfaction with how cases are handled once they are reported are high. For example, in 2016/17 Gwent Police figures show 90% of people were completely or very satisfied with the treatment they received from officers, and 74% completely or very satisfied with their overall experience following reporting.

184. In June 2017, the Scottish Government published an ambitious programme of work to tackle hate crime and build community cohesion. In October 2017, the Scottish Government ran a 'Hate Has No Home in Scotland' campaign to raise awareness of hate crime and how to report it. The campaign evaluation was positive and showed that it was particularly successful among those who have experienced hate crime. On 31 May 2018

⁵³ <https://www.gov.uk/government/publications/digital-charter>.

Lord Bracadale published his review into hate crime legislation in Scotland.⁵⁴ The Scottish Government has accepted his recommendation to consolidate all Scottish hate crime legislation into one new hate crime statute and will use his report and recommendations as the basis for consulting on the detail of what should be included in a new hate crime bill.

Recommendation 114 (i)

185. As explained in our response to Recommendation 2, the UK Government believes that the PSED provides an adequate mechanism for identifying unintended or disproportionate impacts of policies on those with protected characteristics protected in the Equality Act 2010, including disabled people.

186. The UK Government regularly carries out equality analysis and gives due consideration to the potential effects of key decisions on groups with protected characteristics. All public bodies must be able to show how they have duly considered equality issues when they develop, implement and review policies, services, legislation and processes.

Recommendation 114 (j)

187. As already outlined in our response under Recommendations 2 and 9, the PSED provides a mechanism for identifying unintended or disproportionate impacts of policies and programmes on disabled people or certain groups of disabled people.

188. Equality policies, including disability policies, are already mainstreamed across all UK government departments and public sector bodies, and each organisation has a responsibility to monitor the impact of their individual policies on disabled people. This is the case for all policy, not just disability-related policies.

189. To meet their obligations under the PSED, public sector bodies are also encouraged to gather data on service users in order to conduct equality analysis that will inform decisions on policy and service delivery, including consulting with disabled groups where relevant. Where the equality analysis identifies disproportionate impacts on disabled people, organisations should consider options for removing or reducing the likelihood of negative consequences. This can include adaptations to the overall approach, measures to mitigate against the possible disproportionate impacts or transitional arrangements.

190. The PSED and related activities provide a transparent and effective mechanism to monitor the impact of the different policies and programmes on disabled people and is in keeping with the human rights-based model of disability, which is focused on assessing unintended or disproportionate impacts on disabled people or certain groups of disabled people.

191. As indicated in paragraph 142 above, the Human Rights Act 1998⁵⁵ requires the Minister introducing a Bill to Parliament to make a statement on the Bill's compatibility with the Convention Rights.

192. The EHRC is responsible for monitoring compliance of the PSED and can take enforcement action if a public body has not complied. The EHRC uses a range of levers to ensure public bodies comply with the requirements of the duty, from the provision of guidance through to enforcement activity where it considers there to be a strategic benefit. The EHRC also has a statutory role in promoting awareness and encouraging compliance with the Human Rights Act 1998; it also has some powers relating to the courts, for example to intervene in human rights cases.

193. The Joint Committee on Human Rights of the UK Parliament also scrutinises UK Government Bills for their compatibility with human rights.

194. The Scottish First Minister has convened an Advisory Group on Human Rights Leadership, which is working independently of the Scottish Government to develop recommendations on how Scotland can continue to lead by example, including economic,

⁵⁴ <https://www.gov.scot/Publications/2018/05/8696>.

⁵⁵ <https://www.legislation.gov.uk/ukpga/1998/42/contents>.

social, cultural and environmental rights. The Advisory Group will lead a participatory process and it will report by the end of 2018. The Scottish Government embraces constructive challenge and is happy to support action which pushes public institutions to go further in embedding human rights at the heart of everything.
