



**Convention on the Rights  
of Persons with Disabilities**

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**Committee on the Rights of Persons with Disabilities**

**Consideration of reports submitted by States  
parties under article 35 of the Convention**

**Initial reports of States parties due in 2011**

**United Kingdom of Great Britain and Northern  
Ireland\***

[24 November 2011]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document has not been edited. The designations employed do not imply the expression of any opinion whatsoever on the part of the United Nations Secretariat concerning the legal status of any country, territory or area, or of its authorities.

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\*\* Annexes IV and V may be consulted in the files of the Secretariat.

## I. Introduction

1. This report describes how the Convention on the Rights of Persons with Disabilities ('the Convention') is being implemented in the UK. It should be read with the UK Common Core Document (HRI/CORE/GBR/2011), which provides an overview of the structure of UK government, including devolution and human rights legislation. The UK comprises England, Northern Ireland, Scotland, and Wales. Information is provided in this report on each. References to Great Britain (GB) mean England, Scotland and Wales. The Overseas Territories and Crown Dependencies (listed at annex I) have been consulted on extension of the Convention, and are considering their positions.

### 1. UK overview

2. The UK approach is to build on a strong existing legislative and policy framework to deliver the Government's commitment to equality for disabled people. The Government's ambition is to remove barriers to create opportunities for disabled people to fulfil their potential and be fully participating members of society. This is reflected in Government support for the Convention both at home and abroad where the UK calls upon States that have not yet signed and ratified the Convention to do so as soon as they are able.

3. The UK believes that the Convention is an important and necessary statement of the rights that all disabled people have, and must be able to exercise. The UK supported the development of the Convention and was one of the first countries to sign it in 2007. The Convention is aligned with the UK approach to disability equality which focuses on inclusion and mainstreaming, with additional support provided where necessary, and on the involvement of disabled people in making the decisions that will affect their lives.

4. In the UK much has been achieved. The first step to establish disability rights legislation was taken in 1978 when the Chronically Sick and Disabled Persons Act came into effect. This was a groundbreaking piece of legislation recognising the rights of disabled people. The 1995 Disability Discrimination Act, as amended, was widely recognised internationally as an exemplar of good and effective anti-discrimination legislation. The Equality Act 2010 now builds on this with a modernised and simplified approach pulling together all strands of anti-discrimination legislation into a coherent and accessible whole.

5. The UK has focused strongly on making practical differences for disabled people, and raising awareness of the issues they face. Progress is being made across a broad front (some of this is covered below for the individual nations of the UK). Since 2000 the employment rate of disabled people has risen considerably. Over 500,000 extra disabled people are now in work compared with 2000<sup>1</sup>. The development of employment support programmes such as Access to Work, through which over 35,000 people received help in 2010/11, enable more disabled people to enter and remain in work. Innovative approaches, such as personal budgets, are enabling disabled people to live more independent lives and exercise greater choice and control. Early findings from the National Personal Budget Survey show that two-thirds of personal budget recipients and family carers said their

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<sup>1</sup> In 2000 the employment rate was 42.2 %; the latest comparable data point is 2009, 47.5%. Later estimates are not available on a consistent basis, due to an improvement in the way people report disability in this data source. On the new basis, the rate in 2011 was 48.8%. All figures are Labour Force Survey Quarter2 (males 16-64, females 16-59) available at <http://www.esds.ac.uk/government/lfs/> (last accessed 1 November 2011).

quality of life has improved and over two-thirds of recipients report an increase in control over their support.

6. There has been major investment in more accessible transport with, for example, £370 million provided for the 'Access for All' programme for more accessible railway stations. The proportion of wheelchair accessible buses has increased from 26% in 2001/02 to 62% in 2007/08 and the percentage of disabled people reporting difficulties using transport fell from 27% in 2005 to 23% in 2009.

7. Societal attitudes have improved – people in the UK are more likely to think of disabled people as the same as everybody else: 85% in 2009 compared to 77% in 2005. There is also widespread awareness in UK society of the rights of disabled people, with 72% of the general population aware of the Disability Discrimination Act in 2009.

8. Going forward, the Equality Act 2010 provides a strengthened basis for tackling barriers to disabled people's inclusion, and introduces, for example, measures requiring improved accessibility to goods and services.

9. The UK is determined to ensure that communities are empowered to take the best decisions for the local circumstances of disabled people, and that the resource and expertise of communities is brought to bear to improve equality of opportunity. Each UK nation has its own approach here, for example, in England additional funding has been provided to help disabled people's user-led organisations develop and grow. This is in line with the Government's focus on building the Big Society and adopting localist approaches.

10. This complements ongoing work to increase choice and control for individuals. This includes personalisation of health and social care services, including piloting personal health budgets. In the field of employment, the Work Programme and Work Choice provide additional and personalised support. The Government welcomed the central theme of the 2010 Sayce review of employment support for disabled people. This found that the best way to enable disabled people to access jobs is to deliver employment support that is built around individuals and not institutions.

11. The UK Government is also fundamentally reforming the social security system. This will create a new welfare system for the 21<sup>st</sup> century. It will transform the opportunity for people without jobs to find work and support themselves and their families, and will ensure that the most vulnerable in society are protected. Disabled people are at the heart of this ambition, which recognises that support for disabled people must not mean a life of welfare dependency, but must enable everyone to take an equal role in society. The reforms will deliver a system that is simpler and focuses support on those in most need, ensuring that work always pays, and above all promoting fairness.

12. The UK Government is determined to continue to address the many further challenges in removing the barriers to full participation in society that disabled people face. Engagement with disabled people in preparing this report has raised issues that Government will discuss further with disabled people when preparing its new Disability Strategy, to be published next year. The Strategy will focus on enabling disabled people to fulfil their aspirations and reach their full potential (further details are in the England section below).

13. We aim for a firmly evidence based approach to policy development. This will draw heavily on the lived experiences of disabled people in the UK today, and on new and powerful survey evidence for example from the groundbreaking Life Opportunities longitudinal survey.

## **2. England**

14. In England, there are around 9.2 million disabled people, around one in five of the population. The Government is committed to enabling them to enjoy the same opportunities

in life as non-disabled people, have greater choice and control over their lives, and participate equally in society. The Government's ambition is a society where the future for disabled people is free from discrimination, where they have equal access to education, work and community life, and where they are able to contribute to society on an equal basis with non-disabled people. In 2012, the Olympic and Paralympic Games will demonstrate to a global audience the Government's commitment to ensuring the participation of disabled people in every aspect of society.

15. The Government is developing a new Disability Strategy to build on the expectations of the Convention and focusing on key areas to drive disability equality forward. The foundations of the strategy will be three key principles. (1) Individual control: enabling disabled people to make their own choices and have the right opportunities to live independently. (2) Realising aspirations: through ensuring appropriate support and intervention for disabled people at key life transitions, and realising disabled people's expectations and aspirations for education and work. (3) Changing attitudes and behaviours: promoting positive attitudes and behaviours towards disabled people to enable them to participate in community life and wider society.

16. This new Strategy will encompass the work of Government as a whole so that there is a joined-up and coherent approach. It will give a clear message of Government's commitment, and leadership and direction will be provided by the Minister for Disabled People. The Strategy is primarily for England, but with some policies applicable to the UK as a whole and where the UK Government will work closely with the devolved administrations, which will have their own strategic approaches.

17. Government is already delivering on its commitment to disability equality at all levels. The new Equality Act 2010<sup>2</sup> has replaced the existing framework of discrimination legislation to provide a single legal framework. The law is now clear, streamlined and will more effectively tackle disadvantage and discrimination, including that of disabled people.

18. The Strategy will set out a coherent approach, showing the links and relationship between commitments in different policy areas. A focus on education is already provided through the 2011 Green Paper 'Support and aspiration: A new approach to special education and disability' which sets out wide-ranging proposals for reforms to support young people at school, and beyond to realise their ambitions. The development of a programme of action across government and with local partners will give young disabled people and young people with special educational needs, comprehensive support throughout education and into work. This links directly to the Government's key priority to realise employment aspirations by enabling young disabled people to achieve the foundations of educational achievement on which to build their careers. The Strategy will make that link clear.

19. The Strategy is being developed in dialogue with disabled people and their representative organisations so that their views – including those that have already been expressed through the Convention reporting process – can inform the approach that is taken. This is further demonstration of the Government's commitment to one of the guiding principles of the Convention: engagement with disabled people and their participation in decisions that will affect their lives.

20. This has been demonstrated, for example, through development of the Right to Control; reform of Disability Living Allowance; consultation on the Sayce Review and use of the Network of Networks. Additional funding is being provided to help disabled people's

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<sup>2</sup> UK Government, October 2001, Equality Act 2010, available at <http://www.legislation.gov.uk/ukpga/2010/15/contents/enacted> (last accessed 16 November 2011)

user-led organisations develop and grow in their role of providing a voice for disabled people in local and national decision-making.

21. This approach is part of the overarching ambition that Government is driving forward, through initiatives such as Big Society and the Localism Bill, to change the relationship between the citizen and the State. This will give all individuals, including disabled people, the space to lead their lives in the way they want to.

22. We monitor progress towards disability equality using a number of indicators covering many key areas across Government including, for example, employment, education, health and transport. We also work with disabled people and their organisations to monitor progress. Information on progress will be included in future UK reports on the Convention.

### **3. Northern Ireland**

23. The Northern Ireland Survey of Activity Limitation and Disability in 2006/07 found that 18% of people living in private households had some degree of disability (21% adults and 6% children). A higher proportion of adult women (23%) than adult men (19%) reported a disability, while 19% of adults and 4% of children reported some degree of physical disability.

24. In Northern Ireland disabled people are valued members of their families, communities and workplaces and add significantly to society. However, the Executive Government recognises that disabled people face barriers across society, particularly in education, employment, housing, healthcare and transport. As part of its Anti-Poverty Strategy, the Executive set up a Promoting Social Inclusion (PSI) Disability Working Group, which was made up of representatives from various disability organisations, the Equality, Children's and Human Rights Commissions and government officials. It identified barriers faced by disabled people in their everyday lives and made recommendations on how to remove them. The recommendations represent a culmination of a significant amount of work including a Northern Ireland Survey of people with an Activity Limiting Disability consultation with disabled people and expert advice sourced from within the Group itself. The recommendations are firmly anchored around the key Convention principles of dignity, independence and access. Consideration is being given on how to take the recommendations forward.

25. The Executive is developing a new PSI Strategy on Disability based on the PSI Working Group Report and the principles of the Convention. It will set out a high-level policy framework to give coherence and guidance across all areas of public policy, drive improved performance of service delivery for disabled people, raise the profile of the needs of disabled people and ensure their involvement in policy development and implementation.

26. The PSI Strategy is intended to be a living document that will be constantly updated during its ten-year life span, and against which Northern Ireland will assess the progress made for disabled people. The monitoring reports on the Strategy will inform future contributions to UK reports on the Convention.

### **4. Scotland**

27. In Scotland there are around one million disabled people: approximately 20% of the population. Scotland's disabled people are valued as equal members of families, communities and workplaces, who make a positive contribution to the diversity of cultural and community life, and to Scotland's economic and social wellbeing.

28. The Scottish Government seeks to support the Convention's commitment to disability equality and human rights through Common Purpose targets, National Outcomes and a National Performance Framework. Equality is an integral part of the performance framework, which contains targets on participation, solidarity and cohesion, and a specific outcome 'to have tackled the significant inequalities in Scottish society'.<sup>3</sup> Local authorities and the wider public sector are key partners in achieving these national outcomes through Single Outcome Agreements and Community Planning Partnerships.

29. In December 2010, the Scottish Government published a separate report on the Convention Articles, to which disabled people in Scotland contributed through the Scottish Government's Policy and Engagement Officers' network and through a series of events organised by the Scottish Human Rights Commission (SHRC) and Equality and Human Rights Commission in Scotland (EHRC). The Scottish Government welcomes this direct contribution and intends to take account of all the views expressed by disabled people about their continuing experience of inequality. The Scottish Government recognises that it needs to do much more to demonstrate a human rights approach that will progressively ensure disabled people's enjoyment of all rights.

30. Scotland's approach is based on a model of co-production, with disabled people becoming more fully involved in the development of policy and services. The Scottish Government's cross-government programme on independent living sees disabled people as partners alongside the Convention of Scottish Local Authorities (CoSLA) and the NHS in Scotland, in working together to combine skills, information and expertise, to achieve shared aims. A 'Shared Vision of Independent Living'<sup>4</sup> was launched by all partners with Ministerial support in December 2009, as referenced under the section on Article 19 in the present report.

31. The Scottish Government will continue to work with disabled people to ensure national targets are meaningful and that the progress made in policy and legislation has a real impact on the day-to-day lives of disabled people. Scotland's framework for implementing and monitoring all devolved responsibilities within this Convention will be developed as part of the Scottish Government's wider approach to human rights. It will be informed by disabled people through a robust involvement and partnership approach, with reference to national data and through contributions from events and reports such as 'Being part of Scotland's story under the Convention' published by the SHRC and EHRC in April 2011.

32. It is intended that Scotland's approach to implementing and monitoring the Convention will sit alongside the existing commitment to independent living, which has already been identified as the overarching priority for Scotland's disabled people, as it has an impact on all other Convention Articles.

## 5. Wales

33. There are about 600,000 disabled people in Wales. To meet their needs, the Welsh Government is committed to fulfilling its aspiration of giving all of its citizens, including those who are disabled, an opportunity to succeed and to live fulfilling lives. The aim to achieve a fair and just society is pursued through a combination of projects, initiatives, funding and legislation. This ambition cuts across the work of the Welsh Government.

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<sup>3</sup> Scottish Government, 'Scotland Performs' available at <http://www.scotland.gov.uk/About/scotPerforms> (last accessed 26/10/2011).

<sup>4</sup> Scottish Government, April 2010, 'Shared Vision of Independent Living' available at <http://www.scotland.gov.uk/Publications/2010/03/29164308/1> (last accessed 26/10/2011).

34. The Education (Wales) Measure 2009 strengthens legislation for disabled people. It provides children with the right to make special educational needs appeals and claims of disability discrimination to the Special Educational Needs Tribunal for Wales. It ensures that disabled people's voices are heard on decisions that affect their lives and education.

35. The Welsh Government's Single Equality Scheme has delivered continuous improvements. For example the introduction of 'Pathways to Adapted Housing'. This scheme is one of the many operated by local authorities in Wales, and is a disability housing register that aims to match disabled people to existing vacant homes with suitable facilities. Since its inception in 2002, the project has received 2,227 referrals from people wanting accessible housing, with 1,608 accessible properties on the register. In 2009/10 the Welsh Government has provided funding to Disability Wales to develop "Delivering Accessible Housing Registers" in Wales.

36. Building upon the achievements and ethos of the Welsh Government Single Equality Scheme, this approach to engagement and inclusion has been continued in developing specific equality duties for Wales. The aim is to strengthen equality legislation in Wales and to provide the public sector with the tools that it needs to meet the needs of our diverse communities.

37. Specific equality duties in Wales have been introduced and include positive duties on engagement, to have appropriate regard to the need to consult and involve those who share protected characteristics such as disabled people, and a duty to assess the impact of their policies and practices.

38. The new duties will help promote equality, tackle discrimination and prejudice and help build a fair and tolerant society in Wales.

## **6. Preparation of this report**

39. The Office for Disability Issues (ODI), reporting to the Minister for Disabled People, prepared this report for the UK Government, working closely with policy departments and the devolved governments. Disabled people and other stakeholders have been consulted extensively and more detail is provided in paragraphs 351-355, and annex II. Because of the Committee's requirements about the length and information that the report should provide, it focuses on legislation, strategies, policies and statistics to address Convention rights and the Committee's questions.

## **7. Statistics**

40. Supporting statistics are provided in annexes IV and V.

## **8. UK reservations and declarations to the Convention**

41. When the UK ratified the Convention it entered a reservation against Article 12 because the existing social security benefit appointee system lacked appropriate safeguards in the arrangements to enable the appointment of a person to collect and claim benefits on behalf of someone else. Following the development and piloting of a proportionate system of review to address this issue, which involved disabled people, a review system was introduced in October 2011 and is being rolled out to cover all appointees. We believe that this meets the requirements of Article 12.4 and accordingly the reservation we entered against this Article is withdrawn.

42. Details of the other reservations and interpretative declaration entered by the UK are provided under the relevant articles (18, 24 and 27).

## 9. Status of the Optional Protocol to the Convention

43. The UK ratified the Optional Protocol on 7 August 2009. To date the UK has received no communications under the Protocol.

## II. General provisions of the Convention

### Articles 1 to 4

44. The UK Government is committed to the principles of the Convention and to the social model of disability that is at its heart. The Convention is not legally binding in domestic law in the UK but is given effect through the comprehensive range of existing and developing legislation, policies and programmes that are collectively delivering the Government's vision of equality.

45. The common core document<sup>5</sup> describes the robust legal framework through which human rights are protected and promoted in the UK and the routes for redress where it is claimed that rights are breached. This framework covers disabled people on an equal basis as non-disabled people. The legislative framework includes the Human Rights Act (HRA) 1998, which gives effect to the rights set out in the European Convention on Human Rights (ECHR).

46. The Convention encompasses a broader range of rights than those covered by the HRA and the ECHR, and in particular those that cover social, cultural and economic issues, such as the right to work. This report describes how those rights are also met.

47. The UK Government takes international obligations seriously and does not ratify any international treaty until it is in a position to ensure that it can implement the provisions and therefore comply with its obligations. After signing the Convention in 2007, the UK reviewed its existing legislation for consistency with it. Because of the approach to disability equality that had been developed over a number of years, and the progress already made, it was able to ratify the Convention successfully.

48. With ratification achieved, new or reformed legislation and policies that may affect disabled people are considered in the light of Convention obligations, including the concept of progressive realisation to which Article 4 (2) refers. The requirements of the Equality Act 2010 (further described below) already mean that public authorities must have regard to the impact of new policies on disabled people. The Convention adds additional impetus to this.

49. The UK supports the obligation of Article 4(3) that disabled people should be involved in implementation of the Convention, and in other decision-making processes on issues that relate to them so that their views, experiences and expectations are taken into account in policy development and delivery. This approach already informs the development of UK policy, and the report refers to a number of examples. Equality for disabled people can only be achieved by disabled people themselves and all parts of society working in partnership with Government.

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<sup>5</sup> UK common core document (HRI/CORE/GBR/2011): paras. 154 to 177.

## 1. Numbers of disabled people in the UK

50. The Family Resources Survey 2008/09 showed that there were over 10 million disabled people in the UK<sup>6</sup>. The estimate was based on the definition of disability provided in the Disability Discrimination Act (DDA) 1995<sup>7</sup>.

## 2. Definition of disability in the UK

51. In Great Britain, the Equality Act 2010 defines a person as disabled if he or she has a physical or mental impairment resulting in substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities. ‘Long-term’ means that the effect of the impairment has lasted or is likely to last at least 12 months. This definition applies when determining whether someone is disabled for the purposes of this Act. References to ‘disability’ and ‘mental or physical impairments’ in the context of other legislation are not relevant to determining whether someone is disabled under the Equality Act. The Act deems people with cancer, HIV infection and multiple sclerosis to be disabled from the point of diagnosis.

52. In Northern Ireland the DDA 1995, as amended by the Disability Discrimination (Northern Ireland) Order 2006, defines disability in a similar way to the Equality Act 2010.

# III. Specific rights

## Article 5 – Equality and non-discrimination

### 1. Anti-discrimination legislation

53. The UK has a robust, over-arching, legal framework for the protection of human rights. This is described in detail in the UK common core document.

54. Disability legislation in the UK is characterised by an ‘asymmetrical’ approach introduced by the Disability Discrimination Act and carried forward into the Equality Act 2010. The asymmetrical approach to disability discrimination law in the UK is a fundamental acknowledgement that disabled people are a particularly vulnerable group in society and need additional support in the form of legislation to enable them to live and work on an equal basis as non-disabled people. It means that disabled people can be treated more favourably than non-disabled people, but one disabled person cannot be treated more favourably than another disabled person.

55. In Great Britain, the Equality Act 2010 is the most significant piece of equality legislation for many years. It has brought a new clarity and coherence to anti-discrimination legislation. It is easier to understand and operate, whilst continuing to ensure to protect disabled people from discrimination. It is a key element in delivery of the Convention.

56. Most of the Act came into force in 2010, and the Government will decide on commencement of the remaining provisions in due course. Apart from a couple of exceptions, the Act does not apply in Northern Ireland (paragraph 52 refers). Equal opportunities and discrimination are ‘transferred matters’ under the Northern Ireland Act 1998.

<sup>6</sup> ODI, ‘Disability Prevalence Factsheet’ available at: <http://odi.dwp.gov.uk/docs/res/factsheets/disability-prevalence.pdf> (last accessed 26/10/2011).

<sup>7</sup> Disability Discrimination Act 1995 available at <http://www.legislation.gov.uk/ukpga/1995/50/contents> (last accessed 26/10/2011).

57. The Equality Act 2010 identifies ‘disability’ as one of nine protected characteristics. It provides protection for disabled people against direct or indirect discrimination arising from discrimination, victimisation and harassment. Direct discrimination means treating a disabled person less favourably than a non-disabled person because he or she is disabled, because of his or her association with a disabled person or because he or she is wrongly perceived to be disabled. Indirect discrimination means putting people with the same disability at a particular disadvantage, as a result of a policy which applies in the same way for everybody, unless this can be justified as a proportionate means of achieving a legitimate aim. Harassment means unwanted conduct related to disability that violates a disabled person’s dignity or creates a hostile, degrading, humiliating or offensive environment for him or her.

58. The Equality Act 2010 outlaws discrimination, harassment and victimisation against disabled people by those exercising public functions, those providing goods, facilities or services to the public, housing providers, employers, education providers (schools, further and higher education colleges and universities), associations and public transport providers. There is a statutory Public Sector Equality Duty, which means public authorities must consider certain equality issues – including disability – when carrying out their functions. The Duty has three parts. When developing or implementing policy, public authorities and/or those discharging public functions for them must have due regard to the need to: (1) eliminate unlawful discrimination, harassment and victimisation; (2) advance equality of opportunity between people who share a protected characteristic and those who don’t and (3) foster good relations between people who share a protected characteristic and those who don’t. This means, for example, that the Duty covers how a public authority designs and delivers services, and how it procures services.

59. In order to have ‘due regard’, a public authority needs to consider the effect its policies, services and decisions have on equality for disabled people and will need to consider these at the right time – before decisions are made.

60. A public authority can be challenged through judicial review, by an individual disabled person or by the Equality and Human Rights Commission (EHRC) about non-compliance with the Duty. The EHRC can also issue compliance notices to public authorities who have failed to comply with the Duty, and can apply to the Courts for an order requiring compliance.

61. The Equality Act 2010 also provides Ministers with powers to impose specific duties on certain listed public authorities to enable them to comply with the Equality Duty better. These specific duties are devolved (Welsh and Scottish Ministers have powers to impose duties on their respective public authorities). The specific duties, which will apply to listed public authorities within England and those discharging reserved functions within Scotland and Wales, came into force on 10 September 2011.

62. The Welsh Government introduced its specific duties on 6 April 2011. The Scottish Government is currently considering its proposals for relevant Scottish public authorities.

63. In order to meet the Public Sector Equality Duty, a public authority does not have to carry out and publish an equality impact assessment but it must be able to demonstrate, if challenged, how it had “due regard” when making its decision.

64. The EHRC has prepared and issued statutory Codes of Practice<sup>8</sup>, which explain the provisions for employment, services, public functions and associations in the Equality Act.

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<sup>8</sup> Equality and Human Rights Commission, April 2011, ‘Codes of Practice’ available at <http://equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice/> (last accessed 26/10/2011).

The EHRC consulted disabled people and other stakeholders when developing the Codes, which were brought into force on 6 April 2011.

## **2. Reasonable accommodation/adjustments**

65. The Equality Act 2010 imposes a duty on service providers to make reasonable adjustments for disabled people, so that they are not placed at a substantial disadvantage to non-disabled people, unless doing so would involve a disproportionate burden. This could involve: (1) making an adjustment to what is provided, how it is provided and the basis on which it is provided or not; (2) making an adjustment to a physical feature; or (3) providing an auxiliary aid. The Act recognises the need to strike a balance between the rights of disabled people and the interests of service providers.

66. The Act does not define reasonable adjustment nor what a disproportionate burden may be. This will depend upon individual circumstances. Ultimately, the courts will determine what adjustment should be made for a particular disabled person. They can consider evidence from a service provider to determine what is reasonable. The EHRC Codes include guidance on what may or may not be considered reasonable.

## **3. Positive action**

67. The Equality Act 2010 permits ‘positive action’ to improve disabled people’s participation in society. This could apply where, for example, a service provider reasonably thinks that people with a particular impairment may be disadvantaged or have different needs from people who do not share that particular impairment, in which case the service provider can take proportionate action to enable or encourage disabled people to overcome or minimise that disadvantage, or to meet those needs. The Act also includes a provision on positive action in recruitment and promotion. This provision allows an employer who is faced with choosing between two or more candidates who are equally qualified to fill a particular vacancy, to prefer the candidate from a group that is disproportionately under-represented or otherwise disadvantaged within the workforce, if this is proportionate to address such under-representation or disadvantage. It also allows an employer to choose a candidate with a particular impairment over other candidates who do not share that impairment if persons with that particular impairment are under-represented or disadvantaged in the workplace. Positive action as provided for under the Act is neither ‘positive discrimination’ nor ‘affirmative action’, which are not allowed under UK law.

68. In Northern Ireland similar protection is provided for disabled people by the DDA 1995, as amended. This provides protection from discrimination on grounds of disability in employment and vocational training, goods, facilities and services, education, premises and transport. The DDA, as amended, further provides for public authorities to have due regard to the need to promote positive attitudes towards disabled people, and the need to encourage participation by disabled people in public life. In addition, Section 75 of the Northern Ireland Act 1998 places a statutory obligation on public authorities, in carrying out their various functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity between nine specific categories, including between disabled people and non-disabled people.

## Article 6 – Women with disabilities

69. In the UK, the prevalence of disability is slightly higher for women than for men, with variations according to age distribution<sup>9</sup>. The UK Government believes that all people, whether male or female, disabled or non-disabled, have the same rights and should be able to enjoy those rights equally. However, the ability of disabled women to enjoy their rights may be affected by multiple forms of discrimination. In Great Britain, the Equality Act provides protection from discrimination on the grounds of gender and disability.

## Article 7 – Children with disabilities

70. In 2008/09 there were 800,000 disabled children in the UK – nearly 5% of the total. The UK is committed to the rights of all children, including those who are disabled. The UK is continuing work to implement the Convention on the Rights of the Child to make that Convention a reality. Through the HRA, the rights of all children to privacy, freedom of assembly, freedom of expression, freedom of thought, conscience and religion set out in the ECHR are incorporated in UK domestic law.

71. In the UK, a number of programmes are helping to deliver those rights. In England, following the publication of the third and fourth periodic reports under the Convention on the Rights of the Child (CRC/C/GBR/4),<sup>10</sup> standards were included within the National Service Framework for children with specific needs – including disabled children. The Government provides grants to support low-income families with severely disabled children. It is providing £800 million to fund short breaks for parents with disabled children in the next four years.

72. Children and young people, including those who are disabled, are a priority in the Public Health White Paper for England, ‘Healthy Lives, Healthy People’.<sup>11</sup> The Paper addresses the wider factors that affect people at different stages in their lives, instead of tackling individual risk factors in isolation. It includes investing to increase health visitor numbers, doubling by 2015 the number of families reached through the Family Nurse Partnership programme, and refocusing Sure Start Children’s Centres on those who need them most. It recognises that good physical and emotional health will help children – including those who are disabled – to learn and achieve their full potential.

73. For England the Government’s approach to education for children with special educational needs or who are disabled is set out in the Green Paper ‘Support and aspiration: A new approach to special education needs and disability’.<sup>12</sup> This sets out a range of measures to improve outcomes and increase support for disabled children and their families. It includes a commitment to develop, through a pathfinder programme, a new

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<sup>9</sup> DWP, May 2010, ‘Family Resource Survey’ available at <http://research.dwp.gov.uk/asd/frs/> (last accessed 26/10/2011).

<sup>10</sup> DfE, July 2007, consolidated third and fourth periodic report to the Committee on the Rights of the Child, available at <http://www.education.gov.uk/childrenandyoungpeople/healthandwellbeing/b0074766/uncrc/> (last accessed 26/10/2011).

<sup>11</sup> DH, November 2010, ‘Healthy lives, healthy people White Paper: Our Strategy for Public Health in England’ available at <https://www.gov.uk/government/publications/healthy-lives-healthy-people-our-strategy-for-public-health-in-england> (last accessed 26/06/2013).

<sup>12</sup> DfE, March 2011, ‘Support and aspiration: A new approach to special educational needs and disability - A consultation’ available at <http://webarchive.nationalarchives.gov.uk/20130401151715/https://www.education.gov.uk/publications/eOrderingDownload/Green-Paper-SEN.pdf> (last accessed 26/06/2013).

single co-ordinated assessment for Education, Health and Care plans, and the option of a Personal Budget by 2014.

74. In Northern Ireland, the Children and Young People's Ten Year (2006-2016) Strategy and associated Action Plan aims to improve the lives of all children, including disabled children. The Strategy commits the Northern Ireland Executive to working across all government departments to ensure a coordinated partnership approach to policy development and the coherent delivery of services for children and young people to improve outcomes. A progress report on the achievements of the last five years is currently being prepared.

75. Scotland's approach to disabled children is founded in the 'Getting it Right for Every Child' (GIRFEC) approach. Alongside the duties set out in the Community Care and Health (Scotland) Act 2002, this approach puts children's needs at the centre of systems and decision-making, and works to deliver services that meet those needs. In partnership with CoSLA, and the For Scotland's Disabled Children (fSDC) coalition, the Scottish Government led a national review of disabled children's services, which reported in February 2011. The actions from the review include developing a GIRFEC practice briefing to show how this approach applies to disabled children, and investing an additional £2 million in short breaks for families with disabled children. This activity supplements the range of work to improve support for disabled children set out in 'Do the Right Thing' – Scottish Ministers' response to the 2008 Concluding Observations of the Committee on the Rights of the Child.

76. In Wales, the 'Disabled Children Matter Wales' campaign aims to enable disabled children to express their views directly to Ministers in Wales. The campaign directly influenced the decision by the Welsh Government to award £1 million to develop early support materials, including information booklets, to support disabled children and their families. The Early Support Programme aims to ensure that services used by young disabled children and their families are better coordinated and provides them with the information they need at the time they need it.

77. Wales has enshrined the Convention on the Rights of the Child within its domestic law as part of the 'Rights of Children and Young Persons (Wales) Measure' 2011. The Children's Scheme is being developed in partnership with non-government organisations (NGOs), the Children's Commissioners Office and children and young people. Children with disabilities will be involved in the consultation and development of the content of the scheme.

## **Article 8 – Awareness-raising**

78. The UK Government supports raising awareness of the rights of disabled people across society as a whole as an essential step towards achieving equality. There are positive signs of progress: in 2009 72% of the general population were aware of the DDA.<sup>13</sup> In the UK, the Convention is reinforcing a wide range of existing activities to raise awareness of disability issues; promote positive images of disabled people and the use of appropriate language; and combat stereotypes.

79. For example, the Government is using the unique platform presented by the 2012 Olympic and Paralympic Games to support a number of initiatives which are aimed at transforming the perception of disabled people in society; supporting opportunities to

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<sup>13</sup> ONS, Opinions (Omnibus) Survey available at <http://www.ons.gov.uk/ons/about-ons/surveys/a-z-of-surveys/opinions-survey/index.html> (last accessed 26/10/2011).

participate in sport and physical activity; and promoting community engagement through the Games.

80. New steps to improve the reporting of disability hate crime (paragraphs 152 to 156 below refer) will raise awareness of this important issue, and the need for society as a whole to respond.

81. The Access to Elected Office Strategy (paragraph 323 below refers) will raise awareness of the right of disabled people to participate in political and civil life, and put in place steps to enable disabled people to do so.

82. In England, the Government has developed a range of publications and resources to raise awareness of disability issues. They include an Inclusive Communications Roadshow, which helps government communicators to reach and reflect disabled people positively and involve them from the start when developing policies. One of the aims of the Government's national mental health strategy 'No Health without Mental Health' is to improve public understanding of mental health, and reduce negative attitudes and behaviours towards people with mental health problems.

83. In England, the Government has recognised the importance of disabled people's user-led organisations (DPULOs) in playing a central role in getting information to disabled people and providing a voice for disabled people in local and national decision-making. Government has invested £3 million over a four-year period between July 2011 and March 2015 to help DPULOs develop and grow, and so be better placed to help and support disabled people.

84. In Northern Ireland the Executive has worked with disabled people and their organisations to raise awareness of the Convention. The Executive will further promote the Convention through the disability strategy that it is developing. A new strategy specifically promoting mental health and emotional well-being will include programmes and awareness campaigns to tackle the stigma attached to mental health conditions.

85. In Scotland the Government has worked with the EHRC, SHRC and Disabled People's Organisations to raise awareness amongst individual disabled people and grassroots organisations across Scotland. An event for government policy officials was aimed at highlighting the obligations and opportunities set out in the Convention and their relevance across government. The Scottish Government also promotes positive attitudes towards disabled people by seeking to use positive images of disabled people in advertising and marketing campaigns, and through funding of the 'See Me', national campaign to tackle the stigma and discrimination of mental health conditions and change public attitudes and behaviour, and in particular employers' attitudes. The campaign's positive impact is evidenced through the encouraging results of the regular 'Well? What do you think?'<sup>14</sup> surveys, which show increasingly positive attitudes towards mental health.

86. In Wales, the Welsh Government funded 'Disability Equality in Action', a three-year project to help raise awareness of the Convention and promote the social model of disability within government to improve policy-making.

87. The UK Government has held or supported a range of events to raise awareness of the Convention, including funding a number held by the equality and human rights commissions. In England, the Government has supported a number of awareness-raising and training events run by the UK Disabled People's Council, a non-government

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<sup>14</sup> Scottish Government, September 2009, 'Well? What Do You Think? (2008): The Fourth National Scottish Survey of Public Attitudes to Mental Wellbeing and Mental Health Problems' available at <http://www.scotland.gov.uk/Publications/2009/09/15120147/0> (last accessed 26/10/2011).

organisation of disabled people. Government also used the Network of Networks in England – a virtual network of twelve disabled people’s organisations – to disseminate information. Government has worked with Whizz Kidz, a national organisation for disabled children, to develop a DVD to raise awareness of the Convention amongst disabled children and young people.

## **Article 9 – Accessibility**

88. The UK Government recognises the importance of ensuring that disabled people can access information, services and buildings so that they have a strong platform from which they can access and exercise their rights. Good progress continues to be made. For example, in 2009 32% of disabled people reported experiencing difficulties related to their impairment or disability in accessing goods or services, significantly less than in 2005 when 37% of people experienced these difficulties<sup>15</sup>.

89. Government’s commitment in this area is demonstrated by the approach taken in London towards the 2012 Olympic and Paralympic Games. The Government is aiming to ensure that these Games are the most accessible ever held.

### **1. Everyday services**

90. In Great Britain, the Equality Act gives disabled people the right to access everyday services, whether they are paid for or not, such as those provided by local authorities, hospitals, banks and shops.

### **2. E-accessibility**

91. The UK Government has set up an e-Accessibility Forum, made up of experts from government, industry and voluntary organisations, which aims to ensure that more inclusive services can be developed for the benefit of consumers and businesses. The Forum is responsible for implementing the ‘eAccessibility Plan’. The Plan includes implementation of the revised EU Framework on Electronic Communications Networks and Services. The Framework places a duty on EU Member States to encourage the availability of equipment suitable for disabled people, as well as equal access and choice to ensure that better on-line opportunities and access to equipment and software are available for disabled people.

### **3. Access to transport**

92. The Government recognises the importance of public and personal transport to disabled people to access jobs, services, facilities, family and friends and is working to remove many of the barriers that disabled people may face in undertaking journeys, both through investment of resources and improved legislation.

93. In Great Britain, the requirements of the Equality Act 2010 or similar European legislation now cover public transport providers. Much progress has been made in improving access to the transport network. On the rail network, over 6,600 new trains have been built to modern access standards, which were first introduced in 1998. Legislation requires that all rail vehicles must be accessible by 2020. The Government’s £370 million ‘Access for All’ programme, covering Great Britain, is delivering accessible routes using lifts and bridges at 148 stations and over 1,000 stations have received funding for smaller scale access improvements. A further £17 million of funding was also announced in 2011

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<sup>15</sup> ONS, Opinions (Omnibus) Survey available at <http://www.ons.gov.uk/ons/about-ons/surveys/a-z-of-surveys/opinions-survey/index.html> (last accessed 26/10/2011)

for projects requiring between £250,000 and £1 million of Government support. Improvements that will facilitate access to the 2012 Olympic and Paralympic Games, such as accessibility information in the spectator journey planner, will leave a lasting legacy.

94. Public Service Accessibility Regulations requiring improved accessibility of buses and coaches have been in place since 2000. All single-decker buses, double-decker buses, and coaches on scheduled services must comply by 2016, 2017 and 2020 respectively.

95. UK airports, like others in the EU, must comply with EU Regulation 1107/2006, which require that they provide services to ensure that disabled passengers can move through the airport, board, disembark and transit between flights. The Civil Aviation Authority, which promotes and enforces compliance of air regulations in the UK, has engaged with disabled people's organisations to develop best practice. The Government has published a comprehensive Code of Practice – Access to Air Travel for Disabled Persons and Persons with Reduced Mobility<sup>16</sup> – which sets out legal requirements and recommendations.

96. To assist with travel costs, in Great Britain, eligible disabled and older people are entitled to free off-peak travel on local buses, and eligible disabled people may purchase a Disabled Person's Railcard, which reduces the cost of most rail fares for them and a companion by a third. In Northern Ireland, eligible disabled people can receive half-fare concessions on public transport. People who are blind or in receipt of the War Disablement Pension travel free.

97. There are other public initiatives to help disabled people travel. Road Safety Scotland and the Scottish Government have developed an interactive multi-media education pack<sup>17</sup> to inform young people with mild to moderate learning needs about road safety. In Wales, one element of the Welsh Government's transport strategy 'One Wales: Connecting the nation'<sup>18</sup> focuses on removing barriers to enable disabled people to access the Welsh transport network by investing in more accessible train stations, encouraging innovative ways of delivering local bus services such as the demand responsive Bwcabus service and reforming the Blue Badge Scheme so that it prioritises help for those groups who need help the most. In Northern Ireland, the Accessible Transport Strategy helps disabled people travel by increasing the number of accessible vehicles and services, providing concessionary fares, improving the provision of travel information and training and the use of audio/visual technology on most trains to provide travel updates.

98. Advisory bodies in Scotland (Mobility and Access Committee – MACS), Wales (Passenger Transport User Committee), Northern Ireland (Inclusive Mobility Transport Advisory Committee – IMTAC) and England (Disabled Persons Transport Advisory Committee – DPTAC) provide information and advice to Government and others on the transport issues that affect the mobility of disabled people.

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<sup>16</sup> DFT, July 2008, 'Access to Air Travel for Disabled Persons and Persons with Reduced Mobility – Code of Practice' available at <http://webarchive.nationalarchives.gov.uk/+/http://www.dft.gov.uk/transportforyou/access/aviationshipping/accesstoairtravelfordisabled.pdf> (last accessed 26/10/2011).

<sup>17</sup> Road Safety Scotland and Scottish Government, Road Safety Scotland 'a2b safely' available at <http://www.a2bsafely.com/index.php> (last accessed 26/10/2011).

<sup>18</sup> Welsh Government, April 2008, 'One Wales: Connecting the Nation – The Wales Transport Strategy' available at <http://new.wales.gov.uk/deet/publications/transport/wts/wtstrategy/wtspdfloen.pdf?lang=en> (last accessed 26/10/2011).

#### **4. Buildings**

99. The barriers created by inaccessible buildings can prevent disabled people from being able to carry out everyday activities. Building regulations in the UK set accessibility standards to ensure that as many people as possible are able to access and use buildings and their facilities.

#### **Article 10 – Right to life**

100. In the UK, disabled people have the same right to life from birth as non-disabled people, and are not subject to arbitrary deprivation of life. Euthanasia and assisted suicide are both unlawful. Disability on its own should not be a factor in clinical judgements on such matters as the withdrawal of clinically assisted nutrition and hydration and the use of “Do not attempt cardiopulmonary resuscitation” instructions. Professional guidance to the medical profession, ‘Treatment and care towards the end of life (General Medical Council 2010)’,<sup>19</sup> is clear that decisions concerning potentially life-prolonging treatment must not be motivated by a decision to bring about the patient’s death, and must start from a presumption in favour of prolonging life.

#### **Article 11 – Situations of risk and humanitarian emergencies**

101. The Civil Contingencies Act 2004 requires government, local authorities and emergency services to have plans to prepare for, respond to and recover from emergencies. The Public Sector Equality Duty requires them to take the needs of disabled people into account so that they have the same level of protection and support. Government is undertaking further work to ensure that disabled people have accessible information about what to do in the event of emergencies.

102. Internationally, the UK supports humanitarian action that does not unfairly discriminate between or within affected populations. Supported projects must show how they meet disabled people’s needs. The UK supports coordinated approaches that help mainstream the needs of disabled people. The UK participated in several discussions regarding the SPHERE Humanitarian Charter and Minimum Standards in Disaster, which are now much more inclusive of disability issues. The UK, Denmark and Canada are working with the Office of the United Nations High Commissioner for Refugees on protection and assistance for disabled refugees.

103. Since 2001 the UK has provided almost £2.9m to Handicap International, including £1.5m for humanitarian responses. Most recently, a £500,000 grant was provided to HI for the Haiti earthquake response, including support for essential basic provisions of temporary shelters, health care and non-food items to badly injured and other vulnerable persons affected by the disaster.

#### **Article 12 – Equal recognition before the law**

104. The UK Government strongly supports the equal recognition of disabled people before the law, and their right to exercise legal capacity. There may be circumstances in which a disabled person needs support to exercise that capacity, or where they lack the mental capacity to make decisions for themselves, and decisions may then be made on their

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<sup>19</sup> General Medical Council, May 2010, ‘Treatment and care towards the end of life’ available at [http://www.gmc-uk.org/End\\_of\\_life.pdf\\_32486688.pdf](http://www.gmc-uk.org/End_of_life.pdf_32486688.pdf) (last accessed 26/10/2011).

behalf. In such circumstances, strict safeguards are in place to protect the individual in the way that such decisions are made. These safeguards include the duty to involve an independent advocate in certain situations.

105. In England and Wales the Mental Capacity Act 2005 sets out the legal framework to empower and protect people, including disabled people, who lack the mental capacity to make their own decisions. The Act is based on five principles, which include a presumption that adults have capacity, that they have a right to be supported to make as many decisions for themselves as possible and that any decisions made on their behalf are in their best interest. The Act also allows people to plan ahead if they think they may lack capacity in the future, in which case they can make a Lasting Power of Attorney (LPA) to choose someone to make decisions on their behalf. An LPA cannot be made once a person has lost his or her mental capacity. Instead, an application must be made to the Court of Protection, which can then appoint a deputy to act on the person's behalf.

106. The Court of Protection is a specialist court set up under the Mental Capacity Act for all issues relating to people who lack capacity to make specific decisions. It makes decisions and appoints deputies to make decisions in the best interests of those who lack capacity to do so. It acts as a safeguard for health, social care and financial issues. The Official Solicitor acts for people who, because they lack mental capacity and cannot properly manage their own affairs, are unable to represent themselves in court and no one else is able and willing to act.

107. In Scotland, the Adults with Incapacity (Scotland) Act 2000 regulates intervention in the affairs of adults who have or may have impaired capacity in certain circumstances. Interventions must be minimal and tailored to the individual's needs using whatever aids, communication support or advocacy the individual may require.

108. The Mental Capacity Act and Adults with Incapacity (Scotland) Act allow individuals to choose someone to make decisions related to their property and financial affairs, or their health and welfare, or both. There are Codes of Practice under each Act providing guidance and information. Those acting under the terms of the Acts – such as attorneys, General Practitioners (GPs), doctors, social workers and paid carers – must have regard to the relevant Code.

109. The Office of the Public Guardian (OPG) also provides safeguards in relation to the operation of the Mental Capacity Act. In England and Wales, the Office supervises deputies appointed by the court, maintains a register of deputyships and LPAs, and investigates any allegations of abuse or misconduct by an attorney or deputy. The OPG supports people who lack capacity in a way that gives them as much freedom to make decisions for themselves as possible, and ensures that attorneys and deputies act in accordance with the Mental Capacity Act. In Scotland the Office regulates and supports those authorised under powers of attorney, guardianship and intervention orders to make decisions on behalf of people with incapacity. The independent Mental Welfare Commission for Scotland also plays an important role in protecting the interests of adults with incapacity due to a mental health condition, by monitoring the Mental Health (Care & Treatment) (Scotland) Act 2003 and the welfare parts of the Adults with Incapacity (Scotland) Act. The Commission investigates if it believes someone is being treated inappropriately.

110. There are also safeguards in healthcare that help people who lack capacity to make important decisions about serious medical treatment or changes in where they live. Advocacy support is also available under the Mental Capacity Act. The Act requires that an Independent Mental Capacity Advocate (IMCA) must be appointed, in certain circumstances, to help people who lack capacity to make a decision and have no one else to speak on their behalf, primarily where there are plans to provide the person with long-term

accommodation in hospital or a care home, or where serious medical treatment may be required.

111. In Northern Ireland, the Mental Health (NI) Order 1986 currently provides a framework for the Courts to manage and administer the finance, property and affairs of adults who lack capacity.

112. In Scotland, the importance of advocacy is recognised in a number of ways. Several new rights concerning patient representation were introduced by the Mental Health (Care and Treatment) (Scotland) Act 2003. The Act provides for everyone with a mental disorder in Scotland – not just those who are subject to compulsory measures – to have a right of access to independent advocacy. To give legal backing to this right, a legal duty was placed on local authorities and the NHS for the first time to ensure that independent advocacy services are available to people who need them.

113. Advocacy is provided, or its provision secured, at a local level, with most local authorities contracting out provision of the service. As recognised in the recent report by the Scottish Parliament's Equal Opportunities Committee, significant resources were given to local government and health boards as part of the implementation of the Act, since 2004 £18 million has been provided to implement the Act, of which advocacy is an important part.

114. The Patient Rights (Scotland) Act 2011 reinforces and strengthens the Scottish Government's commitment to place patients at the centre of the NHS in Scotland. It includes the right for people to participate as fully as possible in decisions relating to their health and wellbeing, and requires authorities to have regard to the importance of providing such information and support as is necessary. The new provision of a Patient Advice and Support Service is being set up to direct people to other sources of advice and support, or persons providing representation or advocacy services, where appropriate.

115. Additional funding of £500,000 per year from 2010/11 is being provided to cover the potential increase in referrals and to address gaps in provision. In 2010/11 this funding was provided to ensure NHS Health Boards had undertaken a needs assessment and had up to date Advocacy Plans in place.

116. The Scottish Independent Advocacy Alliance, which is funded by the Scottish Government Health Directorates, is working with Health Boards to develop the advocacy plans.

117. Scotland's cross-government programme of work on independent living has identified advocacy provision as one of the priorities for action to support independent living for all disabled people. Working with disabled people and partners in CoSLA and the NHS in Scotland this is being explored further.

### **Article 13 – Access to justice**

118. The UK Government is committed to ensuring that disabled people have equality of access to justice, and is working to integrate equalities considerations into all reforms of the criminal justice system. There are a number of measures in place to ensure that disabled people have the support they need to ensure they can effectively access justice at all stages of the legal process, can exercise their legal rights as defendants, and victims, and can fulfil their responsibilities as witnesses and jurors. Disabled people have access to legal aid on the same basis as others. The current legal aid system costs £2.1 billion per annum. Through reform the Government plans to save £350m by the end of 2014/15.

119. In the UK there are separate justice systems for England and Wales, Northern Ireland and Scotland. These are described in the UK common core document.

## 1. Police

120. The Government recognises how important it is for disabled people to be able to access effective assistance at the initial stages of any legal process if they are going to have faith in the system, and for it to operate in a way that safeguards them. In Great Britain, the police, like other public authority elements of the CJS, are covered by the requirements of the Equality Act. In Northern Ireland, the DDA 1995, as amended, applies. Police forces have a variety of disability awareness training. For example, the Association of Chief Police Officers published guidance in 2010, developed by the National Police Improvement Agency, to help police respond more effectively to people with mental health conditions and learning disabilities. The guidance is delivered to frontline officers and staff in England, Northern Ireland and Wales through scenario-based training. Equivalent guidance was published by the Association of Chief Police Officers in Scotland to support their Equality and Diversity Strategy.

121. UK governments have established appropriate services to help communication between the police and disabled adults with learning difficulties or mental health conditions during police investigations and interviews. In England, Northern Ireland and Wales, these services are on a statutory basis. Scotland is considering recommendations from a recent review on its services.

## 2. Courts and Tribunals Services

122. From April 2011 Her Majesty's Courts and Tribunals Service brought together Her Majesty's Courts Service (HMCS) and the Tribunals Service (TS) into one agency responsible for the administration of the criminal, civil and family courts and tribunals in England and Wales and non-devolved tribunals in Northern Ireland and Scotland. HMCS and TS<sup>20</sup> staff receive training on equality and diversity including disability awareness. The Scottish Court Service provides similar training. The Judicial College's (formerly the Judicial Studies Board) Equal Treatment Advisory Committee continues to make the Equal Treatment Bench Book (ETBB) available to support all judicial office holders in the UK to ensure fair treatment is practiced throughout the judiciary. The ETBB contains guidance on issues of fair treatment and equality, including disability. Disability issues are also integrated into judicial training.

123. Both HMCS and TS published Reasonable Adjustment guidance for staff working with the public and other service users. This stresses the need to involve disabled people in decision making to help meet their needs and expectations. It also addresses the types of facilities and 'reasonable adjustment' measures needed to ensure effective participation by disabled people in the justice system. This includes disabled parking spaces near courthouses, hearing aid induction loops, information in alternative formats, and the provision of British Sign Language (BSL) interpreters for certain types of cases. Guidance requires weekly checking of induction loops, and sufficient staff trained to use them.<sup>21</sup>

124. A major programme of works to the court estate to improve facilities and access for disabled people has been conducted by HMCS, costing more than £46 million.

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<sup>20</sup> MoJ, April 2011, 'About her Majesty's Courts and Tribunals Service' available at <http://www.justice.gov.uk/about/hmcts/index.htm> (last accessed 26/10/2011).

<sup>21</sup> MoJ, March 2011, 'Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures', <http://www.justice.gov.uk/downloads/victims-and-witnesses/vulnerable-witnesses/achieving-best-evidence-criminal-proceedings.pdf> (last accessed 26/06/2013).

125. In England and Wales in certain circumstances disabled witnesses are supported under the Youth Justice and Criminal Evidence Act 1999, for example, by being able to use video recorded evidence, communication aids or a registered intermediary to help them give the best evidence possible in court.

126. There is further information on measures to assist vulnerable court users, including where appropriate disabled people, in the Code of Practice for Victims of Crime, Vulnerable and Intimidated Witness guidance and Special Measures for Witnesses.<sup>22</sup>

127. Following a 2009 pilot that identified intervention options for defendants or offenders with mental health conditions, liaison and diversion services aimed at diverting people with mental health conditions to other support services will be available in police custody suites and courts by 2014. These will ensure that people with mental health conditions are identified at an early stage.

128. The 2011 Northern Ireland Justice Act will improve the ‘special measures’ provisions in the 1999 Criminal Evidence (Northern Ireland) Order, which help disabled people give their best possible evidence in criminal proceedings. The measures include providing for the presence of a supporter, whose role is to reduce the witness’ anxiety and stress when giving evidence, and permitting the prosecutor to ask the witness some ‘warm up’ questions to help them relax before being cross-examined. Revised guidance for practitioners, including police officers, legal representatives and social workers, when interviewing vulnerable witnesses will be published in 2011, and will be accompanied by training.

129. In Scotland The Vulnerable Witnesses (Scotland) Act 2004 allows applications to be made on behalf of vulnerable witnesses to use a range of special measures to help them give their best evidence. Vulnerable in this context may include disabled people. A range of guidance<sup>23</sup> has been produced to help inform disabled people of these measures. A review of support for witnesses in the justice system has recently been undertaken and action will be taken to address some of the barriers and negative experiences of disabled and non-disabled witnesses.

### **3. Prison and probation services**

130. In England and Wales, Legal Services Officers provide advice to prisoners on how to obtain legal services. Disabled prisoners can expect to have the same support as non-disabled prisoners, with appropriate adjustments being made. For example, prisoners with dyslexia who are representing themselves can access a laptop with adaptive technology such as voice recognition software.

131. In the UK, staff working in prison and probation services receive training on disability issues. The National Offender Management Service commissions training in England and Wales. In Scotland, the Scottish Prison Service and Capability Scotland have worked together on a wide-range of disability-awareness training for prison staff, and in Northern Ireland staff also undertake such training.

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<sup>22</sup> Office for Criminal Justice Reform, October 2005, ‘Code of Practice for Victims of Crime’ available at [http://www.cps.gov.uk/victims\\_witnesses/victims\\_code.pdf](http://www.cps.gov.uk/victims_witnesses/victims_code.pdf) (last accessed 26/10/2011).

<sup>23</sup> Scottish Government ‘Witnesses in Scotland’ available at [http://www.witnessesinscotland.com/wis/CCC\\_FirstPage.jsp](http://www.witnessesinscotland.com/wis/CCC_FirstPage.jsp) (last accessed 26/10/2011).

## Article 14 – Liberty and security of the person

132. Anyone in the UK for any reason, including someone who is disabled, has fundamental human rights which government and public authorities are legally obliged to respect. The Human Rights Act gives further legal effect in the UK to the fundamental rights contained in the ECHR and the United Nations Universal Declaration on Human Rights. These rights include the right to liberty and security of the person.

133. No one in the UK can be deprived of his or her liberty because he or she is disabled. If there are situations when it is necessary to detain a person who has a mental disorder, strict safeguards are in place to ensure that the needs of the individual are taken into account and respected.

### 1. Mental health

134. In England and Wales, the 1983 Mental Health Act ('the 1983 Act') and the Mental Capacity Act 2005 provide the legal framework which sets out when a person may be detained and how they are to be protected. Under the 1983 Act, a person with a mental disorder may be detained and treated (or be made subject to certain other restrictions) without his or her consent where that is justified by the risk that the mental disorder poses to him or her or to other people. Safeguards ensure that any such deprivation of liberty is not arbitrary and complies with the law (including Article 5 of the ECHR). Those making decisions under the 1983 Act must have regard to a Code of Practice that sets out guiding principles. The principles include a requirement to recognise and respect the diverse needs, values and circumstances of patients, including those who are disabled. Individuals have the right to have their case reviewed by an independent and impartial Mental Health Tribunal. They also have the right to receive support from statutory Independent Mental Health Advocates.

135. Except for short periods, people who are deprived of their liberty under the 1983 Act may only be detained in a hospital where appropriate medical treatment is available for the patient. Like all hospitals these are monitored or inspected by the Care Quality Commission (CQC) in England and the Healthcare Inspectorate Wales (HIW) in Wales. Alternatives to avoid the use of compulsory powers should be explored before making an application for admission. The least restrictive options should be considered. Assessment, care and treatment must be delivered in a way which avoids unlawful discrimination and complies with all applicable statutory requirements. In Wales, HIW provides a Second Opinion Appointed Doctor service as an additional safeguard to protect patients' rights at times when they experience deprivation of liberty. HIW also undertakes a programme of inspections to hospitals where patients are detained under the 1983 Act (including establishments for patients with learning difficulties) which provides detained patients with opportunities to speak to HIW Inspectors. In 2009/10<sup>24</sup> HIW published its first annual report on how the 1983 Act was used in Wales.

136. Hospitals must involve detained patients as far as possible in planning and reviewing their own care. The CQC and HIW involve service users and carers in their activities, and provide detained patients with opportunities to speak to them.

137. There is an additional legal duty on hospitals that provide in-patient mental health care for people less than 18 years of age to ensure that the patient's environment in the

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<sup>24</sup> Health Inspectorate Wales, March 2011, 'Monitoring the use of the Mental Health Act in 2009 – 2010' available at <http://www.hiw.org.uk/news.cfm?orgid=477&contentid=18761> (last accessed 26/10/2011).

hospital is suitable for his or her age and subject to his or her individual needs. This duty helps ensure that children are not detained inappropriately on adult wards.

138. The Mental Capacity Act 2005 Deprivation of Liberty Safeguards protect people who are unable to make care and treatment decisions for themselves because they lack the 'mental capacity' to do so, and who need to be deprived of their liberty in their own best interests. The safeguards provide additional protection to ensure people are given the care they need in the least restrictive regimes, preventing arbitrary decisions, providing the right to challenge unlawful detention and avoiding unnecessary bureaucracy.

139. In Northern Ireland, the Mental Health Review Tribunal is an independent judicial body which provides a safeguard for detained patients against unjustified detention by reviewing of their detention from medical, legal and lay points of view. The Tribunal also reviews guardianship orders (which provide for the care of a mentally disordered person who requires formal supervision but not detention in a hospital). The Tribunal is governed by the Mental Health (Northern Ireland) Order 1986. The Northern Ireland Legal Services Commission which is responsible for publicly funded legal services in Northern Ireland provides advice, assistance and legal representation to those who cannot otherwise afford the cost of legal assistance.

140. In Scotland, the Mental Health (Care and Treatment) Act (Scotland) 2003 sets out when compulsory care and treatment can be given, individual's rights and the safeguards required to protect these rights. As in England and Wales, compulsory measures under the Act are subject to strict criteria, including evidence that the person's health, safety or welfare, or the safety of other people, would be at significant risk if he or she were not detained. Patients have a right of appeal to the Mental Health Tribunal Scotland. A number of measures exist to place the individual patient at the centre of proceedings, including access to both advocacy and legal representation free of charge and the ability to appoint a curator to represent their interests, where they are not capable of instructing legal representation. Psychiatrists are under a statutory duty to undertake regular reviews to ensure that the criteria are being met. The Act is binding on all acting under its authority. It requires that patients are treated with respect, can participate in decisions that the least restrictive approach is used, and that maximum benefit is ensured.

141. In Wales, the Mental Health (Wales) Measure, when commenced, will place statutory duties on health boards and local authorities to establish and deliver local primary mental health support services. Mental health service providers must ensure that all individuals in secondary mental health services have a care coordinator and a care and treatment plan. Secondary mental health services must provide access to assessment for previous service users. The independent mental health advocacy scheme will be expanded so that all inpatients in hospital in Wales will be able to access this form of support.

## **2. Criminal justice**

142. Equality within the legal system means disabled people who commit criminal offences are protected in the same way as non-disabled people. The Equality Act and DDA, as amended, provide even more protections from discrimination.

143. Priority is given to policies and programmes to help meet the needs of disabled prisoners. For example, in England and Wales a Prison Service Instruction mandates compliance with equality legislation, including requiring prison staff to be proactive in identifying disabled prisoners, record information about disability, and ensure that reasonable adjustments are made. Some older prison accommodation is not suitable for all disabled prisoners, but all refurbishment work and new accommodation complies with relevant legislation. A system-wide directory of facilities and services for disabled prisoners is available to ensure appropriate allocation of disabled prisoners. Within prisons,

disabled prisoners are consulted and involved on relevant issues through the equalities management arrangements, including the equality impact assessment process. The National Offender Management Service works with relevant disability groups in the formation of national policy.

144. In Northern Ireland, all prison services and facilities comply with the requirements of the DDA 1995. All prisons have accessible facilities for disabled prisoners and visitors. Any refurbishment of existing prison accommodation will include improved accessible facilities.

145. In Scotland, disabled prisoners benefit from the same procedural guarantees as all other persons, with particular attention given to ensuring that induction materials are fully accessible. The Inspectorates of Prisons, Constabulary and Prosecution operate independently and exist to monitor and improve services in Scotland. The Scottish Prison Service (SPS) is currently redeveloping the prison estate to better meet the needs of disabled prisoners and visitors. This includes more accessible cells with shower facilities and accessible equipment. Currently the SPS is responsible for providing primary health care services in prisons. It aims to provide equitable access to care and treatment services for all prisoners, based on individual assessed needs, and to provide services commensurate with that available to the general community. Plans are in place for this responsibility to transfer to the NHS in late 2011.

### **Article 15 – Freedom from torture or cruel, inhuman or degrading treatment or punishment**

146. Disabled people, like everyone else in the UK, are protected by the Human Rights Act 1998 which says that nobody shall be subjected to torture or to inhuman or degrading treatment or punishment. The Act places a duty on the UK Government to ensure that the legislation is respected.

147. In England and Wales medical research may only be carried out on people who lack capacity to consent, when it is considered to be of potential benefit to the individual, science and society and under very strict regulations. The Mental Capacity Act 2005 includes safeguards as mentioned under Article 12. The Act provisions are designed to ensure that the interests and safety of people who lack capacity are protected and that their current and previously expressed wishes and feelings are respected.

148. Under the Act, all intrusive research must be reviewed by an approved research ethics committee (REC) within the National Research Ethics Service (NRES). Research must relate to an impairing condition affecting the person in question and the consultation requirements set out in section 32 must be complied with. There are other detailed obligations which must be complied with, such as the requirement to withdraw the person in question if he or she shows any sign of objection. RECs are impartial and fully independent of sponsors, investigators and free from institutional or political influence. Committee members are given training to understand research ethics and handle applications under the Mental Capacity Act and the Medicines for Human Use (Clinical Trials) Regulations 2004.

149. Clinical trials of medicines are governed by separate regulations set up to implement European Directives. The Medicines for Human Use (Clinical Trials) Regulations 2004, as amended, provide safeguards for the conduct of research involving adults with incapacity. These Regulations contain similar principles for involving a legal representative when enrolling an adult who lacks capacity in a clinical trial and the research must be reviewed by a recognised ethics committee.

150. In Scotland, the Adults with Incapacity (Scotland) Act 2000, the Adult Support and Protection (Scotland) Act 2007 (ASPSA) and National Child Protection Guidance 2010, all create safeguards to ensure the welfare of adults who lack capacity due to mental disorder or inability to communicate. They help ensure that investigation and intervention exists to prevent disabled adults and children from abuse. Medical treatment can only be carried to safeguard or promote the physical or mental health of the adult and when authorised in this way does not allow the use of force or detention. The Adults with Incapacity Act also limits the circumstances in which medical research can be carried out on adults who lack capacity. ASPSA also requires any public body carrying out functions under the Act to have regard to the adult's ascertainable wishes and feelings (past and present), capabilities, background and characteristics. The adult must be able to participate as fully as possible in the performance of the function.

## **Article 16 – Freedom from exploitation, violence and abuse**

151. Everyone in the UK has legal protection from exploitation, violence and abuse. UK policies on hate crime, health and social care build on this by ensuring that additional safeguards are in place to protect disabled people.

### **1. Hate crime**

152. The UK is committed to tackling hate crime, including towards disabled people. The Criminal Justice Act 2003 for England and Wales, the Criminal Justice Order (No 2) (Northern Ireland) 2004 and the Offences (Aggravation by Prejudice) (Scotland) Act 2009 address hate crime. They enable courts to increase the sentence for offences shown to be aggravated or motivated by prejudice or hostility based upon victims' disability or presumed disability. The legislation is underpinned by a variety of measures designed to tackle hate crime and give disabled people further protection.

153. The Association of Chief Police Officers published in 2009, for the first time, figures on crimes motivated by prejudice (hate crimes). Out of the 52,028 such crimes recorded, 1,402 were related to the victim's disability.<sup>25</sup> In 2009/10 in Northern Ireland 41 out of 2,148 hate crimes were related to the victim's disability. The Government is developing a new work programme to tackle hate crime. This work programme will look to take into account the findings from the EHRC's inquiry into disability related harassment. It will include measures to increase the reporting of hate crime to improve understanding of the scale and nature of the problem and how to address it.

154. The reporting of hate crime is an important issue that the Government is committed to addressing. Since April 2011 Police forces have been formally collecting and reporting centrally on the number of offences that are motivated by hostility towards disabled people. This data will allow the Government and local areas to better tailor their responses to victims of disability hate crime and ensure their needs are properly met. Supported by all Police forces in England, Northern Ireland and Wales the True Vision website<sup>26</sup> launched in February 2011 sets out the ways hate crimes can be reported, including a new, secure online reporting form. The form gives people who are experiencing hate crime, or who are witnesses, but who are not confident to report it directly to the Police, a mechanism through which they can still make a report.

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<sup>25</sup> Association of Chief Police Officers 'Hate Crime Data' available at [http://www.report-it.org.uk/hate\\_crime\\_data1](http://www.report-it.org.uk/hate_crime_data1) (last accessed 26/10/2011).

<sup>26</sup> <http://www.report-it.org.uk/home> (last accessed 26/10/2011).

155. In Wales, Community Safety Partnerships made up of local organisations work together to address issues that are important in their communities, such as hate crime, domestic violence and anti-social behaviour. These partnerships have a statutory duty to formulate and implement three-year rolling plans and annual strategic assessments to improve community safety and combat substance misuse in their areas.

156. In Scotland, disabled people affected by hate crimes, sexual violence or domestic abuse are included in the categories of victims and witnesses provided with dedicated information and access to support by the Procurator Fiscal Service's dedicated Victim Information and Advice service.

## **2. Social care**

157. Disabled people who need health or social care support want reassurance that such support is effectively regulated, and that their rights will be respected. The Government is committed to ensuring that safeguards are in place so that disabled people can have confidence in the system through the operation of effective regulation systems.

158. In England, the Care Quality Commission (CQC) is the independent regulator of all health and adult social care, including for disabled people. The CQC regulates hospital treatment, mental health services and care in residential homes, in the community and in people's own homes. The CQC has powers to carry out reviews to check whether providers are complying with essential standards at any time and may undertake responsive reviews where there are concerns about a service. It has a variety of enforcement powers where services drop below these essential standards. It can close a service down when people's rights or safety are at risk. The CQC seeks the views of service users, including disabled people, and involves them in its work.

159. In Northern Ireland, the Regulation and Quality Improvement Authority is responsible for registering, inspecting and encouraging improvement in a range of health and social care services delivered by statutory and independent providers.

160. In Northern Ireland, the Executive is developing a policy on safeguarding adults at risk of harm. It will cover adults with an impairment who may be unable to safeguard their own well-being, property, rights or interests. The policy will aim to prevent abuse, exploitation or neglect from occurring, and ensure that effective mechanisms are in place to deal with harm if it does occur or may do so. It will be built on the principles of respect, dignity, and the person's capacity to consent. If necessary, the policy will be underpinned by legislation. New safeguarding partnership bodies will be set up to support the policy. These will enable adults at risk to help develop the safeguarding strategy and policy which will affect them. New safeguarding legislation will prevent unsuitable people from gaining work with disabled children and adults.

161. In Scotland, under the ASPSA, Scottish Councils have a duty to make enquiries about and support any person's well-being, property or financial affairs where they know or believe the person is at risk of harm. Similar powers are given under the Mental Health Care and Treatment (Scotland) Act 2003 to protect and support people who have a mental disorder. The Scottish Commission for the Regulation of Care is the national regulator of all care services. It exists to ensure that care providers meet the Scottish Government's National Care Standards which cover services for adults, children and young people. The Commission deals with complaints and carries out inspections and enforcement activities to help ensure that registered care services, including those for disabled people, provide good quality care. This is an area of significant concern for vulnerable disabled people and where continuing action is needed to develop approaches that promote care standards that uphold human rights and the principles of independent living: dignity, freedom, choice and control.

162. In Wales, HIW regulates and inspects NHS and independent healthcare services against a range of standards, policies, guidance and regulations. HIW highlights areas requiring improvement to ensure that care and treatment is safe, high quality and delivered in a manner that recognises and respects the individual needs of service users. Healthcare should always be provided in an environment free from abuse and a number of HIW's work programmes focus on monitoring situations where there is judged to be an increased risk of abuse to patients. Examples of current work include a rolling programme of unannounced visits to assess whether the dignity and respect of individuals is maintained in the healthcare environment and, working with the Care and Social Services Inspectorate Wales, unannounced visits to providers of services to people with learning difficulties. HIW also protects the interests of people whose rights are restricted under the Mental Health Act.

### **Article 17 – Protecting the integrity of the person**

163. The UK Government supports the right of disabled people to respect for their physical and mental integrity like anybody else, and that they cannot be subject to medical or other treatment without their freely given, informed consent. Disabled people have the same right to refuse treatment as everyone else even if that treatment is considered to be in their best interest. Where a person lacks the capacity to make such decisions themselves, any decision must be made in that person's best interests. In such circumstances strict safeguards to protect the individual are in place.

164. The UK recognises that on occasions it is necessary for treatment to be offered differently for someone who is disabled. The Mental Capacity Act 2005 specifies how 'best interests' decisions should be made, and, that the decision maker should try to identify the views of the person and should consult with a range of other people including persons engaged in caring for the person or interested in their welfare. The Act also requires the involvement of an independent advocate where the person has no close family or friends. The government produces an annual report on the use of safeguards which involve independent advocates, which have increased use over the past three years. The Act introduced two new criminal offences: ill treatment and wilful neglect of a person who lacks capacity to make relevant decisions. The General Medical Council, the UK's statutory body with responsibility for regulating the medical profession, has published comprehensive guidance about making decisions when a patient lacks capacity.

165. The UK recognises that disabled people should be able to retain their fertility on an equal basis as non-disabled people. It is only under very rare and exceptional circumstances that a doctor with the consent of a court may decide to sterilize a person who lacks the capacity to make their own decisions. The doctor would need to have assessed that the sterilisation was in the person's best interests, having consulted family members and independent advocates as appropriate, and often after obtaining the permission of the relevant court. Any proposed non-therapeutic sterilisation (e.g. for contraceptive purposes) must be brought before a court to decide whether it is in the person's best interests.

166. In England, one of the key aims underpinning the Green Paper 'Support and aspiration: A new approach to Special Educational Needs and Disability' is for every child and young person with additional needs to be independent and able to achieve where possible their aspirations and hopes. Fundamental to this is the capacity for them to make their own choices. This may include the young person making decisions around their fertility and whether to have child.

167. In Scotland, substituted decision-making is only used as a measure of last resort. As explained in paragraph 150 above, the Adults with Incapacity (Scotland) Act 2000 and the ASPSA provide the framework and safeguards for the welfare of adults who lack capacity due to mental health conditions, including agreement for medical treatment. There is a

legally established principle under the ASPSA that intervention should only occur if it will provide benefit which could not reasonably be provided without intervening in the adult's affairs, and is the least restrictive option.

168. The Mental Health (Care and Treatment) (Scotland) Act 2003 also aims to protect the integrity of people with mental health conditions. Interventions made under the Act must conform to its principles, which include patient participation, informal care where possible and maximum benefit to the patient.

### **Article 18 – Liberty of movement and nationality**

169. Disabled people in the UK have the same right to British nationality as non-disabled people. British passports are issued to people who are deemed to be British nationals under the various British Nationality Acts (the main ones being 1948 and 1981).

170. Disabled people can apply for the right to enter or remain in the UK in the same ways as non-disabled people.

#### **1. Reservation**

171. On ratifying the Convention, the UK entered a reservation to make clear that the Convention does not create new or additional rights to enter or remain in the UK. The UK had concluded that such a reservation was necessary to retain the right to apply immigration rules, and to maintain the scope to introduce wider health screening for applicants entering or seeking to remain in the UK. It agreed to review the reservation 12 months after ratification to assess whether there was a continued need for it. The UK has consulted disabled people and organisations with an interest in these issues as part of the review. The UK has been assessing the results of the consultation and these will be considered in making a decision on whether to retain the reservation.

#### **2. Registration at birth**

172. By law all births in the UK – including those of disabled children – must be registered and all children – including disabled children – must be given a name.

### **Article 19 – Living independently and being included in the community**

173. The UK's approach to independent living goes well beyond the right as described in Article 19 and encompasses increasing choice and control, removing barriers and inclusion in the community. This approach underpins the rights set out in many of the other articles of the Convention. It lies behind a number of policies that are in place or are being developed. Details of the approaches in England, Scotland and Wales are set out in the information provided to the Joint Committee on Human Rights in response to the Committee's call for evidence on 'Protecting the Rights of Disabled People to Independent Living'.<sup>27</sup>

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<sup>27</sup> JCHR, February 2011, 'Inquiry into the implementation of the right of disabled people to independent living' <http://www.parliament.uk/business/committees/committees-a-z/joint-select/human-rights-committee/inquiries/protecting-the-right-of-disabled-people-to-independent-living/> (last accessed 26/10/2011).

## 1. Choice and control

174. Independent living means having choice and control over assistance and/or equipment needed to go about daily life, and having equal access to housing, transport and mobility, health, employment and education and training needs. As part of a cross-government strategy on independent living in England the Government has focused on personalisation of services for disabled people as a priority to give them greater choice over the support they need and the resources available to them.

175. The Independent Living Strategy sets out actions to improve the choice and control disabled people have over the services they need to live their daily lives as part of the community.

176. Personal budgets – where individuals control the money apportioned to them by their local authority – support choice and control. Early findings from the National Personal Budgets Survey show that two-thirds of personal budget recipients and family carers said their quality of life has improved and over two-thirds of recipients report an increase in control over their support.<sup>28</sup>

177. The Right to Control (RtC) takes this further by giving disabled people a legal entitlement to choose how they use the money available to them from six separate funding streams covering housing, employment and personal care. The RtC has been implemented across seven pilot areas in England for an initial two-year period. These pilots are a partnership between local authorities, Jobcentre Plus and disabled people's organisations.

178. Personal Health Budgets – which are being piloted until October 2012 – give disabled people more choice and control over funding spent on their health care.

179. The Government is actively supporting disabled people's user-led organisations (DPULOs) in England to build capability and capacity to offer the practical support that disabled people may need to exercise this choice and control to live independently. In July 2011 the Minister for Disabled People announced a package of measures worth around £3 million over the next four years, which will include help for DPULOs to acquire the skills and expertise they may lack – for example around human resources or financial management.

## 2. Removing barriers

180. The Government is committed to removing what have in the past been intractable barriers that disabled people face in, for example, education, employment, housing, health and social care, and this is reflected in policies such as the Work Programme (paragraph 295 refers) and the Education Green Paper 'Support and aspiration: A new approach to special educational needs and disability'. The Welfare Reform Bill will ensure that support is better targeted to those who face the biggest barriers to living independent lives whilst ensuring the system is affordable for the taxpayer. Universal Credit aims to reduce the considerable financial barriers to work that disabled people can face. Combined with the Work Programme, Universal Credit will support many more disabled people into work.

181. As an integral part of independent living, the Government supports disabled people having the choice to live in their own homes. Several funding programmes continue to enable this. Housing-related support services – known as Supporting People – enable

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<sup>28</sup> Centre for Disability Research, Lancaster University, In Control, June 2011 'The National Personal Budget Survey' available at <http://www.in-control.org.uk/media/92851/national%20personal%20budget%20survey%20report.pdf> (last accessed 26/10/2011).

disabled people and people in vulnerable situations to live independently in their own homes. These services work with individuals to help them gain the skills needed to live more independently. £6.5 billion investment has been secured over the four year period of the current Spending Review to 2014/15, and by including this in the main formula grants through which they are funded, local authorities have been given the maximum flexibility to meet local needs in the best way. The Disabled Facilities Grant (DFG) is a mandatory grant that helps to fund provision of adaptations that enable disabled people to live as comfortably and independently as possible, and is crucial to the Government's objective to support independent living. Funding for the DFG has been protected during the Spending Review period and will rise to £185 million in 2014/15.

182. Disabled people can be supported to live in their own homes as owners or tenants. Home ownership and assured tenancies have to be matched and co-ordinated with a package of care specifically designed to support the individual in the home of their choice.

183. Disabled people may choose to live in residential homes. Residential care homes provide accommodation together with personal care and are owned and managed by public, private sector or charitable bodies. Smaller homes provide for four to eight people and there are some larger homes too. Some homes specialise in particular forms of provision, for example, for people on the autistic spectrum or those with sensory impairments in conjunction with learning disability. Care homes are registered with the Care Quality Commission under the Care Standards Act 2000.

### **3. Inclusion in our communities**

184. Putting power in the hands of people – including disabled people – is at the heart of the Government's vision of the Big Society, which aims to empower communities to take more control by encouraging social action and opening up public services. The Localism Bill, primarily for England, introduces this with a range of measures to devolve more powers back to individuals, communities and councils. The Government recognises that disabled people may need more support to fully participate in local decision making. Overarching legal frameworks like the Public Sector Equality Duty encourage public organisations to create policies and services that reflect advice from disabled people. The Government is committed to working with disabled people. For example, the Right to Control policy and subsequently its implementation process were developed in co-production with disabled people.

185. In Northern Ireland the Supporting People programme provides a range of services, including advice and guidance, to enable disabled people and others with support needs to live as independently as possible. It helps to deliver the Northern Ireland Supporting People Strategies 2005/10 and 2010/15, the PSI Homelessness Strategy, and the Bamford Review of Mental Health and Learning Disability and Ageing in an Inclusive Society. The new Physical and Sensory Disability Strategy 2011/15, developed in accordance with the Convention, builds on this work with the intention of creating a society in which disabled people are encouraged and enabled to overcome barriers in their lives.

186. In Northern Ireland a Strategic Action Plan (2009/11) was published in 2009 and a Regional Autistic Spectrum Disorder (ASD) Network Group was established. Through this Group, for the first time, individuals, parents, and carers have an unprecedented say in designing and planning services. The Network Group significantly improved waiting times and developed a Care Pathway for Children and Young People to bring consistency to autism assessment across the region. It has also begun to develop a diagnostic ASD service for adults.

187. Scotland's commitment to independent living is set out in a Shared Vision and Approach which was adopted by a partnership of Scottish Government, disabled people and

their organisations, CoSLA and NHS Scotland. A Core Reference Group provides leadership and co-ordination across government and the wider public sector. The vision and programme is founded on a model of co-production. This helps ensure effective involvement and participation of disabled people in the development of policy and service delivery that support the principles of independent living. The programme is supported by Scottish Government funding (£140,000 in year 2011/12).

188. There is other activity to support independent living in Scotland. For example, the Social Work (Scotland) Act 1968 and the Children (Scotland) Act 1995 place a duty on local authorities to provide services which support inclusion, help prevent isolation and segregation and provide equal opportunities for daily living. The Community Care and Health (Scotland) Act 2002 places a duty on local authorities to offer direct cash payments to eligible people to enable them to arrange and buy their own community and personal care. A Self-Directed Support Strategy<sup>29</sup> seeks to increase the uptake of self-directed support through direct payments which provides flexibility, choice and control to more individuals.

189. Two initiatives are helping to shape the integration of health and social care in Scotland, moving the balance of care from institutional to primary and community settings, so more people can live independently and stay at home for longer. ‘Reshaping Care for Older People: A Programme for Change: 2011/21’<sup>30</sup> was published in March 2011. It is supported by Scottish Government funding of £70 million for 2011/12, to be sustained at that level in the year to 2013/14.

190. The Report on the Future Delivery of Public Services was published in June 2011<sup>31</sup>.

191. Disabled people in Scotland are contributing to policy direction on housing adaptations and preventative support services, for example the development of a national accessible housing register by Glasgow Centre for Inclusive Living and Ownership Options. The register will list adapted social housing all over Scotland. It will give disabled people the opportunity to see if there are suitable houses in another part of the country, something they are unable to do at present.

192. In Wales, the approach taken by the Welsh Government to independent living is outlined in the evidence submitted in response to the Joint Committee on Human Rights call for evidence on Protecting the Rights of Disabled People to Independent Living (this evidence can be requested by visiting the Welsh Government website).<sup>32</sup>

## Article 20 – Personal mobility

193. The extensive work in the UK to improve personal mobility is focused on ensuring that public transport and the built environment are physically accessible (see Article 9). In Great Britain local authorities are responsible for designing pedestrian environments such as footpaths and public spaces, and the Equality Act 2010 requires them to consider the

<sup>29</sup> Scottish Government, November 2010, ‘Self Directed Support: A National Strategy for Scotland’ available at <http://www.scotland.gov.uk/Publications/2010/11/05120810/0> (last accessed 26/10/2011).

<sup>30</sup> Scottish Government, Joint Improvement Team, ‘Reshaping Care for Older People: A Programme for Change 2011-2021’ available at <http://www.jitscotland.org.uk/action-areas/reshaping-care-for-older-people/> (last accessed 26/10/2011)

<sup>31</sup> Scottish Government, June 2011, ‘Report on the Future Delivery of Public Services’ available at <http://www.scotland.gov.uk/Publications/2011/06/27154527/0> (last accessed 26/10/2011)

<sup>32</sup> Welsh Government JCHR evidence <http://wales.gov.uk/topics/equality/feedback/?jsessionid=dpYQT7ITdLBMk4nwpwHfDD0NYTMLZkZLFS1jQ5Z8QTvtwqLmNtBh!-728126835?lang=en> (last accessed 26/10/2011).

particular needs of disabled people when doing so. Government guidance<sup>33</sup> has been produced for local authorities, architects and others about inclusive design for the pedestrian environment to help disabled people get around. Addressing the needs of disabled people is firmly embedded into all guidance Government publishes on the design of streets and other public places, including the Local Transport Note on Shared Space<sup>34</sup>. In Scotland, the Designing Streets 2010<sup>35</sup> policy statement requires streets to be designed so everyone can use them.

194. Mobility may also be related to confidence. The Government supports local authorities and non-government organisations to help disabled people develop their skills or confidence to use public transport independently. To this end, the Government published guidance in 2011 on developing travel training schemes.

195. Access to Work – the specialist disability programme that helps disabled people take up or retain paid work – can support costs faced by a disabled person or their employer, beyond what is reasonable for an employer to meet, including paying for the additional costs that may be incurred by a disabled person in travelling to work. Over 35,000 people received help through the programme in the financial year 2010/11.

196. A variety of local measures are also in place to help ensure that disabled people have access to aids and equipment which can support their personal mobility. For example, mobility centres in the UK give advice on wheelchairs, mobility vehicles and car adaptations. The Government provides funding to 12 centres in England.

197. The Government is reviewing the legislation regarding the use of powered wheelchairs and mobility scooters on the highway, and is also looking into the scope for increasing their carriage on public transport.

198. Disabled people can also benefit from support that can be delivered using assistive technology. The Government ran a randomised control trial of telehealth and telecare – the Whole System Demonstrator programme – and an evaluation of the results will be published later this year.

199. In England and Scotland, following a clinical assessment, the NHS provides wheelchairs free of charge to individuals who cannot walk, or whose ability to walk is severely limited. In addition, people who receive the higher rate of the DLA mobility component individuals can lease or buy a car, powered wheelchair or scooter through the Motability scheme in exchange for some or all of their benefit

200. In Northern Ireland, the Regional Wheelchair Services Implementation Group is working to reform the Northern Ireland Wheelchair Service and improve service provision. Wheelchair users are actively involved in service improvement through this Group.

201. In Wales, from April 2011 more than £2 million of government funding is being invested in reducing waiting times for wheelchair services, particularly for children and young people. It will be used primarily to double the number of clinical staff assessing individuals to enable them to have the most appropriate wheelchair to suit their need. It will also support better management of waiting lists to improve the service for adults and

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<sup>33</sup> DfT, December 2005, 'Pedestrian environment and transport infrastructure available at <http://www.dft.gov.uk/transportforyou/access/peti/> (last accessed 26/10/2011).

<sup>34</sup> DfT, October 2011 'Local Transport Note on Shared Space' accessible at <https://www.gov.uk/government/publications/shared-space> (last accessed 26/06/2013).

<sup>35</sup> Scottish Government, March 2010, 'Designing Streets: A policy statement for Scotland' available at <http://www.scotland.gov.uk/Publications/2010/03/22120652/0> (last accessed 26/10/2011).

children who require wheelchairs, and support more training for health professionals, patients and their support workers.

## **Article 21 – Freedom of expression and opinion, and access to information**

202. The UK is committed to ensuring that disabled people have an equal opportunity to express their opinions and access the information they need to play a full and active role in society. In Great Britain, the Equality Act includes a specific provision requiring that reasonable steps are taken to ensure that, when there is a duty to provide information, it is in an accessible format

### **1. Digital inclusion and access to the internet**

203. Figures from 2010 indicate that 58% of disabled people live in households with internet access.<sup>36</sup> The UK is committed to ensuring that disabled people have access to digital technology and the internet. Race Online 2012,<sup>37</sup> an independent project funded by the UK government, aims to enable millions of people in the UK – including disabled people – to access the internet.

204. Disabled people can face unique barriers when trying to access information and services online, such as lack of physical access to computers, lack of accessible hardware and inaccessible websites.

205. The Government recognises the importance of accessibility and requires all UK public sector websites to meet a certain standard of accessibility.<sup>38</sup> The Government offers guidance and tools to help public sector organisations to make digital information and services more inclusive. For example, in England the Government provides guidance on producing inclusive online communications, a highly regarded and free accessible media player, and an image library which provides government departments with positive images of disabled people.

206. Access to Work can support the costs faced by a disabled person or their employer in providing accessible equipment or software that can help the disabled person to enter or remain in work.

207. Inclusive communication has been identified as one of the priorities for Scotland's independent living work. Disabled people are working with the Government to create a new national statement of inclusive communication principles and indicators to measure progress. This is being designed as an information and self-assessment tool for public bodies and will offer a practical approach to delivering inclusive communication. Funding has been provided to raise awareness across the public sector.

### **2. Sign language**

208. The UK Government recognised BSL as a language in its own right in 2003. It is the first language of 50,000 to 80,000 Deaf people in the UK. BSL can be learnt in UK colleges or universities, and three examination systems exist. In Scotland, the Roadmap to British

<sup>36</sup> National Centre for Social Research, December 2010, 'British Social Attitudes 27th Report' available at <http://www.natcen.ac.uk/study/british-social-attitudes-27th-report/> (last accessed 26/10/2011).

<sup>37</sup> HM Government, 'Race online 2012' available at <http://raceonline2012.org/> (last accessed 26/10/2011).

<sup>38</sup> A minimum of AA conformance to the W3C Web Content Accessibility Guidelines, versions 1 or 2 by March 2011.

Sign Language and Linguistic Access in Scotland<sup>39</sup> was developed and published in 2009, with government support, as a resource for government and the wider public sector. Since then, government funding has helped develop an infrastructure to help train and register a greater number of BSL/ English interpreters to address the critical shortage identified in Scotland. A further £30,000 in 2011 will help increase the capacity of BSL users to work in partnership with government and contribute to the wider independent living programme.

209. In Wales, the Assembly Government and European Social Fund funded the BSL Futures scheme to improve access to public services for BSL users across Wales and has increased the number of BSL teachers. The scheme was created in partnership with RNID Cymru, Deaf Association Wales and the Association of Sign Language Interpreters. In addition, the Welsh Government developed best practice advice for the public sector in Wales on providing services in BSL, which will enable better use of interpreter services in Wales.

### **3. Access to electronic communications**

210. The UK is committed to providing access to broadcasting services for disabled people and to ensuring that the services offered are of a consistently high standard. The Communications Act 2003 sets minimum targets for subtitling, signing and audio description on television channels. The Code on Television Access Services produced by the UK communications regulator, Ofcom, gives guidance on these targets and how television services should promote understanding and enjoyment of television by people with hearing or visual impairments. Ofcom is required to consult disabled people when reviewing or revising the Code.

211. Ofcom's Code requires many channels to provide thirty minutes of sign-presented programming a month or propose alternative arrangements to make more sign-presented programmes available to deaf or hearing impaired sign language users. As a result, over sixty of the smaller channels jointly contribute funding to the British Sign Language Broadcasting Trust, which commissions sign-presented programmes for the BSL Zone on the Community Channel, which is broadcast on terrestrial, cable and satellite TV. In August 2010, Ofcom reported that overall UK broadcasters were exceeding their obligations on the provision of access services required under the Code.

## **Article 22 – Respect for privacy**

212. Disabled people in the UK have the same right to privacy as anyone else and are covered by Article 8 of the ECHR, the Data Protection Act (DPA) 1998, the Confidentiality Code of Practice and common law duty of confidentiality that applies to healthcare practitioners. Organisations that hold personal information are required to use it fairly, keep it secure, make sure it is accurate and keep it up to date. The DPA gives everyone the right to see and, if necessary, amend personal information about them, including health records. The Information Commissioner's Office enforces the DPA.

### **Medical records and information**

213. The DPA and Confidentiality Code provide healthcare practitioners with guidance on how to protect patient information. Patients – including those who are disabled – have a

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<sup>39</sup> Scottish Government, August 2009, 'Roadmap to British Sign Language & Linguistic Access in Scotland' available at <http://www.scotland.gov.uk/Publications/2009/07/01102537/0> (last accessed 26/10/2011).

legal right to access their records. Care must be taken to ensure that information is provided to patients in a way they can access. Practitioners should check that patients have understood their choices and the implications of sharing their healthcare information.

214. A number of important changes are underway to give people, including disabled people, more control and access to their medical records. In England, a new electronic system for recording patients' personal information will provide patients with greater control over their personal records. The online service 'HealthSpace' helps make personal healthcare information accessible to disabled people through, for example, Secure Log In Cards available in Braille, and through text that can be resized.

215. In Wales, the Welsh Government provided £1.7 million of funding for 'My Health Online' – a new website available in Welsh and English that will allow patients to check their medical records, order repeat prescriptions and book appointments with their General Practitioner.

## **Article 23 – Respect for home and the family**

216. The UK is committed to enabling disabled people to enjoy the same opportunities for family life as anyone else, and provides a range of support for parents and children to help ensure this.

### **1. Right to marriage or civil partnership**

217. In the UK disabled people have the same rights to enter into marriage or civil partnership as non-disabled people. Under the Marriage Act 1949 and Civil Partnership Act 2004 a superintendent registrar is required to interview people who want to marry or form a civil partnership, to ensure they are free to do so and consent to doing so.

### **2. Access to family planning programmes**

218. Disabled people are protected from unlawful discrimination in the provision of family planning services by the Equality Act in Great Britain, and DDA in Northern Ireland. The legal framework is supported by strategies which include the needs of disabled people. For example, in Scotland, the 2005 Sexual Health Strategy aims to support all citizens to acquire and maintain the knowledge, skills and values necessary for good reproductive health and wellbeing. The Scottish Government is developing a new strategy to continue pursuing these aims. In Wales, the Welsh Government's five-year plan to improve sexual health was published in 2010 and highlights the importance of prevention, education, individual responsibility and access to healthcare services. It sets out how local health boards, health and social care and wellbeing partnerships and children and young people partnerships can work together with young people and their families.

219. People with learning disabilities may have special and specific needs around contraception and sexual health, for example, in terms of accessible information. The Family Planning Association (FPA) produced 'Talking Together About Contraception',<sup>40</sup> to support young people with learning difficulties who wish to access contraception. An easy read book 'My pregnancy, my choice,' supports people with learning difficulties make choices about pregnancy and birth.<sup>41</sup>

<sup>40</sup> Welsh Government, May 2010, 'Being a family: Parents with Learning Disabilities in Wales' available at <http://wales.gov.uk/topics/childrenyoungpeople/publications/family/?lang=en> (last accessed 26/10/2011).

<sup>41</sup> Family Planning Association 'My pregnancy my choice'.

### 3. Fertility treatment

220. Disabled people have the same access to treatment as others. A disabled person is able to direct another person to give consent to fertility treatment on his or her behalf if he or she is competent to give consent but physically unable to sign a form. A witness must attest the fact that the consent is a true representation of the disabled person's wishes.

### 4. Fostering and adoption

221. The same criteria are applied to disabled and non-disabled people who wish to foster or adopt a child. The key issue is how well they can care for and meet the needs of the child. When considering the suitability of a prospective foster or adoptive parent, the applicant's health and the extent to which it may affect his or her capacity to look after the child will be taken into account. When a fostered or adoptive child has special needs, the foster or adoptive parents are given full information about the child's needs, and training and support from the responsible local authority. In the case of a foster carer, the full cost to them of caring for the child is met by the responsible local authority via a fostering allowance. In the case of adoption, the responsible local authority may provide the prospective adopters with means-tested financial support in particular circumstances.

### 5. Support for parents, families and carers of young disabled people

222. The UK recognises that the parents, families and carers of young disabled people can face challenging circumstances and may need co-ordinated and extra support to help ensure their well-being and that of the young person. This support is provided in a variety of ways.

223. Across the UK, the Government is providing £20 million for additional respite care for carers of severely disabled children. Up to £30 million funding has been made available in 2010/11 to support local projects developing children's palliative care services.

224. In England and Wales the 'Early Support' programme is designed to improve the quality and coordination of services for young disabled children and their families, whilst keeping parents at the centre of any decisions about their child. In England, the 'Recognised, valued and supported: Next steps for the carers strategy' launched in November 2010 sets out a framework for supporting the carers of both adults and ill and disabled children. £6 million of new funding has been made available to train GPs to identify and support carers. An additional £400 million will provide breaks for all carers, including the carers of ill and disabled children. Local authorities will also be provided with £800 million over the next four years to fund short breaks for families with disabled children.

225. In Scotland, the Government has funded the Scottish Consortium for Learning Disabilities to develop guidance for professionals working with parents who have learning disabilities. The guidance recommends a joint approach between children's services and parent's support services.

226. In Wales, the Welsh Government commissioned 'Learning Disability Wales' to find out the number of parents in two Welsh counties with learning disabilities, and find their views of how support could be improved. The results are contained in the document 'Being a Family – Parents with Learning Disabilities in Wales'.<sup>42</sup> Local authorities and their partners were then asked to consider the research and how their services could best support

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<sup>42</sup> Welsh Government, May 2010, 'Being a family: Parents with Learning Disabilities in Wales' available at <http://wales.gov.uk/topics/childrenyoungpeople/publications/family/?lang=en> (last accessed 26/10/2011)

parents with learning difficulties. To promote these improvements, the Welsh Assembly Government published further statutory guidance, with examples of positive and supportive good practice in integrated working across child and adult services.

227. In England, the ‘Safeguarding Disabled Children – Practice Guidance’<sup>43</sup> explains how Local Safeguarding Children Boards, agencies and professionals at the local level are expected to draw up and agree detailed ways of working together to safeguard disabled children.

## **6. Protecting children in care**

228. The UK believes that all children, including disabled children, are best looked after by their families, unless there is reasonable cause to believe that the child is suffering, or is likely to suffer, from significant harm.

229. Local authorities must ensure that a child taken into care is placed in a setting which best meets his or her needs. In England and Wales, the Children Act 1989 requires local authorities to meet the differing needs of children in their care, and to put in place a comprehensive and regularly reviewed care plan for each child. The Care Planning, Placement and Case Review (England) 2010 Regulations, underpinned by the Children and Young Persons Act 2008, have streamlined and strengthened guidance and requirements. In Wales, the Welsh Government is consulting on provisions within the Children and Young Persons Act to strengthen the placement arrangements for all children, including disabled children, who are in care. In Scotland the Looked After Children (Scotland) Regulations 2009 require local authorities to assess the child’s needs, including those relating to their health, and set up care plans that meet their immediate and long term needs.

## **Article 24 – Education**

230. Disabled people in the UK have the right to education on an equal basis with non-disabled people. Consistent with the interpretative declaration entered when the UK ratified the Convention, the Government is committed to enabling parents to continue to have access to places for their children at mainstream and special schools.

231. In addition, the UK considers that there may be circumstances in which a disabled child’s educational needs can best be met through specialist provision outside their local community. The UK is maintaining its reservation entered on ratification of the Convention to allow a child to access the more appropriate education provision even though it is available elsewhere. This also maintains parental choice for schools outside their local community.

232. Discrimination against disabled people in education is prohibited in Great Britain by the Equality Act 2010 and in Northern Ireland by the Special Educational Needs and Disability (Northern Ireland) Order 2005. The Equality Act makes it unlawful for schools to treat disabled pupils less favourably, without justification, than their non-disabled peers. Local authorities and schools must take reasonable steps to ensure equal access to all areas of school life. The Act sets out provisions that require local authorities to develop accessibility strategies and schools to develop accessibility plans for disabled pupils. This means that local authorities in relation to education functions and schools have to have written plans that demonstrate how they are improving access to the curriculum by disabled

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<sup>43</sup> DfE, July 2009, ‘Safeguarding disabled children: Practice Guidance’ available at <https://www.education.gov.uk/publications/standard/publicationDetail/Page1/DCSF-00374-2009> (last accessed 26/10/2011)

pupils and improving the physical environment of the school, so that disabled pupils are more able to benefit from the education, benefits and services offered by the school. In drawing up plans, schools have to take account of the needs of disabled pupils and any preferences expressed. In practice this means that schools have to be as accessible as possible for disabled pupils and are under a duty to set out how they are improving this access. Any new standards introduced for schools will have to take this duty into account.

233. Deaf or hearing impaired pupils, whether educated in mainstream classes, specialist units in mainstream schools or in special schools, will have access to the means of communication they, their parents and the local authority or school consider the most appropriate. This might be through BSL, cued speech or hearing loops.

234. The 2005 Order makes it unlawful for schools in Northern Ireland to discriminate against a child because of a disability, and requires them to make reasonable adjustments where necessary to accommodate the needs of a disabled child.

235. The UK is aware of the particular challenges faced by disabled children if they are to achieve their potential. Governments in each part of the UK have developed or are developing policies for schools to meet the needs of disabled children. All parts of the UK have a mix of mainstream and special schools. In January 2011, in England 54% of children and young people with statements of special educational needs (SEN) were taught in mainstream schools and resourced provision, 39% in maintained special schools, and 6% in non-maintained and independent schools. Entry to special schools in England is subject to having a statement of SEN that names the school.

236. In England, under the Education Act 1996, a child is described as having SEN if he or she has a learning difficulty which calls for special educational provision to be made for them. Under this Act children are considered to have learning difficulties if they have greater difficulty in learning than the majority of children of the same age and/or have a disability which prevents or hinders them from making use of the educational facilities generally provided for children of the same age in schools within the local education authority. Under the Equality Act 2010 a child is considered to be disabled if he or she has a physical or mental impairment which has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities. While there is considerable overlap in the children falling within the scope of the two pieces of legislation, not all children considered to be disabled under the Equality Act 2010 have SEN, and not all children with SEN would be considered as disabled under the Equality Act 2010.

237. Schools, early education settings like nurseries and playschools, local authorities and others must have regard to the relevant government's Codes of Practice for children with SEN. The Codes explain, for example, the process by which a child may receive a statement of SEN and the level and types of support to be provided for children with statements.

238. In England, the Green Paper 'Support and aspiration: A new approach to special educational needs and disability'<sup>44</sup> was published for consultation in March 2011. It sets out wide ranging proposals for reform of the SEN system. The Paper was informed by concerns raised by families, education and health professionals and disabled people's organisations. These include that the existing system is overly complex, hard to find out about, uncoordinated and fails to deliver the needs of children and young people. The Paper

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<sup>44</sup> DfE, March 2011, 'Support and aspiration: A new approach to special educational needs and disability - A consultation' available at <http://webarchive.nationalarchives.gov.uk/20130401151715/https://www.education.gov.uk/publications/eOrderingDownload/Green-Paper-SEN.pdf> (last accessed 26/06/2013).

contains a number of proposals, including the introduction of a single assessment process and combined education, health and care plans for children who currently have a statement. The Government plans to announce its response to the Green Paper consultation by the end of 2011.

239. In Northern Ireland, the Special Educational Needs and Disability (Northern Ireland) Order 2005 makes it unlawful for schools to treat pupils with a disability less favourably than other pupils in all aspects of school life. It also strengthens the rights of SEN pupils to be educated in mainstream schools. The Order requires Education and Library Boards to ensure parents of children with SEN have the necessary advice and information on matters relating to their child's needs and a means of resolving disputes with schools and Boards. Schools and school authorities are responsible for ensuring that reasonable adjustments to information and curriculum provision are made to meet pupils' needs. Boards of Governors have a statutory duty to prepare, maintain and implement an Accessibility Plan, which increases the extent to which disabled pupils can participate in the school's curriculum. Accessibility Plans must also show how the physical environment will be improved to increase, within a reasonable time, the extent to which disabled pupils can take advantage of education and associated services provided by the school.

240. In Scotland the Curriculum for Excellence<sup>45</sup> is central to Scottish educational policy. It is an inclusive programme focused on the individual needs of the child or young person. Every child in Scotland has the right to become a successful learner, confident individual, effective contributor and responsible citizen, wherever their learning is taking place. Scotland's education system provides parents of disabled children with increasing access to mainstream schools which are able to meet their needs. The Standards in Scotland's Schools Etc Act 2000 created a presumption of mainstream education and established the right of all children and young people to be educated alongside their peers in mainstream schools, unless there are good reasons for not doing so. The Education (Additional) Support for Learning (Scotland) Act 2004 (as amended) also requires education authorities to identify, meet and keep under review the additional support needs of all pupils for whose education they are responsible and to tailor provision according to the pupils individual circumstances. The term additional support applies to children or young people who, for whatever reason, require additional support, long or short term, to help them to make the most of their learning. The Act also provides parents, carers and pupils with the right to be involved in decision making and sets out routes of redress to resolve a dispute with an education authority.

241. In England, Scotland and Wales there will be consultation about the implementation of the duty on schools and local authorities under the Equality Act to provide Auxiliary Aids and Services for disabled children.

## **1. Teacher training**

242. The UK is committed to ensuring that all children, including disabled children, receive good quality teaching that meets their needs. In the UK, trainee teachers must achieve professional standards before they can be awarded qualified teacher status. The standards ensure that teachers are able to help all pupils, including disabled pupils, to achieve their full potential. Teachers must learn to vary their teaching to meet the needs of all pupils, including those with SEN. Teachers must understand how pupils' learning can be affected by their physical, intellectual, linguistic, social, cultural and emotional development.

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<sup>45</sup> Learning and Teaching Scotland, 'Curriculum for excellence' available at <http://www.ltscotland.org.uk/> (last accessed 26/10/2011).

243. Teachers must understand their responsibilities under SEN Codes and know how to seek advice from specialists such as educational psychologists and speech and language therapists. All trainees have the opportunity to undertake a specialist area of study, such as the teaching of children with SEN.

## **2. Further education and skills**

244. In England the needs of disabled people are identified in the Skills Investment Strategy 2010/11 which sets out the Government's commitment to inclusive and equitable further education and skills training. Adults aged over 19 (or over 25 where they do not have a learning difficulty assessment) who have learning difficulties and/or disabilities are offered a wide range of support including personalised learning programmes and specialist equipment. Additional and Exceptional Learning Support funds adjustments for learners' specific requirements.

245. Local authorities have a duty to support all vulnerable young people and adults with learning disabilities and/or other disabilities (aged up to 25), to participate in education or training. The Next Steps careers service is an adult careers service, offering career and job advice, job descriptions, interview tips and CV advice. It provides targeted support and specialist advice to people, including disabled people, who have specific barriers to getting into work.

246. In Scotland, the 'More Choices, More Chances'<sup>46</sup> and 'Partnership Matters'<sup>47</sup> strategies give priority to young people who need additional support, to reduce the number of young people not in education, training or employment. The refreshed Skills Strategy<sup>48</sup> for Scotland covers early years provision, schools, further and higher education, work-related learning, informal learning opportunities and information, advice, guidance and funding systems. Scotland's colleges have appointed a National Manager to support learners with profound and complex needs as part of their 'Network of Excellence' project. An online Transitions Information Planning Resource (TRiP) was commissioned by the Scottish Government to help students with complex needs, their parents, carers and school staff, to prepare a plan for the transition from school to college.

## **3. Higher Education**

247. The UK is committed to enabling disabled people to continue their education to university level. Disabled students' allowances provide financial support direct to individual disabled students to help with the extra costs of studying they may incur as a result of their disability. The allowances are not means tested and the amount a student is awarded depends on his or her particular needs. The allowances enable disabled students to become more independent learners.

248. In England disabled students in higher education (HE) are also supported by the institution they attend. The Government provides funding to HE institutions, through the Higher Education Funding Council for England, to help them recruit and support disabled students. £13.2 million was provided in academic year 2010/11.

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<sup>46</sup> Scottish Government, June 2006, 'More choices, more chances strategy' available at <http://www.scotland.gov.uk/Publications/2006/06/13100205/0> (last accessed 26/10/2011).

<sup>47</sup> Scottish Government, May 2009, 'Partnership Matters' available at <http://www.scotland.gov.uk/Publications/2009/05/08155445/0> (last accessed 26/10/2011).

<sup>48</sup> Scottish Government, September 2007, 'Skills Strategy' available at <http://www.scotland.gov.uk/Topics/Education/skills-strategy/> (last accessed 26/10/2011).

249. In Northern Ireland, there are a number of initiatives to widen participation in HE by students from currently under-represented groups, and in particular, students with disabilities or learning difficulties. The Department for Employment and Learning (DEL) pays HE institutions a ‘Widening Access’ premium to provide specialist equipment or other support for disabled students. The level of the premium allocated to HE institutions is based on the number of full-time undergraduate students in receipt of the Disabled Students Allowance.

250. The Register of Support Providers in Northern Ireland provides one-to-one personal support to disabled students registered on recognised HE courses at any of the colleges or universities in Northern Ireland. The support may include audio-typists, note-takers, dyslexia coaches, study skills mentors, sign language interpreters or campus assistants.

251. Scotland’s Partnership Matters provides guidance on the roles and responsibilities of agencies who support students with additional needs, including disabled students, when or as they prepare to go from school to college or university, or from college or university to employment. It includes contributions from university and college student support services, the National Union of Students Scotland disability officer and the Disabled Students Stakeholder Group.

## **Article 25 – Health**

252. In the UK disabled people have the same right to access the highest possible standard of health services as non-disabled people. The UK is committed to reducing the difference in health outcomes between disabled and non-disabled people, to enabling disabled people to have the same health care choices as non-disabled people and to meeting additional needs, including access needs.

253. Publicly funded healthcare in the UK is provided through the National Health Service (NHS) in England, Health and Social Care in Northern Ireland, NHS Scotland and NHS Wales. The provisions of the Equality Act 2010 (for England, Scotland and Wales) and DDA (for Northern Ireland) apply.

### **1. Access to health services**

254. In England the Government’s vision for the NHS is set out in the document ‘Equity and excellence: Liberating the NHS’ – published in 2010. The vision builds on the core values and principles of the NHS – that it is a comprehensive service, available to all, free at the point of use, based on need, not the ability to pay. For disabled people this will put them at the heart of everything the NHS does. It focuses on continuously improving the outcome of their healthcare, including by empowering clinicians to innovate to improve healthcare services.

255. Having a mental health condition increases the risk of physical ill health, yet people with mental health conditions are less likely to benefit from mainstream screening and public health programmes. One of the objectives of ‘No Health without Mental Health’<sup>49</sup> is that people with mental health conditions will have good physical health.

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<sup>49</sup> DH, February 2011 ‘No Health without Mental Health: a cross-Government mental health outcomes strategy for people of all ages’ available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/135457/dh\\_124058.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/135457/dh_124058.pdf) (last accessed 26/06/2013).

256. In Wales, the Welsh Government's 'Designed for Life'<sup>50</sup> is a ten-year vision for health and social care services. It promotes reducing, and where possible eliminating, inequalities in health, providing greater independence, and more service user involvement. It ensures people can be seen and treated by high quality staff at home or locally, or be passed quickly to more specialist care, as needed.

257. In Northern Ireland, the 'Investing in Health' policy aims to promote healthier lifestyles by improving mental health and well-being, helping to stop people smoking, preventing home accidents, preventing skin cancer and improved sexual health. The policy has a set of guiding values and principles which includes that all citizens should have equal rights to health, and fair access to health services and health information according to their needs. Discussions with disabled people's organisations helped to identify their particular needs in terms of access to information, advice and services. Actions to help address these needs were then included to give easier access, for example, the provision of information, support and personal development programmes and multi-professional training.

258. In Scotland, the NHS Scotland Healthcare Quality Strategy 2010<sup>51</sup> aims to deliver safe, effective and personalised healthcare services for everyone. The strategy restates NHS Scotland's commitment to understand the needs of different communities, eliminating discrimination, reducing inequality, protecting human rights and building good relations by breaking down barriers that may be preventing people from accessing the care and services that they need. 'Achieving Fair Access' (Fair for All-Disability 2006)<sup>52</sup> guidance was developed in partnership between NHS Scotland and the Scottish Disability Rights Commission to help NHS staff implement Part 3 of the DDA, which required service providers to make reasonable adjustments for disabled people in accessing goods, facilities, services and premises. This has been used as a basis for staff education and development tools, including 'A Framework to Support Staff Development in Patient Focus Public Involvement' (2010).<sup>53</sup>

## **2. Screening**

259. In the UK, there are many programmes that screen for health conditions. The UK National Screening Committee decides whether screening for a particular condition is recommended, and whether it should be applied to the whole of the UK population, or a particular section within it.

## **3. Accessibility of public health campaigns**

260. In England, 'NHS Choices' is the main provider of public health information. It has an accessible website, which is supported by telephone and text phone services. Some major public campaigns are now available in accessible formats when launched (such as on tobacco) and others are made available on request (such as Change4Life, which encourages healthy lifestyle choices).

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<sup>50</sup> Welsh Assembly Government, 'Designed for Life' available at <http://wales.gov.uk/topics/health/publications/health/strategies/?lang=en> (last accessed 26/10/2011).

<sup>51</sup> Scottish Government, May 2010, 'Healthcare Strategy' available at <http://www.scotland.gov.uk/Topics/Health/NHS-Scotland/NHSQuality> (last accessed 26/10/2011).

<sup>52</sup> NHS Health Scotland, August 2007, 'Achieving Fair Access' available at <http://www.healthscotland.com/documents/1982.aspx> (last accessed 26/10/2011).

<sup>53</sup> NHS Education for Scotland, March 2010, 'A Framework to Support Staff Development in Patient Focus Public Involvement' available at <http://www.nes.scot.nhs.uk/publications-and-resources/publications-search/a-framework-to-support-staff-development-in-patient-focus-public-involvement.aspx> (last accessed 26/10/2011).

261. In Scotland, the Scottish Government funds Health Rights Information Scotland<sup>54</sup> to produce information about patients' rights and responsibilities when using the NHS. Core leaflets are available in different formats.

262. In Wales, NHS Direct Wales health advice and information service is available 24 hours a day, 7 days a week by accessible website, telephone, text phone and Text Relay (formerly Typetalk).

263. Although small in number, some of the severest disabilities are a result of rare diseases. The UK is meeting its obligation to produce a national plan in response to the European Council Recommendation on rare diseases. The Recommendation obliges Member States to produce and submit a national plan by 2013. The UK Plan aims to improve diagnosis and treatment of rare disease, and foster research.

264. NHS services are provided to all irrespective of gender, race, disability, age, sexual orientation and religion or belief. People with rare and complex chronically debilitating conditions can expect healthcare that reflects their needs and preferences and those of their families and carers.

#### **4. Accessibility of information**

265. Access to information is vital for disabled people to enable them to exercise more choice and control over their health and social care. In England, following consultation on the 'Information Revolution'<sup>55</sup>, which looked at how information is used by the NHS and adult care services, the Government is developing plans to enable people to take decisions on their care together with care professionals, supported by knowledge and by information from their own health and care records.

266. The Government recognises the need for accessible information for people with learning disabilities and has produced guidance on the use and production of materials in Easy Read, aimed at public sector organizations, but also for other organisations producing such public information<sup>56</sup>.

267. The Patient Rights (Scotland) Act 2011 includes specific commitments to understand and respond appropriately to an individual's needs in relation to accessible information, and support to participate in decisions, with a focus on disability. It aims to direct people to sources of advice and support, such as advocacy and communication services which they might need to exercise their rights.

#### **5. Attitudinal barriers in health services**

268. The UK is committed to changing negative attitudes towards disabled people within the workforce and in the delivery of services in the health sector. For example, the Dementia Strategy addresses the need for the public and health professionals to develop better awareness and understanding of dementia.

<sup>54</sup> Health Rights Information Scotland, 'Health Rights Information Scotland' available at <http://www.hris.org.uk/> (last accessed 26/10/2011).

<sup>55</sup> DH, October 2010, 'An Information Revolution: a consultation on proposals' available at [http://webarchive.nationalarchives.gov.uk/+/www.dh.gov.uk/en/consultations/liveconsultations/dh\\_120080](http://webarchive.nationalarchives.gov.uk/+/www.dh.gov.uk/en/consultations/liveconsultations/dh_120080) (last accessed 26/06/2013).

<sup>56</sup> DH, 'Making written information easier to understand for people with learning disabilities: Guidance for people who commission or produce Easy Read information. Revised Edition 2010' available at [http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_121940](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_121940) (last accessed 26/10/2011)

269. In Scotland, the National Patient Experience Programme ‘Better Together’ Inpatient Survey for 2009/10<sup>57</sup> showed that patients who identified themselves as disabled were slightly less positive about their overall experience as in-patients compared with patients who identified themselves as non-disabled. These findings are being used to support work and training to improve hospital stays for disabled people.

270. The Scottish Government is improving services to people with learning disabilities through the implementation of its ‘The same as you?’<sup>58</sup> review. Training doctors and other health professionals on the rights of disabled people on promoting attitudinal and health improvements for people with a learning disability and provides specialist community learning disability teams to help achieve this. The programme of work ensures that people with a learning disability have access to local services that enable them to become more actively involved in their local communities. People with a learning disability are supported in their communities through the work of Local Area Co-ordinators (LACs), who engage with the most isolated people within their communities supporting them to access local services.

271. For disabled people to be able to enjoy their rights to the same standard of healthcare as others, it is important that those providing that care are aware of, trained in, and responsive to those rights. Some disabled people feel that medical professionals lacked training on how to fully inform and involve them in decisions about their medical treatment. A range of training requirements help address this issue. For example, the Curriculum for the Foundation Years, a two-year generic training programme set by the General Medical Council and pursued by all newly qualified doctors in the UK, includes awareness of disability legislation.

272. In Scotland, the Health Boards have a significant programme of training for all staff, based on the social model of disability, which aims to improve disabled people’s access to and experience of the health services. The programme is part of the core curriculum for postgraduate medical specialist training.

273. In Wales, the Welsh Government supported ‘EquiP Cymru’, a group of disabled people’s organisations, to develop a disability training package which includes disabled peoples’ experiences of accessing health services. A wide variety of health professionals have received the training, including GPs, nurses and dental postgraduates.

## **6. Free and informed consent**

274. Free and informed consent are considered under Articles 15 and 17 above.

## **7. Health insurance**

275. In the UK, insurers are allowed to apply special conditions or premiums to a disabled person for health insurance, providing such treatment is reasonable and based on relevant, current information from a reliable source. However, an insurer may not adopt a general policy or practice of refusing to insure or offering different terms to all disabled people.

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<sup>57</sup> Scottish Government, September 2010, ‘Scottish Inpatient Patient Experience 2010 Survey results’ available at <http://www.scotland.gov.uk/Publications/2010/09/28112720/0> (last accessed 26/10/2011).

<sup>58</sup> Scottish Government, 2000, ‘The same as you’, available at <http://www.scotland.gov.uk/Topics/Health/care/adult-care-and-support/learning-disability/Same-as-you> (last accessed 26/10/2011).

## 8. Awareness Raising – HIV/AIDS and malaria prevention

276. UK health departments fund HIV awareness and prevention services. Awareness programmes are informed by needs assessments to identify which sub-groups in the population are most at risk of getting HIV. Non-government organisations then develop and deliver the awareness programmes. Currently these do not identify blind or partially sighted people as a group with additional HIV prevention needs. Although the targeted national HIV-prevention programmes do not provide information in Braille, information on HIV prevention is available in other formats for blind or partially sighted people, including through confidential helplines.

277. The Government funds the Family Planning Association to produce a Braille version of the leaflet ‘Your Sexual Health – where to go for help and advice,’ which includes information on preventing sexually transmitted infections (including HIV).

278. The National Travel Health Network and Centre provides malaria advice for travellers. NHS Choices provides web, telephone and text phone access to public health information. Information is available in various accessible formats including Braille.

## Article 26 – Habilitation and Rehabilitation

279. The UK is committed to enabling disabled people to attain and maintain lives that are as independent as possible. Services and programmes are in place in the areas of health, employment, education and social services to enable them to do so.

### 1. Health

280. In England, ‘Transforming Community Services: Ambition, Action, Achievement Transforming Rehabilitation Services’<sup>59</sup> provides practical guidance for frontline clinicians, commissioners and service providers on how to provide effective and efficient community services to help people achieve and maintain maximum health and independence. It highlights the importance of building and developing multidisciplinary and inter-agency teams to deliver local personalised services.

281. In Scotland, the Delivery Framework For Adult Rehabilitation (2007)<sup>60</sup> is designed to enhance support for people living with long-term conditions, including physical impairments and mental health conditions. It makes clear that the key aim of rehabilitation is to enable and support individuals to recover, or adjust, to achieve their full potential and where possible, to live full and active lives, participating in their communities.

282. Scotland’s ‘Health Works’<sup>61</sup> strategy recognises the importance of work (paid or unpaid) for health and wellbeing, and of supporting people back to work as part of their recovery and rehabilitation.

<sup>59</sup> DH, February 2011, ‘Transforming Community Services: Ambition, Action, Achievement – Transforming Rehabilitation Services’ available at [http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_124193.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_124193.pdf) (last accessed 26/10/2011).

<sup>60</sup> Scottish Government, February 2007, Delivery Framework for Adult Rehabilitation available at <http://www.scotland.gov.uk/Topics/Health/NHS-Scotland/adultrehabilitation> (last accessed 26/10/2011).

<sup>61</sup> Scottish Government, December 2009, ‘Health Works: A Review of the Scottish Government’s Healthy Working Lives Strategy’ available at <http://www.scotland.gov.uk/Topics/Health/workingage-1> (last accessed 26/10/2011).

283. In Wales, the Welsh Artificial Limb and Appliance Service is committed to providing an excellent rehabilitation service with the aim of maximising ability.

## **2. Training for professionals working in health related habilitation and rehabilitation services**

284. The National Institute for Health and Clinical Excellence (NICE) is responsible for setting the standards for good healthcare, including rehabilitation. NICE has produced guides on rehabilitation after critical illness<sup>62</sup> and on managing long-term sickness absence and incapacity for work<sup>63</sup>.

285. In Scotland to support the implementation of the Delivery Framework, Rehabilitation Co-ordinators have been employed in almost every Health Board, to identify gaps in service provision and to support the work of the national programme lead in service redesign.

## **3. Assistive devices and technologies**

286. In England and Wales, the Community Care (Delayed Discharge etc) Act 2003 requires intermediate care and community equipment services free of charge. All community equipment loaned or given to people is free of charge, as are adaptations such as grab rails provided by councils that cost less than £1,000. In England, the Government led the 'Transforming Community Equipment Services' (TCES) project to deliver equipment, including simple aids to daily living such as eating and drinking utensils and grab rails, more efficiently. The new model for the provision of community equipment allows local authority social care or health professionals to issue prescriptions for simple items of equipment which can be exchanged at accredited retailers. There is a top-up option that allows individuals to add their money to the prescription cost in order to widen their choice.

287. In Scotland, local authorities provide community equipment, including daily living equipment such as shower stools and grab rails. Funding for major housing adaptations is available through local authorities and housing associations. A working group has recently convened to look at the future of funding housing adaptations in Scotland, and how it could be simplified. Quality Standards For Adult Hearing Rehabilitation Services and Pediatric Audiology Services were developed with the involvement of Deaf people and hard of hearing people, including the National Deaf Childrens' Society and launched in 2009.<sup>64</sup>

288. In Wales, the Welsh Government announced new measures in 2010 to speed up the delivery of wheelchairs, communication aids, artificial limbs and other equipment. The measures include creating a new specialist, dedicated service with responsibility for managing and delivering equipment and creating new indicators to show performance across Wales.

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<sup>62</sup> NICE, March 2009, 'Rehabilitation after critical illness' available at <http://www.nice.org.uk/cg83> (last accessed 14/11/2011).

<sup>63</sup> NICE, March 2009, 'Management of long term sickness and incapacity for work' available at <http://nice.org.uk/PH19> (last accessed 14/11/2011).

<sup>64</sup> Scottish Government, April 2009, 'Quality Standards for Adult Hearing Rehabilitation' available at <http://www.scotland.gov.uk/Publications/2009/04/27115807/0> (last accessed 26/10/2011).

#### **4. International exchange of assistive technologies**

289. The UK's five-year 'Health is Global' Strategy<sup>65</sup> outlines principles and actions to improve the health of people across the world, including the UK. One of its key principles is to promote health equity. It includes a commitment to identify direct financing and market-based approaches to increase research and development for, and accelerate the introduction of, new technologies that meet the needs of poor people. Progress on this commitment has focused mainly on the research and development of medicines and vaccines. The UK has shared ideas on developing assistive technology in EU meetings and with, amongst others, Australia, the USA and Taiwan.

290. Further information on habilitation and rehabilitation programmes and services can be found under articles 19, 24 and 27.

### **Article 27 – Work and employment**

291. The UK is committed to enabling disabled people to work on an equal basis with others. Raising and meeting employment aspirations is a priority for the Government. Employment provides a route out of poverty, and enables people to have greater choice and control over decisions that affect their lives. It enables people to participate fully in all aspects of society. Good progress is being made, and the employment rate gap between disabled and non-disabled people has narrowed over time from around 36% in 2002 to around 29% in 2010. Indications so far suggest that disabled people have not been disproportionately affected by the current economic downturn. The Government is determined to continue to build on the progress achieved, to look for and deliver new and better ways to support disabled people into employment that better reflects their aspirations, and to reform the welfare system so that work always pays.

#### **1. Legislation and discrimination**

292. Disabled workers have the same general employment rights as other workers. In Great Britain the Equality Act includes a range of provisions which protect disabled people from discrimination in relation to work. In this context, work is not restricted to employment, but covers a wide range of activities including contract work, business partnerships and the holding of an office, such as a director of a company. The protection applies to all stages of employment including the initial application, working arrangements and dismissal or redundancy.

293. The HRA prohibits forced or compulsory labour.

#### **2. Reasonable adjustments**

294. In Great Britain, the Equality Act places a duty on employers to make reasonable adjustments for disabled people (paragraphs 65 and 66 refer), for example, where a work-related physical feature would put a disabled person at a substantial disadvantage compared with a non-disabled person.

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<sup>65</sup> DH, March 2011, 'Health is Global' available at [http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_125605](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_125605) (last accessed 26/10/2011).

### 3. Specialist disability employment provision

295. The UK recognises that disabled people, especially those with long-term conditions, may need more personalised support to find a job. In Great Britain the Government's new Work Programme will provide workless disabled people with the help they need to find a job, including more personalised back-to-work support for long-term workless people and for those with more significant barriers to employment.

296. The UK also provides specialist disability employment support to help disabled people find and keep a job. 'Work Choice' was launched in October 2010. It will ensure that disabled people with more complex disability-related barriers to obtaining employment have the right support to help them prepare for, enter and retain employment, with the aim of progressing into unsupported employment where possible. It is a voluntary employment programme available regardless of any benefits being claimed. 'Work Choice' was developed in close consultation with disability groups and disabled people. It is less prescriptive and more flexible than the 'one size fits all' approach that was available with predecessor programmes. It will work alongside and complement the Work Programme.

297. In addition, support is provided through Access to Work, Remploy and Residential Training Colleges. In December 2010 the Government asked Liz Sayce, the Chief Executive of RADAR, to lead an independent review of these programmes. The review – 'Getting in, staying in and getting on' – was published in June 2011. It contains recommendations about how government can best use the available resources to help more disabled people into work through evidence-based, personalised support programmes. The Government's response was published on 21 July 2011. It welcomed the review's central theme that resources for supporting disabled people should be focused on disabled people themselves, rather than on specific institutions. The Government has consulted on a number of the recommendations from the review, and is now considering the response.

298. There are a range of additional programmes that respond to the needs of disabled people in different parts of the UK. In England, the 'Right to Control' gives disabled people more choice and control over the support they receive including the 'Work Choice' and 'Access to Work' programmes mentioned above. Right to Control will also include the opportunity for disabled people to take the support as a cash payment and make their own arrangements.

299. The Government recognises that the employment rates of some groups of disabled people, such as those with learning disabilities, autism and serious mental health conditions, are lower than the disabled population as a whole. As part of efforts to address this in England, the Government has published best practice guidelines for supported employment and job coaching. Learning from the 'Getting a Life' demonstration sites, which looked at how to improve employment outcomes during the transition to adulthood, is also informing policy development.

300. In Northern Ireland, the Disablement Advisory Service provides a range of vocational and pre-vocational programmes to meet the needs of disabled people of working age. The 'Job Introduction Scheme' provides a job trial lasting up to 13 weeks. 'Workable (NI)' provides long-term support to disabled people who face substantial barriers to finding and keeping employment. The former Work Preparation Programme helped develop motivation and confidence.

301. Scotland's partnership approach to tackling barriers faced by disabled people and those with complex needs is set out in WorkForce Plus<sup>66</sup>. It contains action at a national and local level which aims to increase the numbers of people in rewarding and sustainable work. Scotland's Supported Employment Framework for Disabled People aims to ensure that more disabled people are able to move from training to paid employment. It is expected to improve labour market participation for disabled people and equality of access to employment.

302. In Wales, the Welsh Government supports a range of activities to help disabled people into employment. For example 'Want2Work', a Job Centre Plus and Welsh Assembly Government initiative, is designed to support economically inactive people, including disabled people, to get closer to or into work. 'Genesis Cymru Wales 2' aims to provide easy-to-access support, including personal development skills, by identifying the barriers an individual may face to joining the labour market. It helps individuals to take the first steps towards training and employment.

#### **4. Increasing employer engagement**

303. To support the development of a positive approach towards disabled people amongst more employers, the UK government is working with committed employers, employer organisations and disabled people, to build employer engagement. The first practical result has been 'Clearkit' which is a free online toolkit designed to promote practical workplace solutions to the barriers that disabled people and employers face. It includes access to online recruitment, disability and legal experts.

#### **5. Apprenticeships**

304. Apprenticeships are open to all suitably qualified people aged 16 and over, including disabled people or people who have a learning disability. In 2009/10 disabled learners represented 9.7 % of all apprenticeship starts in England. Apprenticeships are paid jobs, so recruitment reflects employer requirements and labour market patterns. Within these parameters the Government is widening access to apprenticeships and identifying and removing barriers to entry and progression. For example developing arrangements to enable disabled people to submit alternative evidence to demonstrate their suitability for an apprenticeship if they have been prevented from getting the qualifications usually specified. In the 2011 Education Bill a duty is being placed on the Chief Executive of Skills Funding to prioritise funding for certain groups of young people, including disabled people aged 16-24, who have secured an apprenticeship place.

#### **6. Protection from unfair dismissal**

305. Disabled people are protected in employment and from unfair dismissals through legislation including the Equality Act 2010 and the DDA as amended.

#### **7. Trade union membership**

306. Disabled people have the same right to decide whether or not to join, remain in or leave a trade union as non-disabled people.

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<sup>66</sup> Scottish Government, June 2006, 'Workforce Plus' available at <http://www.scotland.gov.uk/Resource/Doc/129285/0030791.pdf> (last accessed 26/10/2011).

## 8. Reservation to Article 27

307. The UK's reservation in respect of service in the Armed Forces remains in place. Service in the Armed Forces was exempt from the employment provisions of the DDA, because Armed Forces personnel must be combat effective in order to meet a worldwide need to deploy, and to ensure that military health and fitness remain matters for Ministry of Defence Ministers based on military advice, not the courts. The continuing need for this exemption was reviewed when the Equality Act 2010 was developed, and it was concluded that it is still required. The reservation reflects this position.

## Article 28 – Adequate standard of living and social protection

308. The UK Government is committed to supporting disabled people, to improving the quality of life of those facing disadvantage, and to tackling poverty by addressing its causes. The latest data shows that twice as many disabled adults in Great Britain live in persistent poverty compared with non-disabled adults.<sup>67</sup> The Government has announced a radical welfare reform programme to tackle entrenched poverty and end intergenerational worklessness through welfare reform and employment programmes. The Welfare Reform Bill, introduced in February 2011, makes the most fundamental reforms to the social security system for 60 years. It will deliver a system that is simpler, fairer, and in which work always pays.

309. The UK provides support specifically for disabled people, financial support for everyone which disabled people can access, and other non-financial support.

### 1. Financial support targeted at disabled people

310. Disability Living Allowance (DLA) and Attendance Allowance (AA) provide a cash contribution towards disability-related extra costs that disabled people who are in the most need of support may face. DLA/AA are not means-tested or taxable. They provide access to other help, such as disability premiums in the income-related benefits, the Severe Disability Additional Amount in Pension Credit, and the disability elements in Tax Credits. Further support: the Motability Scheme, Vehicle Excise duty exemption, and the Blue Badge disabled parking scheme – are also available to those getting the higher rate of the DLA mobility component.

311. Following a public consultation, the UK Government set out its proposals to reform DLA with a new cash benefit for disabled people called Personal Independence Payment. As it stands, DLA is complex to apply for and to administer, and can lack consistency in the way it supports disabled people with similar support needs. The Government's reforms will ensure the benefit remains sustainable and that support is targeted on those who face the greatest barriers to leading independent lives. Personal Independence Payment will replace DLA from 2013, initially for those people aged between 16 and 64, with a more transparent and sustainable benefit that has a more objective assessment of individual need. Like DLA, Personal Independence Payment will be a benefit that is not means tested, or taxable, which disabled people can spend as they choose. It will be paid to people whether they are in or out of work. The Government has confirmed that in designing Personal Independence Payment it will keep in mind the existing passporting arrangements to other benefits and services with a view to maintaining them wherever possible.

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<sup>67</sup> British Household Panel Survey 2005-08. Persistent poverty is defined as spending 3 or more years out of any 4 year period, in a household with below 60 %.

312. The Employment and Support Allowance (ESA) offers support and financial help to people out of work who have an illness or who are disabled. They are encouraged to do suitable work if able.

313. Information about other forms of financial support that may be available for disabled people is on Directgov, the Government's website.<sup>68</sup>

## **2. Financial support for everyone that disabled people can access**

314. The income-related benefit safety net that includes tax credits, Child Benefit and retirement benefits are available to everyone, including disabled people. The new 'Universal Credit' will be an integrated working-age credit that will provide a basic allowance with additional elements for children, disability, housing and caring. It will support people both in and out of work, replacing Working Tax Credit, Child Tax Credit, Housing Benefit, Income Support, income-based Jobseekers' Allowance and income-related Employment and Support Allowance. Universal Credit will simplify the income-related benefit system to make work pay, and combat worklessness and poverty.

315. Universal Credit is intended to reduce the financial barriers to work faced by disabled people, including where they can only do small or fluctuating amounts of work. Under Universal Credit, it is currently envisaged that disabled people will be able to earn between £2,080 a year and £7,000 a year before the standard Universal Credit taper applies. In addition the Universal Credit calculation will include additional amounts for disabled people, to reflect the extra costs of longer durations on benefits. Disabled people, as part of the harder to help customer group, will have priority access to the Work Programme after three months, on a voluntary basis.

## **3. Other support**

316. Disabled people have the same right of access to public housing programmes as non-disabled people. In addition, recognising their need for additional support, disabled people may be eligible for the Disabled Facilities Grant which funds adaptations and improvements to their homes. Disabled people may be entitled to help towards health costs such as NHS prescriptions, dental care, hospital travel costs, plus equipment such as wheelchairs and hearing aids. Some goods may qualify for VAT relief if the item has been designed, or adapted, solely for a disabled person's use.

## **4. Disabled children**

317. The Government is committed to tackling poverty and has enacted the Child Poverty Act 2010, which puts in legislation a commitment to eradicate child poverty by 2020. Children living in families with a disabled adult and children living in families with a disabled child are included among the groups disproportionately more likely to be in poverty and affected by socio-economic disadvantage.

## **Article 29 – Participation in political and public life**

### **1. Political rights of disabled people**

318. The UK Government is committed to the right of disabled people to vote, and in the UK disabled people, including people with learning difficulties, have the same right to vote as everyone else. People with mental health conditions are eligible to vote, including

<sup>68</sup> Directgov - <http://www.direct.gov.uk/en/index.htm> (last accessed 26/10/2011).

residents in psychiatric hospitals unless they have been detained under certain sections of the relevant mental health legislation or are convicted criminal offenders. Like non-disabled people, the decision on whether and how to vote must be made by the disabled electors themselves.

319. The UK recognises that disabled people can face barriers to exercising their right to vote. The UK Government is committed to removing these barriers, and to providing extra support to enable disabled people, including those with learning difficulties, to participate fully in political and public life.

## **2. Accessibility of the voting system**

320. In the UK, the ability of disabled people to vote is protected through legislation such as the Equality Act, DDA and Electoral Administration Act 2006. Polling stations in the UK must have any reasonable physical adjustments they need to make them accessible to disabled people. All polling stations must provide an enlarged version of the ballot paper, a tactile voting device and low-level polling. Voters can also ask someone else to mark their ballot paper for them. Documents must be available in other languages and formats, including pictures, Braille and audio format. The Electoral Commission – which is the independent body that monitors and advises on the electoral process – has produced a number of guides on how to vote, including an animated film<sup>69</sup> and guidance for local authorities about how to make voting accessible for disabled people.<sup>70</sup>

321. Everyone in England, Wales and Scotland – including disabled people – can vote by post without a reason being required. People in Northern Ireland – including disabled people – can vote by post but need to give a reason for doing so. If someone cannot vote in person, they can also apply for someone to vote by proxy.

## **3. Participation in political and public life**

322. The Government has made a commitment to address the current under-representation of disabled people in public and political life. Latest figures show that in England disabled people were less likely to have engaged in civic involvement than non-disabled people.<sup>71</sup> In 2009/10, 60% of non-disabled people undertook at least one activity of civic involvement<sup>72</sup> in the last 12 months, compared with 55% of disabled people. Similarly the numbers of Members of Parliament who have declared themselves as disabled are very low compared to the proportion of the population as a whole.

323. The first step is to introduce extra support for disabled people who want to become Members of Parliament, councillors or other elected officials. In England, a public consultation on ‘Access to Elected Office for disabled people’ was conducted between February and May 2011. The Government response to the consultation, which was published in September, states its intention to take forward five of the six proposals

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<sup>69</sup> The Electoral Commission, ‘Polling Station Walk Through’ available at [http://www.aboutmyvote.co.uk/how\\_do\\_i\\_vote/polling\\_station\\_walkthrough.aspx](http://www.aboutmyvote.co.uk/how_do_i_vote/polling_station_walkthrough.aspx) (last accessed 26/10/2011).

<sup>70</sup> The Electoral Commission, ‘Access to voting for disabled people Fact sheet’ available at [http://www.lbhf.gov.uk/Images/Accessstovotingfordisabledpeople\\_17987-6126\\_E\\_N\\_S\\_W\\_tcm21-54208.pdf](http://www.lbhf.gov.uk/Images/Accessstovotingfordisabledpeople_17987-6126_E_N_S_W_tcm21-54208.pdf) (last accessed 26/06/2013).

<sup>71</sup> DCLG, July 2010, ‘Citizenship Survey 2009/10’ available at <http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/publications/corporate/statistics/citizenshipsurveyq4200910> (last accessed 26/06/2013).

<sup>72</sup> Civic involvement includes formal volunteering, civic activism, civic participation and civic consultation.

consulted on, including the establishment of a fund to support disability related costs for individuals seeking elected office.

324. Over the coming months the Government will work with political parties, disability organisations and other equality stakeholders to develop these proposals further and work up a strategy which will aim to break down barriers which prevent disabled people from standing for local and national elected office, with £1 million available annually between 2011/12 and 2013/14.

325. In Scotland, the Scottish Government funds disabled people's organisations to help disabled people in local communities to work with national and local government. The Civic Participation Network helps people who need support to communicate to participate in public life. It also contributes to the Government's initiative to ensure communication across the public sector is inclusive.

326. In Wales the Welsh Government runs awareness-raising campaigns to encourage disabled people to apply for public appointments. Disabled people who hold or have held public appointments are involved in these campaigns.

### **Article 30 – Participation in cultural life, recreation, leisure and sport**

327. The latest data available shows that disabled people in the UK remain less likely to participate in most cultural, leisure and sporting activities than non-disabled people. The UK is committed to addressing this, building on progress already achieved, and to providing disabled people with equal opportunities to participate in culture, recreation, leisure and sport.<sup>73</sup>

#### **1. Support for arts and culture**

328. In the UK, there is clear support to promote disabled artists and to increase the participation of disabled people in arts and culture. For example, in England the Arts Council England's Disability Equality Scheme 2010/13 is centred around a vision for 'Prominence' for disabled people which means raising their profile and presence. Arts Council lottery grants promote the work of disabled artists and increase participation in the arts by disabled people. The Big Lottery Fund has supported over 1,000 voluntary and charitable projects for disabled people, including a number involving engagement with arts activities.

329. The 'Unlimited programme', a groundbreaking programme that celebrates arts and culture by disabled and deaf artists for the Cultural Olympiad, will be part of the lead up to the London 2012 Olympics and Paralympics.

330. In Northern Ireland, the Arts Council Northern Ireland operates a 'Premium Payment' Scheme within its funding schemes, to help disabled people access the arts. The scheme includes paying for carer's costs, language translation, visual aids, sign language and hearing aid assistance. The Arts Council formed the 'Participation Access' group of organisations which support disabled people in accessing and participating in the arts. The group also reviews progress made in tackling barriers to participation in the arts by disabled people.

<sup>73</sup> Taking Part Survey 2000/10. Activities include using public library services, visiting a museum, gallery or archive, engaging with the arts, visiting a historic environment site, participation in sports and going to the cinema.

331. In Scotland, the National Youth Work Strategy<sup>74</sup> published in 2007 confirmed the Government's commitment to increasing young disabled people's participation in the arts. Visually impaired young people took a leading role in the Commonwealth Games Legacy consultation that a non-government organisation called Young Scot took forward for the Scottish Government. Creative Scotland has a statutory responsibility to encourage as many people as possible to access and participate in the arts and culture.

332. In Wales, Cadw – the historic environment service of the Welsh Government – is working with Taking Flight, a theatre group with disabled and non-disabled actors to provide accessible projects and performances at Cadw sites, as part of a four-year programme. The programme will provide opportunities for young disabled people to participate in creative activity and performance. Cadw is also working with under-represented groups, including disabled people, to understand the physical, intellectual and attitudinal barriers to accessing the arts and creative activities. Research with focus groups including disabled people took place during 2010.

## **2. Intellectual property law**

333. Disabled people may find it difficult to access works that are under copyright in their original formats. The obstacles can be legal and practical. UK copyright law allows accessible copies of copyright material to be made by, and on behalf of, people with visual impairment and for designated bodies to sub-title broadcasts. The UK is actively engaged in World Intellectual Property Organisation (WIPO) negotiations to improve access to copyright by visually impaired people around the world. Government supports dialogue in the UK between publishers and organisations representing visually impaired people, as well as similar international dialogue under the auspices of the EU and WIPO. The dialogues aim to encourage best practice in the use of digital technologies and to seek solutions across the industry that will make copyright works more accessible for the visually impaired.

## **3. Sport**

334. The London 2012 Olympic Games and Paralympic Games offer a huge opportunity to raise awareness of the abilities of disabled people. The Government is committed to hosting the most accessible and inclusive Games ever. The commitment includes £2 million for the 'Access to Volunteering' fund, to support organisations that help disabled people become volunteers. The procurement of 2012 contracts offers a model of good practice for diversity and inclusion.

335. The Government is using the 2012 Games to encourage businesses to improve their services for disabled people by demonstrating the economic benefits of providing facilities, investing in disability awareness and customer training and providing accessible information. The legacy plan for the Games shows how there will be a lasting legacy for disabled people.

336. Youth Sport Trust, Sport England, UK sport, Paralympics GB and Sports Coach UK are funding 'Playground to Podium,' which will identify and nurture disabled young people and adults who have the potential to become elite athletes and, provide additional coaching and training.

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<sup>74</sup> Scottish Government, March 2007, 'Moving Forward: a strategy for Improving Young People's Chances through Youth Work' available at <http://www.scotland.gov.uk/Publications/2007/03/08113759/0> (last accessed 26/10/2011).

337. As part of a £135 million mass participation sports legacy plan for London 2012, ‘Places People Play’,<sup>75</sup> Sport England will be consulting with disabled people on how to spend an additional £8 million of new lottery funding to tackle the barriers disabled people face when they want to play sport. Sport England will also ensure that every part of the programme works for disabled people too, such as ensuring their access needs are met when facilities are upgraded.

338. Sport England funds the English Federation of Disability Sport (EFDS) as its national partner for disability sport. EFDS is responsible for increasing participation in sport for disabled people in England, working closely with the National Governing Bodies of Sport, key partners and the National Disability Sport Organisations.

339. In Scotland, enabling diversity and ensuring equality are integrated in all of the planning and legacy activity for Glasgow’s 2014 Commonwealth Games. Scottish Disability Sport is talking to disabled people about the Games Legacy. The ‘Personal Best’ project is an employability programme being piloted by the Glasgow East Regeneration Agency and various partners, including Job Centre Plus. It offers the potential for disabled people to take part as volunteers at the Games. Visit Scotland is working with disabled people, the voluntary sector and the tourism industry to enable disabled visitors to review and promote fully accessible tourism in Scotland before the 2012 and 2014 games.

340. Wales will host pre-Olympic and Paralympic Games training camps for Australia, New Zealand and South Africa. The Welsh Government has worked with all key stakeholders in Wales, including the Federation of Disability Sports Wales, to ensure that visiting teams will be able to prepare in a safe, secure and accessible environment.

### **Article 31 – Statistics and data collection**

341. In 2007 the Government consulted widely, including with disabled people and their organisations, on how progress towards disability equality should be measured. As a result, information is gathered from across government departments on a number of areas that disabled people said were important to them. A key part of this is ensuring openness in how disabled and non-disabled people experiences are considered, including ensuring that data collected by different departments can be disaggregated by disability status. For example, in England, the School Census carried out in 2011 included, for the first time, an optional question on the disability status of pupils.

342. In Great Britain, the national Life Opportunities Survey (LOS)<sup>76</sup> has started to collect information on disabled and non-disabled people’s life opportunities, covering areas such as work, education, social participation, experiences of crime and discrimination. It aims to identify the social barriers that prevent people from taking part in different areas of life as much as they would like to. The information will be used to help target policies and resources where they are most needed, and ensure that more disabled people can participate in society. The survey is designed to be accessible for people with a range of impairments.

343. The Office for National Statistics (ONS) Opinions Survey includes a module that asks disabled people about difficulties they have in accessing a range of goods and services,

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<sup>75</sup> Sport England, ‘Places People Play’ available at [http://www.sportengland.org/media\\_centre/press\\_releases/places\\_people\\_play.aspx](http://www.sportengland.org/media_centre/press_releases/places_people_play.aspx) (last accessed 26/10/2011).

<sup>76</sup> ODI ‘Life Opportunities Survey’ available at <http://odi.dwp.gov.uk/disability-statistics-and-research/life-opportunities-survey.php> (last accessed 26/10/2011).

and the amount of choice and control that they have over their daily lives. These data are published as part of the Office for Disability Issues (ODI) disability equality indicators.<sup>77</sup>

344. ODI and ONS are also developing a suite of harmonised disability questions for social surveys, to make it easier to compare data from different sources.

### **Article 32 – International co-operation**

345. The UK is encouraging other governments to sign, ratify and implement the Convention, as part of its wider work on promoting human rights. Through its overseas missions, the UK lobbies for changes in discriminatory practices and laws in host countries. The UK Government has funded a non-governmental organisation in Europe to develop practical guidelines and checklists to help governments and non-governmental organisations to implement and monitor the Convention. The UK worked closely with European Union (EU) partners and the European Commission to achieve EU ratification of the Convention.

346. The UK is committed to action to achieve the Millennium Development Goals. In 2010 the Government reaffirmed the UK's commitment to reaching 0.7% of Gross National Income in aid from 2013, to help the world's poorest people, some of whom are disabled. The Government's 2007 'How to Note' for working on disability continues to provide guidance for staff working overseas to work with, and support disability in UK development programmes. In designing programmes, country offices of the UK Department for International Development (DFID) are recommended to undertake a social analysis, which includes exclusion on the basis of disability, and where disability-related exclusion is identified, DFID seeks to ensure that its programmes adequately include disabled people, throughout the design, delivery and monitoring of programmes.

347. The UK has a wide range of specific co-operation projects. For example, in 2010 the UK agreed to provide £1.35 million of funding (to 2013) to the Disability Rights Fund, to increase the profile and engagement of disabled people's organisations in the global South and Eastern Europe. The support aims to ensure that disabled people there can participate effectively in the ratification and implementation processes of the Convention. The UK funded a project to help local NGOs advocate for the implementation of the UN Convention in Russia. In India, the UK worked with civil society organisations to raise the profile of disability issues. The 2011 census will now register all people with disabilities and therefore help the Indian Government better target their needs. In Jordan, the UK supported a project to enhance the capacity of the Higher Council for the Affairs of Persons with Disabilities to set and monitor professional standards for disability services in Jordan. The UK is also involved in research to provide evidence about the interaction between disability and poverty, water and sanitation and capacity building for disabled people's organisations in Southern Africa. Annex V gives further examples of UK international cooperation activity.

### **Article 33 – National implementation and monitoring**

348. In the UK, the Office for Disability Issues (ODI) is the focal point required by Article 33(1) for co-ordinating work on the Convention. Because of the devolved nature of government in the UK there are separate focal points in each of the devolved governments.

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<sup>77</sup> ODI 'Disability Statistics and Research' available at <http://odi.dwp.gov.uk/disability-statistics-and-research/index.php> (last accessed 26/10/2011).

ODI works with these focal points as necessary on Convention issues, including on the preparation of this report.

349. ODI and the devolved government focal points help government policy departments that are responsible for the delivery of Convention rights in their policy areas, to ensure that they are aware of the obligations of the Convention, and consider them as they develop new legislation, policies and programmes. ODI and the devolved government focal points have also worked with the independent monitoring and reporting mechanism, and with disabled people and their organisations, to raise awareness of the Convention, share understanding, and identify issues around implementation.

## **1. Independent monitoring and reporting mechanism**

350. The four UK equality and human rights commissions have been designated as the independent monitoring and reporting framework required by Article 33(2) of the Convention. They are the Equality and Human Rights Commission, the Northern Ireland Human Rights Commission, the Equality Commission Northern Ireland and the Scottish Human Rights Commission. More detail about the commissions is provided in the common core document.<sup>78</sup> The commissions work together on the Convention for the UK as a whole, as well as on their national remits for England and Wales, Northern Ireland and Scotland respectively. The commissions have worked to raise awareness of the Convention through material and events for disabled people and their organisations, for which the Government has provided additional funding.

## **2. Disabled people and their organizations**

351. The UK Government recognises the importance of involving disabled people in implementing, and monitoring and reporting on, the Convention, as required by Article 33(3). The Government engaged with disabled people and their organisations extensively during the preparation of this report. ODI worked with an independent group of disabled people's organisations, chaired by the United Kingdom Disabled People's Council (UKDPC), and held eight meetings with the group between 2010 and 2011. During these meetings the group identified the issues that it believes should be addressed as part of the implementation of the Convention in the UK. The group also discussed the UK declaration and reservations with the responsible government policy departments. The group's membership and terms of reference are at Annex III. The Government funded training sessions to support the work of UKDPC in England to raise awareness of the Convention, and an event to help disabled people's organisations develop a better understanding of the Convention.

352. ODI also used the Network of Networks project in England to get disabled people's views on Convention issues. The Network of Networks is a virtual network of twelve disabled people's organisations established to improve communication between disabled people and government. The Network's membership is listed at Annex III.

353. Equality 2025 has also provided advice to the Government about the Convention. Equality 2025 is a group of disabled people who offer strategic, confidential advice to Ministers and officials about issues affecting disabled people. Equality 2025 participates in the very early stages of policy development or in the detailed examination of existing policy.

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<sup>78</sup> Common core document paragraphs 198 to 202, and para 252 refer.

354. A draft of this report was made available for public comment. It was available in PDF, Word, Easy Read and Braille formats to help ensure accessibility. ODI notified all non-government organisations that had expressed an interest in the Convention about the opportunity to comment, and the draft was made available on the ODI website. Over 70 responses were received from a range of organisations, and individuals including several umbrella organisations. Equality 2025 and the independent monitoring and reporting framework also provided views on the report as a whole.

355. The Government very much welcomes the interest generated by the draft report, and the range of views that have been expressed. A summary of the issues is attached at Annex II. This report necessarily represents an overview of the position on disability equality in the UK, and within the UN's reporting constraints does not seek to respond to the wide range of issues that have been raised. Nonetheless the views that have been expressed will help inform the way in which governments in the UK work on disability issues in order to deliver Convention rights going forward. The UK Government recognises and takes pride in the progress that has been made towards disability equality, but is not complacent and is committed to maintaining the impetus so that more can be achieved. The views expressed by respondents reinforce the Government's commitment to continue to take this work forward.

### **3. Integration of disability issues in departmental agendas**

356. In the UK the Convention is owned by Government as a whole, with the focal points serving to support policy departments. All Government departments – and the devolved governments - are committed to the Convention, and the need to integrate disability issues in all that they do.

357. Prior to the Convention's ratification all departments and the devolved governments examined their legislation and policies against the Convention's obligations to ensure that the UK could ratify the Convention. This consideration continues in the development of new policies. The Minister for Disabled People has made clear that the Convention should be built into departmental policy-making processes so that as new policies and programmes that affect disabled people are developed, the Convention's terms are considered and the outcomes will be consistent with the Convention's obligations. Policy departments are supported in this by the focal points, including on how they can involve disabled people in this work.

358. In the UK the consideration and integration of disability issues is not new. The Convention serves to reinforce the existing legislative requirement on all public sector bodies (described in paragraph 58) to consider the effect that their policies, services and decisions will have on equality for disabled people.

359. Integration of disability issues within departmental agendas must be matched by co-ordination across agendas. The approach to disability equality set out in the country narratives for England, Northern Ireland, Scotland and Wales on pages 1 to 6 of this report show how each are working to achieve a joined-up approach across departments.

### **4. Budget allocations**

360. The Government continues to make substantial investment in services and financial support for disabled people, and has a clear commitment to removing the barriers experienced by disabled people and supporting those most in need. The Government spends over £40 billion on sickness and disability each year. The Government strongly believes in the social justice agenda and is working to enable all citizens, including disabled people, to be productive and respected members of society. The Government is determined that those not achieving their potential should be supported to do so. This means looking beyond

purely financial measures to address the root causes of entrenched disadvantage, such as poor educational achievement and worklessness.

361. The ways in which available resources are spent are also important. Discussions with disabled people have shown that the extra costs they incur are often very specific and individual. The Government is therefore working to personalise services where appropriate. For example the government is committed to rolling out personal budgets to give people and their carers more control and purchasing power, the use of direct payments to carers, community-based provision to improve access to respite care, development of Access to Work and the reform of health and social care.

362. The principle of improving outcomes and giving people more choice and control over the services they receive also underpins all the health and social care reforms. Personalised services for those for whom barriers remain then become crucial. The Government is working with partners in all sectors – public, private and in the community – to achieve this.

363. In determining funding for the four-year Spending Review period to 2014/15, the Government has taken a new approach based on openness, innovation and consultation. The Government invited people to contribute ideas and suggestions, and consulted with experts and the public in roundtable discussions and regional events. This included a roundtable meeting on the issue of equalities, which representatives from disability and equality organisations attended.

364. In the light of Spending Review decisions, it is for each Department to decide how they will allocate resources within their budgets. The potential impacts on disabled people are being carefully considered by departments as they develop their policies and services, and in the light of the obligations set out by the Convention.

## **Annexes**

### **Annex I**

#### **Crown dependencies and overseas territories**

##### **Crown dependencies**

Isle of Man

Channel Islands: Bailiwick of Jersey, Bailiwick of Guernsey (includes Guernsey and its dependencies)

##### **Overseas territories**

Anguilla

Bermuda

British Antarctic Territory

British Indian Ocean Territory

British Virgin Islands

Cayman Islands

Falkland Islands

Gibraltar

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St Helena and St Helena Dependencies (Ascension and Tristan da Cunha)

South Georgia and South Sandwich Islands

Sovereign Base Areas of Akrotiri and Dhekelia

The Turks & Caicos Islands

## Annex II

### **Summary of issues raised by disabled people's organisations and others during preparation of the report**

During the preparation of the report, Government engaged extensively with disabled people and their organisations to find out about what they thought about implementation of the Convention in the UK (paragraphs 351 to 355 refer). This included making the draft report available for public comment during a 10-week period between May and July 2011. A wide range of organisations (listed below) and 24 individuals responded. The four equality and human rights commissions that make up the UK independent monitoring and reporting mechanism also provided detailed comments on the report.

Disabled people in the UK have welcomed ratification of the Convention and the commitment to the social model demonstrated. They have been positive about the opportunity to comment on the draft report, and to be involved in the monitoring, reporting and implementation processes.

A number of responses were also positive about the general approach adopted to disability equality in the UK, for example, in respect of steps taken to improve access to justice; improving accessibility of the public transport and the built environment; the legal framework in the UK and the Equality Act 2010; and the intention to develop a Disability Strategy. Specific policies and programmes have also been well received, including Access to Work, the Right to Control; protection of the Disabilities Facilities Grant and the £3 million support programme for disabled people's user-led organisations.

Responses have largely focused on areas where disabled people would like to see further improvements made. The following summarises the views that were expressed most often. The main body of the report already describes what is happening in many of these areas by looking at the legislation, strategies, policies and statistical indicators that address Convention rights. However, the Government recognises that the comments made suggest that more discussion is needed, for example, about the practical effectiveness and impact on the ground of the particular policies set out in the report, and how they can be further improved.

Good progress is being made towards disability equality in the UK and Government is committed to driving this forward. The views of disabled people are integral to this process as a means of understanding the impact or perception of policies on the lives that they lead. The views expressed will be used to help inform the work of governments in the UK, both in terms of thinking about the effectiveness of existing laws, policies and delivery, and in the development of new approaches.

This summary is not intended to represent all the views expressed. Some related to wide-ranging issues, such as the availability of accessible information, the attitudes and understanding of those working with disabled people, the Welfare Reform agenda, and public sector funding. Others are more precise with respondents highlighting the particular circumstances and needs of specific groups of disabled people. These include older people who are disabled; disabled women (Article 6); disabled children and young people (Article 7); people with learning difficulties; people with mental health conditions; and people with complex needs.

**Articles 1 to 5**

- Government commitment to the Convention and to achieving equality for disabled people is described in the Introduction, and further specific actions against these articles, including the legislative framework, are described in paragraphs 53 to 68 of the Report.
- Some respondents have suggested that whilst the report sets out national approaches to implementation of the Convention in each of England, Northern Ireland, Scotland and Wales, there would be value in a UK-wide strategy, or a National Action Plan, for the Convention, believing that could provide greater overall coherence and direction to implementation.
- The Equality Act 2010 has been welcomed, although it has been suggested that the reasonable adjustment provisions in the Equality Act 2010 need to be made more robust (for example, in relation to Access to Work) and that more active enforcement of the Act is necessary.

**Article 8: Awareness raising**

- Government recognises the importance of raising awareness of the rights of disabled people, and actions in this area are set out in paragraphs 78 to 87 of the Report.
- Disabled people believe that more positive images and appropriate use of language are needed when they are represented in the media, particularly where mental health issues are concerned. Some have suggested that to ensure that those working with disabled people are more responsive to their needs and views, there is a continuing need to raise awareness of disabled people's rights amongst non-disabled people, professionals and service providers.

**Article 9: Accessibility**

- Accessibility covers a wide-range of issues and the actions that Government is taking on them, for example, through investment in public transport, are set out in paragraphs 88 to 99 of the Report.
- Accessibility – and the continuing existence of barriers to participation which need to be removed – is a theme which came up in comments in a number of areas such as buildings, transport and information, and in relation to other Articles. For example, Article 30 (Participation in cultural life, recreation, leisure and sport) and Article 21 (Freedom of expression and opinion, and access to information).

**Article 10: Right to life**

- Government commitment to the right to life for disabled people is affirmed in paragraph 100 of the report.
- Concerns were expressed around the approach to abortion in the UK, where disabled people have suggested a bias towards termination of pregnancies if a child is likely to be disabled. Disabled people believe that clear consistency is needed in the approach to resuscitation of disabled people and non-disabled people, when seriously ill.

**Article 12: Equal recognition before the law**

- The Government's commitment to the right of disabled people to equal recognition before the law, and the progress made on the reservation in respect of benefit appointees, is set out in paragraphs 104 to 117 of the Report.

- Disabled people highlighted a number of areas where they would like changes to be made. These included the suggestion that existing support to enable people who lack capacity to make their own decisions should be developed further, for example, through improved advocacy programmes. Support was expressed for ‘Sue’s Law’ and amendment of the Mental Capacity Act to enable people who are not in a legally recognised relationship to nominate their next of kin, rather than it being their nearest relative, via a simple legal declaration. It was also suggested that consistency of approach in the application of legislation in practice is needed so that those who make major decisions for people with learning disabilities have the legal right to do so. The need for consistency was also raised in respect of the approach of professional services (for example, doctors and support services) to decision making in relation to an individual’s capacity to consent.

### **Article 13: Access to justice**

- Government’s commitment to ensuring disabled people can access justice, and that they have confidence in the justice system are described in paragraphs 118 to 131 of the Report.
- Disabled people have suggested that remaining barriers to accessing justice, for example, in terms of improving accessibility of buildings and information, should be addressed. The view was expressed by a number of respondents that current reforms to legal aid provision might have a disproportionate impact on disabled people, and reduce their access to justice. It was suggested that the position of people with learning disabilities and people with mental health conditions and their categorisation under mental health and criminal procedures legislation should be reviewed. It was also suggested that improved support is needed to help enable people with learning disabilities, who are more likely to be victims of crime, to give evidence.
- It was suggested that the position of some disabled people – people receiving treatment for mental health conditions, BSL users – who cannot be jurors, should be reviewed.

### **Articles 14 to 17: Liberty and security of the person, Freedom from torture or cruel, inhuman or degrading treatment or punishment, Freedom from exploitation, violence and abuse and Protecting the integrity of the person**

- Government commitment to the rights of disabled people in these areas, and the action taken to protect those rights – such as the priority given to recording of disability hate crime – are set out in paragraphs 132 to 145 of the Report.
- Comments made on these articles suggested that some disabled people believe that the protection they receive, and dignity and respect they are offered, needs to be improved so that it is equal to that of non-disabled people. Disabled people suggested that improvements are needed to remove the possibility of inappropriate treatment, and possible abuse, in prison, health care and residential care situations, and that regulation and inspection processes should be improved, for example, through a strengthening of the Care Quality Commission.
- Disabled people suggested that recording of hate crime should be improved, and that consistency is needed in sentencing so that conviction on the basis of disability hate crime is equivalent to that for other hate crimes.
- It was suggested that in health care situations, the ability of disabled people, including young disabled people, to decide whether to receive treatment should be strengthened.

**Article 19: Living independently and being included in the community**

- The approach of Government to independent living and the emphasis placed on this in the drive to achieve disability equality is described in paragraphs 173 to 192 of the Report.
- Disabled people would like to see greater consistency in the support available from local authorities and the degree to which they are able to make their own choices. It was suggested that changes to local authority spending would lead to local authorities focusing provision on the services which they have a legal obligation to deliver. It was also suggested that spending on social care services is affecting the ability of disabled people to choose where they live, with care home provision being more likely. Disabled people want to be able to hold local authorities easily to account for the services that they provide.
- Disabled people have suggested that when moving between local authorities they may experience a drop in the level of support available to them because of arrangements for portability of care/support packages.
- Disabled people would like greater clarity about responsibility for providing services. It would be helpful if the distinction between social and medical care was clearer so that disabled people are able to access the right essential services. Care package assessments would benefit from a holistic approach.
- It was suggested that the standards of care and treatment of disabled people in some residential care environments needs improvement and that the number of inspections of homes should not be reduced. Disabled people would like regulation of care services to be maintained, and for improvement in the monitoring of support care workers.

**Article 24: Education**

- The legislative and policy background, and Government's commitment to improve the educational outcomes for young disabled people, are described in paragraphs 230 to 251 of the Report.
- Some disabled people have questioned the UK approach to inclusive education and believe that government should show clearer commitment to the mainstreaming of education for disabled children, and that policies that are being developed should allow this to happen. It was also suggested that steps should be taken to raise the educational expectations of disabled children, and that improvements should be made to the quality of teaching – whether in special or mainstream school settings – through appropriate teacher training and qualifications. Concerns were expressed about the SEN statementing process, and that children should be empowered to challenge SEN tribunals, and placement outside their local areas.
- At pre-school level, disabled people believe that access to nursery and child care provision for disabled children should be improved.
- At further education (FE) level, disabled people have suggested that improved funding should be available to better meet the needs of young people with learning difficulties, and that FE courses should be aimed at enabling disabled people to access employment.

**Article 25: Health**

- Government commitment to equality of healthcare for disabled people, and the support available for them, is described in paragraphs 252 to 278 of the Report.

- Disabled people would like the quality of health care they enjoy to be improved through, for example, increased awareness of their needs and the development of more consistently positive attitudes amongst health care professionals. Where particular barriers to accessing good quality health care by some individual impairment groups remain – people with mental health conditions, learning difficulties or hearing impairments – more should be done to address them. A disabled person’s impairment should not affect decisions on other treatment, whether or not it is connected with the impairment. NICE should consider whether use of the QALY (Quality Adjusted Life Year) results in a difference of approach to provision for disabled people and people with long term health conditions, compared with non-disabled people.
- Disabled people believe that changes in health and social care funding should not mean that care services become focused on those people considered to have critical level needs. This concern also emerged in connection with the provision of rehabilitation services (Article 26) where some disabled people believe that local authorities should offer assistance beyond those with critical or substantial needs.

#### **Article 27: Work and employment**

- Government believes that enabling disabled people to get and retain a job is key to achieving independent living and full participation in society. The wide range of support that is available and being developed in this area is set out in paragraphs 291 to 307 of the Report.
- As the report explains, employment levels for disabled people are generally lower than for non-disabled people, and the average does not reflect the position of some impairment groups – blind and partially sighted people, people with learning disabilities and people with mental health issues – who are more likely to be unemployed. Disabled people have suggested that the use of programmes to help disabled people into employment needs to be analysed by impairment type so that the needs of specific groups can be targeted.
- It was suggested that whilst Work Capability Assessments (WCA) identify people as fit for work, the right support needs to be available to enable those assessed to find and enter employment. Concerns were also raised that WCA needs to take mental health and fluctuating health conditions into account when deciding if someone is fit for work. Disabled people would also like more support to enable them to become self-employed or set up cooperatives.

#### **Article 28: Adequate standard of living and social protection**

- Government is committed to reform of the welfare system to ensure that support is focussed on those most in need, and that the system is simpler and fairer. This is described in paragraphs 308 to 317 of the Report.
- Disabled people believe that in the approach taken to reform, and the Government’s ambition to reduce public sector spending, Government should avoid steps that might result in disproportionate impact on them when compared to non-disabled people. For example, it was suggested that changes to disability benefits should be reviewed against the Convention requirement of “continuous improvement in living standards”. It was suggested that changes to social housing tenancies may result in uncertainty and a loss of community links that will affect disabled people, especially young disabled people living with parents.

**Article 29: Participation in political and public life**

- Government is committed to enabling disabled people to participate fully in political and public life, and actions in this area are set out in paragraphs 318 to 326 of the Report.
- With the increasing focus on Big Society and localism, disabled people would like government to make clearer how they will be engaged and be able to play a full and active role.

**Article 32: International co-operation**

- The UK Government supports ratification and implementation of the Convention and calls on other States that have not yet done so, to work toward this. The range of actions taken to support co-operation in the area of disability are set out in paragraphs 345 to 347 of the Report.
- Whilst welcoming the UK commitment to 0.7% GNI as Official Development Assistance by 2013, a number of organisations have suggested that disability should be a priority in the UK's international development work; that disability issues should be mainstreamed in aid programmes; and that the UK should press for inclusion of disability in the Millennium Development Goals.

**Article 33: Monitoring and reporting**

- Government is committed to engagement with disabled people in the monitoring, reporting and implementation of the Convention, and to the principle of involvement of disabled people in decisions that will affect their lives. The approach to this is described in paragraphs 348 to 350 of the Report.
- Disabled people have welcomed the opportunity to engage in the reporting process, and the chance to comment on the draft report, although it was suggested that a longer period to comment was needed, and that the report does not sufficiently reflect or respond to the views that have been expressed.

**Organisations that provided comments during preparation of the draft report**

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1	RNIB
2	Action on Hearing Loss (RNID)
3	Spinal Injuries Association
4	Equality 2025
5	Employers Forum on Disability
6	Partners for Inclusion (Partnership Board for People with physical, sensory and cognitive impairments)
7	Share the Vision
8	Neurodiversity International, Autistic Rights Movement UK
9	Deaf Ex-Mainstreamers' Group Ltd
10	Action for Mental Illness
11	National Association of Deafened People
12	British Deaf Association
13	TAG (Telecommunications Action Group)

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14	International Federation of Anti Leprosy Associations
15	Action on Disability and Development International
16	Leonard Cheshire Disability (International Department)
17	Bond - the UK membership body for non-governmental organisations (NGOs) working in international development
18	People First (Scotland)
19	Scottish Association for Mental Health (SAMH)
20	Disability Action (NI)
21	Children with Disabilities Strategic Alliance (Northern Ireland)
22	Learning Disability Wales
23	Disability Wales
24	Inclusion Scotland
25	Disability Awareness in Action
26	Alliance for Inclusive Education
27	Equalities National Council
28	Scope
29	Preston Disc
30	Norfolk Coalition of Disabled People
31	National People First
32	REGARD
33	Capability Scotland
34	MEMPHASIS
35	Leicestershire Centre for Integrated Living
36	Learning Disability Coalition
37	Guide Dogs Association
38	Mencap
39	Social Care Institute for Excellence
40	Disability Charities Consortium
41	Independent Disability Council
42	Femauro
43	Newlife Foundation for Disabled Children
44	Equality and human rights commissions
45	UK Disabled Peoples Council
46	Sorenson Communications Inc

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## **Annex III**

### **Convention on the Rights of Persons with Disabilities: working group**

#### **Terms of reference**

The Terms of Reference for the Working Group are:

1. In accordance with Article 33.3 of the UN Convention to ensure Disabled People's Organisations (DPOs) involvement and participation in the Convention monitoring process, and
2. To provide an independent view to the Office for Disability Issues and UK Government on issues arising from implementation, monitoring and reporting on the Convention on the Rights of Persons with Disabilities, including:
  - Key issues arising in respect of implementation of the Convention from the perspective of disabled people and their organisations. For example: this will include views on gaps in compliance or where more needs to be done to ensure rights are achieved, and reporting on areas of success, or where progress is being made;
  - Ideas on what disabled people and others need to know about the Convention, and on how that information can effectively be provided;
  - Sharing information on what the working group member organisations and government are doing to promote and raise awareness of the Convention.

#### **Authority**

The group does not have any decision making authority (for example, it cannot make policy decisions). The group's views and recommendations will be used to inform UK Government activity on the Convention and the UK report to the United Nations in July 2011.

#### **Membership**

- Membership of the working group is by invitation. It will comprise representatives from list at Annex A below.
- The group will be chaired a member of the UK Disabled People's Council.
- If and when necessary, the Chair may call for the input of relevant experts from other disabled people's organisations, and from government.

#### **Timeframe**

- The group was formed in July 2010 and is expected to continue until December 2011, when the role and membership will be reviewed in the context of delivery of the first UK Convention report to the United Nations, and work going forward thereafter.

**Frequency**

- The group will meet regularly as required to enable views to be fed into the reporting process, and will be hosted by the Office for Disability Issues, unless otherwise agreed.

**Membership**

- UK Disabled People's Council
- Disability Action Northern Ireland
- Equalities National Council
- REGARD (Disabled lesbians, gay men, bisexuals and trans-gendered people)
- Inclusion Scotland
- ALLFIE (Alliance for Inclusive Education)
- Norfolk Coalition of Disabled People
- National People First
- Disability Wales
- Disability Equality Limited
- Scope
- RADAR

**Network of networks****Membership**

- Age UK
  - Inclusive Living Sheffield
  - Leicestershire Centre for Independent Living
  - Mind
  - National Centre for Independent Living
  - People First
  - Richmond Users Independent Living Scheme
  - Royal National Institute for the Blind
  - Spinal injuries Association
  - RADAR
  - Shaping Our Lives
  - Royal National Institute for Deaf People
-