



BRIEFING PAPER

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The UN Convention on the Rights of Persons with Disabilities: UK implementation

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Summary

This briefing paper describes the findings of the United Nations (UN) Committee on the Rights of Persons with Disabilities' investigation into the UK in 2016, the UK and Devolved Government reactions, and subsequent developments, including the impact of the coronavirus pandemic on disabled persons' rights.

Section 2 of the paper explains how the UN Convention on the Rights of Persons with Disabilities is applied and monitored in the UK. Section 3 considers evidence of the impact of measures introduced during the period of the coronavirus pandemic on disabled people in the UK. A summary of the UN Committee's 2016 findings and reactions can be found in Section 4. Section 5 focuses on the specific findings of the 2016 investigation. Section 6 summarises UK and Devolved Government strategies for persons with disabilities. Section 7 covers Human Rights Commission reports on progress since 2016.

UN Committee investigation, 2016

In 2016 the UK was investigated under the Optional Protocol of the UN [Convention on the Rights of Persons with Disabilities](#) (UN CRPD) which the UK Government [ratified](#) in 2009. The Convention applies to all parts of the UK. An easy-read version of the Convention has been published with the title: [International agreement on the rights of disabled people](#).

The 2016 investigation into the impact of UK Government policies on the rights of disabled people led the UN [Committee on the Rights of Persons with Disabilities](#) to [argue](#) that "grave or systematic violations" of such rights had taken place. It said this was due to welfare reforms since 2010 "disproportionally and adversely" affecting the rights of people with disabilities, citing in particular changes to Housing Benefit entitlement, eligibility criteria for Personal Independence Payment (PIP) and social care, and the ending of the Independent Living Fund.

Initial UK Government Reaction to the 2016 findings

The UK Government [said](#) it "strongly disagree[d]" with the conclusions reached in the report, stating that the investigation was "too narrow in scope" and that measures, such as personal budgets, improving transport accessibility, work-related support and protections to tax and pensions credits should have been taken into account.

Subsequent investigations and reports

The UN last examined how well the UK is implementing the treaty and published [Concluding observations](#) in October 2017 – this was the UK's first periodic review since ratification in 2009. Prior to this, the UK Independent Mechanism (UKIM), which is constituted of the Human Rights Commissions of the UK and which is charged with monitoring implementation of the UN CRPD in the UK, submitted an [updated report](#) to the UN Committee (July 2017) which argued that the UK and Devolved Governments had taken insufficient action to implement earlier UN recommendations. The UN Committee requested information from the UK one year later covering the steps taken to implement several of its 2017 recommendations.

In its most recent report on progress (October 2018), the UKIM gave its assessment of the steps taken by the UK Governments to implement the Committee's recommendations since August 2017.

The UKIM [said](#) that progress had been made in several areas, including the launch of an independent review into the *Mental Health Act 1983*, an increase in the number of disabled people in employment, and the announcement of a new Inter-Ministerial Group on Disability and Society. However, the UKIM remained “disappointed” that UK Governments had not developed a comprehensive UK-wide strategy demonstrating how the Committee’s 2017 recommendations will be implemented.

Further responses and future Government policy

A [debate](#) was held in Westminster Hall in June 2018 on the Government’s response to the Committee’s August 2017 recommendations. In September 2018 the UK Government issued [Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland: initial government response](#) which detailed progress in the UK and [highlighted](#) funding for social care in England, the Access to Work Scheme, and benefits for people with disabilities and long term health conditions.

In June 2019, the UK Government [launched](#) a [cross-Government approach](#) to disability.

In October 2019 the UK Government issued a [response](#) to recommendation 74 of the [Committee’s concluding observations](#) on its 2017 review. This recommendation concerned the 2016 inquiry under the Optional Protocol and called on the UK Governments to initiate and follow-up on recommendations arising from that investigation and provide the Committee with information on progress every 12 months until the next periodic report takes place.

The [intention](#) is to respond to the Committee’s remaining concluding observations from the 2017 review during the next periodic review, which is due in 2023.

The [Conservative Manifesto](#) (December 2019) committed to introducing a National Strategy for Disabled People in 2020. Publication is [now expected in Spring 2021](#).

Coronavirus and the rights of people with disabilities

Reports from the [Joint Committee on Human Rights](#) and the [Women and Equalities Committee](#) assess the impact of coronavirus and legal changes during the pandemic on the rights of people with disabilities. The Oxford University Disability Law & Policy Project and the Bonavero Institute of Human Rights’ report, [An Affront to Dignity, Inclusion and Equality](#) (2 July 2020), argues that there has been a “failure of the government to implement properly its legal duties with respect to the rights of people with disabilities”.

The UK Government published guidance on [Supporting disabled people through the pandemic](#) (31 March 2020), which explains some of the changes under the *Coronavirus Act 2020* and emphasises that equality laws continue to apply during the pandemic.

More information can be found in the Library briefing [A disability-inclusive response to Covid-19](#) (October 2020), which was prepared for the [Backbench Business Committee Debate in Westminster Hall](#) which took place on 15 October 2020.

1. Key statistics on disability in the UK

The core definition of disability under the Equality Act 2010 classes an individual as disabled if they have a long-standing illness, disability or impairment which causes substantial difficulty with day-to-day activities. On this basis around 14 million people in the UK were disabled in 2018/19.¹

There are more disabled women than men and the prevalence of disability increases with age, as illustrated in the table below.

Disability prevalence by age and gender				
United Kingdom: 2016/17-2018/19				
Age	Males		Females	
	Number (millions)	% male population	Number (millions)	% female population
0-14	0.5	8%	0.3	5%
15-24	0.5	13%	0.5	13%
25-44	1.1	13%	1.5	17%
45-64	2.0	24%	2.3	27%
65-79	1.4	36%	1.8	41%
80+	0.7	58%	1.1	65%
Total	6.2	19%	7.6	23%

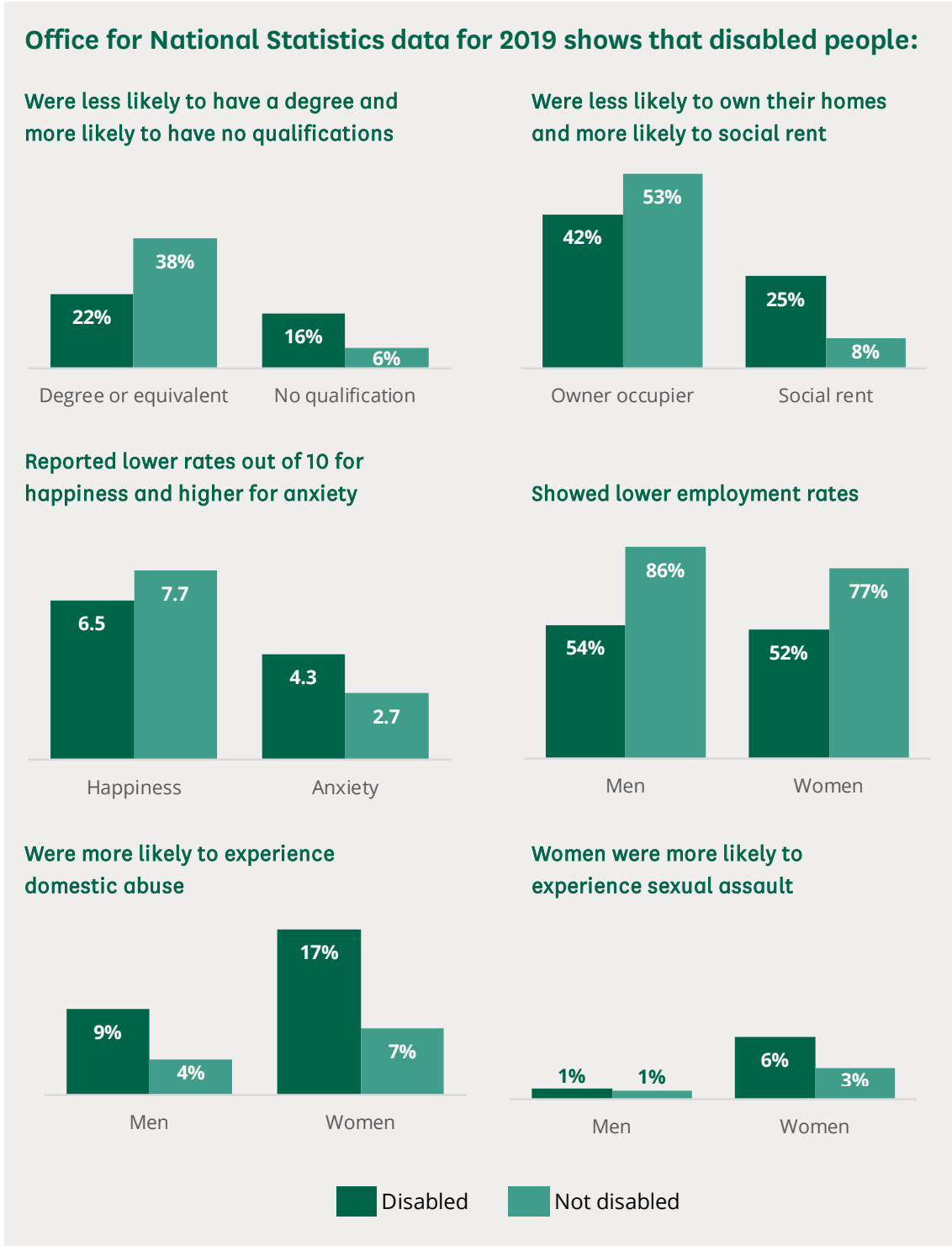
Source: DWP [Family resources survey 2018/19](#)

Until recently data on disabled people in the UK was limited to general prevalence estimates. Recognition of the inequalities experienced by disabled people and the need for good quality data to measure these has gained momentum since the adoption of the United Nations Convention on the Rights of Persons with Disabilities. In addition, in 2010 the Equality Act came into force in Great Britain highlighting a need for robust data to monitor equalities for the protected characteristics, which include disability.²

In 2019 the Office for National Statistics (ONS) produced a series of publications examining the disabled population. The series of charts below summarises key points from the ONS analysis. The charts suggest that a range of inequalities exist between disabled and non-disabled people in terms of housing, employment, education, wellbeing and experiences of certain crimes.

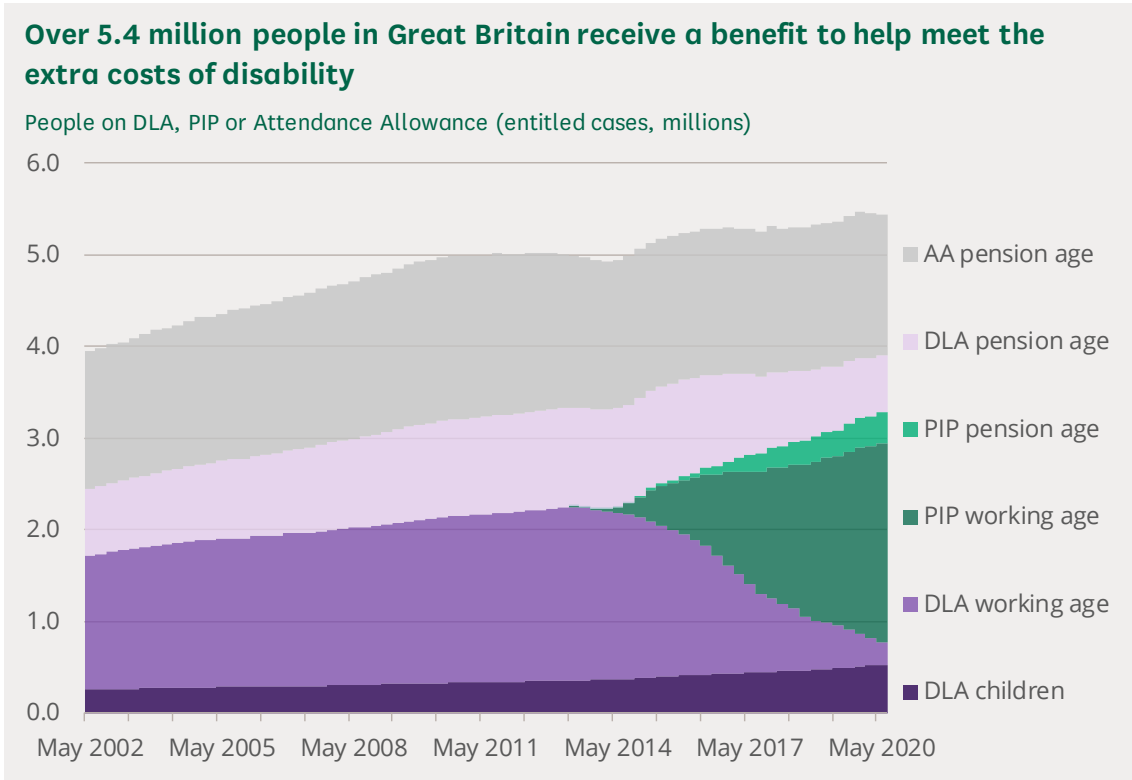
¹ DWP [Family resources survey 2018/19](#)

² The comparable [Disability Discrimination Act, 1995](#) remains in place in Northern Ireland



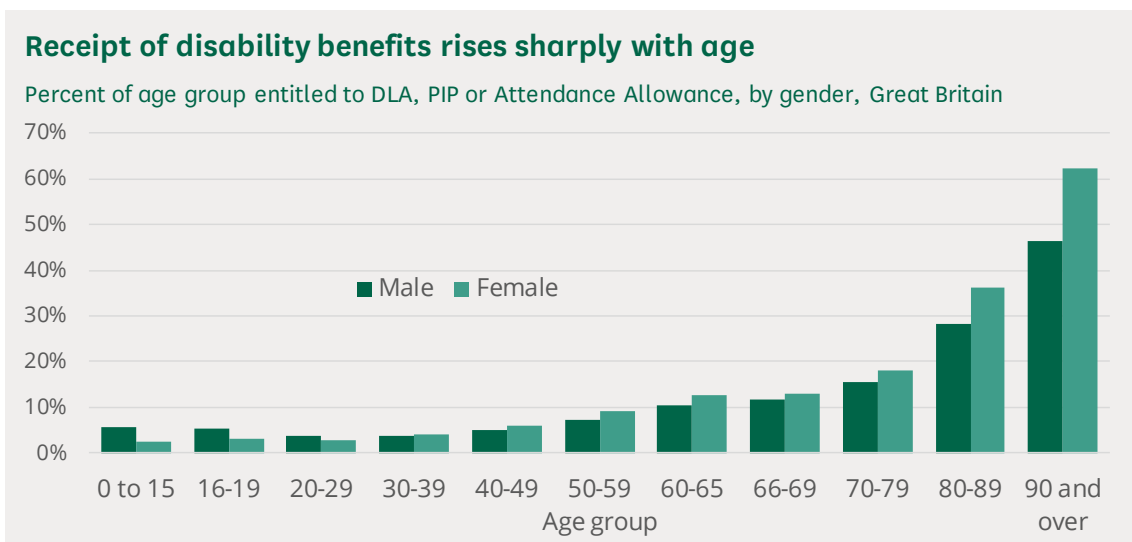
Sources: ONS, [Disability and education, UK: 2019](#); [Disability and housing, UK: 2019](#); [Disability, well-being and loneliness, UK: 2019](#); [Disability and employment, UK: 2019](#); [Disability and crime, UK: 2019](#)

The number of people entitled to receive one of the three main benefits aimed at helping with the extra costs of disability – Personal Independence Payment (PIP), Disability Living Allowance (DLA) and Attendance Allowance – has risen over time. The combined caseload of these benefits in Great Britain has risen from 3.9 million in May 2002 (6.8% of the population) to over 5.4 million in May 2020 (8.4% of the population).



Source: [DWP Stat-xplore](#)

Among the youngest age groups, males are more likely than females to receive a disability benefit. 5.8% of boys (aged 0-15) are entitled to Disability Living Allowance, compared with 2.6% of girls. In the 30-39 age group the disability claimant rate among women begins to exceed that of men, and after State Pension age the claimant rate for both women and men begins to rise steeply. Among those aged 90 and over, 62% of women and 46% of men receive a disability benefit.



Source: [DWP Stat-xplore](#)

2. UN Convention on the Rights of Persons with Disabilities

2.1 The Convention

The UN [Convention on the Rights of Persons with Disabilities](#) (UN CRPD) was adopted by the UN General Assembly in December 2006.³

At September 2020, the Convention had 182 State Parties, including 164 who have signed the Treaty. The UK [ratified](#) the Convention in 2009.⁴ The Treaty is not incorporated into UK law, but is instead given effect through separate policies and legislation, including the [Equality Act 2010](#).⁵ The [UN Committee on the Rights of Persons with Disabilities](#) is the body of independent experts which monitors implementation of the Convention by the States Parties. The Committee has called on the UK to incorporate the Convention into legislation and allow domestic remedies for breaches.⁶

The Convention places general obligations on states to “ensure and promote the full realisation of all human rights and fundamental freedoms” for all persons with disability, and to achieve this through measures including: adopting appropriate policies and legislation, taking into account the protection and promotion of the human rights of disabled persons when making and assessing policy, and taking measures to eliminate discrimination.⁷

The Convention defines “persons with disabilities” as including:

Those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.⁸

The Convention also describes several of the rights found within the Universal Declaration of Human Rights. These include:

- Equal recognition before the law
- Effective access to justice
- Living independently and being included in the community
- The right to education
- The right to the “highest attainable standard of health”
- The right to work, on an equal basis with others
- An adequate standard of living and social protection.⁹

Requirement of State Parties to Report

Subscribing Parties are required to submit reports to the UN Committee on the Rights of Persons with Disabilities on the implementation of the Convention in their country. Initial

³ [General Assembly resolution A/RES/61/106](#).

⁴ UN Treaty Collection, [CRPD](#), accessed 16 September 2020

⁵ PQ 18932 [\[UN CRPD\]](#), 27 February 2020

⁶ UN Committee on the Rights of Persons with Disabilities, [Concluding observations on the initial report of the United Kingdom](#), October 2017, 7(a)

⁷ [UN CRPD](#), Article 4

⁸ [UN CRPD](#), Article 1

⁹ [UN CRPD](#), Articles 10-30

reports are required two years after the Convention comes into force in a country, and every four years thereafter.¹⁰

The UK Government published its [first report](#) in 2011, setting out how the respective Governments of each UK nation were meeting the Convention's obligations.¹¹

The first periodic review by the Committee since the UK ratified the Convention in 2009 took place in 2017 with recommendations published in August 2017 and [concluding observations in October 2017](#).

2.2 The UK Independent Mechanism

The Equality and Human Rights Commission (EHRC), the Equality Commission for Northern Ireland (ECNI), the Northern Ireland Human Rights Commission (NIHRC) and the Scottish Human Rights Commission (SHRC) are designated, by Article 33(2), as the UK Independent Mechanism (UKIM) to promote, protect and monitor the implementation of the UN Convention on the Rights of Persons with Disabilities (UN CRPD) in the UK.

UKIM's submissions to the UN Committee are listed on the Equality and Human Rights Commission's [website](#).

2.3 The Optional Protocol

An [Optional Protocol](#) to the Convention requires subscribing States Parties to recognise the competence of the Committee on the Rights of Persons with Disabilities to receive and consider communications from individuals and organisations subject to its jurisdiction who claim to be victims of a violation of their rights by that State Party.

If the Committee receives reliable information indicating "grave or systematic violations by a State Party of rights set forth in the Convention", it can undertake inquiries into that State Party and make recommendations for action.¹² There is no enforcement mechanism.

At September 2020, the Protocol had 94 signatories and 97 parties. The UK ratified the Optional Protocol in 2009.¹³

The UK was investigated under the Optional Protocol in 2016.

2.4 The UN Committee on the Rights of Persons with Disabilities

The [United Nations Committee on the Rights of Persons with Disabilities](#) is one of the ten human rights treaty bodies operating under the [Office of the High Commissioner for Human Rights](#).

As noted above, the Committee acts as a body of independent experts who monitor the implementation of the CRPD by States Parties.

The Committee was established under Article 34 of the Convention and consists of [18 members](#) elected from a list of persons nominated by States Parties at conference. Members serve a four-year term.

¹⁰ [UN CRPD](#), Article 35

¹¹ Office for Disability Issues (ODI) [Initial report on the UN CRPD](#), 2011

¹² [UN Optional Protocol to the CRPD](#), Articles 1, 6

¹³ UN Treaty Collection, [Optional Protocol to the Convention on the Rights of Persons with Disabilities](#), status as at 23 November 2015.

2.5 House of Lords Committee report 2016

The House of Lords [Select Committee on the Equality Act 2010 and Disability](#) (2016) considered the implementation of the UN CRPD.

The Committee heard evidence from some disabled people's organisations that the UK Government had not implemented some Convention provisions, including the need to closely consult with disabled people when developing and implementing policy and ensuring equal access to justice, political participation and independent living.¹⁴ The Committee cited the [2014 report](#) by the UKIM¹⁵ which, the Committee said, **did not** "suggest that there is any provision which is not adequately implemented in accordance with the requirements of the Convention".¹⁶

The Committee also heard suggestions by witnesses, including the Law Society, that the Convention should be adopted into UK law. The Committee recommended that the UK Government should instead commit to giving due consideration to UN CRPD articles when making and developing law and policy.¹⁷

In its [response](#), the UK Government said that, because the Convention was ratified, all UK Government departments "need" to consider it when developing policies that affect disabled people. It also said that [Fulfilling potential](#), the then-cross-Government disability strategy, "explicitly aims to make a reality the expectations of the UN Convention".¹⁸

2.6 Brexit and the Convention

In 2018, the UKIM argued that the UK Government should consider giving enhanced status to the Convention due to the UK leaving the European Union:

The EU is itself a party to the CRPD. Under EU law, international treaties to which the EU is party have a different status than they do under UK law. For example, EU law (unlike UK law) must be interpreted consistently with the CRPD. To ensure there is no regression, and that disabled people in the UK benefit from future progress driven by the CRPD, the UK Government should ensure these protections are incorporated into UK law, for example by giving enhanced status to the CRPD.¹⁹

In 2020, the UK Government confirmed that it would not adopt the Convention through statute, stating that the UK, "as a general principle", does not adopt international treaties into domestic law.²⁰

¹⁴ House of Lords Select Committee on the Equality Act 2010 and Disability, [The Equality Act 2010: The impact on disabled people](#), HL 117, March 2016, paras 72, 73, 74

¹⁵ Constituted of the Equality and Human Rights Commission (EHRC), the Equality Commission for Northern Ireland (ECNI), the Northern Ireland Human Rights Commission (NIHRC) and the Scottish Human Rights Commission (SHRC).

¹⁶ House of Lords Select Committee on the Equality Act 2010 and Disability, [The Equality Act 2010: The impact on disabled people](#), HL 117, March 2016, para 76

¹⁷ [Ibid](#), paras 77, 78, 83, 84.

¹⁸ Government Equalities Office, [Government response to the House of Lords Select Committee Report](#), Cm 9283, July 2016, p9

¹⁹ UKIM, [Progress on disability rights in the UK: UKIM update report to the UN Committee](#), October 2018, pp10-11

²⁰ PQ 18932 [\[UN CRPD\]](#), 27 February 2020

3. Coronavirus and the UN Convention

Background information and links to further Library briefings can be found in [A disability-inclusive response to Covid-19](#) (October 2020), which was prepared for the [Westminster Hall Backbench Business Committee Debate](#) on 15 October 2020.

This section considers evidence of the impact of measures introduced during the period of the coronavirus pandemic on disabled people.

3.1 UK Parliament Committees

Work and Pensions Committee

Starting in March 2020, the Government introduced a series of measures to help households affected by the coronavirus pandemic get support from the benefits system. This included measures to ease and speed up access to benefits for those who are affected by coronavirus or self-isolating, suspending face-to-face sickness and disability benefit assessments and jobcentre appointments, and suspending work-related requirements for claimants, and suspending some deductions from Universal Credit (UC) awards.²¹ Some of these temporary measures have however since been withdrawn.²²

The package also included an increase in UC and Working Tax Credit (WTC) rates from April 2020, over and above the planned increase for inflation, equivalent to £20 a week. There was no corresponding additional uplift to ‘legacy’ benefits such as Employment and Support Allowance (ESA), or to extra-costs disability benefits such as Personal Independence Payment (PIP). The Government justified this on the grounds that their intention was to focus help on new claimants as a result of the pandemic, who would largely claim UC. Ministers also cited difficulties making changes at short notice to the computer systems for older benefits to increase payment rates.

In its inquiry into [DWP's response to the coronavirus outbreak](#), the Work and Pensions Committee heard evidence that the decision to limit the temporary uplift to UC and WTC had left many people reliant on other benefits – including benefits for disabled people – struggling to meet the additional costs created by coronavirus. In its [report](#) published on 22 June, the Committee said that difficulties making quick changes to benefit rates did not mean that the Government “should simply ignore the needs of those people who are claiming—through no fault of their own—benefits which rely on outdated and complex administrative systems.” It called on the DWP to increase legacy benefits by an equivalent amount to the UC and WTC uplift, and backdate the increase to April 2020.²³

In its response published on 8 September, the DWP pointed out that legacy benefits including ESA had been uprated by 1.7% in April 2020 in line with inflation, and that the Department had “no plans to increase these benefits further at this stage.” It also added that legacy benefit claimants might be able to claim UC if they believed that they would be better off.²⁴

²¹ See Commons Library briefing CBP-8894, [Coronavirus: Support for household finances](#), 22 June 2020

²² See Commons Library briefing CBP-8973, [Coronavirus: Withdrawing crisis social security measures](#), 9 November 2020

²³ Work and Pensions Committee, [DWP's response to the coronavirus outbreak](#), HC 178 2019-21, para 62

²⁴ [HC 732 2019-21](#)

Women and Equalities Committee

The Women and Equalities Committee's [interim report](#) on the temporary provisions of the *Coronavirus Act 2020* was published on 25 September 2020.²⁵ The Committee considered the *Care Act* easements, sectioning under the *Mental Health Act 1983*, and Education, Health and Care Plans (EHC).

The Library briefing, [Coronavirus: Health and social care key issues and sources](#) and insight, [Coronavirus: Impact on special educational needs in England](#), provide relevant policy background.

The Committee's conclusions included the following (emphasis added):

The **Care Act easement** provisions may need to remain in place over the winter period. The Government should keep the need for the Care Act easement provisions under constant review over the autumn and winter.²⁶

We recommend the Government should, as a minimum, if not repeal the provisions, use its power to suspend the **Mental Health Act provisions** in England by Regulations and only reinstate them should mental health service providers call for their reintroduction. Should the progress of the pandemic remain stable or improve, we recommend repeal of the measures at or before the next six-monthly review in Spring 2021. We further recommend the Government prioritise Mental Health Act reform.²⁷

If the Secretary of State for Education's power to invoke the "reasonable endeavours" duty in relation to **EHC Plans** is to remain in place, we recommend the Department for Education update its guidance to local authorities to include the factors which must be considered in deciding how the relaxed duty can best be fulfilled. The guidance should include a set of minimum standards and a range of examples of good practice in supporting children and young people with special educational needs and disabilities (SEND) when resources are stretched by the pandemic. We further recommend that, should flexibilities in EHC Plan duties become necessary again, notices be issued on a local basis only, in direct response to local effects of the pandemic, instead of the blanket, national approach taken earlier this year.²⁸

The Government response is awaited.

Joint Committee on Human Rights (JCHR)

The Committee's report, [The Government's response to Covid-19: Human rights implications](#) (21 September 2020) raised concerns about the detention of young people who are autistic or who have learning disabilities, and noted the Care Quality Commission's response:

122. As a result of the Covid-19 pandemic, these institutions where young people who are autistic and/or have learning disabilities are detained, were closed to the outside world, making the risk of human rights abuses even greater. Unlawful blanket bans on visits were put in place. This, along with the suspension of routine inspections, the increased use of restraint and solitary confinement, and the vulnerability of those in detention to infection with Covid-19 (due to underlying health conditions and the infeasibility of social distancing), created a severe crisis.

124 [...] We welcome the CQC's commitment, set out in its written evidence that: "[w]e have continued and will continue to cross the threshold [of care settings]

²⁵ Women and Equalities Committee, [Unequal impact? Coronavirus, disability and access to services: Interim report on temporary provisions in the Coronavirus Act](#), HC386, 25 September 2020

²⁶ [Ibid](#), p24, para 7.

²⁷ [Ibid](#), p25, para 8.

²⁸ [Ibid](#), p25, para 11.

through inspections where we have significant concerns, including serious concerns about people's care and where there are human rights breaches.²⁹

This followed a separate report by the Committee in June 2020, on [Human Rights and the Government's response to Covid-19: The detention of young people who are autistic and/or have learning disabilities](#), HC 395/HL 72 (June 2020). The [Government response](#) to this report was published on 22 October 2020.³⁰

The September report also highlighted changes to EHC plans and school closures, which the Committee argued "created specific barriers to children with SEND's [Special Educational Needs and Disabilities] access to their right to education".³¹

3.2 Human Rights Commissions

United Kingdom

The Equality and Human Rights Commission (EHRC) has [published evidence regarding UK, Welsh and Scottish Government responses to Coronavirus](#).

In September 2020, on the six-month review of the *Coronavirus Act*, the Commission produced commentary on its human rights implications and made recommendations. The following arguments and concerns were raised:

- **Adult social care:** The duty to assess and meet a person's needs for care and support had been replaced with a power for local authorities to do so in England and Wales. A number of disabled people's organisations had reported significant reductions in care provision for disabled people. In England, the duty to report the use of easements had not been "widely triggered". The EHRC concluded "there is not a clear picture of how social care provision has been affected during the pandemic and that there is a lack of central oversight."³² The EHRC called for the easements to be repealed as a matter of urgency, for increased oversight of changes to social care provision, and for an assessment of any disproportionate impact on groups together with immediate remedial action where necessary.³³
- The EHRC said reductions in support were likely to have exacerbated **educational attainment gaps** between disabled and non-disabled pupils. In particular, they highlighted a potential increase in the number of disabled children reaching crisis point and being admitted to inpatient units or held in restrictive settings, which, the Commission said, is "in breach of the right to live independently as part of the community, guaranteed in [Art 19 United Nations Convention of the Rights of Persons with Disabilities](#)."³⁴ The EHRC called for effective scrutiny of any future decisions to modify SEND during the pandemic and said that restrictions on the right to education should only be imposed where "where necessary, proportionate and be kept to an absolute minimum."³⁵
- **On access to mental health services**, the EHRC expressed concerns about the changed operation of mental health tribunals in Wales and similar changes in England which might reduce people's ability to challenge their detention. Also, revised legal guidance on the operation of mental health services allows temporary departures from the Mental Health Act (MHA) Code of Practice which provides

²⁹ JCHR, [The Government's response to Covid-19: Human Rights Implications, HC265/HL 125](#), 14 September 2020, paras 122, 124

³⁰ [CP 309](#), October 2020

³¹ JCHR, [The Government's response to Covid-19: Human Rights Implications, HC265/HL 125](#), 14 September 2020, paras 179

³² EHRC, [Coronavirus: six month review briefing](#), 24 September 2020, p7

³³ [Ibid](#), pp7-8

³⁴ [Ibid](#), p9

³⁵ [Ibid](#), p9

statutory guidance for practitioners caring for people with mental health conditions.³⁶ The EHRC had “serious concerns” that the relaxations could impact on important safeguards against unnecessary detention for an undefined period of time and called for the repeal of measures that limit safeguards on MHA detention.³⁷

Wales

The EHRC published [Rebuilding a more equal and fairer Wales](#) (May 2020), that recommended the Welsh Government develop an action plan to address inequality issues arising from the pandemic.³⁸

Scotland

The Scottish Human Rights Commission published [Covid-19, Social care and Human Rights](#) (October 2020). This recommended that, as an “important step in ensuring that the negative impacts on people’s rights that have happened during the pandemic do not happen again”, the UN Convention should be adopted into Scottish law and incorporation should include a duty on public authorities to have regard to Convention rights.³⁹

Northern Ireland

The Equality Commission for Northern Ireland (ECNI) and the Northern Ireland Human Rights Commission (NIHRC), in evidence submitted to the UK Parliament Women and Equalities Committee, recommended that the Northern Ireland Executive introduces legislation to strengthen and simplify equality law within a single Equality Act for Northern Ireland or, in the absence of a single Equality Act, amends the *Disability Discrimination Act 1995* to address identified deficiencies.⁴⁰

3.3 All-Party Parliamentary Group for Disability

The All-Party Parliamentary Group (APPG) for Disability [wrote](#) to the Prime Minister in April 2020 expressing concern at the treatment of persons with disabilities during the coronavirus and called for a disability inclusive response to coronavirus.⁴¹ It highlighted five areas:

1. The Government must recognise the needs of those with complex disabilities and ensure accessible communications [...]
2. The Government must re-evaluate its current strategy to ensure social distancing does not lead to exclusion for those with disabilities who rely on assistance accessing groceries, medication and other personal care needs [...]
3. Given amendments to the *Care Act 2014*, Local Government must provide clear, accessible guidance on social care and support services that are available to those living with disabilities, including information on the process by which they can challenge any decisions to withdraw or reduce services.[...]
4. The Government must be prepared to resource a disability-inclusive response. During this crisis, additional funding, training, resources and PPE are vital so

³⁶ NHS England (19 May 2020), [‘Legal guidance for mental health, learning disability and autism, and specialised commissioning services supporting people of all ages during the coronavirus pandemic’](#).

³⁷ EHRC, [Coronavirus: six month review briefing](#), 24 September 2020, p11

³⁸ EHRC, [Rebuilding a more equal and fairer Wales: Focus on the unequal impact of the coronavirus pandemic](#), May 2020, p3

³⁹ Scottish Human Rights Commission, [Covid-19, Social care and human rights: Impact monitoring report](#), October 2020, p77, para 21

⁴⁰ UN CRPD Independent Mechanism in NI (NIHRC and ECNI), [Evidence to the WEC](#), 5 August 2020, para 2.5

⁴¹ Disability Rights UK, [MPs and Peers call for disability inclusion](#), 4 May 2020

that people with complex disabilities and their families receive the care they need [...] [and]

5. It is necessary to accelerate efforts to include people with disabilities in the Government's economic recovery plan.⁴²

3.4 Wider commentary

Inclusion London published an interim report, [Abandoned, forgotten and ignored- The impact of Covid-19 on disabled people](#) (June 2020), which raised issues about Do Not Resuscitate (DNR) notices, personal protective equipment and the redeployment of staff away from supporting people with disabilities. The report argued that these actions breached Article 11 of the UN CRPD which obliges Governments to take all necessary measures to ensure the protection and safety of disabled people.⁴³

The Oxford University Disability Law & Policy Project, and the Bonavero Institute of Human Rights report, [An Affront to Dignity, Inclusion and Equality](#) (2 July 2020), referred to a "failure of the government to implement properly its legal duties with respect to the rights of people with disabilities":

From restrictions around the 12 week 'shielding' of vulnerable individuals to reducing the number of professionals needed to make a hospital order under the *Mental Health Act 1983*, and 'easing' the requirements on local authorities to provide care for disabled people under the *Care Act 2014*, the *Coronavirus Act 2020* has wide ranging and damaging implications for the rights and freedoms of disabled people in the United Kingdom. The government's policymaking in response to the pandemic has failed to fulfil its own Public Sector Equality Duty under the *Equality Act 2010* with respect to disabled people and its obligations under the United Nations Convention on the Rights of People with Disabilities.⁴⁴

The Disability Benefits Consortium (DBC) (a coalition of more than 100 disability organisations) has launched a campaign – [Don't Leave Disabled People Behind](#) – which is calling on the Government to extend the £20 a week uplift to Universal Credit and Working Tax Credit (see section 3.1 above) to 'legacy' benefits such as Employment and Support Allowance, and to backdate the increase to April 2016. DBC argues that 'technical difficulty' is no excuse to exclude disabled people from extra financial help during the pandemic. It also states that the Government's other explanation – that its intention was to focus help on new claimants – ignores evidence suggesting that the vast majority of disabled people had seen an increase in their living costs as a result of the pandemic.⁴⁵

The Office of the United Nations High Commissioner for Human Rights published a general statement in June 2020 stating that the global pandemic "has revealed that the Convention on the Rights of Persons with Disabilities (CRPD) has not been comprehensively implemented by States Parties".⁴⁶ The [Office endorsed the guidance note Covid-19](#) and the rights of persons with disabilities and the UN policy brief, [A disability inclusive response to Covid-19](#) (May 2020).

⁴² [Dr Lisa Cameron MP to the Prime Minister](#), 29 April 2020

⁴³ Inclusion London, [Abandoned, forgotten and ignored: The impact of the coronavirus pandemic on disabled people: Interim report](#), June 2020, pp20, 21

⁴⁴ Oxford University Disability and Law Policy Project and Bonavero Institute, [An affront to dignity, inclusion and equality \[...\]: Executive summary](#), July 2020 p3

⁴⁵ Disability Benefits Consortium, [Campaign News: 'Computer says no' – Government excuse for hundreds of thousands of disabled people denied emergency Covid support](#), 3 June 2020

⁴⁶ Office of the UN High Commissioner for Human Rights, [Statement on Covid-19 and the human rights of persons with disabilities](#), 9 June 2020

3.5 UK Government response

The UK Government published guidance: [Supporting disabled people through the pandemic](#) (31 March 2020), which explains some of the changes under the *Coronavirus Act 2020*.

The UK Government emphasises that equality laws continue to apply during the pandemic:

The Cabinet Office Disability Unit continues to work with disability stakeholders and across Government Departments to ensure that the needs of disabled people are considered in the UK Government's response to COVID-19. We are clear that consideration of equality impacts must be integral in all key policy decisions. All equality and discrimination laws and obligations continue to apply during the COVID-19 pandemic.

We will publish the National Strategy for Disabled People taking into account the impacts of the pandemic on disabled people. The Strategy will focus on the issues that disabled people say affect them the most in all aspects and phases of life, including employment, housing, education and transport.⁴⁷

In response to the Oxford/Bonavero report, the DWP said it "notes" the recommendations and remained committed to the Convention.⁴⁸

In July 2020, the Prime Minister responded to the APPG letter saying that the Government remained committed to a National Disability Strategy:

Our resolve to ensuring that disabled people can play a full role in society is steadfast and unchanged, with a manifesto commitment to publish a National Strategy for Disabled People. The Strategy's significance is even greater as we rebuild the UK's economy and society after COVID-19.⁴⁹

⁴⁷ PQ HL 8543 [[Disability: Coronavirus](#)], 28 September 2020

⁴⁸ PQ HL 6704 [[Disability: Coronavirus](#)], 10 July 2020

⁴⁹ [The Prime Minister to Lisa Cameron MP](#), 9 July 2020, p2

4. UN Committee investigations: overview

4.1 2016: Optional Protocol

Announcement and investigation

Following a formal request from several disability organisations in 2013 to the UN Committee on the Rights of Persons with Disabilities, the Committee determined they had provided “reliable information indicating grave or systematic violations”. Initial representations to the Committee had been made by the charity Disabled People Against Cuts in 2012, who were joined by other charities and organisations the following year.⁵⁰

The Committee conducted an inquiry under Article 6 of the Optional Protocol into the impact of the UK Government’s policies on the rights of disabled people.⁵¹ The proceedings and scope of any inquiry conducted under Article 6 are confidential. States Parties are given the opportunity to provide information and evidence.

In October 2016, the Committee visited London, Manchester, Glasgow, Edinburgh, Belfast and Cardiff, and conducted interviews with around 200 individuals, including from the UK Government, UK Parliaments and Assemblies, the respective human rights commissions for each nation, trade unions, and non-governmental organisations.⁵²

The Committee noted that the UK Government disputed the evidence submitted by the Committee’s source. In response, the UN Committee said it had engaged in verification exercises where facts that “appeared to be controversial” were cross-checked with multiple sources, including parliamentary reports, official statistics, academic research and non-governmental organisations.⁵³

General conclusions & recommendations

The Committee’s report, [Inquiry concerning the UK: Report](#), was published in October 2016. The Committee concluded that there had been “grave or systematic violations of the rights of persons with disabilities” in the UK. This conclusion was based on the impact of welfare reforms since 2010:

(a) The State party [the UK] has implemented a policy aimed at reforming its welfare system and the reforms have been justified in the context of austerity measures to achieve fiscal and budgetary policy consolidation;

[...]

The impact assessments conducted by the State party prior to the implementation of several measures of its welfare reform expressly foresaw an adverse impact on persons with disabilities;

[...]

(e) Measures resulting in reduction of support provided to meet the extra cost of disability, denial of reasonable accommodation in assessment procedures and realization of the right to employment have had a discriminatory effect on persons with disabilities

⁵⁰ [UN launches investigation into “grave” violations of disabled people’s human rights over welfare reforms](#), The Herald, 30 August 2015; [Confirmed! UN is investigating UK’s grave violations of disabled people’s rights](#), Disability News Service, 11 September 2015.

⁵¹ Committee on the Rights of Persons with Disabilities, [Inquiry concerning the UK: Report](#), October 2016, Section 1

⁵² Committee on the Rights of Persons with Disabilities, [Inquiry concerning the UK: Report](#), October 2016, Part IV.

⁵³ [Ibid](#), para 82

[...]

- (i) The State party has not conducted a comprehensive human rights-based cumulative impact assessment even though reliable sources have indicated it is feasible;
- (j) The State party continues its policy of reducing social benefits of persons with disabilities as reflected in the Welfare Reform and Work Act 2016.⁵⁴

The welfare changes the Committee highlighted included changes to Housing Benefit, the establishment of a cap on household benefits and changes in eligibility criteria for the mobility component under Personal Independence Payment (PIP). It also said that the tightening of criteria to access social care and the closure of the Independent Living Fund had “disproportionately affected persons with disabilities and hindered various aspects of their right to live independently and be included in the community.”⁵⁵

The Committee cited other arguments and evidence that the Convention had been breached. A summary of these are below:

- **Work and employment:** The committee said the process related to Employment and Support Allowance (ESA) had several “flaws”, including putting aside personal needs and barriers to return to work.⁵⁶ It said that the Work Programme and JobCentre plus had “no visible impact in decreasing unemployment” amongst persons with disabilities.⁵⁷
- **Attitudes towards persons with disabilities:** The committee argued that, despite public awareness campaigns, persons with disabilities “continue to experience increasing hostility, aggressive behaviour and sometimes attacks on their behaviour” in society.⁵⁸
- **Impact assessments and monitoring:** The Committee said that the *Welfare Reform Act 2012* “was not thoroughly compliant” with requirements to conduct impact assessments and cited evidence from persons with disabilities and their representative organisations that consultations were “not meaningfully taken into account”.⁵⁹ The Committee also said that there was “no evidence of periodic monitoring” of the impact of welfare reforms on disabled people.⁶⁰
- **Insufficient social protections and support for independent living.** The Committee argued that the *Care Act 2014* “fails to properly acknowledge the elements of autonomy and control and choice” necessary for independent living and that persons with disabilities were “not been properly considered as right-holders and entitled to benefits with regard to their right to social protection”.⁶¹
- **Determining eligibility for benefits.** The Committee argued that the “prevalence of the medical approach in assessment procedures” did not take into account the support persons with disabilities need to perform a job or the complex nature of some conditions.⁶² Assessments, the Committee said, should better acknowledge the diversity of persons with disabilities and better protect applicants from “anxiety, psychological strain and financial hardship”.⁶³

⁵⁴ [Ibid](#), Part VII

⁵⁵ [Ibid](#), p17, para 95

⁵⁶ [Ibid](#), p18, para 102

⁵⁷ [Ibid](#), p19, para 107

⁵⁸ [Ibid](#), p15, para 85

⁵⁹ [Ibid](#), p15, para 86

⁶⁰ [Ibid](#), p16, para 93

⁶¹ [Ibid](#), p16, para 88

⁶² [Ibid](#), p16, para 89

⁶³ [Ibid](#), p16, paras 91-92.

The Committee noted mitigating measures put in place by devolved and local government to mitigate some of the reductions in social security benefits since 2010.⁶⁴

The Committee made eleven recommendations, including:

- 1 Conducting a cumulative impact assessment of measures referenced in the report introduced since 2010.
- 2 Ensuring welfare reform measures are “rights-based” and do not adversely affect people with disabilities.
- 3 Addressing the core rights of persons with disabilities, such as retaining their autonomy, individualised support, equal access to community-based services, access to social security schemes, full inclusion and participation in society, and support for gaining employment.
- 4 Ensuring sufficient public budgets to support those with disability and fund mitigation measures.
- 5 Making guidance on social security, independent living schemes and employment services accessible.
- 6 Providing appropriate legal advice, support and means of redress.
- 7 Actively consulting and engaging with persons with disabilities and representative organisations.
- 8 Taking measures to combat negative and discriminatory prejudice.
- 9 Ensuring that, in the implementation of legislation, special attention is paid to those persons with disabilities with a low income or higher risk of exclusion.
- 10 Setting up a mechanism and human-rights based indicators to permanently monitor policy impacts.
- 11 Disseminating the report’s finding and providing appropriate follow up recommendations.⁶⁵

UK Government response

The UK Government [response](#) was published in October 2016. Whilst “acknowledging the work undertaken by the committee”, the UK Government said it “strongly disagrees with the conclusions” and did not accept the Committee’s conclusion “that there is evidence of grave systematic violation of the rights of disabled people”.⁶⁶

The UK Government emphasised duties included in the *Equality Act 2010* (in Great Britain) and *Disability Discrimination Act 1995* (Northern Ireland) and that the UN Committee had recognised health and welfare measures existed to support people with disabilities. The UK Government quoted the Committee’s statement that:

At a national level, it appears that the welfare system together with a social and health care system provide a solid base for the protection of the rights of persons with disabilities and that the system has allowed persons with disabilities to achieve an acceptable level of autonomy and independence.⁶⁷

It went onto say that the Committee’s approach was “too narrow” and did not consider measures, such as:

- Personal budgets to increase choice and control of care and living arrangements;

⁶⁴ [Ibid](#), pp16-17, para 94

⁶⁵ [Ibid](#), Section VIII

⁶⁶ [The UK Government response to the report by the UN committee](#), October 2016, para 1

⁶⁷ [Ibid](#), para 3

- Improvements to the accessibility of housing and transport;
- The wide range of work-related support available to disabled people;
- Financial protections, such as tax and pension credits and the exemption of disability-related benefits from the benefit cap and benefits freeze.⁶⁸

The [full response](#) set out in greater detail measures taken to support people with disabilities to live independently and be included in the community, enter work and employment, and ensure an adequate standard of living and social protection. Responses to the 2016 recommendations are set out in full in the response conclusion, but included the following:

1. That the Government since 2010 has published analysis of tax, welfare and public spending policies on households, but that distributional analysis by HM Treasury is not the only means to assess the impact of public services on people with disabilities
2. The Public Sector Equality Duty is aligned with a rights-based approach as it sets a legal duty on public authorities to consider the impact of policies on people with disabilities
3. Social care and DWP policies, such as in personal budgets under the Care Act 2014, the Access to Work Scheme and Disability Living Allowance offer direct support, whilst Discretionary Housing Payments offer mitigation to those impacted by some welfare changes.
4. The *Equality Act 2010* and *Disability Discrimination Act 1995* provide means for redress and require compliance with equality principles.⁶⁹

The UK Government also [replied](#) to the UN Committee in July 2017 on specific issues raised on behalf of all four nations. The Government said that UK consultation guidelines “set clear expectations” for engagement; that the *Equalities Act 2010* protects against discrimination and places requirements to ensure accessibility; financial support and grants were available for people with disabilities and their families; and policies were in place to combat school bullying and ensure access to education, health and care.⁷⁰

4.2 2017: First Periodic Review

2017 saw the UK’s first periodic review since the ratifying the treaty in 2009.

Prior to the review, UKIM submitted [Disability Rights in the UK](#) (February 2017) which set out a list of issues that the Committee might wish to focus on during the review. The constituent members of UKIM prepared supplementary country reports relating to specific issues in England, Wales, Scotland and Northern Ireland.⁷¹

UKIM submitted an [updated report](#) to the UN Committee in July 2017 which argued that the UK and Devolved Governments had taken insufficient action to implement UN recommendations from 2016.⁷² The UK Government submitted its response to the list of issues in July 2017: [List of issues in relation to the initial report of the UK...Addendum Replies of the UK...to the list of issues](#).

⁶⁸ [Ibid](#), para 7

⁶⁹ [Ibid](#), Chapter 3

⁷⁰ UK Government, [List of issues in relation to the initial report of the UK...Addendum Replies of the UK...to the list of issues](#), 5 July 2017

⁷¹ These reports can be found on the [EHRC website](#) [accessed 16 November 2020]

⁷² UKIM, [Disability Rights in the UK](#), July 2017 – see section 7.2 for a summary of the issues raised by UKIM in this report.

The UN Committee published [concluding observations](#) in October 2017. It noted the “uneven implementation” of the Convention across the UK.⁷³ The 2017 report contained additional recommendations, including:

- 1 Incorporating the Convention into UK legislation and aligning new and existing legislation with a human-rights mode of disability across the UK. Also to incorporate into legislation “protection from multiple and intersectional discrimination on the basis of gender, age, race, disability, migrant, refugee and/or other status”.
- 2 Undertaking a review of legislation and policies and abolishing laws, customs and practices found to constitute discrimination.
- 3 Ensuring that the UK’s departure from the European Union does not have negative consequences for persons with disabilities.
- 4 Allocating financial resources to support organisations representing people with disabilities and establish mechanisms to secure their full participation in the design and implementation of policy.
- 5 Amending abortion law to respect women’s rights to reproductive and sexual autonomy “without legalizing selective abortion on the ground of fetal deficiency”.
- 6 Taking steps to “mainstream” the rights of women and girls with disabilities in disability and gender equality policies.
- 7 Developing policies to support families with children with disabilities to reduce poverty, reduce school bullying, and require disability-sensitive childcare.
- 8 Addressing the affordability and accessibility of housing, technology, transport and public spaces.
- 9 Developing an inclusive framework for education and eliminating barriers in access to healthcare.⁷⁴

The Committee requested that the UK Government submit a report by 8 July 2023 detailing implementation of these recommendations. A response to measures relating to independent living and inclusion in the community, work and employment, and adequate standards of living and social protection was requested within 12 months.⁷⁵

UK Government response

In September 2018 the UK Government issued [Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland: initial government response](#). This specifically concerned the recommendations on independent living and inclusion, work and employment, adequate standards of living and social protection, and recommendation 74 of the [Committee’s concluding observations](#) from the 2017 review. Recommendation 74 concerned the 2016 inquiry under the Optional Protocol and called on the UK Governments to initiate and follow-up on recommendations arising from that investigation and provide the Committee with information on progress every 12 months until the next periodic report takes place.

On publication in September 2018, Sarah Newton, then-Minister for Disabled People, Health and Work issued a Statement which included actions the Government was taking in areas highlighted by the Committee:

⁷³ UN Committee on the Rights of Persons with Disabilities, [Concluding observations on the initial report](#), October 2017, p2, Section II

⁷⁴ A full list can be found in sections A and B of [Concluding observations on the initial report](#).

⁷⁵ UN Committee on the Rights of Persons with Disabilities, [Concluding observations on the initial report](#), October 2017, pp15, 16, paras 73 and 78

- We have made available a further £9.4bn funding for social care in England between 2017/18 and 2018/19 to ensure that councils can increase the capacity of the social care system – an 8% real terms increase over the current spending review period (2016/17 to 2019/20);
- We are supporting more people whose health affects the way they do their job through Access to Work – over 25,000 people in 2016/17, an 8% increase on 2015/16, spending £104m, up from £96m. We also introduced a new Tech Fund under Access to Work to help disabled people to benefit from the latest advances in assistive technology; and
- We will be spending an estimated £54bn in 2018/19 on benefits to support disabled people and those with long term health conditions, up from £44.7bn in 2010/11 – the highest ever.⁷⁶

A further updated response for the UN Committee was provided in October 2019.⁷⁷

The [intention](#) is to respond to the Committee’s remaining concluding observations from the 2017 review during the next periodic review, which is due in 2023:

We will be responding to the recommendations in the Concluding Observations during our next periodic review, currently scheduled for 2023. In the meantime, we will be preparing in due course, as recommended by the UN Committee, a progress update on the 2016 inquiry recommendations.⁷⁸

4.3 Devolved Governments’ responses

The responses of Devolved Governments can be found in reports submitted by the UK Government on their behalf. Current strategies can be found in Section 6 of this briefing.

In 2015, the Scottish Government launched a consultation on the [UNCRPD: The Scottish Government's Draft Delivery Plan \(2016-2020\)](#), which set out its aim to support persons with disabilities through fifty commitments. It subsequently set up an [Advisory Group on Human Rights Leadership](#) which reported in in 2018.

The Equality Commission for Northern Ireland’s [page on the UN CRDP](#) does not cite a specific response from the Northern Ireland Executive to the UN Committee’s 2016 report. The Executive was not in place from January 2016 to January 2020.

The Welsh Assembly/Senedd Cymru published a [briefing on how the UN Committee’s 2017 findings related to Wales](#). In 2019, the Welsh Government said that although “there were no specific recommendations for the Welsh Government, [in the report] [...] there were a number of general recommendations to take forward in Wales”, which it would adopt in its living independently strategy.⁷⁹ The resulting [Action Plan](#) was published in 2019.

4.4 Disabled people’s organisations: responses

Overall, disability organisations welcomed the UN Committee’s 2016 and 2017 findings and called for the recommendations to be implemented. For example, the UK Delegation of Deaf and Disabled People’s Organisations said that the report had “validated” complaints previously raised about the impact of welfare reductions on disabled persons. It also welcomed the UK Government’s commitment to act on aspects of the Committee’s 2016 report:

⁷⁶ [HCWS939](#), 6 September 2018

⁷⁷ DWP & Office for Disability Issues, [The UK's 2019 response to select concluding observations of the UN Committee on the Rights of Persons with Disabilities](#), 14 October 2019

⁷⁸ [PQ 214659](#), 30 January 2019

⁷⁹ Welsh Government, [Action on disability: The right to independent living](#), September 2019, p7

UK Government representatives committed during the review to rethinking the way they support Deaf and Disabled People to monitor our rights. We welcome this commitment. However, we are clear that our involvement must be genuine and inclusive. We cannot accept anything less than progress on delivering the human rights enshrined in the Convention.⁸⁰

Disability Rights UK said the UK Government should “start delivering on these excellent recommendations” from the Committee and “urged devolved administrations, public service providers and the private sector to study the investigation’s findings so that disabled people can access education, employment, transport and housing.”⁸¹

4.5 UKIM report on progress, October 2018

In its most recent report on progress (October 2018), UKIM gave its assessment of the steps taken by the UK Governments to implement the Committee’s recommendations since August 2017. The UKIM identified progress in several areas, including the launch of an independent review into the *Mental Health Act 1983*, an increase in the number of disabled people in employment, and the announcement of a new Inter-Ministerial Group on Disability and Society. However, the UKIM remained “disappointed” that UK Governments had not developed a comprehensive UK-wide strategy demonstrating how the Committee’s 2017 recommendations will be implemented.⁸²

⁸⁰ Equal Lives, [UN CRPD 2016: What happens next?](#), September 2017

⁸¹ Disability Rights UK, [A human catastrophe- New UN condemnation for UK human rights record](#), 31 August 2017

⁸² UKIM, [Progress on disability rights in the UK](#), October 2018

5. The 2016 investigation: detailed findings and comment

The following sections 5.1 to 5.4 focus on the findings of the UN Committee's 2016 investigation under the Optional Protocol. After outlining the Committee's findings under each theme, the UK policy context is set out together with the responses from the UK and Devolved Governments. We have included other comment where it applies.

5.1 Preparation of equality impact assessments

The UN Committee argued that the UK Government did not comply with requirements in UK law to carry out an equality impact assessment on measures in the *Welfare Reform Act 2012*, and when making changes to the Independent Living Fund. The Committee also reported on concerns from representative organisations of persons with disabilities that their views were not "meaningfully taken into account" by the Government.⁸³

The Committee [also contested](#) the UK Government's view that a cumulative impact assessment of the various policy measures affecting persons with disabilities was not technically feasible or practicable.⁸⁴ **The Committee recommended that the Government should carry out a cumulative impact assessment of the impact of social security reforms.**⁸⁵

Policy Background

The [Public Sector Equality Duty](#) (PSED), in section 149 of the [Equality Act 2010](#), requires public authorities to consider how policy changes impact on people with protected characteristics. The protected characteristics are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

The Act requires public authorities to have due regard to the need to eliminate unlawful discrimination, harassment or victimisation, advance equality of opportunity between people who share a protected characteristic and those who do not, and foster good relationships between those who share a protected characteristic and those who do not.⁸⁶ More detail can be found in the Library Briefing, [The PSED and Equality Impact Assessments](#).

⁸³ Committee on the Rights of Persons with Disabilities, [Inquiry concerning the UK](#), 2016, para 86

⁸⁴ [Ibid](#), para 85

⁸⁵ Committee on the Rights of Persons with Disabilities, [Concluding observations](#), 2017, recommendation 59

⁸⁶ Equality and Human Rights Commission, [Public Sector Equality Duty](#)

UK Government response

The UK Government supplied evidence to the Committee that it had complied with the requirements under domestic legislation, citing the [Equality assessments relating to the Welfare Reform Act 2012](#).

The Government also contested the Committee's view that a cumulative impact assessment of all the policy changes that had affected disabled people was "technically feasible".⁸⁷

In its 2016 [response](#) to the UN Committee, the Government explained that since 2010 the Treasury had published cumulative analyses of the impacts of its tax, welfare and public spending policies on households, at fiscal events. These cumulative distributional analyses were the most comprehensive available, covering not only the effects of direct cash transfers between households and government, but also public spending more broadly. It added:

This analysis is not broken down into sub-groups, such as disabled people, due to significant modelling limitations to the robustness of such analysis, e.g.:

- many benefits are paid to households rather than individuals. Modelling would have to make strong assumptions about how income is shared within households and the analysis results would be heavily dependent on these specific assumptions;
- it is essential that the Living Cost and Food Survey (LCF) is used for the distributional analysis model. This survey does not hold sufficient disability information.⁸⁸

The Government argued that any analysis produced "could not therefore present the full picture."⁸⁹

The October 2018 [Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland: initial government response](#) also referred to the Treasury's distributional analyses accompanying each annual Budget, and at published impact assessments for individual welfare changes. It added:

However, we have not conducted a cumulative assessment of welfare reform as the full impacts on specific households of all government spending such as on education, health, and other non-financial support cannot be reliably modelled.⁹⁰

UKIM's [Progress on disability rights in the UK](#) (October 2018) referred to ongoing concerns on this issue:

UKIM remains seriously concerned about the continued failure of the UK Government to conduct an assessment of the cumulative impact on disabled people of multiple policy and law reforms in relation to living standards and social security.⁹¹

In 2019, the Government again emphasised that at each annual budget the UK Government publishes a cumulative analysis of the impact of tax, welfare and public spending policies on households and publishes impact assessments of individual changes. There was a commitment to consider methodological issues in the next Spending Review:

The UK Government continues to look closely at the methodological issues around quantitative distributional analysis by protected characteristic, including disability, in

⁸⁷ Committee on the Rights of Persons with Disabilities, [Inquiry concerning the UK](#), 2016, para 98

⁸⁸ UK Government, [The UK Government response to the Report by the UN Committee on the Rights of Persons with Disabilities](#), October 2016, para 85

⁸⁹ [Ibid](#), para 86

⁹⁰ UK Government, [Concluding observations on the initial report of the UK \[...\]: initial government response](#), 3 October 2018, para 113

⁹¹ UKIM, [Progress on disability rights in the UK](#), October 2018, p21

addition to improving its processes to take equalities impacts into account in advance of the next Spending Review.⁹²

Devolved Government statements

Scotland

In 2019, the Scottish Government said it had produced a qualitative impact assessment of budget decisions against all protected characteristics in the *Equality Act 2010* and was assessing the feasibility of developing a quantitative cumulative impact assessment of spend.⁹³

The [Scottish Budget 2020-21: Equality and Fairer Scottish budget statement](#) (February 2020) sets out further developments in assessing equality impacts.

Wales

The Welsh Government has established the [Budget Advisory Group for Equality](#) to assist in embedding equality considerations into its spending plans. Membership includes representatives of organisations with equality expertise and experience, including Disability Wales.⁹⁴

Northern Ireland

The NI Executive was not in place from January 2017 to January 2020 and has not issued a response. Section 75 of the [Northern Ireland Act 1998](#) requires public authorities to have due regard to the need to promote equality of opportunity “between persons with a disability and persons without”.

Other responses

Social Security Advisory Committee (SSAC)

In April 2014, the Social Security Advisory Committee (SSAC) published an occasional paper, [The cumulative impact of welfare reform: a commentary](#). Whilst recognising the “significant challenges” involved in modelling the impacts of reform upon people with a disability, SSAC did not believe that the methodological problems are insurmountable to the extent that headline findings could be produced, given appropriate modelling assumptions. SSAC recommended that the Government undertake a cumulative impact assessment in order to “consider whether there have been any cumulative impacts on vulnerable claimant groups that need to be mitigated”:

- The Government should produce further analysis of the cumulative impact of welfare reform on vulnerable groups such as disabled people and publish the findings within six months;
- DWP should provide a range of case study examples of the cumulative impact of welfare reform to sit alongside further quantitative analysis. Such examples, based on model households, would illustrate how the effect of individual reforms might accumulate for particular claimant groups (in terms of their income and their behavioral choices).⁹⁵

In July 2014, the then Minister for Welfare Reform, Lord Freud, said that the Government was “unable” to accept the Committee’s recommendations, adding:

⁹² DWP and ODI, [The UK’s 2019 response to select concluding observations of the UN Committee on the Rights of Persons with Disabilities](#), 14 October 2019, Recommendation 114a, para 3

⁹³ DWP and ODI, [The UK’s 2019 response to select concluding observations of the UN Committee on the Rights of Persons with Disabilities](#), 14 October 2019, para 4

⁹⁴ DWP and ODI, [Concluding observations on the initial report of the UK \[...\] initial government response](#), 3 October 2018

⁹⁵ Social Security Advisory Committee, [Occasional Paper 12: The cumulative impact of welfare reform: a commentary](#), 29 April 2014

We agree that cumulative impact analysis can be useful in some cases ... [but] it is not possible to break down ... results to smaller sub-groups of the population accurately. In particular, the amount of information on families required to do this accurately would be prohibitive; and we do not consider that results can be reliably disaggregated for disabled people, a view shared by the authoritative Institute for Fiscal Studies.

More generally, we believe that cumulative impact analysis should be treated with caution, as it will be based upon a comparison with the previous government's policies, which were unaffordable.⁹⁶

Equality and Human Rights Commission (EHRC)

The EHRC [recommended](#) a cumulative assessment of welfare reform proposals during scrutiny of the *Welfare Reform Bill* in 2011. It asked for assurances that the UK Government would, in its impact assessment, ensure:

- I. The collection of data necessary to adequately determine impact on certain groups.
- II. Consideration of the equality objectives when assessing equality impact, including: to promote equality of opportunity and good relations between persons of different racial groups; to take steps to take account of disabled persons disabilities even where that involves treating disabled people more favourably than other persons etc.
- III. The completion of a cumulative assessment of impact to demonstrate the full impact of proposals on protected groups and how they interact.⁹⁷

In 2014, the EHRC published a report by the National Institute of Economic and Social Research (NIESR) and Landman Economics on progress in developing a model of the cumulative impact of Government spending and fiscal decisions on particular groups. The report, [Cumulative Impact Assessment: A Research Report](#), concluded that it was possible to develop a cumulative impact assessment model, but that further work was required.

In March 2018 the EHRC published the final report⁹⁸ from the research project. The study, [The cumulative impact of tax and welfare reforms](#), focuses on the impact by protected characteristics, as set out in the *Equality Act 2010*. It also looks at other categories, for example, household income and the type of people living in the household. The changes modelled include measures introduced by both the 2010 Coalition Government and subsequent Conservative Governments since 2015.

The model used for the EHRC analysis is the tax-transfer model (TTM) originally developed in 2008–09 by Landman Economics for the Institute for Public Policy Research (IPPR), and is based on UK data from the Family Resources Survey (FRS) and Living Costs and Food Survey (LCF). The analysis compares outcomes for the 2021-22 tax year (assuming all welfare changes have been implemented by then) with a 'default' position assuming that the tax and benefit system in place before the May 2010 general election remained unchanged (although assuming default rules continued to apply over the interim period, e.g. on uprating of benefits). The model is 'static', in that it does not attempt to model the effect of tax or benefit changes on people's behaviour.

Key findings in relation to households with disabled people include:

- Households with at least one adult defined in the FRS as "core disabled" (i.e. meeting the *Equality Act* definition of disabled) and at least one disabled child lose

⁹⁶ [Government response: SSAC report on the cumulative impact of welfare reform](#), 9 July 2014

⁹⁷ [Memorandum submitted by the Equality and Human Rights Commission \(WR50\)](#), Welfare Reform Bill Public Bill Committee, Session 2010-12

⁹⁸ By Jonathan Portes, Aubergine Analysis and King's College London; and Howard Reed, Landman Economics

around £6,500 per year on average from reforms (excluding reforms to indirect taxes) – an amount equivalent to one-seventh of their total net income.

- Breaking down the impact of the reforms by household disability “score” (based on the number of functional disabilities experienced by adults and children) indicates average losses of around £3,150 per year for households with a score of 6 or more. In general, households with greater numbers of disabilities lose more on average than households with fewer disabilities.
- There is a clear relationship between household disability score and the proportion of households losing from the reforms. Overall, only 37% of households containing no members with functional disabilities lose from the reforms. Over 71% of households with a disability score of 8 or more lose out. Most of the increase in the proportion of losers occurs between a disability score of zero and 3.
- Looking at the size distribution of winners and losers by household disability score, the overall proportion of losers is not much larger for households with a disability score of 6 or more compared with households with a score of 3. However, households with disability scores of 4 or above see a much larger proportion of households with losses of 10% or more (and 20% or more). For example, over 18% of households with a disability score of 6 or more lose at least 20% of their net income, compared with less than 11% of households with a score of 3.

UK Parliament Debates, 2013 & 2018

A [2013 petition, debated](#) in the House of Commons in February 2014, called for a cumulative impact assessment of welfare reforms. A [Backbench Business Committee debate](#) was also held in December 2018. The then-Minister of State at the DWP, Sarah Newton, told the House that further work was needed to allow the Government to assess the cumulative impact of policies on persons with disabilities:

Therefore, the lack of information about disability means that the information does not exist for the Treasury to estimate the cumulative impact of all Government policies on disabled people. However, the Office for National Statistics is currently undertaking developments to its household surveys to integrate various surveys and to link various sources of administrative data held by the Government, which means it might be possible to have the required information on disability status in future.

However, although a cumulative impact assessment is not possible now, the DWP does undertake a wide range of other research and analysis to assess and monitor the impact of policies on disabled people.⁹⁹

For further information see Commons Library Debate Pack CDP-2018-0278, [Backbench Business Debate: Impact of Changes to Disability Support](#), 18 December 2018.

5.2 Supporting independent living and inclusion (art. 19)

The UN Committee said that the UK Government should “recognise the right to living independently and being included in the community as a subjective right” and allocate sufficient resources to support services.¹⁰⁰

The Committee cited the closure of the Independent Living Fund to new claimants in 2010, and all claimants in 2015, as leading to “substantially reduced” funding for social care packages.¹⁰¹ It also argued that the intentions of the *Care Act 2014* were not being

⁹⁹ HC Deb, [Disability Support](#), 19 December 2018, c944

¹⁰⁰ UN Committee, [Concluding observations on the initial report of UK](#), October 2017, para 45(a)-(e)

¹⁰¹ Committee on the Rights of Persons with Disabilities, [Inquiry concerning the UK](#), 2016, para 99

met, with a “reduction in time and quality of social care services for those persons who are considered ‘not having substantial or critical levels of need’”.¹⁰²

Social care policy background

The Independent Living Fund (ILF) was a central Government resource dedicated to the financial support of disabled people, enabling them to choose to live in the community rather than in residential care. It was sponsored by funding from the DWP.

In 2010, it was announced that the fund would be closed to new applicants but would continue for existing recipients. Subsequently, the ILF was closed to all in June 2015. Responsibility for supporting former ILF claimants was transferred to the devolved administrations and to local authorities in England.¹⁰³

The Library briefing, [Local replacements for the ILF](#), sets out research into the impact of the ILF’s closure and how funding was devolved to 2019/20. The Government confirmed in December 2019 that funding would be continued at 2019/20 levels for 2020/21: [allocations](#) were published in February 2020.¹⁰⁴

The Library briefings, [Adult social care funding reform: Developments since July 2019 \(England\)](#) and [Adult social care funding \(England\)](#) detail funding pressures and policy proposals relating to adult social care services in England.

UK Government response

In its [2016 response](#) to the UN CRPD report, the UK Government said it closed the ILF in order to “integrate users with the mainstream social care system” and that “former ILF users now have statutory protection for their eligible care and support needs, whereas previously they may have relied on the ILF discretionary trust.”¹⁰⁵ In its 2018 response, the UK Government [said](#) that devolving ILF budgets to local authorities “enable[es] more local decisions on adult social care provision”.¹⁰⁶

In 2016, the Government also emphasised that the *Care Act 2014* “mandates minimum standards, not minimum spending, because the Government believes the quality of care is what matters”.¹⁰⁷ In 2018 the Government said the 2014 Act “supports an individual’s control of their day-to-day life” and “requires local authorities to consider each person’s views, wishes, feelings and beliefs”.¹⁰⁸

In terms of eligibility criteria for adult social care, introduced in 2015, the Government in 2016 said that “all LAs [Local authorities] must now meet, or exceed, this threshold” and that “LAs should not set arbitrary upper limits on expenditure to meet a person’s care needs; doing so would not be person-centred or compatible with public law”.¹⁰⁹

¹⁰² [Ibid](#), para 100

¹⁰³ House of Commons Library, 7787 [The closure of the Independent Living Fund \(ILF\)](#)

¹⁰⁴ HCWS17 [Local Government update](#), 20 December 2019

¹⁰⁵ UK Government, [The UK Government response to the Report by the UN Committee on the Rights of Persons with Disabilities](#), October 2016, para 37

¹⁰⁶ DWP and ODI, [Concluding observations on the initial report of the UK](#), October 2018, para 18

¹⁰⁷ UK Government, [The UK Government response to the Report by the UN Committee on the Rights of Persons with Disabilities](#), October 2016, para 37

¹⁰⁸ [Ibid](#), para 4

¹⁰⁹ [Ibid](#), para 38

Devolved Government statements

Scotland

The Scottish Government response said that “home care clients now receive on average more than double the number of hours of care that they received in 2000.”¹¹⁰ The ILF, transferred from the UK Government, supported 2,400 people in 2019. A new fund, the ILF Transition Scheme, opened in 2017 to support young disabled people as they enter independent adulthood.¹¹¹

Wales

The Welsh Government began reviewing its Framework for Action On Independent Living in 2017: a [new action plan](#) was published in 2019. Chapter 4 sets out its commitments to support persons with disabilities in Wales.¹¹²

The Welsh Government also highlighted the code of practice in relation to Part 2 of the [Social Services and Well-being \(Wales\) Act 2014](#), which was developed to advise local authorities that “when exercising social services functions in relation to disabled people who need care and support and disabled carers who need support, local authorities must have due regard to the UNCRPD”.¹¹³

In 2016, the Welsh Government said that by 31 March 2019 it intended for former ILF recipients to have their care and support needs met through normal care provision, having received an assessment under the [Social Services and Well-being \(Wales\) Act 2014](#).¹¹⁴ In 2019, the Welsh Government said it had provided £27 million per annum to local authorities to “support disabled people in Wales to continue living independently who were previously supported by the Independent Living Fund”.¹¹⁵

Northern Ireland

The Northern Ireland Department of Health, through an inter-government agreement with the Scottish Government, has arranged for ILF Scotland to be responsible for ILF payments in Northern Ireland.¹¹⁶

Other Responses: UKIM

In 2018 UKIM said it was concerned that devolution of ILF functions to local authorities, “without ring-fencing finance for this purpose, has resulted in a postcode lottery for support”. It also said that a “shortage of accessible and adaptable homes, and long delays in making existing homes accessible, also has a detrimental effect on the right to live independently”.¹¹⁷

Further responses and analysis of impacts of changes in social care can be found in the Library briefings [Local replacements for the ILF](#) and [Adult social care funding \(England\)](#).

Housing Benefit

The UN Committee expressed concern that welfare reforms had restricted a person’s right to choose their residence:

¹¹⁰ DWP and ODI, [The UK’s 2019 response to select concluding observations of the UN Committee](#), 14 October 2019, para 9

¹¹¹ [Ibid](#), para 20

¹¹² Welsh Government, [Action on disability: The right to independent living](#), September 2019.

¹¹³ DWP and ODI, [The UK’s 2019 response to select concluding observations of the UN Committee](#), 14 October 2019, paras 7-8.

¹¹⁴ EHRC, [Disability rights in Wales](#), 2017, p17

¹¹⁵ DWP and ODI, [The UK’s 2019 response to select concluding observations of the UN Committee](#), 14 October 2019, paras 17, 39

¹¹⁶ DWP & ODI, [Concluding observations on the initial report of the UK](#), October 2018, para 22

¹¹⁷ UKIM, [Progress on disability rights in the UK](#), 2018, p13

The Committee is of the view that changes in housing benefits, specifically the implementation of the social housing size criteria through the reduction in social housing welfare payments referred to as “the spare room subsidy”, the establishment of a cap on household benefits and changes in local housing allowances for private-sector tenants have curtailed the right of persons with disabilities to choose a place of residence in accordance with article 19 of the Convention.¹¹⁸

The Committee said, whilst noting Discretionary Housing Payments (DHPs) offer a form of mitigation, “measures have caused financial hardship to persons with disabilities resulting in, inter alia, arrears, debts, evictions and cuts to essentials such as housing and food”.¹¹⁹

Policy Background

Removal of the Spare Room Subsidy (“Bedroom Tax”)

Since April 2013, working-age social tenants in receipt of Housing Benefit have experienced a deduction in their entitlement if they have a spare bedroom.

The DWP’s [Equality Impact Assessment](#) (2012) estimated that two thirds of all Housing Benefit claimants affected by the measure would have a disability recognised under the *Disability Discrimination Act*.¹²⁰ The proportion of claimants affected by the under occupation penalty in Housing Benefit who also receive income-related ESA has roughly doubled from 34% in August 2013 to 70% in August 2020, although this figure is influenced by the gradual rollout of Universal Credit during this period to replace Housing Benefit for working-age claimants (recipients of income-related ESA are generally slower to migrate over to UC than many other legacy benefit claimant groups).¹²¹ Corresponding figures for Universal Credit recipients subject to the under-occupation penalty are not available.

When introduced, exemptions were allowed for disabled tenants who require an additional bedroom for a non-resident carer who provides overnight care for the Housing Benefit claimant or their partner. Since 4 December 2013, an additional bedroom has been allowed for an overnight carer in the overall size criteria calculation for any other joint tenant (or their partner) in the property.

Successful legal challenges citing breaches of the European Convention on Human Rights led to the introduction of new exemptions in respect of certain disabled children and adults where it is deemed that they cannot reasonably share a bedroom.

The courts have also considered challenges involving the use of rooms to store disability related equipment and exemptions for spare rooms in significantly adapted accommodation. These challenges were unsuccessful.

Full information on legal challenges to the deduction for under-occupation citing disability discrimination can be found in section 3.6 of the Library briefing [Under-occupying social housing: Housing Benefit entitlement](#).

Discretionary Housing Payments (DHPs)

One option for claimants experiencing a shortfall between their rent and Housing Benefit is to apply to the local authority for a Discretionary Housing Payment (DHP). There is no obligation on authorities to pay DHPs and the method of allocation and the decision-making process lies with the individual authority.

¹¹⁸ Committee on the Rights of Persons with Disabilities, [Inquiry concerning the UK](#), 2016, para 97

¹¹⁹ [Ibid](#), para 99

¹²⁰ DWP, [Housing Benefit: Size Criteria for People Renting in the Social Rented Sector – Equality Impact Assessment](#), 2012, sections 42-7.

¹²¹ DWP [Stat-xplore](#) Housing Benefit datasets

Section 3.2 of the Library Briefing on [Discretionary Housing Payments](#) discusses concerns raised in relation to DHPs, disability benefits and people with disabilities in greater detail. The [DWP guidance on DHPs](#) (updated in August 2019), makes it clear that authorities must “consider each DHP application on a case by case basis having regard to the purpose of those disability related benefits and whether the money from those benefits has been committed to other liabilities associated with disability”.¹²² The UK Government announced an increase in DHP funding of £25 million from 2013/14 to assist disabled people who live in significantly adapted accommodation to enable them to remain in their existing homes; however, DHPs are not ring-fenced for particular purposes.¹²³

DHPs were devolved to Scotland in 2017. Northern Ireland provides DHPs to private tenants only (a mitigation for social housing tenants has been in place regarding the Removal of the Spare Room Subsidy since 2016).

UK Government response

In 2016, the UK Government emphasised that the Removal of the Spare Room Subsidy (RSRS) “aimed to restore fairness” and that mitigations were in place:

By equalising the size criteria rules for Housing Benefit across both the social and private rental sector. In accordance with the PSED, consideration of the impact of this policy on people with protected characteristics led to an increase in funding for Discretionary Housing Payments (DHP), recognising that some people might need extra support to meet the shortfall in their rent. An additional bedroom is also allowed for disabled children who cannot share with siblings and non-resident overnight carers, protecting vulnerable people who might otherwise be disproportionately affected.¹²⁴

The Government rejected the UN Committee’s claim that the RSRS had resulted in increased evictions, citing a two-year [independent evaluation](#), undertaken by Ipsos MORI and the Cambridge Centre for Housing and Planning Research in 2015.¹²⁵

The DWP published its own [Evaluation of Removal of the Spare Room Subsidy: final report](#) in 2015. This report acknowledged that disabled people had experienced particular issues in downsizing due to difficulties in finding suitable properties to meet their needs.¹²⁶

Devolved Government positions

The Scottish Government opposed the under-occupancy deduction and mitigated its impact in Scotland through DHPs.¹²⁷

The Welsh Equality, Local Government and Communities Committee undertook an inquiry into [Benefits in Wales](#) in 2019. The Committee recommended the devolution of DHPs to Wales, citing the use of DHPs in Scotland to “mitigate the Housing Benefit social size criteria”.¹²⁸ The Welsh Government said it would consider the direction it would take over the devolution of any part of the social security system.¹²⁹

¹²² DWP, [DHP Guidance Manual: Including Local Authority Good Practice Guide](#), August 2019, paragraph 5.11

¹²³ [First Delegated Legislation Committee](#), 16 October 2012, cc20, 28

¹²⁴ UK Government, [The UK Government response to the Report by the UN Committee on the Rights of Persons with Disabilities](#), October 2016, para 34

¹²⁵ [Ibid](#), paragraphs 34-35

¹²⁶ DWP, [Evaluation of Removal of the Spare Room Subsidy: final report](#), 2015, p72.

¹²⁷ Scottish Government, [Policy: Social security](#),

¹²⁸ Welsh Parliament/Senedd Cymru Equality, Local Government and Communities Committee, [Benefits in Wales: Options for better delivery](#), October 2019, paras 225-9

¹²⁹ [Deputy Minister for Housing and Local Government to Equality, Local Government and Communities Committee](#), 20 May 2020, pp4-5

In Northern Ireland, the Department for Communities said it would mitigate the impact of the deduction for social housing tenants up to March 2020 and the [New Decade, New Approach](#) (January 2020), which sets out the agreement to restore devolved Government in Northern Ireland, stated an intention to extend this.¹³⁰

Other Responses

Joint Committee on Human Rights

In its [scrutiny](#) of the *Welfare Reform Bill 2011-12*, the Joint Committee on Human Rights highlighted potential discriminatory outcomes of the under-occupation deduction:

The proportion of disabled claimants affected by the measure is higher than for non-disabled claimants. [...] If such tenants were forced to move into properties unsuited to their needs this might risk breaching their Article 8 rights to respect for private or family life as well as being potentially discriminatory.

The Government has indicated that it is prepared to look at exemptions for individuals who are disabled, where their homes have been subject to extensive adaptations. However, this would not address the disruption to patterns of caring and support networks which can be vital.

We recommend allowing some additional discretion to exempt disabled people facing exceptional hardship from the under-occupation provisions.¹³¹

UN Rapporteur on adequate housing

In 2013, a report by the UN Special Rapporteur on adequate housing, Raquel Rolnik, recommended the immediate suspension of the under-occupation deduction, stating that “the structural shape of the housing sector has changed to the detriment of the most vulnerable”.¹³²

The UK Government said the report contained “a number of inaccuracies” and its “recommendations are of very little relevance”.¹³³

EHRC: Housing and disabled people: Britain’s hidden crisis 2018

This [EHRC report](#) published in May 2018 was referenced in UKIM’s October 2018 update submission to the UN Committee.¹³⁴ The EHRC identified housing as “the cornerstone of independent living” and highlighted a lack of accessible housing for disabled people – the EHRC referred to a “chronic shortage”.¹³⁵ Other identified issues included bureaucracy and delays faced by disabled people waiting for adaptations and a lack of tenancy support.¹³⁶ Specific reports were prepared for [Wales](#) and [Scotland](#).

5.3 Adequate standard of living and social protection (art. 28)

The UN Committee in 2016 argued that “changes in eligibility criteria for the “moving around” component under the new Personal Independence Payment” (PIP) had “disproportionately affected persons with disabilities and hindered various aspects of their

¹³⁰ [New Decade, New Approach](#), January 2020, pp 9, 40; Department for Communities, [Minister announces extension of protections from the bedroom tax](#), 3 February 2020

¹³¹ Human Rights Joint Committee, [Legislative Scrutiny: Welfare Reform Bill](#), HL 233/HC 1704, 12 December 2011, paras 1.64-6.

¹³² UN General Assembly, [Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context](#), Raquel Rolnik, December 2013, para 79

¹³³ Ministry of Housing, Communities and Local Government, [Government response to UN Special Rapporteur report](#), 3 February 2014.

¹³⁴ UKIM, [Progress on disability rights in the UK: UKIM update report](#), October 2018

¹³⁵ EHRC, [Housing and disabled people: Britain’s hidden crisis](#), May 2018, p7

¹³⁶ [Ibid](#), pp9-10

right to live independently and be included in the community.”¹³⁷ The Committee also said that there were “several flaws” in the process related to the Employment and Support Allowance (ESA), in particular that:

Despite several adjustments made to the Work Capability Assessment, the assessment has continued to be focused on a functional evaluation of skills and capabilities, and puts aside personal circumstances and needs, and barriers faced by persons with disabilities to return to employment, particularly those of persons with intellectual and/or psychosocial disabilities.¹³⁸

The Committee reported a “persisting lack of awareness and limited knowledge of disability rights and the specific needs of persons with disabilities” by assessors.¹³⁹ They argued that sanctions on ESA claimants had “been applied in a disproportionate manner” between 2012 and 2014.¹⁴⁰

The Committee said the UK Government should review ESA and repeal amending regulations relating to the PIP eligibility criteria:

- (a) [...] The State party must ensure that members of the new Employment and Support Allowance work-related activity group have access to full compensation of disability-related costs; [...]
- (c) Repeal the Personal Independence Payment (Amendment) Regulations of 2017 and ensure that eligibility criteria and assessments to access Personal Independence Payments, Employment Support Allowance and Universal Credit are in line with the human rights model of disability.[...]
- (e) Conduct a review of the conditionality and sanction regimes concerning the Employment and Support Allowance, and tackle the negative consequences on the mental health and situation of persons with disabilities.¹⁴¹

ESA, Universal Credit and disability support

Origins and structure of ESA

The Department for Work and Pensions’ Five Year Strategy, published in February 2005,¹⁴² set out the then-Labour Government’s plans for a “radically reformed incapacity benefit” which would focus on “what people can do rather than on what they cannot.”¹⁴³ The January 2006 Green Paper [A new deal for welfare: Empowering people to work](#)¹⁴⁴ announced proposals for an Employment and Support Allowance (ESA) to replace incapacity benefits. The [Welfare Reform Act 2007](#)¹⁴⁵ introduced the new benefit.

ESA is an income replacement benefit for people with a health condition or disability which means that they are unable to work. ESA is intended to cover day to day living costs. It can be distinguished from disability benefits such as PIP which help with the extra costs of disability and are payable whether in or out of work.

ESA replaced incapacity benefits for people making new claims from October 2008, and from 2010 the DWP began reassessing existing incapacity benefits claimants for ESA. There are two forms: contributory ESA, for those with sufficient National Insurance contributions; and income-related ESA, which is means-tested.

¹³⁷ Committee on the Rights of Persons with Disabilities, [Inquiry concerning the UK: Report](#), October 2016

¹³⁸ [Ibid](#), para 102

¹³⁹ [Ibid](#), para 103

¹⁴⁰ [Ibid](#), para 106

¹⁴¹ UN Committee, [Concluding observations on the initial report of UK](#), October 2017, para 59(a)-(c)

¹⁴² Cm 6447

¹⁴³ HC Deb 2 February 2005 c842

¹⁴⁴ Cm 6730

¹⁴⁵ For further background see Library Research Paper 06/39, [The Welfare Reform Bill 2005-06](#)

To be eligible for ESA, a person must undergo a Work Capability Assessment (WCA). Claimants are assessed during the first 13 weeks of their claim (or longer if necessary) to determine whether they had a “limited capability for work”, and also whether they are capable of engaging in “work-related activity”. This second part of the assessment determined whether the person was placed in the “support group” or the “work-related activity group”; for those in the latter group, access to the full rate of benefit would be conditional on participation in Work-Focused Interviews (WFIs) and agreeing an action plan. Failure to do so may result in a benefit sanction.¹⁴⁶

Maximus – which operates as the [Health Assessment Advisory Service](#) – holds the current contract to undertake assessments for the Department for Work and Pensions, but the decision on entitlement to ESA and on the relevant group is ultimately one for a DWP ‘Decision Maker.’

ESA and Universal Credit

Income-related ESA is a ‘legacy’ benefit which is being replaced by Universal Credit (UC). As UC caseloads grow, the numbers receiving income-related ESA and expenditure on the benefit is declining. With very limited exceptions, it is now no longer possible to make a new claim for income-related ESA.

Contributory ESA remains a separate benefit and may be claimed either on its own, or alongside UC. Since the introduction of UC contributory ESA has been rebranded ‘New Style ESA’ for new claims, and some of the benefit rules, including those covering conditionality and sanctions, have been aligned with those for UC.¹⁴⁷

Existing legacy benefit and tax credit claimants who do not move onto UC following a change in their circumstances will transfer to UC by a process known as ‘managed migration’. Households moving to UC via this process will be eligible for transitional protection against any shortfall between their UC entitlement and their legacy benefits award. This is to ensure that there will be no cash losers at the point of migration to, where there has been no change of circumstances.

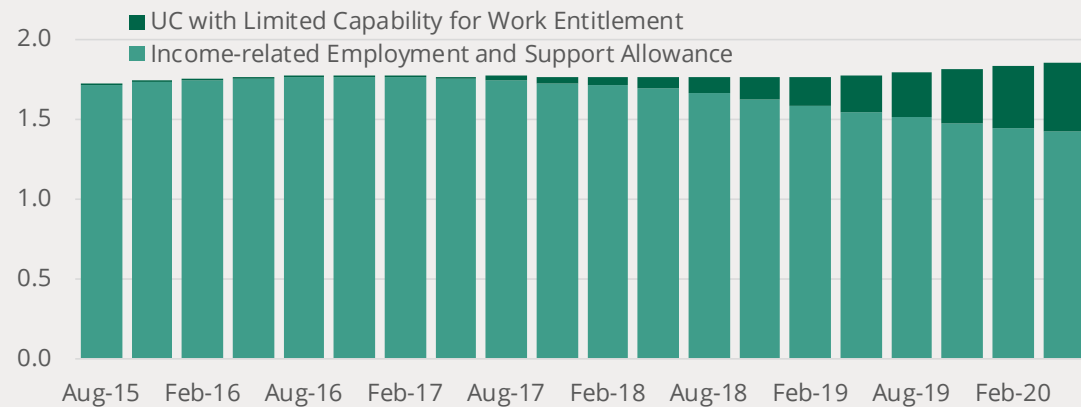
By May 2020 there were over 430,000 households on Universal Credit with a limited capability for work element as part of their claim, compared with 1.42 million claimants still on income-related ESA. UC therefore covered around 23 per cent of the population in receipt of means-tested support for work-limiting conditions.

¹⁴⁶ DWP, [Guidance: Benefit sanction statistics: Background information and methodology](#), 11 August 2020

¹⁴⁷ See DWP, [‘New Style’ Employment and Support Allowance: detailed guide](#), updated 28 September 2020

Universal Credit had reached nearly a quarter of recipients of means-tested support for work-limiting conditions by May 2020

Millions of households on either UC or income-related ESA for work-limiting conditions, GB



Source: [DWP Stat-xplore](#)

Over two million households were expected to move onto UC by managed migration, of which around 745,000 would be claiming income-related ESA.¹⁴⁸ A managed migration pilot – ‘Move to UC’ – which was to involve around 10,000 claimants in the Harrogate area began in July 2019.¹⁴⁹ In light of the lessons learned from this, the DWP would then seek parliamentary approval for the main phase of managed migration, which was expected to get underway in late 2020 and be completed by September 2024.

The timetable for the final managed migration stage is now unclear. Following the coronavirus outbreak, DWP suspended the Move to UC pilot, and there has been no announcement on when it might resume.

Changes to ESA entitlements

As a result of measures in the [Welfare Reform and Work Act 2016](#), the additional Work-Related Activity Component (WRAC) worth £29.55 a week payable to ESA claimants in the Work-Related Activity Group – and the equivalent element in Universal Credit – was abolished for new claims from April 2017. The changes were introduced to “remove the financial incentives that could otherwise discourage claimants from taking steps back to work”.¹⁵⁰ Further details are given in Commons Library briefing CBP-7649, [Abolition of the ESA Work-Related Activity Component](#).

The changes were widely criticised by disability charities. The idea that the WRAC incentivised claimants to not look for work was particularly disputed.¹⁵¹ Alongside the changes, the Government promised a package of measures to provide additional help people with health conditions and disabilities get into work. Further details were given in the November 2017 policy document [Improving Lives: The Future of Work, Health and Disability](#).¹⁵²

¹⁴⁸ DWP, [Explanatory Memorandum for the draft Universal Credit \(Managed Migration\) Amendment Regulations 2018](#), 1 June 2018, p29

¹⁴⁹ For details see the DWP, [LA Welfare Direct Bulletin 7/2019 lite](#), 20 September 2019

¹⁵⁰ DWP, [Welfare Reform and Work Bill: Impact Assessment to remove the ESA Work-Related Activity Component and the UC Limited Capability for Work Element for new claims](#), July 2015, p1

¹⁵¹ See Commons Library briefing CBP-7649, [Abolition of the ESA Work-Related Activity Component](#), 7 March 2017

¹⁵² Cm 9342; see also Commons Library briefing CBBP-7540, [People with disabilities in employment](#), 3 January 2020

The Coalition Government had previously limited receipt of contributory ESA to 12 months for claimants in the Work-Related Activity Group, on the grounds that for WRAG claimants ESA was never intended to be a long-term benefit. Welfare rights and disability organisations argued however that the time limit undermined the contributory principle and would result in greater poverty and financial distress for people with long-term conditions. The Government estimated that around 700,000 people would be affected by the time limit, of whom 280,000 would lose ESA completely after 12 months because, for example, they had other income or savings, or a partner in work. Further information is given in Commons Library briefing SN06305, [Time limiting of contributory Employment and Support Allowance from 30 April 2012](#).

Universal Credit and changes to support for disability

Universal Credit rationalises support for disabled people by replacing the existing disability premiums and additions in means tested benefits and tax credit. Originally, additions for disabled adults and children in UC were to be payable at two rates, but following the abolition of the ESA Work-Related Activity Component and the UC Limited Capability for Work element for new claims from April 2017 (see above), disabled adults will only receive an additional amount if they qualify for the Limited Capability for Work-Related Activity element (support for disabled children continues to be paid at two rates).

A 2012 report by a coalition of disability and welfare rights organisations highlighted the possible negative impact of UC on three groups in particular:

- Disabled children who would previously have got the disabled child element of Child Tax Credit
- Disabled workers who would have qualified for the disability element of Working Tax Credit, but who have been found “fit for work” by the Work Capability Assessment
- Severely disabled adults who live alone who would previously have qualified for the Severe Disability Premium (see below)¹⁵³

Part 6 of Commons Briefing paper SN06548, [Draft Universal Credit Regulations 2013](#), looks in more detail at the implications of UC people with disabilities. See also the Commons Library Debate Pack CDP-2018-0278, [Backbench Business Debate: Impact of Changes to Disability Support](#), 18 December 2018.

Further comment on the implications of Universal Credit for disabled people can be found in the Work and Pensions Committee’s December 2018 report, [Universal Credit: support for disabled people](#).¹⁵⁴ The [Government’s response](#) was published on 5 March 2019.

UC and the Severe Disability Premium

Disability organisations expressed particular concern that the Severe Disability Premium (SDP), currently received by over half a million people, is not being carried over into Universal Credit. In response to a High Court judgment in June 2018,¹⁵⁵ the Government introduced regulations preventing people in receipt of SDP from moving onto UC until the final managed migration stage, when they can receive transitional protection. People who had already moved to UC and lost their SDP would receive additional payments (‘SDP Transitional Payments’) – both backdated and on an ongoing basis. The Government had to table further regulations providing for Transitional Payments, following a second High

¹⁵³ Citizens Advice, [Holes in the safety net: the impact of universal credit on disabled people](#), October 2012

¹⁵⁴ HC 1770 2017-19, 19 December 2018

¹⁵⁵ [TP and AR, R \(On the Application Of\) v Secretary of State for Work And Pensions \[2018\] EWHC 1474 \(Admin\)](#)

Court ruling which held that its initial proposals to compensate people were unlawful.¹⁵⁶ Further information can be found in Commons Library briefing CBP-8494, [Universal Credit and the Severe Disability Premium](#).

Legal action regarding the treatment of claimants who would lose SDP on moving to UC is still ongoing. The two claimants who were successful in the original High Court case (TP and AR) commenced further judicial review proceedings in October 2019, on the grounds that the Government's revised scheme of Transitional Payments for people who lost SDP on moving to Universal Credit still did not fully compensate them for the losses they experienced. These further proceedings were put on hold pending the Government's appeal against the two previous High Court decisions.

On 29 January 2020, the Court of Appeal dismissed the Government's appeal, upholding the two High Court judgments which found that the failure to protect the income of severely disabled claimants migrating to Universal credit is unlawful.¹⁵⁷ Further information is given in the solicitor's (Leigh Day) press release, [Government loses Universal Credit appeals against claimants with severe disabilities](#), 29 January 2020.

On 17 February, Leigh Day issued a press release urging the Government to concede the further appeal by TP and AR, in light of the Court of Appeal's decision – see [Government urged to concede third legal challenge to Universal Credit migration arrangements](#). The press release stated:

This third legal challenge was originally issued in the High Court in October 2019. However, proceedings were then put on hold while the Court of Appeal considered the appeals in the first two legal challenges. Now judgment has been handed down, and the government lost, they are invited to concede the claim and make provisions for transitional payments, including back payments, to the SDP natural migrant group which reflect their actual loss. If this does not occur TP and AR will continue with their legal challenge in the High Court.

The challenge has been 'stayed' – i.e. put on hold – because of the coronavirus pandemic and the Government's response to it.

On 15 July 2020 Leigh Day also announced that a claim had been issued in the High Court on behalf of more than 300 severely disabled claimants. They argue that they missed out on at least £170 a month because they were moved on to universal UC before January 2019, when the SDP 'Gateway' – which prevents people receiving SDP from moving onto UC – was introduced.¹⁵⁸

Work Capability Assessment (WCA)

The WCA is based on the principle that a health condition or disability should not automatically be regarded as a barrier to work and work itself can have benefits.

Welfare rights and disability organisations have voiced concerns about aspects of the test and about the way it has been applied.¹⁵⁹ There has been particular concern about how the test takes account of mental health problems and fluctuating conditions, and about the conduct of medical examinations undertaken by Atos (who have been subsequently replaced by Maximus) Health Care Professionals (HCPs) on behalf of the DWP.

¹⁵⁶ [TP AR & SXC, R \(On the Application Of\) v Secretary of State for Work and Pensions \[2019\] EWHC 1116 \(Admin\)](#)

¹⁵⁷ [AR & SXC, R \(On the Application Of\) v Secretary of State for Work and Pensions \[2020\] EWCA Civ 37](#)

¹⁵⁸ [See Disabled benefit claimants issue claim for lost income under universal credit system](#), Leigh Day press release, 15 July 2020

¹⁵⁹ For example, Disability Rights UK, [DWP WCA Maximus contract statement: Our response](#), 31 October 2014; HC Deb, [Ten years of the WCA](#), 24 April 2019, cc319WH-44WH

Despite changes made following [internal reviews](#), [five annual independent reviews](#), Work and Pensions Committee reports, and the appointment of Maximus as the assessment provider under a new contract in 2015, some organisations argue that the Work Capability Assessment is not achieving these aims and is not, at least in its current form, “fit for purpose.”¹⁶⁰ Problems highlighted by disability and welfare rights organisations include, though are not limited to:

- The number of claimants with serious health conditions or disabilities who are found “fit for work” or placed in the wrong ESA group, due to deficiencies with the WCA descriptors or in the assessment process.
- The difficulties faced by certain groups, and in particular people with mental health conditions or learning disabilities, in navigating the WCA process.
- The lack of information about outcomes for individuals following fit for work determinations, and concerns about the risk of poverty and destitution as a result of incorrect decisions.
- The impact of assessments, frequent reassessments, and poor decision making on the physical and mental health of claimants.¹⁶¹

In its July 2014 report on [Employment and Support Allowance and Work Capability Assessments](#), the Work and Pensions Committee concluded:

- ESA was not working as well as it should, particularly in terms of achieving the intended employment objectives for claimants.
- Outcome groups were too simplistic, with the WRAG becoming a catch-all group for those who failed to meet the conditions for the Support Group, but were not seen as fit for work.
- The focus on returning to work within a relatively short period of time was not appropriate for many claimants.
- The WCA failed to provide an accurate assessment of a claimant’s individual health-related employment barriers, or their distance from the labour market.¹⁶²

The Committee recommended a fundamental redesign of the ESA process, including a reassessment of the application and effectiveness of the WCA descriptors to make them more responsive, particularly for claimants with progressive and fluctuating conditions, and those with mental, cognitive and behavioural difficulties. It also recommended that DWP should reintroduce an assessment of health-related employment barriers into the redesigned ESA process.

In its response to the Committee in November 2014, the Coalition Government said that while it recognised that there was scope for improvements to the WCA and accompanying processes, in light of the reviews already taken and changes already agreed, it did not agree that the WCA was a “flawed mechanism” for assessing a person’s functional capacity.¹⁶³

However, in a speech given in August 2015, the then Secretary of State for Work and Pensions, Iain Duncan Smith, signalled possible future reforms to both ESA and the WCA,

¹⁶⁰ See for example Disability Rights UK, [Our response to Work and Pensions Committee PIP and ESA Assessments inquiry](#), November 2017

¹⁶¹ See also Commons Library briefing CDP-2019-0005, [Mental health and the benefits assessment process](#), 21 January 2019

¹⁶² Work and Pensions Committee, [ESA and WCA](#), HC 302, 16 July 2014

¹⁶³ DWP, [Government response to the House of Commons Work and Pensions Select Committee Report on ESA and WCA](#), November 2014

suggesting that the WCA should be reformed to focus, “on what a claimant can do and the support they'll need - and not just on what they can't do.”¹⁶⁴ No specific proposals had been put forward by the time Mr Duncan Smith resigned as Secretary of State on 18 March 2016.

Some commentators have suggested reforming the Work Capability Assessment to take account of how a person's functional impairments affect their ability to work, given who they are. They argue that a broader “real world assessment”, taking into account factors such as skills and qualifications, experience, and age, is possible and would better reflect everyday realities than the existing WCA.¹⁶⁵ Ministers have however questioned whether such a test could be applied fairly.¹⁶⁶

The UK Government's Work, Health and Disability Green Paper, [Improving Lives](#), published in October 2016, did not propose major changes to the WCA itself but sought views on whether breaking the link between cash entitlement and Jobcentre support would lead to a more “personalised offer of support” for ESA claimants, rather than this being decided by the ESA category the claimant is placed in following the WCA; and how this could work in practice. The Green Paper also sought views on how evidence from different assessments, e.g. for Personal Independence Payment, might be shared to help DWP Decision Makers and reduce the burden on claimants.¹⁶⁷

The Government's response to the public consultation was published in November 2017. It noted that responses to the consultation “gave multiple and differing views on what the WCA should look like in the future”. No commitment was given to fundamental reform of the WCA.¹⁶⁸

Further information can be found in Commons Library Debate Pack CDP-2019-0092, [Ten years of the work capability assessment in relation to employment support allowance and universal credit](#), 19 April 2019.

Personal Independence Payment

Personal Independence Payment (PIP) is non-means-tested and is intended to help with the extra costs arising from ill health or disability. It has two components: a mobility component, based on an individual's ability to get around; and a ‘daily living’ component, based on ability to carry out activities necessary to be able to participate in daily life. Each component has two rates.

PIP was introduced for new claims from April 2013, and the DWP subsequently began reassessing all existing working-age Disability Living Allowance (DLA) claimants. Young people in receipt of DLA are also reassessed for PIP when they reach 16. In December 2018, the then DWP Minister, Sarah Newton, estimated that the final DLA to PIP reassessments would take place in 2020/21.¹⁶⁹

¹⁶⁴ Iain Duncan Smith, [A Speech on Work, Health and Disability](#), 24 August 2015. For a summary of reactions to the speech see Ben Baumberg, [The end of the WCA? Reaction to IDS' speech](#), Rethinking Incapacity blog, 3 September 2015

¹⁶⁵ See Ben Baumberg et al, [Rethinking the Work Capability Assessment](#), Demos, March 2015

¹⁶⁶ See the [Work and Pensions Committee evidence session on The role of incapacity benefit reassessment in helping claimants into employment](#), 13 July 2011, Q340. Published as HC 1015 2010-12

¹⁶⁷ DWP, [Improving Lives](#), cm 9432, October 2016, chapter 3

¹⁶⁸ DWP and Department for Health and Social Care, [Improving Lives: The future of work, health and disability](#), November 2017, para 68

¹⁶⁹ [HCWS1224, PIP, 20 December 2018](#)

Aims of PIP

The Coalition Government believed that Personal Independence Payment would have certain advantages over Disability Living Allowance:

- Target support more closely on those most in need of support
- More responsive as claimants' circumstances change
- Based on a fairer, more transparent and consistent assessment of need
- Easier for claimants, DWP staff and disability organisations to understand.¹⁷⁰

The Coalition Government also said that a key aim was the need to make savings and reduce the working-age caseload for disability benefits. The Office for Budget Responsibility (OBR) has however shown that PIP will not in fact deliver savings relative to DLA. In its January 2019 [Welfare trends report](#), the OBR observes that while the Coalition Government assumed initially that PIP would ultimately cost 20% less than DLA would have done, by 2017-18 it was in fact costing around 15-20% more, with rollout only around two-thirds complete.¹⁷¹ The OBR's [Welfare trends report](#) published in December 2019 noted that, despite its July 2015 forecast expecting spending to fall in cash terms between 2014-15 and 2018-19, it actually increased by 36% over that period, amounting to a £4 billion underestimate of disability benefits spending in 2018-19, with PIP rollout 75% complete.¹⁷²

During its 2017-19 enquiry on PIP and ESA assessments, the Work and Pensions Committee asked the DWP whether PIP had "failed in its key objective." In a [written memorandum to the Committee](#) in December 2017, the Department replied that PIP had "succeeded in meeting the key policy aims". It added:

PIP is a more modern, dynamic and fair benefit than its predecessor, Disability Living Allowance (DLA). It has successfully targeted support to those with the greatest barriers to living independently, and a much greater proportion of PIP claimants now receive the top rate of benefit than compared to DLA (29% vs 15%).

PIP ensures that claimants with mental health conditions have equal access to support as those with physical health conditions. 66% of claimants with mental health conditions are on the enhanced rate of the Daily Living component and 31% are on the enhanced rate of Mobility component; this compares with 22% on the higher rate of the care component and 10% on the higher rate of the mobility component under DLA (as at May 2013).

By the end of October 2019, 1,424,000 DLA reassessment claims to PIP had been cleared in Great Britain. Of these:

- 556,000 (39%) had their benefit increased
- 200,000 (14%) received the same level of benefit as before
- 306,000 (22%) had their benefit decreased, but not stopped altogether
- 293,000 (21%) were disallowed after referral to the assessment provider
- 58,000 (4%) were disallowed before referral to the assessment provider
- 9,000 (1%) withdrew their claim

Overall, three quarters of DLA claimants who registered received an award of PIP. The DWP's [statistical release](#)¹⁷³ also highlights that:

¹⁷⁰ National Audit Office, [Personal Independence Payment: early progress](#), HC 1070 2013-14, 27 February 2014, para 1.5; Commons Library SN05869, [Disability Living Allowance reform](#)

¹⁷¹ Office for Budget Responsibility, [Welfare trends report](#), January 2019, chapter 6

¹⁷² Office for Budget Responsibility, [Welfare trends report](#), December 2019, paras 2.28-2.31

¹⁷³ DWP, [Official Statistics: Personal Independence Payment: April 2013 to October 2019](#), 13 December 2019

39% of those who registered received an increase in the level of benefit. This is higher than the 29% forecast in December 2012.

47% of those who registered received a lower level of award or no award; this includes 1% of claimants who chose to withdraw their claim. This is lower than the 55% forecast in December 2012.

413,000 (29%) of the cases registered were awarded PIP at the highest rate (enhanced daily living and enhanced mobility components). This compares with 226,000 (16%) under DLA.

The statistical release also includes breakdowns showing outcomes by main disabling condition for DLA to PIP reassessments.

Eligibility criteria

The Coalition Government said that the assessment for PIP was designed to provide “a more holistic assessment of the impact of a health condition on an individual’s ability to participate in everyday life.” It covers sensory impairments, developmental needs, cognitive impairments and mental conditions, as well as physical disabilities.¹⁷⁴

The DWP is responsible for handling claims for PIP and making decisions on entitlement to benefit. Contracted assessment providers are however a key element in the claims process. Atos Healthcare holds the contracts for undertaking assessments in Northern England and Scotland; and in London and Southern England. Capita Business Services Ltd holds the contracts covering Wales and Central England; and Northern Ireland.¹⁷⁵ These are separate from the contract under which Maximus assesses ESA and Universal Credit claimants.

In 2011/12, disability organisations expressed concern that in certain respects the PIP criteria were more restrictive than those for DLA and that the assessment did not acknowledge some support needs. For example, Disability Rights UK said that the criteria did not adequately acknowledge the help needed by some people to move around indoors, people who need assistance at night-time, or the need for general supervision to keep people safe.¹⁷⁶

There was also concern about the criteria for the enhanced mobility component. Under the final PIP Regulations, individuals who do not need a wheelchair only qualify for the enhanced rate mobility component if they can only move short distances of no more than 20 metres, rather than 50 metres as in the previous draft. This was expected to result in significant numbers of people who were receiving the higher rate DLA mobility component failing to qualify for the enhanced rate mobility component in PIP. This would also have implications for people with Motability vehicles.

In January 2020, Motability [estimated](#) that “around 102,000 DLA claimants have lost their Motability vehicles after PIP reassessment”.¹⁷⁷ For people who are no longer eligible for the Motability scheme following reassessment from DLA to PIP, there is a [Transitional Support Package](#). Further information on the PIP mobility component eligibility criteria and on the implications of PIP for DLA claimants with Motability vehicles can be found in Commons Library briefing SN00473, [Motability scheme](#).

¹⁷⁴ DWP, [Personal Independence Payment: initial draft of assessment criteria](#), May 2011.

¹⁷⁵ For further information on PIP see Commons Library briefing CDP-2018-0020, [Claimant experience of the Personal Independence Payment process](#), 30 January 2018

¹⁷⁶ Disability Rights UK, [PIP assessment criteria and thresholds consultation: our response](#).

¹⁷⁷ Motability, [Our latest customer numbers and PIP update](#), January 2020

Proposed changes, 2015/16

In December 2015 the UK Government launched a consultation on potential changes to PIP.¹⁷⁸ It highlighted that a significant proportion of PIP awards were on the basis of use of aids and appliances, many of which people might be expected to have already, or which could be obtained free of charge or at a one-off cost. It also argued that case law had expanded the scope of aids and appliances to include items which might not be reliable indicators of extra costs. The Government believed these developments were inconsistent with the original policy intent of focusing support on claimants with the greatest needs.

In the [consultation responses](#), concerns were expressed against the proposals, particularly in the potential to reduce disabled people's financial resilience and ability to live independently.

In March 2016, the Government announced that, in the light of the consultation, the number of points awarded in the PIP assessment would be halved for aids and appliances in relation to the "dressing and undressing" and "managing toilet needs" activities.¹⁷⁹ As a result, 290,000 claimants would no longer receive the daily living component, and a further 80,000 would receive the standard rather than enhanced daily living component. Budget 2016 estimated additional savings of £1.3 billion a year by 2019-20.

Following the resignation of Iain Duncan Smith as Secretary of State for Social Security in March 2016 and the appointment of Stephen Crabb as his successor, the Government announced that it would not be proceeding with the PIP changes, would not be seeking alternative offsetting savings, and was not seeking further savings from the welfare budget.¹⁸⁰

Further information is given on Library briefing [Personal Independence Payment and the March 2016 Budget](#).

Upper Tribunal decisions: psychological distress, 2017

In March 2017 the DWP introduced regulations to reverse the effect of two Upper Tribunal judgments relating to the PIP eligibility criteria – for background to these changes see Commons Library briefing CBP-7911, [Changes to the Personal Independence Payment eligibility criteria](#). The most significant change made by the regulations was to tighten the rules on access to the mobility component for people unable to undertake journeys due to "overwhelming psychological distress." This would potentially affect people with a wide range of conditions including learning disability. Disability organisations called on the Government not to proceed with the changes. Some questioned how the changes fitted with the Government's stated commitment to "parity of esteem" between physical and mental conditions.¹⁸¹

In its judgment on 21 December 2017 in [RF v the Secretary of State for Work and Pensions & Others](#),¹⁸² the High Court ruled that the regulations introducing the March 2017 changes were unlawful because they discriminate against people with disabilities in breach of *Human Rights Act 1998* obligations, and declared that the Secretary of State did

¹⁷⁸ DWP, [Consultation on aids and appliances and the daily living component of Personal Independence Payment \(PIP\)](#), 10 December 2015

¹⁷⁹ [HCWS611 \[on Personal Independence Payment\]](#), 11 March 2016; DWP, [Personal Independence Payment consultation response announced](#), 11 March 2016

¹⁸⁰ Gov.UK, [Secretary of State for Work and Pensions statement on not going ahead with changes to Personal Independence Payment \(PIP\)](#), 21 March 2016

¹⁸¹ "Parity of esteem" refers to giving mental health equal priority to physical health.

¹⁸² [\[2017\] EWHC 3375 \(Admin\)](#)

not have lawful power to make the regulations (i.e. they were “ultra vires”) and should have consulted before making them.

The Government subsequently announced¹⁸³ that it would not contest the High Court’s decision, and that it would also drop its appeal against the original Upper Tribunal decision (‘MH’) that had prompted the change to the regulations.¹⁸⁴ The Secretary of State for Work and Pensions said that her Department would now “take all steps necessary to implement the judgment in MH in the best interests of our claimants, working closely with disabled people and key stakeholders over the coming months.”

In June 2018 the DWP began to review around 1.6 million existing PIP awards, and PIP claims submitted since the original Upper Tribunal judgment in November 2016, to see who could be affected. Further details of the review process are given in a Deposited Paper.¹⁸⁵ Review activity was [“paused” due to coronavirus](#), but has now resumed.

ESA and PIP assessments

In September 2017 the Work and Pensions Committee launched a further inquiry examining the effectiveness of assessment processes used to determine eligibility for both ESA and Personal Independence Payment.¹⁸⁶ The [Work and Pensions Committee’s report – together with a separate report detailing claimant experiences of PIP and ESA assessments](#) – was published in February 2018.¹⁸⁷ The Committee said that failings in the assessment and decision-making processes for both ESA and PIP had resulted in the “pervasive lack of trust” that risked undermining the entire operation of both benefits. It set out a series of recommendations including:

- recording face to face assessments and providing a record and a copy of the assessor’s report to claimants;
- measures to improve understanding about what constitutes good evidence to support PIP and ESA claim, and ensuring assessors use evidence effectively;
- improving the accessibility of the process at every stage, from the application form, to information about home visits and about accessing reconsiderations and appeals; and
- improving contractor performance through more effective use of contractual “levers” and ensuring assessors are given feedback, including from the appeals process.

In its [response published on 18 April 2018](#), the Government made a number of commitments, including:

- Producing an Easy Read version of the notes which accompany the PIP “How your disability affects you” form.
- Launching a series of videos to outline the PIP claim process in a simple and clear way, and explain the types of relevant information that are useful in support of a claim, in order to better prepare claimants for an assessment. The PIP assessment providers would also supply information to claimants ahead of their assessment appointment via their websites and direct mail sent to the claimant.

¹⁸³ [Written Statement HCWS414](#)

¹⁸⁴ [MH v Secretary of State for Work and Pensions \[2016\] UKUT 0531 \(AAC\)](#)

¹⁸⁵ DWP, [Personal Independence Payment \(PIP\): Implementation of legal decisions MH and RJ: Frequently Asked Questions \(FAQ\)](#), DEP 2020-0061, February 2020

¹⁸⁶ See: [‘PIP and ESA Assessments inquiry’](#), Work and Pensions Committee website

¹⁸⁷ Work and Pensions Committee, [PIP and ESA assessments](#), HC 829 2017-19, 14 February 2018; Work and Pensions Committee, [PIP and ESA assessments: claimant experiences](#), HC 355 2017-19, 9 February 2018

- Addressing improvements to application forms by commissioning external research to identify whether, how and what aspects of the PIP (and ESA) claim forms could have the potential to cause distress; revising and amending the forms in light of these findings; and testing the revised forms with applicants to determine if improvements made result in the forms being more claimant-friendly and less likely to cause distress. Work was to commence in summer 2018.
- Working closely with the PIP assessment providers around requests for home visits to ensure their processes align with guidance and claimant needs are being met.
- Working with PIP providers to enhance GP engagement – all providers to foster a greater level of engagement and source information from a broader range of health and social care professionals.
- Pilot enhancements to the PIP telephony script to remind claimants to submit medical evidence and the types of evidence that are useful.
- The Department recognised that the complexity and potential costs of recording makes it difficult for claimants—of PIP especially—to record their assessment. It intended “to make recording the PIP assessment a standard part of the process”. It would explore “potential options to test the recording of assessments, including video recording.”
- Gathering more information on companions accompanying claimants to PIP assessments. In recognition of the fact that a family member, friend, carer or other advocate to support claimants in the assessment, and can be “particularly helpful where a claimant has a mental, cognitive or intellectual impairment and may not be able to give an accurate account of their daily living and mobility needs.” DWP will consider how assessments where companions attend with claimants can be specifically examined in audit.

On 18 March 2020, the current Work and Pensions Committee held a [one-off evidence session](#) looking at developments since its predecessor Committee’s inquiry on ESA and PIP assessments. The Committee took evidence from representatives from Citizens Advice, Scope, the Royal National Institute of Blind People, MIND, and the Disability Benefits Consortium.

The Work and Pensions Committee also touched on ESA and PIP assessments in its June 2020 report on [DWP’s response to the coronavirus outbreak](#).¹⁸⁸ It observed:

Disabled people still face many of the same problems applying for benefits as they did before the coronavirus outbreak. The Department has failed to act on previous recommendations, including from our predecessor Committee, to offer audio-recording of assessments as standard and to communicate with claimants in ways that meet their needs. Ministers and senior officials tell us that they are keen to do both these things: they must now provide a clear timetable for action.¹⁸⁹

In its [response of 21 August](#), the Department said that it would:

...continue to engage regularly with stakeholders to keep them updated on changes being made during the Covid-19 outbreak and to gather feedback on DWP’s systems and services. It is clear some of the operational changes made during Covid-19 have been welcomed, so we will evaluate and learn from these to inform future changes to assessments. The upcoming health and disability Green Paper will provide further detail and seek views on future reform of health assessments.

The DWP also said that it was “currently developing an approach to implement audio recording of telephone PIP assessments and Work Capability Assessments.”

¹⁸⁸ [HC 178 2019-21](#)

¹⁸⁹ [Ibid](#), Summary

Repeat assessments

Since 29 September 2017, some Employment Support Allowance and Universal Credit claimants with the most severe health conditions and disabilities have been exempt from future reassessments. Claimants meet the “severe conditions criteria” if they have been assessed as having a “limited capability for work-related activity”; have a severe, lifelong disability, illness or health condition; and are unlikely to ever be able to move into work.

In August 2018 the DWP also issued updated internal guidance to ensure that people receiving the highest level of support under Personal Independence Payment, and whose needs are unlikely to change or may get worse, will receive an “ongoing award” of PIP with a “light touch” review at the ten-year point. The DWP is consulting with stakeholders to develop the light touch review process.

For further information see Commons Library briefing CBP-7820, [ESA and PIP reassessments](#).

‘Transforming assessments’

In March 2019 the then Secretary of State for Work and Pensions, Amber Rudd, announced that her Department had launched a “Health Transformation Programme” to develop a new, integrated service, supported by a single digital system, for PIP and Work Capability Assessments, from 2021. The integrated service is intended to provide “a more joined up experience” for claimants, but the two assessments will remain separate. However, she also announced plans to test the feasibility of a single assessment covering to determine eligibility for both ESA/UC and PIP.¹⁹⁰

In a Written Answer in 8 October 2019, the DWP Minister Justin Tomlinson gave an update:

In responses to the 2016 Improving Lives: Work, Health and Disability Green Paper consultation and through several other forums, stakeholders have raised concerns about the feeling of duplication across the current assessment processes. We have therefore been exploring options to reduce this, and make improvements to the customer experience. By testing the feasibility of a single assessment for Employment and Support Allowance/Universal Credit and Personal Independence Payment we can seek to understand if it will improve the assessment process for our customers, and ensure that it delivers high quality and accurate outcomes. The study is being informed by existing evidence and we have been gathering views and insight from key stakeholders to understand the issues around implementing this.

I do consider there are merits and we announced in March 2019 that we have launched the Health Transformation Programme to deliver a new integrated assessment service across all health and disability benefits. This will make the assessment process simpler, quicker, more user-friendly and more joined-up whichever benefit people are claiming. This integrated service will still be taking applications to individual benefits on a separate basis.¹⁹¹

On 2 March 2020, Mr Tomlinson provided a further update on progress in creating a single assessment service with a single digital platform developed by the DWP. He noted that the Department would initially develop the new service on a small scale “in a defined part of the country, a Transformation Area”:

For claimants in this Transformation Area, assessments will be conducted by the DWP, rather than outsourced to providers. This will give us the flexibility to explore new ideas including:

1. trialling better ways of carrying out face-to-face assessments;

¹⁹⁰ [HCWS1376](#)

¹⁹¹ [PQ 293652](#), 8 October 2019

2. how to triage more effectively so that only those people who need a face-to-face assessment will have to undergo one;
3. how to make it easier for claimants to understand the evidence they need to provide and why;
4. how to remove the need for claimants to give the same information twice;
5. how to ensure that claimants are aware of the whole range of support available to them both from DWP and more widely.

The Department would continue to engage on this for an upcoming Disability Green Paper.¹⁹²

In this written statement, Mr Tomlinson also notified the House that the DWP was issuing Prior Information Notices to advise the market that it was seeking to procure contracts to deliver PIP and WCA assessments from 1 August 2021 to continue the service once the current contracts ended on 31 July that year. The new Transformation Area would, he said, start in Autumn 2021 and “operate alongside these contracts”.¹⁹³

On 9 July 2020, however, Mr Tomlinson issued a written statement stating that while there had been no change to the Government’s “ambition” to create a single, integrated health assessment service underpinned by a single digital platform developed by DWP, and creating a “Transformation Area” to test ideas and processes, owing to Covid-19 it had had to review its commercial approach. The statement continued:

We had previously announced that we would be undertaking a procurement exercise to establish contracts for conducting Work and Capability Assessments (WCA) and PIP health assessments from 1 August 2021. The impact of Covid-19 means it is not possible to launch that procurement at this time.

We recognise that it is vital for our claimants to have a safe and stable service. Consequently, my Department intends to explore options to extend the current contracts for up to two years, which will ensure continuity of services when the current contracts end on 31 July 2021. We will continue to review these extensions to ensure we only extend for the time we need to effectively respond to the consequences of Covid-19.

The extension period will provide time to fully understand and evaluate the impacts of Covid-19 on these critical services, ahead of future procurements.¹⁹⁴

Conditionality and sanctions

For claimants with disabilities, the conditionality and sanctions regime that applies to them depends on whether they come under the ‘legacy’ benefits system, or whether they are receiving Universal Credit, or come under the UC system.

The legacy system

ESA claimants in the Support Group are not required to undertake any activities to continue to receive benefit. ESA claimants in the Work-Related Activity Group (WRAG) may be expected to take part in Work-Focused Interviews and undertake work-related activity by advisers in the DWP, or as part of the Work and Health Programme.

‘Work-related activity’ is an activity that makes it more likely that the person will get a job or remain in work. This could include a wide range of activities such as skills training, jobs search support, drawing up a CV, work placements, or work experience. Any requirement must be reasonable, given the person’s circumstances. A person cannot be required to

¹⁹² The Green Paper is now expected to be published in early 2021

¹⁹³ [Written Statement HCWS138](#)

¹⁹⁴ [Written Statement HCWS353](#)

apply for a job, undertake work, or submit to medical treatment. All work-related activity to be undertaken must be recorded in writing in an action plan.

ESA claimants who fail to attend and participate in Work-Focused Interviews, or to undertake work-related activity when required to do so, without good cause, may face a benefit sanction (a reduction in the amount of benefit payable). The sanction amount is 100% of the ESA personal allowance.¹⁹⁵

The Universal Credit system

Universal Credit claimants assessed as having a 'limited capability for work' (but not a 'limited capability for work-related activity'), and New Style ESA claimants in the Work-Related Activity Group, are subject to Work-Focused Interview and work preparation requirements. As in the legacy system, claimants assessed as having a 'limited capability for work-related activity' are not subject to any work-related requirements.

If a work preparation requirement is imposed on a UC or New Style ESA claimant, they must take a particular action specified by the DWP that makes it more likely that they will obtain paid work, more paid work, or better paid work. A 'particular action' could include attending a skills assessment, improving personal presentation, taking part in training or an employment programme, undertaking work experience or a work placement, or developing a business plan.

A failure to meet a Work Focused Interview or work preparation requirement, without good cause, may result in a sanction. When a sanction is imposed, only the standard basic amounts for adults are affected, not amounts payable for other reasons (eg children, housing costs). Usually, the amount of the sanction is the same as the amount of the standard allowance used to calculate the UC award for a single person, or half the standard allowance if it is a couple claim.

Further information on the legacy and Universal Credit sanctions regimes, and on 'hardship provision for sanctioned claimants, can be found in Commons Library briefing CBP-7813, [Benefit Claimants Sanctions \(Required Assessment\) Bill 2016-17](#).

ESA sanctions statistics

Between the introduction of ESA in October 2008 and July 2020 just over 160,000 sanctions were imposed on ESA claimants,¹⁹⁶ but the percentage of ESA WRAG claimants subject to a sanction has fallen from a peak of just over 1% in the spring of 2014 to stand at just 0.02% in March 2020.¹⁹⁷ In the most recent statistical release on the total number of ESA (WRAG) sanction decisions, the DWP said that "as [Universal Credit] full service continues to roll out and claimants move from ESA (WRAG) to UC, the ESA (WRAG) sanctions will remain low (in-line with the fall in the number of ESA (WRAG) claimants)".¹⁹⁸

Benefit cap

In 2013, the Coalition Government [introduced](#) a cap on the total amount of household benefits a person could receive. This was set initially at £500 per week for a family and £350 for a single person (or £26,000 and £18,200 annually, respectively). The current cap is lower: in London the cap is £23,000 for families and £15,410 for single adults, and elsewhere the cap is £20,000 for families and £13,400 for single adults.

¹⁹⁵ DWP, [Benefit sanctions statistics: Background information and methodology](#), 11 August 2020 'Context'

¹⁹⁶ DWP [Stat-xplore](#) ESA sanction decisions – all decisions made dataset

¹⁹⁷ DWP, [Benefit sanctions statistics to July 2020 \(experimental\)](#), 10 November 2020, section 7.1 and table 2.3

¹⁹⁸ DWP, [Benefit sanctions statistics to July 2020 \(experimental\)](#), 10 November 2020, section 7.2

Claimants in receipt of [certain benefits](#) are exempt from the cap. In addition, when calculating the maximum amount of welfare benefit entitlement, an authority must ignore any Housing Benefit paid in respect of 'exempt' supported accommodation.¹⁹⁹

For more information on the cap, see the Work and Pensions Committee report, [The Benefit Cap, HC 1477](#), March 2019 and the Library briefings [The Benefit cap](#) and [Constituency casework: The benefit cap](#).

Impact on persons with a disability

The [Equality Impact Assessment](#) for the original benefit cap in 2012 estimated that around half of households who would lose from the policy would contain somebody classed as disabled under the *Equality Act 2010*.²⁰⁰

While many disabled claimants are exempt from the cap as a result of receiving a benefit which exempts them, issues arose in relation to non-exempt carers. In a case considered by the High Court in 2015, it was held that the Government's failure to exempt those caring for severely disabled adult family members from the benefit cap was unlawful because it amounted to indirect discrimination against disabled people and was incompatible with Article 14 of the European Convention on Human Rights.²⁰¹

Following the movement of amendments during passage of the *Welfare Reform and Work Bill 2015-16* in the Lords, the then-Minister, Lord Freud, announced that the Government intended to exempt all recipients of carer's allowance from the benefit cap.²⁰² The Government amendment to give effect to this commitment was brought forward at the Third Reading of the Bill in the House of Lords.²⁰³

Since 7 November 2016 households containing someone entitled to Carer's Allowance or the carer element in Universal Credit have been exempt from the cap.

UK Government response

The UK Government said in the December 2019 Queen's Speech that the benefits aspects of the National Disability Strategy will be considered in a Green Paper and would "consider how we can ensure the benefits system and wider DWP support can best help disabled people".²⁰⁴

Personal Independent Payment (PIP)

In its 2016 response, the UK Government emphasised that PIP "was introduced largely to address fundamental flaws in DLA", which included "subjective criteria which favoured physical over mental ill health and disabilities; taking inadequate account of fluctuating conditions".²⁰⁵

In its [2018 response](#), the UK Government said PIP is a "more focused benefit that provides non-means tested, non-contributory, tax-free support for disabled people who need it most and contributes to the extra costs disabled people face to help them lead full, active and independent lives".²⁰⁶

¹⁹⁹ [The Benefit Cap \(Housing Benefit\) \(Amendment\) Regulations 2013](#)

²⁰⁰ DWP, [Benefit Cap Equality impact assessment](#), July 2012, p8

²⁰¹ [Hurley v Secretary of State for Work and Pensions](#) [2015] EWHC 3382 (Admin).

²⁰² [HL Deb 25 January 2016 c1094](#)

²⁰³ [HL Deb 9 February 2016 c2121](#)

²⁰⁴ UK Government, [The Queen's Speech 2019](#), December 2019, p62

²⁰⁵ [Ibid](#), para 77

²⁰⁶ DWP and ODI, [Concluding observations on the initial report of the UK: initial government response](#), October 2018, para 106

It also emphasised that greater levels of support were available to those with the highest level of need:

Nearly 1.8 million people are now in receipt of PIP. And more support is now going to those who need it the most – overall, 30% of claimants are receiving the highest level of support under PIP compared to 15% of working age claimants under the previous system, DLA.²⁰⁷

Employment and Support Allowance

In its 2017 response, the UK Government argued that the report had a “narrow focus” on ESA, and did not consider the wider range employment programmes in place.²⁰⁸ The Government also emphasised that people in ESA-work related activity were not “disproportionally affected” by the new sanctions regime, with a “well-established system of hardship payments for people who can demonstrate that they cannot meet their immediate and most essential needs”.²⁰⁹

Further detail was provided in the 2018 response, emphasising that in ESA, only those in the work-related activity group (WRAG) have mandatory conditionality requirements and can therefore be sanctioned. The Government also said “each month, less than 1% of ESA claimants are sanctioned” and that the DWP “place[s] additional emphasis on protecting more vulnerable ESA or [Universal Credit] recipients before a sanction is considered”.²¹⁰

Benefit Cap

The Government’s 2016 response to the Committee’s findings on the changes to other benefits highlighted the exemption from the benefit cap and benefit freeze for households in which someone claims is eligible for a disability-related benefit. It said that these exemptions were introduced following implementation, as disproportionate impacts on disabled people were noted.²¹¹

Devolved Government responses

Scotland

Following the *Scotland Act 2016* and the *Social Security (Scotland) Act 2018*, the Scottish Government took on a variety of benefits including disability benefits. These include Attendance Allowance (a social security benefit for older people with care need), DLA and PIP. From 2020, the Scottish Government intend to introduce new benefits such as the [Disability Assistance for Children and Young People](#), which will replace DLA for children and young people aged between three months and 18 years, and [Disability Assistance for Working Age People](#), which will replace PIP for people from the age of 16 to those of State Pension Age.

The Scottish Government said in January 2020 that since the UK Government replaced DLA with PIP in 2013, “167,000 new claims in Scotland have been unsuccessful, equal to 54% of all applications”.²¹²

The Scottish Parliament Information Centre have published a briefing on [Scottish Social Security benefits](#).

²⁰⁷ [Ibid](#), para 107

²⁰⁸ [Ibid](#), para 41

²⁰⁹ [Ibid](#), paras 63-4

²¹⁰ DWP and ODI, [Concluding observations on the initial report of the UK: initial government response](#), October 2018, paras 90, 91, 132

²¹¹ [The UK Government response to the report by the UN committee](#), October 2016, para 72

²¹² Scottish Government, [Majority of disability benefit claims refused by UK Government](#), 23 January 2020

Wales

The Welsh Government committed to mitigate the impact of the UK Government's welfare reforms, in particularly through council tax relief, DHPs and a discretionary assistance fund.²¹³

Northern Ireland

Since 2016, the NI Executive has provided supplementary welfare payments for claimants who are reassessed from DLA to PIP and then receive less welfare support. The current payment scheme is due to end on 31 March 2020;²¹⁴ it was confirmed in the [New Decade, New Approach](#) (January 2020) that "the Executive will extend existing welfare mitigation measures beyond March 2020, when they are currently due to expire".²¹⁵

Other responses

National Audit Office, 2016

The National Audit Office's (NAO) report on [Benefit sanctions](#) (2016) looked at sanctioning across all relevant benefits, including Jobseeker's Allowance as well as ESA, and concluded that the DWP was not doing enough to find out how sanctions affected people on benefits, and recommended that the Department carry out a wide-ranging review of benefit sanctions, particularly as it introduces further changes to labour market support such as Universal Credit.²¹⁶

The NAO noted that there were no published studies of the impact of sanctions on ESA claimants.²¹⁷ Its own preliminary analysis of Work Programme data suggested that sanctions had less impact on ESA claimants than on JSA claimants (in terms of employment, earnings and time on benefits), but that sanctions reduced claimants' time in employment, particularly part-time employment. Most of the reduction meant people spent more time claiming, suggesting sanctions may have discouraged some claimants from working.²¹⁸

Work and Pensions Committee, PIP and ESA, 2018

The Work and Pensions Committee report, [PIP and ESA assessments](#) (2018) argued that "failings in the processes—from application, to assessment, to decision-making and to challenge mechanisms—have contributed to a lack of trust in both benefits". The Committee said that "central to the lack of trust are concerns about the ability of the Department's contractors to conduct accurate assessments".²¹⁹

In response, the DWP said it would be "undertaking test and learn activity which will inform future reform options to achieve transformational change to personalise and tailor employment and health support, with improved assessments for financial support".²²⁰

Work and Pensions Committee, Benefit Sanctions, 2018

The Work and Pensions Committee report, [Benefit Sanctions](#) (2018) highlighted "disabled claimants' disproportionate propensity to be sanctioned".²²¹ The Committee also cited witness evidence that "stressed that the negative impact of a sanction, once imposed,

²¹³ Welsh Government, [Mitigating the impact of the UK Government's welfare reforms](#), 2015, para 2

²¹⁴ DWP/ODI, [The UK's 2019 response to select concluding observations of the UN Committee](#), 14 October 2019, para 18

²¹⁵ NI Executive, [New Decade, New Approach](#), January 2020, p9

²¹⁶ NAO, [Benefit Sanctions](#), HC 628, 30 November 2016, p10

²¹⁷ [Ibid](#), para 3.4

²¹⁸ [Ibid](#), para 3.10

²¹⁹ Work and Pensions Select Committee, [PIP and ESA assessments](#), HC 829, 7 February 2018, Summary.

²²⁰ DWP, [Improving Lives: The future of work, health and disability](#), April 2019, para 21

²²¹ Work and Pensions Select Committee, [Benefit Sanctions](#), HC 955, 6 November 2018, para 49

'may be even more acute' for disabled people, for example, due to: the extra day-to-day costs resulting from their condition, the challenges faced in the labour market and their limited ability to increase income quickly".²²² The Committee recommended the DWP exempt from the following from conditionality and sanctions:

- Any claimant assessed by a Work Capability Assessment (WCA) to have limited capability for work;
- Claimants not found to have limited capability for work as a result of a WCA, but who have an impairment or health condition, including mental health, and who present a valid Fit Note stating that they are unable to work; where a valid Fit Note can be issued by a health or social care professional and should be presumed to continue for a set period unless there is good reason to think that someone's health has improved;
- Universal Credit claimants awaiting a Work Capability Assessment who present a valid Fit Note stating that they are unable to work (as above).²²³

The UK Government in response said it would "bring together key representatives from the sector to explore options further on how we engage claimants in provision and conditionality" but disagreed with exempting claimants who have been found "fit for work" at their WCA but continue to present a "Fit Note". This, the DWP said, "would undermine the WCA process and create a loophole whereby claimants could avoid conditionality indefinitely despite being 'fit for work'".²²⁴

Work and Pensions Committee, 2019

The Work and Pensions Committee report, the [Welfare safety net](#) (2019), called upon the DWP to commission an independent survey of the additional costs of disability and long-term health conditions. The Committee argued that although the Government said that "some of the most severely disabled people will receive more support under the current welfare system than they would have before 2010", it came at a cost:

Of support for people with conditions that, while not the "most severe", can still have a substantial impact on their day-to-day lives and living costs. This includes people in the ESA WRAG group and Universal Credit equivalent. These claimants have also been subject to freezes and reductions in the generosity of benefits they are entitled to—despite the Department itself finding them not "fit for work"²²⁵

The DWP said it would commission research to inform the Green Paper: [Natcen](#) are currently undertaking fieldwork into services for health and disability benefits.²²⁶ The Social Security Advisory Committee also consulted on how the DWP engages with disabled people in formulating policies and processes that affect them: they are currently analysing feedback.²²⁷

5.4 Work and employment (art. 27)

The UN Committee concluded that the Work Programme and Jobcentre Plus, the two main programmes designed to encourage disabled people into paid employment, had had "no visible impact" on reducing unemployment:

²²² [Ibid](#), para 56

²²³ [Ibid](#), para 63

²²⁴ UK Government, [Government response to the Committee's Nineteenth report of session 2017-19](#), HC 1949, 6 February 2019, paras 35, 37

²²⁵ Work and Pensions Committee, [Welfare safety net](#), HC 1539, July 2019, paras 48, 49

²²⁶ [Memorandum to the Work and Pensions Select Committee: Government response](#), November 2019, recommendation 5.

²²⁷ Social Security Advisory Committee and DWP, [How should the DWP involve disabled people in changing how it works?](#), March 2020

Persons with disabilities who have had access to other programmes that have been more successful have experienced reductions in the support provided to them, in some cases resulting in loss of employment. Evidence indicates that the Work Programme helped persons with disabilities back to work to a very limited extent and that persons with substantial support needs were left aside.²²⁸

The pay gap

The House of Commons Library briefing, [People with disabilities in employment](#), provides statistical information on the disability employment gap and labour market statistics on the participation of people by disability status. The Office for National Statistics has also published [Disability pay gaps in the UK: 2018](#) (2019).

Work Programme/Work and Health Programme

The Library briefing, [“Access to work” scheme for disabled people](#) explains the Access to Work scheme which provides advice and support to people with disabilities and their employers to help them overcome work-related obstacles resulting from disability. The [Work and Health Programme](#) details the specialist employment support for people with disabilities and long-term unemployed people.

Previously, people with disabilities in Great Britain received back-to-work support through the Work Programme. Unemployed people claiming Jobseeker’s Allowance (JSA) or Employment and Support Allowance (ESA) were referred to the Programme by their local Jobcentre Plus and remained on the programme for up to two years.

When the Work Programme was active, ESA claimants who were expected to be fit for work within 12 months were referred to it on a mandatory basis following a Work Capability Assessment. Claimants who were not expected to be fit for work within this timeframe could join the Programme on a voluntary basis. JSA claimants with a disability were also referred to the Work Programme.

In 2017, the Work Programme and Work Choice was replaced by a new programme of contracted support: the Work and Health Programme. People who are disabled and those who have been unemployed for more than two years may be eligible for the Work and Health Programme.

In 2016, the Work and Pensions Committee expressed concern “that the resources allocated to the [Work and Health Programme] do not match its ambition”:

The DWP’s Employment and Health Related Services “Umbrella Agreement”, through which prospective Work and Health Programme providers are required to bid, has a total contract value of £1.77 billion. Not all of this will go to the Work and Health Programme, however. The Umbrella Agreement suggests that it will have a budget of £554 million over its lifetime. This is a manifold reduction compared to what it will replace. In comparison, the DWP states that £492 million in total has been spent on Work Choice up to 2015–16 alone, and £2.2 billion had been paid to Work Programme providers as of December 2015. The Department states that it is not possible to calculate the proportion of Work Programme’s budget spent on disabled people specifically over the programme’s lifetime. External analysis, however, suggests that combined Work Choice and Work Programme spending on disabled people has been approximately £1 billion since 2010.²²⁹

The 2015 Spending Review announced that funding for the Work and Health Programme would be at least £130 million a year by 2019/20. This includes funding to be devolved to Scotland.²³⁰

²²⁸ Committee on the Rights of Persons with Disabilities, [Inquiry concerning the UK](#), 2016, para 107

²²⁹ Work and Pensions Committee, [The future of Jobcentre Plus](#), HC 57, 2 November 2016, p26

²³⁰ PQ HL3190 [\[Work and health programme\]](#), 15 November 2016

Intensive Personalised Employment Support was introduced in 2019 to provide one-to-one support and training to help persons with disabilities into work. People on this programme will have a dedicated support worker who will provide one-to-one support and training to help them get into work. They will usually receive this support for 15 months, as well as 6 months of on-the-job support if they find employment.²³¹

The Government published [Work, Health and Disability Green Paper: Improving Lives](#) in October 2016, outlining the Government's initial proposals for a wide ranging package of support.

JobCentre Plus

Jobcentre Plus delivers support to benefit claimants across all working-age benefits. If an adviser feels that a claimant requires specialist support due to a health condition or disability they can be referred to a specialist Disability Employment Advisor (DEA).

In 2014, the Work and Pensions Committee estimated that the ratio of DEAs to ESA claimants in the Work Related Activity Group (WRAG) was 1:600 in 2014.²³² The DWP subsequently committed to "doubling the number of Disability Employment Advisers in our Jobcentres to over 500": there were 501 at December 2019.²³³

After referrals to the Work Programme ended in April 2017, more employment support will be delivered through the Jobcentre Plus network than is currently the case.

Employment support which is contracted out to service providers (for example, schemes such as the Work and Health Programme) will be "refocussed" to cover a smaller population.²³⁴

UK Government response

In its initial response to the UN committee the UK Government said that it was "proud of its record" in supporting people with disabilities, referencing the:

- Nearly 500,000 more disabled people are in employment since 2013;
- Increased funding for the Access to Work scheme to grow the numbers helped by 25,000 extra customers by 2020;
- 22% of people supported to start their own business by the New Enterprise Allowance are self-declared disabled.²³⁵

The Government also cited the 2017 [Green Paper, Work, Health And Disability](#), which committed to:

- A significant support offer for disabled people and people with health conditions in the form of a new Personal Support Package and a new Health and Work conversation for people receiving ESA;
- The reform or expansion of current Government schemes supporting employers;
- Plans to increase access to psychological therapies (IAPT) and more than double the number of employment advisers in these services.²³⁶

²³¹ DWP, [£40 million personalised support package for long-term unemployed disabled people launched](#), 10 December 2018: PQ 256951 [[Employment: Learning Disability](#)], 21 May 2019

²³² Work and Pensions Committee, [The role of Jobcentre Plus in the reformed welfare system](#), HC 479, January 2014, p3.

²³³ PQ 4751 [[Employment: Disability](#)], 17 January 2020; [HCWS66 Departmental update](#), 31 October 2019

²³⁴ PQ 50117 [[Work programme: Disability](#)] 25 October 2016

²³⁵ [The UK Government response to the report by the UN committee](#), October 2016, para 10

²³⁶ [Ibid](#), para 43

In its 2018 response, following its policy paper, [Improving lives: the future of work, health and disability](#) (2017), the UK Government [said](#) it was “committed to getting one million more disabled people into work over the next ten years”, and highlighted programmes which included [a full list can be found in Section 2 of the [Government’s response](#)]:

- [Personal support packages](#): £330 million of funding over four years from April 2017 for a range of interventions providing support to claimants.
- The recruitment of 300 additional disability employment in jobcentres and 200 community partners, designed to strengthen local links with employers and services
- Investing £500 million in the Work and Health programme from 2018-2023 to support persons with disabilities into sustained employment.²³⁷

Devolved Governments

Wales

The [Welsh Government’s Employability Plan](#) (2018) commits to increasing the number of employers who create inclusive and supportive workplaces for disabled people. The Government also published an [Inclusive Apprenticeships: Disability Action Plan](#) in 2018. In the first annual update of the employability plan, Ken Skates, Minister for Economy and Transport, said the Welsh Government would continue to work with the DWP to “increase take up of their ‘Access to Work’ scheme, and to raise awareness with employers and disabled people.”²³⁸

Scotland

The Scottish Government’s [A Fairer Scotland for Disabled People: employment action plan](#) (December 2018) committed to “at least halve the disability employment gap” by 2038.²³⁹ The Scottish Government in 2018 also highlighted its employability service, Fair Start Scotland, which is a voluntary service “designed to give tailored support to individuals who want help to find and stay in work, and for whom work is a reasonable objective”.²⁴⁰

Northern Ireland

The Department for Communities launched a consultation entitled [Employment strategy for people with disabilities](#) in 2015.

Other responses

UK Independent Mechanism, 2018

The UKIM’s [update report](#) to the UN Committee in October 2018 raised concerns that commitment to address the employment and pay gap had “limited eligibility, funding shortfalls and lack of measurable targets”.²⁴¹

It recommended that the UK and Devolved Governments should evaluate how well employment programmes support people with disabilities to find and stay in work. Separate specific recommendations were made for each of the Devolved Governments.²⁴²

²³⁷ DWP and ODI, [Policy paper: Concluding observations on the initial report of the UK: initial Government response](#), 3 October 2018

²³⁸ Welsh Government, [Written statement: The employability plan- one year on](#), 19 March 2019

²³⁹ Scottish Government, [A fairer Scotland for disabled people: Employment action plan](#), 11 December 2018, ‘Executive summary’

²⁴⁰ DWP and ODI, [Policy paper: Concluding observations on the initial report of the UK: initial Government response](#), 3 October 2018, para 71

²⁴¹ UKIM, [Progress on disability rights in the UK: UKIM update report](#), October 2018, p27

²⁴² [Ibid](#), pp56-7

National Audit Office, 2019

The National Audit Office's (NAO) [Supporting disabled people into work](#) (2019) assessed the UK Government's strategy for supporting disabled people into work. It argued that "the Department's [DWP] management information approach is limiting its ability to learn from and improve its jobcentre support".²⁴³ The NAO also argued that "the Government's goal of 1 million more disabled people in work from 2017 to 2027 cannot be used to measure the success of its effort", as increases could be due to other factors and may not be matched by reductions in the number of persons with disabilities out of work.²⁴⁴

In answer to 2020 Parliamentary question, the DWP said that the impacts of the Work and Health Programme and Intensive Personalised Employment Support were evaluated through Randomised Control Trials, which measure the impact on wider health and wellbeing outcomes, as well as employment.²⁴⁵

²⁴³ NAO, [Supporting disabled people into work](#), 2019, p61

²⁴⁴ [Ibid.](#), p7

²⁴⁵ PQ HL 5940 [[Employment schemes: Disability](#)], 18 June 2020

6. Government disability strategies: summary

6.1 UK Government

In 2018, the UK Government established an [Inter-Ministerial Group on Disability and Society](#) to “drive coordinated action across Government and implement the UNCRPD”.²⁴⁶

In June 2019, the UK Government [launched](#) a new cross-Government approach on disability.²⁴⁷

In a [Written Statement](#), the Minister of State for Disabled People, Justin Tomlinson said the Government was “committed to strengthening the evidence base on disability” and “improving engagement with disabled people and disabled people’s organisations in line with relevant recommendations from the United Nations”.²⁴⁸ The Minister said the cross-government approach would focus on:

- **Consulting on how employers can support people with disabilities to remain in work.** This will include measures to reform statutory sick pay- this [consultation](#) is closed and is currently awaiting feedback from the UK Government.²⁴⁹
- **Consulting on raising mandatory accessibility standards for all new homes.** The consultation closes in December 2020.²⁵⁰
- **A Green Paper on health and disability support,** to “enable a conversation about building a welfare system...that is an ally of disabled people”. In September 2020, the DWP said it “remain[s] committed to publishing in the coming months”.²⁵¹
- **Improving consumer outcomes for people with disabilities** by developing metrics to compare how well companies deliver for disabled customers.²⁵²

The then-Prime Minister, Theresa May, also confirmed in June 2019 that the Office for Disability Issues (ODI) would transfer to the Cabinet Office from the DWP in November 2019.²⁵³

The DWP/ODI published a [progress report](#) for the UN Committee in October 2019. In addition to the above aims, the Government said it was in the process of setting up new regional stakeholder networks in England to draw upon views of persons with disabilities and would seek to improve employment opportunities, inclusive education and accessible transport.

In the Queen’s Speech December 2019, the UK Government committed to publishing a [National Strategy for Disabled People](#) in 2020. It also included commitments aimed at:

²⁴⁶ DWP and ODI, [2019 Progress report on the UK’s vision to build a society which is fully inclusive of disabled people](#), 14 October 2019

²⁴⁷ Prime Minister, DWP, Ministry of Housing, Communities & Local Government, [PM launches new drive to tackle barriers faced by disabled people](#), 25 June 2019

²⁴⁸ [HCWS1651](#), 25 June 2019

²⁴⁹ DWP and DHSC, [Health is everyone’s business: Proposals to reduce ill-health related job losses](#), 15 July 2019

²⁵⁰ MHCLG, [Raising accessibility standards for homes](#), 8 September 2020

²⁵¹ PQ 88813 [\[Social security benefits: Disability\]](#), 11 September 2020

²⁵² HCSW 1651, [Cross-Government approach to disability](#), 25 June 2019

²⁵³ HCWS1652, [Machinery of Government change](#), 25 June 2019

- Reducing the disability employment gap “alongside the existing goal to see an increase of 1 million disabled people in work between 2017 and 2027”; and
- Introducing a minimum award length for Personal Independent Payments and ensure that “no one will be reassessed for at least 18 months from their last review, unless they tell us their needs have changed”.²⁵⁴

This Strategy is now expected in Spring 2021.²⁵⁵ The Government has said the Strategy will take account of the impact of coronavirus on persons with disabilities.²⁵⁶

6.2 Wales

The Welsh Government published [Action on Disability: The right to independent living framework and action plan](#) in October 2019. It includes ambitions to ensure that “all disabled people having the same freedom, dignity, choice and control as other citizens at home, work, in education and in the community”.²⁵⁷

In March 2018, the Welsh Government had published an [Employability plan](#) which committed to “identify[ing] suitable targets for increasing the number of disabled people in work”.²⁵⁸

6.3 Scotland

The Scottish Government published [A Fairer Scotland for Disabled People: delivery plan](#) in 2016, as a plan to deliver on the UN CRPD to 2021. It included ambitions to support independent living, adequate income, improving the accessibility of housing and transport, protecting rights and supporting participation in public life.

The Scottish Government published a [progress report](#) in December 2019. This highlighted the increased proportion of disabled people entering modern apprenticeships and Higher Education, but also stated ongoing areas of concern, such as the higher likelihood of living in relative poverty after housing costs for households with a person with disability.²⁵⁹

An associated [Employment Action plan](#) was published in December 2018. This aims to increase the employment rate of disabled people to 50% by 2023, and to 60% by 2030. The employment rate of disabled people in Scotland was 45.4% in 2018, compared to 81.2% for non-disabled people.²⁶⁰

The Fairer Scotland Strategy was [debated in the Scottish Parliament](#) in March 2019.

6.4 Northern Ireland

The [New Decade, New Approach](#) agreed in January 2020 to re-establish the Northern Ireland Executive and said the Executive would consider a new Disability Strategy.²⁶¹ In September 2020, the Minister for Communities confirmed that work would “commence immediately” and involve cross-departmental work.²⁶² The previous [Strategy to improve the lives of people with disabilities- 2012 to 2015](#), was in place to 2017.

²⁵⁴ UK Government, [Queen’s Speech 2019](#), December 2019, p62

²⁵⁵ PQ 86094 [\[Disability\]](#), 10 September 2020

²⁵⁶ PQ 78772 [\[Disability: Coronavirus\]](#), 1 September 2020

²⁵⁷ Welsh Government, [Action on disability: The right to independent living](#), 2019, p6

²⁵⁸ Welsh Government, [Employability plan](#), March 2018, p7

²⁵⁹ Scottish Government, [A fairer Scotland for disabled people: Progress report 2019](#), December 2019, ‘Disabled people in Scotland’.

²⁶⁰ Scottish Government, [A fairer Scotland for disabled people: Employment action plan](#), December 2018, ‘Measuring progress and next steps’.

²⁶¹ [New Decade, New Approach](#), January 2020, para 4.6.2.6

²⁶² AQW 6072/17-22 [\[Update on the disability strategy\]](#), 3 September 2020

7. Related reports and ongoing concerns

7.1 UN Special Rapporteur on extreme poverty and human rights, 2018

The UN Special Rapporteur on extreme poverty and human rights, Professor Philip Alston, in a 2018 [statement](#), highlighted concerns about changes to legal aid since 2012, which he said had “overwhelmingly affected the poor and people with disabilities” meaning that they were “effectively deprived of their human right to a remedy”.²⁶³

He also highlighted people with disabilities amongst the “hardest hit from austerity measures”:

Nearly half of those in poverty, 6.9 million people, are from families in which someone has a disability. People with disabilities are more likely to be in poverty, and are more likely to be unemployed, in insecure employment, or economically inactive. They have also been some of the hardest hit from austerity measures. As a result of changes to benefits and taxes since 2010, some families with disabilities are projected to lose £11,000 on average by 2021/22, more than 30% of their annual net income. People with disabilities told me again and again about benefits assessments that were superficial and dismissive, and that led to findings that contradicted the advice of their doctor.²⁶⁴

A full report was published in 2019, recommending the UK Government “review and remedy the systematic disadvantage inflicted by current policies” on groups, including persons with disabilities.²⁶⁵

The UK Government expressed “regret” at the “inflammatory language and overtly political tone of this report”. [The Government response](#) cited the 10-year programme, [Improving Lives: The Future of Work, Health and Disability](#); exemptions for households receiving disability allowance from the national benefit cap; a fall in the disability employment gap; and expenditure of £54 billion on benefits to support people with disabilities and health conditions in 2018/19.²⁶⁶

7.2 Equality and Human Rights Commissions

Under Article 33 of the [UN CRDP](#), States must designate “independent mechanisms” to “promote, protect and monitor” implementation of the Convention. As previously noted, the UK Government designated the Equality and Human Rights Commissions to fulfil this role as the UKIM.²⁶⁷

The UKIM published an interim report, [Monitoring the implementation of the UN Convention](#), in 2014.

The UKIM, submitted an [updated report](#) to the UN Committee in July 2017 ahead of the public examination of the UK’s implementation of the UN CRPD (the first periodic review).

²⁶³ UN Human Rights, Office of the High Commissioner, [Statement on visit to the UK, by Professor Philip Alston, UN Special Rapporteur on extreme poverty and human rights](#), 16 November 2018

²⁶⁴ UN Human Rights, Office of the High Commissioner, [Statement on visit to the UK, by Professor Philip Alston, UN Special Rapporteur on extreme poverty and human rights](#), 16 November 2018

²⁶⁵ [Report of the Special Rapporteur on extreme poverty and human rights, A/HRC/41/39/Add.1](#), 23 April 2020, p20

²⁶⁶ [Report of the Special Rapporteur on extreme poverty and human rights- Comments by the state, A/HRC/41/39/Add.3](#), 30 May 2019, paras 2, 16, 42-44

²⁶⁷ UK Independent Mechanism, [Disability rights in the UK: Independent Mechanisms: Updated submission to the UN Committee](#), July 2017, p4

They argued that the UK and Devolved Governments had taken insufficient action to implement the UN recommendations:

In UKIM's view, the UK and devolved governments have not taken all the appropriate steps to progress implementation of the CRPD and have introduced some retrogressive measures that have had a significant negative effect on disabled people.²⁶⁸

UKIM cited 14 areas where further action was needed. This is not an exhaustive list: full details can be found in pages 11-36 of the [2017 report](#).

1 The status of the CRPD in domestic law

The UKIM said Governments should incorporate the CRPD into domestic law and include a domestic remedy for alleged breaches of CRPD rights and a mechanism to scrutinise policy and legislation.

2 Gaps in the legal framework

The UKIM highlighted the case of Northern Ireland, which it said had a "lower level" of protections than the rest of the UK. Other parts of the UK, the UKIM said, should review and commence outstanding provisions in the *Equality Act 2010*.

3 Negative attitudes towards disabled people in society

The UKIM called upon Governments to resource campaigns to address prejudice and raise awareness of the CRPD.

4 Accessibility issues in housing, transport, information and insurance

The UKIM recommended governments should adopt plans to better increase accessibility, including national targets for housing adaptations and conduct reviews of the planning framework.

5 Standard of living and social protection

The UKIM highlighted the impact of social security reforms on disabled persons, the need for greater social care funding and address the material poverty experienced by disabled persons.

6 Employment levels of disabled people

The body recommended evaluation of programmes to help disabled people find and stay in work, a Disability Employment strategy, and steps to address the pay gap.

7 Access to justice

This followed changes to legal aid in England and Wales and the increase of court fees in Scotland. The UKIM said the impact of these on disabled persons needed to be assessed, and that a formal system of support for persons with learning disabilities in court should be introduced.

8 Inclusion in education and transition to further education and employment

The body recommended that steps should be taken to address the higher rates of exclusion recorded by disabled pupils, the lower rates of educational attainment achieved, and ensure adequate support for children with special educational needs.

9 Health inequalities

The UKIM said all governments should review access to, and quality of, health services provided for disabled persons, including mental health and sexual and reproductive health

²⁶⁸ [Ibid](#), p8

10 Disability hate crime, abuse in institutional and home settings and school bullying

The body said that in order to address their under-reporting, Governments should strengthen frameworks and data monitoring.

11 The extent of restraint across a range of settings

The UKIM recommended that that all Governments should take steps towards eradicating the use of physical and chemical restraint for reasons related to disability.

12 The right to vote and under-representation of disabled people in political office and public appointments

The bodies called upon Governments to reduce barriers to registration and voting and take steps to promote representation of disabled persons.

13 Data gaps in disability and monitoring statistics

The UKIM called for data that disaggregated by disability in order inform policy in the UK.

14 Called for funding for the UKIM.²⁶⁹

The UKIM submitted a further [update report](#) to the UN Committee in October 2018. This noted progress in several areas, including the launch of an independent review into the *Mental Health Act 1983*, an increase in the number of disabled people in employment and Government initiatives to improve their access to employment, and the announcement of a new Inter-Ministerial Group on Disability and Society.²⁷⁰

The UKIM was “disappointed” that the UK Government had not responded fully and more quickly to the UN Committee’s 2017 [concluding observations](#):

The UK has taken only limited steps to address the concerns and recommendations of the CRPD Committee. [...] We are concerned by the lack of a prompt response to the CRPD Committee’s recommendations. In particular, 12 months on, there is no comprehensive UK-wide strategy demonstrating how the UK will implement the CRPD Committee’s recommendations. There has also been continued reluctance from the UK Government to accept the conclusions of the CRPD Committee’s inquiry report on the impact of the UK Government’s policies on the rights of disabled people.²⁷¹

Is Britain Fairer?

The EHRC’s report [Is Britain fairer?](#) (2018) highlighted several continuing concerns and recommendations, including:

Employment

The UK Government should also regularly report on progress in meeting its commitment to get one million more disabled people into work over the next 10 years, and support flexible and part-time working to help close the employment and pay gap.²⁷²

Education

[The UN] It expressed objections to the UK’s growing reliance on special schools (this is more of an issue in England than elsewhere) and claimed that the education system is not yet equipped to deliver high-quality, inclusive education in mainstream settings. According to the UN, the UK should commit to ensuring all disabled children receive

²⁶⁹ [Ibid](#), pp10-11

²⁷⁰ UKIM, [Progress on disability rights in the UK: UKIM update report](#), October 2018, p6

²⁷¹ [Ibid](#), p7

²⁷² EHRC, [Is Britain fairer? The state of equality and human rights 2018](#), June 2019, p11

an inclusive education (UNCRPD, 2017). In Scotland there already exists a legal presumption that a disabled child will receive a mainstream education.²⁷³

7.3 Government-specific reports

England

- EHRC, [Disability Rights in England](#) (2017)
This was a supplement to the main report (above). Its Annex included recommendations for the UK Government in relation to disabled people's rights in England.
- EHRC, [Is England fairer?](#) (2018)
The report assessed education, work, health, legal and participatory experiences of those with protected characteristics under the *Equality Act 2010*, including disability.

Scotland

- EHRC, [Is Scotland fairer?](#) (2018)
The report assessed education, work, health, legal and participatory experiences of those with protected characteristics under the *Equality Act 2010*, including disability.

Wales

- EHRC, [Disability Rights in Wales](#) (2017)
This considered the UN CRPD in Welsh law and policy; its annex contained recommendations for the Welsh Government
- EHRC [Is Wales Fairer?](#) (2018)
The report assessed education, work, health, legal and participatory experiences of those with protected characteristics under the *Equality Act 2010*, including disability.

Northern Ireland

- Equality Commission, [UNCRPD: Shortfalls in public policy and programme delivery](#) (2014)
This argued that there were "substantial shortfalls" in respect to several articles of the UN Convention in NI.
- Equality Commission for NI and NI Human Rights Commission, [Working paper on implementation in Northern Ireland](#) (2017).
This discussed experiences and recommendations relating to issues which included law reform, children and women with disabilities, independent learning and personal mobility.

²⁷³ [Ibid](#), p19

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