EHRC Briefing on Development of National Disability Strategy

**Friday 12th February 2021**

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Introduction

1. The Equality and Human Rights Commission (EHRC) is Great Britain’s equality body and is recognised as an ‘A’ status national human rights institution by the United Nations. We have a unique role in ensuring equality and human rights are protected, enforced and promoted. We have been given powers by the UK Parliament to provide advice to Government on matters related to equality, diversity and human rights.
2. We welcome the Government’s proposals to develop a National Disability Strategy, and the commitment to remove the barriers to disabled people’s full and equal participation and inclusion in society.[[1]](#footnote-2)
3. The coronavirus pandemic has highlighted and exacerbated the deep-seated inequalities experienced by disabled people which permeate every area of life. Now, more than ever, it is crucial that the Government works with disabled people and their representative organisations to identify the barriers they face and ensure that these are addressed.
4. This briefing outlines our advice to the UK Government in contribution to its plans for the national disability strategy. It summarises and builds upon evidence, insights and advice we have shared with the Disability Unit and formerly the Office for Disability Issues concerning the barriers disabled people face, as well as suggesting guiding principles and priority issues for the strategy.

Guiding principles for a National Disability Strategy

1. We recommend that a number of core principles guide and underpin a national strategy for disabled people. These are:

**Coordinated, cross-Government action**

1. Our research and analysis into equality and human rights for disabled people in Britain has shown that, while progress has been made in some areas, the overall picture is that disabled people are facing more barriers and falling further behind across key areas of life.[[2]](#footnote-3)
2. It is vital that any national disability strategy is truly cross-Government, due to the inter-relationships between different policy areas and how they work together to affect the range of barriers to disabled people’s full and equal participation in society. There is a pressing need for ambitious and joined-up action across Government.
3. We have recommended that the strategy has clear and dedicated Ministerial lead and recommend that it should be owned by the Cabinet Office, to drive co-ordinated improvements across Government. However, careful thought should be given to how to manage any accountability and funding issues that could arise from responsibilities for strategy and delivery being split across Government Departments.[[3]](#footnote-4)

**Consistency with the UN CRPD framework and international human rights standards**

1. The UN Convention on the Rights of Persons with Disabilities (CRPD) is an international human rights treaty that was ratified by the UK in 2009. The treaty contains obligations for the UK to respect, protect and fulfil disabled people’s human rights, which are binding under international law.[[4]](#footnote-5)
2. The CRPD and the CRPD Committee’s recommendations to the UK[[5]](#footnote-6) provide an important framework for the national strategy. Grounding the strategy in the UK’s international human rights obligations, in particular its obligations under CRPD, will ensure that disabled people’s rights are at the centre of the strategy and its implementation. The strategy should in turn provide a useful tool to support UK compliance with the CRPD, including by providing a framework for the monitoring, coordination and implementation by Departments of recommendations made by the CRPD Committee to the UK.

**Meaningful participation and active involvement of disabled people in the development and delivery of the strategy**

1. It is essential that disabled people and their representative organisations are actively involved in the development and delivery of the national disability strategy, and decisions made across Government, in line with the principles of the CRPD.[[6]](#footnote-7)
2. A number of our stakeholders working on disability rights, including disabled people’s organisations (DPOs), have expressed concern that there has been insufficient consultation with disabled people and DPOs to date to inform the development of the national strategy. Stakeholders have also reported that there have been barriers to disabled people’s active involvement in the development of the strategy, in part caused by the coronavirus pandemic.[[7]](#footnote-8)
3. Going forward, the development and the delivery of the strategy must be informed by the insights and experiences of disabled people, in line with the CRPD and in order to capture qualitative evidence on the range of barriers disabled people face and the impact of these. To achieve this, we recommend full and formal public consultation alongside targeted engagement with representative groups. Any such consultation should be accessible and inclusive to all disabled people and be promoted in collaboration with disabled people’s organisations to ensure that the views and experiences of disabled people of all backgrounds are captured.

**Ensuring the strategy is fully inclusive of all disabled people and takes an intersectional approach**

1. The proposals included in the national disability strategy and any related consultation must be inclusive of all disabled people. This includes being tailored to meet the needs and address the specific barriers faced by people with different types of impairment – including those with acquired, lifelong and fluctuating impairments. It should also adequately address the specific challenges faced by disabled people who share other protected characteristics, such as disabled women, to address the specific and compounded forms of disadvantage they may experience.

**Embedding the principles of equal choice and control, and the right to live independently**

1. The right to live independently and be included in the community[[8]](#footnote-9) is about ensuring that disabled people have the same choice and control over their lives as non-disabled people. It requires that disabled people have personal autonomy and self-determination over decisions concerning their lives, and are able to access personalised support to enable their equal choice and control. It is an integral human right for disabled people[[9]](#footnote-10) and has many interdependencies with other specific disability rights.[[10]](#footnote-11) The right to be included in the community includes the right to full social and economic inclusion; being able to participate in and contribute to public life; having equal access to education, employment, public services and resources; and being free from discrimination.[[11]](#footnote-12)
2. We are concerned that there has been a regression in the realisation of disabled people’s right to live independently as part of the community both prior to[[12]](#footnote-13) and during the coronavirus pandemic,[[13]](#footnote-14) which has created or compounded barriers to disabled people’s full inclusion and participation in society.[[14]](#footnote-15) The principles of improving disabled people’s choice, control, autonomy and self-determination must be embedded throughout the national disability strategy.

**Responding to the inequalities highlighted and exacerbated by the pandemic**

1. The coronavirus pandemic has had a disproportionately negative impact on disabled people. Disabled people, in particular people with a learning disability, have been at a greater risk of death from Covid-19 compared to non-disabled people.[[15]](#footnote-16) Concurrently, the pandemic has created and exacerbated barriers to disabled people’s full and equal participation in society, including unequal access to healthcare and public health information in accessible formats, and new challenges in accessing vital food and medicines.[[16]](#footnote-17) Emerging evidence indicates that the pandemic has exacerbated the deep-seated inequalities faced by disabled people, including in education, employment, social care, justice and poverty.[[17]](#footnote-18) The Coronavirus Act 2020 introduced a number of provisions – including Care Act easements and temporary modifications to the Mental Health Act - which have led to the potential restriction and curtailment of important disability rights.[[18]](#footnote-19)
2. The national disability strategy should be responsive to the strategic and operating context of the pandemic and set out clear and comprehensive action to be taken across Government to address the inequalities that have been exacerbated by the pandemic.

Suggested priority areas of focus for the National Disability Strategy

1. Building on our previous communication and correspondence, we have set out below our top-level suggestions of key areas of focus for a national disability strategy.

**Actively involve disabled people in policy and decision-making**

1. We welcome the Government’s commitment to ensure that lived experience is at the heart of the national disability strategy.[[19]](#footnote-20) Under the CRPD, the State has an obligation to “consult with and actively involve” disabled people, through their representative organisations in the development and implementation of legislation, policies and other decision-making processes relating to disabled people’s lives.[[20]](#footnote-21) The CRPD Committee makes clear that consultations with and the involvement of disabled people should be considered a mandatory step prior to the approval of laws, regulations or policies.[[21]](#footnote-22)
2. We recommend that the Government take action to:
* Establish long-term mechanisms for ensuring that disabled people and their representative organisations are fully involved in the development, delivery and evaluation of national policy-making across Government departments, including in relation to coronavirus recovery planning.[[22]](#footnote-23)
* Develop, publish and promote guidance for Government departments on information accessibility standards and minimum standards for involving disabled people in policy consultations, in line with the CRPD.[[23]](#footnote-24)

**Improving the accessibility of the built environment**

1. Our 2018 inquiry into housing for disabled people found there is a chronic shortage of accessible and adaptable homes across Great Britain.[[24]](#footnote-25) We found that local authorities are not building enough accessible homes to meet demand and disabled people face long delays in making existing homes accessible. In 2019, it was estimated that 91% of homes did not provide the four access features for even the lowest level of accessibility and the HoME Coalition estimate that some 400,000 wheelchair users are living in homes that are neither adapted nor accessible or visitable.[[25]](#footnote-26) Our inquiry found that only 28% of local authorities across Britain set a percentage target for accessible homes.[[26]](#footnote-27)
2. To address this, we recommend that the Government take action to:
* Ensure there is an adequate supply of new houses built to inclusive / universal design standards and to wheelchair-accessible standards across all tenures, in line with the recommendations of the Commission’s housing inquiry.[[27]](#footnote-28)
* Urgently follow-up on its 2018 commitment to implement section 36 of the Equality Act 2010 to require reasonable adjustments to the common parts of rented accommodation and promptly consult if further consultation is deemed necessary prior to implementation.
1. Reforms to improve building standards[[28]](#footnote-29) should be complemented by plans to improve the accessibility of the built environment more widely. This should include ensuring that plans to increase the availability of accessible housing are complementary to, and joined up with, related reforms to the wider built environment such as reforms to the planning rules[[29]](#footnote-30) and the planned update of the Department for Transport’s manual for streets.[[30]](#footnote-31)

**Improving the accessibility of the transport system**

1. Despite some welcome progress in recent years, disabled people still face a number of barriers in accessing public transport on an equal basis with others, which can have a significant impact on their economic and social inclusion in society.
2. Disabled people who use wheelchairs still face specific barriers accessing taxis and private hire vehicles, including a shortage of wheelchair accessible vehicles.[[31]](#footnote-32) A decade on from the passing of the Equality Act 2010, a number of sections of the Act in relation to taxis and private hire vehicles are not yet, or are only partially, in force.[[32]](#footnote-33)
3. Disabled people can face particular barriers in reporting complaints when transport accessibility regulations are breached. Passengers are often not aware of their rights, or what constitutes discrimination on public transport. The variety of different regulators and complaints handling bodies across the transport sector can be confusing and complaints processes may not be provided in accessible formats for a range of impairments.[[33]](#footnote-34)
4. We recommend that the Government take action to:
* Review the relevant regulatory framework governing taxi and private hire accessibility, including possibilities for implementing some or all of the outstanding provisions in Part 12 of the Equality Act 2010 and considering whether additional regulations may be needed to address remaining gaps in protections.
* Undertake or commission research into the barriers that transport regulators continue to face in enforcing accessibility regulations, and take action to support regulators to improve enforcement.
* Embed the Public Sector Equality Duty and equality considerations in any new management and governance structures introduced following the Williams Rail Review.

**Embedding accessibility across all services**

1. There is currently no comprehensive UK-wide accessibility plan as required by the CRPD General Comment on accessibility.[[34]](#footnote-35)
2. The UK’s exit from the European Union may mean that the European Accessibility Act - which covers products and services such as computers, telephony, banking, ticketing and smart phones and aims to lower the prices of adapted goods[[35]](#footnote-36) - will not be incorporated into UK law.
3. Disabled people remain less likely to use the internet than non-disabled people.[[36]](#footnote-37) The increasing digitisation of services, including across education, health, retail, banking and social connection during the coronavirus pandemic, risks worsening the impact of digital exclusion for some disabled people. Concerns have also been raised about the accessibility of Government communications, public health and other vital information during the pandemic.[[37]](#footnote-38)
4. We recommend that the UK and devolved Governments take action to:
* Adopt a UK Government-wide action plan to identify and address barriers to accessibility for disabled people, including in relation to services, communication and information.[[38]](#footnote-39)

**Reducing detention**

1. Detention under the Mental Health Act 1983 increased by 40 per cent between 2005-06 and 2015-16,[[39]](#footnote-40) and last year almost 51,000 new detentions were recorded.[[40]](#footnote-41) An independent review in 2018 expressed concern that the Mental Health Act was out-of-step with the UK’s human rights obligations and concluded there was “a clear case for change”.[[41]](#footnote-42) Detailed data on the use of the Mental Health Act during the coronavirus pandemic is not yet available, but the Care Quality Commission (CQC) has reported that a combination of greater mental health need and reduced access to services is increasing the risk of detention.[[42]](#footnote-43)
2. We continue to have serious concerns about the inappropriate detention of people with learning disabilities and autism.[[43]](#footnote-44) In 2015 the Government committed to improve the provision of community-based support, so that by 2018 no more than 1,700 individuals with learning disabilities and autism would be living in inpatient units.[[44]](#footnote-45) As at December 2020, more than 2,000 adults and children still live in these settings.[[45]](#footnote-46) The average length of stay is more than five and a half years.[[46]](#footnote-47)
3. Evidence shows that people in contact with secondary mental health services are regularly subject to restrictive interventions.[[47]](#footnote-48) In 2019-20 there were reportedly 131,388 separate incidents of physical, chemical and mechanical restraint, seclusion and segregation, affecting 12,000 people including more than 600 children.[[48]](#footnote-49) New legal provisions to reduce the use of force and restraint in mental health hospitals received Royal Assent in November 2018 but have not been brought into force.[[49]](#footnote-50)
4. The Government’s recent white paper on the Mental Health Act makes welcome proposals for reform.[[50]](#footnote-51) However, the proposed reforms will take time to develop and implement so we are concerned that disabled people will continue to be unnecessarily detained and subject to inappropriate treatment until new legislation is in force, which may take years.[[51]](#footnote-52)
5. We recommend that the UK Government take action to:
* Ensure there is sufficient preventative and community-based support for those with mental health conditions, learning disabilities and autism so they can access care in the least restrictive setting possible and avoid unnecessary detention. The Government should take into account any increased mental health needs arising from the pandemic.
* Implement the Mental Health Units (Use of Force) Act without delay and work with partners to reduce the use of restraint and restrictive interventions, including by promoting use of the Commission’s human rights framework on the use of restraint.[[52]](#footnote-53)

**Ensuring a fully inclusive education system**

1. Children requiring special educational needs (SEN) support and disabled children continue to face a number of educational disparities in England[[53]](#footnote-54) and children with SEN are disproportionately likely to be excluded from school.[[54]](#footnote-55) Although there is limited data available, there is evidence that, in some circumstances, schools are unlawfully using restraint on children with learning disabilities.[[55]](#footnote-56)
2. In recent years, there has been a consistent increase in the number of children with SEN being educated outside of mainstream schools: between 2019 and 2020, the number of pupils in state-funded special schools increased by 5.3%, continuing an upward trend since 2006.[[56]](#footnote-57) Recent announcements by the UK Government to create more special school places will not reverse this.[[57]](#footnote-58) Evidence also suggests that children with SEN are disproportionately represented among children educated at home.[[58]](#footnote-59)
3. The UK is one of only two signatories in the world to retain a reservation to the right to an inclusive education under the CRPD.[[59]](#footnote-60) Our view is that this reservation is contrary to the object and purpose of the CRPD as it reinforces the segregation of disabled children in education.[[60]](#footnote-61) A fully inclusive education system, in which disabled children and non-disabled children are educated together, can play a valuable role in breaking down stereotypes, prejudice and harmful practices towards disabled people.[[61]](#footnote-62)
4. We recommend that the UK Government take action to:
* Ensure that schools understand and implement the legal obligation to provide reasonable adjustments to prevent and manage disruptive behaviour in the case of children with additional learning needs, and to justify that any exclusion in these circumstances is proportionate.
* Implement the forthcoming recommendations from our inquiry into the use of restraint in schools to tackle any inappropriate or disproportionate use against disabled children.[[62]](#footnote-63)
* Remove the reservation and interpretive declaration on Article 24 of the CRPD, and take concrete steps to progressively realise disabled children’s right to inclusive education.

**Equal access to employment**

1. Despite recent progress in increasing the number of disabled people in employment, disabled people of working age remain at a distinct disadvantage in the UK labour market. Not only are disabled people less likely to be economically active, but those who are economically active are more likely to be unemployed, and unemployed for longer. Between April and June 2020, only 53 per cent of disabled people were in employment compared to 81.7 per cent of non-disabled people.[[63]](#footnote-64) Disabled people are also more likely to work part-time, to do lower-skilled jobs, and to earn less than non-disabled people,[[64]](#footnote-65) key factors that contribute to the disability employment and disability pay gaps.
2. ONS data from 2018 shows that disabled employees with a mental health impairment had the largest pay gap at 18.6 per cent, while for those with a physical impairment the pay gap was 9.7 per cent.[[65]](#footnote-66) December 2020 data published by NHS Digital also shows that people with learning disabilities had particularly low employment rates, ranging from 17 per cent of those with a learning disability being in paid employment in the Eastern region to just 5 per cent in the North West.[[66]](#footnote-67) As with ethnicity, collecting robust data on disability requires the ability to disaggregate by impairment type, and at different stages of employment, in order to understand the barriers that different groups face.
3. Analysis shows that disabled workers sharing other protected characteristics may have faced a specific disadvantage during the pandemic. For example, research by Leonard Cheshire found the pandemic has had a significant psychological impact on young disabled people. 57 per cent of disabled workers aged 18-24 said they felt the pandemic had affected their ability to work, and 54 per cent said that it had damaged their future earning potential.[[67]](#footnote-68) Research by the Women’s Budget Group also found that many disabled women had very real concerns about the financial implications of coronavirus, with 34.2 per cent reporting that they had run out of money compared to 24.4 per cent of non-disabled women. Disabled women were also more likely to report that they were spending more time working from home, were struggling to focus and experienced increased stress.[[68]](#footnote-69)
4. We recommend that the Government take action to:
* Introduce mandatory monitoring and reporting on the recruitment, retention and progression of disabled people for employers with over 250 staff by April 2022, including mandatory action planning to address the factors contributing to disability employment and pay gaps.
* Publish robust time-bound targets to reduce the disability employment and pay gap and ensure there is clear ministerial accountability in meeting those targets.

**Ensuring an inclusive justice system**

1. Disabled people’s confidence in the criminal justice system is significantly lower than average.[[69]](#footnote-70) Disabled people are also more likely to experience certain crime types than average, including rape and sexual assault, domestic abuse and hate crime. It is vital that Government strategies and initiatives to combat these crimes and support victims take into account the experience and needs of disabled people with different impairment types.
2. There is evidence that disabled defendants face significant barriers to justice and effective participation across the criminal justice system in England and Wales. Our 2020 inquiry into the experiences of disabled defendants found significant barriers to participation, including in relation to the underuse of defendant intermediaries and the use of video technology.[[70]](#footnote-71)
3. We have concerns that certain aspects of the court reform programme in England and Wales – including online procedures, remote hearings and court closures – could exacerbate the barriers faced by some disabled people and risk further reducing their participation in court proceedings.[[71]](#footnote-72) The use of video and audio hearings across all courts and tribunals has rapidly expanded since the outbreak of coronavirus and there is an ongoing need to monitor, understand and mitigate any negative impacts of these changes.[[72]](#footnote-73)
4. The evidence on disability in prisons is limited, but the available data suggests a high prevalence of mental health conditions and learning disability.[[73]](#footnote-74) The prison service does not hold data on disability centrally[[74]](#footnote-75) and we are concerned this could be leading to unmet need or inappropriate treatment, including disproportionate use of force.[[75]](#footnote-76)
5. Our 2019 inquiry into legal aid for discrimination cases found that victims of discrimination are not getting the help they need to enforce their rights in the courts.[[76]](#footnote-77) We have made a number of recommendations which are yet to be addressed that we consider would significantly improve access to justice in discrimination cases, including in relation to disability discrimination.[[77]](#footnote-78)
6. The Ministry of Justice has committed to implementing a number of the recommendations of our 2020 inquiry into the experiences of disabled defendants[[78]](#footnote-79) and is considering actions in relation to legal aid in the context of its Legal Support Action Plan.
7. We recommend that the UK Government take action to:
* Ensure the needs and challenges faced by disabled people are fully considered in the context of efforts to improve access to justice and services for victims of crime. This should include ensuring disabled people are meaningfully consulted in the current plans to refresh the Government’s Violence against Women and Girls Strategy for England and Wales;[[79]](#footnote-80) and ensuring adequate funding for, and availability of, sufficient specialist support services, tailored to meet the needs of disabled survivors of gender-based violence[[80]](#footnote-81) and hate crime.
* Adopt an implementation plan to take forward the recommendations arising from the EHRC inquiry report, ‘Inclusive justice: a system designed for all’.
* Urgently capture data on the experiences of court users and outcomes of cases across courts and tribunals, disaggregated by case type and protected characteristic (including impairment type), to inform any required changes to the use of online and remote hearings.
* Implement outstanding recommendations from the EHRC inquiry report, ‘Access to legal aid for discrimination cases’, and extend Qualified One Way Costs Shifting (QOCS) protection to discrimination claims brought under section 114 of the Equality Act 2010.
* Prioritise its commitments to improve data on disability in prisons,[[81]](#footnote-82) and use the data on an ongoing basis to ensure disabled prisoners are treated fairly.

**Reforming the social care system to promote independence and wellbeing**

1. Prior to the pandemic adult social care was already under significant pressure in England, with only those with severe needs receiving support. Since 2010, rising demand and substantial reductions in government funding have led to increased levels of unmet need.[[82]](#footnote-83) Requests for adult social care in England increased by 5.7% between 2015-16 and 2019-20, but 18,000 fewer people received support during this time.[[83]](#footnote-84) In 2019, Age UK estimated that 1.4 million older people in England were not getting the care they wanted or need.[[84]](#footnote-85) Real-term local authority spending on social care in England was approximately £400 million lower in 2019-20 than in 2010-11.[[85]](#footnote-86)
2. This situation has worsened during the pandemic, with many disabled people experiencing reductions to vital care services.[[86]](#footnote-87) We are particularly concerned about the situation for people, including working-age disabled adults, living in residential care.[[87]](#footnote-88)
3. We recommend that the Government take action to:
* Reform the social care system to ensure full compliance with Article 19 of the CRPD, and other equality and human rights standards.
* Commit to sustained resourcing of social care services during and after the pandemic, including provision of sufficient home and community-based support to prevent people having to move into institutions.
* Undertake a review into the disproportionate deaths of disabled people during the coronavirus pandemic, including an assessment of the excess deaths of people with recognised physical or mental impairments, deaths in care homes, and deaths of people with learning disabilities and/or autism. Government should work with disabled people and their representative organisations in this review, and use the findings to identify the policy and practice changes needed to mitigate any further negative disproportionate impact on disabled people now and in the future.

**Ensuring an adequate standard of living and social security**

1. Disabled people are more likely to live in poverty and material deprivation than people who are not disabled. Research by the Joseph Rowntree Foundation (JRF) found that 31% of disabled people in the UK lived in poverty in 2017/18, compared to 20% of non-disabled people.[[88]](#footnote-89)
2. The EHRC’s analysis of the tax and welfare reforms introduced between May 2010 and January 2018 revealed that their cumulative impact on disabled people by the 2021/22 tax year will be significantly regressive: households with at least one disabled adult and a disabled child will lose over £6,500 a year (over 13% of their net income).[[89]](#footnote-90)
3. Research shows that disabled people are amongst the groups most likely to be affected by the expected rise in poverty during and following the coronavirus pandemic.[[90]](#footnote-91) Disabled people are at a greater risk of experiencing a reduction in earnings through redundancy, a reduction in hours, or being furloughed from a job in a shut-down sector.[[91]](#footnote-92) They are also more likely to have fallen behind on essential bills during the pandemic.[[92]](#footnote-93) For example, one analysis shows that in July 2020 19.5% of disabled people in Britain had struggled to pay their bills, and 21.3% had to borrow money or rely on credit in the last seven days, compared to 13.4% and 18.2% of non-disabled people respectively.[[93]](#footnote-94)
4. Social security provides an important safety net for many households and is of increasing importance through the pandemic. However, concerns remain around the sufficiency of support, the accessibility of the system and the impact of sanctions and conditionality.
5. We recommend that the UK Government take action to:
* Ensure that the social security system is accessible and effective for all, supports the right to an adequate standard of living, and does not contribute to increasing material deprivation and poverty.[[94]](#footnote-95)
* Identify and monitor the specific economic impacts of the pandemic on groups of people who share protected characteristics, including disabled people. The Government should ensure that this insight informs their strategic plans, investment frameworks and public sector contracts at a formative stage.

**Strengthening the status of the CRPD and international human rights standards in domestic law**

1. The UK ratified and committed to implementing the rights enshrined in the CRPD in 2009. However, the CRPD, like other international treaties, has not been incorporated into domestic law, which means that disabled people do not have full access to legal remedies for breaches of these legally binding rights. There is also no formal mechanism for co-ordinating and monitoring the implementation of recommendations made by the CRPD Committee.
2. We have developed a proposed legal model for incorporation of the right to independent living into domestic law,[[95]](#footnote-96) and the Joint Committee on Human Rights has endorsed our proposals for strengthening the law.[[96]](#footnote-97)
3. We recommend that the Government take action to:
* Establish a coordinated, cross-Government national mechanism for implementing, reporting and following up on the UK’s human rights obligations, including those under CRPD.
* Make UN treaty rights, including those enshrined in CRPD, enforceable in UK courts.
* Strengthen disabled people’s right to live independently as part of the community, in line with Article 19 of the CRPD and the Commission’s proposed legal model for the incorporation of this right.[[97]](#footnote-98)

**Strengthening the Public Sector Equality Duty**

1. We are concerned that the work done by public authorities to fulfil their obligations under the Public Sector Equality Duty (PSED) is not going far enough to tackle inequalities facing disabled people.[[98]](#footnote-99) Through our research[[99]](#footnote-100) and experience enforcing compliance with the PSED we have found that many public authorities have equality objectives that are not evidence-based, focus on ‘low-hanging fruit’ rather than targeting the most persistent inequalities, are purely internally focused, or lack transparency about the action being taken to achieve them.
2. We have therefore proposed that the PSED should be strengthened so that compliance is clearer and more effective. We want to make it clearer and easier for public authorities to comply with the duty, driving a more strategic response that encourages public authorities to set evidence-based and outcomes-focused equality objectives that target the most pressing inequalities. In turn, our proposals would make monitoring and enforcing compliance with the duty more robust. We welcome the recent recommendation from the Women and Equalities Committee that the Government should consent to the EHRC issuing a statutory Code of Practice on the PSED.[[100]](#footnote-101)
3. We recommend that the UK Government take action to:
* Bring forward secondary legislation to strengthen the Public Sector Equality Duty in England, so that public authorities’ equality objectives are more strategic, evidence-based, and focused on tackling the most pressing inequalities.[[101]](#footnote-102)
* Ensure that all Government Departments are taking all appropriate steps to comply with the PSED in the development, implementation and monitoring of policy and practice, including in reference to the themes identified in the EHRC 2020 assessment of Home Office immigration policies.[[102]](#footnote-103)

**Increasing representation in political and public life**

1. Available data indicates that disabled people are under-represented among political candidates and elected officials.[[103]](#footnote-104) The UK Government has not replaced the Access to Elected Office Fund for disabled people, which closed in 2015.[[104]](#footnote-105) The establishment of the interim EnAble Fund, which ran until March 2020, was welcome, but long-term sustainable funding is required to create a level playing field for disabled people.[[105]](#footnote-106)
2. Disabled people also remain under represented in public appointments. The proportion of public appointees who declared a disability in 2019/2020 was just 5.8%,[[106]](#footnote-107) despite disabled people making up an estimated 22% of the UK population.[[107]](#footnote-108)
3. We recommend that the Government take action to:
* Commence section 106 of the Equality Act 2010 so that political parties are required to publish diversity data about their candidates. The UK Government should also encourage political parties to identify and remove the barriers to selection faced by disabled people.
* Develop and implement a strategy to promote representation of disabled people on boards of public bodies, for example through mentoring, targeted recruitment and training measures, and to monitor and report on progress.

Further information

The Equality and Human Rights Commission is a statutory body established under the Equality Act 2006. Find out more about the Commission’s work on our [website](http://www.equalityhumanrights.com/).

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1. Disability Unit (2020), [A National Strategy for Disabled People to remove barriers and increase participation](https://www.gov.uk/government/news/a-national-strategy-for-disabled-people-to-remove-barriers-and-increase-participation). [↑](#footnote-ref-2)
2. Equality and Human Rights Commission (2017), [Being disabled in Britain 2016: A journey less equal](https://www.equalityhumanrights.com/en/publication-download/being-disabled-britain-journey-less-equal); Equality and Human Rights Commission (2019), [Is Britain Fairer 2018](https://www.equalityhumanrights.com/en/publication-download/britain-fairer-2018); Equality and Human Rights Commission (2020), [How coronavirus has affected equality and human rights](https://www.equalityhumanrights.com/en/publication-download/how-coronavirus-has-affected-equality-and-human-rights). [↑](#footnote-ref-3)
3. It has been announced that the Minister of State for Disabled People who is a Minister for the Department for Work and Pensions will lead the strategy but that the Disability Unit, situated in the Cabinet Office, will deliver it. See: UK Parliament, House of Lords, [DWP Update: Statement made on 10 November 2020](https://questions-statements.parliament.uk/written-statements/detail/2020-11-10/HLWS556). [↑](#footnote-ref-4)
4. The UN CRPD includes both civil and political rights, and economic, social and cultural rights. Some of the rights included in the UN CRPD are subject to progressive realisation – meaning that States must take steps, to the maximum of their available resources, to progressively achieve the full realisation of rights over time. See: [UN International Covenant on Economic, Social and Cultural Rights](https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx) (ICESCR), article 2 (1). For more information about the UN CRPD see: EHRC, [Human Rights Tracker – Convention on the Rights of Persons with Disabilities (CRPD)](https://humanrightstracker.com/en/un-treaty/crpd/). [↑](#footnote-ref-5)
5. ##  UN Committee on the Rights of Persons with Disabilities (2017), [Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fGBR%2fCO%2f1&Lang=en).

 [↑](#footnote-ref-6)
6. ##  UN CRPD Article 4.3 provides an obligation that State Parties “consult with and actively involve” disabled people, through their representative organisations in the development and implementation of legislation, policies and other decision-making processes relating to disabled people’s lives. This is expanded on in: UN Committee on the Rights of Persons with Disabilities (2018), [General comment No. 7 on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention](https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsnbHatvuFkZ%2bt93Y3D%2baa2pjFYzWLBu0vA%2bBr7QovZhbuyqzjDN0plweYI46WXrJJ6aB3Mx4y%2fspT%2bQrY5K2mKse5zjo%2bfvBDVu%2b42R9iK1p).

 [↑](#footnote-ref-7)
7. We have received concerns from a number of our civil society stakeholders about the timing, accessibility and scope of the disability survey launched in January 2021 to inform the development of the strategy. In particular, stakeholders have expressed concern that the period of four weeks for disabled people to complete the survey to feed into the development of the strategy was insufficient, and that the scope of the survey was too narrow.

Stakeholders have also raised concerns that a number of proposed engagement activities for disabled people and disabled people’s organisations to engage with the Disability Unit on the strategy were cancelled and not rearranged. [↑](#footnote-ref-8)
8. UN CRPD Article 19. [↑](#footnote-ref-9)
9. The UN Committee on the Rights of Persons with Disabilities has said that this right is “Integral to the full implementation” of the UN CRPD. See, Committee on the Rights of Persons with Disabilities (2017), [General Comment No. 5 on Article 19: Right to independent living](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/5&Lang=en). [↑](#footnote-ref-10)
10. Including UN CRPD Article 5 (equality and non-discrimination); Article 9 (accessibility); Article 20 (personal mobility); Article 26 (habilitation and rehabilitation); and Article 28 (adequate standard of living and social protection). [↑](#footnote-ref-11)
11. UN Committee on the Rights of Persons with Disabilities (2017), [General Comment No. 5 on Article 19: Right to Independent Living](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/5&Lang=en). [↑](#footnote-ref-12)
12. Equality and Human Rights Commission (2019), [Supplementary submission to the Joint Committee on Human Rights Inquiry into the detention of children and young people with learning disabilities and/or autism.](https://www.equalityhumanrights.com/sites/default/files/ehrc_submission_to_jchr_inquiry_-_proposed_legal_model_for_incorporaion_of_the_right_to_independent_living.docx) [↑](#footnote-ref-13)
13. Equality and Human Rights Commission (2020), [Submission to the Joint Committee on Human Rights Inquiry on the Government’s response to Covid-19: human rights implications – Adult social care and the right to independent living](https://www.equalityhumanrights.com/sites/default/files/consultation_response_jchr_social_care.docx). [↑](#footnote-ref-14)
14. EHRC (2020), [Human Rights Tracker – Independent Living UK Government Assessment](https://humanrightstracker.com/en/progress-assessment/independent-living-uk-government-assessment/). [↑](#footnote-ref-15)
15. #  During the period from March to mid-July 2020, disabled people made up 59.5% of all deaths from Covid-19 in England and Wales. See Office for National Statistics (2020), [Coronavirus (Covid-19) related deaths by disability status, England and Wales: 2 March to 14 July 2020](https://www.ons.gov.uk/releases/coronaviruscovid19relateddeathsbydisabilitystatusenglandandwales2marchto3july2020). A study by Public Health England found that the Covid-19 death rate for people with a learning disability in England was up to six times higher during the first wave of the pandemic than for the general population. See Office for National Statistics (2020), [COVID-19: deaths of people with learning disabilities](https://www.gov.uk/government/publications/covid-19-deaths-of-people-with-learning-disabilities).

 [↑](#footnote-ref-16)
16. See Equality and Human Rights Commission (2020), [Evidence to the Women and Equalities Committee sub-inquiry on coronavirus, disability and access to services](https://www.equalityhumanrights.com/sites/default/files/consultation_response_wec_sub-inquiry_coronavirus_disability_and_access_to_services.docx). [↑](#footnote-ref-17)
17. See Equality and Human Rights Commission (2020), [How coronavirus has affected equality and human rights](https://www.equalityhumanrights.com/en/publication-download/how-coronavirus-has-affected-equality-and-human-rights). [↑](#footnote-ref-18)
18. See Women and Equalities Committee (2020), [Unequal impact? Coronavirus, disability and access to services: interim Report on temporary provisions in the Coronavirus Act](https://committees.parliament.uk/publications/2710/documents/27010/default/). [↑](#footnote-ref-19)
19. Disability Unit (2020), [A National Strategy for Disabled People to remove barriers and increase participation](https://www.gov.uk/government/news/a-national-strategy-for-disabled-people-to-remove-barriers-and-increase-participation). [↑](#footnote-ref-20)
20. UN CRPD Article 4 (3). [↑](#footnote-ref-21)
21. UN Committee on the Rights of Persons with Disabilities (2018), [General comment No. 7 on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention](https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsnbHatvuFkZ%2bt93Y3D%2baa2pjFYzWLBu0vA%2bBr7QovZhbuyqzjDN0plweYI46WXrJJ6aB3Mx4y%2fspT%2bQrY5K2mKse5zjo%2bfvBDVu%2b42R9iK1p). [↑](#footnote-ref-22)
22. In its Concluding Observations to the UK, the UN Committee on the Rights of Persons with Disabilities recommended that the State Party:

fund disabled people’s organisations and involve them in planning and implementing all laws affecting disabled people; and

establish mechanisms to secure the full participation of disabled people’s organisations in the design and implementation of strategic policies through objective, measurable, financed and monitored strategic action plans.

See: UN Committee on the Rights of Persons with Disabilities (2017), [Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland.](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GBR/CO/1&Lang=En) [↑](#footnote-ref-23)
23. See UN CRPD Article 4.3; and UN Committee on the Rights of Persons with Disabilities (2018), [General comment No. 7 on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention](https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsnbHatvuFkZ%2bt93Y3D%2baa2pjFYzWLBu0vA%2bBr7QovZhbuyqzjDN0plweYI46WXrJJ6aB3Mx4y%2fspT%2bQrY5K2mKse5zjo%2bfvBDVu%2b42R9iK1p). [↑](#footnote-ref-24)
24. Equality and Human Rights Commission (2018), [Housing and disabled people: Britain’s hidden crisis](https://www.equalityhumanrights.com/en/publication-download/housing-and-disabled-people-britains-hidden-crisis). [↑](#footnote-ref-25)
25. Centre for Ageing Better (2019), [Housing Made for Everyone (HoME): New coalition formed to tackle lack of suitable housing](https://www.ageing-better.org.uk/news/housing-made-everyone-home-new-coalition-formed-tackle-lack-suitable-housing)*.*  [↑](#footnote-ref-26)
26. Equality and Human Rights Commission (2018), [Housing and disabled people: Britain’s hidden crisis](https://www.equalityhumanrights.com/en/publication-download/housing-and-disabled-people-britains-hidden-crisis). [↑](#footnote-ref-27)
27. Equality and Human Rights Commission (2018), [Housing and disabled people: Britain’s hidden crisis](https://www.equalityhumanrights.com/en/publication-download/housing-and-disabled-people-britains-hidden-crisis). Between September and December 2020 the Ministry of Housing, Communities and Local Government consulted on [raising accessibility standards for new homes](https://www.gov.uk/government/consultations/raising-accessibility-standards-for-new-homes). Our response to this consultation provides an update to our inquiry recommendations. See: Equality and Human Rights Commission (2020), [Raising accessibility standards for new homes: consultation response.](https://www.equalityhumanrights.com/en/legal-responses/consultation-responses) [↑](#footnote-ref-28)
28. Between September and December 2020 the Ministry of Housing, Communities and Local Government consulted on [raising accessibility standards for new homes](https://www.gov.uk/government/consultations/raising-accessibility-standards-for-new-homes). See: Equality and Human Rights Commission (2020), [Raising accessibility standards for new homes: consultation response.](https://www.equalityhumanrights.com/en/legal-responses/consultation-responses) [↑](#footnote-ref-29)
29. Ministry for Housing, Communities and Local Government (2020), [Planning for the future](https://www.gov.uk/government/consultations/planning-for-the-future). [↑](#footnote-ref-30)
30. Chartered Institute of Highways and Transportation (2020), [Revising manual for streets](https://www.ciht.org.uk/knowledge-resource-centre/resources/revising-manual-for-streets/). [↑](#footnote-ref-31)
31. Department for Transport, (December 2020), [Taxis, private hire vehicles and their drivers (table TAXI0102).](https://www.gov.uk/government/statistical-data-sets/taxi01-taxis-private-hire-vehilces-and-their-drivers) [↑](#footnote-ref-32)
32. Sections 160-167 of the Equality Act 2010. [↑](#footnote-ref-33)
33. Scope (2019), [Travel Fair](https://www.scope.org.uk/campaigns/travel-fair/). [↑](#footnote-ref-34)
34. UN Committee on the Rights of Persons with Disabilities (2014), [General Comment No. 2 on Article 9: Accessibility](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/2&Lang=en). [↑](#footnote-ref-35)
35. European Parliament and the Council of the European Union (2019), [Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L0882). [↑](#footnote-ref-36)
36. In 2017, 56 per cent of adult internet non-users were disabled, more than double the estimated proportion of disabled adults in the UK population as a whole at that time (22 per cent). See Office for National Statistics (2019), [Exploring the UK’s digital divide](https://www.ons.gov.uk/peoplepopulationandcommunity/householdcharacteristics/homeinternetandsocialmediausage/articles/exploringtheuksdigitaldivide/2019-03-04#what-is-the-pattern-of-internet-usage-among-disabled-people). [↑](#footnote-ref-37)
37. These concerns are summarised in Women and Equalities Committee (2020), [Unequal impact? Coronavirus, disability and access to services: full Report](https://committees.parliament.uk/work/320/unequal-impact-coronavirus-disability-and-access-to-services/publications/). [↑](#footnote-ref-38)
38. Taking account of the requirements stated in the UN Committee on the Rights of Persons with Disabilities (2014), [General Comment No. 2 on Article 9: Accessibility](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/2&Lang=en) and ensuring comparable protections to those included in the European Accessibility Act. [↑](#footnote-ref-39)
39. Independent Review of the Mental Health Act (2018), [Modernising the Mental Health Act: final report of the Independent Review](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/778897/Modernising_the_Mental_Health_Act_-_increasing_choice__reducing_compulsion.pdf). [↑](#footnote-ref-40)
40. NHS Digital (2020), [Mental Health Act statistics, annual figures 2019-20; summary report v1.1](https://files.digital.nhs.uk/99/3916C8/ment-heal-act-stat-eng-2019-20-summ-rep%20v1.1.pdf). The overall national totals will be higher as not all providers submitted data and some submitted incomplete data. [↑](#footnote-ref-41)
41. Independent Review of the Mental Health Act (2018), [Modernising the Mental Health Act: final report of the Independent Review](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/778897/Modernising_the_Mental_Health_Act_-_increasing_choice__reducing_compulsion.pdf), p45. The review was established to look at rising rates of detention, the disproportionate detention of people from Black and other ethnic minority groups, and concerns that the law is out of step with a modern mental health system. The final report made 154 recommendations for reform. [↑](#footnote-ref-42)
42. Care Quality Commission (2020), [Monitoring the Mental Health Act in 2019/20, the Mental Health Act in the COVID-19 pandemic](https://www.cqc.org.uk/sites/default/files/20201127_mhareport1920_report.pdf). [↑](#footnote-ref-43)
43. Equality and Human Rights Commission (2020), [Health Secretary faces legal challenge for failing patients with learning disabilities and autism](https://equalityhumanrights.com/en/our-work/news/health-secretary-faces-legal-challenge-failing-patients-learning-disabilities-and). [↑](#footnote-ref-44)
44. NHS England (2015), [Building the right support](https://www.england.nhs.uk/wp-content/uploads/2015/10/ld-nat-imp-plan-oct15.pdf). [↑](#footnote-ref-45)
45. NHS Digital (2021), [Learning Disability Services monthly statistics](https://digital.nhs.uk/data-and-information/publications/statistical/learning-disability-services-statistics/at-december-2020-mhsds-october-2020-final). 2,055 were detained as at the end of December 2020. In 2015 the Government set a target to reduce detention in inpatient settings by 35-50 per cent by the end of March 2019, which would have meant no more than 1,700 people remained in detention; see NHS England (2015), [Building the right support](https://www.england.nhs.uk/wp-content/uploads/2015/10/ld-nat-imp-plan-oct15.pdf). [↑](#footnote-ref-46)
46. NHS Digital (2021), [Learning Disability Services monthly statistics](https://digital.nhs.uk/data-and-information/publications/statistical/learning-disability-services-statistics/at-december-2020-mhsds-october-2020-final), LDA monthly statistics from AT reference tables at table 8. [↑](#footnote-ref-47)
47. See NHS Digital (2021), [Mental health bulletin: 2019-20 annual report, reference tables](https://digital.nhs.uk/data-and-information/publications/statistical/mental-health-bulletin/2019-20-annual-report), see table 7.1; and Care Quality Commission (2020), [Out of sight – who cares?: restraint, segregation and seclusion review](https://www.cqc.org.uk/publications/themed-work/rssreview). [↑](#footnote-ref-48)
48. NHS Digital (2021), [Mental health bulletin: 2019-20 annual report, reference tables](https://digital.nhs.uk/data-and-information/publications/statistical/mental-health-bulletin/2019-20-annual-report), see table 7.1. [↑](#footnote-ref-49)
49. The Mental Health Unit (Use of Force) Act 2018 aims to reduce the use of force by improving accountability, training, recording and access to rights information. [↑](#footnote-ref-50)
50. Department of Health and Social Care (2021), [Reforming the Mental Health Act](https://www.gov.uk/government/consultations/reforming-the-mental-health-act). [↑](#footnote-ref-51)
51. Ibid. A new Mental Health Bill will be introduced “when parliamentary time allows”. [↑](#footnote-ref-52)
52. Equality and Human Rights Commission (2019), [Human rights framework for restraint](https://www.equalityhumanrights.com/en/publication-download/human-rights-framework-restraint). [↑](#footnote-ref-53)
53. Office of National Statistics (2019), [Disability and education, UK: 2019](https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/bulletins/disabilityandeducationuk/2019#main-points). [↑](#footnote-ref-54)
54. Department for Education (2020), [Permanent and fixed-period exclusions in England](https://explore-education-statistics.service.gov.uk/find-statistics/permanent-and-fixed-period-exclusions-in-england). [↑](#footnote-ref-55)
55. Harte, A. (2017), [Hundreds of restraint injuries at special schools](https://www.bbc.co.uk/news/uk-39530915). [↑](#footnote-ref-56)
56. Department for Education (2020), [Special educational needs in England](https://explore-education-statistics.service.gov.uk/find-statistics/special-educational-needs-in-england). [↑](#footnote-ref-57)
57. Department for Education (2020), [Thousands of places created in new special free schools](https://www.gov.uk/government/news/thousands-of-places-created-in-new-special-free-schools--2#:~:text=Up%20to%203%2C000%20new%20school,tailored%20support%20and%20specialist%20equipment.). [↑](#footnote-ref-58)
58. Office for Standards in Education (2019), [Exploring moving to home education in secondary schools: research summary](https://www.gov.uk/government/publications/exploring-moving-to-home-education-in-secondary-schools); House of Commons Education Committee (16 October 2019), [Special educational needs and disabilities paras. 14 and 125](https://publications.parliament.uk/pa/cm201919/cmselect/cmeduc/20/20.pdf). [↑](#footnote-ref-59)
59. The UK retains a reservation and interpretive declaration to article 24 (2) (a) and (b) of the UN CRPD as the UK Government considers that special schools are part of the general education system. See: UN Committee on the Rights of Persons with Disabilities (2017), [List of issues in relation to the initial report of the United Kingdom of Great Britain and Northern Ireland. Addendum: Replies of the United Kingdom of Great Britain and Northern Ireland to the list of issues](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fGBR%2fQ%2f1%2fAdd.1&Lang=en). [↑](#footnote-ref-60)
60. A view supported by the UN Committee on the Rights of Persons with Disabilities (2017), [Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fGBR%2fCO%2f1&Lang=en), para. 51. [↑](#footnote-ref-61)
61. UN CRPD Article 8. See also the Committee on the Rights of Persons with Disabilities (2016), [General Comment No. 4 on Inclusive Education](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/4&Lang=en). [↑](#footnote-ref-62)
62. Equality and Human Rights Commission (2020), [Inquiry: how schools are monitoring the use of restraint](https://www.equalityhumanrights.com/en/inquiries-and-investigations/inquiry-how-schools-are-monitoring-use-restraint). [↑](#footnote-ref-63)
63. Office for National Statistics (2020), [AO8: Labour market status of disabled people](https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/labourmarketstatusofdisabledpeoplea08); House of Commons Library Briefing Paper (August 2020), [Disabled people in employment](file:///C%3A%5CUsers%5Ckjones%5CDownloads%5CCBP-7540%20%282%29.pdf). [↑](#footnote-ref-64)
64. Equality and Human Rights Commission (2020), [Recruitment of workers into low-paid occupations and industries: an evidence review](https://www.equalityhumanrights.com/sites/default/files/recruitment-of-workers-into-low-paid-occupations-and-industries.pdf). [↑](#footnote-ref-65)
65. Office for National Statistics (2019), [Disability pay gaps in the UK: 2018.](https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/articles/disabilitypaygapsintheuk/2018)  [↑](#footnote-ref-66)
66. NHS Digital (December 2020), [Measures from the Adult Social Care Outcomes Framework, England 2019-20.](https://digital.nhs.uk/data-and-information/publications/statistical/adult-social-care-outcomes-framework-ascof/measures-from-the-adult-social-care-outcomes-framework-england-2019-20)  [↑](#footnote-ref-67)
67. Leonard Cheshire (2020), [Disabled people plunged into crisis by Covid employment landscape.](https://www.leonardcheshire.org/about-us/our-news/press-releases/disabled-people-plunged-crisis-covid-employment-landscape)  [↑](#footnote-ref-68)
68. Women’s Budget Group (June 2020), [Disabled women and Covid-19.](https://wbg.org.uk/analysis/reports/disabled-women-and-covid-19/)  [↑](#footnote-ref-69)
69. The 2016/17 Crime Survey for England and Wales reported that just 43% of disabled adults in England and Wales reported that the criminal justice system is effective, compared with an average of 53%. See: Equality and Human Rights Commission (2018), [Is Britain Fairer 2018](https://www.equalityhumanrights.com/en/publication-download/britain-fairer-2018). [↑](#footnote-ref-70)
70. Equality and Human Rights Commission (2020), [Inclusive justice: a system designed for all](https://www.equalityhumanrights.com/en/publication-download/inclusive-justice-system-designed-all). [↑](#footnote-ref-71)
71. While we recognised reforms may benefit some disabled people, we are concerned about disproportionate impacts on disabled people with cognitive impairments, mental health conditions and neuro-diverse conditions, particularly in relation to their ability to participate in the criminal justice process. See: Equality and Human Rights Commission (2018), [Response of the Equality and Human Rights Commission to the consultation: Fit for the future: transforming the court and tribunal estate](https://www.equalityhumanrights.com/sites/default/files/reponse_to_the_consultation_on_the_strategy_to_transform_the_courts_and_tribunal_estate.pdf); and Equality and Human Rights Commission (April 2019), [Written evidence from Equality and Human Rights Commission to the Justice Select Committee Inquiry on court and tribunal reforms](http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/hmcts-court-and-tribunal-reforms/written/97850.html). [↑](#footnote-ref-72)
72. Equality and Human Rights Commission (2020), [How Coronavirus has affected equality and human rights](https://www.equalityhumanrights.com/sites/default/files/equality_and_human_rights_commission_how_coronavirus_has_affected_equality_and_human_rights_2020.pdf). [↑](#footnote-ref-73)
73. National Institute for Health and Care Excellence (2014), [Mental health of adults in contact with the criminal justice system: identification and management of mental health problems and integration of care for adults in contact with the criminal justice system](https://www.nice.org.uk/guidance/ng66/documents/mental-health-of-adults-in-contact-with-the-criminal-justice-system-final-scope2). The Prison Reform Trust has estimated that 20-30 per cent of prisoners have a learning disability or difficulty that interfere with their ability to cope in the criminal justice system. See: Prison Reform Trust (2008), [No one know: report and final recommendations](http://www.prisonreformtrust.org.uk/Portals/0/Documents/No%20One%20Knows%20report-2.pdf). [↑](#footnote-ref-74)
74. Her Majesty’s Prison and Probation Service (2019), [Equality analysis, use of force](http://www.prisonreformtrust.org.uk/Portals/0/Documents/PAVA/Use%20of%20Force%20Equality%20Analysis.pdf). [↑](#footnote-ref-75)
75. Equality and Human Rights Commission (2020), [Preventing the unlawful use of PAVA spray in prisons](https://legal.equalityhumanrights.com/en/case/preventing-unlawful-use-pava-spray-prisons). [↑](#footnote-ref-76)
76. Equality and Human Rights Commission (2019), [Access to Legal Aid for Discrimination Cases](https://www.equalityhumanrights.com/sites/default/files/access-to-legal-aid-for-discrimination-cases-our-legal-aid-inquiry.pdf). [↑](#footnote-ref-77)
77. See: Equality and Human Rights Commission (2018), [Response to the consultation on the post-implementation review of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)](https://www.equalityhumanrights.com/sites/default/files/consultation-response-on-post-implementation-review-of-laspo-september-2018.doc); EHRC (2018), [Response to part 2 of the consultation on the post-implementation review of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO): litigation funding and costs](https://www.equalityhumanrights.com/sites/default/files/consultation-response-on-post-implementation-review-of-part-2-laspo-7-september-2018.pdf). [↑](#footnote-ref-78)
78. Ministry of Justice (November 2020), [Ministry Of Justice response to ‘Inclusive Justice: A System Designed For All’](https://www.equalityhumanrights.com/sites/default/files/83264_lc_response_to_ehrc_inclusive_justice.pdf). [↑](#footnote-ref-79)
79. Home Office (2020), [Violence Against Women and Girls (VAWG) Call for Evidence](https://www.gov.uk/government/consultations/violence-against-women-and-girls-vawg-call-for-evidence). [↑](#footnote-ref-80)
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94. This should include: a review of the time to first payment and the impact of sanctions and conditionality; and the collection and monitoring of data on the protected characteristics of claimants and claim outcomes and provision of reasonable adjustments where required. [↑](#footnote-ref-95)
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96. Joint Committee on Human Rights (2019), [The detention of young people with learning disabilities and/or autism](https://publications.parliament.uk/pa/jt201919/jtselect/jtrights/121/121.pdf). [↑](#footnote-ref-97)
97. Our proposed legal model can be found here: EHRC (2019), [Supplementary submission to the Joint Committee on Human Rights Inquiry into the detention of children and young people with learning disabilities and/or autism.](https://www.equalityhumanrights.com/sites/default/files/ehrc_submission_to_jchr_inquiry_-_proposed_legal_model_for_incorporaion_of_the_right_to_independent_living.docx) [↑](#footnote-ref-98)
98. The PSED was developed as part of the Equality Act 2010 to ensure that public authorities positively promote equality (not merely avoid discrimination), and consists of a general duty and specific duties. The general duty requires public authorities to have due regard to equality when performing their functions. The specific duties (set out in secondary legislation, which differs in England, Scotland and Wales) consist of a range of more detailed requirements including responsibilities to set equality objectives and report on various equality matters. See: Equality and Human Rights Commission (2020), [Public Sector Equality Duty](https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty). [↑](#footnote-ref-99)
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101. In October 2018, the Women and Equalities Committee (WEC) recommended the PSED specific duties should be reformed: see WEC (2018), [Enforcing the Equality Act: the law and the role of the Equality and Human Rights Commission](https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/1470/1470.pdf), paragraphs 147 and 148. The Joint Committee on Human Rights (JCHR) also supported WEC’s recommendation in November 2020: see JCHR (2020), [Black people, racism and human rights](https://committees.parliament.uk/publications/3376/documents/32359/default/), paragraphs 103-106. However, the Government has not yet accepted these recommendations. [↑](#footnote-ref-102)
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