

**List of issues in relation to the initial  
report of the United Kingdom of Great  
Britain and Northern Ireland**

**Response of the United Kingdom of Great  
Britain and Northern Ireland to the list of  
issues**

## Introduction

1. The Government of the United Kingdom of Great Britain and Northern Ireland (UKG) welcomes its first periodic examination of implementation of the United Nations Convention on the Rights of Persons with Disabilities (the Convention) as an opportunity for constructive discussion on the continued progression of disabled people's rights.
2. UKG will use the terminology 'disabled people' throughout its examination. UKG embraces the social model of disability, and in consensus with non-governmental organisations (including UK Independent Mechanisms and disability-related civil society) believes this terminology is most aligned with the model.
3. This response includes contributions from the Devolved Administrations. UKG also engaged a range of non-governmental organisations to promote and encourage increased participation by civil society in this examination process.

### A. Purpose and General Obligations, Articles 1-4 (issue 1a-f)

4. **(a)** UKG has a long tradition of respecting human rights and continues to promote the social model of disability. UKG maintains its understanding of emerging ideas about disability through regular engagement with disabled people, their organisations and the sharing of information internationally. Recent engagement includes the Improving Lives<sup>1</sup> consultation in 2016/17, which sought views on how best to support disabled people to enter and progress in work.
5. **(b)** The protection and promotion of human rights (including those of disabled people) in the UKG Overseas Territories are primarily the responsibility of territory governments.
6. **(c)** As a general principle, UKG does not incorporate international treaties into domestic law. The Equality Act 2010 (EA2010) enshrines the rights of people in England, Scotland and Wales with any of nine protected characteristics to live free from discrimination, harassment or victimisation and have equal opportunities in domestic law. It systematically ensures consideration of the rights of disabled people by public authorities, at both national and local levels, through the Public Sector Equality Duty<sup>2</sup> (PSED).

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<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/564038/work-and-health-green-paper-improving-lives.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/564038/work-and-health-green-paper-improving-lives.pdf)

<sup>2</sup> <http://www.legislation.gov.uk/ukpga/2010/15/section/149>.

7. In Northern Ireland, the Disability Discrimination Act 1995 (DDA95) sets out the rights of disabled people. The Northern Ireland Act 1998, Section 75 places a statutory duty similar to the PSED on public authorities when conducting their functions. Additionally, the Mental Capacity Act (Northern Ireland) 2016 incorporates elements of the Convention to ensure that disabled people are treated on an equal basis.
8. UKG consultation guidelines set clear expectations that officials consider the full range of people, business and voluntary bodies affected by proposed policies and ensure disabled people can access any consultation.
9. **(d)** EA2010 defines a disabled person as someone with a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities<sup>3</sup>; this definition aligns with Article 1<sup>4</sup>. EA2010 protects against direct and indirect discrimination, and places a duty on organisations to provide reasonable adjustments to better enable disabled people's full enjoyment of their rights. Employment tribunals and civil courts hear and resolve cases where someone believes they have been discriminated against due to disability (whether they are disabled or not). The Advisory, Conciliation and Arbitration Service<sup>5</sup> and the Equality Advisory and Support Service<sup>6</sup> provide free and impartial advice and support for people taking forward claims. The Equality and Human Rights Commission (EHRC) can also conduct investigations or take action where it's aware of disability discrimination by an employer or service provider.
10. **(e)** UKG published two reports on the indicators outlined in the Fulfilling Potential Strategy<sup>7</sup>, covering six key themes (education, employment, income, health and wellbeing, choice and control, and inclusive communities).
11. The Northern Ireland Executive included a disability indicator in its draft Programme for Government 2016-2021. The associated draft action plan had extensive consultation with disabled people and their families.
12. **(f)** UKG committed in the Choice Review response<sup>8</sup> to ensuring access to high quality, safe, personalised care to everyone. Based on five Priorities for Care, it emphasises good communication with patients and families, regular care plan reviews and clear identification of people in charge of care. The

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<sup>3</sup> <http://www.legislation.gov.uk/ukpga/2010/15/section/6>

<sup>4</sup> In Northern Ireland, DDA95 sets out the rights of disabled people.

<sup>5</sup> <http://www.acas.org.uk/index.aspx?articleid=1461>

<sup>6</sup> <http://www.equalityadvisoryservice.com/>

<sup>7</sup> <https://www.gov.uk/government/collections/fulfilling-potential-working-together-to-improve-the-lives-of-disabled-people>

<sup>8</sup> <https://www.gov.uk/government/publications/choice-in-end-of-life-care>

commitment to providing high-quality end-of-life care to everyone is also evident through initiatives like the Learning Disabilities Mortality Review Programme. This calls for local reviews of deaths of people with learning disabilities and identification of action plans where improvements are needed; every National Health Service (NHS) region is currently testing this process.

13. The Welsh Government's Palliative and End-of-Life Care Delivery Plan covers all aspects of such care and provides funding specifically for specialist palliative care services.

## **B. Specific rights**

### **Equality and non-discrimination, Article 5 (issue 2a-d)**

14. **(a)** UKG's abortion policy, in relation to disability, only differs from standard practice where "serious" foetal impairment is identified to allow abortion without time-limit. Serious impairment is not defined in law; these decisions are made using the expert judgement of two doctors in consultation with the parents, who receive information and support from a properly trained multidisciplinary team.
15. In Northern Ireland, abortion is only lawful when necessary to preserve the woman's life or where there is risk of real and serious long-term or permanent adverse effect on the woman's physical or mental health.
16. **(b)** EA2010 protects against discrimination resulting from age, disability and sex, and includes specific protections on employment, provision of services, exercise of public functions, and education. It permits positive action and differential treatment enabling employers or service providers to address age, disability or sex related disadvantage, under-representation and low participation. This supports equality of opportunity and reduces outcome inequalities, aligning with the UN Sustainable Development Goals (SDGs) 10.
17. The Scottish Government has established an Access to Elected Office Fund to support disabled people to stand in the 2016 and 2021 Scottish Parliament elections and 2017 local election, (as per SDG 10.2).
18. **(c)** The EA2010 protects all individuals, including disabled people, from racial discrimination, harassment, and victimisation. The UK has criminal penalties for offences such as incitement to racial hatred and racially aggravated assault and criminal damage.

19. Following the Scottish Government's publication of its Race Equality Framework in March 2016, intersectional engagement activities were held which included disability stakeholders.
20. **(d)** The EA2010 provision for a 'reasonable adjustment duty for common parts of leasehold properties' has not been commenced due to lack of clarity on the financial and practical implications for landlords; the provision is currently under review by UKG with a view to assessing its scope for implementation.
21. Northern Ireland is considering the Equality Commission's Legislative Reform proposals to strengthen protections for disabled people within the DDA95, in alignment with the EA2010. A lack of non-discrimination legislation for disabled people specific to housing is mitigated by a range of initiatives.

### **Women with disabilities, Article 6 (issue 3a-b)**

22. **(a)** Consideration of barriers specific to women is mainstreamed through EA2010 and the PSED (aligning with SDG 5), as is disability. UKG gender-specific policies incorporate the disability social model to break down barriers and meet the needs of disabled women. Data collected in relation to violence and abuse is disaggregated, allowing examination of rates of violence and abuse experienced by disabled women compared to others<sup>9</sup> (see Annex A).
23. The Northern Ireland Act 1998, Section 75<sup>10</sup> statutory duty to have due regard to the need to promote equality of opportunity includes equality between all disabled people (including disabled women) and non-disabled people.
24. The PSED Scottish Specific Duties require that the Scottish Government conducts and publishes Equality Impact Assessments. Measures aligning with SDG 5.1 include maintaining and publishing data disaggregated by gender<sup>11</sup>.
25. In Wales, Equality Impact Assessments are conducted on all new policies and programmes as a requirement of the EA2010 (Statutory Duties) (Wales) Regulations 2011 and when reviewing existing policies and programmes. These should identify possible negative intersectional impacts and set out mitigation measures.

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<sup>9</sup>

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/compendium/focusonviolentcrimeandsexualoffences/yearendingmarch2015/chapter4intimatepersonalviolenceandpartnerabuse#intimate-violence-in-the-last-year-by-personal-characteristics>

<sup>10</sup> <http://www.legislation.gov.uk/ukpga/1998/47/section/75>

<sup>11</sup> <http://www.gov.scot/Topics/People/Equality/Equalities/DataGrid>

26. **(b)** England and Wales' Violence against Women and Girls Strategy takes a cross-government, multi-agency approach, with focused support for the most excluded women and girls facing multiple disadvantages (like disabled women and girls). Commitments include providing specialist support to the most vulnerable victims, enabling access to services, and supporting commissioners to conduct evidence-based assessments of need.
27. In Northern Ireland, the Stopping Domestic and Sexual Violence and Abuse Strategy (published March 2016) aims for a society where domestic and sexual violence is not tolerated in any form. It provides tailored preventative and responsive services, and ensures that all victims are supported and perpetrators held to account.
28. Scotland's Equally Safe strategy to prevent and eradicate all forms of violence against women and girls is strengthening legislation, and a three-year rolling fund has been introduced for organisations combatting violence against women and girls.
29. In Wales, disabled women are protected through the National Strategy and the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015; this aims to improve the consistency, quality and join-up of services.

#### **Children with disabilities, Article 7 (issue 4a-c)**

30. UKG financially supports low income families (including those with disabled children) through benefits including Disability Living Allowance, Child Tax Credit and Universal Credit. Other support includes:
  - Disabled Facilities Grant to help make homes accessible;
  - free childcare for disabled children between 2-4 years old, including that funded by England's £12.5m Disability Access Fund;
  - Family Fund Trust grants for families with disabled children, usually for equipment and family breaks; and
  - help with costs to attend healthcare services.
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31. Northern Ireland published its Child Poverty Strategy<sup>12</sup> in March 2016, including grants for low-income families to help with essential items and additional educational support for disabled children.
32. Scotland has committed<sup>13</sup> to improving the disability benefits system for disabled children in Scotland once powers are devolved.

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<sup>12</sup> <https://www.communities-ni.gov.uk/publications/child-poverty-strategy>

33. The Strategic Equality Plan 2016-2020<sup>14</sup> for Wales includes the objective to reduce poverty, mitigate the impacts of poverty and improve living conditions for people most at risk of living in low income households, particularly disabled people and families with disabled children.
34. **(b)** All schools in England are required by law to have a behaviour policy including measures to tackle bullying. Schools are free to develop their own anti-bullying strategies, but are held accountable through the Office for Standards in Education, Children's Services and Skills. This complements requirements in EA2010 making it unlawful for schools to discriminate against, harass or victimise disabled pupils (or potential pupils) in relation to admissions; the way it provides education; access to benefits, facilities or services; excluding pupils; or subjecting them to any other detriment. Remedy is through appeal to specialist tribunals; admission decisions made within the Education, Health and Care plan are heard by the Special Education Needs and Disability (SEND) tribunal, and exclusion decisions are reviewed by an independent panel under section 52 of the Education Act 2002.
35. The National Approach to Anti-bullying for Scotland's Children and Young People will be published later this year, encouraging a holistic approach to anti-bullying, including prejudice-based bullying. Furthermore, the Additional Support Needs Tribunals for Scotland provide remedy for disability related discrimination in schools.
36. **(c)** The Children and Families Act 2014 secures the general presumption in law of mainstream education, and the SEND Code of Practice states that professionals should involve parents at every stage of planning and reviewing support. Parents have the right to request a particular school, as part of the Education, Health and Care (EHC) plan process. Where a child or young person with SEND does not have an EHC plan, they must be educated in mainstream schools in most circumstances. Additionally, LAs are required to involve young people and parents in shaping the support provided, and they must publish 'Local Offers' setting out in one place information about the provision LAs expect to be available across education, health and social care for all children and young people with SEND.
37. Scotland's Getting it right for every child<sup>15</sup> is the national approach to improving outcomes of children and young people, ensuring they (and where possible their families) are at the centre of informed choice about the support

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<sup>13</sup> [https://consult.scotland.gov.uk/social-security/social-security-in-scotland/user\\_uploads/consultation-on-social-security-in-scotland---full-version.pdf](https://consult.scotland.gov.uk/social-security/social-security-in-scotland/user_uploads/consultation-on-social-security-in-scotland---full-version.pdf)

<sup>14</sup> <http://gov.wales/docs/dsjlg/publications/equality/161214-strategic-equality-plan-en.pdf>

<sup>15</sup> <http://www.gov.scot/Topics/People/Young-People/gettingitright/what-is-girfec>

available. ‘Self-directed Support’<sup>16</sup> is Scotland’s mainstream approach to social care, ensuring children requiring social care are given choice and control over how their care is delivered.

38. The statutory framework for care and support, established by the Social Services and Well-being (Wales) Act 2014, promotes a “voice and control agenda” by requiring that disabled people are involved in decision-making about the assessment and allocation of their support.

### **Awareness Raising, Article 8 (issue 5)**

39. UKG has undertaken numerous initiatives to increase awareness, including:
- developing awareness raising resources, set out in the UKG hate crime action plan;
  - Disability Confident supports employers to hire disabled people;
  - resources are available to teachers to raise disability awareness amongst pupils;
  - specific autism awareness training is delivered to staff in early years, school and post-16 education;
  - disability awareness training is provided at train stations and by many bus companies; and
  - training<sup>17</sup> aimed primarily at NHS healthcare and social care staff includes modules on mental health and learning disabilities.
40. In England, the Dementia Friends Programme gives people a greater understanding of dementia. Northern Ireland’s public awareness campaign ‘Still Me’, is aimed at reducing dementia-related stigma. Scotland has a wide range of well-established dementia-friendly community, town and city initiatives and a national Dementia Friends initiative. Wales is developing its Dementia Strategic Action Plan 2017-2022.

### **Accessibility, Article 9 (issue 6)**

41. Building requirements support the goals of inclusive, safe, resilient and sustainable accommodation, as per SDG 11. Building Regulations require building control bodies across the UK to inspect work on new builds as it proceeds, ensuring compliance with regulations, including Part M on accessibility. If these requirements are not met, LAs have powers to prosecute<sup>18</sup> companies conducting the work, serve a notice<sup>19</sup> to the building owner to bring the work up to the required standard, remove non-compliant

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<sup>16</sup> <http://www.gov.scot/Topics/Health/Support-Social-Care/Support/Self-Directed-Support>

<sup>17</sup> <https://www.disabilitymatters.org.uk/>

<sup>18</sup> <http://www.legislation.gov.uk/ukpga/1984/55/section/35>

<sup>19</sup> <http://www.legislation.gov.uk/ukpga/1984/55/section/36>

work or apply unlimited fines. As a result, housing built since 2001 is more likely to be accessible; e.g. 93% of homes built since 2001 have an entrance level toilet (61% previously)<sup>20</sup>.

42. UKG is committed to progressing towards built environments that are as accessible as possible. Initiatives include the Inclusive Environment Action Plan<sup>21</sup> which tasks industry leaders with spreading understanding of the benefits of equality and accessibility, and the Built Environment Professional Education project<sup>22</sup> which promotes inclusive design training for tomorrow's built environment professionals.
43. In Northern Ireland, the Strategic Planning Policy Statement sets the context for all new local development plans and planning decisions, taking particular consideration of disabled people's needs. Article 6 of the General Development Procedure Order (Northern Ireland) 2015 requires design and access statements to explain how issues affecting access for disabled people have been addressed in major developments.
44. In Scotland, LAs review designs and on-site building work, ensuring all relevant standards in Scottish building regulations are met. If not, LAs have powers under section 27 of the Building (Scotland) Act 2003 to serve notice requiring the relevant person to either comply or remove the work.
45. In Wales, planning policy sets out that all development proposals should meet the objective of ensuring ease of access for all: using Design and Access Statements, oversight of compliance with Building Regulations, and the Design Commission for Wales to champion high standards of design and architecture to public and private sectors. In 2016, the Commission coordinated inclusive-design related training for built environment professionals.
46. Legislation for the accessibility of transport has been strengthened; the Public Service Vehicles Accessibility Regulations require local bus services to be accessible and the Bus Services Act 2017 ensures that information on local buses is provided in audible and visible formats. By the end of 2019, 470 train stations will have step-free access to and between every platform; equating to around 75% of journeys (compared to 50% in 2005). It is illegal for drivers of taxis to refuse to carry registered assistance dogs (except in specific circumstances), and drivers of designated wheelchair accessible taxis cannot charge extra or refuse to provide reasonable assistance.

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<sup>20</sup> English Housing Survey

<sup>21</sup> <https://www.gov.uk/government/news/creating-inclusive-buildings-and-design>.

<sup>22</sup> <https://www.gov.uk/government/collections/built-environment-professional-education-project>.

47. Northern Ireland is developing an Accessible Transport Strategy, which will include an action plan outlining measures to reduce barriers to travel. The recently established Taxi Advisory Forum also has permanent representation from disabled people, ensuring input into policy development.
48. Implementation of the Government website GOV.UK considerably increased the accessibility of government services. Holding information on services and policies across government, it is designed to easily adapt to different users by connecting seamlessly to assistive technology and allowing users to customise its appearance. Continuing to improve the accessibility of its digital services, UKG has created a UK-wide digital community to enable cross-government collaboration and set the requirements for its service assessment process.

### **Equal recognition before the law, Article 12 (issue 7)**

49. The Mental Capacity Act 2005 is UKG's primary mental capacity legislation; it empowers people to make decisions for themselves wherever possible, while protecting people unable to. The Court of Protection Rules governing judgements on the removal of decision making have been strengthened, requiring judges to determine how best to secure the involvement of the individual in proceedings. UKG is now considering recommendations from the Law Commission<sup>23</sup> to amend the Mental Capacity Act to better ensure the person's wishes and feelings are the prime consideration in any 'best interest' decision and to introduce a framework for supported decision making. Additionally, the UKG response to No Voice Unheard, No Right Ignored, published 2015, sets out actions to better enable people with learning disabilities, autism and mental health conditions to enjoy the same rights as everyone else.
50. In Northern Ireland, the Mental Capacity Act (Northern Ireland) 2016 was enacted in May 2016. Implementation is under way; once commenced, the Act will repeal and replace the Mental Health (Northern Ireland) Order for everyone over 16.
51. UKG is responsible for policies relating to asylum seeker and refugee detention. Recognised refugees are not usually detained. The 'adults at risk in immigration detention' policy regards people as vulnerable in detention if they fall within a list of indicators, which includes having a mental health condition or other disabilities. People considered vulnerable will only be detained when vulnerability concerns are outweighed by immigration considerations and/or

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<sup>23</sup> Applicable in England and Wales.

public security concerns. All asylum claimants have the opportunity to be legally represented during their asylum claim and, subject to certain published criteria (which includes means and merits tests), legal aid is available.

### **Access to justice, Article 13 (issue 8a-d)**

52. **(a)** UKG helps people interact with the justice system in various ways, including through legal aid, the availability of intermediaries for vulnerable people and new inclusive digital services. Legal aid supports access to justice by providing advice and representation for such matters as cases alleging unlawful discrimination, harassment or victimisation under the EA2010. Intermediaries are communication specialists who support witnesses to understand what is being asked of them and to respond. For people with difficulties interacting with digital channels, assisted digital support options will be provided to maintain and improve access to justice. This ranges from 'light touch' assistance such as telephone support to more intensive face-to-face assistance. Both will be free, and developed with extensive input from service users.
53. Northern Ireland launched the Registered Intermediaries schemes in May 2013 to assist vulnerable witnesses (prosecution and defence), suspects and defendants with significant communication deficits to communicate effectively when giving evidence in police investigations and any subsequent trial.
54. **(b)** Civil legal aid continues to provide access to justice for people in the most serious cases. This includes, subject to statutory means and merits tests, disputes with LAs about community care services and discrimination claims relating to contraventions of EA2010. UKG operates a fee remission system to help people unable to afford fees to continue accessing justice. A review of the introduction of employment tribunal fees (published January 2017) included examination of the impact of fees on people with protected characteristics. Though broadly a successful policy, the review highlighted that employment tribunal claims dropped more than anticipated. A consultation within the review included proposals to increase the income threshold for 'Help with Fees', which would be expected to benefit disabled people and other people in low-income groups. Projected reforms to the Employment Tribunals system will simplify processes, improving access to justice.
55. In Scotland, civil legal aid helps secure representation by a solicitor or advocate in the civil courts, covering cases heard by the Scottish Employment Appeals Tribunal and those concerning disability discrimination. Additional payments to cover reasonable costs of additional communication support between a solicitor and their client are also available.

56. **(c)** Systems are in place for disabled jurors to provide information about their required reasonable adjustments, allowing arrangements to be made ahead of jury service. Jurors can have pre-court visits to discuss reasonable adjustments with court staff. If it is impossible to make the necessary adjustments at the specified court, the juror's service may be transferred to an appropriate court nearby. Jurors requiring third party assistance within the deliberating room, like a sign language interpreter, are currently disqualified from jury service because of the principle of the 13th juror. Under common law<sup>24</sup> the jury are entitled and bound to deliberate in private. If a stranger, whether an officer of the court or not, is present for a substantial time during their deliberations, the verdict becomes invalid; UKG courts are bound against making such reasonable adjustments.
57. In Scotland, a working group chaired by a senior judge has been exploring how to support and enable disabled members of the public and people with communication difficulties to fulfil their civic duty as jurors.
58. **(d)** Her Majesty's Courts & Tribunals Service takes its responsibilities under EA2010 seriously, providing staff with guidance on the duty to consider reasonable adjustments and provide equal access to services and facilities. The Judicial College provides guidance through its Equal Treatment Bench Book<sup>25</sup> to Courts and Tribunals judiciary on all aspects of fair treatment in court which includes disability. It has also developed materials (including e-learning) supporting its strategy that all training includes aspects of the social context of judging.
59. In Scotland, the equal treatment of everyone appearing in court is of prime importance to the Judicial Institute and a core judicial responsibility<sup>26</sup>. Guidance and advice for judicial office is in the Equal Treatment Bench Book, publically available on the Scottish Judiciary website<sup>27</sup>.

### **Liberty and security of the person, Article 14 (issue 9a-b)**

60. **(a)** The Mental Capacity Act 2005 sets out the safeguards which must be met to authorise deprivations of liberty. A 2014 Supreme Court decision resulted in significantly more individuals coming into the category of people whose deprivation of liberty requires authorisation by the Court. In light of criticisms,

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<sup>24</sup> Goby v Wetherill. [1915] 2 K.B. 674.

<sup>25</sup> <https://www.judiciary.gov.uk/publications/equal-treatment-bench-book/>

<sup>26</sup> <http://www.scotland-judiciary.org.uk/Upload/Documents/StatementofPrinciplesofJudicialEthicsrevisedDecember2016.pdf>, section 8 addresses 'the principle of equality'.

<sup>27</sup> <http://www.scotland-judiciary.org.uk/Upload/Documents/EqualTreatmentBenchBook110216.pdf>

UKG asked the Law Commission to investigate and make recommendations on the process. The report was published in March 2017 and is currently under consideration.

61. In Northern Ireland, the Mental Capacity Act (Northern Ireland) 2016, once commenced, will provide the legislative framework for people lacking capacity.
62. **(b)** UKG is committed to supporting disabled people to live independently and be included in the community, including upholding the right to choice and control of residence and healthcare. In England and Wales, the Deprivation of Liberty Safeguards protect people's rights by ensuring any deprivation of liberty is in the person's best interests, the least restrictive possible, assessed independently and challengeable in court. In practice, care homes and hospitals must apply to LAs to authorise a deprivation and the Care Quality Commission monitors the use of the safeguards.
63. Regarding abuse in care, a 'wilful neglect' offence came into force in April 2015 to address instances of abuse towards people dependant on care services. Serious allegations of abuse and neglect should be thoroughly investigated and prosecutions brought where warranted.
64. In Scotland, the Mental Health (Care and Treatment) (Scotland) Act 2003 Code of Practice states that all relevant local agencies should work closely together to ensure the provision of sufficient places of safety within their localities, designating agreed preferred places of safety and ensuring all parties are fully aware of their location and use. Designated places of safety must be suitably equipped and staffed by qualified mental health staff with experience of managing acute mental disorder.
65. In Wales, the revised Code of Practice for the Mental Health Act 1983 (MHA1983) underlines the guiding principle of applying the least restrictive options and maximising a person's independence at decision making points. The Mental Health Review Tribunal for Wales provides the safeguard of the right to apply for an independent review of a person's detention under the Act. The Health Inspectorate Wales and the Care and Social Services Inspectorate Wales monitor the implementation of NHS Deprivation of Liberty Safeguards across health and care settings.

**Freedom from torture or cruel, inhuman or degrading treatment or punishment, Article 15 (issue 10a-b)**

66. **(a)** UKG has undertaken work to reduce the use of restraint. In prisons, every use of restraint must be lawful, proportionate, reasonable, and in full accordance with HM Prison and Probation Service policies (updated 2015).

Restraints are applied to maintain safety and security, and use must be fully recorded. They are used within prisons where an escorted prisoner is either non-compliant or the escort passes through an insecure part of prison. Every external escort is risk assessed for the need to apply restraints; where restraints are inappropriate for medical or decency reasons, additional escort staff are provided. All operational staff receive training in use of force techniques and policies are regularly reviewed.

67. The 'Minimising and Managing Physical Restraint' policy, implemented in Secure Training Centres (STCs) and Young Offender Institutions, uses de-escalation techniques to ensure restraint is only used when absolutely necessary. Any disabled young person entering a secure environment will have a local restraint handling plan. Secure Children's Homes and STCs can only use restraint to protect children and prevent injury, serious damage to property or prevent escape. Use must be reviewed following each incident.
68. All use of force by police, including using restraints, must be both necessary and proportionate. A review of data collected and published about the use of restraint recommended that police forces record a range of data in all instances when significant force is used, including restraint techniques and equipment. A sub-set of this data will be published in 2017/18, supporting understanding of the scale and nature of police use of force and restraint, and enhancing police accountability.
69. In social care, England's 'Positive and Proactive Care' (published in 2014) provides guidance for adult health and social care staff to use restrictive interventions only as a last resort. It sets out mechanisms to ensure accountability, including effective governance, transparency and monitoring. For children, the use of restraint in English schools is being reviewed; the Council for Disabled Children have been commissioned to draft guidance on reducing the risk of restraint for children and young people with autism, learning difficulties or disabilities, and mental health issues in special schools, and health and care contexts.
70. Scotland will include guidance on physical intervention in 'Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing Schools Exclusions'. This includes advice regarding children with complex additional support needs; it clearly states physical intervention should be used only as a last resort.
71. **(b)** UKG responded in detail to the EHRC, explaining how it intended to act on recommendations made by the Commission on prison, health and police custody. Lessons are learned from any unexpected deaths in custody to help prevent further such deaths.

72. In Wales, operational safeguards (which Local Health Boards are required to apply) in relation to use of restraint are set out within the MHA1983 Code of Practice for Wales<sup>28</sup>.

### **Freedom from exploitation, violence and abuse, Article 16 (issue 11a-c)**

73. **(a)** The EA2010 protects people from harassment and victimisations on the basis of gender, age, and gender reassignment. Legal aid supports access to justice, providing legal advice and representation for EA2010 harassment or victimisation cases. Additionally, the Youth Justice and Criminal Evidence Act (1999) states that witnesses considered vulnerable, because they are under 18 years or have a mental or physical disability, are eligible for the assistance of an intermediary. Intermediaries support witnesses to understand the questions asked of them and give their evidence during the police interview and in court.

74. Northern Ireland's Registered Intermediaries scheme similarly assists vulnerable witnesses to communicate effectively during police investigations and subsequent trials. In Scotland, the Equally Safe strategy is strengthening the law and investing significant resources to tackle these issues.

75. **(b)** In July 2016, UKG published a four-year cross-government hate crime action plan outlining concrete initiatives to reduce hate crime, on the basis of disability and several other specific protected characteristics. It includes measures to address under-reporting of disability hate crimes and harassment, and to increase prosecutions. This is being achieved through third party reporting centres within disability advocacy organisations and supporting relevant campaigns such as #imwithsam<sup>29</sup>. Additionally, joint training between Crown Prosecution Service prosecutors and police was delivered to improve the identification, investigation and prosecution of disability hate crime. In 2015-16 there was a 40.6% increase in successful prosecutions compared with 2014-15.

76. Northern Ireland's Community Safety Strategy includes a commitment to tackling all forms of hate crime through prevention, awareness, education and support for victims and communities. The Disability Hate Crime Advocate service aims to remove barriers preventing victims of disability hate crime reporting incidents.

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<sup>28</sup> <http://gov.wales/docs/dhss/publications/160920mentalacten.pdf> refers to the EHRC recommendations.

<sup>29</sup> <https://www.dimensions-uk.org/campaign/imwithsam/>

77. Scotland established an Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion, which reported in September 2016. In June 2017, the Scottish Government set out a programme of action to implement the recommendations of the Advisory Group. Lord Bracadale was appointed in January 2017 to conduct an independent review of hate crime legislation.
78. The Welsh Government's Tackling Hate Crimes and Incidents: A Framework for Action<sup>30</sup> includes objectives on prevention, support, and improving the multi-agency response.
79. (c) In Northern Ireland, electro-convulsive therapy can only be provided without consent if a second opinion has been provided. When the Mental Capacity Act (Northern Ireland) 2016 is commenced, electro-convulsive therapy is not provided without consent if the person has mental capacity to provide consent. If a person lacks capacity, electro-convulsive therapy will only be permissible if in the person's best interests and a second opinion concurs.
80. NHS Education for Scotland published an updated version of 'The Matrix: a Guide to Delivering Evidence-based Psychological Therapies in Scotland'<sup>31</sup> in 2015. This summarises evidence on different therapeutic approaches, provides advice on psychological therapy services, and cites individually tailored interventions. Evidence-based good practice guidelines produced by the Scottish Intercollegiate Guidelines Network also inform Scottish practice.
81. The Code of Practice for Wales on the MHA1983 sets out guidance for treatments subject to special rules and procedures including ECT in Chapter 25. Additionally, it provides information for patients, their families and carers.

### **Protecting the integrity of the person, Article 17 (issue 12)**

82. The requirement to obtain valid consent for examination or treatment is a matter of law applicable to all people equally; disability is not sufficient reason to forcibly impose treatment. Consent is central to all forms of healthcare, including treatment leading to sterilisation. For the small minority of people lacking the mental capacity to make their own decisions, UK law allows treatment to be given where it is in their best interests, subject to important safeguards.

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<sup>30</sup> <http://gov.wales/topics/people-and-communities/equality-diversity/rightsequality/hate-crime/?lang=en>

<sup>31</sup> [http://www.nes.scot.nhs.uk/education-and-training/by-discipline/psychology/the-matrix-\(2015\)-a-guide-to-delivering-evidence-based-psychological-therapies-in-scotland.aspxv](http://www.nes.scot.nhs.uk/education-and-training/by-discipline/psychology/the-matrix-(2015)-a-guide-to-delivering-evidence-based-psychological-therapies-in-scotland.aspxv)

83. Scots law does not include a specific criminal offence of forced sterilisation; however, this would amount to an assault under common law (most likely an aggravated assault) and could be prosecuted on that basis.

**Liberty of movement and nationality, Article 18 (issue 13)**

84. UKG maintains its Article 18 reservation on liberty of movement and nationality. It is appropriate and proportionate to reserve the right to apply such legislation, insofar as it relates to the entry into, stay in and departure from the UK of people without the right (under UK law) to enter and remain in the UK.

**Living independently and being included in the community, Article 19 (issue 14-16)**

85. **(14a)** NHS England and partners' Building the Right Support (2015) plan proposes developing community services and closing inpatient facilities for people with a learning disability or autism (and challenging behaviour) to reduce by between 35 and 50% the number of people in inpatient settings by 2019. The plan also incorporates an outline national service model.
86. EA2010 supports community inclusion by providing legislative protection from discrimination in a number of areas, (including housing and provision of goods and services) and by imposing statutory duties on organisations to make reasonable adjustments. These protections can be used to improve access to services and workplaces, and make changes to living environments to facilitate independent living.
87. **(b)** Additional to EA2010 protections, legislation like Housing Renewal Grant Regulations (1996) supports independent living by placing a statutory duty on housing authorities to provide home adaptations for disabled people who qualify for the Disabled Facilities Grant.
88. In England, the Care Act 2014 is helping to overturn traditional approaches to disability in health and social care by placing greater power in the hands of service users, including disabled people. Stating the right to personal budgets, the Act enables greater control over the care services disabled people use. It also places a duty on LAs to ensure that, in future, adults using social care services have control over their day to day life.
89. The Social Services and Well-being (Wales) Act 2014 provides the statutory framework to deliver the Welsh Government's commitment to transform its social services, improving the well-being of people needing care and carers needing support.

90. **(c)** UKG recognises the social and financial benefits in supporting disabled people to live independently wherever possible. Subject to means-testing, disabled people are entitled to state support to meet the cost of their personal care, whether living independently or in residential care. The amount of a person's income disregarded from the means test is lower where people are in residential care, and is dependent on the person's age.
91. **(d)** UKG does not consider UK Overseas Territories to be within scope of this periodic review as it has not extended its ratification to their jurisdictions.
92. The Northern Ireland Department of Health works with the Scottish Government and provides funding to the Independent Living Fund Scotland to make direct cash payments of £250 a week to severely disabled people with very significant care needs. A substantial proportion of the Supporting People programme, which funds housing services facilitating independent living, is directed at services for people with physical and learning disabilities.
93. The Social Care (Self-directed Support) (Scotland) Act 2013 helps people make informed choices about their social care, and supports people to live independently and be active citizens in their community (allocating about £50m in the Scottish Independent Living Fund).
94. Wales supports people to live independently through social care provision; former recipients of support from the Independent Living Fund will have their future support reviewed and a new care and support plan identified. Additionally, the Welsh Government's Framework for Action on Independent Living promotes the rights of disabled people in Wales. The framework sets out how the Welsh Government is implementing the Convention and is currently being refreshed.
95. **(15)** UKG has taken steps in recent years to increase independent living, including introducing the Care Act 2014<sup>32</sup> in England. The Act's guidance emphasises the need to ensure people retain control of their day-to-day life and remain in suitable living accommodation. Local Housing Authorities are under a statutory duty to provide adaptations to the homes of disabled people qualifying for the Disabled Facilities Grant (worth £431million in 2017/18). LAs are subject to a legal check on how new dwellings accommodate disabled people, and must ensure reasonable preference for social housing is given to certain groups of people (like people moving due to disability).

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<sup>32</sup> <http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>

96. **(16)** In Northern Ireland, the Inter-Departmental Review of Housing Adaptations Services Final Report and Action Plan 2016 includes a recommendation to strengthen the representation and engagement of disabled people in decision making structures; a disability forum has subsequently been established. The Strategy Implementation Group is supported by other groups that include disabled people. Additionally, the Physical and Sensory Disability Strategy and Action Plan aims to improve services and support for individuals (regardless of age) with physical, sensory, or communication disabilities; section 7.4 refers specifically to services supporting independent living.
97. In Scotland, Self-directed Support<sup>33</sup> allows disabled people, their carers and families to make informed choices about their social care. LAs have a legal duty to offer people eligible for social care a choice of care and support, and ensure they have support to make informed choices.
98. In 2016/17 Wales provided over £124.4m Support People<sup>34</sup> funding to deliver housing related support (including living independently) to the most vulnerable people; this budget has been protected for 2017/18. This programme also provides a range of support to help disabled people to find and maintain accommodation.

### **Freedom of expression and opinion, and access to information, Article 21 (issue 17)**

99. British sign language (BSL) was legally recognised as a language in its own right by UKG in March 2003. EA2010 includes provisions ensuring that reasonable adjustments are provided for disabled people, including deaf or hearing impaired people; such provision might reasonably include the provision of BSL interpretation. BSL facilities are provided at most government sponsored events and many public events.
100. Children with hearing impairments receive a wide range of specialist support through the school system. Over 93% are now able to attend their local mainstream schools, while receiving additional support through specialist units. 132 of 152 LAs in England have expert teams of teachers holding a qualification in teaching pupils with hearing impairments, and provide advice and support to schools and families. Specialist schools are available for the small number of deaf and deaf-blind pupils with more complex needs.

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<sup>33</sup> <http://www.gov.scot/Topics/Health/Support-Social-Care/Support/Self-Directed-Support>

<sup>34</sup> <http://gov.wales/topics/housing-and-regeneration/services-and-support/supporting-people/?lang=en>

101. The Northern Ireland 2016 public consultation on the Sign Language Framework contains legislative and policy proposals to promote BSL/Irish Sign Language and improve access to all public services for sign language users. This builds on current initiatives providing deaf awareness and BSL/Irish sign language courses to children, families, voluntary/community sector service providers, universities and schools.
102. The BSL (Scotland) Act 2015 promotes and supports BSL. BSL can now be learned in school as a third language. The Scottish Government is reviewing the BSL/English interpreting context (including skill levels, training and regulation), and exploring how to increase the number of BSL interpreters skilled in specialist contexts such as health and justice.

### **Education, Article 24 (issue 18a-f)**

103. **(a)** UKG maintains its reservation as it considers that there are circumstances in which a disabled child's educational needs are best met through specialist provision outside their local community. Consistent with the interpretative declaration entered when the UK ratified the Convention, UKG is committed to enabling parents to have choice in accessing places for their children at mainstream and special schools.
104. **(b)** Discrimination against disabled people in education is prohibited by EA2010. The Children and Families Act 2014 further secures the general presumption in law of mainstream education in relation to decisions about where young people with Special Educational Needs and Disability (SEND) should be educated. This presumption is supported by provisions ensuring the parent, or young person's preferences are met. However, some statutory limitations exist, on suitability of placement; and compatibility with efficient use of resources and efficient education of others.
105. In England, staff working with disabled children and young people in mainstream schools must include them in all opportunities to participate with other young people, in line with SDG 4. All teachers in maintained schools and special schools must hold Qualified Teacher Status. Some special schools work collaboratively with mainstream schools to develop approaches and share expertise.
106. In Northern Ireland, a new special educational needs framework will be implemented in the 2018/19 academic year. The Education Authority will have a duty to have regard to the views of the child, and children over 16 will have new rights including the right of appeal.

107. In Scotland, the presumption to mainstream education in Scotland includes three key exceptions in the placement decision; these consider the best interests of the child and the level of adaptations needed. Decisions on schooling can be challenged under the Additional Support for Learning Act.
108. The Welsh Government has produced Inclusion and Pupil Support<sup>35</sup> guidance for schools, LAs and partner organisations, and is currently considering the Additional Learning Needs and Education Tribunal (Wales) Bill<sup>36</sup>.
109. **(c)** The ‘Special Educational Needs in England’<sup>37</sup> January 2016 Statistical First Release publication includes a breakdown of special educational needs by institution type, need, age, gender and ethnicity<sup>38</sup>. Figures for the devolved administrations<sup>39 40</sup> are also publicly available. See Annex B..
110. **(d)** The SEND Code of Practice is clear that professionals should involve parents at every stage of planning and reviewing support. Parents have the right to request a particular school as part of the process of agreeing an Education, Health and Care (EHC) plan. Where a child or young person does not have an EHC plan, they must be educated in mainstream schools in most circumstances.
111. The Scottish Schools (Parental Involvement Act) (Scotland) 2006 requires schools and councils to work with parents and colleagues across services to prepare a strategy on parental involvement. Scotland’s ambition is to become a world leader in parent engagement, driving more collaborative approaches which support parents and families as equal partners. Scottish Government funds organisations through the Children, Young People and Families Early Intervention Fund to support parents with disabled children, and provides £2.8 million per year to the Family Fund which gives direct small grants to families on low incomes with severely disabled children. Additionally, it funds Enquire (the Scottish advice service for additional support for learning) to produce advice for parents and carers on additional support for learning, including a factsheet on choosing a school and parents’ associated rights.
112. **(e)** Disabled Students’ Allowance (DSA) provides non-means tested support to meet adjustments that disabled students need to access higher education, where adjustments go beyond what can be reasonably expected of Higher

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<sup>35</sup> <http://gov.wales/docs/dcells/publications/160318-inclusion-and-pupil-support-en.pdf>

<sup>36</sup> <http://www.senedd.assembly.wales/mgIssueHistoryHome.aspx?IId=16496>

<sup>37</sup> <https://www.gov.uk/government/statistics/special-educational-needs-in-england-january-2016>

<sup>38</sup> <https://www.gov.uk/government/statistics/special-educational-needs-in-england-january-2016>

<sup>39</sup> <http://www.gov.scot/Topics/Statistics/Browse/School-Education/dspupcensus/dspupcensus16>

<sup>40</sup> <http://gov.wales/docs/statistics/2016/160727-school-census-results-2016-en.pdf>

Education providers. Changes to DSA don't remove support, but complement efforts Higher Education providers make to meet their duty to provide reasonable adjustments under EA2010<sup>41</sup>. Funding remains available through DSA for more specialist support. An exceptional case process provides interim funding for students during disputes with Higher Education providers about assessed reasonable adjustments.

113. **(f)** All UK initial teacher training courses must ensure that trainee teachers meet the appropriate level of Teachers' Standards, including understanding the needs of disabled children. Disability awareness resources are widely available for teachers to increase their own awareness and build more inclusive classroom environments, these include autism awareness training. Additionally, teachers taking up the special educational needs co-ordinators role must hold Qualified Teacher Status and undertake the Master's level National Award in SEN Coordination within 3 years of taking up the role. Teachers teaching full classes of children with sensory impairments must do mandatory training when taking up this role.

114. In Scotland, Initial Teacher Education providers are obliged to ensure that their graduating students understand the expectations of meeting all children and young people's needs in fair and just ways to ensure equality and inclusion.

115. Wales is currently reforming the way teacher education is delivered. This will make clear the responsibility on all teachers and leaders to ensure the needs of all learners are met, including pupils with additional learning needs.

### **Health, Article 25 (issue 19a-g)**

116. **(a)** Securing consent is integral to NHS practice, regardless of whether the patient is disabled. Where a disabled person is deemed to have mental capacity, their consent must be obtained for treatment to take place. The Mental Capacity Act 2005 and related Code of Practice set out the basis for assessing mental capacity.

117. England's Accessible Information Standard aims to ensure disabled people are provided with information they understand and support to communicate effectively with health and social care services. All organisations providing NHS care or publically funded social care are legally required to follow this standard (since August 2016).

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<sup>41</sup> This doesn't apply to Northern Ireland.

118. In addition to the Mental Capacity Act (Northern Ireland) 2016, Northern Ireland is developing a service framework for mental health, setting out standards of care expected from the health and social care system.
119. Following the Montgomery Supreme Court judgment, Scotland is reviewing its consent process. The judgment emphasises that discussing risk is about having a meaningful, clear conversation and coming to a shared decision, which can take time; revised guidance on consent will be developed.
120. **(b)** All organisations providing NHS care, or publically funded social care in England are legally required to follow the Accessible Information Standard. The Health and Social Care Act 2008 <sup>42</sup> states that patients must be protected against risks associated with unsafe and unsuitable premises, including by means of suitable design and layout. Best practice and statutory provisions for accessibility to physical facilities where healthcare is provided are incorporated in Health Building Notes<sup>43</sup> explaining how healthcare buildings should be designed.
121. Under the NHS Act 2006, the Children Act 1989, the Care Act 2014, and the Children and Families Act 2014, commissioners of health and social care have a duty to ensure they meet the needs of everyone they are responsible for. This includes ensuring that physical facilities are accessible. Scotland is focusing on additional training for health professionals on autism and learning difficulties.
122. **(c)** Sexual and reproductive health information for the general public is available in multiple formats, supporting improved access for disabled women. Furthermore, UKG's Framework for Sexual Health Improvement in England<sup>44</sup> sets out the evidence base to improve sexual health services at a local level, and provides information and support tools to ensure availability of accessible services and interventions.
123. In Scotland, sexual and reproductive health services are a routine part of health care. The Scottish Government is working with NHS Education Scotland to develop a learning disability training framework to support health and social care staff, including staff in sexual and reproductive health clinics.
124. The Sexual Health and Wellbeing Action Plan for Wales 2010-2015 resulted in a number of service and outcome improvements for women. The Welsh

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<sup>42</sup> <http://www.legislation.gov.uk/ukdsi/2009/9780111487006/regulation/15>

<sup>43</sup> <https://www.gov.uk/government/collections/health-building-notes-core-elements>.

<sup>44</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/142592/9287-2900714-TSO-SexualHealthPolicyNW\\_ACCESSIBLE.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/142592/9287-2900714-TSO-SexualHealthPolicyNW_ACCESSIBLE.pdf)

Government is now reviewing sexual health services to inform the work of the new Sexual Health Programme Board.

125. **(d)** UKG funded the open access Disability Matters<sup>45</sup> training (launched in February 2015) to improve understanding and support for disabled people. Aimed at healthcare professionals in particular, it supports the aims of SDG 3.7.
126. Scotland is developing national learning disability guidelines to help identify staff training needs and improve service delivery across all NHS services. An autism training framework produced by NHS Education Scotland further upskills the health and social care workforce to support people with autism.
127. **(e)** The NHS Mandate, which sets expectations of the NHS, including the following in objective 6 : ‘We expect NHS England to strive to reduce the health gap between people with mental health problems, learning disabilities and autism and the population as a whole, and support them to live full, healthy and Independent lives.’ This objective is monitored through the performance assurance process of NHS England, and in turn, clinical commissioning groups.
128. The Scottish Learning Disabilities Observatory at the University of Glasgow provides information about the health and care of people with learning disabilities and people with autism in Scotland.
129. **(f)** The Priorities for Care of the Dying Person 2014<sup>46</sup> set out the principles of high quality, compassionate, individualised care on which all care in the last days and hours of life should be based. Guidance<sup>47</sup> on decisions relating to cardiopulmonary resuscitation was published in October 2014 (and revised in 2016) by the Resuscitation Council UK, British Medical Association and Royal College of Nursing. This takes into account developments in clinical practice and law regarding anticipatory decisions, and emphasises the importance of involving people (or representatives if they are unable to make decisions themselves) in the decision-making process. UKG has commended this guidance as a basis for local ‘Do Not Attempt Cardiopulmonary Resuscitation’ policies.
130. Scotland’s revised policy <sup>48</sup>(published in August 2016) aims to ensure decisions are made in accordance with the Human Rights Act (1998), Adults with Incapacity (Scotland) Act 2000, and international human rights. The All

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<sup>45</sup> <https://www.disabilitymatters.org.uk/>

<sup>46</sup> <https://www.gov.uk/government/news/new-approach-to-care-for-the-dying-published>

<sup>47</sup> [www.resus.org.uk/dnacpr/decisions-relating-to-cpr/](http://www.resus.org.uk/dnacpr/decisions-relating-to-cpr/)

<sup>48</sup> <http://www.gov.scot/Resource/0050/00504976.pdf>.

Wales Do Not Attempt Cardiopulmonary Resuscitation policy<sup>49</sup> includes a specific section on mental capacity.

131. **(g)** The UK-wide National Confidential Inquiry annual report on suicide includes information on people with learning disabilities in contact with mental health services. The Learning Disabilities Mortality Review Programme will also consider suicide as a cause of death in people with learning disabilities.
132. The Cross-Government National Suicide Prevention Strategy for England published in 2012 outlined key areas of action to reduce suicide, including tailoring mental health approaches for people with specific needs. Updated in January 2017, it includes a commitment for all local areas to have multi-agency suicide prevention plans by December 2017.
133. In Scotland, a new action plan on suicide is expected to be published in 2018. There is a strong focus in Scotland on suicide prevention training to enable frontline workers in health, social and criminal justice services to recognise signs of suicidal ideation and intervene effectively, complemented by work to reduce suicide-related stigma.
134. The Talk to Me 2 - Suicide and Self Harm Prevention Strategy for Wales 2015-2020<sup>50</sup> takes a targeted approach, identifying particular groups of people who are especially vulnerable, including some disabled people.

### **Work and employment, Article 27 (Issues 20-21)**

135. **(20)** EA2010 protects disabled people from direct and indirect discrimination in employment, including recruitment practices; a disabled person can appeal to an Employment Tribunal if they feel they have been discriminated against on the basis of disability in employment. Other claims for breaches to the EA2010 on the basis of disability would be made to a civil court.
136. Employers have a duty to provide reasonable adjustments under EA2010. Where adjustments go beyond what can be reasonably expected from an employer, Access to Work<sup>51</sup> provides practical and financial support to meet these additional costs. Access to Work's Mental Health Support Service is conducting a two-year trial of targeted support for apprentices with mental health conditions.
137. Initiatives to increase the number of employment opportunities for disabled people include the UKG's new Disability Confident scheme (launched in

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<sup>49</sup> <http://www.wales.nhs.uk/sitesplus/documents/862/134%20-DNACPR%20Policy%20English.pdf>

<sup>50</sup> <http://gov.wales/docs/dhss/publications/150716strategyen.pdf>

<sup>51</sup> <https://www.gov.uk/access-to-work>

November 2016); employers commit to offering interviews to disabled applicants meeting the minimum job criteria, and considering them on ability alone. More than 4000 organisations have signed up.

138. 3.5m working age disabled people are in employment in the UK<sup>52</sup>, a 292,000 increase since the same quarter in 2015. Recognising the importance of maintaining this upward trend, a range of mainstream and specialised employment support is available through Jobcentre Plus (JCP). Mainstream support includes access to JCP work coaches, who provide personalised back to work support, including volunteering opportunities, skills support, work experience and local activity through the Flexible Support Fund. All work coaches are trained to support people with complex needs, including disabled people.

139. Other specialised support includes:

- New Enterprise Allowance supports unemployed people to start their own business. Around 23% of people who have started since April 2011 have a self-declared disability<sup>53</sup>;
- Work Choice supports people with complex disability-related barriers into employment; and
- Specialist Employability Support provides specialist disability employment support for individuals with particularly complex barriers to work.

140. Northern Ireland launched its Employment Strategy for People with Disabilities' in March 2016, to improve job prospects and careers for disabled people. The Disability Employment Stakeholder Forum, which includes disabled members, will monitor progress.

141. A 'Fairer Scotland for Disabled People' includes a commitment to reduce by at least half, the employment gap between disabled people and the rest of the working population. Newly devolved services from April 2017 target disabled people and will measure how many disabled people are helped into work. Other measures to reduce unemployment among disabled young people with disabilities include increasing take up of Modern Apprenticeships by this group.

142. **(21)** There is currently no official measure of the pay gap for work of equal value among people with and without disabilities. Measurement of the

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<sup>52</sup> As of first quarter 2017

<sup>53</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/605672/nea-official-stats-to-december-2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/605672/nea-official-stats-to-december-2016.pdf) The number of starts on the scheme does not directly correspond to the number of people on the scheme, as it is possible to start multiple times.

disability pay gap is complex; limitations to data sources and methodologies need to be overcome to measure it robustly. Estimates from the second quarter of 2015 show that disabled people received an average hourly wage rate around £12.20, compared with £14.10<sup>54</sup> for non-disabled people.

143. UKG's Improving Lives: Work, Health and Disability green paper<sup>55</sup> set out the aim for people with disabilities and health conditions to reach their full potential in work, going as far as their talent and drive can take them. The green paper asked about the role of government in ensuring disabled people can progress in work, including securing senior roles. Consultation responses contribute to the evidence base on how employers could be helped to encourage progression in work and how they can access information and support.

#### **Adequate standard of living and social protection, Article 28 (issues 22-23)**

144. (22) The welfare system continues to provide a comprehensive system of support for disabled people in the UK; in 2015-16, UKG spent nearly £17 billion on Personal Independence Payment and DLA, compared to £11 billion in 2006-07<sup>56</sup>. Reforms to the UKG welfare system, implemented after the 2008 financial crisis, were intended to ensure adequate standards of living and include special protections for vulnerable people. For example, Universal Credit improves support for people with disabilities, including hidden disabilities.

145. UKG does not have one fixed monitoring system with set indicators applicable to all policies. Each public authority considers how best to monitor impacts of its policies, having due regard to the PSED and meeting EA2010 legal requirements. Evaluating effectiveness and efficiency of policies and seeking improvements where possible is standard practice, including for welfare reform policies. Where problems are identified - through performance information, data trends, engagement with external stakeholders or the general public - they are considered fully to decide if either the policy or its implementation needs to change. Additionally, independent reviews (such as of Work Capability Assessments<sup>57</sup>) have been carried out by respected professionals outside government.

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<sup>54</sup> <https://www.gov.uk/government/publications/fulfilling-potential-outcomes-and-indicators-framework-second-annual-progress-report>

<sup>55</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/564038/work-and-health-green-paper-improving-lives.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/564038/work-and-health-green-paper-improving-lives.pdf)

<sup>56</sup> <https://www.gov.uk/government/publications/benefit-expenditure-and-caseload-tables-2017> these figures are based on real terms spend in 2017/18.

<sup>57</sup> <https://www.gov.uk/employment-support-allowance>

146. As part of an agreement to implement UKG welfare reforms in Northern Ireland, specific funding has been provided for disabled people, who may also be eligible for additional financial support related to housing costs.
147. The Scottish Government is committed to tackling the intergenerational cycle of poverty and introduced the Child Poverty (Scotland) Bill to the Scottish Parliament in February 2017; it will establish stretching, income-based targets on child poverty.
148. **(23a)** UKG included safeguards in the welfare system to protect vulnerable people (including disabled people) least able to increase their earnings. Safeguards include exemption from the benefit cap (which sets the maximum amount of welfare benefits a household can receive) for people receiving the main disability-related benefits.
149. UKG believes that making a meaningful difference to the lives of disadvantaged children and families requires an approach that goes beyond the safety net provided by the welfare system and tackles the underlying causes of child poverty and disadvantage. This is why it replaced income-related child poverty targets with statutory measures of parental worklessness and children's educational attainment. Improving Lives: Helping Workless Families<sup>58</sup> provided a framework for a continued focus on improving children's outcomes, now and in the future.
150. The Welsh Government's Child Poverty Strategy for Wales and Assessment of Progress 2016: Summary Report<sup>59</sup> highlights progress made to tackle child poverty and improve outcomes of low income families in Wales.
151. **(b)** UKG has published cumulative analysis of the impacts of tax, welfare and public spending policies on households<sup>60</sup>. The last publication in March 2017 showed UK tax, welfare, and public spending as highly redistributive: households in the lowest income decile receive over £4 in public spending for every £1 they pay in tax, while households in the highest income decile contribute over £5 in tax for every £1 they receive in spending.
152. The Scottish Government plan to take a different policy approach from UKG when elements of the welfare system are devolved, taking a holistic stance on how social security can work best with the wider system of devolved responsibilities affecting disabled people's lives<sup>61</sup>.

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<sup>58</sup> <https://www.gov.uk/government/publications/improving-lives-helping-workless-families>

<sup>59</sup> <http://gov.wales/topics/people-and-communities/people/children-and-young-people/child-poverty/?lang=en>

<sup>60</sup> <https://www.gov.uk/government/publications/budget-2016-documents>.

<sup>61</sup> [https://consult.scotland.gov.uk/social-security/social-security-in-scotland/user\\_uploads/consultation-on-social-security-in-scotland---full-version.pdf](https://consult.scotland.gov.uk/social-security/social-security-in-scotland/user_uploads/consultation-on-social-security-in-scotland---full-version.pdf)

153. The Welsh Government has published<sup>62</sup> its research into the impact of UKG's tax and benefit reforms in Wales, including a cumulative impact assessment.
154. **(c)** Equality training is provided for officials involved in the development and implementation of policies who must consider potential impacts on people with protected characteristics detailed in the EA2010. Migration status is not considered a protected characteristic.
155. In Scotland, LAs have a duty under the Social Work Scotland Act 1968 to arrange care for people assessed as needing it, which should be provided on an equal basis to others.
156. **(d)** The Children and Families Act 2014 makes the special educational needs and disabilities system more person-centred and responsive to parents' needs. It states that LAs must have regard to the views, wishes and feelings of parents and support informed parental decisions. Additionally, the Special Educational Needs Code of Practice introduces rights for parents of children with disabilities to have their own needs assessed. Parents can bring a claim of disability discrimination against early years providers, schools and post-16 institutions.
157. **(e)** The Work Capability Assessment (WCA) is a functional assessment determining eligibility to ESA and elements of Universal Credit. There is no condition based entitlement to ESA; the WCA assesses individuals against a set of functional descriptors to determine how their illness or disability affects their ability to work and carry out everyday activities. UKG is committed to enabling disabled people to have the same opportunities to work as others (in accordance with their right to access employment on an equal basis), while ensuring people who cannot work due to disability, or health conditions, receive the support they need. The Improving Lives: Work, Health and Disability green paper consultation asked how WCAs might be improved; UKG is considering responses before deciding on next steps.

#### **Participation in political and public life, Article 29 (issue 24)**

158. Section 18 of the Representation of the People Act 1983 requires designated polling stations to ensure that, as far as possible, they are accessible to disabled voters. Polling stations must have a device enabling blind/partially sighted people to vote independently, and large print sample copies of the ballot paper must be displayed (with hand held copies provided on request). Polling station staff can assist disabled people to vote, or the

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<sup>62</sup> <http://gov.wales/topics/people-and-communities/welfare-reform-in-wales/analysing-reforms/?lang=en>

voter may take a companion to assist them. Disabled people may use postal voting, or appoint a proxy to vote on their behalf, in the same manner as other eligible voters. Legislation for elections in Scotland includes provisions to ensure anyone wishing to vote can do so on an equal basis.

## **Participation in cultural life, recreation, leisure and sport, Article 30 (issue 25)**

159. UKG expects all sports and sports clubs to fulfil their legal obligation under the EA2010 to make reasonable adjustments enabling disabled people to access sports venues on an equal basis. Work continues on ensuring a fully inclusive environment, building on London 2012 being recognised as the most accessible Games. By supporting the World Para-Athletics Championships in July 2017 at Queen Elizabeth Olympic Park in London, UKG continues to demonstrate commitment to changing attitudes and perceptions of disability, and increasing the accessibility of sports venues.

## **B. Specific obligations**

### **Statistics and data collection, Article 31 (issue 26)**

160. The UK reports regularly on disability equality issues based on a combination of routine and ad hoc surveys, and administrative data. The sources vary somewhat between the four constituent countries, but incorporate harmonised definitions and survey questions where appropriate. Data covers wide-ranging aspects including health<sup>63</sup>, education<sup>64</sup>, social participation<sup>65</sup>, income and employment<sup>66</sup>, as well as public attitudes to disability. The UK developed disability definitions and questions informed by international standards and public engagement with disabled people's organisations.

161. In Northern Ireland, the Office for First Minister and Deputy First Minister (which held policy responsibility for disability before May 2016) developed a set of key indicators to aid monitoring of the Disability Strategy (September 2012 – March 2017). Researchers from Queen's University and Ulster University are undertaking an independent study to inform data development in relation to disability policy; recommendations on definitions for disability, quality of life and family are anticipated later in 2017.

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<sup>63</sup> <http://www.content.digital.nhs.uk/catalogue/PUB22610>

<sup>64</sup> <https://www.hesa.ac.uk/data-and-analysis/students/widening-participation>

<sup>65</sup> [http://funding.sportengland.org/research/key-influences/sport-and-disability/;](http://funding.sportengland.org/research/key-influences/sport-and-disability/)  
<https://www.eurofound.europa.eu/surveys/european-quality-of-life-surveys>

<sup>66</sup> <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/labourmarketstatusofdisabledpeoplea08>

162. Scotland's Equality Evidence Strategy (due June 2017) will determine evidence gaps related to disability. It will set out plans for deciding on priorities and seek to address these with partners.

### **International cooperation, Article 32 (issues 27 and 28)**

163. **(27)** The Great Repeal Bill will convert EU law into domestic law when the UK exits the EU. This means, wherever practical and appropriate, the same rules and laws will apply on the day after the UK leaves the EU as did before. All protections in the Equality Act 2006, EA2010 and equivalent legislation in Northern Ireland will continue to apply. This approach will preserve rights and obligations already existing in the UK under EU law, and provide a secure basis for further developments to domestic law. UKG will ensure any impacts for disabled people are carefully considered during negotiations on the future relationship with the EU.

164. **(28)** An estimated 800 million people in developing countries have a disability. The 2016 Bilateral Development Review commits UKG to strengthen its international development work on disability and establish itself as a global leader in this area. UKG's ambition is to ensure people with disabilities are systematically and consistently included in, and benefit from, international aid and humanitarian assistance.

### **National implementation and monitoring, Article 33 (issue 29)**

165. The UKG focal point for disability is the Office for Disability Issues (ODI), which supports the cross-government portfolio of the Minister for Disabled People. The ODI provides advice across government on disability-related issues and facilitates discussions directly with disabled people. The UK's ratification of the Convention has not been extended to Overseas Territories. UKG encourages territories to seek the extension of international human rights treaties ratified by the UK, but only extends these when the territories are able to implement them.

166. UKG and its devolved administrations have a range of networks and engagement mechanisms to ensure disabled people feed into policy development. Such arrangements are supported by policy-specific engagement like consultations on the Improving Lives green paper and the Care Act 2014.

167. As the UK Independent Mechanism comprises several bodies - EHRC, Scottish Human Rights Commission, the Northern Ireland Human Rights Commission and the Northern Ireland Equality Commission - funding comes

from several sources. The EHRC is funded by the Government Equalities Office, which completed a detailed Comprehensive Budget Review in 2013, indicating an estimated minimum level of funding needed (£17.1m) for the EHRC to deliver its core statutory functions.

## **Follow-up to proceedings under the Optional Protocol**

### **Reply to the issues raised in paragraph 30 of the list of issues**

168. The UKG maintains the position of its response (CRPD.C.17.R.3-ENG) to the report of the inquiry procedure under article 6 of the Optional Protocol. The constructive dialogue throughout this examination will further showcase UKG's commitment to progressing the rights and lived experience of disabled people.