**Equality and Human Rights Commission response to the UN Special Rapporteur on the rights of persons with disabilities’ call for evidence on disability-inclusive policies (England and Wales)**

1. **Summary**

The Equality and Human Rights Commission (EHRC) is the national equality body and National Human Rights Institution (NHRI) for Great Britain.

This submission is in response to the call for evidence by the UN Special Rapporteur on the rights of persons with disabilities for her inquiry on disability-inclusive policies.

## The paper:

* lays out the legislative and policy framework concerning non-discrimination and accessibility for disabled people in Great Britain, with a focus on England and Wales;
* provides additional detail about two components of the Equality Act 2010 (EA 2010): the Public Sector Equality Duty (PSED) and the duty to make reasonable adjustments for disabled people. Some of the weaknesses in these duties are highlighted, and examples of both good and poor practice are provided; and
* outlines remaining gaps in the EA 2010, including provisions that have not yet been brought into force, and some new measures that could better secure equality for disabled people.

## Key recommendations made in this submission include:

* the UK Government should lay before Parliament, as statutory codes of practice, the technical guidelines for fulfilling the PSED
* the UK Government should conduct ongoing monitoring to understand the cumulative impact of future Spending Reviews and budgets on disabled people;
* there is a need for better guidance on the duty to make reasonable adjustments, which the EHRC will consider further
* the UK Government should bring all provisions in the EA 2010 that have not yet been commenced into force
* the UK Government should consider introducing new measures to address gaps in protection for: workers who do not fall within the definition of an employee, contract worker or an agent of the employer; disabled air travellers; children in education with particular types of impairment affecting behaviour; workers when there is a transfer of business owner/operation; and volunteers, and
* a comprehensive review of access to justice for discrimination cases is needed to make sure that disabled people can access good quality, cost effective advice and dispute resolution in light of recent changes in the civil justice system.
1. **Scope**

The EHRC has chosen to focus this submission on Great Britain's legislative and policy framework concerning non-discrimination and accessibility for disabled people. This primarily addresses the second question of the Special Rapporteur’s inquiry, which is to ‘provide information on the legislative and policy framework in place in your country concerning non-discrimination’. It also touches on the third question that asks for ‘information on the legislative and policy frameworks in place in your country concerning accessibility for persons with disabilities’. See annex 1 for full details on these questions.

The paper focuses largely on the EA 2010. The provisions of the EA 2010 that are most relevant for the topic of disability-inclusive policies are the **PSED** and the **duty to make reasonable adjustments** particularly in relation toservices and public functions.

The UK House of Lords Select Committee on the Equality Act 2010 and Disability recently reviewed the provisions and implementation of the EA 2010 in relation to how it serves disabled people.[[1]](#footnote-1) The review drew on the views of a range of stakeholders and provides particularly relevant and recent analysis; findings from that report are referred to, where relevant, throughout this submission.

While many points relate to Great Britain (England, Wales and Scotland) as a whole, this submission focuses on England and Wales; a separate submission on Scotland has been prepared jointly by the EHRC and the Scottish Human Rights Commission.

1. **Legislative and policy framework concerning non-discrimination**

## 3.1 The Equality Act 2010

The EA 2010 came into force from October 2010 and provides a modern, single legal framework to effectively tackle disadvantage and discrimination and advance equality.[[2]](#footnote-2) The EA 2010 applies across Great Britain (England, Wales and Scotland)[[3]](#footnote-3) and covers the provision of services and carrying out of public functions, the disposal and management of premises, employment and education. Anyone who believes that they have been treated unlawfully in breach of the EA 2010 can bring civil proceedings in the relevant court or tribunal (see section 3.4).

Disability is one of the nine protected characteristics in the EA 2010.[[4]](#footnote-4) A person must meet the definition of disability in the Act to be protected from unlawful discrimination. A person has a disability, for the purposes of the EA 2010 if they have a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.[[5]](#footnote-5)

## 3.2 Disability discrimination under the Equality Act 2010

There are different forms of disability discrimination that are prohibited by the EA 2010:

* **Direct disability discrimination** is when a disabled person is treated less favourably than another person because of their disability. Non-disabled people are protected against direct disability discrimination **only** where they are perceived to have a disability or are associated with a disabled person.
* **Discrimination arising from disability** is when a disabled person is treated unfavourably because of something connected with their disability and the treatment is not a proportionate means of achieving a legitimate aim. This form of discrimination only applies to disabled people. No comparator is needed.
* **Indirect disability discrimination** is when an apparently neutral provision, criterion or practice puts disabled people at a particular disadvantage and it is not a proportionate means of achieving a legitimate aim.
* **Duty to make reasonable adjustments** is the requirement to take positive steps to ensure that disabled people can access services in the same way as non-disabled people. The failure to comply with a duty to make reasonable adjustments is unlawful discrimination.

The EA 2010 prohibits **harassment** related to disability and **victimisation** related to raising a complaint or providing information/ evidence of disability discrimination.

It is **unlawful for employers**, except in specific circumstances, **to ask questions about health or disability** before the offer of a job is made or someone is placed in a pool of people to be offered a job.

Since disability discrimination is asymmetrical (i.e. people are not protected from discrimination because they are not disabled) it is not unlawful to treat disabled people more favourably than non-disabled people.

The EA 2010 also permits **positive action** measures to improve equality for and between disabled people. Positive action is optional; it must be proportionate and can be taken:

* to overcome a disadvantage experienced by people with a particular disability
* to meet the particular needs of people with a particular disability, and
* where people with a particular disability have disproportionately low participation in an activity.

## 3.3 Public Sector Equality Duty

The EA 2010 places an **equality duty on public authorities**,[[6]](#footnote-6) including ministers and government departments, local authorities, health and social services authorities, the police and the armed forces. It also places an equality duty on those who are not public authorities but exercise public functions (but only

in respect to those functions). This could include, for example, a charity or a private contractor carrying out functions of a public nature, such as providing residential or healthcare services.[[7]](#footnote-7)

The **general Public Sector Equality Duty (the general duty)**[[8]](#footnote-8) – as applied to the protected characteristic of disability – requires that public authorities must have due regard to the need to:

* eliminate disability discrimination, harassment and victimisation
* advance equality of opportunity for disabled people and non-disabled people, and
* foster good relations between disabled people and non-disabled people.

This general duty applies to all the functions of public authorities, including policy development, budget setting, procurement, service delivery and employment functions.[[9]](#footnote-9)

The general duty is supported by **specific duties[[10]](#footnote-10)** that aim to enable public authorities[[11]](#footnote-11) to improve performance on the general duty by, for example, requiring transparency in how the public authority is meeting the general duty, and focusing on achieving improved equality outcomes.[[12]](#footnote-12) Unlike the general duty, which applies to all three countries equally, these specific duties are different for England, Scotland and Wales.

The specific duties **in England** require public authorities to:

* publish information, updated annually, to demonstrate compliance with the general duty (‘equality information’), and
* at least every four years, prepare and publish one or more objectives that the public authority thinks it needs to achieve to further any of the aims of the general equality duty (‘equality objectives’).

The specific duties **in Wales** are more extensive and detailed, and require public authorities to:

* prepare and publish objectives which will assist them to achieve the aims of the duty at least every four years
* have due regard to the need to have objectives covering all of the protected characteristics and to address the causes of any pay differences related to protected characteristics
* involve people it considers representative of the protected group and others with an interest in how it carries out its functions
* assess the likely impact on its ability to comply with the general duty of proposed policies or revisions to policies and practices and to publish reports of their assessments (where they show a substantial impact)
* ensure it identifies and publishes on an annual basis information which demonstrates compliance with the duty (including on pay), and identifies and collects information it does not have
* promote among its employees knowledge and understanding of the general duty and specific duties
* draw up and publish a Strategic Equality Plan
* have due regard to whether it is appropriate for award criteria for contracts to include considerations to meet the general duty or to stipulate conditions relating to contract performance to meet the general duty
* produce an annual report by 31 March each year
* for Welsh Ministers, publish a report every four years and an interim report every two years on how devolved public authorities in Wales are meeting the general duty, and
* take steps to ensure published documents or information appear in a form that is accessible to people from protected groups.

For the specific duties in Scotland, see the separate submission to this inquiry from the EHRC jointly with the Scottish Human Rights Commission.

The EHRC has conducted assessments of specific duties in both countries. In 2012, in England we found that 78 per cent of the public authorities assessed were publishing some up-to-date equality information. Of these, over 90 per cent had information on the number of staff who were disabled, and almost three quarters had information on service users who were disabled.[[13]](#footnote-13) We also found that almost 70 percent of public authorities in England (excluding schools) had published one or more up-to-date equality objectives,[[14]](#footnote-14) and all public bodies in Wales had established Strategic Equality Plans, set equality objectives and action plans.[[15]](#footnote-15)

The UK Government plans to conduct a review of the PSED in 2016,[[16]](#footnote-16) for which the EHRC will develop a response.

## 3.4 Enforcing non-discrimination

A disabled person who believes that they have been treated unlawfully in breach of the EA 2010 can bring civil proceedings in the relevant court or tribunal.

The EHRC is the regulatory body responsible for enforcing and promoting compliance with the EA 2010, including the PSED. The EHRC has a range of advice, promotion, research, enforcement and strategic litigation powers. In particular, the EHRC:

* has regulatory responsibility for promoting equality and for ensuring compliance with the EA 2010
* can take legal enforcement action such as carrying out investigations into suspected unlawful conduct, issuing unlawful act notices (or reaching agreements in lieu of enforcement action) requiring action to address and prevent the continuation of unlawful action
* can conduct inquiries and has used this power to look into problems and recommend remedial action on matters such as disability-related harassment,[[17]](#footnote-17) home care,[[18]](#footnote-18) and deaths in detention of adults with mental health conditions,[[19]](#footnote-19) and
* can provide legal assistance to the victims of discrimination, intervene in or institute legal proceedings in its own name and make applications to court for an injunction or interdict to prohibit a person from committing an unlawful act under the EA 2010.
1. **The Public Sector Equality Duty: adequacy and implementation**

The PSED requires public authorities to have 'due regard' to the need to eliminate discrimination, advance equality of opportunity and foster good relations. The duty is to give due consideration rather than to guarantee a particular outcome, and is meant to ensure that possible discrimination is avoided or mitigated before a decision is made or implemented, rather than relying on legal action to rectify discrimination after it has occurred.

The following section details:

* some examples of good and poor practice in relation to the PSED and the protected characteristic of disability
* weaknesses identified in the concept of ‘due regard’ highlighted by the recent parliamentary select committee review
* the EHRC's views on the adequacy of equality impact assessments under the duty
* problems in relation to cumulative impact assessment in relation to financial decision-making, and
* a recommendation to strengthen the PSED by introducing guidelines as a statutory code of practice.

## 4.1 Examples of good and poor practice

While evidence suggests that the PSED can be an effective tool for designing and implementing disability-inclusive policies when it is meaningfully applied,[[20]](#footnote-20) the evidence also shows that in many cases public bodies, or those exercising public functions, are failing to fully consider the impact of their decisions on disabled people. This section provides some examples of good and poor practice in implementation of the PSED.

### Good practice case study: Supporting job applications from disabled people: improving confidence and work [[21]](#footnote-21)

As part of its work on the PSED, Frimley Park Hospital National Health Service Foundation Trust collects and analyses information on its workforce. As part of this exercise, it found that it had received fewer job applications from disabled people than might be expected. The Trust decided to use positive action, working with organisations such as the Shaw Trust to place disabled people with the aim of developing skills and confidence to support long-term employment prospects. The Trust identified three placements for individuals. Assistance with job applications/interviews was given at the end of the placements so that the three individuals could apply to permanent positions within the Trust. Ultimately all three were appointed to jobs.

### Good practice case study: extract of evidence from the National AIDS Trust to the House of Lords Select Committee on the Equality Act 2010 and Disability: [[22]](#footnote-22)

‘The [Crown Prosecution Service] were attempting to charge an individual living with HIV with fraud for not disclosing their HIV status to their employer…We wrote to the CPS reminding them of…their obligations under the duty and highlighting how the charge would set back equality and good relations as they apply to people living with HIV. We had a very quick response from the CPS who agreed with the points we had raised, dropped the fraud charge immediately, and also committed to reminding CPS staff about their responsibilities under the duty and Equality Act more broadly’.[[23]](#footnote-23)

**Good practice case study: Collaborative approaches to addressing issues against equality and diversity[[24]](#footnote-24)**

North Wales Policehad focused, for example, on addressing hate crime and harassment of disabled people on public transport through partnerships with a local bus company. As their Head of Equality said:

‘we launched a campaign just before Christmas around disability and the abuse people were receiving on public transport. We in partnership with Arriva buses and local community groups ran an operation on the buses to put posters up about the reporting of disability hate crime. This had a clear message to victims to report the incidents to the police and warn potential perpetrators that the police take these issues very seriously and will arrest’. (Interview).

Although it had been difficult for the police force to assess the impact on disability hate crime reporting in terms of whether it would increase or decrease, the interviewee noted that he had received feedback from disabled people that they felt more comfortable travelling on public transport because the posters reassured them that the public knew that harassment of them would be treated seriously.

Other examples indicate that equality considerations are still overlooked in many decisions.

###  Poor practice case study: planning permission

In a recent High Court case, a grant of planning permission for an office and warehouse building to replace a car park next to a river was quashed on account of the failure to give due consideration to the PSED in relation to adverse impacts on disabled people.[[25]](#footnote-25)

The judge in the case held that:

‘I have concluded that the Inspector [decision-maker] did not have due regard to the duty under section 149 [of the Equality Act 2010] in this case. In particular, because of the lack of any detailed consideration of the value of the existing amenity to disabled people...; the lack of any other comparable amenity in the Birkenhead area; the practical difficulties which would be experienced by persons with restricted mobility and their carers in descending and climbing the steep footpath to the riverside; and the apparent failure to consider whether the loss of the car park would not be merely "less convenient" for disabled persons but might well mean that they would be unable to access the riverside at all. If the Inspector was not fully appraised of the relevant information, he was under an obligation to seek the information required...there is no indication in the decision that the Inspector considered the factors set out in section 149, and tellingly there is no reference, express or implied, to the statutory considerations of removing or minimising disadvantages suffered by disabled persons, and taking steps to meet the needs of disabled persons.’[[26]](#footnote-26)

## 4.2 The ‘due regard’ concept

The recent review of the EA 2010 and disability also heard evidence concerning the adequacy of the PSED, with a number of witnesses attributing shortcomings in implementation to a lack of clarity and understanding over the concept of giving 'due regard'.

For example, the mental health charity, Mind, noted that in their experience the duty was sometimes taken as simply ‘giving consideration to equality’, rather than following steps to rigorously pay ‘due regard’.[[27]](#footnote-27) Another expert witness expressed the opinion that ‘there is a gap in the understanding of organisations that exercise public functions but are not included in the Act’s Schedule as being bound by section 149(1)’.[[28]](#footnote-28)

Other evidence underlined the emphasis of the duty on the **process** of decision-making rather than on the **outcome** or**impact**.[[29]](#footnote-29) A key example is the widely-cited case of *Bracking and Others v Secretary of State for Work and Pensions* [2013]*.* This case, in which the EHRC intervened, was a judicial review of the Minister of State for Disabled People decision to close the Independent Living Fund (a discretionary fund supporting care packages to help disabled people live independently in their communities). The case was successful at first instance and in the Court of Appeal of England and Wales, where the court found that the decision to close the Independent Living Fund had been taken without complying with the PSED.[[30]](#footnote-30) The Court also confirmed that the UK’s obligations under the UN Convention on the Rights of Persons with Disabilities (CRPD), in particular Article 19, ought to inform the scope of the PSED with respect to disabled people.[[31]](#footnote-31) After the judgment in 2014 the Secretary of State retook the decision to terminate the Independent Living Fund and the decision was found to be lawful by the High Court as it deemed that the Minister had made the appropriate considerations under the equality duty in making his decision.[[32]](#footnote-32)

* 1. **Adequacy of Equality Impact Assessments**

One way in which public bodies, including government departments, can demonstrate their compliance with the PSED is by conducting Equality Impact Assessments.[[33]](#footnote-33) However, such impact assessments vary in quality and comprehensiveness.

For example, the EHRC expressed concerns over the quality of the impact assessments[[34]](#footnote-34) carried out by the UK Government's Department for Work and Pensions during the passage of the Welfare Reform and Work Bill prior to it becoming an Act of Parliament in April 2016. During the passage of the Bill through the UK Parliament, the EHRC noted that a number of measures in the Bill may have an impact on rights recognised under the CRPD, as well as under the International Covenant on Economic, Social and Cultural Rights (ICESCR), and also under the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of Discrimination against Women (CEDAW).[[35]](#footnote-35)

Issues highlighted by the EHRC during the passage of the Bill through Parliament include:

* insufficient level of detail and analysis to show that the proposals thoroughly considered the potential impact on equality, including the impact on disabled people[[36]](#footnote-36)
* the need to draw equality information from a variety of other sources to give the depth of analysis needed
* the importance of identifying potential adverse impacts for those sharing a particular protected characteristic (for example, in the case of disability, the relevant section simply pointed out that certain disability benefits will not be taken into account, but did not identify how the policy might affect families with disabled members or, for example, the relationship between the measures in the Bill and ongoing work to narrow the disability employment gap)[[37]](#footnote-37)
* In relation to changes to Employment and Support Allowance, The impact assessment made very little attempt to set out comprehensively how the three aims of the PSED had been considered, in particular on how the proposals are likely to impact on people with different protected characteristics.[[38]](#footnote-38) Although the impact on disabled people was recognised, there was no attempt to break the limited data down to understand how the proposals will affect people with different forms of disability.[[39]](#footnote-39)
* the need to consider the impact of the Welfare Reform and Work Act on meeting the right to social security and adequate standard of living rather than focusing solely on work as 'the best route out of poverty,'[[40]](#footnote-40) as these rights are of particular relevance to many disabled people, and
* the importance of considering alternatives and ways to mitigate adverse impacts once potential problem have been identified.
	1. **Financial decision making: considering cumulative impact**

The PSED, as a duty on all public authorities, also applies in respect of the UK Government's financial decisions. In its shadow report to the UN Committee on Economic, Social and Cultural Rights,[[41]](#footnote-41) and in a previous submission to the Special Rapporteur on the rights of persons with disabilities,[[42]](#footnote-42) the EHRC laid out its view that financial decisions which are made by the UK Government on the basis of a process which is compliant with the PSED will be more likely to be consistent with the UK’s obligations under Article 2 ICESCR, taken in conjunction with Articles 9 and 11,[[43]](#footnote-43) and also with its obligations under the CRPD.

Previous assessments conducted by the EHRC – including an assessment of the UK Government's 2010 Spending Review[[44]](#footnote-44) and of HM Treasury's Equalities Analysis Report for the 2013 Spending Review[[45]](#footnote-45) -–showed examples of good practice along with areas where compliance with the equality duty could be improved. However, the EHRC's analysis has shown that while the UK Government has assessed the impact of individual welfare reform policies, it has not considered the cumulative impact that several of the welfare reforms coming together could have on the same groups of people, including disabled people. The EHRC has noted that such a combined analysis could enable the UK Government to ‘determine whether a particular set of measures was proportionate, had discriminatory effects on particular groups, or caused a situation in which core minimum levels of a right would not be met for individuals and groups.’[[46]](#footnote-46) To improve compliance with the PSED, the EHRC has therefore consistently recommended ongoing monitoring to understand the cumulative impact of future Spending Reviews and budgets on individuals with protected characteristics, including disabled people who are often likely to be recipients of a combination of benefits.

The UK Government has suggested that modelling difficulties prevent it from undertaking an assessment of cumulative impact that would be sufficiently robust.[[47]](#footnote-47) However, the UK Parliament’s Social Security Advisory Committee emphasises the importance of the UK Government assessing the cumulative impact of tax and spending decisions on disabled people, and proposes options for building on analyses which have already been undertaken.[[48]](#footnote-48) An EHRC funded study by Landman Economics and NIESR has found that assessments which look at cumulative impacts on individuals who share a protected characteristic are both feasible and practicable.[[49]](#footnote-49)

The EHRC’s follow-up report on the impact of the decisions in the 2010 Spending Review found HM Treasury’s Equalities Analysis report for the 2013 Spending Round[[50]](#footnote-50) to be light on detail, and suggested further improvements in relation to data collection.[[51]](#footnote-51) These included recommending that HM Treasury identify key areas of spending or tax where an impact on people with protected characteristics is considered likely, but where equality data is inadequate. This would allow gaps in data to be filled.[[52]](#footnote-52)

We continue to have discussions with Treasury officials to stress the importance of making progress in this area, although as yet have had no positive feedback from Government to suggest they might start to carry out cumulative assessments.

* 1. **Strengthening the PSED**

One way in which the application of the PSED could be strengthened, for the benefit of disabled people (and others sharing protected characteristics) is through the issuing of a statutory code of practice.

Under section 14(6) of the Equality Act 2006,[[53]](#footnote-53) the EHRC has a power to issue codes of practice relating to any issue in the Equality Act 2010. The EHRC had originally planned to produce statutory codes of practice on the PSED, which courts would have been required to take into account.[[54]](#footnote-54) As the UK Government declined to lay codes before Parliament, the EHRC published the original text of these codes as technical guidance, last updated in 2014. Technical guidance is a non-statutory version of a code, that still provides a formal, authoritative, and comprehensive legal interpretation of the PSED. It also clarifies the requirements of the legislation. However, the EHRC considers that public bodies will be better able to fulfil the requirements of the PSED if the UK Government lays these technical guidelines before Parliament as codes of practice.[[55]](#footnote-55) This would provide more certainty to public bodies about what they are required to do. The EHRC therefore welcomes the recommendation from the review by the parliamentary select committee that "the Government lay before Parliament as Codes of Practice the technical guidance on the Public Sector Equality Duty, Schools, and Further and Higher Education that have already been drafted and extensively consulted on by the Equality and Human Rights Commission".[[56]](#footnote-56)

The House of Lords Select Committee review further recommended that the PSED could be improved by amending section 149 of the equality act:

“Our evidence has demonstrated that there is a fundamental flaw in the current Public Sector Equality Duty, namely that a public authority can make no progress towards the aims of the general duty and yet be judged compliant with it by the courts. We have heard convincing evidence that an amendment is needed to remedy this.

“We recommend that a new subsection should be added to section 149: “To comply with the duties in this section, a public authority in the exercise of its functions, or a person within subsection (2) in the exercise of its public functions, shall take all proportionate steps towards the achievement of the matters mentioned in subsection (1)”[[57]](#footnote-57)

1. **Reasonable adjustment duty**

Another key component of the EA 2010, contained in Sections 20 and 21, is the requirement that service providers, transport providers, sports bodies and educational institutions, and all those to whom the provisions apply, have a duty to make ‘reasonable adjustments’ to prevent disabled people being put at a ‘substantial disadvantage.’ Failure to comply with this duty constitutes a type of discrimination.

While the duty on employers and controllers of premises is a ‘reactive’ duty – responding to the requirements of an identified individual – the duty in relation to those providing services and exercising public functions, as well as schools and further and higher education institutions, is ‘anticipatory’. For the provision of services and public functions this means that the duty is owed to “disabled persons generally” and requires proactive removal or barriers.

According to evidence submitted to the recent parliamentary select committee inquiry into the Equality Act 2010 and the impact on disabled people, significant problems remain with the reasonable adjustment duty in practice, including the anticipatory duty. In particular, evidence to the Select Committee noted difficulties experienced by disabled people in gaining reasonable adjustments from employers, education providers, on public transport, in shops and restaurants, sports grounds, the criminal and civil justice system, and in hospitals.[[58]](#footnote-58) The following extracts of evidence to the Select Committee provide examples of both poor and good practice.

### Case study: accessing services – Discrimination Law Association[[59]](#footnote-59)

The following example was provided to the parliamentary select committee by the Discrimination Law Association: 'Guide dog owners report that reasonable adjustments for people with a disability are often ignored and that service providers do not understand the specific needs of people with sight loss.[[60]](#footnote-60) For example, people with visual impairments report their treatment in restaurants: *“I get no end of people handing me the menu and then walking away”*.'[[61]](#footnote-61)

### Case study: anticipatory reasonable adjustments[[62]](#footnote-62)

The following example was also provided to the parliamentary select committee by the Discrimination Law Association: 'In relation to the operation of the duty in the exercise of public functions, our concern is that public bodies are failing to anticipate the needs of disabled people. One example is planning consent given to developments which are inappropriate for people with sight impairments rather than anticipating the adjustments which should be put in place from the outset. We believe that in part this is due to a reduced level of consultation with groups of disabled people.'

### Case study: information in accessible formats[[63]](#footnote-63)

The following example was also provided to the parliamentary select committee by the Newcastle Society for Blind People: 'One of our members asked for information from a government department - he was not given this information in the appropriate format and he appealed and was awarded compensation. The department was the Care Quality Commission.'

**Example: DWP**

'An older example of information being provided for people in the wrong format: 'We have a member who is totally blind and on benefits. When benefit changes were happening information was being sent to her to assess her eligibility and fitness for work. This information was being sent to her to in regular size print despite having requested braille on numerous occasions over previous years.  The lady had no one nearby who could read her mail for her.  She was threatened with sanctioning by text message (which she could not read).  A colleague made a case for her and eventually a tribunal was arranged.  As the lady is totally blind this was daunting, she did not know or understand the process nor know for certain what she had to do.

"The current DWP review of accessible formats in conjunction with the RNIB is commendable but it makes what we feel is an erroneous assumption that [visually impaired] people will be identified as recorded as such as part of the process – see our work issues identified above.'

**Example: Access.**

'A [visually impaired] lady who went with friends to restaurant in Newcastle. She needs to visit the toilet - the standard toilets were upstairs so she and a friend enquired about the location of the disabled loo. They were told that the restaurant didn’t have one. The lady and her friend insisted that they should have one under the Equality Act…the manager finally arrived and admitted that there was a disabled toilet. However it was unmarked, had no handle, was filled with cleaning materials and toilet supplies and had tables placed in front of it at which people were eating. Unfortunately, despite being a very confident person, the [visually impaired] lady felt that it was pointless taking a complaint any further.'

**Case study: delivering reasonable adjustments[[64]](#footnote-64)**

The following examples were provided to the parliamentary select committee by Essex County Council: 'The Council has a number of innovative approaches to making reasonable adjustments for employees and service users. The examples below demonstrate how these reasonable adjustment duties are practically understood and delivered.'

**Inclusive Communications**

'We have the Inclusive Communications Website[[65]](#footnote-65) (part of Essex County Council’s - Family Operations Service) which aims to improve accessibility of communications disabled service users and employees. The website provides a range of tools and training packages to make services communicate effectively with people who have learning disabilities. The site provides support to Essex County Council internal departments, as well as wider community services, such as care homes and resource centres across Essex. It has won a number of national awards, including an Employee Network for Equality and Inclusion Award for inclusive communications.'

**Annual Health Checks**

'As part of the national health check programme, this project aims to identify best practice and research on accessible information and processes locally and nationally. In 2015, The Inclusive Communications Essex team conducted ‘formal’ interviews with 37 people with a learning disability who are not engaged in any way with Essex County Council or the NHS. They discussed the Annual Health Check, Health Action Plans and Health passports to try to increase take up for people with learning disabilities due to health inequalities. As a result of the engagement, the team designed an easy read survey, and took the best examples of the above to reader groups for evaluation. We spoke with carers, parents and friends in order to gain substantial insight. The outcomes of this engagement were:

identifiable needs for accessible information, including video information

the available information was suitable for everyone

lack of knowledge about the annual health checks

The main recommendations were:

1. Clear processes were required for communicating the annual health checks for those with disabilities
2. Essex wide Easy Read information (using a combination of existing formats and information)
3. Video information regarding health checks.
4. Promoting and raising awareness of the benefits of the checks with everyone, including those with learning disabilities, families, staff and carers.'

**Disabled Employee Network**

'The Council facilitates a Disabled Employee Network which meets 4-5 times a year and provides a space for disabled employees to share issues in the workplace. Employees are encouraged to attend meetings and take part in the network. Essex County Council recognises that the Network has been successful in advising on improving the working environment for disabled people, for example, advising on bullying and harassment through focus groups.'

**Case study: Disabled Students Allowance**

In ‘Socio-economic rights in the UK: List of Issues’ the EHRC raised a concern about the UK Government proposal to reduce some of the support offered to English students with disabilities under the Disabled Students’ Allowance, which provides up to £10,362 per year to students on designated courses.[[66]](#footnote-66)

'In July 2015, the Department for Business, Innovation and Skills (BIS) launched a consultation on the proposal.[[67]](#footnote-67) The EHRC responded to this consultation, highlighting concerns with the rationale for the proposed changes and their potential negative impact on how disabled people would access, participate and succeed in higher education under the new system. The EHRC made a number of suggestions, should the proposed changes go ahead, including for BIS to:

* work with others to ensure the continuity of reasonable adjustments so disabled people have the same opportunities to succeed in the education system than non-disabled people
* produce accessible guidance so disabled students are clear on what reasonable adjustments they can expect from Higher Education Institutions[HEIs], from governments and others, and the process for getting what they need
* ensure that when disabled students disagree with their HEIs on what reasonable adjustments they need, they can access an efficient and timely dispute system, and

monitor the actual impact of the proposed changes.[[68]](#footnote-68)

'BIS published its response to the consultation in December 2015. This set out its intention to implement most of the changes proposed, as well as an updated equality analysis.[[69]](#footnote-69) The EHRC welcomes BIS’ commitment to address many of our concerns, including producing guidance for disabled students on how reasonable adjustments will be made, monitoring the operation of the dispute resolution mechanisms in place, and encouraging HEIs to publish data on their provision for disabled students. We will be monitoring how these commitments are realised in practice.[[70]](#footnote-70)'

* 1. **Improving application of reasonable adjustment duties**

In its evidence to the review of the Equality Act 2010 and disability, the EHRC noted some shortcomings with implementation of the reasonable adjustment duty, and in particular with the anticipatory duty that applies in respect of service provision and public functions. The EHRC’s evidence notes that: “in our analysis, the duty could be better understood; a quarter of disability discrimination-related enquiries to the Equality Advisory and Support Service (EASS) concern failures to make reasonable adjustments in employment and service-provision. Many of the problems we come across occur because of poor understanding of the anticipatory nature of the duty, especially among service-providers”.[[71]](#footnote-71)

The Commission’s work to clarify and improve implementation of the reasonable adjustment duty includes:

* Improving the provision of accessible taxis in Liverpool and other areas (see the *Lunt* case);[[72]](#footnote-72)
* Testing its application to bus transport practices affecting wheelchair users (see the *Paulley* case, currently ongoing);[[73]](#footnote-73)
* Working with organisations responsible for the rail transport infrastructure to generate more accessible station facilities for disabled travellers;
* Working with a premier league football club to improve practices and facilities for disabled football supporters;
* Working with retailers, banks and hotels to improve their compliance with the duty to make reasonable adjustments;
* Supporting a test case that will help to clarify who is responsible for the duty to make reasonable adjustments when a student on a higher education course is sent on a work placement (the *Blackwood* case);[[74]](#footnote-74)
* Supporting a test case (*MM & DM*) concerning the scope of the Department for Work and Pensions' duty to make reasonable adjustments for people with mental health issues during the course of the process to assess an individual’s eligibility for welfare benefits;[[75]](#footnote-75) and
* Successfully advocating for a Deaf patient who had no access to an interpreter during a seven-day hospital stay, and supporting all of Scotland's Health Boards to implement the resulting recommendations.

The House of Lords Select Committee review recommended that the EHRC “should prepare a specific Code of Practice on reasonable adjustments to supplement the existing Equality Act Codes. This would provide an appropriate balance between flexibility and clarity” and “Alongside the new Codes…in consultation with organisations of and representing disabled people, [prepare] industry-specific guidance on reasonable adjustments”.[[76]](#footnote-76) The EHRC considers that there may be benefit to better guidance in this area, and is currently considering this recommendation.

1. **Improving implementation of the Equality Act 2010 for disabled people**

The EHRC considers that the implementation of the Equality Act 2010 in relation to disability could be improved in a number of ways to ensure that the aims of the legislation are realised. In particular, there are some provisions that have been repealed or have not yet been commenced, which should be brought into force in order to better protect the rights of disabled people. In addition, there are a number of areas where further legislative measures should be considered.[[77]](#footnote-77)

Provisions in the Equality Act 2010 that have been repealed or not yet been commenced are:

* the socio-economic duty – sections 1 to 3;
* caste discrimination – section 9 (5);
* dual discrimination – section 14;
* ships and hovercraft – section 30;
* reasonable adjustments to common parts of rented residential properties – section 36 and Schedule 4 (England and Wales only);
* taxi transport accessibility – sections 160 to 165 (Chapters 1 of Part 12). Note the recent announcement on this point, outlined below.
* the majority of bus and coach accessibility provisions (Chapter 2 of Part 12) exempted until 28 February 2017 with the possibility of further exemption;
* the requirement for political parties to report on diversity of candidates – section 106
* the employment tribunal power to make wider recommendations (repealed)
* third party harassment provisions (repealed).

Full implementation of these provisions, particularly dual discrimination, taxi accessibility and reasonable adjustments to common parts of render residential premises, would ensure that the aims of the Equality Act 2010, and disabled people’s rights, are better realised.

The EHRC welcomes the recent announcement[[78]](#footnote-78) that the UK Government will commence sections 165 and 167 of the EA 2010 this year, which will impose duties on taxis to accept and assist wheelchair users without extra cost.[[79]](#footnote-79)

Areas where further measures should be considered include:

* Protection against discrimination is not provided for workers who do not fall within the definition of an employee, contract worker or an agent of the employer. This means that people deemed to be self-employed, and potentially others in new and evolving working arrangements, are not protected. In some cases these new working arrangements might be intended to avoid discrimination and other employment law responsibilities;
* The EHRC is seeking to address the gap in protection for disabled air travellers that emerged from the judgement in the *Stott* case,[[80]](#footnote-80) by seeking to secure changes to the Montreal Convention through cooperation with other National Equality Bodies and National Human Rights Institutions so that damages can be awarded for discrimination experienced on-board air craft.
* Court cases (see Upper Tribunal decision in the case of *Mr and Mrs X v Governors of a School[[81]](#footnote-81)*) have set precedent on how the ‘tendency to physical abuse’ is interpreted, thereby excluding some children from the definition of disability. This could effectively deprive many children of protection against disability discrimination during the course of school education.
* The extent of protection available for workers when there is a transfer of business owner/operator is unclear (see, for example, the South Central Ambulance Service NHS Trust v L Gunn case).[[82]](#footnote-82)
* Volunteers are not protected against discrimination under equality law (see Supreme Court judgement in the case of *X v Mid-Sussex CABx*).[[83]](#footnote-83) For many people who have experienced a long period of unemployment, voluntary work can provide an essential route into work, so access without discrimination is important. However, there is a potential risk that extending discrimination protection to volunteers might affect the number and type of opportunities available by introducing more formality into volunteering arrangements.

Finally, steps are needed to ensure the rights in the Act can be realised in practice for disabled people.  A comprehensive review of access to justice for discrimination cases is needed to make sure that disabled people can access good quality, cost effective advice and dispute resolution in light of recent changes in the civil justice system. This might include looking at ways of resolving cases without the cost and stress of going to court, and enhanced powers for the EHRC to take action against those who break the law. This would include consideration of enforcement mechanisms available in respect of non-employment cases -given the paucity of cases concerning access to services, education and other non-employment matters over a considerable number of years. One of the EHRC’s priorities this year is to assess the availability of sufficient good quality advice and redress on equality and human rights issues.

1. **UK Government strategy and action plan: Fulfilling Potential**

‘Fulfilling Potential: making it happen’[[84]](#footnote-84) is the UK government’s current cross-government disability strategy, accompanied by an action plan. Updates to the strategy were last published in September 2014.[[85]](#footnote-85) The strategy is a key means by which the UK Government is seeking to further meet its CRPD obligations.

The strategy seeks to bring about positive changes for disabled people in the following areas: education, employment, income, health and well-being, choice and control, inclusive communities, transport, social participation, friends and family, information and access, and attitudes. It also aims to improve on monitoring of the CRPD, and to improve international cooperation under the CRPD.

Rachel Fox (EHRC)

May 2016

# Annex

15 April 2016

Dear Madam/Sir,

In my capacity as Special Rapporteur on the rights of persons with disabilities pursuant to Human Rights Council resolution 26/20, I am pleased to transmit to you the questionnaire attached on *disability-inclusive policy*, in English, French and Spanish. All responses should be sent electronically, in accessible formats (Word) and preferably in English, French or Spanish, to sr.disability@ohchr.org no later than **15 May 2016**. I would appreciate as concise responses as possible, and kindly ask you to attach annexes where necessary.

 Whenever possible, I would also encourage you to provide copies of relevant laws, policies, programme outlines, evaluations, and any other information relevant for the topic. Additional appropriate information, beyond what is specifically requested, would be welcome. Kindly also indicate if you have any objections with regard to your reply being posted on the website of the Office of the High Commissioner for Human Rights.

 I take this opportunity to thank you in advance for your assistance in this matter.

*(Signature)*

Catalina Devandas-Aguilar

Special Rapporteur on the rights of persons with disabilities

**Questionnaire on disability-inclusive policies**

**Questions for National Human Rights Institutions (English):**

1. Please provide information on how your country is considering the rights of persons with disabilities in their **policies aimed at** **implementing and monitoring the Sustainable Development Goals**, including:
* Existing national strategies and action plans,
* Budget allocation for their implementation,
* Existing mechanisms or frameworks to monitor their implementation,
* How do these strategies/plans take into consideration the situation of women and girls with disabilities, and of children and older persons with disabilities?
* How is the participation of persons with disabilities and their representative organizations ensured in the development and implementation of such strategies/plans?
1. Please provide information on the **legislative and policy framework in place in your country concerning non-discrimination**, including:
* Whether “disability” is specifically mentioned as a prohibited ground of discrimination,
* The existence of any budgetary mechanism to ensure the provision of reasonable accommodation by public entities,
* Whether the denial of provision of reasonable accommodation amounts to discrimination,
* The existence of any affirmative action measures for persons with disabilities,
* The existence of any legal, administrative or other effective remedies available for persons who have been subject of discrimination on the basis of disability (including denial of reasonable accommodation),
* The establishment of governmental agencies or other similar institutions to guarantee to persons with disabilities equal and effective protection against discrimination.
1. Please provide information on the **legislative and policy framework in place in your country concerning** **accessibility for persons with disabilities** in relation to the physical environment, transportation, information and communications, and to other facilities and services; including:
* The existence of national standards, guidelines, and regulations on accessibility and universal design, including access to Information and Communication Technologies,
* The existence of time bound action plans to make public and private facilities and services accessible for persons with disabilities,
* The existence of accessibility requirements for public procurement,
* The existence of any enforcement mechanism of accessibility standards,
* The provision of training on accessibility issues for State officials and other actors.
1. Please provide information on the **legislative and policy framework in place in your country concerning support services for persons with disabilities**, including:
* The diversity and coverage of services available (e.g., services for supported decision-making, communication, mobility, personal support, housing and living arrangements, access to general services such as education, employment, justice and health; and other community services),
* The availability of certified sign language interpreters,
* The types of service delivery arrangements (e.g. direct provision, public-private partnerships, partnerships with community-based or non-government organizations, contracting out, privatization),
* The financial mechanisms to ensure affordability of support services for all, persons with disabilities,
* How services enable direct choice and control of users with disabilities?
1. Please provide any **other relevant information** (including information from surveys, censuses, and administrative data – statistics, reports, and studies),in relation to the **implementation of existing disability-inclusive policies and action plans in your country**.
1. House of Lords Select Committee (2016), The Equality Act 2010: the impact on disabled people. Available [here](http://www.parliament.uk/business/committees/committees-a-z/lords-select/equality-act-2010-and-disability/publications/) [accessed: 3 June 2016] [↑](#footnote-ref-1)
2. Available [here](http://www.legislation.gov.uk/ukpga/2010/15/contents) [accessed: 3 June 2016] [↑](#footnote-ref-2)
3. Many of the points in this paper relate to Great Britain as a whole (including Scotland), but please see the Scotland submission for more information. [↑](#footnote-ref-3)
4. The other protected characteristics are: age, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. [↑](#footnote-ref-4)
5. Section 6 (1) EA 2010 [↑](#footnote-ref-5)
6. For more information see [here](https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-case-studies) [accessed: 3 June 2016] [↑](#footnote-ref-6)
7. EHRC (2014), Equality Act 2010: Summary Guidance on Services, Public Functions and Associations. Available [here](https://www.equalityhumanrights.com/sites/default/files/equality_act_summary_guidance_on_services.pdf) [accessed: 3 June 2016] [↑](#footnote-ref-7)
8. The general duty is set out in Section149 of the EA2010. [↑](#footnote-ref-8)
9. Note: the protection from disability discrimination in the EA 2010 does not apply to services involving transport by air. [↑](#footnote-ref-9)
10. The Equality Act 2010 (Specific Duties) Regulations 201149 came into force on 10 September 2011 and apply to English and non-devolved public authorities – Statutory Instrument 2011/2260. Available [here](http://www.legislation.gov.uk/uksi/2011/2260/contents/made). For Wales, see The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 – Welsh Statutory Instruments 2011, Number 1064 (W.155). Available [here.](https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwip4N76kIzNAhVJI8AKHdyhCNUQFggdMAA&url=http%3A%2F%2Fwww.legislation.gov.uk%2Fwsi%2F2011%2F1064%2Fpdfs%2Fwsi_20111064_mi.pdf&usg=AFQjCNGiu8jHOdRA99nr-6KIN7EQytXMTg&sig2=n2O4MbDawQq4xwV0jP1drQ) [↑](#footnote-ref-10)
11. For England, all the public authorities that are listed in Schedule 1 and Schedule 2 of the Regulations must comply with the specific duties, and are referred to as ‘listed authorities’. For Wales, the public bodies listed in Part 2 of Schedule 19 to the Act (as amended by the Equality Act 2010 (Specification of Relevant Welsh Authorities Order 2011)) are subject also to specific duties found in the relevant Regulations. [↑](#footnote-ref-11)
12. EHRC (2014), Equality Act 2010, Technical Guidance on the Public Sector Equality Duty: England, pp. 68-70. Available [here](https://www.equalityhumanrights.com/sites/default/files/technical_guidance_on_the_psed_england.doc) [accessed: 3 June 2016] and EHRC (2014), Equality Act 2010, Technical Guidance on the Public Sector Equality Duty, Wales, pp. 69-72. Available [here](https://www.equalityhumanrights.com/sites/default/files/technical_guidance_on_the_psed_wales.doc) [accessed: 3 June 2016] [↑](#footnote-ref-12)
13. EHRC (2012) Publishing equality information: commitment, engagement and transparency. Available [here](https://www.equalityhumanrights.com/en/file/4336/download?token=9rYnQBRk) [accessed: 3 June 2016]. [↑](#footnote-ref-13)
14. EHRC (2013), Assessment of the publication of equality objectives by English public authorities. Available [here](https://www.equalityhumanrights.com/sites/default/files/assessment_of_the_publication_of_equality_objectives.pdf) [accessed: 3 June 2016]. [↑](#footnote-ref-14)
15. EHRC Wales (2014) Review of the Public Sector Equality Duty in Wales. Available [here](https://www.equalityhumanrights.com/sites/default/files/review_of_psed_in_wales_full_report_english_nov2014.pdf) [accessed: 1 June 2016]. [↑](#footnote-ref-15)
16. This was announced in a ministerial statement, available [here](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/237215/Public_Sector_Equality_Duty_Review_-_HoC.pdf) [accessed: 3 June 2016] [↑](#footnote-ref-16)
17. See [here](https://www.equalityhumanrights.com/en/inquiry-disability-related-harassment) [accessed: 3 June 2016] [↑](#footnote-ref-17)
18. See [here](https://www.equalityhumanrights.com/en/inquiries-and-investigations/inquiry-home-care-older-people/background-home-care-inquiry) [accessed: 3 June 2016] [↑](#footnote-ref-18)
19. See [here](https://www.equalityhumanrights.com/en/inquiries-and-investigations/preventing-deaths-detention-adults-mental-health-conditions-0) [accessed: 3 June 2016] [↑](#footnote-ref-19)
20. See [here](https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-case-studies) [accessed: 3 June 2016] [↑](#footnote-ref-20)
21. Examples from [here](https://www.equalityhumanrights.com/en/advice-and-guidance/health-and-social-care-case-studies) [accessed: 3 June 2016] [↑](#footnote-ref-21)
22. House of Lords Select Committee on the Equality Act 2010 and Disability (2016), The Equality Act 2010: the impact on disabled people, pp. 97-8. Available [here](http://www.publications.parliament.uk/pa/ld201516/ldselect/ldeqact/117/117.pdf) [accessed: 3 June 2016] [↑](#footnote-ref-22)
23. Written evidence from the National AIDS Trust to the House of Lords Select Committee on the Equality Act 2010 and Disability. Available [here](http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/equality-act-2010-and-disability-committee/equality-act-2010-and-disability/written/20909.html) [accessed: 3 June 2016] [↑](#footnote-ref-23)
24. EHRC (2014), Review of PSED in Wales p.62. Available [here](https://www.equalityhumanrights.com/sites/default/files/review_of_psed_in_wales_full_report_english_nov2014.pdf) [accessed: 3 June 2016] [↑](#footnote-ref-24)
25. *LDRA and others v SSCLG and others* [2016] EWHC 950 (Admin). [↑](#footnote-ref-25)
26. Ibid, para 32 [↑](#footnote-ref-26)
27. Written evidence from Mind to the House of Lords Select Committee on the Equality Act 2010 and Disability. Available [here](http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/equality-act-2010-and-disability-committee/equality-act-2010-and-disability/written/20756.html) [accessed: 3 June 2016] [↑](#footnote-ref-27)
28. Written evidence from Louise Whitfield to the House of Lords Select Committee on the Equality Act 2010 and Disability. Available [here](http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/equality-act-2010-and-disability-committee/equality-act-2010-and-disability/written/20756.html) [accessed: 3 June 2016] [↑](#footnote-ref-28)
29. House of Lords Select Committee on the Equality Act 2010 and Disability (2016), The Equality Act 2010: the impact on disabled people, pp. 96-7. Available [here](http://www.publications.parliament.uk/pa/ld201516/ldselect/ldeqact/117/117.pdf) [accessed: 3 June 2016] [↑](#footnote-ref-29)
30. *Bracking v Secretary of State for Work and Pensions* [2013] EWCA Civ 1345 (‘Bracking 1’). [↑](#footnote-ref-30)
31. *Stuart Bracking & Ors v Secretary of State for Work and Pensions* [2013] EWCA Civ 1345 (06 November 2013). Available [here](http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWCA/Civ/2013/1345.html) [accessed: 3 June 2016] [↑](#footnote-ref-31)
32. *R(Aspinall) (Formerly Bracking) v Secretary of State for Work and Pensions* [2014] EWHC 4144 (Admin) (‘Bracking 2’). [↑](#footnote-ref-32)
33. House of Commons Library (2015), Briefing Paper 06591: The Public Sector Equality Duty and Equality Impact Assessments. Available [here](http://researchbriefings.files.parliament.uk/documents/SN06591/SN06591.pdf) [accessed: 23 May 2016]. [↑](#footnote-ref-33)
34. DWP, Equality impact assessments for the Welfare Reform and Work Bill, July and September 2015. Available [here](http://services.parliament.uk/bills/2015-16/welfarereformandwork/documents.html) [accessed: 21 April 2016]. See also: DWP (2015), Memorandum to the Joint Committee on Human Rights: The Welfare Reform and Work Bill 2015. Available [here](https://www.gov.uk/government/publications/welfare-reform-and-work-bill-2015-human-rights-memorandum) [accessed: 21 April 2016]. [↑](#footnote-ref-34)
35. EHRC, Welfare Reform and Work Bill, Public Bill Committee: response to call for written evidence, October 2015, available [here](http://www.equalityhumanrights.com/legal-and-policy/our-legal-work/parliamentary-briefings/welfare-reform-and-work-bill-written-evidence-submission) [accessed: 3 June 2016]. [↑](#footnote-ref-35)
36. EHRC letter to the Department for Work and Pensions re: the Welfare Reform and Work Bill, 16 September 2015. Available [here.](https://www.equalityhumanrights.com/en/parliamentary-library/our-letter-department-work-and-pensions-dwp-re-welfare-reform-and-work-bill)  [↑](#footnote-ref-36)
37. EHRC letter to the Department for Work and Pensions re: the Welfare Reform and Work Bill, 16 September 2015. Available [here.](https://www.equalityhumanrights.com/en/parliamentary-library/our-letter-department-work-and-pensions-dwp-re-welfare-reform-and-work-bill)  [↑](#footnote-ref-37)
38. EHRC (2016), Letter to Roger Godsiff MP regarding ESA WRAG proposals in the Welfare Reform and Work Bill, 23/02/16. Available [here](https://www.equalityhumanrights.com/en/file/12606/download?token=wg0xjzel) [accessed 3 June 2016]. [↑](#footnote-ref-38)
39. DWP (2015), Welfare Reform and Work Bill: Impact Assessment to remove the ESA Work-Related Activity Component and the UC Limited Capability for Work Element for new claims. Available [here](http://www.parliament.uk/documents/impact-assessments/IA15-006B.pdf) [accessed: 1 Junel 2016]. [↑](#footnote-ref-39)
40. DWP (2015), Memorandum to the Joint Committee on Human Rights: The Welfare Reform and Work Bill 2015, paragraph 4. Available [here](https://www.gov.uk/government/publications/welfare-reform-and-work-bill-2015-human-rights-memorandum) [accessed: 3 June 2016]. [↑](#footnote-ref-40)
41. EHRC (2015), 'Socio-economic rights in the UK: List of Issues'. Available [here](http://www.equalityhumanrights.com/en/our-human-rights-work/monitoring-and-promoting-un-treaties/international-covenant-economic-social) [accessed: 21 April 2016]. [↑](#footnote-ref-41)
42. ##  EHRC response to UN Special Rapporteur on the rights of persons with disabilities’ inquiry into the right of disabled people to social security, 2015. Available [here](https://www.equalityhumanrights.com/en/file/4656/download?token=Ca84nGHQ) [accessed: 3 June 2016].

 [↑](#footnote-ref-42)
43. CESCR, General Comment No. 20: Non-discrimination in economic, social and cultural rights (Article 2, para 2 ICESCR), E/C.12/GC/20, 2 July 2009. Available [here](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f20&Lang%20=en) [accessed: 3 June 2016] [↑](#footnote-ref-43)
44. EHRC (May 2012) Making fair financial decisions: An assessment of HM Treasury’s 2010 Spending Review conducted under Section 31 of the 2006 Equality Act. Available [here](https://www.equalityhumanrights.com/en/publication-download/making-fair-financial-decisions-assessment-hm-treasurys-2010-spending-review). The Equality Act 2010, which introduced a single, public sector equality duty, did not come into legal force until October 2010, so the previous public sector equality duties for race, gender and disability formed the basis of our assessment. [↑](#footnote-ref-44)
45. EHRC (2015), Future fair financial decision-making, pp. 4 and 8. Available [here](http://www.equalityhumanrights.com/publication/future-fair-financial-decision-making) [accessed: 3 June 2016] [↑](#footnote-ref-45)
46. Pillay, A., Chairperson, Committee on Economic, Social and Cultural Rights (May 2012) Letter to States Parties on ICESCR in times of economic crises, CESCR/48th/SP/MAB/SW, available [here](http://www2.ohchr.org/english/bodies/cescr/docs/LetterCESCRtoSP16.05.12.pdf) [accessed: 1 June 2016]. [↑](#footnote-ref-46)
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48. Social Security Advisory Committee (2014) The Cumulative Impact of Welfare Reform: a commentary, available [here](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324058/ssac_occasional_paper_12_summary.pdf) [accessed: 1 June 2016]. [↑](#footnote-ref-48)
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50. HM Treasury (2013) Impact on equalities: analysis to accompany Spending Round 2013. Available

[here](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209039/spending-round-2013_impact_on_equalities.pdf) [accessed 3 June 2016]. [↑](#footnote-ref-50)
51. EHRC (February 2015) Future fair financial decision-making, p. 8. Available at [here](http://www.equalityhumanrights.com/publication/future-fair-financial-decision-making) [accessed: 3 June 2016]. [↑](#footnote-ref-51)
52. Ibid, p. 4 [↑](#footnote-ref-52)
53. Equality Act 2006, section 14(6) [↑](#footnote-ref-53)
54. Such Codes, once laid before Parliament and approved by Order, don't create additional legal obligations but are "...admissible in evidence in criminal or civil proceedings, and shall be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant" (Equality Act 2006, section 15(4)). [↑](#footnote-ref-54)
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57. House of Lords Select Committee on the Equality Act 2010 and Disability (March 2016) The Equality Act 2010: the impact on disabled people, p 99. Available [here](http://www.publications.parliament.uk/pa/ld201516/ldselect/ldeqact/117/117.pdf) [accessed: 1 June 2016]. [↑](#footnote-ref-57)
58. House of Lords Select Committee on the Equality Act 2010 and Disability (March 2016) The Equality Act 2010: the impact on disabled people, pp 60-61. Available [here](http://www.publications.parliament.uk/pa/ld201516/ldselect/ldeqact/117/117.pdf) [accessed: 1 June 2016]. [↑](#footnote-ref-58)
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