

HR 23

Ymchwiliad i hawliau dynol yng Nghymru

Inquiry into Human Rights in Wales

Ymateb gan: Anabledd Cymru

Response from: Disability Wales

## **1. Introduction**

1.1 Disability Wales/Anabledd Cymru is the national association of disabled people's organisations in Wales striving for the rights and equality of all disabled people, including for independent living. Our core role is to reflect the views of our members to government with the aim of informing and influencing policy.

1.2 DW fully upholds the position that Human Rights are universal and apply to each and every individual.

1.3 The Committee's Inquiry is timely given that during 2017 the UN Committee on the Rights of People with Disabilities will be undertaking its first Examination of the UK Government in relation to its implementation of the UN Convention on the Rights of Disabled People (UNCPRD). Ratified by the UK Government in 2009, it is also binding on Welsh Government.

1.4 In partnership with Disability Rights UK (DRUK), DW has published a Shadow Report for England and Wales. Funded by the EHRC, it drew upon findings from engagement with disabled people through workshops and an online survey. 70 participants attended three workshops in Wales during Autumn 2016 in Cardiff, Llanelli and Wrexham. 72 people from Wales responded to the survey. The report includes specific recommendations for the Welsh Government.

1.5 On 13 March 2017, representatives from Disability Wales will join a delegation of Disabled People's Organisations from the UK in Geneva to present their reports and recommendations to the UN Committee. It provides an opportunity to inform and influence the Committee in drafting its list of issues to raise with the UK Government and devolved governments during the Examination, in August 2017.

1.6 DW will present the findings from Wales and its recommendations to Welsh Government at the Assembly All Party Group on Disability on 15 March 2017.

## **2. The impact of the UK's withdrawal from European Union on human rights protection in Wales**

2.1 The exact details of the UK's withdrawal from the European Union are yet to be decided therefore it is difficult to predict the exact impact of Brexit on human rights protections on disabled people in Wales. DW has however identified some key policy areas affecting disabled people which could alter after the UK exits the EU.

2.2 The UK has been progressive in introducing legislation aimed at protecting the rights of disabled people such as the Chronically Sick and Disabled Persons Act

(1970) and the Disability Discrimination Act (1995), the first legislation of its kind in Europe.

2.3 Nevertheless the EU and the European Court of Justice have acted as supportive body for disabled people in the UK. For example, when introduced the DDA did not apply to businesses employing less than 20 staff. However the EU Framework Directive for Equal Treatment in Employment and Occupation (2004) applied to all businesses resulting in the UK government removing the exemption for small businesses.

2.5 In 2008 a European Court of Justice Judgement ruled that discrimination against an employee due to their relationship to a disabled person or their status as a Carer was unlawful in England, Scotland and Wales.

2.6 Disabled people in the UK have benefited from other EU Directives such as ensuring special assistance when travelling by train, bus, ship or plane within Europe.

2.7 Since 2004 British disabled people living in the EU have been able to claim certain UK benefits through the Regulation on the Co-ordination of Social Security Systems introduced by the EU.

2.8 UK Citizens travelling within the EU are entitled to receive reciprocal medical support using the European Health Insurance Card (EHIC). Leaving the EU will mean this entitlement will end unless the UK Government seeks to establish a new deal allowing UK Citizens to retain these rights.

2.9 EU funding, including the European Social Fund, has been awarded to a wide variety of third sector organisations, which in 2015 helped 87,000 disabled people into work across the UK. This and other EU funding has played a significant role in increasing independent living and opportunities for disabled people. The UK Government has agreed to fund all EU funded projects approved before 23 November 2016 for the remaining lifetime of the project and all multi-year funded projects agreed before Brexit. Any funding commitments after this time are yet to be announced. It is crucial that funding is maintained for such projects supporting equality and independent living and reduce the employment gap between disabled and non-disabled people which is 34% in Wales.

2.10 Disabled people in Britain may not benefit from future legislation such as the European Accessibility Act, which aims to increase the supply of accessibility products in the marketplace, reducing barriers to education and the open labour market and improving accessibility for smartphones, ATMs and TV equipment. Given the crucial role that accessibility products play in enabling disabled people to achieve their right to independent living, the UK Government should commit to adopting the Act within domestic law.

2.11 The proposed withdrawal from the European Court of Justice, will result in the UK no longer being bound by EU legislation and directives including on disability rights. The UK Government has committed to protecting and maintaining rights under employment law however this will not be binding on future governments. DW

is concerned that this may regress legislation protecting disabled people's rights, particularly where this is perceived as reducing regulation and 'red tape'.

2.12 A further concern is the impact on the right to independent living given the substantial number of EU nationals employed in the care sector including as Personal Assistants to disabled people.

### **3. Public perceptions about human rights in Wales, in particular how understandable and relevant they are to Welsh people.**

3.1 Detailed knowledge and understanding both of equality legislation and human rights does not appear to be widespread either among disabled people or those responsible for delivering public policy and services. Findings from the UNCRDP Civil Society Project highlighted the significant implementation gap between legislative requirements on disability rights and equality and actual delivery and enforcement of these in terms of provision and services.

3.2 Wales has adopted legislation which increases human rights protections in relation to children by incorporating a duty to have due regard to the UN Convention on the Rights of the Child (UNCRC). However, in its 2012 inquiry report into implementation of the right to independent living, the Joint Parliamentary Committee on Human Rights concluded that 'Inadequate attention has been paid to the impact of relevant policy on the implementation of the UNCRPD, in contravention of Article 4(1) and 4(3).<sup>1</sup> There remains little evidence that government is consistently taking account of the CRPD in developing policy and making decisions.

3.3 DW's campaign *Independent Living Now!* actively influenced the introduction of WG's Framework for Action on Independent Living (2013). The Framework sets out how WG fulfils its obligations under the UNCRDP across a range of policy areas. However the CRPD does not seem to have the same status as the CRC or the UN Principles for Older Persons. It is not referenced on the face of any Welsh legislation, including the Social Services and Well-being Wales Act (2014), despite disabled people being major recipients of social care and support.

3.4 Following sustained lobbying by DW and other disability organisations, the UNCRDP was incorporated into the Part 2 Code of Practice (General Functions) of the SSWb Act:

When exercising social services functions in relation to disabled people who need care and support and disabled carers who need support, local authorities **must** have due regard to the United Nation Convention on the Rights of Persons with Disabilities.

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<sup>1</sup> Implementation of the Right of Disabled People to Independent Living - Twenty-third Report of Session 2010–12 (March 2012) Joint Parliamentary Committee on Human Rights

3.5 DW's Manifesto (2015) called upon the National Assembly for Wales and Welsh Government to 'recognise and pay due regard to their responsibilities in fully implementing the UNCRDP across government policy and legislation'.

3.6 The UNCRDP Shadow Report supports DW's position by recommending that Welsh Government should:

- Act on the recommendation of the Joint Parliamentary Committee on Human Rights which in 2012 proposed that: 'the Government make a clear and unequivocal commitment to Parliament, equivalent to that which it has already given in relation to the UN Convention on the Rights of the Child, that they will give due consideration to the articles in the UN Disabilities Convention when making new policy and legislation, and in doing so will always consider relevant recommendations of the UN treaty monitoring bodies.'
- Conduct a systematic assessment of compliance with the CRPD, involving disabled people, and set out areas for action.
- Develop and implement protocols for the active involvement of disabled people, including at national and local level and across public and political life.

3.7 The current review of the Framework for Action on Independent Living provides an opportunity for Welsh Government to address these issues ahead of the UN Examination.

3.8 More co-ordinated action is required to raise public awareness of Human Rights in Wales. With WG funding, DW has delivered several initiatives with this aim, including the online resource *Know your Rights, Use your Rights, Live your Rights*; the three year project *Enabling Wales (2014-17)*; and a training programme for Elected Members across Wales in 2016 on meeting their responsibilities under the Equality Act and UNCRDP.

3.9 Following the Elected Member training, DW recommended that:

- a) mandatory and improved training opportunities for Elected Members and Policy Officers on disability awareness, rights and equality
- b) consultancy development for public bodies wishing to meet their responsibilities towards disabled people by involving and including disabled people in policy making, and increasing the representation of disabled people within their organisation
- c) developing a series of online resources, interactive learning materials and an App to improve awareness and understanding of disabled people's rights

3.10 DW welcomes the opportunity to provide further information and evidence to the Committee on the issues raised.