

The United  
Nations  
Convention on the  
Rights of People  
with Disabilities  
**What does it  
mean for you?**



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# Foreword

If you are a disabled person the United Nations Convention on the Rights of People with Disabilities (the Convention) is for you.

The Convention is a new international human rights agreement that:

- Recognises that we are all equal. Disabled people have the same rights as everyone else to freedom, respect, equality and dignity.
- Brings together all our basic human rights in one place.
- Describes what government has agreed to do to make these rights real.

The Convention was created because often our human rights are not respected and we face many barriers to inclusion in society.

The Convention is not just a paper 'declaration' without any teeth. It requires government to take action to remove barriers and give disabled people real freedom, dignity and equality. We can use it in lots of different ways to make sure our rights are respected and to get a better deal.

The Equality and Human Rights Commission is working hard to raise awareness of the Convention among disabled people, legal advisers and public bodies.

The Commission's role is to ensure Britain makes rapid progress towards making the Convention rights a reality for disabled people.

We have produced this guide so that you can find out:

- What your human rights are and how they are protected.
- What difference the Convention could make to your life.
- How you can be involved in putting the Convention into practice.
- How you can use the Convention to challenge injustice and improve services.

This guide is for people living in England, Wales and Scotland. We hope you find it useful. The Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission have produced a separate guide which explains how the Convention will work in Northern Ireland.

## **Mike Smith**

Commissioner and Chair of the Disability Committee, Equality and Human Rights Commission.

# What this guide covers

## Part 1: Introducing the United Nations Convention on the Rights of People with Disabilities

This Part explains what the Convention is, and what it means for you. It describes the obligations of the government, and the role of the Equality and Human Rights Commission and the Scottish Human Rights Commission in the implementation of the Convention. It also explains how the Convention works in relation to the Human Rights Act and disability discrimination legislation including the Equality Duty.

## Part 2: Know your rights

This Part sets out the key principles of the Convention, what each right says and what it means, with examples.

## Part 3: Making rights a reality

This Part shows you how to make the Convention work for you. It explains how disabled people and disabled people's organisations can get involved in the monitoring and implementation of the Convention, and how you can use it to bring about change at local and national level. It also sets out how you can use the Convention to make a complaint.

## Part 4: Further information and resources

There are many places where you can get help or find more information and as the Convention becomes more a part of everyday life all over the world more resources will become available. This Part lists some of the key resources where you can find help.



# Part 1

## Introducing the United Nations Convention on the Rights of People with Disabilities

This Part gives you an introduction to the Convention. It covers:

- What is the United Nations Convention on the Rights of People with Disabilities?
- Why did this Convention come about?
- Why is the Convention important for disabled people in Britain?
- Who has rights under the Convention?
- What obligations does the Convention put on the government?
- Reservations.
- How does the Convention relate to domestic legislation, in particular the Human Rights Act and the Equality Duty?
- Whose job is it to implement the Convention?
- What role do the Equality and Human Rights Commission and the Scottish Human Rights Commission have?
- What role do disabled people and their organisations have?
- The role of the United Nations.

### **What is the United Nations Convention on the Rights of People with Disabilities?**

The United Nations Convention on the Rights of People with Disabilities is a new international agreement about protecting and promoting the human rights of disabled people throughout the world.

In this guide we use the term ‘Convention’ for short. There are other Conventions, for example the European Convention on Human Rights and the United Nations Convention on the Rights of the Child. If we talk about a Convention other than the United Nations Convention on the Rights of People with Disabilities, we will use its full name.

**Human rights are a set of basic rights and freedoms that everyone is entitled to, regardless of who they are. They are about how the State must treat you. They recognise that everyone is of equal value, has the right to make their own decisions and should be treated with fairness, dignity and respect. Human rights have been written down in international agreements such as the Universal Declaration of Human Rights (1948) and the European Convention on Human Rights (1950).**

The Convention describes the steps which governments must take to make sure disabled people enjoy their human rights to:

- equality before the law without discrimination
- make their own decisions
- have their family life respected
- freedom from exploitation, violence and abuse
- an inclusive education
- a decent standard of living
- support to participate in society and live in the community
- accessible physical environments and information

These rights and others not listed here are contained in 'Articles'. We explain what the rights mean in Part 2.

### **Why did this Convention come about?**

Disabled people campaigned for over 20 years to get their own human rights

convention. Many disabled people and their organisations across the world were involved in agreeing its contents.

Like everyone else in the world, disabled people's human rights have been enshrined in the Universal Declaration of Human Rights since 1948. To that end the Convention does not give disabled people 'new' human rights. However, it was recognised that action needed to be taken to ensure rights on paper become rights in everyday reality. Too many obstacles still lead to disabled people's human rights being abused or neglected.

The aim of a disability convention was to set out the steps which every country in the world should take to remove these obstacles. Many countries – including the UK – agreed that there should be a specific Convention to drive forward real dignity, equality and inclusion for disabled people.

The text of the Convention was agreed at the United Nations (UN) in December 2006. The UK signed the Convention on 30 March 2007 and ratified it on 8 June 2009.

**When a country 'signs' the Convention it means it agrees with what the Convention says about human rights for disabled people.**

**When a country 'ratifies' the Convention it agrees to do what the Convention says and make changes to ensure that the rights in the Convention are respected in practice.**



## **Why is the Convention important for disabled people in Britain?**

- 1. The government will be held to account** by means of reports on its performance in promoting disabled people's rights by the UN Disability Committee.
- 2. It should give disabled people a stronger say in the policies that affect their lives.** Government is expected to involve disabled people in the plans to implement the Convention when it is making new laws and policies which affect disabled people, and when it is writing reports for the UN on how the UK is meeting its obligations under the Convention.
- 3. It sets new standards on how government and public bodies should ensure that disabled people's human rights should be protected and promoted.** This is the first human rights agreement that talks in detail about things like an inclusive education or the right to live where you want to.
- 4. It puts wide-ranging responsibilities on government to take practical action to strengthen disabled people's control over their own lives and full participation in society.**
- 5. It could lead to stronger and fuller protection against disability discrimination.** Government may need to take action to close gaps in UK law on disability discrimination.
- 6. It can be used to interpret the Human Rights Act and, alongside the Equality Duty, to challenge failure to respect human rights and to work towards disability equality.**
- 7. It can be used by disabled people and their organisations as a framework to negotiate and influence national and local matters** – for example when a local authority is proposing to withdraw essential social support services which will affect disabled people's rights to live independently.
- 8. It should help promote positive attitudes towards disabled people** as the government has an obligation to raise awareness and foster respect for the rights and dignity of disabled persons, to tackle prejudice and abuse against disabled people, and to promote awareness of what disabled people can contribute to society.

## Case Study: The difference a Convention makes

### The Children's Rights Convention in Wales

In 2004, the Welsh Assembly Government adopted the United Nations Convention on the Rights of the Child as the basis for all their policies and programmes for children in Wales.

The seven core aims the Welsh assembly Government has set for children all stem from the UN Convention on the Rights of the Child. They cover issues like the best education and training possible, good physical and mental health and the right for children to have their views listened to.

The Welsh Minister for Children chairs a Cabinet sub-committee whose job is to ensure the Convention is put into practice.

The Welsh Assembly Government's commitment to the Children's Rights Convention is delivering real benefits for children and young people.

For example, the Welsh Assembly Government:

- was the first government in the UK to appoint a Children's Rights Commissioner to act as a champion for children's rights
- set up Funky Dragon – the children and young people's Assembly passed a law requiring every school to have a school council so that pupils can have a real say in their education and how their school is run
- publishes a Children and Young People's Wellbeing Monitor which measures progress on tackling child poverty and children's enjoyment of their Convention rights, and
- works hard to get the message across to parents and carers that hitting children is wrong and infringes their human rights.

### Who's rights are recognised by the Convention?

The Convention is about the human rights of disabled people. That can be a person who has an impairment, illness, injury or health condition and who may face barriers to being included in society. It includes Deaf people, people with learning disabilities, people with sensory impairments, people with physical impairments, people with mental health conditions, people with autism, people with epilepsy and people who are HIV positive. The Convention says that 'a person with a

disability' includes people with long-term impairments. However, it could also cover people with short-term disabilities. There are around 11 million disabled people in Britain who have rights under the Convention.

The Convention is based on the 'social model' of disability. It recognises that people with impairments are excluded by barriers created by society, and so are disabled by inaccessible services, barriers in the built environment or prejudice and stigma. It also recognises that these barriers change over time for the individual.

## **What obligations does the Convention place on the government?**

When a government has ratified the Convention it commits to taking practical action to make rights real. It should:

- take steps so that disabled people can enjoy all their rights – for example making sure that disabled people have full protection against all forms of discrimination – including taking action against failure to make reasonable adjustments
- look at existing laws and say what changes need to be made
- abolish laws and practices that discriminate against disabled people
- pass new laws and make new policies where necessary
- take account of disabled people's human rights in everything it does (people often call this 'mainstreaming' – thinking at the beginning of a process about making sure that disabled people are not excluded)
- avoid doing anything that infringes disabled people's Convention rights
- ensure that professionals who work with disabled people have training to understand how to respect their rights
- ensure that the private sector and individuals respect the rights of disabled people
- promote accessibility including the development of standards
- ensure international development programmes address disability issues and include disabled people, as well as working with other international bodies

- gather information and statistics about the position of disabled people in society so it can track progress and develop better policies.

The Convention places obligations on the 'State Party': for Britain this is the UK Government. However, protecting and promoting many of the rights under the Convention depends on action by regional and local authorities and other national bodies. Therefore, the UK Government should take steps to ensure these authorities (for example local health boards, local councils, inspectorates, police) are doing what is necessary to implement the Convention. The Scottish Government and the Welsh Assembly Government will need to ensure such actions are taken in Scotland and Wales in areas where responsibility for delivering legislation, services or participation has been devolved.

If the government fails to take these steps, then it may be in breach of the Convention. In Part 3 we explain how you can deal with this, and also how you can use the Convention in relation to other public bodies and anyone delivering public services on their behalf.

It is worth noting that the Convention has different types of rights. Some rights give the government flexibility, others do not. For example, taking somebody's life or torturing a person is never allowed. Other rights can be restricted in some situations which must be set out in law, for example people have the right to liberty, but they can be sent to prison because of an offence written in the law.

Many of the rights in the Convention require the government to take proactive steps. However, the Convention recognises that many countries may not be able to take steps to make some of the rights real for all disabled people immediately. The government should still try to do everything in its power and use all available resources to make sure disabled people enjoy their human rights as quickly as possible. This is often called 'progressive realisation'. The UN is likely to expect a relatively wealthy country like Britain, which has already got many of the basics in place, to be doing better than a developing country.

While governments are working on improvements to rights they should still:

- avoid taking steps which deny disabled people their enjoyment of human rights, and
- ensure everyone has the minimum essential level of support they need in terms of food and shelter, and basic levels of health care and education.

Part 3 explains how you can use the Convention.

### **Reservations**

When the UK Government ratified the Convention, it made reservations against a number of Articles and one interpretative declaration. A reservation is a statement that says that the government will not (yet) take steps on a certain issue. An interpretative declaration sets out the government's understanding of what a particular Article means and agrees to ratify it on condition that it is interpreted in this way.

The reservations and the interpretative declaration are discussed in Part 2, under the right to make your own decisions (Article 12), liberty of movement and nationality (Article 18), right to education (Article 24), and right to work (Article 27).

The Equality and Human Rights Commission, the Scottish Human Rights Commission, the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission believe the reservations and declaration made by the UK Government are either unnecessary or invalid and should be withdrawn.

### **How does the Convention relate to our domestic laws, in particular the Human Rights Act and the Equality Duty?**

The UK Government needs to make sure that the laws we have at home meet the Convention's requirements. If not, then it should change the laws. There are a number of ways that you can hold the government to account if our laws or their implementation don't meet the requirements of the Convention. You can find out more about this in Part 3.

If a disabled person believes that their rights under the Convention have been breached, then they cannot take the government or any other public body to a court, as the Convention is not directly part of our domestic law. However, the Convention can play an important supporting role when cases are taken to court about the Human Rights Act, disability discrimination legislation and, in particular, the Equality Duty.

The **Human Rights Act** is a law passed in the UK in 1998 that says public authorities must respect the human rights of everyone in Britain and Northern Ireland. The rights it protects are based on an agreement called the European Convention on Human Rights. That agreement includes some of the same rights as the disability Convention, for example the right to life and the right to a fair trial. However, the disability Convention also includes a broader range of rights, in particular rights that cover social, cultural and economic issues such as the right to housing and the right to work.

The disability Convention sets out in more detail the steps that the government must put in place to ensure disabled people's human rights are protected and promoted. For example, Article 8 of the Human Rights Act protects people's right to private and family life, including the right to take decisions about their own lives and to participate in the community. Article 19 of the disability Convention sets out some of the steps which government must take to ensure that disabled people enjoy this right, for example by ensuring disabled people have an equal choice to decide where and with whom they live and that they have the support needed to live independently in the community.

Now, when public authorities are thinking about how they support human rights they should also look at the Convention. While you can't bring a case directly in the UK courts under the Convention, the disability Convention can be used as an interpretative tool in relation to the Human Rights Act. When interpreting

the Human Rights Act, courts should take account of international law as well as decisions of the European Court of Human Rights. In 2009, the European Court of Human Rights referred to the Convention in a decision about whether disabled people were treated unfairly. The full name of this case is *Glor v Switzerland* (Application no. 13444/04, judgment on 30 April 2009).<sup>(1)</sup>

**Disability discrimination law** says that disabled people should be free from discrimination and harassment and that employers, educational establishments and service providers in Britain must make reasonable adjustments to ensure disabled people can access their services and fully participate. The Convention could be used to interpret some concepts, for example it could help interpret what is meant by 'reasonable adjustment' in cases which would reinforce their purpose as being to remove barriers towards full participation.

Equality legislation also places a duty on public authorities to promote disability equality in everything they do. This guide was written in May 2010. This duty is called the Disability Equality Duty (from the 1995 Disability Discrimination Act as amended). Soon it will be the Public Sector Equality Duty (from the 2010 Equality Act) which will also cover equality in relation to age, sexual orientation, sex, race, religion and belief, pregnancy and maternity, and gender reassignment. We think it will be the Public Sector Equality Duty from April 2011 although government has yet to decide the exact date. If you're not sure contact the Equality and Human Rights

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**1** For an **unofficial** translation into English, go to:[http://www.mdac.info/images/page\\_image/Glor\\_v\\_Switzerland\\_en.doc](http://www.mdac.info/images/page_image/Glor_v_Switzerland_en.doc)



Commission to find out. In this guide we call it the 'Equality Duty'.

If public authorities are not meeting their Equality Duty, then the Equality and Human Rights Commission can take legal steps to make sure they do so, or disabled people can challenge them in court (through something called 'judicial review'). Public authorities will be helped in meeting their Equality Duty if they use the standards set out in the Convention.

The disability Convention can also be used as an interpretative tool in relation to disability discrimination legal cases.

There are many other laws in Britain that already support disabled people's human rights, for example the Chronically Sick and Disabled Persons Act and the Mental Capacity Act. These laws, and the way public authorities implement them, now need to be measured against the requirements of the Convention.

The use of the Convention, together with the Human Rights Act and equality legislation in advocacy and legal cases, could help strengthen disabled people's rights.

### **Whose job is it to implement the Convention?**

The UK Government, in partnership with the devolved administrations of Scotland, Wales and Northern Ireland, is responsible for ensuring that the Convention is implemented.

The Convention requires each government to set up what is called a 'focal point and a co-ordinating mechanism' to help ensure

that this happens. The **Office for Disability Issues** (ODI) is currently the focal point and co-ordinating mechanism within the UK Government. It will co-ordinate action across different government departments in the UK and the devolved administrations to implement the Convention.

Because Scotland and Wales decide many of their own laws and policies (this is called 'devolved matters' – for example on health, social care and education), the Scottish Government and the Welsh Assembly Government will be working on their own plans to implement the Convention in those areas. The ODI will work closely with the devolved governments in Scotland and Wales.

### **What role do the Equality and Human Rights Commission and the Scottish Human Rights Commission have?**

The Convention requires each government to put in place a framework to promote, protect and monitor implementation of the Convention. It prefers that this framework includes one or more bodies, known as 'national human rights institutions', which can demonstrate independence. The Equality and Human Rights Commission and the Scottish Human Rights Commission are both national human rights institutions.

Both commissions will monitor progress being made by the governments of Britain in implementing the Convention and report on that progress to the UN. They will provide advice and information to disabled people and to public authorities. They will also mainstream the Convention

into their work – for example when enforcing the law or influencing government policy.

## **What role do disabled people and their organisations have?**

The Convention says that ‘civil society’ and disabled people and their organisations, in particular, must be closely involved in monitoring how well the Convention is being put into practice. When governments are monitoring progress they must ensure disabled people play a full part in that process.

‘Civil society’ means individuals and organisations that are not part of government. This includes:

- those people directly affected by human rights violations
- voluntary organisations which work with them including Centres for Independent Living, self-advocacy groups, access groups, local disability associations
- other voluntary organisations such as faith groups, youth groups, older people’s groups, women’s groups and groups for lesbians, gay and bisexual people
- parents of disabled children and families of disabled people
- human rights organisations
- trade unions, and
- professional groups.

Disability groups should use the Convention as a negotiation tool, for advocacy, and to inform your arguments in legal cases. A powerful way to influence the monitoring and implementation process is to write

‘shadow’ reports, through which disabled people and their organisations can set out their views on what the government is doing (or not) to respect, protect and promote the rights under the Convention. Anyone can do this. There is information on how to do these reports on page 41.

## **The role of the United Nations**

The UN has set up a committee of experts on disability rights to monitor what each country that has ratified the Convention is doing to put it into practice. Its actual title is the ‘Committee on the Rights of Persons with Disabilities’ but in this guide we will refer to it as the UN Disability Committee. In 2010 it had 12 members of whom nine were disabled people.

The UN Disability Committee:

- can make General Recommendations/ General Comments that say how certain rights in the Convention should be interpreted, for example what steps they would expect States Parties to take
- monitors the compliance of a State Party with the Convention, and can make recommendations about what more the government should do to deliver disabled people’s human rights. The UK Government has to submit its first report to the UN Disability Committee in June 2011.

Some of the UN Disability Committee’s powers come from a second agreement connected with the Convention called the ‘Optional Protocol’. The UK Government has also ratified this.

You can read more about the UN Disability Committee’s work in Part 3.

# Part 2

## Know your rights

This Part tells you about:  
Key principles the government should adopt and use for their policies and practices

Your rights under the Convention

- what does it say?
- examples of how you might use it.

If you think that your human rights have been breached or you think that a public body, for example your council, health service or government, should do more to protect your rights, then you should think about all the rights that may apply to your situation. Often it is the case that more than one right applies.

Because the Convention is still new, it has not yet been used much in practice. That is why we cannot give real-life examples. As the Convention gets used more often, we will find out more about what it means in practice. We have used examples where possible to help explain what each Article could mean in practice. Some of the Articles of the Convention include more detailed actions for governments to take or include more complex issues. We have therefore included more explanation and examples for some of the Articles.

You will see that some Convention articles are very broad, for example Article 5 (which is about equality and non-

discrimination) and some overlapping, for example Articles 15 (about freedom from torture and degrading treatment) and 16 (about exploitation and abuse).

### **Key principles the government should adopt and use for their policies and practices**

The Convention sets out some key principles which governments and public bodies must take into account when they are carrying out their work. Generally, public authorities should follow these principles. They should also identify what they can do to positively promote them. These principles are:

- **Respect.** Every person is of equal worth and deserves to be treated with dignity and respect. Disabled people have the right to choose how to live their own lives and the freedom to make their own choices. These rights must be respected.



- Non-discrimination. Disabled people must never be treated worse than others, excluded from or denied access to services, education, work or social life on the basis of their disability.
- Participation and inclusion. Disabled people's full and effective participation and inclusion in society must be supported.
- Respect for difference and acceptance of disabled people as part of human diversity and humanity.
- Equality of opportunity. Taking positive action to ensure barriers are removed.
- Accessibility. Ensuring disabled people can access buildings, housing, services, information, leisure (and other areas listed in the Convention) on an equal basis to non-disabled people.
- Equality between men and women.
- Respect for disabled children as they grow up.

## **Rights under the UN Convention on the Rights of People with Disabilities**

- Article 5 Equality and non-discrimination
- Article 6 Women with disabilities
- Article 7 Children with disabilities
- Article 8 Awareness-raising
- Article 9 Accessibility
- Article 10 Right to life
- Article 11 Situations of risk and humanitarian emergencies
- Article 12 Equal recognition before the law
- Article 13 Access to justice
- Article 14 Liberty and security of person
- Article 15 Freedom from torture or cruel, inhuman or degrading treatment or punishment
- Article 16 Freedom from exploitation, violence and abuse
- Article 17 Protecting the integrity of the person
- Article 18 Liberty of movement and nationality
- Article 19 Living independently and being included in the community
- Article 20 Personal mobility
- Article 21 Freedom of expression and opinion, and access to information
- Article 22 Respect for privacy
- Article 23 Respect for home and the family
- Article 24 Education
- Article 25 Health
- Article 26 Habilitation and rehabilitation
- Article 27 Work and employment
- Article 28 Adequate standard of living and social protection
- Article 29 Participation in political and public life
- Article 30 Participation in cultural life, recreation, leisure and sport

## **Equality and non-discrimination**

### **Article 5 says:**

- Everyone is equal before the law.
- Governments should outlaw all forms of discrimination on the basis of disability and ensure effective protection against disability discrimination.
- Governments should ensure that reasonable accommodation is made for disabled people.
- Specific measures are often needed to create equality for disabled people in practice and are permitted under the Convention.

### **What does this mean?**

Our existing disability discrimination law gives disabled people protection against most forms of discrimination. It also gives disabled people rights to reasonable adjustments, and it allows employers and service providers to treat disabled people more favourably than non-disabled people (for example reserving parking bays outside an office for disabled employees) since this is often necessary to deliver equality in practice. The Human Rights Act also provides important protection against discrimination in the enjoyment of the rights it sets out, such as not to be discriminated in the way the right to respect for family life is protected.

However the Convention is broader than current British discrimination law. For example, in British law, volunteers have little protection. Travel by air and across water is also not fully covered nor do manufacturers have enforceable duties to make their products accessible. Also, disability discrimination law has a

stricter definition of who is a disabled person, whilst the Convention might also protect people, for example, with a one-off but severe mental health condition lasting less than 12 months.

Often you can use this right together with other rights in the Convention as in the example below concerning Article 30 which sets out the right to take part in leisure.

### **Example: Equality and participation in leisure**

A local authority decides to close a car park which gives easy access to a beach, resulting in visitors having to park further away, and to use an alternative route which is steep.

This means that people with mobility impairments and their family/friends cannot go to that beach anymore.

This is a regressive step and also it puts disabled people at a disadvantage in comparison with other people.

Disabled people could highlight Articles 5 and 30 in their discussions with, or a case against, the local authority in such a situation.

### **Protection for specific groups of disabled people**

#### **Disabled women**

##### **Article 6 says:**

- Governments should recognise that disabled women and girls face multiple discrimination (worse treatment because of their gender and their impairment).

- Governments should ensure disabled women can enjoy their human rights in full and should do everything possible to empower disabled women.

### What does this mean?

This means that governments must take steps specifically related to disabled women – not just think about ‘women’ as a group, and ‘disabled people’ as another group.

This helps you to highlight issues that affect disabled women in particular, and get the government to address these issues. For example, disabled women are twice as likely to be the victims of domestic violence, and often have limited access to support services.

There is another important international convention for disabled women – the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).

### Disabled children

#### Article 7 says:

- Governments should do everything necessary to ensure disabled children enjoy their human rights on the same basis as non-disabled children.
- Decisions about disabled children must be in their best interests.
- Governments should ensure that;
  - disabled children are supported to express their views, and
  - disabled children’s views are listened to and taken seriously.

### What does this mean?

This makes it clear that disabled children also have full human rights, and that governments should take proactive steps so that disabled children can enjoy their human rights and reach their full potential in education and in the community.

It also says that governments should take account of the age of the child in their right to express their views.

There is another important international convention for disabled children in Britain – the Convention on the Rights of the Child (CRC).

### Example: Age of the child

A housing authority is assessing the needs of a family with a disabled child for a bigger house. The disabled child would like to have their own bedroom, and not to have to share with their sibling. If the child is 6 years old then this view will carry less weight than if the child was 13 years old – although the housing authority should always act in the best interest of the child. Therefore if there are disability related reasons why the 6 year old child should have their own bedroom then the housing authority should also take account of those reasons.

### What about other groups of disabled people?

The Convention specifically protects disabled women and disabled children. However the Convention also talks about how governments must recognise the diversity among disabled people.

## Example: How the Convention could be used to protect disabled people who also belong to another group

A Gypsy family includes an older woman with severe learning disabilities. She has little sense of danger and often runs away. The family's mobile home is in a field, away from roads. However, the council says that they do not have permission to have their mobile home in the field, and they have to move to a car park which is next to a busy road. This is a dangerous situation for the older woman. In their discussions with, or a case against, the council the Gypsy family could use the right to life (Article 10), freedom to choose their residence (Article 18), and respect for home and the family (Article 23) in the Convention to argue that the council should provide an alternative solution which takes account of the needs of the older woman and the Gypsy family.

These steps include – but are not limited to – public awareness campaigns, building positive attitudes into education, influencing the portrayal of disabled people in the media, and promoting disability equality training, including awareness of the legal rights of disabled people.

### What does this mean?

Disabled people can enjoy full human rights only if society changes its attitude towards, and its expectations of, disabled people. This won't happen by itself. Article 8 highlights four important steps that governments and other public bodies should take to bring about a culture change, including the need to promote disability equality training.

You can use this Article to promote disability equality training for policy-makers and decision-makers (local and national) so that they know how to respect, protect and promote the human rights of disabled people so that disabled people can reach their potential in society and that their contributions are valued.

### Awareness-raising

#### Article 8 says:

- Governments should take immediate, effective and appropriate steps to;
  - raise awareness throughout society, including at family level, and to encourage respect towards disabled people
  - eliminate prejudice and abuse against disabled people
  - raise awareness of the value of the contribution disabled people make to society.

## Example: Need for awareness-training about disabled people and their rights

It is very important that doctors and other medical professionals are aware of disabled people's rights under the Convention. For example, if they place a 'Do Not Resuscitate' order on disabled people's medical records without their consent, this may breach their right to life. Also, doctors should not make assumptions about the quality of life of disabled people.

### Accessibility

#### Article 9 says:

- To enable disabled people to live independently and take part in all areas of life government should take action to ensure accessibility, equal to that of non-disabled people. This includes taking action in relation to the built environment, transport, public services or facilities, housing, as well as information and communication services, and emergency services.
- Governments should take steps to;
  - develop and monitor minimum access standards and guidelines for public services and facilities
  - ensure that the private sector makes services to members of the public accessible
  - provide accessibility training
  - ensure signs in public buildings are in easy read and Braille
  - ensure more assistance and sign language interpreters are available to

support access to public buildings and facilities

- promote accessible information and access to Information and Communication Technology (for example computers and the internet) for disabled people
- promote inclusive design for new information and communication technologies so that, from the start, these are designed to be accessible to, and easy to use for, disabled people.

### What does this mean?

Disabled people can use this Article to measure whether the government and public bodies are doing enough to ensure accessibility of the environment. For example, if a local authority is writing a Local Development Framework, then they should include an accessibility statement which underpins the rules for new buildings, businesses, and the transport network. This statement could reflect the rights set out in the Convention.

### Right to life

#### Article 10 says:

- Every human being has the right to life.
- Governments must do everything necessary to ensure disabled people enjoy this right on an equal basis with other people.

### What does this mean?

This means that the State must not take away anyone's life, and government must take reasonable steps to protect your life. For example there should be adequate laws in place to protect you from others who might try to take away your life.



There have been legal cases about ‘Right to Life’ under Article 2 of the European Convention on Human Rights. The right to life only applies once people are born. Authorities must protect life where they know, or ought to know, of immediate risk to life from oneself or from another (for example, a stalker). Doctors must provide life-prolonging treatment, such as water and artificial feeding, if a terminally ill patient with capacity to make this decision asks for it. Also, if a disabled person dies an unnatural death whilst living under the care of the State, for example by committing suicide in prison or a mental health institution, an investigation must be carried out.

### **Situations of risk and humanitarian emergencies**

#### **Article 11 says:**

- Governments must take all necessary steps to make sure that disabled people are protected and safe in situations of risk – such as war, famine and natural disasters.

### **What does this mean?**

When governments and public bodies are planning for emergencies, then they should think about safety for disabled people. Also, when there is an emergency, then they should take steps to make sure that disabled people are safe.

For example, Local Strategic Partnerships in places that are at higher risk of flooding should identify risk factors for disabled people (residents and visitors) and make plans to address the risks.

In a case of an unexpected emergency, for example flights being grounded because

of volcanic ash, governments should work together to make sure that disabled people are not put at risk, for example if they need access to medicine, then they should make every effort to provide this.

Governments and public bodies should also think about accessible communications around emergencies. For example, it would not be good enough to set up a helpline where people can ask for information or help which is not accessible for groups of disabled people, including Deaf people and people with speech impairments.

### **Equal recognition before the law**

#### **Article 12 says:**

- Disabled people have the right to equal recognition as people before the law.
- Disabled people have the right to make their own decisions in all areas of life, on the same basis as other people.
- Governments should provide access to support that might be needed by disabled people in making their own decisions.
- If decisions are made that relate to a person’s capacity to understand, then there must be safeguards against abuse: your rights and choices must be respected, and someone else should only be speaking for you to the extent that it is necessary and for as long as is appropriate. There should be a regular and independent review of the steps taken to make sure that there is no conflict of interest and that the disabled person’s rights and interests are properly respected.

- Government must do everything they can to ensure disabled people can own and inherit property like anyone else, manage their own money and access bank loans and mortgages.

### What does this mean?

This means that disabled people cannot be denied the right to make their own decisions. If they need help to make decisions, then this should be given. It also says that disabled people should be financially independent and have access to financial services.

### Example: Equal recognition before the law

If your council gives you Direct Payment, but they say that the bank account must be looked after by another person or group (for example, Independent Living Service), then you can use this Article to demand that the council explains why they think this would be necessary. You could use this Article together with the Mental Capacity Act to challenge their reasons if you do not agree with the council.

If you have someone else to speak for you in certain situations (for example, financial matters), then the government must make sure that the person speaking on your behalf cannot abuse their position.

**When the UK ratified the Convention it made a ‘reservation’ to this Article.** This was to be clear that there is not yet a system in place for regular review of whether appointees (people who are given the right to deal with benefits on behalf of a disabled person) should continue in that role.

### Access to justice

#### Article 13 says:

- Disabled people must have the same rights to go to court, take other people to court, act as witnesses and take part in what happens in courts as anyone else.
- Disabled people must be given support to do this which may include the provision of sign language.
- There should be appropriate training for courts, police and prison staff to support this right.

### What does this mean?

Current disability discrimination law places a duty on courts to treat disabled people fairly and give them extra help to take part on an equal basis. For example, if a court user has a visual impairment then the court should send out information in an accessible format. Or if a person with autism needs to visit the court in advance, so that they don’t get worried when the actual court case takes place, then the court should organise this.

It also means that sometimes the government should give extra help to disabled people to enable them to participate in the court, as claimant, defendant, witness or appropriate adult.

This support could be, for example, through ‘intermediaries’, legal aid or specialist services.

There have been cases under Article 6 of the Human Rights Act/European Convention on Human Rights (the right to a fair trial) which makes it clear that defendants who use a language which is not English have the right to an interpreter.

In 2009, the court said that if a witness with a mental health condition is not given appropriate support but instead treated as an unreliable witness because of stereotyping or false assumptions, then this may amount to breach of right to be free from degrading treatment.<sup>(2)</sup>

Anecdotal evidence shows that many disabled people continue to find the court system complicated, intimidating and expensive. That may be why few human rights cases are brought to court by disabled people. The government should think about how to better support disabled people.

The Equality and Human Rights Commission can support some disabled people with discrimination cases but cannot support everyone. There are a number of other organisations that can assist. These are listed in Part 4.

### **Liberty and security of the person**

#### **Article 14 says:**

- Governments must make sure that:
  - disabled people enjoy the same right to liberty and security as everyone else

- disabled people are never deprived of their liberty just because they are disabled
- disabled people are protected from arbitrary detention. If a disabled person is detained or deprived of their liberty they are provided with reasonable adjustments and measures are in place to safeguard their other human rights (for example the right to a fair hearing, the right to be free from degrading treatment).

### **What does this mean?**

The right to liberty means you have a right not to be locked in a cell or a room, or have your movement restricted in any other extreme way. It is not an absolute right. It can be limited in a very few specific circumstances, such as if you are convicted of a crime which carries a prison sentence. Governments can also pass laws about putting people with severe mental health conditions in hospital for treatment as long as certain conditions are satisfied and appropriate safeguards are in place.

### **Freedom from torture or cruel, inhuman or degrading treatment or punishment**

#### **Article 15 says:**

- No one must be tortured or subject to cruel, inhuman or degrading treatment.
- Disabled people must never be subject to medical experiments they have not freely agreed to be part of.

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<sup>2</sup> The full name of this case is *R (B) v Director of Public Prosecutions* (Equality and Human Rights Commission intervening) [2009] EWHC 106 (Admin) [2009] WLR (D) 25 QBD.



## What does this mean?

This right is about protecting human dignity.

**Inhuman treatment means treatment which causes severe mental or physical harm.**

**Degrading treatment means treatment that is grossly humiliating and undignified.**

There are many situations where inhuman or degrading treatment can occur and disabled people often find themselves in situations of vulnerability, such as living in institutions or being reliant upon others for intimate personal care, which place them at greater risk.

In Britain, there are lots of systems in place to protect disabled people against degrading or inhuman treatment. Public bodies have a duty to make sure you are not treated in an inhuman or degrading way by private care providers or indeed members of your own family. If public bodies find out about such treatment, or if they should have been aware, they have a duty to act. In relation to health and social care, there are regulators in each country in Britain which check whether health and social care providers are treating service users in a dignified way. In England this is the Care Quality Commission, in Wales the Care and Social Services Inspectorate Wales, and in Scotland the Scottish Commission for the Regulation of Care. Other inspectorates, for example, Her Majesty's Inspectorate of Prisons, also have a role.

## Freedom from exploitation, violence and abuse

### Article 16 says:

Governments must do everything they can to:

- protect disabled people from all forms of exploitation, violence and abuse at home and in the community
- prevent all forms of violence and abuse against disabled people ensure disabled people know how to recognise and report violence and abuse. Governments must support the recovery of disabled people who have been victims of violence and abuse. This should be done in a way that supports people to regain control over their lives
- put in place strong laws to make sure instances of violence and abuse against disabled people are identified, investigated and prosecuted.

## What does this mean?

This Article sets out detailed steps of how to prevent or address exploitation, violence and abuse.

In Britain, nearly all forms of exploitation, violence and abuse count as crimes. Disabled people are four times more likely to be the victim of a crime than other people and are twice as likely to be the victim of a violent attack. Any crime involving disability hostility or prejudice should be treated as a hate crime and attract a stiffer sentence.

Britain has disability hate crime legislation (separately for England, Wales and Scotland), but the Equality Duty also places a responsibility on public authorities under

the Equality Act to take action to address the behaviour and attitudes of those who carry out hate crime, as well as take steps so that disabled people can live in safety and security.

For example, the police should make sure that disabled people can report hate crime incidents, for example by making police stations accessible, training police officers, and raising awareness among disabled people of their rights.

Article 16 says that there needs to be independent monitoring of facilities and programmes for disabled people. In Britain this role is usually carried out by inspectorates and regulators, for example Her Majesty's Inspectorate of Constabulary.

Abuse can also happen in other places like schools. You could use this Article to highlight the need to monitor the effectiveness of safeguarding systems in education for disabled children and disabled teachers.

### **Protecting the integrity of the person**

#### **Article 17 says:**

- Every disabled person has the same right as anyone else to respect for their physical and mental integrity.

### **What does this mean?**

This means that disabled people's minds and bodies are their own. No one should ever treat a disabled person as less of a person or interfere with their minds and

bodies. People have the right to be respected by others just as they are.

Sterilising a disabled person against their will or without their knowledge, over-medicating residents in care homes or forcing a disabled person into a marriage could violate this right.

### **Liberty of movement and nationality**

#### **Article 18 says:**

- Governments must recognise that disabled people have equal rights to decide where they live and to move between countries, and that they have a nationality. They should do this through taking steps, including making sure that disabled people;
  - can obtain or change a nationality
  - have papers, like passports
  - can leave any country including their own
  - can enter their own country without discrimination on basis of disability.
- Disabled children have the right to a name from birth, a right to be a citizen and if possible, the right to know and be cared for by their parents.

### **What does this mean?**

This means that disabled people should not be restricted to go to another country or to come back to their country of permanent residence. It could mean that the government needs to take steps so that airport security measures or passport requirements do not discriminate against disabled persons.

One of the fundamental principles of European Community law is free movement of persons. If a disabled British citizen moves to another country in the European Community they should still be able to claim certain disability benefits.

When it ratified the Convention the UK Government made a statement (a 'reservation') about immigration matters which limits the impact of this Article and indeed the whole Convention, with respect to immigration, in the UK. It means that the UK Government will continue to apply whatever immigration rules it thinks are necessary (regardless of whether they would conflict with the Convention). The Equality and Human Rights Commission believes that this reservation is incompatible with the object and purpose of the Convention and should not be permitted under Article 46 of the Convention.

**The UK made a similar reservation on immigration and citizenship to the UN Convention on the Rights of the Child. However, in 2008 the reservation was eventually withdrawn. This followed strong criticism in two reports by the United Nations Committee on the Rights of the Child, combined with campaigning by children's rights organisations. Withdrawing the reservation gave vulnerable children seeking asylum, those trafficked into the UK and others subject to immigration control, the same rights to education, health and support services as British children.**

## **Living independently and being included in the community**

### **Article 19 says:**

- Disabled people have an equal right to live in and take part in the community.
- Disabled people have the right to the same choice and control as non-disabled people.
- Governments should do everything they can to ensure disabled people enjoy these rights.
- Governments should ensure that;
  - disabled people have the right to choose where they live and who they live with – no disabled person should be unlawfully forced into a particular living arrangement (for example be forced to live in a care home against their will)
  - disabled people have access to a wide range of support services (at home and in the community) including personal assistance to prevent isolation and support inclusion
  - disabled people can access the same community services as everyone else.

### **What does this mean?**

This right makes clear that the aim of social support services should be to enable genuine and meaningful participation of disabled people in the community. When carrying out assessments, social services should not just look at the ability of disabled people to carry out daily living activities, such as washing and getting dressed, but also whether disabled people need support to participate in the community.

It could mean that government and local authorities need to make it easier for disabled people to move to a different local area in England, Scotland or Wales – for example through ensuring continuity of care and support.

The steps that a government can take to enable independent living and full participation in the community are wide-ranging and are also detailed in other rights listed in the Convention. For example the right to be free from violence (placing a responsibility on police to deal with abuse in your local area) and the right to participate in leisure.

### **Personal mobility**

#### **Article 20 says:**

- Government should do everything possible to ensure disabled people can get around as independently as possible, including by;
  - ensuring people can travel when they want at a price they can afford
  - ensuring people have access to quality, affordable mobility aids including new technology or help from other people to help them get around
  - providing mobility training to disabled people and staff working with them
  - encouraging manufacturers of mobility aids and technologies to think about all aspects of mobility for disabled persons.

#### **What does this mean?**

It means that the government and public bodies should take steps so that disabled

people can get around, in the way they want to – disabled people should be able to decide for themselves what this might be. When planning for a transport infrastructure, public authorities should think about how disabled people are affected, particularly those who rely on one type of transport.

You could use this Article to highlight the need for public bodies to think about affordable mobility aids. For example, blind people often have to pay for a white stick. Providers of mobility aids should also think about the purpose of the mobility aids. For example, a wheelchair centre should include in their assessment where the wheelchair user wants to go – and what they like to do (for example, do they do sports; do they travel abroad).

### **Example 1: Personal mobility**

A local council provides transport for people with learning disabilities between their home and a day centre. If one person or a group wants to visit a museum, then they still have to come to the day centre first, where transport will be provided to the museum, and back to the centre. However this means that there is not much time for the actual visit to the museum. The users of the day centre could use Article 20 (with Article 30 which is the right to take part in culture) to say that the council should enable them to travel directly from their home to the museum – for example by giving travel training.

## **Freedom of expression and opinion, and access to information**

### **Article 21 says:**

- Governments should take steps to ensure that disabled people can express their views freely and access information on an equal basis to everyone else by doing things like;
  - providing disabled people with information in accessible formats and technologies at no extra cost and in a timely way
  - ensuring people can use sign language, Braille and many other types of communication when they are dealing with public services or the State
  - urging private service providers to provide accessible information including accessible websites
  - encouraging the mass media, including internet providers, to make their services accessible
  - recognising and promoting the use of sign language.

### **What does this mean?**

This means that governments and public bodies should take extra steps to make sure that disabled people can access information and express their views.

This includes complaints procedures. If a Deaf person wants to make a complaint in British Sign Language, then that should be possible. It also includes websites which should be made accessible and easy to use.

Disability discrimination legislation covers many of these steps, for example section

20 of the 2010 Equality Act (reasonable adjustment duty) includes a duty to make information available in accessible formats.

However, this right makes it clear that the purpose should be full inclusion – for example, disabled people should not have to wait longer than other people for accessible information, or have to wait to access services because there is no interpreter. Public services should also have to think about different ways for people to get in touch with them – for example, not to exclusively rely on the telephone but also to use email, face-to-face meetings etc.

## **Respect for privacy**

### **Article 22 says:**

- Disabled people have the right to a private life and private communication, regardless of whether they live in their own home or a care home.
- No one should interfere with or get in the way of that without justification.
- Governments must make sure that personal information about disabled people is kept confidential the same as everyone else's.

### **What does this mean?**

The right to privacy is a very broad right. It means, for example, that staff or support workers should not open your post without your permission or come into your home whenever they like. It would also mean that:

- No one should see or touch your body unless you want them to.
- No one should stop you having personal and sexual relationships.



- When you give the authorities information about your life you should be able to expect that information will not be disclosed to other people (unless you explicitly agree).
- You shouldn't have to tell anyone about your disability if you don't want to.

### **Respect for home and the family**

#### **Article 23 says:**

- Disabled people have the same right as anyone else to marry and start a family. That includes deciding when and how often to have children.
- Disabled people must have access to appropriate information and support to make sure these rights are respected and upheld in practice, including any support they need as parents.
- Governments must ensure there is no discrimination against disabled people in laws about adoption or marriage.
- Government must ensure there is no forced sterilisation of disabled people.
- Governments must provide early and comprehensive information, services and support to disabled children and their families.
- No child must be separated from their parents simply on the basis of a parent's impairment.

#### **What does this mean?**

This means that disabled people have the same right to relationships as everyone else and that their family life should be respected. It makes clear that disability in itself cannot be a ground for interference

from the State or for denying opportunities to have relationships.

For example, half of all parents with learning disabilities have their children taken into care by social services departments. Before this is done, social services departments should provide support to the parents.

It also means that disabled people are allowed to have gay relationships. Sometimes disabled people need support to go out and meet people, and this support should be provided regardless of the beliefs of the support worker (for example, no sex before marriage, or no same-sex relationships).

### **Education**

#### **Article 24 says:**

- Governments must ensure the education system at all levels is inclusive and geared towards supporting disabled people to achieve their full potential and participate equally in society.
- Disabled people should be able to access free, inclusive primary and secondary school education in the communities in which they live.
- Disabled people must not be excluded from the general education system (at any level) because of their disability.
- Disabled people have the right to reasonable adjustments and extra support to take part in education.
- Governments must also promote the learning of Braille, sign language and use of appropriate forms of communication for disabled learners.

This involves promoting the linguistic identity of Deaf people and ensuring enough teachers are trained in different communication methods.

### What does this mean?

This is about education and life-long learning.

It places an obligation on the government and relevant authorities to provide inclusive education, which means that disabled children and adults can access education with the right support.

**The UK Government did not accept this Article in full.** When it ratified the Convention it made two statements which limit this Article's impact in Britain. One statement was a 'reservation'. This said that disabled children could carry on being educated outside their local community. The other was an 'interpretive declaration' which said the UK interpreted the term 'general education' as including special schools as well as mainstream schools. The Equality and Human Rights Commission and disabled people's organisations opposed these statements on grounds that they were not necessary and not compatible with the Convention's firm commitment to inclusion.

### Health

#### Article 25 says:

- Disabled people have the right to enjoy the best possible health.
- Disabled people have the right to the same range, quality and standard of free and affordable healthcare as everyone else – including sexual health and fertility services.

- Governments should ensure healthcare professionals are trained to provide an equal service, on a human rights basis. This includes making sure that disabled people have access to information about treatment so that they know what treatment they are agreeing to.
- Governments should provide the health services and treatment disabled people need for their specific impairments, including services that help people regain their independence after they have developed an impairment. They should ensure impairments and health conditions are identified early and that people get early support. These services need to be close to where people live – including in rural areas.
- Governments should take steps to make sure health and life insurance policies do not discriminate against disabled people.

### What does this mean?

This is not a right to be healthy but a right to conditions which enable best possible health and healthcare. It could mean, for instance, that disabled people have a right to continuity of care and treatment wherever they are in Britain.

You could use the Convention to argue that this means that treatment can only be given, or withdrawn, after full information about the treatment has been given and with permission of the disabled person.

It could also be used to mean that disabled people have the right to information about and access to contraception, whilst Article 23 (Respect for home and the family) makes it clear that disabled people should not be forced to use contraception.

## **Habilitation and rehabilitation**

### **Article 26 says:**

- Governments must take effective steps to enable disabled people to maximise their independence, develop their independent living and work skills, and manage their impairment or health condition.
- Governments must make sure disabled people have access to services which are available as soon as people need them and as close as possible to where people live.
- Professionals and staff working in these services should be properly trained.
- Governments should also ensure everyone is aware of and can use the range of equipment and technology available to support independent living.

### **What does this mean?**

This right is about maximising your skills for independent living.

Habilitation means learning a new skill that you didn't have before, whilst rehabilitation means relearning a skill, for example walking or talking. Another word for rehabilitation is 're-ablement'.

This right could be used to encourage social services to provide modern aids and equipment, rather than relying on old, recycled stock which may meet a need but does not do it as well as modern technology.

## **Work and employment**

### **Article 27 says:**

- Disabled people have the right to earn a living through work that they freely choose and in workplaces that are accessible and inclusive.
- Governments should promote this right to work by;
  - ensuring disabled people are protected against discrimination in employment and are entitled to reasonable adjustments. Ensuring disabled people can access work experience
  - ensuring disabled people enjoy fair working conditions, the same union rights as others and protection against harassment
  - employing disabled people in the public sector
  - promoting career development for disabled people including through access to training opportunities
  - promoting self-employment and employment in the private sector
  - supporting disabled people to stay in or get back to work.
- Disabled people should be protected against forced or compulsory labour.

### **What does this mean?**

This is not a right to employment, but a duty on government to create conditions which promote the equal opportunities for disabled people to start earning a living through work. It is also a protection against being forced to work, and it gives disabled people right to access and non-discrimination in work. It could be used to demand more action to address discrimination during recruitment.



**When the UK Government ratified the Convention it made a statement about this article which limits its impact in Britain.** The statement was a ‘reservation’ and it said that the exemption of the armed forces from the employment duties in equality law would continue because it was needed to ensure the forces were always ready and able to go into combat. The Joint Committee on Human Rights, the Equality and Human Rights Commission and disabled people’s groups opposed this. They said the armed forces should be subject to disability discrimination law.

### **Adequate standard of living and social protection**

#### **Article 28 says:**

- Disabled people have the right to a good enough standard of living including clean water, decent clothes, enough food and a decent home. There should not be big gaps between disabled people’s standard of living and non-disabled people’s. Disabled people should expect to see continuous improvements in their standard of living.
- To make this right real, government should take action to ensure that;
  - disabled people can afford any equipment, aids or services they need
  - disabled people – and disabled girls, women and older people in particular – can access benefits and schemes to help them get out of poverty
  - disabled people living in poverty get enough help from the State with their extra costs

- disabled people have access to social housing (such as homes built by housing associations or councils which are cheap to rent or part-buy/part-rent)
- disabled people get the same chance as other people to get retirement pensions and initiatives for older people.

### **What does this mean?**

The Convention says that disabled people should expect a continuous improvement of living conditions. This could mean that it is not enough just to meet minimum standards of care or housing. For example, if a disabled person’s needs are best met through providing a live-in/sleep-over carer, then this may mean that they are housed in a place with an extra bedroom to accommodate the carer, something which is currently prevented by Local Housing Allowance rules. It also could mean that governments need to continue with initiatives like Lifetime Homes which sets minimum standards for accessibility and adaptability of new homes, and not reduce their commitment.

Disabled people could use this Article to show that housing authorities need to think about housing allocation to meet their needs. For example, they should not house a family with a child who has severe asthma in a damp building.

One-third of disabled adults in Britain live below the income poverty line. The additional costs faced by many disabled people means that the actual number living in relative poverty is even higher. Government will need to consider steps to address disability poverty.

## **Participation in political and public life**

### **Article 29 says:**

- Disabled people have the same political rights and should be able to enjoy them the same as everyone else.
- Governments must ensure that it is easy for disabled people to;
  - access polling stations
  - access material about elections and candidates
  - vote in secret or with whatever help they need from another person
  - take up important roles in government and public life (for example being a councillor, a school governor, a magistrate, being an MP or Member of the Scottish Parliament or Assembly Member or helping to run health services locally) – and do them well
  - form and join disabled people’s organisations.

### **What does this mean?**

It means that disabled people have the right to vote, stand for election and fully and effectively participate in public life. It also means that you have the right to be involved in decisions which affect your human rights.

It also recognises that disabled people’s organisations are important for giving disabled people a voice at international, national, regional and local level.

Public appointments are an important way of involving disabled people in policy-making and decision-making. However, only a small number of public appointments in the UK are filled by disabled people. In 2010 there was a Speaker’s Conference on political representation. It made many recommendations to political parties and Governments about increasing disabled people’s representation. More information can be found at:

**(<http://www.parliament.uk/about/mps-and-lords/principal/speaker/speakers-conference/speakers-conference/>).**

The Convention also places a duty on governments to involve disabled people in the implementation and the monitoring of the Convention.

## **Participation in cultural life, recreation, leisure and sport**

### **Article 30 says:**

- Disabled people have the right to access books, plays, films and television in accessible formats (for example books in large print, audio or Braille).
- Disabled people have the right to access libraries, cinemas, theatres, museums and other places of historical or cultural interest.
- Disabled people have the right to develop and use their creative, artistic and intellectual potential – for their own benefit and because it enriches society.
- Governments should ensure laws protecting copyright of books and

music do not stop disabled people enjoying real access.

- Disabled people's different cultures and languages – including Deaf people's language and culture – must be respected and supported.
- Governments should do everything they can to support disabled people to take part in mainstream sport and disability sport.
- Governments should do everything they can to make sure disabled children can take part in play, leisure and sporting activities in and out of school on an equal basis with non-disabled children.

### **What does this mean?**

Disabled people should be able to access and to participate in cultural life, recreation, leisure and sport.

# Part 3

## Making rights a reality

There are different ways for you to get involved in the Convention and make the rights real. This Part tells you about the different things you can do to ensure the Convention is put into practice – at local, national and international level. It covers:

What can I do to promote the Convention among disabled people and public bodies?

How can I use the Convention to improve my life and that of other disabled people in Britain?

How can I get involved in monitoring and reporting?

How do I make a complaint about a violation of the Convention?

The Convention places obligations on the government to take steps to protect and promote disabled people's human rights. While the Convention does not place direct legal obligations on public bodies they must still act in a way that is compatible with disabled people's human rights. This might include taking positive steps to meet the standards set out in the Convention. When public bodies commission services from private or voluntary sector organisations they should

ensure those organisations are respecting disabled people's human rights.

Disabled people have been using the Human Rights Act to change things in their daily lives. For example, a disabled woman who needed a particular type of bed (so she could get up easily) was told by her local occupational therapy department they would only pay for a single bed. But this would mean she could not sleep next to her husband. Eighteen months later,

following legal advice, she reminded the authority that they must respect her right to private and family life. Within three hours, the occupational therapy department had secured funding to buy her the double bed.

## What can I do to promote the Convention?

### Raising awareness among disabled people

Raising awareness of the Convention is very important. The more people know about the Convention and feel confident using it, the bigger the difference it will make. This section will explain how you can raise awareness among disabled people.

#### Simple things you can do:

- Tell other disabled people in your family, your workplace or your community about this guide and encourage them to read it.
- If you have a website set up webpages that tell people about the Convention – you can use text from this guide to help you. Provide links to the full text of the Convention and some of the useful contacts at the end of this guide.
- If you have a newsletter or write for someone else's you could use this guide to help you write an article about the Convention.
- If you are part of a group (trade union, disability or other voluntary organisation), suggest your group produces a leaflet about the Convention.
- If you are part of a local access group or disability association or Centre for

Independent Living, ask one of the national disability rights groups to send a speaker to your meeting to talk about the Convention with your members. Or do a talk yourself.

### Help raise awareness among bodies that deliver public services

If public bodies are aware of the Convention, then they are more likely to understand how to respect the human rights of disabled people.

- Ask your local public bodies (that means your council, local health board or NHS Trust, schools and colleges, police authority, housing associations, day centres, care homes);
  - if staff have information about the Convention
  - if they have trained staff on the Convention
  - what plans they have to look at all their policies and practices to make sure they support the Convention.

Remind them that doing so will help them comply with the Human Rights Act and disability discrimination legislation. Remind them that they could look at this as part of their Equality Duty and that they should involve disabled people.

- Get creative. You could make a short film, write and perform a song or a play or create art based on the rights in the Convention, highlighting the barriers people face. This could help raise awareness among disabled people and get the message home to public bodies.

**In 2006 a disabled woman, Sian Vasey, who runs the Ealing Centre for Independent Living wrote a play titled 'Flowers for Geeta' about a disabled woman in a care home who wants to leave and get married. It showed how professionals failed to respect her human rights to marry, decide where to live and who to live with. These are all Convention rights. Staff from the Disability Rights Commission performed it at a big conference for professionals working in health and social care. It was a much better way of getting the message across than just having a meeting with speakers. This is why you should use real-life examples where possible.**

### **How can I use the Convention to improve my life and the lives of other disabled people in Britain?**

As well as raising awareness there are several ways that you can use the Convention to influence individual cases or to change services and policies – including the way that a public authority makes decisions, for example about social care charges or road infrastructure.

Write a letter, go to a meeting (Article 29 of the Convention says that you should be given a voice in public affairs), talk to the press, or you could put together a report and publish it. Whatever you do, make sure that you know what the Convention says and have evidence of how disabled people's human rights are affected.

### **Influencing local services**

In this part we set out how you can use the Convention to influence local services.

Even though the Convention is not legally binding on local authorities, they have a duty to act in line with the Human Rights Act and disability discrimination including the Equality Duty. The Convention can be used to interpret these laws. The Human Rights Act has been used by disabled people to challenge injustice both through legal cases and outside the courtroom in their negotiations with public services.

For examples go to:

**[www.ourhumanrightstories.org.uk](http://www.ourhumanrightstories.org.uk)**

The Convention can be very powerful for individual advocacy as it sets clear benchmarks for the way that public authorities should treat you, especially where there is no equivalent right in the Human Rights Act, for example, the right to health.

finally, the Convention is an internationally agreed and accepted set of standards to respect, protect and promote the human rights of disabled people. For these reasons, local authorities should pay full attention to the Convention.

### **This is how you can use the Convention:**

- If you are frustrated about local services, whether it is not having enough disabled parking spaces, staff attitudes or long waiting times for treatments to help with mental health conditions, you can use the Convention to promote positive changes. Work out which article or articles of the Convention are relevant. Set out how local services fall short of the standards promised in the Convention and what practical changes public bodies could make to resolve the problem.



- Ask the officer or elected member responsible for equalities at your local council and health body to come and talk to your local disability group about what they are doing to implement the Human Rights Act, and how they use the Convention. You may have to give them information about the Convention first!
- Write or talk to your MP, MSP and/or Welsh Assembly member – they are there to represent you.
- Remember it is not acceptable – under the Convention – for countries to cut back on essential support for disabled people. If you are facing the prospect of cuts to local services don't forget to make that point strongly. Get advice from one of the organisations listed in Part 4 about how you can use the Convention together with the Human Rights Act and the Equality Duty to challenge service cuts.
- You can ask the council to adopt the Convention – write to the chief executive's department.

## **Influencing national or UK policy**

Whether you are an individual or a small or large disability organisation, you can use the Convention to influence national or UK policy. However, you could try to join up with others – because the more there are of you, the stronger your voice will be.

- If you are responding to a government consultation, use the relevant parts of the Convention to back up your points.
- If you are campaigning for a change in the law to get a better deal for disabled people, check what the Convention has

to say about the issue. Talk about what the Convention says in your briefings for parliamentarians and use it to strengthen your argument for change.

- Draw attention to the implications of Bills for disabled people's Convention rights when you are writing a submission to a Select Committee Inquiry or to a Public Bill Committee. There are also Scottish Parliamentary Committees which call for evidence to scrutinise Bills and as part of Committee Inquiries.
- The Scottish Human Rights Commission and the Equality and Human Rights Commission in Scotland give advice to the Scottish Parliament. Brief them about issues of concern that the Scottish Parliament needs to address.

## **Example: The Convention in Parliament**

Cross-bench peer Baroness Campbell of Surbiton used the Convention in her successful campaign to make the proposed new right to free personal care in England 'portable'. If the new policy is implemented, people who qualify for free personal care will be able to move from one local authority to another without any disruption to their free personal care funding or services. She argued that government must do this to respect disabled people's rights under the Convention, namely their rights to choose where they live on an equal basis with others, to work and participate in their communities and to be free from exploitation, violence and abuse. All these rights could be at risk, she argued, if people could not be certain of having continuity of support.

## **How can I get involved in monitoring and reporting?**

The Convention says that disabled people and their organisations should be involved in the monitoring of the Convention (Article 33). This section sets out how you can be involved – in particular through writing ‘shadow reports’. These are reports that organisations can send in to the UN Disability Committee to say what progress the government has made (or not) on the implementation of the Convention.

You can also use the same approach for ‘informal reporting’ – for example, you could write a report about human rights of local disabled people, and use that to influence local policies and services. Or you could write a national report about, say, further and higher education and use the rights in the Convention to show whether human rights of disabled students are respected.

## **Background information: monitoring and reporting**

The UN Disability Committee is a committee of 12 experts set up to monitor what governments who have ratified the Convention are doing to implement it. The UN Disability Committee has a powerful role in holding governments to account. Although they cannot force a government to implement their recommendations, governments don’t want to lose their good reputation, and will often follow up the recommendations. The fact that countries know their track record on disabled people’s human rights will be held up

for international scrutiny and publicity at regular intervals helps them focus on delivering real action.

In June 2011 and every four years thereafter the UK must report to the UN Disability Committee. National Human Rights Institutions, such as the Equality and Human Rights Commission, and voluntary organisations can submit ‘shadow’ reports. These are also called ‘alternative’ or ‘parallel’ reports – in this guide we use the term ‘shadow reports’.

The UN Disability Committee takes a close look at government reports alongside shadow reports. They assess whether governments are meeting their obligations under the Convention. For this they rely heavily on the shadow reports.

After looking at all the evidence and questioning ministers they will issue their ‘Concluding Observations’. These set out specific recommendations for government action.

Shadow reports are an important tool which disabled people can use to flag up where progress has been made or where disabled people’s human rights are not yet secure. This section sets out the report process and tells you how you can get involved, both in the government report and in the shadow reports – or even write one yourself.



## Case study: How reporting can make a difference

The Committee on the Administration of Justice (CAJ) is a small voluntary organisation which monitors human rights in Northern Ireland. In the 1990s it wanted to end human rights abuses against people detained in custody on suspicion of being involved in paramilitary violence. These people were being interviewed without lawyers present, locked up without a fair hearing and subjected to physical ill-treatment.

It used the reporting process under the Convention Against Torture to achieve this goal. This process helped them generate publicity and put pressure on UK Government. When the UK Government appeared before the Committee Against Torture in 1991, 1995 and 1998, CAJ made detailed, high quality submissions and attended the Committee meetings to brief members on each occasion.

Paul Mageean of CAJ says “Almost all of the recommendations the Committee has made over the course of those years concerning Northern Ireland can be traced directly to the submissions we made. The key specific objectives and the overall goal have been achieved. It is our view that the use of this tactic had a considerable impact in changing the way the UK, and particularly the police in Northern Ireland, operated in relation to the detention of those suspected of being involved in paramilitary violence in Northern Ireland.”

When the government writes its first report to the UN Disability Committee it must tell them:

- Whether – and to what extent – disabled people actually enjoy each right in the Convention in practice (with statistics broken down according to sex, age, type of impairment, ethnic origin and other categories).
- What policies, strategies and laws they have put in place to ensure each Convention right becomes a reality. They should say what resources have been identified to support this and what progress has been made.
- Whether it has adopted comprehensive disability anti-discrimination legislation.
- What systems are in place to monitor progress towards ensuring each Convention right becomes a reality for disabled people, including details of how progress will be measured.
- How each Convention right is protected in law in the UK and details of any laws which exclude or single out disabled people for worse treatment.
- How disabled people can get justice if their Convention rights have been violated.
- Whether there are any barriers beyond their control which are making it difficult to make the Convention rights a reality, including details of what steps are being taken to overcome them.

## **You have the right to be involved in monitoring**

Governments must involve disabled people and their organisations in monitoring how well the Convention is being implemented. They should also involve disabled people in putting together their reports to the UN Disability Committee.

Being involved in something means a lot more than just being ‘consulted’ about it. It means being empowered to shape how things are done from the start and working with government as an equal partner. Involvement needs to be:

- planned in advance
- co-ordinated
- fully accessible and inclusive
- diverse; lots of different disabled people should be able to engage in a range of different ways
- meaningful; people need to be clear what is expected of them and what the outcomes will be and to feel their expertise has been properly recognised, and
- influential; it should be clear how disabled people’s views and priorities have shaped future plans.

Disabled people’s input and involvement will be essential. Without it, it just will not be possible to properly measure or assess progress or to develop better policies, laws and plans.

The Office for Disability Issues (ODI) will be co-ordinating the process of monitoring and reporting for the Westminster Government, and will work with the governments in Scotland and Wales on

areas where they have responsibility. ODI will welcome your views on how you want to become involved – or your views on how the UK is implementing the Convention and contact details are given in Part 4. As part of its role of co-ordinating work on the Convention across government, ODI will be encouraging government departments to engage with disabled people. Many government departments already have their own disability advisory groups. However, how they will use these groups or involve other disabled people will become clearer as the date for the Government’s report to the UN Disability Committee gets closer.

The Equality Unit within the Scottish Government is co-ordinating the information required to report compliance and progress in Scotland. If you live in Scotland you should be involved in that work.

Similarly if you live in Wales there should be an opportunity to work with the Welsh Assembly Government. The Equality, Diversity and Inclusion Division will be working with disabled people and all the Welsh Assembly Government departments to put the Convention into practice and monitor progress.

The Scottish and Welsh governments will contribute their assessment of the progress they have made in their areas of responsibility to the UK report. There will be one UK report, taking into account the work of the UK and devolved governments in relation to compliance with the Convention.

The Equality and Human Rights Commission and the Scottish Human

Rights Commission are involving disabled people in their monitoring work in lots of different ways. They have held events for disabled people to find out what their priorities are and the Equality and Human Rights Commission has set up a reference group of disabled people from across Britain to advise them. Disabled people and their organisations will be invited to take part in putting together the Commission's shadow report on the implementation of the Convention in Britain.

**But don't wait to be asked to be involved! Here are things you can start doing now as an individual or as part of a group.**

### **As an individual you can:**

- Look at the rights described in Part 2. Think about what each of the rights means for you and which are most important to you. Do you have those opportunities in your own life? What would help you enjoy the rights in practice? For example, if you are not working but want to, think about: what things are proving helpful to you? What things are getting in your way? If you could change something what would it be?
- Write down or record your thoughts and then share them. You could send them to the Equality and Human Rights Commission or the other Commissions, ODI (or the Scottish Government or Welsh Assembly Government, depending on what the issue is and where you live) or one of the national disability organisations like the UK Disabled People's Council or Disability Wales. This will help them work out

what is going well and what more needs to be done. They may use your evidence in their report.

### **As a group you can:**

- Gather evidence from your members about their experiences. Pick out the rights you think will be most relevant to them from Part 2 and ask them to tell you about any barriers they face and what action would help them enjoy those rights in practice.
- Use that evidence **to produce a shadow report on the Convention for the UN Disability Committee**, or organise the evidence (arrange it according to the relevant articles) and send it to the Equality and Human Rights Commission, the Scottish Human Rights Commission, ODI or a national disability network you are involved with or know of. They may use the evidence for their reports.
- Ask to see your MP (England/Britain), MSP (Scotland) or AM (Wales) to discuss your findings. They could pick up some of the issues and start putting pressure on government to act. If you're not sure how, then a national disability organisation may be able to help you.

### **Why get involved in producing a shadow report?**

Quite simply this is one of the most effective ways to use the Convention to help bring about positive change for disabled people.

Even when governments are being self-critical, their reports on the

implementation of UN Conventions can sometimes paint a rosy picture about people's rights – a picture that does not always reflect the reality on the ground. This is why UN monitoring committees encourage voluntary groups to provide them with reports of their own. They use this information to assess what progress is really being made and decide what the gaps and problems are and where further action is needed. The shadow reports also help them think about what questions to put to each government. Sometimes they adopt voluntary groups' recommendations for change in their 'Concluding Observations'.

Writing the report also helps the voluntary organisations to collect evidence and to identify what needs to be done to make the Convention rights a reality.

The UN Disability Committee will make recommendations ('Concluding Observations') to tell the government what steps they need to take to comply with the Convention. You can use these recommendations to press the government into action. Also, when the government submits its next report, the UN Disability Committee will be expecting detailed information about action that has been taken. You can give your judgment in the shadow report.

### **Guide to writing a shadow report**

The following is a brief guide to writing a shadow report. You can find full guidelines on the website of the International Disability Alliance (details in Part 4).

Use this guide if you are a group of disabled people feeding into another,

bigger group's shadow report, or a voluntary organisation representing disabled people that has consultative status with the UN. **You can also use it if you want to write an informal report based on the Convention to use in your campaigning work.** Simply change 'UN Disability Committee' to, for example, 'Scrutiny committee of the council' or 'NHS Board'. Instead of 'government', read 'council' or 'police authority', for example.

The UN Disability Committee says that it is very keen to receive reports from disabled people and their organisations. However, it's a good idea to work together so that the UN Disability Committee doesn't get an excessive number of reports to read – many other countries also have to report. Reports that represent the views and perspectives of lots of people may also be more likely to be read by the UN Disability Committee and have more impact.

You could write a report without having seen the government's or write it as a response to the government report. Either is useful.

### **How to go about it**

**Step 1:** Check the process, timetables and arrangements on the website of the UN Disability Committee (see Part 4). Note the UK report has to be sent in to the Committee by June 2011. If, for example, you are writing a local report for a scrutiny committee in your local council, then check when they meet and when you need to send in your report in time for them to discuss it at the meeting.

**Step 2:** Think about who you could work with to write the report. For example, whether you're a big organisation or a small self-advocacy group, it would be a good idea to contact other groups and ask if they would like to work with you.

**Step 3:** Work out what your report will cover and how you will structure it.

- Think about which rights in the Convention are most relevant and important to you and focus on those (use Part 2 of this guide to help). Make sure you focus on those areas disabled people in your group feel are most important to them.
- Look at the key issues for disabled people and the extent to which people are currently able to enjoy their Convention rights. You must use real evidence. Evidence can be from surveys, research reports, official statistics, newspaper articles. You could also include 'case studies' – real examples of how the problem affects disabled people.
- Make clear what the barriers are and how they relate to the rights in the Convention.
- If there are good things government or another public authority are doing in a particular area then say so. If nothing has been done then also report this.
- Make specific recommendations for change. If you want action on disability hate crime, don't just say that the government should do more to tackle disability hate crime. Think about specific action different bodies like the devolved administrations, Ministry of Justice, Crown Prosecution Service, the police, local councils or housing associations should take.

- Be clear which part of government should be making these changes. Say how you want to be involved in making the changes happen.
- If there is some information or evidence that is too long to include in the main part of your report, but you think will be useful for the UN Disability Committee to read, then put it in an appendix at the end.

**Step 4:** Now write your report! Follow clear print guidelines so that it is accessible to most people. Remember to use plain English and short sentences. Don't use jargon or acronyms that Committee members won't be familiar with. Remember that many Committee members don't have English as their first language and are from other cultures, so they don't necessarily know how British government works. Use numbered paragraphs. Keep it short.

**Step 5:** Get some people you trust to read through the report and give you some feedback so you can improve it. Think about whether there are groups which might want to support it and, if appropriate, get their permission to add their logo. Also arrange for the report to be made available in a range of accessible formats.

**Step 6:** Publish the report and send it to the relevant parties.

**Step 7: Follow up.** If you are sending your report to a local committee try to get involved in the meeting. If you want to sit in on the committee meeting you will need to check with the committee secretariat if that is possible. It is really useful to meet members of the committee in advance so, if possible, ask to meet them for a brief discussion beforehand.



Publicity: Don't forget to put a copy of your report on your website. You could put out a press release about the report and distribute copies to your members.

## Shadow reporting: How it is being organised in Australia

The Australian Federation of Disability Organisations has joined forces with other national disability rights organisations to produce a co-ordinated shadow report on the Australian Government's implementation of the Convention.

They believe working in a coalition will be an effective way to ensure the UN Disability Committee gets a comprehensive view of the current status of disability rights in Australia. They have created a dedicated website for the project where disabled people can tell them about their real experiences and problems using their Convention rights. The website can be found at:

[www.disabilityrightsnow.org.au](http://www.disabilityrightsnow.org.au)

Disability groups can use the workbook from the website to log key issues under each Convention right and examples of potential violations.

**Remember – the UK Government has a duty to report on other Conventions**, including the Convention of the Rights of the Child, the Convention for the Elimination of Discrimination against Women and the Convention on the Elimination of Racial Discrimination. These reports should also cover disabled people. You could work with women's, children's or ethnic minority groups to ensure that disabled people's issues on any of the conventions are covered in their shadow reports.

## How do I make a complaint about a violation of the Convention?

At UN level the Optional Protocol enables the UN Disability Committee to look at individual cases as well as systemic violations of disabled people's human rights by the UK Government.

At national or local level, even though you cannot take the government to the court over a breach of the Convention alone, there are several ways in which you can use the Convention to strengthen your case – no matter whether you are challenging the government or another public authority. This could be:

- Where you believe that the issue you are facing is covered by another piece of legislation that is directly enforceable in the UK courts (for example, the Human Rights Act or equality legislation).
- Where you make a complaint against a public authority, either through internal procedures or through inspectorates such as the Care Quality Commission or Ombudsman.



This section explains how you can go about making a complaint if you believe your rights have been breached.

**Step 1:** Talk to someone you trust about it. It could be a friend, a relative, an advocate or a colleague at work. Work out what is going wrong, which rights are affected and what you want to change. If you are unsure whether the Convention applies to your situation, don't be afraid to ask for advice. If the problem you are facing is being treated badly at work or when trying to use services, it may be that the body concerned is breaching your rights under equality legislation. Talking to a national disability group or an advice agency could help you figure out which Convention rights are relevant to your situation and whether any other rights are being infringed.

**Step 2:** Try to resolve it with the person or body causing the problem first. There are lots of examples of disabled people using human rights arguments to get a public body to change something. See Part 4 for places to find those examples.

**Step 3:** If that doesn't work ask about their complaints process. All public bodies have a complaints process. All employers must have a grievance procedure for employees.

**Step 4:** If this doesn't resolve matters, you can try writing to or contacting your local councillor or your MP, MSP or Assembly member. They might write a letter to the public body on your behalf. A disability group might also help make representations on your behalf. Sometimes this might resolve things.

**Step 5:** You might want to consider legal action, but first seek advice from the Equality and Human Rights Commission or one of the organisations listed in the 'Further information' section. Bringing legal action can be very expensive and difficult unless:

- you have a very low income and qualify for legal aid (legal aid is where the government pays your legal costs). You will not qualify for legal aid if it's an employment case
- the Equality and Human Rights Commission or another body is willing to support your case (the Commission can only support cases involving human rights that also raise issues under equality legislation – but see below for other powers they have to take action against human rights abuses).

**If you want to bring a legal case, it will need to be a case under the Human Rights Act or equality law. You can't bring a legal case under the Convention. But you can certainly use the Convention to strengthen your case.**

You need to identify which rights in the Human Rights Act or equality law are affected in your case. Then look at the relevant article(s) of the Convention to see what it says about your human rights in that area and use that in your argument. Your legal representative should be able to identify these issues – if they don't you should raise it with them.

## Example: Using the Convention in your complaint

Pratibha has been receiving home care from her local authority. She has very high support needs. She asks for her needs to be assessed again as she feels she needs more help. Her local authority agrees her needs have increased. The only way they can meet those needs, they say, is if she moves into a residential care home. Their budget is under pressure and they say it would be too expensive for them to pay for home support. Pratibha feels strongly that she wants to stay in her own home. She is very active in her local community and has lots of friends and interests.

Pratibha can use the Convention together with other laws to argue that the local authority should support her to live at home.

She can argue that:

- Article 8 of the European Convention on Human Rights imposes a duty on her local authority to respect her right to private and family life. This right includes being able to have friends and take part in social and cultural activities and leisure. When people go into residential care they can be cut off from friends and access to the wide range of activities they would normally pursue if they lived at home. This right is also about protecting a person's mental and

physical wellbeing. Pratibha is certain that she would become depressed if she was uprooted and deprived of her independence.

- Article 19 of the UN Disability Convention says very clearly that she has the right to choose where she lives and who she lives with. It says she has the right to live in the community and the right not to be forced into any particular kind of living arrangement such as a residential care home. This will strengthen her case.
- Under the Equality Duty her local authority also has a duty to promote equality of opportunity for disabled people. That duty applies when decisions about individuals are being made. Moving her to a care home would remove her opportunities to take part in all the things she currently does. She can remind them of this and ask them whether they have done a disability equality impact assessment, share the findings of it with her or ask them to do one and involve her in the process.

**If you are a child** – There are Commissioners for Children and Young People in each country responsible for promoting their interests. You can tell them about your problems.

## How the Equality and Human Rights Commission can help tackle human rights violations

The Equality and Human Rights Commission can:

- give disabled people free advice and information about their human rights via its helpline and, in limited circumstances, can support individual legal cases
- undertake research and provide education or training
- conduct inquiries, investigations and assessments
- bring legal proceedings called ‘judicial review’ against a public body (for example a council or government department) if needed to stop a human rights violation
- intervene in legal cases involving human rights that other people have started. This means that the commission can give the court expert advice.

## How the Scottish Human Rights Commission can help

The Scottish Human Rights Commission can:

- intervene in legal cases in Scottish courts to give expert advice
- undertake inquiries into Scottish public authorities and, as part of an Inquiry can inspect a place of detention
- conduct research, provide advice or guidance, education or training

- review or recommend changes to any area of Scottish law or in the policies or practices of Scottish public authorities.

## If you are pursuing a legal case involving human rights and the Convention let the Commissions know about this:

- In case they are able to intervene with helpful arguments.
- So that they have evidence to use to help them advise government on action needed to protect disabled people’s human rights.

If you have been through all the available routes for redress in Britain and have not got justice, consider making a complaint to the UN Disability Committee.

## How do I make a complaint to the UN Disability Committee?

The **Optional Protocol** establishes the communications procedures and the inquiry procedure.

The **communications procedure** allows people to bring a petition to the UN Disability Committee if they believe that their Convention rights have been breached and they have exhausted means of redress via the UK courts.

The **inquiry procedure** allows the UN Disability Committee to undertake inquiries, when reliable information is received into allegations of grave or systematic violations of Convention rights.

### **You can complain to the UN Disability Committee about a violation of your rights under the Convention if:**

- You are the (alleged) victim. If you are not the victim you must have permission to act on the victim's behalf.
- The complaint is against the government. It cannot be brought against other authorities, for example your council. If you believe that the Welsh Assembly Government or the Scottish Government is in breach of the Convention, then you must still complain against the UK Government although it would be best to first use any available complaints mechanisms including the relevant Ombudsman.
- The complaint is well-founded. This means you need evidence that a real human rights violation has taken place. The violation must clearly relate to one or more articles of the Convention.
- The complaint does not go against the principles and rights set out in the Convention. You have used all the possible legal remedies available in Britain without success.
- There is no law you can use in Britain to enforce that particular Convention right. For example there is no law in Britain that says that government has a duty to ensure disabled people have an adequate standard of living and an accessible home. However, if you are living in real hardship or in conditions that cause you loss of dignity, even after claiming all the benefits and grants you are entitled to or because of grossly inadequate housing, this might be a situation where a complaint could be

made to the UN Disability Committee (because the government hasn't taken enough steps to make real the right to an adequate standard of living, Article 28).

### **There are other important rules about bringing a complaint:**

- The issue you are complaining about must have either happened after the UK ratified the Convention, or if it started before the date of ratification (8 June 2009) it must still be continuing at the time you want to make the complaint.
- You cannot make an anonymous complaint (in other words you need to say who you are).
- The issue must be one the UN Disability Committee has not looked at before.
- The issue must be one that is not being looked at by another international rights body like the European Court of Justice or the European Court of Human Rights.

### **Other important things to remember:**

1. Always seek advice from the Equality and Human Rights Commission or the Scottish Human Rights Commission before deciding whether to use the Optional Protocol. They can advise you about whether the case is suitable and if not, what else you might do.
2. Try to find out about other people affected by this issue. Groups of people can make a complaint as well as individuals. It might be easier if there is a group of you to support each other. Contact disabled people's organisations locally or nationally just in case they know of other people who are affected.

## How the Equality and Human Rights Commission can help

The Commission is keen to develop its work relating to Optional Protocols. The Commission can assist a complainant with the Optional Protocol in preparing a communication or petition to the UN Disability Committee – for example helping with the preparation of necessary documents and submissions. See the ‘Contact’ information at the end of this guide to find out how to get in touch.

### **Assuming your complaint meets all the criteria and you have been advised to go ahead, how do you make your complaint?**

You will need to put it in writing and send it to the UN Disability Committee. The UN Disability Committee will provide information on their website on making a complaint.

### **What happens then?**

If the UN Disability Committee accepts your complaint, they will ask the government to respond. The Committee then meets in private and decides what finding to make.

The UN Disability Committee gives both parties a copy of its recommendations, and a summary is included in its annual report.

The UN Disability Committee’s findings and recommendations may not be enforceable but they carry a lot of moral authority because Governments don’t like to be told that they’re wrong, and will often try to put things right. It may force the Government to pass new legislation, change a policy or find the money to sort the issue out.

### **Case study: Using the complaints procedure to tackle violence against women**

In 2004 two Austrian women’s organisations filed complaints under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on behalf of two women, Sahide and Fatma. Each woman had been killed by their husband after suffering repeated abuse. They had each brought various violent incidents to the attention of the Austrian authorities, did not get sufficient support, and were ultimately murdered. The women’s groups argued that the Austrian state had failed to do enough to protect the lives of the two women and that this violated their rights guaranteed under the CEDAW.

The CEDAW Committee agreed with them. In August 2007 they found that Austria had failed to protect the women’s lives and made clear recommendations about what Austria should do to avoid the same violations of women’s human rights in the future. As a result a series of new policy measures have been introduced and



the process of legal reform to protect Austrian women from violence has gained real momentum.(3)

### **How do you get the UN Disability Committee to launch an inquiry into human rights violations?**

The UN Disability Committee can launch an inquiry into severe or widespread violations of the Convention by any country which has ratified the Convention and Optional Protocol. ‘Widespread’ means the violations affect a lot of disabled people and/or appear to be part of a deliberate policy. The Committee would need reliable evidence about the alleged violations before deciding an inquiry is needed. Individuals or organisations can submit evidence or use the ‘individual communications procedure’ to bring such breaches of rights to the attention of the UN Committee.

If you think there is evidence of severe or widespread violations of Convention rights that the UN Disability Committee should investigate you would need to:

- work together with other disability groups and the national Human Rights Commissions to assemble detailed evidence about the rights violations, and
- write to the UN Disability Committee asking them to investigate.

You should check if either the Equality and Human Rights Commission or the Scottish Human Rights Commission

would be willing to conduct an inquiry instead. Seek their advice about whether a UN inquiry is needed.

Experience of inquiries under other Conventions shows that they can be an effective way of stopping human rights abuses and bringing about change.

### **Case Study: The difference an inquiry makes**

In 2004 the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) completed an inquiry into the rape, abduction and murder of women in the Ciudad Juarez area of Chihuahua in Mexico. The Committee concluded that Mexico had failed to protect women against gender-based violence, violating their most fundamental human rights. It made many clear recommendations for action. As a result:

- new laws have been passed on equality between men and women and ‘women’s access to a life free from violence’
- a Special Attorney’s Office has been set up to monitor investigations into femicide, and
- the women’s movement has been given a formal role in monitoring and developing regulations to ensure the law is properly implemented.

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**3** CEDAW as an Instrument to Combat Violence against Women? The Austrian Experience, By: Rosa Logar in *Raising up the Roof: Activists Construct Women’s Human Rights Using CEDAW*. Forthcoming Book Project Edited by Debra J. Liebowitz, Ph.D. with Shanthi Dairiam. A publication of IWRAW Asia Pacific.



# Part 4

## Further information and resources

This Part tells you where you can find out more about the UN Disability Convention or where you can find help including:

- UN Disability Convention: key resources and organisations
- UN Disability Committee
- Convention Guides and Toolkits
- The Convention in England and GB
- The Convention in Scotland
- The Convention in Wales
- Legal advice about human rights

Your local or national disability organisation may also have further information. Your council should be able to give you contact details of local disability organisations.

### **UN Disability Convention: key documents and resources**

**UN Enable:** the UN's website is all about the UN Convention on the Rights of People with Disabilities. This website also has the full text of the Convention and the Optional Protocol, as well as a Plain English version and Easy Read version.

<http://www.un.org/disabilities/>

The Handbook for Parliamentarians on the Convention is here:

<http://www.un.org/disabilities/default.asp?id=212>

**Making rights a reality:** a booklet produced by the commission containing the Convention text. You can get it from the **Commission's Helpline**, or download it from their website.

The **Office of the United Nations High Commissioner for Human Rights** (OHCHR) provides information about the UN Disability Committee and its monitoring and reporting procedure. It has a guide 'Monitoring the Convention on the Rights of Persons with Disabilities'. The website also has a complaints form.

<http://www2.ohchr.org/english/bodies/treaty/CCD.htm>

The **OHCHR** has published several guides and factsheets about the Conventions and working with the UN.

<http://www.ohchr.org/EN/PublicationsResources/Pages/Publications.aspx>

### **United Nations Committee on the Rights of Persons with Disabilities**

Postal address: CRPD secretariat, UNOG-OHCHR, CH-1211 Geneva 10, Switzerland:  
[crpd@ohchr.org](mailto:crpd@ohchr.org)

<http://www2.ohchr.org/english/bodies/crpd/index.htm>

Visiting address: Palais Wilson, 52 Rue des Pâquis, 1201, Geneva, Switzerland  
Telephone: +44 (0)1229179703.

**UN Department of Economic and Social Affairs** (for information about ‘consultative status’ with the United Nations) Chief, NGO Branch  
One United Nations Plaza, Room DC1-1480, New York, NY 10017, USA

Telephone: +44 1 212 963 8652,

Fax: +44 1 212 963 9248

[ngobranch@un.org](mailto:ngobranch@un.org)

<http://esango.un.org/paperless/Web>

### **Convention Guides and Toolkits**

Many European and international organisations have developed Convention Guides and toolkits. Here are but a few:

**Disabled People’s International** is an international umbrella organisation of disabled people’s organisations. Their aim is to promote the human rights of all disabled people through full participation, equality of opportunity and international cooperation. They have developed an implementation toolkit.

<http://www.icrpd.net/implementation/en/aboutus.htm>

See their guide to organising a workshop to raise awareness of the Convention:

[http://v1.dpi.org/lang-en/resources/topics\\_detail?page=953#\\_Sample\\_agenda](http://v1.dpi.org/lang-en/resources/topics_detail?page=953#_Sample_agenda).

The **European Disability Forum** is the European umbrella organisation for European disability organisations and national disabled people’s organisations. Their website has information about how the Convention relates to the European Union.

[http://www.edf-feph.org/Page\\_Generale.asp?DocID=13854&thebloc=13857](http://www.edf-feph.org/Page_Generale.asp?DocID=13854&thebloc=13857)

Their website also has contact details for European disability organisations.

[http://www.edf-feph.org/Page\\_Generale.asp?DocID=10906&id=1&namePage=about&langue=EN](http://www.edf-feph.org/Page_Generale.asp?DocID=10906&id=1&namePage=about&langue=EN)

The **International Disability Alliance (IDA)** is the network of international disabled people’s organisations promoting the effective implementation of the UN Convention on the Rights of Persons with Disabilities. Their website has information related to capacity-building of disabled people’s organisations as well as background to the Convention.

[www.internationaldisabilityalliance.org](http://www.internationaldisabilityalliance.org)

See the IDA’s guide on shadow reporting:  
<http://www.internationaldisabilityalliance.org/projects-and-events/guidance-document-on-parallel-reporting/>

**Making It Work!** For the exchange of good practice and promoting advocacy

about ending poverty, social exclusion and discrimination against disabled people over the world.

<http://www.makingitwork-crpd.org/>

The Equality and Human Rights Commission has published a guide about the **Convention on the Elimination of all Forms of Discrimination Against Women**.

The Children's Rights Alliance for England provides information about the **UN Convention on the Rights of the Child** including a campaigning toolkit.

<http://www.crae.org.uk/rights/uncrc.html>

## **The Convention in England and GB**

### **Office for Disability Issues**

The Office for Disability Issues is the focal point in UK Government for the implementation and monitoring of the Convention.

Caxton House, 6-12 Tothill Street,  
London SW1H 9NA

[office-for-disability-issues@dwp.gsi.gov.uk](mailto:office-for-disability-issues@dwp.gsi.gov.uk),  
[www.officefordisability.gov.uk](http://www.officefordisability.gov.uk)

### **Ministry of Justice**

The Ministry of Justice is the focal point for human rights in general, and the Human Rights Act in particular.

<http://www.justice.gov.uk/guidance/humanrights.htm>

### **Equality and Human Rights Commission helpline – England**

The Commissions Helpline provides information and guidance to the public

about discrimination and human rights, including the UN Disability Convention.

Freepost RRLG-GHUX-CTR,  
Arndale House, Arndale Centre,  
Manchester M4 3AQ

Telephone: 0845 604 6610

Textphone: 0845 604 6620

Fax: 0845 604 6630

[englandhelpline@equalityhumanrights.com](mailto:englandhelpline@equalityhumanrights.com)

8am–6pm, Monday to Friday

**Note:** if you have any information you want to give the Equality and Human Rights Commission about the Convention or have any questions about our work on the Convention please contact us at: [UNCRPD@equalityhumanrights.com](mailto:UNCRPD@equalityhumanrights.com)

### **British Institute of Human Rights**

BIHR provides a range of information about human rights, including guides to the Human Rights Act for disabled people and people with mental health problems. It supports people to use human rights to improve their own lives, through awareness raising events, training, information and policy work. It does not provide individual advice.

King's College London, 7th Floor,  
Melbourne House, 46 Aldwych,  
London WC2B 4LL

Telephone: 020 7848 1818,

Fax: 020 7848 1814

[gcreaven@bihr.org.uk](mailto:gcreaven@bihr.org.uk),

[www.bihr.org.uk](http://www.bihr.org.uk)

**Our Human Rights Stories** is a website with stories of how disabled people and other people are using the Human Rights Act.

[www.ourhumanrightstories.org.uk](http://www.ourhumanrightstories.org.uk)

## **The Convention in Scotland**

### **Scottish Government Equality Unit**

The Scottish Government Equality Unit coordinates the information required to report compliance and progress in Scotland.

Area 2G, Victoria Quay,  
Edinburgh EH6 6QQ

Telephone: 0131 556 8400 or  
08457 741741 (for UK local rate).

**<http://www.scotland.gov.uk/Topics/People/Equality>**

### **The Scottish Parliament's Equal Opportunities Committee**

The Scottish Parliament's Equality Opportunities Committee looks at equality issues, including within Parliament. It can write reports.

Telephone: 0131 348 5408

**[equalopportunities@scottish.parliament.uk](mailto:equalopportunities@scottish.parliament.uk)**

**<http://www.scottish.parliament.uk/s3/committees/equal/index.htm>**

### **Scottish Human Rights Commission (SHRC)**

The Scottish Human Rights Commission promotes and protects the human rights of everyone in Scotland.

The Optima Building, 58 Robertson Street,  
Glasgow G2 8DU.

Telephone: 0141 243 2721

**[hello@scottishhumanrights.com](mailto:hello@scottishhumanrights.com)**

**[www.scottishhumanrights.com](http://www.scottishhumanrights.com)**

### **Equality and Human Rights Commission helpline – Scotland**

The Commission's Helpline, with the permission of the Scottish Human Rights Commission, provides information and guidance to the public about human rights.

Freepost RRL-LGYLB-UJTA,

The Optima Building, 58 Robertson Street,  
Glasgow G2 8DU

Telephone: 0845 604 5510

Textphone: 0845 604 5520

Fax: 0845 604 5530

**[scotlandhelpline@equalityhumanrights.com](mailto:scotlandhelpline@equalityhumanrights.com)** 8am–6pm, Monday to Friday

**Note:** if you have any information you want to give the Equality and Human Rights Commission or the Scottish Human Rights Commission about the Convention or have any questions about our work on the Convention please contact us at **[UNCRPD@equalityhumanrights.com](mailto:UNCRPD@equalityhumanrights.com)** and/or **[hello@scottishhumanrights.com](mailto:hello@scottishhumanrights.com)**.

## **The Convention in Wales**

### **Equality, Diversity and Inclusion Division**

The Equality, Diversity and Inclusion Division has responsibility for implementing the Convention in Wales and coordinating Welsh Assembly Government's contribution to the UK report on the Disability Convention.

Welsh Assembly Government,  
Cathays Park, Cardiff CF10 3NQ

Telephone: 02920 826 828

or 02920 825 929

**[EDIDMailbox@wales.gsi.gov.uk](mailto:EDIDMailbox@wales.gsi.gov.uk)**

**[www.wales.gov.uk](http://www.wales.gov.uk)**

### **National Assembly of Wales Equality of Opportunity Committee**

The Equality of Opportunity Committee looks at the equality duties of the Welsh Assembly.

Telephone: 029 2089 8148

Textphone: 0845 010 5678

**Equality.comm@wales.gsi.gov.uk,  
http://www.assemblywales.org/  
bus-home/bus-committees/  
bus-committees-other-committees/  
bus-committees-third-eoc-home.htm**

### **Equality and Human Rights Commission helpline – Wales**

The Commission's Helpline provides information and guidance to the public about human rights.

Freepost RRLR-UEYB-UYZL,  
3rd Floor, 3 Callaghan Square,  
Cardiff CF10 5BT

Telephone: 0845 604 8810,

Textphone: 0845 604 8820

Fax: 0845 604 8830

**waleshelpline@equalityhuman  
rights.com**

8am–6pm, Monday to Friday

**Note:** if you have any information you want to give the Equality and Human Rights Commission about the Convention or have any questions about our work on the Convention please contact us at **UNCRPD@equalityhumanrights.com**.

### **Legal advice about Human Rights**

You may be able to seek legal advice from:

#### **Liberty**

Liberty is one of the UK's leading civil liberties and human rights organisations. They give information and support to individuals who want to understand and use their rights under the Human Rights Act 1998.

Telephone 0845 123 2307

**www.yourrights.org.uk**

#### **Advice UK**

A membership organisation of independent advice centres. They do not give out advice themselves but their website has a directory of advice centres.

Telephone: 020 7407 4070

**general@adviceuk.org.uk,**

**www.adviceuk.org.uk**

#### **Citizens Advice**

Provides free, independent and confidential legal advice, and can help you find a solicitor.

Telephone: 020 7833 2181 (no advice is available on this line, but they will be able to give you details of your local Citizens Advice Bureau that can give you advice)

**www.citizensadvice.org.uk**

**Advice website:**

**www.adviceguide.org.uk**

#### **Community Legal Service**

CLS has an online directory providing details of solicitors, advice agencies and information providers across England and Wales, as well as a helpline giving free initial legal help and advice on some issues.

Helpline: 0845 345 4 345

**www.clsdirect.org.uk**

#### **Law Centres Federation**

(in England and Wales)

Law Centres provide a free and independent professional legal service to people who live or work in their catchment areas. The Law Centres Federation itself does not provide legal advice, but can provide details of your nearest law centre.

Telephone: 020 7387 8570

**info@lawcentres.org.uk,**

**www.lawcentres.org.uk**



### **Public Law Project**

Public Law Project is a voluntary group that supports disadvantaged groups to take legal action against public authorities if they have infringed people's human rights. Their website has several leaflets. The Public Law Project does not take enquiries from the general public but they can take referrals from another lawyer or adviser.

**[www.publiclawproject.org.uk](http://www.publiclawproject.org.uk)**

### **Disability Law Service**

The Disability Law Service provides information and advice about disability discrimination and provides a helpline, casework service, and can provide support at any level of the legal system.

Telephone: 020 7791 9800

Minicom: 020 7791 9801

**<http://www.dls.org.uk/>**

## **Scotland**

### **Scottish Legal Aid Board**

The Scottish Legal Aid Board is responsible for managing legal aid in Scotland. Their website has information about getting legal help.

**<http://www.slabb.org.uk/>**

### **Scottish Association of Law Centres**

The Scottish Association of Law Centres represents law centres throughout Scotland. They do not provide individual advice, but they can tell you where to find your nearest Law Centre.

**<http://www.scotlawcentres.blogspot.com/>**

### **Scottish Citizens Advice Bureau Service**

The Scottish CAB Service helps you find your local CAB.

**<http://www.cas.org.uk/>**

### **Scottish Child Law Centre**

The Scottish Child Law Centre provides advice and information to children and young people in Scotland, and offer training and school visits.

54 East Crosscauseway,  
Edinburgh EH8 9HD

Freephone for under 18s: 0800 328 8970

Telephone: 0131 667 6333

Fax: 0131 662 1713

**[enquiries@sccl.org.uk](mailto:enquiries@sccl.org.uk)**,

**<http://www.sccl.org.uk/>**

### **Govan Education Law Unit**

The Education Law Unit is Scotland's provides legal advice on education, discrimination and human rights.

Govan Law Centre,

47 Burleigh Street,

Glasgow G51 3LB

Telephone: 0141 445 1955

Textphone (Minicom): 0141 445 1955

Fax: 0141 445 3934

**[equality@edlaw.org.uk](mailto:equality@edlaw.org.uk)**,

**Education Law Unit,**

**<http://www.edlaw.org.uk>**



# Contacts

## England

Equality and Human Rights Commission Helpline  
FREEPOST RRLG-GHUX-CTR  
Arndale House, Arndale Centre, Manchester M4 3AQ

Main number 0845 604 6610  
Textphone 0845 604 6620  
Fax 0845 604 6630

## Scotland

Equality and Human Rights Commission Helpline  
FREEPOST RSAB-YJEJ-EXUJ  
The Optima Building, 58 Robertson Street, Glasgow G2 8DU

Main number 0845 604 5510  
Textphone 0845 604 5520  
Fax 0845 604 5530

## Wales

Equality and Human Rights Commission Helpline  
FREEPOST RRLR-UEYB-UYZL  
3rd Floor, 3 Callaghan Square, Cardiff CF10 5BT

Main number 0845 604 8810  
Textphone 0845 604 8820  
Fax 0845 604 8830

## Helpline opening times:

Monday to Friday: 8am – 6pm

Calls from BT landlines are charged at local rates, but calls from mobiles and other providers may vary.

Calls may be monitored for training and quality purposes.

Interpreting service available through Language Line, when you call our helplines.

If you require this publication in an alternative format and/or language please contact the relevant helpline to discuss your needs. All publications are also available to download and order in a variety of formats from our website

**[www.equalityhumanrights.com](http://www.equalityhumanrights.com)**

[www.equalityhumanrights.com](http://www.equalityhumanrights.com)