

The Government's human rights priorities in light of Brexit: House of Lords debate: Disability rights, 12 December 2017

Executive Summary:

EU law is an important vehicle through which disabled people's rights are given effect in member states' legal systems, as the EU is itself a party to the Convention on the Rights of Persons with Disabilities (CRPD). Under EU law, international treaties to which the EU is party have a stronger impact than they do under UK law. E.g., EU law (unlike UK law) must be interpreted consistently with the CRPD. To ensure there is no regression, and that disabled people in Britain benefit from future progress driven by the CRPD, the Government should ensure these protections are incorporated into UK law, e.g. by giving enhanced status to the CRPD.

Many disabled people employ Support Workers or Personal Assistants who are nationals of other EU countries. It is vital to consider the impact of the loss of the EU workforce on disabled people's right to live independent lives. The Government should also address the potential impact on disabled people of the loss of EU structural funding: e.g. the European Social Fund's priority groups include disability, and accessibility and independent living are preconditions for the spending.

Changes following Brexit are occurring against a broader context in which disabled people's rights are under threat from a raft of tax and benefit changes. It is vital that the Government undertakes a cumulative impact assessment of the 2018 Budget, and reconsider existing policies that are hitting disabled people the hardest.

Background:

1. Safeguarding disability rights and enhancing the status of the UN CRPD

- **Issue:** The EU is a party to the CRPD, which positively shapes new EU laws, policies and programmes, and influences how the Court of Justice for the EU interprets EU laws. The UK's withdrawal from the EU therefore risks a significant loss for the way disabled people's rights are applied and realised in practice.
- **Example:** The European Accessibility Act (currently being negotiated) is informed by Article 9 of CRPD. It covers accessibility standards for computers, transport, websites, online ticketing among other things. Its effects will: impose a duty on manufacturers to ensure accessibility (not currently part of UK law); reduce costs for disabled people; create a more efficient and dynamic market for key goods and services; support disabled people's participation in society and the labour market; and introduce (potentially cheaper and easier) alternatives to the Equality Act for challenging lack of accessibility by service-providers.
- **Ask:** To ensure non-regression and that disabled people in Britain benefit from future progress driven by the CRPD, the Government must include a principle of non-regression in the EU (Withdrawal) Bill, including retention of the EU Charter on Fundamental Rights; commit to keeping up to date with disability-related

developments at EU level, such as the European Accessibility Act and relevant EU case law; and give enhanced status to the CRPD in UK law.

2. Protecting the right to live independently and be included in the community

- **Issue:** New immigration rules could affect staffing levels for services which are vital for supporting the human rights of disabled people.¹
- **Example:** The Support Workers or Personal Assistants many disabled people employ (together with a significant proportion of workers in health and social care sectors) are often from other EU countries, and are vital for making their right to live independently a reality - enabling them the freedom to have a private and family life, socialise with friends, raise their children, or maintain their jobs.²
- **Ask:** The Government must carry out a rigorous equality impact assessment of changes to Immigration Rules (including an assessment of the impact on disabled people's right to live independently); and ensure the impact of Brexit on this workforce is part of the freedom of movement debate.

3. Funding for disability groups

- **Issue:** The potential impact of the loss of EU funding on protected groups – including funding for civil society organisations, academic research and advice – is deeply concerning to many disabled people and disability organisations.
- **Example:** NCVO has estimated that UK charities benefit from over £300 million in EU funding per year.³ Early findings suggest that disabled people will be disproportionately affected because, for example, the European Social Fund's priority groups include disability, mental health, older people and carers.⁴
- **Ask:** The Government must conduct a rigorous equality impact assessment of the loss of EU funding and new arrangements, e.g. the UK Shared Prosperity Fund, to target entrenched inequality and disadvantage of many disabled people.

4. Assessing the cumulative impact of the 2018 budget on disabled people

- **Issue:** Changes following Brexit are occurring against a broader context in which disabled people's rights are under threat from a raft of tax and benefit changes.
- **Example:** The interim results of the EHRC's cumulative impact assessment of tax and benefit changes between 2010-2017 shows that households with one or more disabled member will be significantly worse off than those with no disabled members. On average, tax and benefit changes on families with a disabled adult will reduce their income by about £2,500 per year; if the family also includes a disabled child, the impact will be over £5,500 per year. This compares to a reduction of about £1,000 on non-disabled families.⁵
- **Ask:** It is vital that the Government undertakes a cumulative impact assessment of the 2018 Budget, and reconsider existing policies that are hitting disabled people the hardest.

¹ EHRC (2016) Written evidence from the EHRC for the JCHR inquiry on the human rights implications of Brexit. Available [here](#) [accessed 6 December 2017].

² Lawson, A and Sayce L. (June 2017) The implications of Brexit for disability rights: Influencing future debate and policy, pp 9-10. Available [here](#) [accessed 5 December 2017].

³ <http://blogs.ncvo.org.uk/2016/12/16/what-do-we-know-about-charities-and-the-european-union/>

⁴ See [here](#) [accessed: 27 July 2017]

⁵ Portes, J., Aubergine Analysis and King's College London (2017): Distributional results for the impact of tax and welfare reforms between 2010-17, modelled in the 2021/22 tax year – Interim findings. Available [here](#) [accessed: 21 November 2017].