

Disability Law Service Strategic Plan 2008-2011 Appendix i

DISABLED PEOPLE IN BRITAIN: SUPPLEMENT

Further data, studies and reports 2008-2009

DLS's Strategic Plan, as completed in 2008, contained the following Annex which summarised a wide range of findings on disabled people in Britain together with some key cases in which DLS had been involved. Its main finding was that although progress could be and was being made in securing the statutory rights of disabled people, as well as tackling prejudice and lack of awareness about disability, the continuing substantial task was to sustain and boost that progress. Major inequalities and injustices persisted. And the gains being made were patchy and slow, and could not be assumed to be irreversible.

This Supplement, which should be read alongside the Annex, reviews information and analyses that have been published since the Annex was completed. Its findings are, not surprisingly, similar. They unavoidably pre-date any definitive assessment of the impact of the recession and public expenditure restraints, but the prospects for disabled people look set to be even tougher than in recent years.

General surveys

The 2008 Annual Report of the Office for Disability focused on developments concerning the Government's aim of disability equality by the year 2025. In particular it summarised movements in a wide range of indicators (54 in total) on children and younger people, employment outcomes and opportunities, disability poverty, discrimination and attitudes, participation and opportunities, access and use of goods and services, access and suitability of housing, and crime and justice. In each of these areas, the report sought to identify the trend since the original indicator was established as well as the direction of the latest data compared with the most recent previous measurement.

In a perhaps surprising and disappointing number of cases (18, ie. one third of all indicators) ODI found there was insufficient data to establish a trend and/or to determine a significant level of change. In 13 cases

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improvements of one sort or another were identified. However the largest number of these were in the education sector where improvements also applied with respect to non-disabled people, and the report did not attempt to measure relative improvement as between the two groups. Some of the other improvements were in the employment field, but pre-date the onset of the recession (see the specific section below on employment).

In 14 cases no significant trends or recent changes of any sort were detected. And there had been an actual deterioration in trend since baseline across various indicators affecting disabled people including: working age people who have never worked; children living in poverty after housing costs are factored in; individuals living in income poverty before and after housing costs; adults without savings or bank accounts; and awareness of the Disability Discrimination Act among the population at large.

In June 2009, the Equality and Human Rights Commission (EHRC), together with the three other Commissions for equalities and for human rights in the UK, issued a statement on the UK's ratification of the United Nations Convention on the Rights of People with Disabilities.

The statement noted many of the rights in the Convention – on health, education, housing and participation – are still not fully protected in UK law. And the evidence showed that many disabled people continue to experience marked inequalities and restricted opportunities in the following areas in particular:

- People with learning disabilities face serious barriers to accessing healthcare, in some cases resulting in deaths that could have been avoided
- Many disabled people are subjected to violence and hostility on a daily basis which prevent them from actively participating in society
- More than one third of disabled adults of working age live in poverty, with over half not in paid employment
- At age 16, disabled people are twice as likely not to be in any form of employment, education or training, Disabled people aged 16-24 are also twice as likely as their peers to have no formal qualifications.

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The four Commissions underlined the potential impact of the Convention but noted the importance of it being fully implemented in the UK and of the Government withdrawing its various reservations.

The recession and employment

It will take some time yet for the full effects of the recession on disabled people to be assessed accurately. It is however already clear that the difficult trading position of many commercial organisations, together with the expected tight squeeze on public expenditure and cutbacks already made by some public bodies, have caused financial concerns and in some cases difficulties for disability organisations, DLS itself is at present well placed and is good shape financially. However the tough road ahead should not be underestimated.

Over the year, the TUC has published monthly Recession Reports. In its July Report the TUC focused on “Disabled People and the Recession” (an impressive study) and followed this up with a short but important addition in August.

The TUC summarised the main data on employment and disability noting that surveys and studies show disabled people have for a long time been less likely to be in employment than non-disabled people and also more likely to be unemployed. There have also been persistent skills, qualifications and earnings gaps between the disabled and non-disabled. Disabled people are the most disadvantaged in employment compared with all large disadvantaged groups.

The TUC in addition summarised a DWP review of studies of the impact of the three previous recessions on disadvantaged groups including disabled people. The main findings were:

- The proportion of disabled people among the “stock” of unemployed was higher than the proportion of those becoming unemployed, given that disabled people tend to remain unemployed for longer than the non-disabled

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- Metropolitan Local Authorities revealed an almost universal picture of declining opportunity
- In the same Authorities, the lack of employment opportunities for disabled people led day Centres and Adult Training Centres to shift away from work-centred activities to “creative pursuits and social skills”
- A 1990 study found that unemployment duration for registered disabled people averaged 149 weeks compared with 57 weeks for non-disabled people.

The TUC noted that, from the data available at Spring 2009, there were in fact few signs of a widening employment gap between the disabled and non-disabled. A joint study at around the same time by DWP and EHRC found a similar picture.

However, despite that initially seemingly encouraging position, there are still grounds to be both cautious and concerned:

- The full effect of a recession on employment and unemployment usually lags behind movements of economic, financial and commercial indicators
- The unemployment rate for disabled people remains significantly higher than for the non-disabled, and the employment rate far lower
- Most significantly of all, as noted in the TUC’s August report following information from the Institute for Economic Studies, the data on unemployment among disabled people is based on the wide-ranging definition of disability contained in the Disability Discrimination Act. If attention is paid to people with specifically work-related disabilities, not only the absolute but also the relative position on employment and unemployment for disabled people in the present recession may be worsening.

Whatever the precise outcomes of the recession, many disabled people will find their level and security of income under threat and reduced. That in turn will not only increase the risk of their experiencing deprivation and in many cases poverty, but weaken the means available to them to pursue their rights through legal and other means.

Harassment and bullying

In its 2009 report for the EHRC by the Office for Public Management (OPM, “Disabled people’s experiences of targeted violence and hostility”), OPM noted that disabled people are four times more likely to be victims of crime compared to non-disabled people . Incidents are often so persistent that they become part of the disabled victim’s everyday life. Some incidents are severe. And while most are “low level”, they are ongoing and often become normalised and trivialised.

The report continues that such incidents have a massive impact on disabled people, who often have to restructure their lives to avoid the perpetrators or risky situations. Their mental and physical health suffers; and such withdrawal damages their life chances and social inclusion.

The much publicised deaths of Fiona Pilkington and her daughter provided tragic corroboration of the OPM study’s findings. The EHRC has asked the relevant local authority to provide evidence that it is compliant with its legal duty to eliminate disability-related harassment. This forms part of EHRC’s wider review of local authority performance on the issue. In December 2009 many public authorities will be required to publish their updated Disability Equality Schemes, including on addressing harassment and hate crimes.

Other developments ahead in the public sector

Whatever the precise outcome of the forthcoming General Election, expected by most commentators to held in April or May 2010, it seems certain to usher in a sustained period of tight restraints on and cuts in public expenditure across the board. Disability-related benefits have been mentioned by both the main political parties in the context of tougher welfare-to-work measures, but both parties also seem at least aware of the fact than many disabled people, as a consequence of their disability, simply cannot perform normal work.

Public expenditure restraint is already affecting the plans of some local authorities, and the squeeze on their programmes and spend seems all

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but certain to continue. Resources available to the employment tribunals and courts will also be reduced, leading possibly to delays in hearing cases and restrictions of funds for increasing the accessibility of the judicial system.

The budget of the EHRC has already been cut by some £10 million from its original £70 million and further reductions seem highly probable. It remains to be seen how this affects the Commission's spending priorities, including via its grants programme to external voluntary bodies. Meanwhile the new EHRC Chief Executive is unlikely to take up post much before the beginning of 2010, and the process is in mid-stream to appoint the new set of Commissioners. For a number of reasons, therefore, it may be difficult for the EHRC to get up to full speed for some time.

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Disabled People in Britain A survey of data, studies and reports

Progress can be and is being made in securing the statutory rights of disabled people as well as tackling prejudice and lack of awareness about disability. The task is to sustain and boost that progress.

However the gains are patchy and slow, and cannot be assumed to be irreversible. Major inequalities and injustices persist. This Annex provides detail on the continuing major discrimination and disadvantage faced by disabled people, drawing on studies and data produced by other expert organisations and on cases that have been addressed by the Disability Law Service in recent years.

Discrimination and non-observance of statutory rights

Actual and perceived discrimination on grounds of disability remains prevalent. In employment alone, over 3650 claims were lodged with the Tribunals in 2006-07 under the Disability Discrimination Acts (DDA), up from 2710 in 2004-05 (the comparable figure in 2006-07 under the Race Relations Act was significantly less, at 2380). DDA cases coming to the courts and tribunals claims with respect to access to goods, services, facilities and premises, as well as education and transport have similarly been on a rising trend.

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The Disability Rights Commission (DRC), subsumed into the Equality and Human Rights Commission in October 2007, increasingly restricted itself to legal cases with strategic impact including at the higher levels of the courts and tribunals, but nonetheless consistently supported around 55 cases per year (a far higher total than either the EOC on gender or the CRE on race).

Disabled people can also face substantial difficulties in securing other statutory rights, including with respect to welfare benefits. For example in 2006-07, reflecting patterns in previous years, the Benefits Appeals Service received over 5000 formal appeals against individual decisions by the Benefits Service concerning simply the main benefits most closely related to disability (Disability Living Allowance and Attendance Allowance, Incapacity Benefit and Industrial Injury Disability Benefit, themselves only part of the overall benefits system). A large proportion of these appeals were upheld. And while the trend over the years is in the right direction, it was still the case that in 13% of all upheld appeals it was found the original decision had underestimated of the severity of the individual's disability (and in 10% the original medical assessments were awry).

Sources

Annual Report 2006-07, Advisory Conciliation and Arbitration Service (ACAS)

Report to the Secretary of State by the President of Appeals Tribunals, 2006-07

Impact Report 2000-07, DRC

Prejudice, attitudes and awareness

The DRC's comprehensive 2007 study and set of recommendations on key areas of public policy found that "Negative attitudes towards disabled people are well-documented. They range in nature and vary according to factors such as impairment type, ethnicity, age and gender. They may give rise to abuse and harassment, a misplaced (and stifling) pity or admiration, or a perception that the disabled person is of low competence, is a drain on the economy, or a fear that someone may harm themselves or others."

The DRC also found that opportunities for interaction with the wider community are restricted for many disabled people who experience low expectations on the part of others, with no opportunity to demonstrate their potential. Those low expectations of disabled people are often based on: a view that looking, functioning or behaving differently means that the individual is inherently flawed and has less to contribute; fear of the unfamiliar; and, at worst, a belief that a disabled life is a life not worth living.

These negative assumptions can manifest themselves in the behaviour of non-

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disabled individuals or at an institutional level including the public services. When surveyed around 75% of the general population agreed that disabled people experienced some discrimination, and 25% that there was a lot of prejudice. A separate survey found that the corresponding figures reported by disabled people alone were 89% and 41%. The disability organisation SCOPE has argued and evidenced that what it terms “Disabilism” is widespread, ie. “discriminatory, oppressive or abusive behaviour arising from the belief that disabled people are inferior to others”.

It is welcome that there has been an appreciable growth in general awareness of DDA rights among both non-disabled and disabled people. However it remains a major concern that there is a lower awareness of the DDA among disabled people (at 68% in 2006) than among the non-disabled (75%) and that the rate of increase in awareness among disabled people is also lower. As rightly emphasised by the Government’s Office for Disability Issues (ODI), awareness of the DDA is key in alerting people to where rights exist and to enabling challenges and progress to be made.

And there is evidence of a more general sense of powerlessness among disabled people. Compared with 20 per cent of the population at large and despite the considerable achievements of disabled people in developing voluntary organisations, disabled people constitute only 6 per cent of formal volunteers and in 2007 constituted only 6% of public appointments across Britain. It is perhaps little wonder therefore that by the age of 26 young disabled people have been more than three times as likely as other young people to agree with the statement “whatever I do has no real effect on what happens to me”.

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British Social Attitudes Survey 2007

Disability Review 2007, Leonard Cheshire Disability

Disablist Britain: Barriers to Independent Living for Disabled People in 2006”, SCOPE

DDA report analysis of data from the ONS Omnibus Survey, ODI 2006

Poverty

There is a very substantial set of official statistics and studies demonstrating the marked and disproportionately large number of disabled people (adults including parents, and children) who continue to live in poverty and who are at a significantly higher risk of growing up in poverty than non-disabled people.

The most up to date key findings include:

- Over 30% of disabled people aged between 25 and retirement age live in a low

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income household (compared with 15% among non-disabled people in the same age range).

- There are more disabled adults in poverty than ten years ago.
- Using a reasonable and independent estimate of additional costs of living attributable to being disabled, the adjusted poverty rate among disabled people is over 60%.
- A far higher proportion of disabled people (perhaps 50%) have no savings compared with the non-disabled (around 12%).
- Some 33% of children living in poverty have a disabled parent.
- Over half of all families with disabled children live in or at the margins of poverty for some black and minority ethnic groups, the risk of poverty is far higher. Among families that include a disabled adult, the likelihood of poverty is 36 per cent in white families, 52 per cent in Indian, 63 per cent in Pakistani and 83 per cent in Bangladeshi families.
- Some 264,000 disabled lone parents live in poverty.
- Of all disabled parents living below the poverty line, only a quarter are in work. And only 16 per cent of mothers of disabled children are in work, compared with 61 per cent of mothers of other children.

A number of the studies also confirm a strong correlation between poverty and reduced life chances, social exclusion and welfare dependency, as well as poorer health, educational achievement and quality of family and community life.

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Ethnicity and Child Poverty, Research for the Ethnic Minority Employment Task Force, Platt, L. 2006

Employment and income

It is welcome that employment rates among disabled people increased by some 7% between 1998 and 2006. However still only 50% of disabled adults are in paid work, compared with 80% of non-disabled adults. 45% of disabled people are economically inactive and 30.5% of those would like to work (whereas the corresponding proportions among the non-disabled are 15.5% and 24.5%).

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Among specific groups of disabled people, only one in ten with severe learning disabilities and two in ten people with mental health problems had a job in 2006.

Recruitment stage disability discrimination continues to be common, with some employers applying prejudices towards and/or ignorance of some disabilities in their decision making process. Other employers remain confused about the duty they have to make reasonable adjustments both in relation to the recruitment arrangements and in deciding disabled applicants' suitability for vacancies.

For example, DLS recently settled a case prior to a tribunal hearing concerning a woman job applicant with bipolar mental health disorder. She had been stable for 2 years prior to her application and had good references about her capability from medical professionals. She was offered the job and had to complete health information form. Upon disclosing the facts of disability the offer had been withdrawn on the basis that the employer preferred 3 years stability as opposed to 2 years.

Finding a job is particularly difficult for people aged 50 or over, with lower qualifications, of Pakistani/Bangladeshi origin, and living in regions and areas with relatively fewer available jobs.

When in work, disabled people are less likely to have a professional or managerial job and are twice as likely to experience unfair treatment.

Disabled workers are more likely to be lower paid than other similarly qualified workers, whether in a full or part-time job. The latest Labour Force Survey showed that the average gross hourly wage for long term disabled people was £10.28, and for non-disabled people £11.30. This 'disability pay gap' at almost 10 per cent was down from 14 per cent in 1998 but still represents a significant penalty.

Overall, disabled people have lower levels of qualification, which can limit the chances of having a job or getting on at work. It is important to note, however, that at every level of qualification, disabled people are up to three times more likely than other citizens to be without a job but want to work.

The DRC confirmed that, although there is evidence that employers are becoming more likely to make adjustments for their employees as required under the DDA, many are still unjustifiably not recruiting or retaining disabled workers. Around one in six workers lose their job after developing an impairment or long-term health condition (people with mental health problems and those in manual work at twice as much risk). Once out of work, many encounter negative attitudes from employers.

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Some types of disabilities (e.g. Multiple Sclerosis) have symptoms and effects which are characteristically unpredictable and this has caused some employers to react on the basis of ignorance and impatience. In such cases disabled employees are given less incentive to disclose their disabilities or the full effects of their disabilities in order to avoid prejudice, based on ignorance.

The inherent unpredictability of some disabilities also raises the risk of drastic, impulsive and ill thought out steps being taken by employers who might be impatient to await further medical information or employers who perceive, often wrongly, unreliability on the employee's part. Some employers are also reluctant to engage with disabled employees who often have a clear idea of what they need and how reasonable adjustments can be achieved. DLS has represented a number of clients who want to return to work but are unable to do so because of their employer's reluctance to listen to their suggestions.

Over the last decade there has been a gradual extension of support to people receiving incapacity-related benefits from longstanding Jobcentre Plus schemes, together with private, public and voluntary sector job brokers under the New Deal for Disabled People. Job brokers have helped many benefits claimants back to work. However, they appear to have been less successful in reaching people facing more complex barriers (including people with mental health problems who are less likely to get and keep a job than other disabled people), and in extending the range of employers recruiting disabled people. In contrast there is evidence that once employers have had a positive experience of employing a disabled person, they are more likely to do so again.

Disabled people out of work may encounter limited support from job-finding and other public services (often due to low expectations from staff working in those services). Investment - across health, social care and employment - has tended to emphasise 'special' support for 'vulnerable' people, rather than being based on the view of disabled people as citizens.

And it has been argued that contradictions persist in the approach taken by public policy to disability and employment. While the DDA assumes that impairments and long-term health conditions can be accommodated, income maintenance benefits have assumed that there is a group of people with conditions that make them incapable of work. Benefit rules also discourage recipients from engaging in voluntary work, public life or learning, which can act building blocks back into paid work. Impairments and health conditions can of course in a substantial number of circumstances make work an unviable option, and the individuals concerned must not be railroaded into unfair and inappropriate activity. Equally, what the DRC has termed "lazy fatalism" can lead to unjustified stereotyping of those able and wanting to work.

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The employment rates of disabled people, Berthoud, R. 2006
Reaching out: An action plan on social exclusion, HM Government Social Exclusion Unit 2006
NDDP: first synthesis report, DWP 2004
Disability in the workplace: employers' and service providers' responses to the DDA in 2003 and preparation for 2004 changes, DWP 2004
Employment retention and the onset of sickness and disability, DWP 2003

Skills and qualifications

Skills and qualifications are increasingly important in determining individual life chances. Improving skill and hence employment for disabled people matters hugely for equality and social justice but also for national as well as individual prosperity. To drive home this fact, the Social Market Foundation has calculated that raising the skills of disabled people to leading levels by 2020 would boost economic growth in the UK by some £35 billion.

However disabled people, while representing one fifth of the working population, are far more likely to be out of work and to lack skills than the population as a whole. Disabled people are more than twice as likely as other citizens to have no recognised qualifications (the proportions are 25% and 11% respectively). They comprise over a third of all those without any formal qualifications.

Appropriate childcare and early years provision for disabled children remains problematic, and full accessibility in schools, further and higher education is still a significant way off.

Young disabled people aged 16 are twice as likely not to be in any form of employment, training or education (NEET) and this increases to three times as likely by the age of 19. Between 2000 and 2004 the numbers of young disabled people who were NEET grew from 11 to 15 per cent. Not being in employment, education or training for six months or more between 16 and 18 is the single most powerful predictor of economic inactivity at age 21. Research in Wales has found that learners who have physical impairments or health conditions are at a higher risk of dropping out than other learners.

When given the opportunity, disabled people can be as capable as non-disabled

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people in securing skills and qualifications. The proportion of disabled people whose highest qualification is GCSE grades A-C and equivalent is, at 21%, close to that for non-disabled people (23%). And the figures at GCE A level are 21% and 24% respectively.

However there appear to be substantial barriers to disabled people going on to secure higher level qualifications. Of those whose highest qualification is a degree or equivalent, 11% are disabled people compared with 21% of the non-disabled. And an inspection report on post-16 learning in 2006 found that “the current provision for adult learners with disabilities is costly and does not provide value for money”. It also found that in the post-16 education system “compassion is seen as not only sufficient, but as a justification for restricting ambition and growth”.

As with employers a principal barrier to achieving in higher and further education is educating bodies’ reluctance to listen to the individual’s assessment of their needs. DLS has recently represented in the tribunal a man with multiple sclerosis studying for a vocational post graduate degree whose qualifying body rejected his requests for reasonable adjustments, offering instead their own assessment of what was reasonable for his disability. This proved inadequate for his personal circumstances.

Figures for England show that the gap in employment rates between disabled and non-disabled adults without any qualifications is 38 per cent. It narrows, but only to 22 per cent, for those who have GCSE grades A-C. At least in part due to their lower levels of qualifications, disabled people are less likely to work in managerial and professional occupations. This too can have a substantial impact on income and prospects for many disabled people.

Volunteering and public appointments offer differing further routes to securing skills and experience. However, in addition to benefit requirements mentioned in the previous section, significant barriers apply here too. Only 6.1% of public appointments were held by disabled people in 2006-07. And a survey on volunteering in Scotland found that out of the 9,090 volunteering opportunities, only 40 per cent were accessible to disabled people.

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Narrowing the Gap: the Final Report of the Fabian Commission on Life Chances and Child Poverty 2006. Family Resources Survey 2004-05
Annual Digest of Statistics on Volunteering in Scotland, Volunteer Development Scotland 2006

Social care and independent living

Disabled people are disproportionately represented among older people. A authoritative report for the King's Fund on the future of care for older people in England estimated that the proportion of the population aged 85 and over is set to increase by two-thirds in the next 20 years. In Scotland, it is estimated that by 2025 there will be a 39 per cent rise in those aged 60-74 and a 75 per cent rise in those over 75.

The culture of social services has begun to change, placing more power in the hands of citizens and adapting services to ensure that people can participate. But the infrastructure lags far behind many disabled people's needs and expectations. As the population ages and more women enter and stay in the workforce, the increasingly typical pattern of services only for those with the highest need and that rely on family members, mostly women, to fill the gap is less and less satisfactory. Demand massively outstrips supply and the way in which services are provided frequently fails to meet people's aspirations for independence and choice. Resources available to local authorities and other responsible bodies for care services are under major pressure and this can lead to a diminution or even denial of the associated statutory rights for disabled people. Half the care assessments made in England do not result in services being provided.

There has been a rise in the number of people living in inappropriate or inadequate residential settings: 9,000 younger adults with physical impairments lived in care homes designed for different client groups in 2005, compared with 8,000 in 2002. A further 3,000 people with learning disabilities lived in NHS accommodation unnecessarily. On average, residential placements for people with learning disabilities are 74 miles from their family home.

It has been found that nearly half of care homes for older people and younger disabled adults in England do not meet the minimum standard for the provision of medication, and one in six care homes do not meet the minimum standards for meals. In Wales, the management of medication has been found to be problematic in 44 per cent of care homes and 27 per cent had inadequate fire safety arrangements.

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People living in institutions are also made vulnerable to abuse and the denial of basic human rights to privacy, dignity, and self-expression; the right to choose if, when and with whom to share a bedroom; to converse in the individual's own language; to have their religion and culture respected; and to express their sexual orientation and sexuality.

In its 2008 Report, the Joint Parliamentary Committee on Human Rights described "an often harrowing picture of neglect, abuse and the denial of fundamental human rights to adults living with learning disabilities". The Committee found abusive and degrading treatment, neglect or carelessness by health and social care services, a lack of privacy in health and social care settings, and a lack of dignity.

Rising costs for residential care placements also provides an impetus for enabling more people to live in their own homes. Between 2002 and 2005 the cost of residential placements for younger adults with learning disabilities rose by 31 per cent in England. In Wales expenditure on residential care for all people with learning disabilities has risen by 35 per cent between 2002 and 2005.

Close family, other relatives and friends frequently fill the gap left by services. It is estimated that there are six million unpaid carers in the UK (three times the size of the paid social care workforce). One and a quarter million provide at least 50 hours of support each week and many carers are also disabled people. Across Britain nearly 100,000 children under 16 provide support and 1,300 between 5 and 7 years of age provide more than 20 hours support per week.

People who provide substantial unpaid care and support, typically unpaid, often experience poor health. Many young people providing support do not fulfil their educational potential.

A lack of basic preventative services, such as home adaptations, technology, equipment and responsive mental health services, lead to avoidable costs to the NHS. Accidents in the home affect older people and those with visual impairments. Inadequate support or adaptations at home result in unnecessary hospital admissions or longer stays than needed.

Sometimes authorities' ignorance of the legality of their decisions results in unnecessary suffering. For example, DLS was contacted by a 70 year old man with diabetes who had recently had a leg amputated as a result of MRSA infection during a stay in hospital. His local authority had told him there was a two year waiting list for all applicants for disabled facilities grants. He contacted us at the end of the two year wait, because he had been told there was a further 18 months to wait. After representation by DLS to the authority pointing out the illegality of this policy, he told us

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he had secured his first bath in two years. In excess of 1000 local disabled residents - mostly poor, elderly and infirm - had been on this list. Flowing from this case we worked with the local MP (who had been conducting a campaign) and local authority to ensure the residents received grants and adaptations according to their entitlements.

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Health and Right to Life

Disabled people figure strongly among those missing out on good health. This results not just from their primary impairment or long-term health condition but because social deprivation, unequal access to health services and other factors put them at greater risk of illnesses that in many cases could be prevented.

A DRC Formal Investigation found that people with learning disabilities and/ or mental health problems were more likely than other citizens to experience most killer diseases and risk factors, including heart disease, stroke, respiratory illness, diabetes, some cancers, smoking and obesity. They became ill younger and died faster. Potentially avoidable ill health creates additional barriers to achieving independence and to participation. The challenges are set to grow as Britain's population ages.

The DRC Investigation found that early death could not be accounted for simply by social deprivation. Other factors included differential access to health promotion, checks and treatments; failure to make 'reasonable adjustments' to ensure access to services; and staff having low expectations or not seeing past the mental health problem or learning disability to the real physical problems needing attention.

In residential and nursing homes the costs of contracting with GPs are sometimes passed on to residents. This denies to some disabled (and often older) people a

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health service free to all at the point of need. In some settings, residents have no access to primary care for their physical health and have to rely on mental health practitioners with more limited physical health training. Some people living in supported living arrangements report difficulty in making and keeping GP appointments because their support workers are not always available or willing to assist them or to provide transport at the appropriate times.

People in residential settings are sometimes under-nourished and often do not have access to a good quality diet. As already noted, inspections have revealed that nearly half the care homes in England and Wales for older people and younger adults did not meet minimum standards for providing medication.

There is evidence too that particular groups of disabled people face special disadvantage and discrimination. For example, black people with mental health problems are eight times more likely (and in the North West 25 times more likely) than the overall population to be in high security psychiatric hospitals.

There is considerable concern among many disabled people that their rights to life are insufficiently respected under the health system. There is concern that issuing Do Not Resuscitate notices, and denial of feeding and other life-supporting measures, are more prevalent in hospitals in respect of disabled patients than non-disabled with comparable very severe health conditions. SCOPE in particular has highlighted particular instances.

It is felt that the growing publicity about, and probable actual growth of, voluntary euthanasia may lead to unnecessary and unwanted deaths by disabled people who may be insufficiently informed and supported to enable them to make their own decisions. There is concern too that instances of voluntary euthanasia may in turn stimulate increases in “mercy killings” elsewhere.

The legislation on abortion makes late termination easier in cases where the born child is likely to be “severely handicapped”, and there is evidence of parents feeling pressurised into an abortion where the child is likely to be disabled. For example, parents are routinely expected to have terminations in the case of a positive test for Down’s syndrome.

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Housing, transport and other services

The housing sector in England and Wales faces many challenges, including meeting the demand for affordable housing, tackling homelessness, geographical disparities in supply and the need for a diversity of tenures.

Disabled people are twice as likely to be social housing tenants, less likely to own their own homes and more likely to live in 'non-decent' homes. Poor housing impacts in turn on the health and well-being of adults and children.

Between 1997 and 2004, the number of households accepted as being in priority need by local authorities due to 'physical disabilities' increased by 24 per cent, and due to mental health problems by 65 per cent.

In a poll for the DRC 90 per cent of the public said that they anticipated, in the event of needing support, that they would receive social care services to enable them to stay in their own home rather than be placed in (increasingly costly) residential care. Improving the supply of accessible housing, matched with support where needed, would also save NHS resources through allowing earlier release from hospital and care.

Yet in England there are already 300,000 people living in unsuitable housing who require accessible or adapted accommodation. This figure is almost evenly split between owner-occupiers and social housing tenants. The likelihood of disabled people living in non-decent homes is over 28%.

Systems of allocation within social housing are in many cases failing to ensure that accessible or adapted properties go to the people who need them most. Many local authorities have no mechanism for profiling the accessibility of housing stock or matching supply with demand. The choices available to people requiring accessible or adapted housing are therefore severely restricted. Denial of disabled people's housing rights can often be the consequence. It is reasonable to expect such difficulties to increase so long as the availability of mortgages for actual house purchase declines and tightening credit as well as other factors heighten the risk of debt and inability to pay rent.

Under Part III of the DDA 1995 the most common justifications used by controllers (e.g. landlords and management committees) when refusing to make an adaptation for a disabled tenant relate to some degree of inconvenience to other non-disabled

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tenants in the building (citing in particular health and safety and competing access to “common parts”). *Manchester City Council vs Romano & Samari* is for example believed to be the first legal instance where the mental health of non-disabled neighbours has been used to justify the eviction of a disabled tenant. The tenant suffered from a mental impairment displaying behaviour which over a period of several months put at risk the mental health of her non-disabled neighbour. Manchester City Council (the “controllers”) was granted permission to evict her despite her pleading the Disability Discrimination Act in defence.

Transport and the physical environment, as well as access to goods and services more generally, are of course of huge importance to disabled people in terms both of opportunities and quality of life. The progressive introduction of the welcome DDA and related provisions in these areas has been accompanied by some improvements in access and use. However, as in many other sectors, that progress is far from complete and could falter. Cases brought under the DDA with respect to transport, goods, services and the physical environment are on the increase.

Disabled people travel some 30% less than other people. Although on an upward trend, in 2007 only 40% of trains were fully compliant with the governing regulations and around 50% of buses, with the required date for full compliance still several years off. Many disabled people decide they have to use costlier taxis because of the easier access they provide.

Many disabled people also report still having significant difficulties in accessing goods and services (24% in a 2007 survey) as well as shops and other buildings. Simple observation in the High Street shows that access both to enter and within premises of all sorts, while progressively more extensive, remains patchy and in some areas very deficient.

DLS thus far has had only limited involvement in these sectors, although it is clear that there is considerable potential scope for our and others taking action. For example, a disabled driver with severe mobility problems made several applications to her Local Council for a disabled bay near her front door. On each occasion her neighbours objected to the designated sites and applied for dropped kerbs outside their own properties which would render all her future specific applications unsuccessful. Because her Council had a policy of advertising sites for disabled bays but not for dropped kerbs, the Council as a service provider under the DDA was making it unreasonably difficult for a disabled driver to obtain a bay from them. After 26 months undergoing the Council’s complaint procedure, an Ombudsman’s investigation and County Court litigation, the driver contacted DLS who wrote to the Council alerting them to their duties under the DDA. A satisfactory site for a bay was designated within 6 weeks.

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Harassment, Crime and the Justice System

Disabled people of all ages find their opportunities to participate constrained by the fear and reality of harassment and the failure of criminal justice agencies to offer fair redress. This includes bullying of disabled children and abuse of disabled adults in the community and within services that are meant to support them. Prejudice against disabled people is widespread and more common than the experience of overt discrimination. And hate crime is just an extreme manifestation of a spectrum of prejudice and discrimination.

It has been found that 90% of people with learning difficulties experienced harassment, and people with learning difficulties living in the community are particularly vulnerable. Two high profile tragic and extreme cases, reported extensively in the media in 2007-08, led to criminal convictions for the perpetrators.

In a further case DLS supported parents of a severely learning disabled child whose neighbours frequently complained to them and their landlords about the noise made by their son who had no speech but communicated via grunts and shouts. Neighbours found this upsetting when he was in the garden and complained persistently to the parents and the council landlord requesting the family be moved away.

Research on London found that 8% of disabled people had experienced violence or severe abuse compared with 4% of the non-disabled population. And investigations have also revealed disturbing degrees of abuse of disabled people within residential and healthcare settings.

The DRC in Scotland found that between a fifth and a quarter of disabled people had experienced harassment in public for a reason related to their disability. A subsequent survey found that around one-third of those subjected to abuse or harassment had to avoid specific places and change their usual routine. One in four moved home as a result of an attack. There are very high rates of anti-social behaviour of all forms towards disabled people in social housing, above all towards those with

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mental health difficulties.

Many disabled people have a heightened fear of crime and lack trust in the criminal justice system. A 2004 DRC survey found that 59% were not all confident or not very confident that they could get any help to stop hate crime against them. People with mental health problems, learning disabilities, sensory impairments, autistic and related neuro-diverse conditions report that their experience of crime, including hate crime, may frequently be dismissed as insignificant and their credibility as witnesses questioned. There are also indications that young people with mental health and learning difficulties may be disproportionately subject to ASBOs.

There is considerable consensus within the criminal justice system that equal access to justice for disabled people is still accorded insufficient priority and investment.

And overall, notwithstanding welcome recent legislative and other changes serving to enhance the rights of disabled people within the justice system, much remains to be done to secure equal access to justice, better reporting of crime against them, a lack of trust on their part in the criminal justice system and relatively little voice in the design or delivery of services and new developments.

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