

Shadow report from Liberation



Follow-up inquiry concerning the United Kingdom of Great Britain and Northern Ireland carried out by the Committee under article 6 of the Optional Protocol to the Convention

United Nations Convention on the Rights of Persons with Disabilities

July 2023

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Executive Summary

Liberation is a quite new organisation, led by adults with psychosocial disabilities, which promotes the full human rights set out in the UN Convention on the Rights of Persons with Disabilities (UNCRPD) in England where it is based. An overarching theme for Liberation is the UK government's failure to comply with recommendations from the inquiry which relate to autonomy, choice and control for people with psychosocial disabilities, support available to us, access to community resources, an adequate standard of living and employment, and full opportunities for involvement in society (recommendation 114c).

For Liberation, the government's planned changes to the Mental Health Act 1983 are a key area where this lack of compliance is apparent. This Mental Health Act needs to be abolished and new legislation compliant with the UNCRPD enacted. However, the government is instead putting forward measures which it regards as improvements, but which will continue to legalise coercive practices and violate the rights of people with psychosocial disabilities, in breach of Article 19 of the Convention, other key articles such as Articles 12, 13, 14, and 17, General Comments 1 and 5, the UNCRPD guidance on Article 14 and its recently published Deinstitutionalisation Guidelines. The government's approach is reinforcing an inhumane approach on psychiatric wards (in breach of Article 15) and hate crime (in breach of Article 16). It would also be hard to describe the government as having made any real progress with Articles 19, 27 and 28 in general since the special inquiry launched by the UNCRPD Committee in 2014.

Liberation would respectfully ask the Committee to pose the following questions to the government:

1. How does the government justify its continuing failure to ensure that reform of the MHA 1983 will result in people with psychosocial disabilities and people with intellectual disabilities receiving their full human rights under the UNCRPD, including a total end to involuntary detention in psychiatric hospitals and forced treatment, and what action will the government now take to redress this?
2. What measures will the government adopt to put right the draft MH Bill's failure to address intersectional discrimination?
3. What steps will the government take to make sure that the UNCRPD's Deinstitutionalisation Guidelines are utilised as the essential foundation for replacing detention in psychiatric hospitals and involuntary treatment with a community-based approach, one which fully respects the right of people with psychosocial disabilities to autonomy, choice and control?

Three key recommendations from Liberation for the government are to:

1. Stop progressing the draft Mental Health Bill and immediately start enacting mental health legislation which is fully compliant with the UNCRPD, including for people with psychosocial disabilities who experience intersectional discrimination
2. Launch an independent inquiry led by people who have experienced detention under the Mental Health Act 1983 into the neglect and abuse of people made subject to the Act and

high death levels among them – and ensure reparations and redress for people violated in these ways

3. Make the UNCRPD Deinstitutionalisation Guidelines the foundation for a comprehensive end to all forms of institutionalisation.

Introduction

Liberation's remit and purpose

1. Liberation is a quite new organisation, founded three years ago and led by people with psychosocial disabilities. It has both individual and organisational membership. Its aim is to promote full human rights for people with psychosocial disabilities, those set out in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), or the United Nations Convention on the Rights of Disabled People, as many of us in this country call it. Liberation has a particular focus, too, on intersectional issues addressed by the Convention. As an organisation, Liberation operates in England, but it has important links both with other parts of the United Kingdom (UK) and with countries outside the UK.

Scope of this submission

2. Because of Liberation's brief, the focus of our submission is the impact for people with psychosocial disabilities of the UK government's progress towards recommendations in the UNCRPD report which resulted from the special inquiry initiated in 2014. However, there will also be some reference to people with intellectual disabilities where there is a significant overlap. Because Liberation operates in England, this submission particularly addresses issues for those of us who live in England. It also relates to adults with psychosocial disabilities, because Liberation represents adults.

Sources of information

3. Full use has been made of concerns expressed by Liberation members, contributions from them for this submission and ongoing research undertaken by Liberation.

Part One: Fundamental issues for Liberation

The government's approach to psychosocial disabilities

4. An overarching issue for Liberation is the UK government's failure to comply with recommendations from the UNCRPD Committee which relate to autonomy, choice and control for people with psychosocial disabilities, support available to us, access to community resources, an adequate standard of living and employment, and full opportunities for involvement in society (recommendation 114c). This has been compounded and reinforced by the widespread lack of recognition which the failure has been receiving: amongst politicians belonging to opposition parties, too; at the Equality and Human Rights Commission (EHRC)¹, which serves as the UN's National Human Rights Institution in England, Wales and Scotland; by the Care Quality Commission² which regulates health and social care providers in England and, in this capacity, forms part of the UK National Preventative Mechanism; among most lawyers and academics, mental health professionals, mental health organisations, the media and the general public.

5. Planned reform of the Mental Health Act (MHA) 1983³ which covers England and Wales is a key area where this lack of compliance is apparent. The issue is that the government intends to restrict itself to changes which it considers will improve current law, policy and services for people with psychosocial disabilities and people with intellectual disabilities. Its draft Mental Health (MH) Bill⁴ is based on the assumption that changes will suffice, not on the UNCRPD. (See further paragraphs 10ff.) The government's aim has also been to make the draft Bill compliant with the European Convention on Human Rights (ECHR)⁵ instead and this has compounded the problem. The government's approach stems from a lack of recognition that the current MHA should be abolished and that there needs to be fundamental reform based on the UNCRPD, if people with psychosocial disabilities are to have full human rights.

¹ For example, the EHRC's own [response](#) to the draft MH Bill is non-compliant with the UNCRPD in its acceptance of a continuing use of detention and forced treatment.

² The CQC's latest [MHA monitoring report](#) makes reference to the draft MH Bill, but without any critique of it related to the UNCRPD. In addition, CQC describes workforce issues and staff shortages as being 'the greatest challenge for the mental health sector' instead of putting any focus on the vital need for radical reform which makes mental health law, policy and practice compliant with the UNCRPD.

³ *MHA 1983 c.20*. Available at: <https://www.legislation.gov.uk/ukpga/1983/20/contents> (Accessed: 28 July 2023).

⁴ Department of Health and Social Care and Ministry of Justice (2022) *Draft MH Bill*. Available at: <https://www.gov.uk/government/publications/draft-mental-health-bill-2022> (Accessed: 21 July 2023).

⁵ European Court of Human Rights (2021) *The European Convention on Human Rights*. Available at: https://www.echr.coe.int/documents/d/echr/convention_eng (Accessed: 3 July 2023).

The Joint Committee's approach

6. Since the publication of the draft MH Bill, a parliamentary Joint Committee has had the role of scrutinising it⁶. The Joint Committee has undeniably recommended a wide range of further changes to the draft Bill⁷, including measures which it believes will increase autonomy, choice and control for people with psychosocial disabilities, support available and access to community resources. However, quite apart from the fact that the government's response to these recommendations has been delayed, the Joint Committee itself has failed to put forward recommendations that would make the draft Bill compliant with the UNCRPD. (See further the paragraphs 13ff.) There is only one exception. The Joint Committee's position is that, because reform is urgent, the draft Bill should be enacted. However, in common with the government's position, this approach represents a breach of Article 4(d) of the UNCRPD: State Parties' obligation to 'refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity' with it.

7. In its report, the Joint Committee has advocated 'more fundamental reform' in the long term. However, the stance which it has taken in relation to this also falls short of the full human rights for people with psychosocial disabilities set out in the UNCRPD. The Joint Committee has called for 'more fused and rights-based' reform, but existing fusion law, for example the Mental Capacity Act (Northern Ireland) 2016⁸, is itself non-compliant with the UNCRPD. In contravention of Article 12 (on the right to equal recognition before the law), this Act draws on a mental capacity stance to justify a deprivation of legal capacity and so a continuing use of involuntary detention in psychiatric hospitals and involuntary treatment which breaches Article 14 of the UNCRPD. In addition, a proposal of 'more rights-based' legislation does not equate to a proposal for UNCRPD-compliant law.

⁶ In the UK, a draft Bill is issued when it is thought useful for there to be consultation and pre-legislative scrutiny before the Bill is formally introduced to Parliament. It is usual for a Committee consisting of representatives from the House of Commons or the House of Lords (the two halves of the UK parliament) to undertake the scrutiny. Alternatively, a Committee representing both Houses may scrutinise a Bill, as has happened with the draft MH Bill. In the latter case, the Committee is called a Joint Committee.

⁷ Parliament. House of Commons. House of Lords. Joint Committee on the Draft MH Bill, (2023) *Draft MH Bill 2022. Report of Session 2022-23*. Available at: <https://committees.parliament.uk/committee/605/joint-committee-on-the-draft-mental-health-bill/news/175494/government-urged-to-strengthen-draft-mental-health-bill/> (Accessed: 3 July 2023).

⁸ *Mental Capacity Act (Northern Ireland) 2016 c.18*. Available at: <https://www.legislation.gov.uk/ni/2016/18/contents/enacted> (Accessed: 5 July 2023).

8. An additional concern about the Joint Committee report relates to the use made of a submission collated by Liberation⁹, in partnership with two other user-led groups, Inclusion London and Disability Rights UK at the point when the Committee had launched a consultation process about the draft Bill. In this submission, equal weight was given to the need for people with psychosocial disabilities and people with intellectual disabilities alike to have mental health law which is compliant with the UNCRPD; the submission addressed human rights issues for both because the MHA 1983 applies to both groups. However, the Joint Committee's report covers the bulk of the material on this theme in its chapter on 'learning disabilities and autism', as if the points made related mainly to people with intellectual disabilities.

9. The Joint Committee's report also gives a misleading impression of the call from Liberation, Inclusion London and Disability Rights UK for mental health law to comply with the UNCRPD. This call has been quoted as follows: 'Disability Rights UK, Liberation and Inclusion London said that proposals in the draft Bill still fall well short of compatibility with the UNCRPD as interpreted by the implementation Committee in 2017'¹⁰. The view that the UNCRPD itself does not advocate a complete end to involuntary detention and forced treatment, that this is just an interpretation of the Committee, has gained considerable prevalence in the UK. However, this is not a view which Liberation, Inclusion London and Disability Rights UK regard as valid, nor in any sense endorse.

⁹ Parliament. House of Commons. House of Lords. Joint Committee on the Draft MH Bill, (2023) *Draft MH Bill 2022. Report of Session 2022-23*. Available at: <https://committees.parliament.uk/committee/605/joint-committee-on-the-draft-mental-health-bill/news/175494/government-urged-to-strengthen-draft-mental-health-bill/> (Accessed 3 July 2023).

¹⁰ *Ibid*, p.47

Part Two: Impacts of the government’s approach on progress made

10. The stance taken by the government towards people with psychosocial disabilities has undoubtedly been an impediment to its effectiveness in meeting the UNCRPD Committee’s recommendations. As indicated above, Liberation has serious concerns related to the government’s progress with implementing recommendation 114c.

Autonomy, choice and control over our places of residence and the people with whom we live

The draft MH Bill

11. The government’s planned reform of the MHA 1983 remains embedded in a medical model and based on a mental capacity and risk-dominated stance, as opposed to the UNCRPD’s human rights approach. The planned reform is also rooted in the government’s belief that the existing model for mental health law and services is essentially sound, just needs to be improved. As a result, the government’s progress with ensuring autonomy, choice and control for people with psychosocial disabilities remains non-compliant with the UNCRPD.

Continuing breaches between the draft MH Bill and Article 19, together with Articles 12, 13 and 14

12. The draft Bill fails to respect the right of disabled people to live independently in the community (Article 19), to enjoy legal capacity (Article 12), to have access to justice on an equal basis with others (Article 13), to enjoy liberty and security and not to be subjected to disability-based detention (Article 14). The points below represent key ways in which the draft Bill remains in breach of these rights:

- ‘Autonomy’ (one of the 4 principles which ‘informs’ the draft MH Bill¹¹) refers to giving people with psychosocial disabilities and intellectual disabilities more autonomy, not autonomy as such
- Involuntary detention, forced treatment in psychiatric hospitals, community treatment orders (CTOs) based on a person’s disability and guardianship will continue. This will be in contravention of the UNCRPD Guidance on Article 14, as well Article 14 itself, and of the government’s obligation under the Convention to revoke these immediately¹²
- In breach of General Comment 1 as well as Article 12, capacity-based judgements will be maintained, as opposed to legal capacity being acknowledged. Only people

¹¹ The 4 Principles are Choice and Autonomy, Least Restriction, Therapeutic Benefit and the Person as an Individual. These now ‘inform’ the Bill as opposed to the original proposal that they are directly included in it.

¹² This obligation is reinforced in paragraphs 13 and 55 of the Deinstitutionalisation Guidelines.

assessed as having mental capacity when they express wishes about treatment in hospital will have weight given to their wishes and clinicians will still be able to overrule these treatment choices on the basis of a 'compelling reason' and certification from a Second Opinion Appointed Doctor (SOAD). In addition, people with psychosocial, or intellectual disabilities will continue not to have access to a judicial trial if they are judged not to have mental capacity

- Both the nominated person role which will replace the current nearest relative role in decisions about detention and the extended role allocated to advocates will still be part of a system which gives legal authorisation to disability-based detention and forced treatment and in which the final power will not rest with them
- Whilst it will no longer be possible to detain people with 'learning disabilities', or 'autism' for involuntary treatment, unless they are also diagnosed with a mental health problem, it will remain possible to detain them in hospital for assessment. In addition, if they are in the criminal justice system, it will be possible to detain them in a psychiatric hospital for both assessment and treatment
- Whilst the draft Bill has an emphasis on increased community provision, particularly in the case of people with 'learning disabilities/autism', this provision has not been aligned with General Comment 5, nor account taken of the UNCRPD Deinstitutionalisation Guidelines. The latter set out key elements of deinstitutionalisation processes and address the need for individualised, non-institutional and well-resourced community support and networks chosen and controlled by the individual concerned and based on an intersectional approach
- The new power of 'supervised discharge' for patients in the criminal justice system whom clinicians judge are not now 'benefitting' from being in hospital, but could cause serious harm to the general public if they are released from hospital without checks, will be equivalent to a deprivation of liberty.

Breaches of Articles 5, 6 and the CRPD Preamble

13. In contravention of points p, q, r and s in the Preamble to the UNCRPD, Articles 5 and 6, the Convention's General Comments and again the Deinstitutionalisation Guidelines, the draft Bill itself fails to put any emphasis on intersectional issues for people with psychosocial disabilities: additional disadvantages often experienced in terms of minority ethnic status, gender, gender identity, older age, sexual orientation, physical/sensory impairments, or dementia. As a result, it also falls well short of the Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination Against Women.

The Joint Committee's recommendations for the draft MH Bill

14. As has been indicated above, the parliamentary Joint Committee which scrutinised the draft Bill has recommended a wide range of further changes which they consider will improve it. However, with one exception (the abolition of CTOs for Part Two patients), these

recommendations remain in breach of the UNCRPD. Key proposals from the Committee include:

- Giving legal status to the 4 Principles intended to 'inform' the implementation of the draft Bill
- Tightening the revised detention criteria¹³ in the draft Bill, to make them more likely to achieve their stated aim of reducing detentions, and extending both criteria to Part Three patients (patients in the criminal justice system): the risk criterion, not just the treatment criterion
- Giving patients a statutory right to draw up Advance Choice Documents outlining treatment they wish to have if they are detained in hospital
- Abolishing CTOs for Part Two patients now and doing so in the longer term for Part Three patients, provided that further research backs the latter too
- Including provisions for tackling racism within the draft Bill¹⁴ and putting more focus in health strategies on intersectional issues for some other groups, for example women
- Reviewing the Mental Capacity Act (MCA) 2005¹⁵ to pre-empt a risk that, if the draft Bill is enacted, the MCA might then be employed instead to detain people 'with learning disabilities/autism' for long periods. However, the Joint Committee also recommended that the latter might be detained longer for assessment, in 'exceptional circumstances'
- Significantly increasing community services, especially in the case of people 'with learning disabilities/autism', and making sure that planned reform is adequately resourced and that there is comprehensive further training for the workforce, together with improved data collection and clear programmes of action which include processes for monitoring change

¹³ In the draft Mental Health Bill, the revised risk criterion requires an assessment as to whether, without detention, 'serious harm may be caused to the health and safety of the patient, or others'. 'In certain contexts', 'consideration of the nature, degree and likelihood of the harm and how soon it would occur' will also be mandatory. (The current criterion requires an assessment as to whether detention is 'necessary for the health and safety of the patient or others' or is 'appropriate given the nature and degree of the mental disorder'.) The revised treatment criterion is that treatment exists which has 'a reasonable prospect of alleviating, or preventing the worsening of the disorder, or one or more of its symptoms or manifestations'. (The current criterion necessitates an assessment as to whether 'appropriate treatment' is available.)

¹⁴ Amending Section 118 of the current MHA to include respect for racial equality in the items which the Code of Practice for the Act requires the Secretary of State to address and giving patients from minority ethnic communities a statutory right to culturally appropriate advocacy.

¹⁵ *Mental Capacity Act 2005 c.9*. Available at:

<https://www.legislation.gov.uk/ukpga/2005/9/contents> (Accessed: 3 July 2023).

- Creating a Mental Health Act Commissioner post. The person's role will be to listen to and advise service users, carers and families, recommend that mental health law progresses further towards 'rights-led' and 'fused' reform¹⁶ and monitor implementation of the changes planned now.

15. However, these proposals all presume that substitute decision-making, involuntary detention in psychiatric hospitals and forced treatment should continue, in breach not only of Article 19, but of Articles 12, 13, and 14 as well. The same is true of policies and strategies set up to implement changes to the MHA 1983, including those addressing intersectional issues, because they will be based on the same human rights breaches. Furthermore, the proposal about significantly increased community services has again not been embedded in General Comment 5 and the Deinstitutionalisation Guidelines.

16. A further, serious weakness in the draft MH Bill and the Joint Committee's recommendations for it is the shortfall in meaningful involvement of people with psychosocial disabilities. On the face of it, there has been involvement in planned changes to the MHA 1983. However, probably the larger number of people with psychosocial disabilities are unaware of the UNCRPD and their rights under it and have at most limited experience of real alternatives to the current mental health system. By definition, this has limited their chance to make informed choices, a limitation compounded by government delays in producing accessible documents for people who need them. This shortfall is a breach of Articles 4(3) and 33(3) of the Convention and has left civil society groups such as Liberation which campaign for the UNCRPD in a highly marginalised position.

17. An additional, major human rights shortfall is that neither the draft MH Bill, nor the Joint Committee's recommendations address the need emphasised in the UNCRPD's Deinstitutionalisation Guidelines to acknowledge the human rights violations which the MHA 1983 directly authorises and to provide remedies, reparation and redress for these.

Appropriate and individualised support

18. A major obstacle is the UK government's failure to set in hand effective measures, despite recent, horrifying evidence that people with psychosocial disabilities are being neglected and abused in psychiatric wards and that there have been high levels of deaths among them¹⁷. The government has also failed to do this despite the very serious breaches involved of both Article 15 of the UNCRPD and the UN Convention Against Torture. There has, for example, been evidence on national television of appalling abuse at the Edenfield Centre near

¹⁶ For the failure of this to comply with the UNCRPD, see paragraph 7 above.

¹⁷ This matches evidence established for some time about very serious abuse of people with intellectual disabilities in psychiatric hospitals, for example the abuse that was uncovered at [Whorlton Hall](#) in County Durham, again by a national television reporter who managed to film it.

Manchester¹⁸ in the north of England; this has included swearing, slapping, pinching, taunting and sexualised behaviour by staff, together with long periods of seclusion in bare rooms. In Essex psychiatric services in the south of England, up to 2,000 people died between 2000 and 2020, either on a mental health ward, or within three months of being discharged. Nonetheless, an inquiry was not launched until 2021 and, when it was, the majority of staff refused to provide statements. In June, the inquiry had to be put on a statutory basis because of this¹⁹.

19. Although the government has now acknowledged that neglect, abuse and this high level of deaths among detained patients may well be a widespread issue in England, its initial action has been to initiate a rapid review of safety in psychiatric hospitals²⁰ based on record-keeping. It is certainly true that there are issues related to record-keeping in psychiatric hospitals that urgently require addressing. For instance, at the Cambridgeshire and Peterborough NHS Foundation Trust, there is an urgent need to review all 63 suicides which have occurred between 2017 and the present, because of suspicions that staff have tampered with patients' health records²¹. Nonetheless, by definition, it is just not possible to address major abuse through improved records.

20. The government has now announced that a national investigation into mental health scandals across England²² will be set up in the autumn. However, it is unclear at the moment what terms of reference and methodology will be employed and whether people with psychosocial disabilities will have either a lead, or an effective influence over the investigation.

21. A strong concern, too, is that neither the government, nor the parliamentary Joint Committee which scrutinised the draft MH Bill has acknowledged that this level of abuse and neglect and the extent of risk to which people with psychosocial disabilities and people with

¹⁸ Panorama team and Lee, J. (2022) *'Toxic culture' of abuse at mental health hospital revealed by BBC secret filming*. Available at: <https://www.bbc.co.uk/news/uk-63045298> (Accessed: 28 September 2022).

¹⁹ Precey, M. (2023). *Essex mental health deaths inquiry given legal powers*. Available at: <https://www.bbc.co.uk/news/uk-england-essex-66044321> (Accessed: 28 June 2023).

²⁰ Department of Health and Social Care (2023) *Independent report. Rapid Review Into Data on Mental Health Inpatient Settings: Final Report and Recommendations*. Available at: <https://www.gov.uk/government/publications/rapid-review-into-data-on-mental-health-inpatient-settings-final-report-and-recommendations/rapid-review-into-data-on-mental-health-inpatient-settings-final-report-and-recommendations> (Accessed: 28 June 2023).

²¹ Shepka, P. (2023) *NHS Trust to review all suicides since 2017*. Available at: <https://www.bbc.co.uk/news/uk-england-cambridgeshire-66260110> (Accessed: 27 June 2023).

²² Thomas, R. (2023). *Health secretary launches national investigation into NHS mental health scandals after Independent exposes*. Available at: <https://www.independent.co.uk/news/health/steve-barclay-essex-mental-health-b2365615.html> (Accessed: 28 June 2023).

intellectual disabilities are exposed when detained in hospital represent clear evidence of the vital need to bring in mental health law which is UNCRPD-compliant, together with the reparations and redress emphasised in the UNCRPD Deinstitutionalisation Guidelines.

Equal access to community-based services

22. Even if both the changes in the draft MH Bill itself and the further changes recommended by the Joint Committee are all enacted, people with psychosocial disabilities will continue to have unequal access to community resources, because of the continuing provision for us to be admitted against our will to hospital, forcibly treated and made subject to other forms of institutionalisation. Our access is also affected by the deprivation and inequality described in paragraphs 24-25 below.

23. It is not that the government has refrained from bringing out new policies and strategies about community-based services. The government's own submissions to the inquiry provide evidence of new initiatives. The problems arise from the government's failures to replace legislation such as the MHA 1983 and associated policy and practice with measures that are compliant with the UNCRPD.

An adequate standard of living and equal access to employment

24. Little has changed since the conclusion of the UNCRPD inquiry launched in 2014, namely that 'there is reliable evidence that the threshold of grave or systematic violations of the rights of persons with disabilities has been crossed in the State party'. Detailed evidence of this failure has been put forward in the UK alternative report from civil societies, including relevant issues for people with psychosocial disabilities. Liberation's submission will not be providing further data, therefore; doing so would run the risk of replicating already very extensive material that is available. However, what merits underlining here is that the continuing violations set out in detail in the UK alternative report are in critical breach of Articles 27 and 28 and of General Comment 5. They are non-compliant, too, with the UNCRPD Deinstitutionalisation Guidelines, for example in relation to housing (paragraphs 32-33), income support (paragraphs 86-89) and social protection (paragraph 105). They are in breach not just of recommendation 114c, but also of recommendations 114b and 114d

25. In terms of people with psychosocial disabilities, the following issue is a major one: unless and until the UK government puts an adequate focus on the mental distress and trauma caused by wholly inadequate incomes which are leaving people without enough money to pay for basics, such as food, clothing, furniture, rent and utility bills, and provides effective solutions, there will be a continuing vicious circle. Mental distress and trauma will continue to rise and, in turn, this will feed into the number of people made subject to mental health law because they have reached desperation point. Being exposed to the additional trauma so often caused by involuntary detention and forced treatment can then only add to the trauma people are already experiencing because of their living conditions.

Full inclusion and participation in society

26. There are continuing obstacles to people with psychosocial disabilities being fully included in society and playing a full part in it which leave the government in continuing breach of Article 19.

27. Whilst people with psychosocial disabilities, together with other disabled people, continue to experience the disproportionate levels of socioeconomic deprivation referred to above, opportunities for us to be included fully and participate fully in society will remain impeded.

28. The extent of hate crime against us is also having a serious exclusionary effect. Government statistics demonstrate a sharp increase in hate crime against disabled people in England and Wales²³; in 2021/2022, the figures were 43% higher than they had been in 2020/2021. There is, too, research evidence from Inclusion London, an organisation led by disabled people, which suggests that hate crime is disproportionately affecting people with psychosocial disabilities and people with intellectual disabilities²⁴.

29. The government has suggested that better recording by the police may well explain the sharp increase. However, Inclusion London's research suggests that there are, in fact, serious failures by the police to treat crime against disabled people seriously, or take action against perpetrators – and not just in London. Additionally, a research study led by people with psychosocial disabilities which explored mental health service users' experiences of targeted violence and hostility, in the context of adult safeguarding reforms under the Care Act 2014²⁵, found that disabled people, especially those given a mental health diagnosis, were at particular risk of violence and hostility - from mental health practitioners too - and that this risk was compounded by racism, sexism, homophobia and transphobia²⁶. Unless effective government action is taken, hate crime will continue to act as a major barrier against the full and equal participation of disabled people in society and represent an ongoing, major government breach of Article 16, too.

²³ Home Office (2022) *Official Statistics: Hate Crime, England and Wales, 2021-2022*.

Available at: <https://www.gov.uk/government/statistics/hate-crime-england-and-wales-2021-to-2022/hate-crime-england-and-wales-2021-to-2022> (Accessed: 17 July 2023).

²⁴ Holden, L. and Connor, L. (2021) *Poor Police Response. Disabled Victims of Hate Crime*.

Available at: <https://www.inclusionlondon.org.uk/wp-content/uploads/2021/11/HC-Poor-Police-Response-Report-2021.pdf> (Accessed: 4 July 2023).

²⁵ *Care Act 2014 c.23*. Available at:

<https://www.legislation.gov.uk/ukpga/2014/23/contents/enacted> (Accessed: 17 July 2023).

²⁶ Carr, S. *et al.* (2019) "Keeping control". A user-led exploratory study of mental health service user experiences of targeted violence and abuse in the context of adult safeguarding in England', *Health Soc Care Community*, 00, pp.1-12. Available at:

<https://doi.org/10.1111/hsc.12806>. (Accessed: 3 July 2023).

30. An additional factor for people with psychosocial disabilities is that the government is continuing to promote the belief that people with psychosocial disabilities are prone to be a risk to themselves and/or to others and so that there needs to be 'protection' against this even in 'reformed' mental health law; the government has justified the draft MH Bill's continuing provision for involuntary detention in psychiatric hospitals, forced treatment and other forms of institutionalisation on the basis of this stance. Unless and until this government message changes, there will continue to be a patriarchal approach to people with psychosocial disabilities and a wariness and fear of us which again can only be a barrier to our full and equal participation in society.

Part Three: Conclusions and questions and recommendations for the Government

Conclusions

31. In relation to the issues covered above, it is clear that, during the period since the original UNCRPD inquiry, the UK government has remained in breach of key Articles across the spheres of law, policy and practice:

- The Articles which are the specific focus of the current, follow-up inquiry (19, 27 and 28) and other, closely interrelated articles:
- Articles 12, 13 and 14 (in further relation to human rights breaches in the draft MH Bill)
- Articles 15 and 17 (in relation to practices in psychiatric hospitals that amount to torture and ill treatment) and Article 16 (in relation to violence and abuse in society).

32. The government also remains in breach of General Comments 1 and 5, UNCRPD guidance related to Article 14 and the Deinstitutionalisation Guidelines.

33. Therefore, it would be hard to describe the government as having made any genuine progress with the implementation of the UNCRPD.

Questions for the government

34. Liberation would respectfully ask the Committee to pose the following questions to the government:

1. How does the government justify its continuing failure to ensure that reform of the MHA 1983 will result in people with psychosocial disabilities and people with intellectual disabilities receiving their full human rights under the UNCRPD, including a total end to involuntary detention in psychiatric hospitals and forced treatment, and what action will the government now take to redress this?
2. What measures will the government adopt to put right the draft MH Bill's failure to address intersectional discrimination?
3. What steps will the government take to make sure that the UNCRPD's Deinstitutionalisation Guidelines are utilised as the essential foundation for replacing detention in psychiatric hospitals and involuntary treatment with a community-based

approach, one which fully respects the right of people with psychosocial disabilities to autonomy, choice and control?

Recommendations for the government

35. Three key recommendations from Liberation for the government are to:

1. Stop progressing the draft Mental health Bill and immediately start enacting mental health legislation which is fully compliant with the UNCRPD, including for people with psychosocial disabilities who experience intersectional discrimination
 2. Launch an independent inquiry led by people who have experienced detention under the Mental Health Act 1983 into the neglect and abuse of people made subject to the Act and high death levels among them – and ensure reparations and redress for people violated in these ways
 3. Make the UNCRPD Deinstitutionalisation Guidelines the foundation for a comprehensive end to all forms of institutionalisation.
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