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Disability legislation in Great Britain and the Republic of Ireland

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This briefing paper provides an overview of the disability legislation currently in place across Great Britain and the Republic of Ireland. It summarises the core pieces of legislation that provide protections and rights to disabled people, as well as the duties placed on public authorities and bodies to enforce those protections.

This information is provided to Members of the Legislative Assembly (MLAs) in support of their duties, and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as professional legal advice, or as a substitute for it.

Key Points

- Legislation across all the jurisdictions includes a mix of general equality frameworks and sector specific protections, including education, employment, social care and transport.
- The Equality Act 2010 is the main legislative instrument protecting disabled people across Great Britain from discrimination.
- The Equality Act 2010 harmonised nine previous pieces of legislation into a single, simplified source.
- Disabled people in England have additional protections under the Children and Families Act 2014, the Care Act 2014 and the Mental Capacity Act 2005.
- Scotland and Wales have devolved powers to legislate on issues impacting equalities and disabilities. Both devolved administrations intend to move towards the social model of disability (disabled people face barriers in society that stops them from taking part), rather than the medical model of disability (looking at a person's impairment first and what services can be offered to that person).
- Disability legislation in the Republic of Ireland is aimed at promoting the equality, accessibility and rights of disabled people. The main legislative instruments are the Equal Status Acts 2000-2018, intended to protect individuals from discrimination, harassment and sexual harassment.
- The Republic of Ireland ratified the UNCPRD in 2018 and has incorporated several EU directives, including the European Accessibility Act, which provides new standards on accessibility across a range of goods and services.
- Any equality and disability legislation introduced or amended, must consider several international treaties that the UK and the Republic of Ireland are signatories of, including the United Nations Convention on the Rights of Persons with Disabilities, the European Convention on Human Rights and Article 2 of the Windsor Framework.

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Introduction

This briefing paper has been developed in response to the Committee for Communities' evidence session on disability law reform in Northern Ireland, held with the Equality Commission for Northern Ireland on the 14th of November 2024. As requested by the Committee for Communities, this briefing paper provides an overview of legislation that covers disabilities across Great Britain, England, the devolved administrations of Scotland and Wales and disability legislation in the Republic of Ireland.

It provides an overview of what the legislation is, how it applies to disabled people and the rights and protections granted. It also briefly examines the legislation and relevant treaties/conventions that cover disability across the whole of the United Kingdom. These must be considered during the development/amendment of disability and equality legislation.

There is a wide array of legislation that covers disability in Great Britain and the Republic of Ireland, with the relevant rights and protections for disabled people dispersed across a range of sources. This paper does not describe the relevant legislation in detail. Instead, the key provisions and regulations that directly apply to disabilities have been identified and summarised.

Additionally, this paper does not examine the implementation or impact of the legislation on disabled people. The cost of implementing any legislation is not discussed. Case law is also not widely examined, nor is Special Educational Needs and Disabilities (SEND) legislation. Policy Strategies and Frameworks in the devolved administrations are mentioned throughout the paper, but these are not explored in detail.

1 International treaties and domestic legislation providing disability rights in the United Kingdom

While this paper focuses on domestic legislation, it will also provide a brief overview of the international picture. Specifically, the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the European Convention on Human Rights (ECHR), Article 2 of the Windsor Framework, the Human Rights Act and the Employment Rights Act. Any new legislation, bills and policy introduced across the UK (including Northern Ireland) must take all of these into consideration.

1.1 The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)

The UK is a signatory to the UNCRPD, an international treaty that identifies the rights of disabled people and places obligations on the UK government to promote, protect and ensure those rights. Ratified in 2009, the Treaty commits the UK to promoting and protecting the human rights of disabled people, ensuring they have equality under the law.¹ The UK's devolved governments are subject to the UNCRPD, with the devolved administrations responsible for its implementation.

The Convention places several general obligations on states to “ensure and promote the full realisation of human rights and fundamental freedoms for all persons with disability.”² It aims to ensure that disabled people enjoy the same human rights as everyone else, participate in society and receive the same opportunities.³

While the Convention is not directly incorporated into UK law, it is given effect by separate legislation, primarily the Equality Act 2010 (see 2.1). A 2018 report from the UN Committee on the Rights of Persons with Disabilities raised

¹ Office for Disability Issues, [UK Initial Report: On the UN Convention on the Rights of Persons with Disabilities](#) (2011)

² House of Commons Library, [The UN Convention on the Rights of Persons with Disabilities: UK Implementation](#) (2022) p7

³ Equality Commission for Northern Ireland, [UN Convention on the Rights of Persons with Disabilities.](#)

concerns that the UK was not doing enough to consistently apply the UNCRPD. The report recommended that the Convention is made a part of UK law and the ‘human rights model of disability’ (the social model) be put into practice.⁴ A follow-up UN report in 2024 concluded that “no significant progress has been made in the State party concerning the situations of persons with disabilities...”⁵

The report noted that there have been signs of regression in the standards and principles of the Convention in the UK, particularly around taking measures to abolish existing laws and regulations that constitute discrimination. The report stated that the UK had failed to implement measures intended to eliminate the root causes of inequality and discrimination, or deliver upon obligations to guarantee the right of disabled people to live independently.⁶

1.2 European Convention on Human Rights (ECHR)

The Council for Europe and the ECHR promotes, protects and monitors the implementation of human rights for all European signatories (including the UK and the Republic of Ireland), and this includes the rights of disabled people. The ECHR has enshrined the rights of disabled people in case-law. The role the ECHR plays is to encourage and support member states implement the necessary measures and changes to protect the rights of persons with disabilities.⁷ The Northern Ireland Assembly cannot legislate in breach of the ECHR.

1.3 Article 2 of the Windsor Framework

Article 2 of the Windsor Framework places two legal obligations on the UK. Firstly, the UK must ensure that there is no diminution of certain rights and equality protections in Northern Ireland as a result of the UK leaving the EU.

⁴ Equality and Human Rights Commission, [How is the UK performing on disability rights? The UN's recommendations for the UK](#) (2018) p7

⁵ Committee on the Rights of Persons with Disabilities, *Report on follow-up to the inquiry concerning the United Kingdom of Great Britain and Northern Ireland* (2024) p13

⁶ As cited immediately above.

⁷ Council of Europe, [Thematic Factsheet: Rights of Persons with Disabilities](#). (2024) p2

Secondly, the UK makes a specific commitment towards maintaining a dynamic alignment with certain EU anti-discrimination Directives. This ‘future-facing element’ means that should these Directives be updated or amended, domestic law in Northern Ireland may need to be updated to ensure minimum standards are met. The Northern Ireland Assembly cannot legislate in breach of Article 2 of the Windsor Framework.

1.4 The Human Rights Act (1998)

The Human Rights Act 1998 sets out the fundamental rights and freedoms that everyone in the UK is entitled to. It incorporates the ECHR into domestic law. It requires all public authorities and bodies to act in a way that protects a person’s human rights.⁸ Article 8 of the Act, the right to respect for private and for family life, ensures that disabled people have the right to live their lives privately.⁹

1.5 The Employment Rights Act (1996)

While the Employment Rights Act does not explicitly address disability, it includes provisions that indirectly relate to the rights of disabled employees and certain work areas. These provisions include unfair dismissal, time off for medical reasons, redundancy and statutory sick pay.

⁸ [Human Rights Act](#) 1998, Article 2

⁹ [Human Rights Act](#) 1998, Article 8

2 Disability legislation covering Great Britain

Rights intended to protect disabled people living in Great Britain from discrimination are enforced and protected by the Equality Act 2010.

2.1 The Equality Act (2010)

The Equality Act 2010 (the Act) legally protects everyone from discrimination in the workplace and across wider society in Great Britain. It does not apply to Northern Ireland. It is the main legislative instrument that provides protections to disabled people. Coming into force in October 2010, the Act combined nine separate pieces of anti-discrimination legislation into a single source.¹⁰ This was intended to make the law easier to understand, and to clearly set out the ways in which it is unlawful to treat a person. The Act brings together and restates all the previously separate pieces of legislation, as well as harmonising these provisions. This means the Act is the single reference point for definitions and guidance around equality.

The Act strengthened the law in a number of areas, including:

- Placing a duty on public bodies to consider socio-economic disadvantage when making strategic decisions on exercising their functions.
- Extending the circumstances in which a person is protected against discrimination, harassment or victimisation because of a 'protected characteristic' (See 2.1.1).
- Created a duty on public bodies to consider how their policies, programmes and service delivery, affect people with protected characteristics.
- Allowing organisations to take positive action to enable existing or potential employees or customers to overcome or minimise a disadvantage arising from a protected characteristic.

¹⁰ The acts brought together and harmonised by the Equality Act 2010 were; the Equal Pay Act 1970; the Sex Discrimination Act 1975; the Race Relations Act 1976; the Disability Discrimination Act 1995; the Employment Equality (Religion or Belief) Regulations 2003; the Employment Equality (Sexual Orientation) Regulations 2003; the Employment Equality (Age) Regulations 2006; the Equality Act 2006, Part 2; and the Equality Act (Sexual Orientation) Regulations 2007.

- Enabling employment tribunals to make recommendations to respondents who lose a discrimination claim, to take steps to remedy matters for the individual and the wider organisation.

2.1.1 Protected Characteristics

The Act created nine '**protected characteristics**' making it against the law to discriminate against anyone because of their:¹¹

- Age
- Gender reassignment
- Being married or in a civil partnership
- Being pregnant or on maternity leave
- Disability
- Race, including colour, nationality, ethnic or national origin
- Religion or belief
- Sex
- Sexual orientation

Under these protected characteristics, a person is protected against discrimination when they are at work, in education, as a consumer, using public services, buying or renting property or as a member (or guest) at a private club or association. A person is also protected from discrimination if they:

- Are associated with someone who has a protected characteristic, such as friends or family members.
- Have made a claim against discrimination or are supporting someone else's claim.

The following sections will detail the provisions of the Act that applies to disabled people. This briefing paper does not cover the Act in its entirety.

¹¹ [Equality Act](#) 2010, Chapter 1 Protected Characteristics

2.1.2 Definition of Disability

Under the Act, an individual has a disability if they have “a physical or mental impairment that has a ‘substantial’ and ‘long-term’ negative effect on your ability to do normal daily activities.”¹²

‘Substantial’ means the disability may take an individual longer than usual to complete a daily task, such as washing or getting dressed. A long-term impairment is one lasting 12 months or more.¹³ The Act also includes a clause on progressive conditions (a condition that gets worse over time such as Parkinson’s, Alzheimer’s, Motor Neurone Disease etc.). These conditions can be classified as a disability. Conditions such as addictions to drugs and alcohol do not count as disabilities.

2.1.3 Protections and prohibited conduct

The Act provides an overarching framework of protection against various forms of discrimination and prohibited conduct. An overview of each is provided below:

- a) **Section 13. Direct Discrimination.** Direct discrimination occurs where the reason for a person being treated less favourably than another is due to a protected characteristic.¹⁴ The Act makes it clear that treating a disabled person more favourably than a non-disabled person, does not count as direct discrimination.
- b) **Section 15. Discrimination arising from disability.** It is discriminatory to treat a disabled person unfavourably because of something arising from or in consequence of a person’s disability. For this discrimination to occur, an employer (or another person causing the discrimination) must

¹² UK Government. [Definition of disability under the Equality Act 2010](#).

¹³ As cited immediately above.

¹⁴ [Equality Act](#) 2010, Section 13

know, or be reasonably expected to know, that the disabled person had a disability.¹⁵

- c) **Section 19. Indirect discrimination.** This occurs when a policy applies equally to everybody, but disadvantages people with a protected characteristic.¹⁶ For example, a person may be deterred from doing an activity (such as applying for a job), because of a policy that, when applied, would result in their disadvantage.

The Act included an extension that protects the disability characteristic from indirect discrimination. This comes after a judgement made in the House of Lords, the case of *London Borough of Lewisham v Malcolm* [2008] UKHL 43.¹⁷ The case concerned the interpretation of the provision on disability related discrimination.

Impact of the Malcolm Case

The Act also addressed the negative impact resulting from the House of Lords decision in the Malcolm Case, in June 2008. According to the Equality Commission, the case decision replaced the concept of disability related discrimination with direct discrimination. For a person with a disability to claim they had been discriminated against, their treatment had to be compared with that of another appropriate person. This appropriate 'comparator' was considered to be a person without a disability.

The Commission stated that this decision has had a 'significant and detrimental' impact upon disabled people, restricting their ability to claim that disability-related discrimination has

¹⁵ [Equality Act](#) 2010, Section 15

¹⁶ [Equality Act](#) 2010, Section 19

¹⁷ House of Lords. [Opinions of the Lords of Appeal for Judgement in the Cause: Mayor and burgesses of the London Borough of Lewisham \(Appellants\) v Malcolm \(Respondent\)](#). (2008) UKHL 43

occurred.¹⁸ The Equality Act 2010 removed the requirement for disabled people to compare their treatment to someone else.

- d) **Section 20. Duty to make adjustments.** The duty is comprised of three requirements. These apply in situations where a disabled person is placed at a '**substantial disadvantage**' in comparison to a non-disabled person. The first requirement "covers changing the way things are done (such as changing a practice)".¹⁹ The second covers changes to the built environment, including ensuring there is disabled access to buildings. The third requirement deals with providing auxiliary aids and services. This includes specialist IT software or services that accommodate specialist requirements.
- The first and third requirements also cover the way that information is provided, ensuring reasonable steps are taken to provide information in accessible formats (for example documentation accessible to people who are colour blind). Failure to comply with a reasonable adjustment requirement amounts to discrimination against a disabled person. The Act stipulates that a disabled person cannot be asked to pay for those reasonable adjustments.²⁰
- e) **Section 26. Harassment.** The Act defined three types of harassment. This section of the Act was repealed in the [Enterprise and Regulatory Reform Act 2013](#).
- f) **Section 27. Victimisation.** Victimisation occurs where one person treats another badly because they have done a 'protected act' (i.e. a person made a complaint about discrimination or supported someone else to make a discrimination complaint). This includes taking or supporting any actions taken in relation to an alleged breach of the Acts provisions.²¹ For example, a disabled person is banned from a private club, after making a complaint about a lack of physical access.

¹⁸ Equality Commission for Northern Ireland. [Malcolm Case – summary briefing](#).

¹⁹ [Equality Act](#) 2010, Section 20

²⁰ As cited immediately above.

²¹ [Equality Act](#) 2010, Section 27

A change introduced by the Act is applying the detriment model to victimisation protection. A detriment is a physical or economic consequence suffered by the victimised individual.

2.1.4 Section 60: Enquiries about Disability and Health

The Act makes it more difficult for disabled people to be unfairly screened out when applying for jobs. The Act restricts the circumstances in which employers can ask job applicants questions about their disability or health.²² Specifically, an “employer must not ask about a job applicant’s health until that person has been either offered a job . . . or been included in a pool of successful candidates to be offered a job when the situation arises.”²³

Health related enquiries can only be made in specific situations. Relating to disability, these include:

- Assessing an applicant’s suitability for the work and able to undertake functions that are intrinsic to the job.
- Making reasonable adjustments as part of the recruitment process.
- Supporting positive action (i.e. reaching out to specific underrepresented groups or disadvantaged groups) in employment for disabled people.
- Enabling an employer to identify suitable candidates for a job where there is an occupational requirement for the person to be disabled.

Section 60 is a new provision, one that was not included in the Disability Discrimination Act 1995. Section 60 is intended to address the ‘disincentive effect’ that these kinds of enquiries have on disabled people applying to jobs.

2.1.5 Section 149: Public Sector Equality Duty

Section 149 of the Act introduced the Public Sector Equality Duty (PSED). The PSED requires all public bodies to consider all individuals when carrying out their day-to-day work.²⁴ This work can include shaping policy, delivering

²² [Equality Act](#) 2010, Section 60

²³ As cited immediately above.

²⁴ [Equality Act](#) 2010, Section 149

services and in relation to their own employees. The 'general duty' of the PSED requires that public bodies must have due regard to the need to:

- Eliminate discrimination.
- Advance equality of opportunity. This involves removing or minimising the disadvantages suffered by people with a relevant protected characteristic.
- Foster good relations between different people when carrying out their activities. Activities can include tackling prejudice and promoting understanding.

Public bodies are required to publish relevant and proportionate information that demonstrates compliance with the PSED and the equality objectives that are set by the public body. Section 153 of the Act enables Welsh and Scottish ministers to impose specific duties on certain Welsh and Scottish public bodies. These specific duties are covered in more detail in 4.2 and 5.3.

2.1.6 Enforcement

If an individual feels they have been discriminated against, they can bring a claim either to a county court (sheriff court in Scotland) or to an employment tribunal.²⁵

County and sheriff courts have authority over the provision of services, the exercise of public functions, the disposal and management of premises, education and associations. Employment tribunals have authority on cases involving discrimination in a workplace context.

2.2 Proposed legislative changes – Pathways to Work: Reforming Benefits and Support to Get Britain Working Green Paper

The UK Governments Green Paper on proposed changes to the health and disability benefits system included proposals to amend existing legislation.

²⁵ [Equality Act](#) 2010, Part 9

These proposals are current as of 12th June 2025, when the Paper was last updated. The proposed amendments include:

- The scrapping of the Work Capability Assessment (WCA). This is intended to “end the state categorising people into binary groups and labelling them as either ‘can or can’t work’.”²⁶ The Personal Independence Payment (PIP) assessment will be used to assess entitlement to Universal Credit (UC). This change is intended to be implemented via primary legislation.
- The Make Work Pay legislation, part of the current governments intention to grow the economy and raise living standards, has provisions around disability. This includes expanding statutory access to sick pay and flexible working, and introducing mandatory disability gap reporting for large firms (more than 250 employees).
- An intention to reform the health and disability payments system by “rebalancing the generosity of the UC standard allowance and the UC health element.”²⁷ This is intended to deliver a ‘pro-work’ system, but still deliver ‘adequate’ financial support for when people are not working. This will be introduced via primary legislation.
- An intention to “control the rising increase in spend on PIP and to make it more sustainable.”²⁸ The result is that PIP will be more focused on individuals with higher needs.
- Establishing in law the principle that trying work will not lead to a reassessment of people receiving UC, PIP or New Style Employment and Support Allowance (NS ESA). This is intended to give people confidence that their benefits will not be reassessed when they have tried working, and it will not be considered as a relevant change of circumstances.

²⁶ Department for Work & Pensions. [Pathways to Work: Reforming Benefits and Support to Get Britain Working Green Paper](#) (2025).

²⁷ As cited immediately above.

²⁸ As cited immediately above.

3 Disability legislation in England

The main instrument of disability legislation in England is the Equality Act 2010. But there are several legislative Acts that apply exclusively to England.

3.1 The Children and Families Act (2014) (CFA)

The CFA took forward several UK Government commitments intended to improve services for key groups of vulnerable children. This includes children with special educational needs and disabilities.

Part 3 of the CFA reformed the statutory framework for identifying children and young people with SEND, assessing their needs and making provisions for them.²⁹

Local authorities are required to keep the services and provision they offer children with disabilities under review, co-operate with partners to plan and commission services for those children and publish information on available services. The CFA contains the introduction of Education, Health and Care Plans (EHCPs) for both Children and Young People.

The CFA also gives parents greater control over how support is provided to their children, with a requirement introduced to consider mediation between the Local Authority and parents to resolve any disagreements on how support is provided.

3.2 The Care Act (2014) (CA)

The CA covers England and Wales, but as social care is a devolved power in Wales, it more specifically covers local authorities in England. The primary focus of CA is on social care, but it does contain some provisions that are particularly relevant for disabled people. It is the key piece of legislation that guides local authorities when making decisions about the support that is provided to people with learning disabilities.

²⁹ [Children and Families Act](#) 2014. Background and Summary

The '**well-being principle**' underpins all other points in the CA. Local authorities must promote the well-being of the adult when carrying out their care related services and functions. The CA does not provide a precise definition of well-being, but it includes personal dignity, physical and mental health, protection from abuse and neglect and control over day-to-day life.³⁰

3.2.1 Assessing needs and determining eligibility

The CA creates a single, consistent route to establishing an entitlement to care and support for adults in England, as well as creating entitlements for carers. When a need is identified, local authorities are required to carry out an assessment of needs.³¹ An adult has eligible needs if they require care and support resulting from a physical or mental condition which results in a 'significant impact on their wellbeing'.³²

If an adult has eligible needs, a care and support plan can then be developed. It will include the amount that the local authority will pay towards the costs of the care provided.

3.2.2 Safeguarding

Section 43 of the CA requires local authorities to establish a Safeguarding Adults Board (SAB). These aim to protect individuals who 'it believes have care and support needs and who are at risk of neglect and abuse and who are unable to protect themselves and promote their well-being'.³³ This is especially relevant for disabled people. Membership of the board must include an appointed representative of the local clinical commissioning group (CCG) and the chief officer of police within the SABs area.

³⁰ [The Care Act](#) 2014, Section 1

³¹ Department of Health and Social Care. [Care Act factsheets](#). (2016)

³² As cited immediately above.

³³ [The Care Act](#) 2014, Section 43

The CA requires local authorities to make enquires when they think an adult with care and support needs may be at risk of abuse or neglect. SABs must arrange a safeguarding adults review if a failure in safeguarding is identified.

3.2.3 Carers and continuity of care

The CA also updated the law to recognise carers in the same way as those they provide care for. Local authorities have a responsibility to assess carers needs for support and, where a need is eligible, provide a support plan for carers. This can include providing replacement care to give the carer a break.

Mechanisms were also established to ensure that people requiring care and support did not suffer any disruption to their care if they move between local authorities.³⁴

3.3 Mental Capacity Act (2005) (MCA)

The MCA covers people in England and Wales who cannot make decisions for themselves (see 6.6, The Assisted Decision Making (Capacity) Act (2015) for similar legislation in Scotland). It governs the decision-making process for adults who either lose decision making capacity at some point in their lives, or have had an incapacitating condition since birth. A wide range of decisions are covered by the MCA, including personal welfare and financial matters.³⁵

When determining decision-making capacity, the MCA determines that the inability to decide must be caused by an impairment of disturbance in the 'functioning of the mind or brain'.³⁶ This can cover a range of issues including learning disabilities. The MCA also includes people who are unable to make a decision because they cannot communicate, through either impairment or disability. The MCA makes it clear that a person cannot be treated as lacking capacity, simply because they make an unwise decision.

³⁴ Department of Health and Social Care, [Care Act factsheets](#). (2016)

³⁵ [Mental Capacity Act](#) 2005, Part 1

³⁶ [Mental Capacity Act](#) 2005, Section 2

A key principle of the MCA is that all steps and decisions taken for someone who lack capacity must be made in the persons best interests. The 'best interests' principle is an essential aspect of the MCA. While the principle does not have a full definition, the Act states that:

“determining what is in a person’s best interests requires a consideration of all relevant circumstances . . . best interests’ determinations must not therefore be made on the basis of any unjustified and prejudicial assumptions.”³⁷

³⁷ [Mental Capacity Act](#) 2005, Explanatory Notes, Section 4

4 Disability legislation in Scotland

The Scottish Government has multiple legislative instruments and policy directives to support disabled people in Scotland. The power to legislate on equality was devolved to Scotland under the Scotland Act 2016. This section will examine Scotland's policy objectives under the UNCRPD, the devolved schedule of the PSED and the legislation in Scotland that directly impacts disabled people.

4.1 Scotland's implementation of the UNCRPD

The Scottish Government launched a consultation in September 2015, with the aim of setting out the Scottish Government's approach to implementing the UNCRPD over the 2016-2020 period.

4.1.1 UNCRPD. A Fairer Scotland for Disabled People: delivery plan

The delivery plan set out the Scottish Governments approach to policy for disabled people. The plan is based on the **social model of disability**, rather than the medical model of disability.

The Medical Model of Disability

The Medical model looks at a person's impairment first, where the impairment itself is the *"cause of disabled people being unable to access goods and services or being able to participate fully in society."*³⁸

The Equality Act 2010 follows the medical model of disability. For example, the definitions of disability discrimination focus on what a person is unable to do, because of their disability. The Act also sets out specific criteria about a disability, which must be met if an individual is to be protected under the legislation.

³⁸ Parliamentary and Health Ombudsman, [Introduction to the Social and Medical Models of Disability](#). p3

Additionally, the model examines what services can be provided to the individual, rather than looking at the barriers present in wider society.

The Social Model of Disability

The social model of disability is the “*understanding that disability is something that is created by society. This is because disabled people face barriers that stop them from taking part in society in the same way as non-disabled people.*”³⁹ Disability is something that a person experiences, with wider society failing to take account of disabled people and their needs.

Barriers faced by disabled people include physical (inaccessible buildings) and social /attitudinal (stereotypical beliefs and attitudes). Others include institutional (policies and processes) and communication (such as inaccessible language) barriers.

The model draws a distinction between impairment (a functional difficulty someone experiences in their body or mind) and disability (the experience of not being able to take part in society because of societal barriers).⁴⁰

Policies and legislation in Wales and Scotland have stated an intention to move towards the social model of disability.

The delivery plan contained 5 ambitions, and 93 practical actions to be taken from 2016 – 21. The 5 ambitions are stated below:⁴¹

- 1. Support services that promote independent living, meet needs and work together to enable a life of choices opportunities and**

³⁹ SENSE, [The Social Model of Disability](#)

⁴⁰ As cited immediately above.

⁴¹ Scottish Government. [A Fairer Scotland for Disabled People: delivery plan](#), (2016)

participation. This includes the delivery of support services that are designed and delivered to support all disabled people to live the life they choose.

2. **Decent incomes and fairer working lives.** This ambition is intended to ensure that disabled people can enjoy participation in wider society, with the ability to participate in learning, education, voluntary work, employment and retirement.
3. **Places that are accessible to everyone.** This is intended to ensure that housing, transport and the wider built environment is more accessible to disabled people.
4. **Protected rights.** The rights of disabled people are fully protected, and they receive fair treatment from the justice system.
5. **Active participation.** Ensuring that disabled people can participate as active citizens in all aspects of daily and public life in Scotland.

At the time of writing, it is not known whether the Fairer Scotland for Disabled People plan will be replaced by a successor delivery plan.

4.2 The Equality Act (2010) – Specific Schedules for Scotland

Section 153 of the Equality Act 2010 enables Scottish ministers to impose specific duties on certain Scottish public bodies, through secondary legislation. Under the PSED, Scottish public authorities must consider the need to; eliminate unlawful discrimination; advance equality of opportunity and foster good relations (see 2.1.4).⁴²

There are also additional, specific duties that apply to Scottish public authorities. Authorities subject to these specific duties are required to:⁴³

- Report on mainstreaming the equality duty.
- Publish equality outcomes and report on equality progress.
- Assess and review the equality impact of policies and practices.

⁴² [Equality Act](#) 2010, Section 153

⁴³ Equality and Human Rights Commission. [Public Sector Equality Duty: specific duties in Scotland](#). (2022)

- Gather, use and publish information about employee protected characteristics.
- Consider whether any equality issues arise regarding award criteria and conditions around public procurement.
- Publish all information in an accessible way.

4.3 The Scotland Act (2016) ('the 2016 Act')

The 2016 Act was intended to be an enabling act, transferring more devolved powers from the UK Government to the Scottish Government. The 2016 Act increased the responsibility of welfare policy and delivery in Scotland. These included new welfare powers to top up and create benefits, transferred the responsibility of around £2.7 billion (based on the 2014/15 spend) in Carer and Disability benefits and made equality and areas of equal opportunity the responsibility of the Scottish Government.⁴⁴ The Sections of the 2016 Act relevant to disability are:

- **Section 22: Disability, industrial injuries and carer's benefits.** The Scottish Government has the authority to introduce and amend legislation on disability benefits. This includes the power to create new benefits and replace existing benefits.⁴⁵
- **Section 37: Equal Opportunities.** The Scottish Government has the power to introduce protections and requirements that supplement (but do not modify) the existing provisions of the Equality Act 2010.⁴⁶

4.4 Devolved legislation in Scotland supporting disabled people

There are a range of bills and legislative instruments in Scotland that protect the rights and welfare of disabled people. These are detailed below.

⁴⁴ [Scotland Act](#) 2016, Explanatory Notes, Overview of the Act

⁴⁵ [Scotland Act](#) 2016, Explanatory Notes, Commentary on provisions of Act, Section 22

⁴⁶ [Scotland Act](#) 2016, Explanatory Notes, Commentary on provisions of Act, Section 37

4.4.1 Adults with Incapacity (Scotland) Act (2000) (AIA)

The AIA introduced a system for safeguarding the welfare and to make decisions on behalf of adults who lack the capacity to make some or all decisions for themselves.⁴⁷ This includes adults who have an inability to communicate due to a physical disability. These decisions can concern the adult's property, financial affairs and considerations about their personal welfare (including medical treatment). It should be noted that the AIA makes it clear that an adult cannot be considered incapacitated if reasonable means can be taken for them to communicate.

4.4.2 Social Care (Self-Directed Support) (Scotland) Act (2013)

This legislation introduced Self-Directed Support (SDS) and makes legislative provisions relating to arranging care and support.⁴⁸ It is intended to provide a range of choices to individuals who require support (including children, adults, disabled people, carers), how they are provided with that support.

The law outlines that these supported people have a say in planning what their support looks like and gives them the opportunity to make decisions about their support. Local authorities are required to offer four SDS options and explain how these options would work for each individuals' circumstances.⁴⁹ These options are:

- Option 1. The Supported Person receives a direct payment. The Local Authority decides how much money they will provide the supported person to then arrange their own care support.
- Option 2. The supported person decides on the support they want, and this is arranged on their behalf.
- Option 3. After discussion with the supported person, the Local Authority then decides and arranges the appropriate support.

⁴⁷ Scottish Government, [Adults with Incapacity \(Scotland\) Act 2000: principles](#), (2019)

⁴⁸ [Social Care \(Self-directed Support\) \(Scotland\) Act 2013](#), Explanatory Notes, Summary

⁴⁹ Scottish Government, [Social Care \(Self-directed Support\) \(Scotland\) Act 2013: statutory guidance](#). (2022)

- Option 4. The supported person uses a mixture of approaches to arrange their care and support.

This approach is intended to ensure that disabled people have the same freedom and choices as others and have a direct say in the kind of support they want.

4.4.3 The Disabled Persons' Parking Badges (Scotland) Act (2014)

This introduced fairer arrangements for disabled people who depend on the Blue Badge. It is intended to tackle the misuse of the Blue Badge by providing additional powers to local authorities and the Police to enforce the scheme in Scotland.⁵⁰ Additional enforcement powers include the ability to cancel or confiscate badges. It does provide regulations to ensure that people who are refused a badge, can seek a review of that decision from the relevant Local Authority.

4.4.4 The Children and Young People (Scotland) Act (2014)

Intended to provide additional support for children with disabilities, the legislation introduced the Getting it Right for Every Child (GIRFEC) framework. This helped ensure that all services and agencies working with disabled children use a coordinated, prompt and proportionate approach.⁵¹

4.4.5 The Welfare Funds (Scotland) Act (2015)

Coming into force in April 2016, the legislation placed a duty on each local authority in Scotland to maintain a welfare fund. Welfare funds are to be used to support individuals (including disabled people) meet “an immediate short-term need arising out of an exceptional event, or exceptional circumstances.”⁵²

⁵⁰ [Disabled Persons' Parking Badges \(Scotland\) Act](#) 2014, Explanatory Notes, Summary

⁵¹ Scottish Government, [Policy: Disabled People](#).

⁵² [Welfare Funds \(Scotland\) Act](#) 2015, Explanatory Notes, Section 2

4.4.6 The Education (Scotland) Act (2016)

This extended children's rights in existing additional support for learning legislation.⁵³

4.4.7 The Carers (Scotland) Act (2016)

The intention of the Carers Act is to provide additional support to the estimated 788,000 carers (including 44,000 young carers) in Scotland. It introduced the right to an adult carer support plan or young carer statement. This was intended to improve access to support for carers and further the rights of both adult and young carers. Local authorities must consider whether the support provided should include a break from caring.⁵⁴

4.4.8 Part 4 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act

This covers the provision of communication equipment and support for people who have lost their voice or have difficulty in speaking (both children and adults).⁵⁵

4.4.9 The Social Security (Scotland) Act (2018)

The Social Security Act created the legal framework under which 9 types of social security assistance will be provided by the Scottish Government. Disability assistance is one of the 9 types of assistance. It is to be provided to a disabled individual on account of their disability (physical or mental). The assistance also extended to people who are terminally ill.⁵⁶ To qualify for the assistance, the disability must have a "significant adverse effect on a person's daily activities, that it is not a short-term effect."⁵⁷

⁵³ As cited in footnote 48

⁵⁴ Scottish Government, [Supporting disabled children, young people and their families: guidance](#). (2023)

⁵⁵ [Health \(Tobacco, Nicotine etc. and Care\) \(Scotland\) Act](#) 2016, Explanatory Notes, Part 5

⁵⁶ [Social Security \(Scotland\) Act](#) 2018, Explanatory Notes, Overview, para. 51

⁵⁷ As cited immediately above.

4.4.10 The Transport (Scotland) Act (2019)

This banned pavement parking, double parking and parking at dropped kerbs in an effort to improve access for disabled people.⁵⁸

4.4.11 The Consumer Scotland Act (2020)

This Consumer Scotland Act 2020 required Consumer Scotland (a non-ministerial office of the Scottish Government) to embed inclusive communication into all their business practices.⁵⁹

4.4.12 The Hate Crime and Public Order (Scotland) Act (2021)

This legislation created a provision for the aggravation of offences by prejudice. An offence is aggravated by prejudice where the offender has “demonstrated malice and ill-will towards the victim based on the victim’s membership (or presumed membership) of a group” with protected characteristics (the same protected characteristics under the Equality Act 2010).⁶⁰ This includes disability.

4.4.13 The Disability Assistance for Children and Young People (Scotland) Regulations (2021)

The Regulations established the eligibility criteria and other conditions for the Child Disability Payment (CDP). While there were no changes to the eligibility criteria, the amendments were intended to ensure that the system for providing disability assistance was based on fairness, dignity and respect for the individual.⁶¹ The responsibility for delivering the benefits was transferred from the Department for Work and Pensions (DWP) to Social Security Scotland.

⁵⁸ As cited in footnote 48

⁵⁹ As cited in footnote 48

⁶⁰ [Hate Crime and Public Order \(Scotland\) Act](#) 2021, Explanatory Notes, Section 1

⁶¹ Scottish Government. [Disability benefits: Disability Assistance for Children and Young People \(Amendment\) \(Scotland\) Regulations 2021](#). (2021)

4.4.14 The Disability Assistance for Working Age People (Scotland) Regulations (2022)

The Regulations set out the rules and eligibility criteria for the Adult Disability Payment (ADP). The ADP is a form of assistance provided to individuals to mitigate the additional costs of living with a disability. The Regulations transferred the administration of the payments from DWP to Social Security Scotland. Also included were provisions enables people to transition from the CDP to the ADP.⁶²

⁶² Scottish Government. [*Disability Assistance for Working Age People \(Scotland\) Regulations 2022: policy note.*](#) (2017)

5 Disability legislation in Wales

The Welsh Government has the power to legislate on equality and disability issues through the Government of Wales Act 2006. Welsh Ministers are required to ensure that: “their functions are exercised with due regard to the principle that there should be equality of opportunity for all people.”⁶³ The Welsh Government has the devolved responsibility to implement the UNCRPD and has specific schedules under the Equality Act 2010.

5.1 UNCRPD

The Welsh Government has launched a series of policy frameworks and action plans on how it intends to implement the recommendations of the UNCRPD. In 2021, the Welsh Government made a commitment to incorporate the UNCRPD into Welsh law.

5.1.1 Action on Disability: The Right to independent Living

Published in 2019, the Action on Disability: The Right to Independent Living: Framework and Action Plan, sets out the Welsh Government’s commitment to “disabled people fulfilling their potential and achieving their ambitions and dreams in line with the ‘Social Model of Disability.’”⁶⁴ It builds upon the 2013 Framework for Action on Independent Living.

The 2019 framework defines ‘Independent Living’ as “all disabled people having the same freedom, dignity, choice and control as other citizens at home, work, in education and in the community.”⁶⁵

⁶³ [Government of Wales Act](#) 2006, Explanatory Notes, Section 77

⁶⁴ Llywodraeth Cymru/Welsh Government, [Action on Disability: The Right to Independent Living. Framework and Action Plan](#), (2019), p1

⁶⁵ Llywodraeth Cymru/Welsh Government, [Action on Disability: The Right to Independent Living. Framework and Action Plan](#), (2019), p6

5.2 The Equality Act (2010) – Specific Schedules for Wales

Section 153 of the Act enables Welsh ministers to, under the PSED, impose specific duties on certain Welsh public bodies through secondary legislation. The Welsh Government lists [the public bodies and Welsh Government sponsored bodies](#), impacted by the specific schedules for Wales. The Welsh specific equality duties require Welsh public authorities to develop ‘equality objectives,’ conduct impact assessments of practice and policy, identify gaps in pay and develop (and then publish) Strategic Equality Plans. The specific regulations (that cover disability) include:⁶⁶

- Regulation 3 requires Welsh public authorities to publish ‘equality objectives’.
- Regulation 5. During engagement activities such as designing equality objectives, conducting an impact assessment of a policy or practice and reviewing policies, public authorities must engage with representatives of those who are likely to be impacted by that engagement activity.
- Regulation 7 imposes a duty to identify and gather relevant information about differences in pay between people who share one or more protected characteristic and those who do not.
- Regulation 8. Authorities must assess the likely impact of proposed policies and practices on its ability to comply with the PSED general duties.
- Regulation 11 states that when equality objectives are being set, this should include how those objectives will address pay differences between people who have protected characteristics and those who do not.
- Regulation 14. Authorities must develop Strategic Equality Plans (SEP).

⁶⁶ [The Equality Act 2010 \(Statutory Duties\) \(Wales\) Regulations](#) 2011, Whole Instrument

5.3 Devolved legislation in Wales supporting disabled people

5.3.1 Social Services and Well-being (Wales) Act (2014)

The Social Services and Well-being Act brings together the duties and functions of Welsh local authorities' requiring them to improve the well-being of people who need care and support. It also covers carers who need support and provides the foundation for the delivery of social care in Wales.⁶⁷

The core principles underpinning the Act are:⁶⁸

- Voice and control. This principle places the individual and their needs at the centre of their care. It provides them with a voice and control to achieve their well-being outcomes.
- Prevention and early intervention. Preventative services within the community should be increased, to help minimise the escalation towards critical needs.
- Well-being. People should be supported to achieve their own well-being and measuring the success of care and support.
- Co-production. Encouraging individuals to become more involved in the design and delivery of services.

The Act is particularly relevant for disabled people, providing them with the opportunity to be involved in the design of their care.

5.3.2 The Well-being of Future Generations (Wales) Act (2015)

Introduced in 2015, the Well-being of Future Generations (Wales) Act aims to improve the social, economic, environmental and cultural well-being of Wales. The Act defines 7 well-being goals that bind national government, local government, local health boards and other specified public bodies. The well-being goals are; a prosperous Wales, a resilient Wales, a healthier Wales, a more equal Wales, a Wales of Cohesive communities, a Wales of vibrant

⁶⁷ Law Wales, [Social Services and Well-Being \(Wales\) Act 2014](#), (2024)

⁶⁸ Social Care Wales, [Overview: Social Services and Well-being \(Wales\) Act 2014](#), (2025)

culture and thriving Welsh language; and a globally responsible Wales.⁶⁹ These goals provide a legally binding common purpose in which public bodies must work together to improve the well-being of people in Wales.

One of the Acts intended milestones is the elimination of the pay gap for gender, disability, and ethnicity by 2050.⁷⁰

⁶⁹ Llywodraeth Cymru/Welsh Government, [Well-being of Future Generations \(Wales\) Act 2015: the essentials](#). (2015)

⁷⁰ As cited immediately above.

6 Domestic and international disability legislation in the Republic of Ireland

Disability legislation in the Republic of Ireland is aimed at promoting the equality, accessibility and the rights of disabled people. There are several core pieces of legislation in place that protect and support individuals with disabilities. These are discussed below.

6.1 The United Nations Convention on The Rights of Persons with Disabilities

The Republic of Ireland signed the UNCRPD in 2007 and ratified it in 2018. This committed the Republic of Ireland to promote and protect the full enjoyment of all human rights by disabled people.⁷¹ As in the UK, the rights set out in the UNCRPD are given effect through domestic measures and processes within the Republic of Ireland. The UNCRPD is also an integral part of EU law, and to the extent that when the Irish Government implements EU law, the UNCRPD is relevant. As stated on the website for the Department of Children, Equality, Disability, Integration and Youth:

“Ireland takes this responsibility extremely seriously and implements the rights in the UNCRPD on an ongoing basis to continually advance and strengthen domestic measures to support rights in the UNCRPD. Ireland is doing its part to bring about an equal and inclusive society.”⁷²

The Irish Human Rights Equality Commission (IHREC) has the statutory responsibility under the Assisted Decision-Making (Capacity) (Amendment) Act 2022 (see 6.6) to promote and monitor the implementation of the UNCRPD in the Republic of Ireland. The role of the IHREC is supported by the National Disability Authority (NDA), which provides information, advice and statistical information to the Commission when required.

⁷¹ Department of Children, Equality, Disability, Integration and Youth, [Ireland and the UNCRPD](#). (2023)

⁷² As cited immediately above.

The Republic of Ireland's first report to the UNCRPD was published in 2021. The report outlined the policy frameworks and laws that have been adopted by the Republic of Ireland since the signing and ratification of the UNCRPD. The policy frameworks are:

- The [Comprehensive Employment Strategy for People with Disabilities](#) 2014 – 2024. The Strategy sets out the Irish Governments agenda for increasing access to employment for disabled people.
- The [National Disability Inclusion Strategy](#) 2017 – 2021 addresses broader equality and inclusion issues, including the need for more joined up public services to meet the needs of disabled people.

The Irish Government submitted its first report to the UN Committee on the Rights of Persons with Disabilities in 2021, with no date currently set on when a review of the report will be carried out. Therefore, areas of improvements and recommendations from the UN are not currently known.⁷³ Some criticisms of the Republic of Irelands implementation of the UNCRPD have been published. This includes the National Disability Authorities 2023 report, that work was still needed to improve access to voter information and the participation of disabled people in the electoral process.⁷⁴

Legislation introduced by the Irish Government designed to protect and support disabled people, is discussed in greater detail in the following sections.

6.2 The Equal Status Acts (2000 – 2018)

The Equal Status Acts are intended to promote equality, prohibit certain kinds of discrimination, prohibit sexual harassment and victimisation and require the reasonable accommodation for disabled people.⁷⁵ The acts also implemented two directives from the European Union (EU), the [Race and Ethnicity Equality Directive](#) and the [Gender Equal Access to Goods and Services Directive](#) (as an

⁷³ As cited in footnote 68

⁷⁴ National Disability Authority, *Overview of UNCRPD Article 29 in Ireland: Participation in political and public life* (2023), p29.

⁷⁵ Irish Human Rights and Equality Commission, [The Equal Status Acts 2000-2018](#), p7

EU member state, any developments in EU law regarding disability must be transposed into the Republic of Ireland's law). These Directives apply to people who:

- Buy or sell a variety of goods.
- Use or provide a wide range of services.
- Obtain or dispose of accommodation.
- Attend at, or oversee, educational establishments.

The Equal Status Acts prohibit discrimination on several grounds. The various 'Grounds' for discrimination include; gender; civil status; family status; sexual orientation; religion; age; race; the Traveller community; housing assistance; victimisation and disability.

Discrimination on the disability ground occurs where there is less favourable treatment of one person compared to another, where one person has a disability and the other does not. The ground defines disabilities as including intellectual, physical, learning, cognitive, emotional or medical conditions.

6.2.1 Types of discrimination

The Acts prohibit several types of discrimination. These include **direct discrimination**, defined as less favourable treatment of another because they differ on any of the nine grounds.⁷⁶ **Discrimination by association** occurs when a person who associates with another person (who is under the specified grounds) is treated less favourably. **Indirect discrimination** is also included. This occurs when an "apparently neutral provision, criterion or practice appears unproblematic at first sight, puts a person who differs under any of the specific grounds at a particular disadvantage."⁷⁷ Finally, there is **procuring discrimination**, where it is an offence to procure, or attempt to procure, another person to engage in discrimination or harassment.

⁷⁶ Irish Human Rights and Equality Commission, [The Equal Status Acts 2000-2018](#), (2020), p12

⁷⁷ Irish Human Rights and Equality Commission, [The Equal Status Acts 2000-2018](#), (2020), p13

6.2.2 Reasonable accommodation

The Acts also introduce the need to make reasonable accommodations for disabled people. Discrimination occurs where there is a failure or refusal by a service provider to do ‘all that is reasonable’ to accommodate the needs of a disabled person. This includes the provision of special treatment or facilities, where without those provisions, it would be difficult or impossible for the disabled person to access or use services. Service providers include those selling goods and services, letting or providing accommodation, educational establishments and clubs.

However, service providers are not obliged to provide special facilities or treatment when making the adjustment would cost more than a ‘nominal cost’. Defining the nominal cost depends on several factors including the size and resources of the provider required to make the adjustment.

6.3 The Employment Equality Acts (1998 – 2015)

The Employment Equality Acts are similar to the Equal Status Acts, but specifically deal with protecting individuals from certain kinds of discrimination, harassment and sexual harassment within the workplace. The Acts are intended to promote equality, prohibit discrimination and require reasonable accommodations to be made for disabled people to participate in training and employment.⁷⁸

The types of discrimination covered by the Employment Acts are the same, apart for **instructing discrimination**. This is where a person orders or instructs someone, such as an employee, to discriminate against another person.

An employer is obligated to provide reasonable accommodation to enable a disabled person to have access to employment, to access training and to participate in and advance in their employment. Reasonable adjustments are defined as “effective and practical measures taken by an employer to adapt

⁷⁸ Irish Human Rights and Equality Commission, [The Employment Equality Acts 1998 – 2015](#). (2020), p7

their place of business.”⁷⁹ These can include physical adaptations to the premises and equipment, patterns of working time, distribution of tasks and the provision of training.

6.4 The Disability Act (2005)

The Disability Act 2005 places a statutory obligation on public service providers to support access to services and facilities for disabled people, who are entitled to:⁸⁰

- Have their health and education needs assessed.
- Have individual service statements drawn up, setting out what services disabled people should have access to.
- Access to independent complaints and appeals procedures.
- Access public buildings and public service employment.

6.4.1 Assessment of Need

A person may apply for an independent assessment of need if they believe they have a disability. The assessment is carried out by the Health Board and is used to establish the individual’s health and education needs, as well as identify the services the person will need to access.⁸¹ Children can be assessed under either the Disability Act, or the Education for Persons with Special Education Needs Act 2004.

The report completed at the end of the assessment will indicate whether the person has a disability, the nature of the disability, the needs arising from it and the appropriate services required to meet that need. It will also indicate when a review of the assessment should take place.

⁷⁹ Irish Human Rights and Equality Commission, [The Employment Equality Acts 1998 – 2015](#). (2020), p16

⁸⁰ AHEAD, [Disability Act 2005](#).

⁸¹ AHEAD, [Disability Act 2005](#), What is meant by ‘Assessment of Need’?

6.4.2 Service Statement

If a need to disability related service is identified, a Health Board liaison officer will develop a Service Statement. This will indicate the health and/or educational services needed to meet the individual's needs. This report also takes the cost of those services into consideration.⁸²

6.4.3 Complaints and Appeals

A process to make complaints was established by the Act. A person may make a complaint to the Health Board if they feel that the assessment came to the wrong conclusion or the assessment was not carried out to the standards set by the Health Information and Quality Authority.⁸³

6.4.4 Access to public buildings

The Act placed an obligation on public bodies to ensure their buildings are accessible to disabled people. There are exceptions to this, where any modifications would not be practical or not be justified by the cost involved.⁸⁴

6.4.5 Genetic Testing

The Act stated that people may not process genetic data in relation to employment, insurance policies, health insurance, occupational annuities or mortgages.

6.4.6 Code of Practice on Accessibility of Public Services and Information Provided by Public Bodies

To assist public bodies to meet the requirements set out by the Disability Act, the National Disability Authority established a Code of Practice on the accessibility of public services.⁸⁵ It was created under Section 30 of the

⁸² AHEAD, [Disability Act 2005](#), What is meant by 'Assessment of Need'?

⁸³ AHEAD, [Disability Act 2005](#), What are Complaints and Appeals procedures?

⁸⁴ AHEAD, [Disability Act 2005](#), How is access to Public Buildings and Services affected under the Act? Access to Public Buildings

⁸⁵ National Disability Authority, [Code of Practice on Accessibility of Public Services and Information Provided by Public Bodies](#). (2006)

Disability Act and is intended to ensure that the services and information provided by public bodies are accessible to all members of the public, including those with disabilities.

The Code of Practice was expanded upon by the Health Service Executive in the Guidelines on Accessible Health and Social Care Services.⁸⁶ These are for use in all health and social care settings within the Republic of Ireland. Guidelines are also in place for specific service areas (GPs, Hospital Services, Emergency Departments and maternity services).

6.5 The Housing (Adaption Grants for Older People and People with a Disability) Regulations (2007)

The Regulations were introduced to provide funding to local authorities to assist older people and disabled people to 'make adjustments and adaptations to their accommodation'.⁸⁷ The grants are only intended for people in private houses.

6.6 The Assisted Decision Making (Capacity) Act (2015)

The Assisted Decision Making (Capacity) Act reformed the Republic of Ireland's Capacity legislation that was in place since the 19th century. It established a statutory framework to support the decision-making process by adults who have difficulty making decisions without support.

When making capacity assessments, the act uses a 'flexible functional definition,' where:

"Capacity is assessed only in relation to the matter in question and only at the time in question. If a person is found to lack decision-making capacity in one matter, this will not necessarily mean that s/he also lacks capacity in another matter."⁸⁸

⁸⁶ Health Service Executive, [National Guidelines on Accessible Health and Social Care Services](#) (2016)

⁸⁷ Department of Housing, Local Government and Heritage, [Housing Adaption Grants for Older People and Disabled People \(Private Houses\)](#). (2024)

⁸⁸ Department of Justice, [Assisted Decision-Making \(Capacity\) Act](#) (2021), Capacity Assessment

While the legislation was introduced under the Department of Justice, it includes provision for ‘advance healthcare directives’ to enable a person to be treated according to their will and preferences. The Decision Support Service, established within the Mental Health Commission, also supports the decision making by and for adults with capacity difficulties.

6.6.1 Decision making support options

The three types of options made available to support people are:⁸⁹

- Assisted decision-making. A person may appoint a decision-making assistant to support them to make and express decisions.
- Co-decision making. Where decision-making responsibility is jointly shared between the person and the co-decision maker.
- Decision-making representative. This individual makes decisions on behalf of the person requiring the support and they must reflect the will and preferences of the individual where possible.

6.7 The Irish Sign Language Act (2017)

Introduced in 2017 and commenced in 2020, the Irish Sign Language Act recognises Irish Sign Language (ISL) with legal status and requires public bodies to prepare and implement action plans on ISL. This includes the provision of interpretation into ISL and permit its use in legal proceedings.⁹⁰ The Minister of Education is required to ensure that ISL classes are provided to the family-members (or guardians) of deaf children.⁹¹

⁸⁹ Department of Justice, [Assisted Decision-Making \(Capacity\) Act](#) (2021), Decision-making support options

⁹⁰ House of the Oireachtas, [Irish Sign Language Act](#) (2017)

⁹¹ National Disability Authority, [Irish Sign Language Act 2017](#)

6.8 The European Accessibility Act (2019)

The European Accessibility Act provides new standards on accessibility, covering a range of products and services.⁹² The act is an EU directive, aiming to “improve the functioning of the internal market for accessible products and services, by removing barriers created by divergence rules in Member States.”⁹³ Some of the products mentioned by the act include computers, smartphones, TV equipment, e-readers, ATMs and ticketing machines. Services include transport services, banking, audio-visual media and e-commerce.

The act is intended to benefit disabled people and the elderly, with the act expected to:

- Ensure there are more accessible products and services across EU markets.
- Accessible products and services are available at competitive prices.
- There are fewer barriers when accessing transport, education and the labour market.
- More jobs are available where accessibility expertise is required.
- Improve the accessibility of information to disabled people and the elderly.

Member states were required to adopt the measures by June 2022, with the measures being applied by June 2025.

⁹² Craig. S, Lougarre. C, O’Connell. R. *EU Developments in Equality and Human Rights: Impact of Brexit on the Divergence of Rights and Best Practice on the Island of Ireland: Update Paper on Developments post January 2022* (2024), Northern Ireland Human Rights Commission, p69.

⁹³ European Commission, [European accessibility act](#)

7 Note on disability legislation gaps in Northern Ireland

7.1 Recommendations on closing gaps in disability legislation

In the March 2012 report ‘Strengthening Protection for Disabled People: Proposals for Reform’, the Equality Commission for Northern Ireland outlined a series of recommendations that would bring Northern Ireland’s disability legislation in line with Great Britain and international best practice.⁹⁴ These recommendations included:

- Provisions within the current disability legislation should be harmonised and simplified where possible.
- Introduce protections against indirect disability discrimination and discrimination arising from disability.
- Introduce changes to the definition of disability in Northern Ireland, removing the current list of capacities.
- Introducing protections through association and perception (protections for carers and family members who are subject to direct discrimination or harassment because of their association with a disabled person).
- Prohibiting pre-employment enquiries.
- Increasing the scope of reasonable adjustments to include schools and tenancies.

These recommendations were reflected in the September 2024 ‘Submission to the Committee for the Executive Office Inquiry into Gaps in Equality Legislation’.⁹⁵ The submission also pointed out that it is more difficult to fall within the definition of disability in Northern Ireland than it is within Great Britain. This is due to the approach in Northern Ireland that centres on a list of ‘capacities’.

⁹⁴ Equality Commission for Northern Ireland, [Strengthening Protection for Disabled People: Proposals for Reform - Full report](#) (2012), p1

⁹⁵ Equality Commission for Northern Ireland, [Submission to the Committee for the Executive Office Inquiry into Gaps in Equality Legislation](#) (2024), p6