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INCORPORATION OF THE UNCRPD

november 2021

Two of Liberty’s Policy and Campaigns Officers presented a paper on the UN Convention on the Rights of Persons with Disabilities (UNCRPD). The paper invited the Council to agree that Liberty policy should reflect the position of Deaf and Disabled People’s Organisations (DDPOs) in that the UNCRPD should be fully incorporated into UK domestic law.

This paper was situated in the context of the long-standing structural inequalities and discrimination faced by disabled people daily and an acknowledgment that the European Convention of Human Rights (ECHR) has often fallen short in protecting, upholding and strengthening the rights of disabled people.

Full incorporation is the appropriate approach to incorporation and current, piecemeal incorporation of the Convention weakens the overarching frameworks provided by the UNCRPD. This is evidenced in the paper’s discussion of Article 19 of the UNCRPD which concerns independent living and recent scrutiny of Government inaction in this area by the Joint Committee of Human Rights and the courts in *Davey v Oxfordshire County Council* (2017).

There are elements of the UNCRPD that require further development, namely substituted decision-making for the small number of disabled people who are entirely unable to communicate their will and preferences as discussed in relation to Article 12 and its abolitionist approach to mental health detention. Nonetheless, the paper accepted the overall intention of Article 12 as a critique of the current status quo which accepts disabled people with mental impairments in the position of being unquestionably and appropriately the subject of control and social exclusion.

Understandable tensions arise when critiquing the status quo in the current context of a Government intent on overhauling and replacing the Human Rights Act. The paper asserted that incorporation of the UNCRPD would augment the ECHR, not replace it, both in law and in Liberty’s work. Taking a positive position on the UNCRPD is part of Liberty’s move to advance a positive vision of human rights that builds upon and supports the Human Rights Act.

The proposed policy position of full incorporation of the UNCRPD into domestic law was accepted by Policy Council.