



Llywodraeth Cymru  
Welsh Government

REPORT

# Locked out: liberating disabled people's lives and rights in Wales beyond COVID-19

This report is about the impact of the COVID-19 pandemic on disabled people.

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## Introduction

This report originated from discussions at the Welsh Government's Disability Equality Forum, Chaired by Deputy Minister and Chief Whip, Jane Hutt, MS. In the summer of 2020, having heard of the different ways that disabled people were being negatively affected by the pandemic, the Forum resolved to set up an evidence-based enquiry into disabled people's experiences, in part to counter

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the significant under-reporting by central Government and the mainstream media.

The decision to establish such an enquiry is significant. To our knowledge, it is the first of its kind to be published by a Government in the UK. This report is also unique in that it has been controlled and co-produced by a Steering Group of disabled people representing Disabled People's Organisations (DPOs) and disability charities, supported by Welsh Government in terms of administrative support, supplementary research expertise and data analysis.

The nominal 'Chair' (or co-ordinator) of the enquiry, was chosen by disabled members of the Disability Equality Forum and self-identifies as a disabled person. Dr Debbie Foster is Professor of Employment Relations and Diversity at Cardiff University's Business School. She interpreted her role as one of co-ordinator of documentary evidence collated by Welsh Government and evidence voiced by members of the Steering Group, all of whom had lived experience of disability. Over 300 items of written evidence were considered, sifted, summarised then discussed, prioritised and supplemented, by the Steering Group, in what was an iterative process.

## Methodology

The Steering Group met at regular intervals between October 2020-February 2021. A valuable role was played by Rhian Davies, CEO of Disability Wales in chairing Steering Group meetings, having previously worked with all stakeholders involved Welsh Government, the report's author, DPOs and disabled people from communities with different protected characteristics.

Co-production has recently become a 'trendy' term in academic and public policy circles. Genuine co-production is, however, difficult to achieve and time-consuming. What helped the Steering Group was the commitment of its members to the social model of disability. This was particularly important because public debate about COVID-19 was dominated by a medical discourse. Only when it was revealed that members of Black, Asian and minority ethnic groups had been disproportionately affected by COVID-19, was the significant role played by social and economic factors in ill-health and deaths, considered.

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The battle for the fundamental right to independent living has been a long one for many disabled people and led to the adoption of a saying in the Disability Rights Movement: 'Nothing About Us Without Us'. As a method of research, co-production allows for the active integration of disabled people's lived experiences into the research process and is viewed as essential to the production of viable solutions and policies. Co-production also represents a rejection of the past, when so-called 'experts' and professionals were relied on by policy-makers. A past that favoured institutionalisation and the segregation, rather than the integration, of disabled people in education, employment, and everyday life.

Our report is unapologetically long. Sadly, this in part, reflects the amount of evidence received by Welsh Government, some of which seriously threatened basic human rights of disabled people during the pandemic. To provide the reader with structure, we have divided evidence into five key over-arching themes, with sub-themes within each section. These over-arching themes (or chapters) are:

1. The social versus the medical model of disability
2. Human rights
3. Health and Well-Being
4. Socio-economic disadvantages
5. Exclusion, Accessibility and Citizenship

A review of quantitative and qualitative evidence/statistics on the impact of COVID-19 on disabled people was undertaken to inform the development of this report. Sources included peer reviewed research papers/reports and official statistics as well as grey literature including blog posts and unpublished observations. These rich and varied sources have been analysed into two accompanying reports, the 'Potential impact of COVID-19 on disabled people' evidence paper and the Statistical Article 'Coronavirus (COVID-19) and the impact on disabled people in Wales'. Both also serve as a bibliography for the main report.

At the beginning of each of the five sections a summary narrative, agreed by the Steering Group, is provided. Key findings are then presented that distil the evidence received by Welsh Government. A comprehensive list of

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recommendations discussed by the Steering Group are then presented.

An executive summary of key findings and recommendations appears at the beginning of this report, and these have been organised around broader headings for accessibility. However, we very much urge the reader to refer to the more detailed evidence and recommendations contained in the main body of the report.

## Scope

When we began this endeavour, we were conscious that unless we drew parameters around the scope of our enquiry, it could become unmanageable and insufficiently focused. The presence of dedicated Commissioners or Ministers within Welsh Government, responsible for education, children and older people, were factors that influenced our decision not to focus on these groups and areas in any great depth.

Many older people are also disabled people, and age-related medical conditions contribute to the probability that someone will experience disability. Age, unlike disability has, however, become established as a major consideration in policy-making decisions during the pandemic, since the high incidences of deaths among this group, in the so-called first wave. A decision was, therefore, made that it was beyond the scope of this enquiry to tease out the complex intersectional issues relating to age and disability. We nonetheless note that disabled and older people often find themselves facing similar structural challenges in society, most notably the different political status afforded to health and social care in the UK. Among our recommendations therefore, we include a call for Welsh Government to give social care the same infrastructure status as the NHS in Wales.

Another dilemma we discussed during the enquiry was how to sufficiently capture the intersectional concerns affecting disabled people during the pandemic, particularly the concerns of disabled people from the Black Asian minority ethnic community in Wales. This is always a potential problem when focusing primarily on one protected characteristic. Nevertheless, as the First Minister's Black Asian minority ethnic enquiry also concluded, the

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disproportionate number of deaths among a particular community warrants in-depth analysis. In December 2020 we organised an ‘Intersectionality Reference Group’ meeting to provide a forum for the voices of other diverse communities of disabled people in Wales to be heard. This was a positive and inspiring event and while we have tried to integrate feedback from this meeting into this report, if anything, it highlighted the need for further events of this kind in the future.

## Summary of Findings and Recommendations

### The importance of the social model of disability

The coronavirus pandemic has amplified pre-existing socio-economic inequalities in society and their influence on health outcomes. This has highlighted, beyond all doubt, the relevance of the Social Model of Disability, as explained and evidenced in section 1 of this report.

We call on Welsh Government to immediately re-affirm its 2002 commitment to the Social Model of Disability. In doing so we ask that it reviews evidence in this report that suggests decision-making during the pandemic has undermined the social model, in favour of a medical model of disability. In the long term we call for a national public campaign to improve the public understanding of ableism in Welsh society and recommend that the history of the disability rights movement, including the development of the social model, be integrated into the National Curriculum of primary and secondary schools in Wales.

### The need to improve the representation of disabled people in decision-making

Our report details evidence of disabled people experiencing medical discrimination, restricted access to public services and social support, exclusion from public spaces and public life, restrictions on independent living and an erosion of basic human rights, as a consequence of the pandemic. Unconscious bias and institutionalised ableism may help to *explain* exclusion and disadvantage, but the presence of disabled people (and other diverse communities) as equals in proactive decision-making is essential, in the short

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and long-term, if they are to be addressed.

We call on Welsh Government to implement UN recommendations that nations fully involve disabled people in the planning stages of all future responses to public crises. We welcome the establishment of a new fund to support disabled people seeking elected office for the 2021 Senedd elections and the 2022 Local Government elections. However, this initiative needs to apply to all aspects of government, policy-making and public service provision in Wales.

To ensure that disabled people apply for jobs, senior level promotions, publicly procured contracts and advisory roles, we recommend a proactive approach to reasonable adjustments accompanies the advertising of all such positions, so that applicants are clear that the potential to adjust timetables, deadlines or funding is available.

## **Deaths from COVID-19 among disabled people**

The most up-to-date data shows 68% of deaths from COVID-19 were among disabled people in Wales. There is nothing inevitable about this statistic and this report illustrates how social factors including discrimination, poor housing, poverty, employment status, institutionalisation, lack of PPE, poor and patchy services, inaccessible and confusing public information and personal circumstances, significantly contributed to this figure.

We recommend Welsh Government establish a national enquiry into factors affecting the deaths of different groups during the pandemic, to include disabled people and, that it leads a call for the UK Government to launch the same wider four nations enquiry.

Any enquiry based in Wales would need to review the range of evidence and recommendations made by this report (and the Black Asian minority ethnic COVID-19 report for the First Minister), but also be capable of developing legally enforceable actions and remedies. It must be given a clear time frame to report, to include deadlines for the implementation of recommendations.

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## Accessibility of public services

In all five sections of this report, evidence is presented that suggests that disabled people feel their lives are less valued in Welsh society. This is particularly reflected in their experiences of discrimination and exclusion when trying to access public services during the pandemic. We provide examples of disabled people being unable to access public transport, maternity services, GP surgeries, emergency telephone helplines and vital pandemic-related public information, to name a few. Many disabled people reported confusion, helplessness, abandonment, isolation, fear and frustration. The root cause of much of this exclusion, however, has been simple thoughtlessness, ultimately robbing disabled people of access to public spaces and a sense of basic citizenship.

We recommend that Welsh Government make it mandatory for all employees, contractors, health care practitioners and officials, to evidence successful completion of diversity and inclusion training that disabled people and Disabled People's Organisations (DPOs) are involved in co-producing, designing, delivering and accrediting.

We recommend Welsh Government develop a compulsory code of practice to ensure that accessibility requirements are met as a standard part of its public procurement process. Where a move to remote public service delivery is being considered, there must be a requirement to Equality Impact Assess (EIA) proposed changes which, during the pandemic, did not take place. We recommend that going forward, Welsh Government urgently audit changes in the method of service delivery to identify practices that might lead to the permanent exclusion of some groups of disabled users. Where it is decided that an element of in-person service delivery is necessary to meet accessibility requirements, Welsh Government must take responsibility for ensuring that such services are provided and properly funded and quality controlled.

To ensure that the core principles of the UN Commission on the Rights of Disabled People (UNCRPD) are embedded in service delivery in Wales, we recommend Welsh Government provide funds to support local authorities in enforcing actions resulting from its implementation. Mechanisms must also be

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put in place to ensure that DPOs are fairly represented in every local authority.

We strongly recommend Welsh Government increase funding for advocacy services to disabled people in Wales to support them in navigating and advocating their interests when dealing with health and public service providers.

## **The need for Human Rights Legislation in Wales**

This report details the impact of the pandemic on disabled people's human rights, including their basic right to independent living. Our findings show how 'Voice, Choice and Control', core principles of the Social Services and Well-Being in Wales (SSWB) Act 2014, were abandoned during the pandemic. The introduction of Schedule 12, part 2 of the Coronavirus Act, which suspended key duties to provide services to disabled people, was a key contributory factor. However, poor availability of Personal Protective Equipment (PPE), inconsistent and unfair local decision-making and Do Not Attempt to Resuscitate (DNAR) notices, were also significant.

We welcome the Deputy Minister's recent consultation and commitment to suspend Schedule 12 and modifications to the SSWBW Act 2014, described above. However, we recommend Welsh Government urgently prioritise the incorporation of the UNCRPD into Welsh law, to help ensure that disabled people's human rights going forward are given greater protection.

Echoing a request from The Law Society of England and Wales, we recommend national guidance and toolkits are produced that contain practical examples of what constitutes a breach of the European Convention of Human Rights. This would aid local authorities in carrying out comprehensive Human Rights Act assessments and improve consistency.

We call on Welsh Government, Local Authorities, Public Health Wales and Care service providers to urgently ensure they make it clear to people with learning disabilities who are shielding and in institutional settings, what exactly their rights are.

In the short term we call on the First Minister to appoint a Minister for Disabled

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People, to signal the commitment of Welsh Government to disabled people's human rights and full participation in Welsh life. In the longer term we recommend establishing a dedicated Disabled People's Commissioner in Wales, with a similar role to the Commissioner for the Welsh Language, Older People, Children and Future Generations. The gap created by the loss of the Disability Rights Commission has never been properly filled and the under-resourced UK Equality and Human Rights Commission is increasingly perceived as a regulator, rather than an advocate or initiator of Equality and Human Rights. These moves would go some way towards bridging deficits in representation in Wales.

## Disabled people and access to justice

Evidence reviewed by this enquiry identified concerns that disabled people have experienced problems accessing justice during the pandemic as proceedings have moved on-line or taken place via video or telephone. Humanitarian organisations have also expressed concerns that disabled refugees have been disadvantaged by inaccessible communications and exposure to the virus.

We recommend that guidance on video and telephone hearings across all courts and tribunals in Wales refer to the need to consider and make reasonable adjustments for disabled people and, that this guidance be kept under review. Details of recommendations to help address access to employment justice are discussed further in our section on work and employment.

## Education

As explained in the methods section of this report, our enquiry decided that measuring the impact of the pandemic on disabled people's education was beyond the scope of this report. We would expect any future investigation by the Children's Commissioner in Wales to address the specific problems experienced by disabled children. Furthermore, it is expected that the long-term effects of the pandemic on education and learning will only be measurable in the future.

However, we did consider evidence from the Equality and Human Rights Commission (EHRC) and Third Sector Additional Learning Needs Alliance. This

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suggested disabled pupils in schools required additional support and were not always receiving this during the pandemic. We recommend Welsh Government ring-fence the part of the Government's pandemic grant to local authorities that ensures children with Special Educational Needs (SEND) who stay at home receive appropriate and essential equipment, training materials and social care. As pupils return to school, we call on the Welsh Government's Education Department to monitor the characteristics of pupils returning and remaining at home, to ensure that disabled pupils are not being excluded or disadvantaged.

To address ongoing digital exclusion and poverty we recommend that in partnership with DPO's, Digital Communities Wales urgently develops an education and skills programme specifically tailored to disabled people. Such a programme would require extensive consultation and co-production.

## **Safe, accessible and affordable travel**

Our findings revealed that during the pandemic many disabled people encountered new barriers to travel, restricting mobility and increasing isolation. Insufficient attention has been paid to the 'safer' travel needs of disabled people, for example visually impaired people who are unable to judge social distancing and adapt to changed routes; mobility impaired people facing queues and reduced passenger assistance. Disabled people have also become increasingly reliant on expensive private taxi services.

Welsh Government need to address the restrictions on disabled people's mobility as a matter of urgency by increasing funds to enable disabled people to use 'safer' and accessible travel. Passenger assistance must be available on public transport and needs to consider access issues faced by different impairment groups, the impact of social distancing, queues and exits.

## **Health services in Wales**

During the pandemic, evidence suggests disabled people's access to on-going medical treatment and health services were severely disrupted, leading in some cases to a serious deterioration in pre-existing conditions (for example sight

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impairments), or even death. When routine health services 'normalise', NHS Wales will struggle to accommodate patient needs, locally. We found evidence that Welsh citizens lack access to some specialist services. Clear gaps in services need to be identified early on and in line with the 'Prevention and Early Intervention Agenda', so that timely patient needs are put ahead of barriers to care, imposed by devolved healthcare. Out-of-area referrals (including England) need to be facilitated and GPs empowered to make tertiary referrals. Pathways need to be re-examined and streamlined, putting patient choice and need at their heart.

Our recommendations include the co-production of a Patient Charter for Wales that is produced with diverse groups and gives patients more rights and power.

In addition, we recommend Welsh Government establish priority criteria to ensure disabled people to receive timely diagnosis and medical evidence that are pre-requisites for accessing key areas of day-to-day living for example, benefits, shopping, work, reasonable adjustments, social support.

An assessment of the effects on future generations of inadequate and inaccessible maternity services during the pandemic is needed in the medium term. In the short term a system of self-registration for those 'shielding' in Wales and for women using maternity services is recommended. The latter would enable women to register their reasonable adjustment requirements and allow for proper consideration of whether a partner advocate is needed at appointments.

We ask Welsh government to require all local authorities to develop a work force plan to address the increasing shortage of rehabilitation services and specialists (this issue was raised as a priority by groups representing visually impaired people).

## **Mental health and well-being**

Evidence presented in this report demonstrates the disproportionate negative effect of the pandemic on disabled people's mental health and well-being. More research and better data are needed to understand the complex relationship

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between social factors, COVID-19 infections, mental well-being and disability in Wales. It is also essential that social scientists and disability studies academics, as well as representatives from grassroots DPOs are included in research advisory teams.

We request that emergency changes made during the pandemic to the Mental Health Act, be reviewed and reversed immediately in Wales.

In the future, we recommend Welsh Government adopt a more nuanced patient-centred approach to the provision of mental health services, to establish a better dialogue about patient needs and preferences and mental health service delivery. We also recommend that priority be given to recruiting and training more people to work in mental health services in Wales, by making it a focus of careers advice/ workshops in educational settings and offering 'golden handcuffs' arrangements, with funded training packages available to those who commit to working in the field in Wales for x number of years.

Welsh Government need to work closely with DPOs, third sector and grassroots community organisations, to tackle isolation and loneliness. These organisations are uniquely placed in local communities. There is a real need to build on this accumulated knowledge and invest in connecting people in a way that is accessible to all.

## **Disabled people and economic poverty**

Evidence in this report shows disabled people are more likely to experience relative income poverty and live in more economically-deprived areas in Wales, than non-disabled people. Nationally, disabled people have disproportionately fallen behind with household bills during the pandemic, because of their disadvantaged position in the labour market, poor housing and increased costs associated with being disabled.

We very much welcome the introduction of the Socio-economic Duty of the Equality Act in Wales on 31 March 2021, which must play a key part in Wales's commitment to 'build back better' and fairer. It will be important to incorporate the experiences of disabled/ diverse groups in Wales during the pandemic and

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involve them in setting objectives as well as monitoring outcomes.

To ensure the above, we recommend Welsh Government issue clear guidance to local authorities and health boards on best practice, including meaningful co-production. Welsh Government need also to ensure that local and pan-Wales mechanisms are in place to enable citizens to challenge impact assessments and decision-making, in line with the Wellbeing for Future Generations Act.

Our report highlights serious problems with UK Government support to different groups of disabled people during the pandemic. The Self-isolation Support Scheme (SISS), the Self-Employment Income Support Scheme (SEISS), the continued uplift in Universal Credit (UC) and sick pay provisions are four areas we identify as requiring urgent review, if further poverty and hardship are to be addressed.

In the short term we recommend Welsh Government urgently lobby the UK Government to review and provide further resources for the SSIS, SEISS and the uplift in UC, and support the TUC's call in January 2021, to extend sick pay to all workers and increase it to the level of the real living wage: (£9.50 an hour or £10.85 in London). We also ask that Welsh Government take legal advice as to whether denying the same uplift to disabled people in receipt of legacy benefits (including ESA, PIP), amounts to indirect discrimination.

Echoing a recommendation in the First Ministers Black Asian minority ethnic report on the impact Covid-19 (June 2020), we recommend that Welsh Government establishes a departmental cross cutting Disability Disparity Unit within the Welsh Government. This Unit is needed to help place disability equality at the heart of Welsh Governments delivery, monitoring and policy making. This Unit should be supported by an intersectional equality data unit.

In the long term, we recommend Wales is given greater decision-making powers in the above areas, to be able to respond quickly and appropriately to socio-economic diversity within its own territories.

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## Accessible housing

Housing and the home have played an increasingly significant role during the pandemic. The home has taken on the role of a workplace for some, classroom for others and has variously become a place of safety, fear, or loneliness. There is a significant shortage of accessible and appropriate housing available to disabled people in Wales, who are currently concentrated in the rented sector. The correlation between poor quality housing and poor health outcomes has been established (Marmot, 2020). Home ownership is limited to only a minority of disabled people and there are fears that if the pandemic reduces this further, there will be a loss of adapted private properties, adding further to this crisis.

Urgent action is needed to establish Wales-wide guidance on what constitutes 'priority' housing work, to ensure that the access needs of disabled people are quickly addressed. In the medium term we recommend that Wales co-produces national accessibility standards for social housing with DPOs, putting mechanisms in place to ensure that local authorities and property developers comply with them.

Urgent financial support is needed for disabled people who require adaptations to their living spaces and for disabled homeowners to retain their adapted properties. In the long-term, we recommend more research and analysis is undertaken into the barriers to high quality housing and home ownership for disabled people in Wales, particularly those in receipt of benefits relating to disability/long-term health conditions. To include, looking at possible measures to ameliorate current Department of Work and Pension policy that act as a barrier to homeownership.

## Work and Employment

For the year ending September 2020 Wales had a disability employment gap of 32.1 percentage points. Data we examined suggests that disabled people were represented in significant numbers in occupations and industries most affected by the crisis. The poor pre-pandemic position of disabled people in the labour market also suggests that a pandemic-related recession will have a

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disproportionately negative impact on disabled people's employment. Disabled people are over-represented in insecure and low paid jobs and many opt for self-employment or freelance roles because they can provide increased opportunities to accommodate an impairment.

We welcome the recent investigation by the Infrastructure and Skills Committee of Welsh Government into the implications of a long-term shift to increased remote working. Our report details evidence of a majority (though not all) disabled people benefitting from increased homeworking (where available) during the pandemic. Arguably, the 'business case' for homeworking has been won.

We recommend the urgent establishment of a 'return to work taskforce' to ensure employers receive proactive employment advice about their employment obligations to disabled people. To include information about health and safety, use of furlough, redundancy selection, sickness benefits and the implementation of appropriate reasonable adjustments (including long-term homeworking). We anticipate an increase in demand for information on workplace rehabilitation and reasonable adjustments as workspaces reopen, given what we already know about the long-term impact of COVID-19 on physical and mental health on the wider population.

Research suggests there is a long-term persistent problem with employer understanding of legal responsibilities to provide workplace adjustments. We recommend Welsh Government prioritise retaining disabled people in work, through investment in public and employer education and workplace dispute resolution. In addition, we recommend mandatory reporting of the disability pay gap for larger employers and collection of comprehensive data on the impact of changes to working practices on disabled people in response to COVID-19 and recession be introduced after the economy starts to recover. We also call on Welsh Government to lobby the UK Government to increase funds to Access to Work services.

We recommend Welsh Government build on the launch of Disabled People's Employment Champions' by Business Wales, by up-dating its employment strategy for disabled people to address the previously unanticipated challenges of COVID-19. We also call on Welsh Government to ring fence resources for the

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Wales Union Learning Fund and ensure the availability of accessible places for disabled people on ReAct programmes and mentoring, skills and professional training schemes they fund.

Welcoming recent announcements on workplace risk assessments by the First Minister, we nevertheless urgently recommend Welsh Government work with trade unions and the Health and Safety Executive, to enforce meaningful penalties where employer compliance with the law is poor. The introduction of a confidential workplace ‘whistle-blower’ reporting procedure, to enable individual employees to report concerns about risks to their health and safety, or risks to others (for example clients, customers, family), would help facilitate this.

In the medium term we recommend Welsh Government utilise unique traditions of social partnership in Wales and investigate how new systems of alternative dispute resolution for disabled employees can be established. Access to justice is limited for many disabled people and many of the remedies sought relate to judgements about the ‘reasonableness’ of requested or refused workplace adjustments. We recommend Welsh Government work with DPOs, academics, the Wales TUC network of Workplace Equality Representatives and the business community to develop this proposal.

Employers could also be encouraged by Welsh Government to co-produce Workplace Wellbeing Policies with their employees and other relevant organisations, further to the NICE Quality Standard on Workplace Health, Long-term Sickness Absence and Capability to Work currently under consultation. We also ask that Welsh Government explore with diverse groups and trade unions the development of a Workplace Wellbeing Charter Mark, the awarding of which would require evidence of co-production of policy and benchmarks.

## **Accessing resources to build back fairer**

Our evidence illustrates the vital role played by DPOs and voluntary and community organisations during the pandemic. An army of, often unpaid volunteers, tried to fill the gap left by the withdrawal of many statutory services, to disabled people. New grassroots community organisations with limited or no funding and family members and friends with little prior experience or access to

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formal guidance, resources, or support, emerged. However, while this may demonstrate the positive legacy of community in Wales, formal recognition of the contribution of these groups, individuals and organisations is required, to prevent a reversion to a patronising and outdated charity model of disability. Access to future funding and involvement in decision-making and resource allocation are central to acknowledging the value of these contributions.

We recommend an urgent re-examination of current funding arrangements to compensate for the loss in fund-raising capacity during the crisis. There is also a need to recognise that organisations require long-term resources and support as well as crisis COVID-19 relief funds.

In the short term we recommend Welsh Government allow organisations that already have funding to carry it across financial years and to provide a future model that will encourage continuity of staffing and volunteering.

Some grassroots and community organisations may not be large enough to employ staff (such as dedicated grant writers), thus it is important that new funding streams, with more flexible application processes are made available. The expectation is that resources will be scarce and competition high. Wales must be capable of 'building back fairer' and provide diverse groups with opportunities to contribute. We recommend some areas of funding be ring fenced (see examples below) and particular attention is paid to the accessibility of application processes and the time-frame of projects, to ensure the equitable participation of disabled people.

Our report refers to the experiences of some 'minority' groups of disabled people during the pandemic that have been life-threatening. These include (but are not limited to), asylum seekers, girls and women experiencing domestic abuse and disabled people dependent upon abusive 'carers'. We have been unable to detail these experiences in any great depth and recommend further research is undertaken. In the short-term we recommend Welsh Government ring-fences emergency funds for these and other groups by establishing a 'priority list'. In the medium-term, historic problems, including a shortage of accessible emergency accommodation and services to disabled people in these groups in Wales, needs addressing.

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We call on Welsh Government to introduce a proactive policy on disability budgeting. The genus of this idea comes from the concept of Gender Budgeting. This involves analysing a budget's differing impacts on disabled and non-disabled people to guide the allocation of resources to address a range of inequalities that have become embedded in public policies.

## **Access to public space and public life**

Large parts of the fifth section of our report entitled: 'Accessibility, Exclusion and Citizenship', deals with evidence of the multiple ways that disabled people have been physically and practically excluded during the pandemic and psychologically and emotionally marginalised in everyday public spaces and life.

An early example was the 'shielding list', which gave priority to some in areas such as shopping deliveries and access to medicines, but failed to consider all disabled people's social needs (e.g. people with visual impairments unable to socially distance). Another has been rules governing the use of face masks and the uneven provision of British Sign Language (BSL) in Government pandemic information briefings that gave little or no consideration to Deaf/disabled people's communication needs. The reorganisation of public spaces in towns and cities, which often led to closure to all traffic and introduction of new pavement furniture or cycle routes, provides yet another example, where insufficient attention was paid to accessibility and orientation requirements of people with limited mobility or visual impairments. This kind of 'thoughtlessness' helps to illustrate a much more pervasive problem: the way taken-for-granted ableist assumptions dominate in decision-making but can have life-limiting consequences for disabled people.

We have previously stressed the need for proactive co-produced decision-making. We recommend the co-development of a 'courtesy code' by Welsh Government becomes a key focus of the Welsh Government's communication campaign, when lockdown measures begin to ease and, we move into the next phase of recovery.

The pandemic highlighted the important role of accurate and accessible

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information and communications, including the role of traditional media and social media. We urgently ask that broadcasters and Welsh Government ensure footage on the news and social media includes BSL and subtitles. This is important for access, but also for normalising the use of BSL.

In the medium term, we recommend Welsh Government uses its influence to encourage robust collection/ publication of diversity data throughout TV, film and journalism industries. To encourage greater access and inclusion in these sectors we recommend the establishment of a bursary scheme to enable under-represented groups to access courses, skills, training, and apprenticeships. This should link to wider efforts to support the local news industry in Wales, vital to increasing diversity and inclusion in public life.

Best practice guidance for local authorities and health boards/ services in Wales on public accessibility needs to be a priority of Welsh Government and we recommend it establishes a working group with DPOs for this purpose. In the long term this would contribute to the establishment of a Wales Public Accessibility Charter and kitemark to reward those organisations that conform to best practice.

We support the calls of Co-production Network for Wales for Welsh Government to establish working groups to promote shared learning and examples of inclusive good practice.

## **Existing Welsh Government Framework on Disability**

**Action on Disability: The Right to Independent Living** is the current framework and Action Plan of the Welsh Government. Significantly, it acknowledges the importance of the social model of disability: the physical, organisational and attitudinal barriers faced by disabled people in Welsh society. As well as, what it refers to as, the “unacceptable” role of socio-economic factors in sustaining the disadvantage experienced by disabled people and limiting their future potential.

This report has highlighted how the pandemic has amplified pre-existing inequalities and disadvantages. In doing so it has found evidence that actions

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taken in Wales as well as the wider UK, have contributed to this. It calls on Welsh Government to re-affirm its commitment to the social model of disability. This not only entails a reversal of emergency decision-making in Wales that has undermined disabled people's rights to independent living, but it is essential that lessons are learned and mechanisms put in place, to ensure that this can never happen again. In addition, our report provides a renewed roadmap that helps to identify new (as well as old) challenges exposed by COVID-19 to up-date the existing Framework and Action Plan on Disability in Wales.

The commissioning and creation of this report, supported by Welsh Government, in part, fulfils its commitment to work with disabled people in a genuine partnership. During our enquiry, however, we noticed a persistent theme being voiced by disabled people in Wales. Many expressed the view that it was not necessarily the attitude and commitment of Welsh Government to disabled people, but the attitudes, inactions and exclusionary behaviour of other public agencies it funds, that is the problem. If we are ever to hope to achieve a key objective of this report to 'build back fairer' coming out of this pandemic our overriding recommendation is for Welsh Government to become a model of best practice and use its considerable influence and financial powers in Wales to bring about change in all organisations across this nation.

## **Key findings: the social versus the medical models of disability**

DPOs have expressed widespread alarm that the social model of disability has been largely discarded during the pandemic. The social model is important, because it "has been worked out by disabled people themselves... [and] experiences have shown us that in reality most of the problems we face are caused by the way society is organised. Our impairments or bodies are not the problem. Social barriers are the main cause of our problems... [and include] people's attitudes to disability, and physical and organisational barriers" (Disability Wales).

Evidence we present in this report suggests politicians, policy makers and

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professionals, have hastily reverted to using a discredited medical model of disability. This medical model defines disabled people by their medical conditions and has been criticised for primarily focusing on what people cannot do because of their differences, rather than what they can do if barriers in society were removed. Medical opinions and expert narratives have dominated the pandemic, despite the emergence of indisputable evidence that socio-economic factors played a key role in deaths caused by COVID-19. Disabled people found themselves referred to as 'vulnerable' by Government and mainstream media, which for many felt demeaning and undermined the long fought for achievements of the disability rights movement. The ease by which the social model of disability was abandoned also suggests it was poorly understood or insufficiently embedded in governance and public service decision-making. We call on Welsh Government, which formally announced a commitment to implementing the social model in 2002, to therefore immediately re-affirm this and take measures to ensure it is reflected in its actions and decision-making and in the delivery of all services it funds in Wales.

As the pandemic progressed, what was essentially portrayed by politicians as a medical crisis, gradually exposed a deeper truth laying bare a pre-existing social crisis: brought about by policies of austerity, caused by persistent under-investment in public services and our National Health Service (NHS). 'Protect our NHS' dominated the first phase of the pandemic and lockdown. Disabled people, however, began to question why this was necessary and who the NHS was being protected from? The medical priority given to COVID-19 patients intensified a longstanding and increasingly accepted trend: healthcare rationing. One that left many disabled and older people already in the system, largely abandoned. Decisions about the allocation of scarce NHS resources are essentially political and reflect dominant social values and priorities. Disabled people told us that during the pandemic they felt neither valued, or a priority.

We live in an ableist society and, as such, disabled people routinely encounter barriers in their day-to-day life. However, some measures introduced to prevent the spread of COVID-19 thoughtlessly added to these, resulting in exclusion from public spaces, social and healthcare services and access to basic medicines and food. Such experiences reinforce the importance of understanding and applying the social model of disability to all aspects of policy

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and decision-making. The abandonment of this model so promptly in favour of a medical model, we contend, has been a clear example of institutionalised ableism, further evidence of which we provide below:

- The 2011 Census reports show there were nearly 700,000 individuals in Wales with some form of limiting long-term illness or ‘disability’, or 22.7% of the population. 10.8% reported that their day-to-day activities were limited a little, and the remaining 11.9% were limited a lot. More recent **estimates from the Annual Population Survey (APS)** (year ending September 2020) show that there were 415,600 disabled people (Equality Act 2010 definition) aged 16 to 64 in Wales, representing 21.9% of the 16 to 64 population.
- In March 2020, the Equality and Human Rights Commission (EHRC) raised serious concerns that the redeployment of care professionals to respond to coronavirus, risked leaving disabled and older people ‘exposed’ and unable to access vital services. This was at a time when the availability of carers, because of the need for self-isolation and sickness, was reduced, anyway.
- The EHRC (2020) also drew attention to the fact that disabled people have not only been more likely to die of the virus but have also suffered significant financial hardship and poverty because of the pandemic: a key cause of poor health in the first place.
- A wide range of DPOs alongside the British Institute of Human Rights (BIHR) and the EHRC, challenged the use of ‘Do Not Attempt to Resuscitate’ (DNAR) notices during the pandemic. The wider issue of medical discrimination, which has had the effect of restricting access to medical treatment, has also been highlighted. The indiscriminate application of DNAR notices to whole groups, for example people with learning disabilities and older people, we believe, also reflects acceptance of the discredited medical model of disability and the application of a hierarchy of ‘worth’ when gaining access to healthcare (see also EHRC, 2020; Mencap cited in The Observer, February 2021).
- Central Government definitions of ‘at risk’ groups based on narrow age or medical criteria during the pandemic, were adopted by devolved administrations and have been widely criticised by DPOs. We question the central role attributed to GPs in defining who was included or excluded from the official ‘shielding’ list, which determined access or priority to essential services. This medical model excluded groups of disabled people with

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‘stable’ or ‘established’ impairments and only later was any consideration given to the extent to which people were socially excluded and, therefore, also ‘at risk’.

- Disabled people have been excluded and, in some instances abused, in public spaces during the pandemic because of the introduction of new mandatory behavioural requirements, too often based on confusing medical guidance. Such guidance often failed to consider the accessibility requirements of different impairment groups, severely and unnecessarily disadvantaging disabled people. We acknowledge that Welsh Government have responded to complaints received from DPOs as they have arisen. However, change has often been inadequate because it has been reactive rather than proactive: highlighting further the need for genuine co-production in the formulation of policy and decision-making.
- Disabled people’s rights to independent living have been eroded during the pandemic and there has been an increase in the use of discretionary powers by officials in decisions affecting them. This is a worrying development that signals a reassertion of the medical model of disability. Particular concerns have been expressed by groups representing people with learning disabilities, some of whose members are in institutional settings, where complaints have been raised about being excluded from decision-making, effectively rendering them passive (All Wales People First (AWPF): Steering Group meeting 20 November 2020).
- We elaborate further the impact of COVID-19 on disabled people’s human rights in the next section. It should be noted, however, that emergency legislation introduced by Westminster and regional Governments during the pandemic has had profound consequences for disabled people’s rights. The sense of fear and anger that ‘the clock has been turned back’ among disabled people in Wales needs to be conveyed and acknowledged. This report argues that transgressions of disabled people’s human rights were largely a consequence of the abandonment of a social model of disability, the reflex re-adoption of a discredited medical model and the associated devaluation of disabled people.

## Recommendations

The pandemic has clearly exposed the inadequacies of the medical model of

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disability. Medical approaches will not solve what are essentially social problems, requiring political solutions. This highlights the need for Welsh Government to ensure through current and future initiatives, that disabled people are properly represented among senior decision-makers: only by being present around the table, will their interests be considered when Government reacts to crisis situations.

Our evidence suggests that the re-emergence of a medical model of disability in decision-making has contributed to disabled people's basic rights being transgressed. We call on Welsh Government to ensure all its employees, contractors and recipients of its funds receive and satisfactorily complete, mandatory diversity and inclusion training. It is vital that the key principles of the social model of disability and co-production are understood by all providers of public services in Wales. "Nothing about us without us" was adopted by groups representing disabled people because historically, disabled people have been told what is best for them. Our recommendation, therefore, is that disabled people are fully involved in the delivery and accreditation of this training.

In agreement with the EHRC (2020), we ask Welsh Government to review the role of GP's and other medical professionals in the identification and categorisation of individuals at 'high risk' or 'shielding' groups. Given the possibility that COVID-19 and its variants may be a feature of our lives for many years to come it is important that a policy that defines 'at risk' groups in Wales is socially shaped not just medically defined, as has previously been the case and that disabled people's organisations are involved in this process.

The link between values, attitudes and actions is irrefutable. Almost all of the disabling factors in our society are rooted in the dominance of the medical model of disability over the social model resulting in ableist cultures, practices, behaviours and unquestioned exclusionary attitudes. We recommend that Welsh Government challenge ableism through a national public campaign and that the history of disabled people and the disability rights movement, including the development of the Social Model of Disability, is included in the National Curriculum of all schools in Wales.

We strongly recommend Welsh Government launch their own investigation and lead a call for the UK Government to establish a national enquiry into the scale

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and reasons affecting the disproportionately large number of COVID-19 deaths among disabled people during the pandemic. This would meet a key recommendation by the Bonavero Institute for Human Rights at Oxford University, who included this in its evidence to the House of Commons Women and equality Committee into the unequal impact of COVID-19. The scope of any such enquiry could be extended to include other interrelated themes our evidence identifies.

The impact of the pandemic on disabled people's human rights is explored in greater detail below. Many such human rights have been undermined as a consequence of Governments reverting to a default medical position when reacting to threats caused by the virus. We urge Welsh Government to reverse this situation immediately by prioritising new human rights legislation.

## **Key findings: human rights**

### **Ableism**

Refers to discrimination and prejudice against disabled people based on the belief that there are typical or 'ideal' visible or non-visible human characteristics (physical, mental, behavioural) that conform to a 'norm' and are, therefore, superior. It is rooted in an assumption that disabled people need 'fixing' and indeed, want to be, 'fixed'. An example of an ableist world view is where non-disabled people give little or no thought to how people with different impairments will access an opportunity on a 'level playing field', because it is assumed that a level playing field is not achievable.

### **Institutional ableism**

Consists of a set of practices, beliefs and prejudices that systematically exclude and disadvantage disabled people. Institutionalised ableism can be intentional but is often so embedded in an organisations' culture and practices, that it is neither recognised nor challenged. It is the everyday, taken-for-granted character of institutional ableism that makes it so powerful and difficult to

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address. Examples of institutionalised ableism would be where decision-making takes no account of the different physical barriers experienced by disabled people, or the duty (legal, social or moral) to anticipate, offer and implement, reasonable adjustments.

## Disabled People's Organisations (DPOs)

Sometimes referred to as Deaf and Disabled People's Organisations (DDPOs) are organisations that are run and controlled by disabled people to represent the interests of disabled people. The majority of the Board of Trustees must be disabled people. DPOs differ from disability organisations, which are run for but not led by, disabled people.

## Disability Budgeting

This involves analysing a budget's differing impacts on disabled and non-disabled people to guide the allocation of resources to address a range of inequalities that have become embedded in public policies. Such budgets recognise the different situation and needs of disabled and non-disabled people and aim to promote disability equality.

## Equality Impact Assessment (EIA)

Public bodies have legal duties to eliminate unlawful discrimination, advance equal opportunities and promote good relations between people. Where financial and service delivery decisions are taken, proposals must be made that are assessed to ensure that groups with protected characteristics will not be discriminated against by the decision. The EHRC provides resources on conducting [equality impact assessments](#).

## Independent living

“Independent living” means all disabled people having the same freedom,

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dignity, choice and control as other citizens at home, work, in education and in the community. It does not mean having to live by yourself or do everything for yourself. It means rights to practical assistance and support to participate fully in society on the same basis as others as well as to voice choice and control over how this is provided. It is about ensuring people of all ages and from all communities are able to maintain independent living, enjoy well-being and access **appropriate support** when and how they need it.

## **Medical model of disability**

Historically, policymakers and service providers have viewed disabled people through a Medical Model, where a person's impairment is seen to be the thing which disables them. This is also referred to as a 'deficit' model of disability. The aim is to 'fix' the disabled person so that they fit in better with society, rather than society adjusting to accommodate people with impairments. Welsh Government have adopted the Social Model of Disability, which primarily seeks to remove barriers to participation.

## **Social model of disability**

This was developed by the disability rights movement and in the UK the social model makes an important distinction between 'impairment' and 'disability'. It recognises that people with impairments are disabled by barriers that commonly exist in society. These barriers include negative attitudes, and physical and organisational barriers, which can prevent disabled people's inclusion and participation in all walks of life.

Welsh Government recognises the need for society to be transformed, removing barriers so that disabled people are able to participate fully.

## **Reasonable adjustments**

The Equality Act 2010 requires service providers and employers to make reasonable adjustments to enable disabled people to fully access services and

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employment. What is 'reasonable' depends on factors such as affordability but most significantly, on whether it helps to remove the substantial disadvantage that a disabled person is placed at if an adjustment is not made. Many adjustments are very straightforward and inexpensive and benefit non-disabled people, for example, flexible working practices. Some adjustments can be funded by Government agencies such as Access to Work, who provide advice and resources to fund assistive technologies and equipment.

Disabled people's human rights, including the basic right to independent living, have been discarded during the pandemic. It is clear to us that measures to ensure that these rights cannot be eroded in this way again urgently need to be taken, by enshrining fundamental rights and safeguards into future Welsh law. As the pandemic progressed, the original perception that this was a situation that affected everyone equally, was challenged. In a briefing to First Minister of Wales Mark Drakeford, as early as April 2020, WEN Wales began with: 'We are not all in this together': a reality that became increasingly apparent to all as time went by.

This enquiry found DPOs across Wales have been justifiably alarmed by the consequences of the Coronavirus Act (Commencement No 1) (Wales) Regulations 2020, which suspended key provisions in the Social Services and Well-being (Wales) Act 2014, unless services were needed to protect an adult from abuse, neglect, or a risk of abuse or neglect. Throughout the pandemic, Disability Wales, on behalf of a range of DPOs, raised concerns that unlike the suspension of the Care Act (2014) duties in England, there had been no express requirement to avoid breaches of the European Convention on Human Rights in Wales.

The right to live and act independently is central to disabled people's human rights and has been duly recognised by Welsh Government (see: Action on Disability Framework). A range of human rights issues affecting disabled people during COVID-19, which conflicted with this commitment, were identified in our evidence. We welcome the Deputy Minister's recent consultation and commitment to suspending the modifications to the Social Services and Well-Being Act. We now call on Welsh Government to prioritise the incorporation of the United Nations (UN) Convention on the Rights of Disabled People (UNCRDP) into Welsh law.

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Early in the pandemic, the British Institute for Human Rights (BIHR) and Welsh National Disability Umbrella Organisations, signalled concerns that the rights of disabled and older adults, children, carers, and those detained in mental health hospitals, would be breached if the Coronavirus Bill were passed. They expressed concerns that obligations of local authorities to assess people who have (or may have) care and support needs under the Care Act 2014 and the Social Services and Well-being (Wales) Act 2014, would be reduced. Subsequent evidence has confirmed these warnings were justified.

Disabled people experienced a significant reduction in essential services during the pandemic, partly as a consequence of restrictions on freedom of movement, but also as a consequence of a relaxation in the obligations upon local authorities and other public bodies to meet their requirements (Research Institute for Disabled Consumers, April 2020; Oxford University, 2020).

The Bonavero Institute for Human Rights at Oxford University in July 2020 commented that: “there has been a failure of the government to embed social and human rights models of disability in its pandemic response”. In doing so, it also made the statement that the “government’s policymaking in response to the pandemic has failed to fulfil its own Public Sector Equality Duty under the Equality Act 2010 with respect to disabled people”.

The Steering Group raised concerns about a “lack of transparency” in local decision-making during lockdown, resulting in service inequalities and confusion, including, for example, the varying provision of free school meals or financial equivalent. Questions about how fair, and to what extent pausing measures under the Social Services and Well-being Act, were consistent, were also discussed.

The key principles of ‘Voice, Choice and Control’, regarded as central to the philosophy underlying the Social Services and Wellbeing Wales Act (SSWWA) 2014 (and other key Welsh legislation), have been seriously eroded during the pandemic. It is, therefore, important that they are swiftly re-established. In August 2020, All Wales People First were among DPOs to report the negative effects on their members of, among other things, inaccessible information and poor consultation during the pandemic and the serious detrimental effects on disabled people’s human rights.

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The Human Rights Act provides every child with a right to education (Article 2, Protocol 1), to make decisions about their own lives (Article 8) and to not be discriminated against (Article 14). Human rights groups (see BIHR, 2020) argue these have been breached by The Coronavirus Act. Despite calls by the EHRC (2020a) for support to be reduced for the shortest period of time to children with special educational needs (SEND), it was noted by the Commission that this group have been disproportionately affected during the pandemic (EHRC, 2020b). Research with parents of children with SEND from the University of Sussex (August 2020) found 4 out of 10 parents felt they received no support from educational or other agencies during lockdown.

The application of DNAR notices to disabled people was raised as a human rights violation early in the pandemic by a range of DPOs, the BIHR and the EHRC. In May, the EHRC (2020) also raised concerns about easements in the Care Act provided in the Coronavirus Act 2020 and the disproportionate impact on disabled and older people.

Grave concerns were raised in the first lockdown and subsequently (EHRC 2020b) about the lack of Personal Protective Equipment (PPE) in residential settings, where it is often forgotten that some disabled people reside. Little attention has been paid to restrictions on disabled people's rights to live independently and their liberty in comparison to older people in similar institutional settings. The EHRC has also reported instances where care home residents were told they could not access hospitals.

The EHRC (2020a) have raised concerns about the detention of people suspected of carrying coronavirus and relaxation of crucial safeguards on detention set out in the Mental Health Act.

In April 2020 Human Rights Watch reported that conditions in some refugee camps and places for displaced people were so poor that people were unable to wash, socially distance or access clean water and toilets. For disabled people at higher risk of COVID-19 infection this has been particularly problematic, especially because accessible information has also been lacking.

A recent enquiry into the criminal justice system by the EHRC found people with some impairments (for example a learning disability, mental health), find it

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difficult to participate fully in proceedings using courtroom video and audio links. Appropriate adjustments must be put in place to maintain their ability to access a fair trial (EHRC 2020b). Evidence from Learning Disability Wales submitted to South Wales Police in July 2020, also highlights concerns that police officers are not adequately trained to respond appropriately to disabled people when enforcing lockdown rules. Rule ambiguity has also been found to lead to “vigilantism”, which autistic people have particularly reported as stressful.

In July 2020, in its submission to the Women and Equalities Committee sub-inquiry that examined the unequal impact of COVID-19 on disabled people, The Law Society said:

“ Broadly speaking, remote hearings have proceeded for those detained under the Mental Health Act 1983, though our members report difficulties involved in assessing a person’s physical state remotely. Furthermore, discharge of patients has been made less likely as a result of social distancing measures and the lack of available community services. Members have also reported discrepancies between hospitals’ access to remote facilities, such as video conferencing facilities for patients to speak with their representatives. Further difficulties are encountered by members representing a person whom they are unable to meet, due to blanket bans on visitation. ”

The UN Committee on the Rights of Disabled People (UNCRPD) has recently commented that a disabled person in the UK is often seen as living a ‘life less valued’ (Hoffman, November 2020). This is an experience reported by many disabled people during the pandemic and must be challenged in Wales. The UNCRPD’s statement on COVID-19 and the human rights of disabled people expressed grave concern that the pandemic has revealed that the Convention on the Rights of Persons with Disabilities has not been comprehensively implemented by States.

Acknowledging that disabled people are at particular risk because of pre-existing and “entrenched discrimination”, the UNCRPD has called for “Critical and urgent action” to ensure that disabled people are explicitly included in public emergency planning and health response and recovery efforts. The statement concludes

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that “a human rights approach is critical to response and recovery efforts not only in relation to the COVID-19 pandemic, but also to ensure that States take action now to build equitable, sustainable and resilient societies that have the mechanisms”.

## Recommendations

We strongly recommend that Ministers incorporate the UN Convention on the Rights of Disabled People (UNCRPD) into Welsh law, as a priority. This “sets out the rights of disabled people and provides a framework for action on how these rights are protected and enforced” (Disability Wales, December 2020). Human rights are the responsibility of Government at all levels under the Convention.

Our enquiry has highlighted the detrimental impact on disabled people’s rights to independent living of Schedule 12 part 2 of the Coronavirus Act, which suspended key duties under the SSWBA. We welcome Welsh Government’s recent consultation on this and its commitment to rescind Schedule 12, part 2, as soon as possible. However, Article 19 of the UNCRDP commits to independent living and sets out a framework, which we recommend Welsh Government and local authorities use. To include, among other things, a recommendation from Disability Wales (December 2020) that disabled people have the right to directly hire Personal Assistants through direct payments from their local authority.

We are aware that Welsh Government have commissioned research on ‘Advancing and Strengthening Equality and Human Rights in Wales’, coordinated by Swansea, Bangor Universities and Diverse Cymru. Evidence from the incorporation of children’s rights into Welsh law suggest more attention has been paid to their human rights in policy and legislation and in impact assessments. On this basis, we strongly recommend disabled people’s rights are afforded the same legal status by Welsh Government, as soon as possible.

In the short term we recommend the First Minister appoint a Minister for Disabled People, to signal the commitment of Welsh Government to disabled people’s human rights and full participation in Welsh life. In the long term we recommend establishing a dedicated Disabled People’s Commissioner in Wales,

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with a similar role to the Commissioner for the Welsh Language, Older People, Children and Future Generations. The gap created by the loss of the Disability Rights Commission has never been filled in Wales, or the wider UK. This would go some way towards addressing this gap if, alongside this, Wales had a more proactive and better resourced EHRC.

We recommend that Welsh Government continually review and ensure that clear, accessible and consistent guidance about COVID-19 fully complies with equality and human rights laws and standards, including the principles of individual autonomy and non-discrimination as recommended by the EHRC (2020).

We call on Welsh Government to ensure that the key principles of 'Voice, Choice and Control', as outlined in the Social Services and Wellbeing Wales (Act) 2014 (and other key Welsh legislation), are firmly re-established following their erosion during the epidemic. We draw attention to the way in which confusing and inaccessible information and poor consultation has had a detrimental impact on disabled people's human rights (AWPF, August 2020).

Echoing the EHRC (2020b) and the Third Sector Additional Learning Needs Alliance (July 2020) recommendations, we recommend Welsh Government ring-fence the part of the Government's pandemic grant to local authorities that ensures children with SEND who stay at home receive appropriate and essential equipment, training materials and social care. As pupils return to school, we call on the Welsh Government Education Department to monitor the characteristics of pupils returning and remaining at home, to ensure that disabled pupils are not being excluded or disadvantaged (Guide Dogs Cymru, July 2020).

The use of Equality Impact Assessments (EIAs) as an available tool during the pandemic have been conspicuously absent. We call on the Welsh Government to ensure that EIAs are properly used and are not just consultation exercises, but opportunities to genuinely co-produce action plans and evaluations with people and people with other protected characteristics.

The EHRC in Wales is increasingly perceived as a regulator, rather than an advocate or initiator of Equality and Human Rights. This enquiry calls on the Welsh Government to lobby the UK Government to extend the powers and

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scope of the Welsh EHRC and address its long-term under-funding. Groups with protected characteristics, including disabled people in Wales, have been left exposed and poorly represented before and during this crisis and must be at the centre of decision-making if Wales is to recover.

In terms of access to justice, we call for guidance on video and telephone hearings across all courts and tribunals in Wales to refer to the need to consider and make reasonable adjustments for disabled people and recommend the effects of this guidance should be kept under review.

When installing handwashing stations and sanitation facilities in refugee or detention facilities governments and humanitarian organisations need also to ensure they are accessible to everyone. Information on protection from the virus and information on how to get testing and treatment needs to be accessible to people with different types of impairments. We call on Welsh Government to lobby the Home Office to ensure these measures are in place.

This enquiry calls for Welsh Government to afford social care services in Wales the same status as the NHS which is regarded as a key infrastructure service.

To ensure that the core principles of the UNCRPD are embedded in service delivery in Wales, we recommend that Welsh Government provide funds to support local authorities in enforcing actions resulting from its implementation and ensure that disabled people's organisations are present in every local authority (Disability Wales (DW) Manifesto, December 2020).

The Law Society of England and Wales (July 2020) suggest the Department of Health and Social Care (DHSC) consider providing national guidance with practical examples as to what constitutes a breach of the European Convention on Human Rights (ECHR), because local authorities lack experience in carrying out comprehensive Human Rights Act assessments. In the absence of such guidance, we recommend national guidance and toolkits are produced in Wales, to ensure consistency, reassurance and a method for recording decision making.

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## Key findings: health and well-being

As a group, the UN Human Rights Office of the High Commissioner notes that disabled people have been left uniquely exposed and disadvantaged during the pandemic. Disabled people, it argues, are more likely to have pre-existing health conditions, making them more susceptible to contracting the virus and experiencing severe symptoms upon infection. They are also more reliant upon publicly provided services for their daily living, yet many such essential services were withdrawn or rationed during the pandemic, often at short notice. Some disabled people were left isolated and unable to survive during lockdown, others unable to access information and essential long-term healthcare. Disabled people living alone and in institutions were particularly vulnerable, as evidenced in the latter case by the overwhelming numbers of deaths in residential care homes and psychiatric facilities.

The Wales Disability Reference Group issued a statement during the pandemic. It reaffirmed disabled people's rights to benefit equally from treatment within the health service, whether for coronavirus or for any other health issue, arguing that this must not be influenced by the way disabled people's lives are (de)valued in society. The Group also reaffirmed the fundamental right of disabled people to be fully involved in decisions about their own lives, including decisions about life and death.

The, at times, shocking evidence we present below contradicts many of the core values so eloquently expressed by both the UN and the Wales Disability Reference Group. Official statistics expose how disabled people in Wales bore the brunt of COVID-19 deaths: a fact we note that has barely been commented upon by national or regional media. This is a 'silence' that suggests a certain acceptance of a degree of inevitability among politicians, the media and the public, which we do not and cannot accept, because to do so would make us complicit with the implied conclusion that disabled people's lives are more expendable.

As noted in our section on human rights, the EHRC has raised serious concerns about disabled people experiencing medical discrimination during the pandemic. Warnings about the long-term impact of pandemic related social

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restrictions on people's mental health and well-being have also been issued. 'Explanations' for instances of discrimination tend to suggest these were unintentional acts that occurred in crisis conditions. We question this and believe an investigation is needed into the extent to which under-investment in social and health services, which has seen an accountancy culture increasingly replace values of collective welfare and an ethical approach to evaluating human need, has had a pernicious effect on health-care decision-making in relation to disabled people. Healthcare rationing, as noted, was already a feature of the NHS pre-pandemic. The crisis simply highlighted the impossible position many staff in front-line service delivery roles are placed in when faced by limited resources. It also reaffirms why it is so important that medical professionals and clinicians, as well as politicians involved in key decision-making about resources, understand the social model of disability. This is the only approach that can hope to unravel the complex social factors that have contributed to what is predicted to be an historic mental health and well-being crisis facing Welsh society, coming out of this pandemic.

Data published in September 2020 by the ONS shows that in the period March to July 2020, 68%, or almost 7 in every 10 COVID related deaths in Wales were disabled people. People with a learning disability were disproportionately more likely to die from COVID-19 (AWPF, 2020). Evidence also suggests that this death rate was not the inevitable consequence of impairment, as many deaths were rooted in socio-economic factors.

More recent analysis of COVID-19 related deaths by disability status was published by the ONS in February 2021. This analysis focussed on deaths occurring between 20 January 2020 and 20 November 2020 in England only. It showed that the risk of death involving the coronavirus (COVID-19) was 3.1 times greater for more-disabled men and 1.9 times greater for less-disabled men, compared with non-disabled men; among women, the risk of death was 3.5 times greater for more-disabled women and 2.0 times greater for less-disabled women, compared with non-disabled women. After using statistical models to adjust for personal and household characteristics, including residence type, geography, demographic and socio-economic factors, and pre-existing health conditions, a smaller but statistically significantly raised risk of death remained unexplained for more-disabled and less-disabled women (1.4 and 1.2

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times respectively) and more-disabled men (1.1 times) but not for less-disabled men. This means that no single factor explains the considerably raised risk of death involving COVID-19 among disabled people, and place of residence, socio-economic and geographical circumstances, and pre-existing health conditions all play a part; an important part of the raised risk is because disabled people are disproportionately exposed to a range of generally disadvantageous circumstances compared with non-disabled people.

In November 2020, a report by Public Health England examined data from The English Learning Disabilities Mortality Review and NHS England's COVID-19 Patient Notification System (CPNS), which records deaths in hospital settings. It found 451 per 100,000 people registered as having a learning disability died with COVID-19 between 21 March and 5 June: a death rate 4.1 times higher than the general population after adjusting for other factors such as age and sex. Not all such deaths are registered on these databases, thus researchers estimate the real rate may have been as high as 692 per 100,000, 6.3 times higher.

Deaths were more widely spread across the age spectrum in this group, with far greater mortality rates in younger adults, compared to the general population. The death rate for disabled people aged 18 to 34 was 30 times higher than the rate in the same non-disabled age group. COVID-19 related deaths for adults in residential care were higher than for adults with learning disabilities generally.

Comparison of deaths of people with learning disabilities from COVID-19 with deaths among all Welsh residents, suggests that the age-standardised rate of deaths is around 3x to 8x higher in this cohort than the population as a whole (Public Health Wales, Watkins and Improvement Cymru, 2020).

In terms of mental health and well-being, in May 2020 the ONS reported that prior to COVID-19 (in the year ending June 2019), the average rating for anxiety was 4.3 out of 10 for disabled people. Disabled people's average anxiety rating increased following the outbreak of the coronavirus pandemic to 5.5 out of 10 in April 2020, before decreasing to 4.7 out of 10 in May 2020. 41.6% of disabled people, compared with 29.2% of non-disabled people, continued to report a high level (a score of 6 to 10) of anxiety in May 2020.

Data published by the ONS in September November 2020, found a higher

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proportion of disabled people (83% compared with 71% of non-disabled people) were “very worried” or “somewhat worried” about the effect of Covid-19 on their life. Around 50% of disabled people in receipt of medical care before the pandemic indicated that they were either currently receiving treatment for only some of their conditions (29%), or that their treatment had been cancelled or not started (22%). This compared with less than (27%) of non-disabled people who had a physical or mental health condition or illness and were receiving care before the pandemic. Over 45% of those disabled people reporting a reduced level of treatment or cancellation of treatment in September 2020, reported that they felt their health had worsened.

All well-being ratings of disabled people were poorer in September 2020 when compared to a similar period prior to the coronavirus pandemic. Almost half (47%) of disabled people reported high anxiety compared with less than a third (29%) of non-disabled people. Furthermore, disabled people reported more frequently than non-disabled people that the pandemic is affecting their well-being because it makes their mental health worse (41% for disabled people and 20% for non-disabled people); they feel lonely (45% and 32%); they spend too much time alone (40% and 29%).

‘Worries about the future’ is among the most frequently cited ways well-being has been affected for both disabled (68%) and non-disabled people (64%). In September 2020, disabled people were less optimistic about the future than non-disabled people: 11% of disabled people thinking life will never return to normal compared with only 5% of non-disabled people.

Data collected by The Fawcett Society focuses on the impact of the pandemic on women’s mental health and well-being. 56.4% of disabled women reported finding social isolation difficult to cope with, compared to 41.6% of non-disabled women. 42.2% of disabled women said that social isolation was making relationships at home more difficult, compared to 37.0% of non-disabled women. Just 24.9% and 28.9% of disabled women reported having high (7 or above on a 0-10 scale) life satisfaction and happiness respectively, compared to 38.6% and 39.9% of non-disabled women. Anxiety was highest among women overall, but particularly disabled women. Over half of disabled women (53.1%) reported high anxiety.

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A recent survey by the Chronic Illness Inclusion Project (2020), of over 2,300 people living with an energy-limiting condition, found social isolation and loneliness were rated as the biggest social problems they faced. Almost half of respondents with energy limiting conditions reported a comorbid mental health problem. A report by FTWW (2020) concluded that worsening symptoms and lack of access to treatment were of major concern to women living with chronic or recurrent health conditions in Wales, alongside deteriorating mental health.

In a survey of 936 disabled people (GMDPP, July 2020) 83% were worried about how they would be treated in hospital because of attitudes towards disabled people. 90% reported the pandemic had had negative effects on their mental health and 56% had found it difficult to source PPE. Other surveys (e.g. the FDF, 2020) found 4 in 5 of disabled respondents said COVID-19 was having an impact on their mental health and that they needed further confidence to integrate into the 'new normal'.

As noted in our section on human rights, a range of organisations including the EHRC criticised changes to the Mental Health Act during the pandemic. The EHRC (2002a) alerted the Government to the need for care when detaining people who are suspected of carrying coronavirus and relaxing crucial safeguards on detention: recommending exemptions only extend as far as is absolutely required, both in time and scope and, are regularly monitored and adjusted.

Mental health services during COVID-19 were disrupted and experienced rising demand. In North Wales 1,700 patients were wrongly discharged and fewer people with mental health conditions contacted their GPs across Wales, compared to the same time last year (Swansea University Medical School: cited by BBC WaThe Hidden Cost of Covid. 2020. BBC 1, 9 November 20:30).

Physical distancing, social isolation and social and economic impacts are known to worsen mental health consequences. Evidence also suggests that some groups have experienced significant increases in depression and anxiety as a consequence of social distancing requirements (Autistica, 2020; National Autistic Society, 2020; Equality, Local Government and Communities Committee Consultation, June 2020; RNIB, 2020). Research about the psychological impact of mass trauma suggests people from marginalised groups experience particular

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harm to their mental health. The interrelationship of mental and physical health is also acknowledged by the American Psychological Association (2020), who note correlations between social isolation, loneliness and health conditions, such as heart disease and dementia.

According to research undertaken by the Family Fund during the pandemic (September 2020), the mental health and wellbeing of the majority of disabled or seriously ill children, as well as their siblings and parent carers has been negatively impacted and they are reportedly showing little sign of recovery.

Evidence suggests easements to the SSWB Act in the Coronavirus Act 2020 disproportionately affected disabled and older people, leading to significant reductions in essential support, which led to physical and mental deterioration. Such interruptions in service delivery were compounded by the redeployment of those that usually providing such services away from disabled people's services and poor availability of PPE (BIHR, 2020; EHRC, 2020a and b).

As reported in the section on human rights and according to evidence submitted by the EHRC to the Women and Equalities Committee, inquiry on COVID-19 and its impact on people with protected characteristics, some GP surgeries in the UK, including one in Wales, sent blanket communications to disabled and older patients asking them to consent to DNAR notices, despite them having non-pertinent health conditions. The EHRC (2020a) also found DNAR notices being applied to 'care' plans for older or disabled people in residential homes without proper consultation.

There have been reports of discretionary powers being introduced during the pandemic that have been inappropriately used to restrict the freedom of disabled people in institutional settings affecting their health and well-being (United Nations, 2020).

According to a survey of disabled people in Wales (DW December 2020) just 15% of respondents felt that their rights are enforced in health and social care, 56% of respondents do not think they are enforced and 29% do not think they are well enforced at all. We also found evidence to suggest a clear relationship between reductions and withdrawals in available social care during the pandemic and a negative impact on well-being among disabled people. Survey

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evidence from Mencap (August 2020) shows that people with a learning disability, for example, have experienced a negative impact on their mental health (69%), relationships (73%), physical health (54%) and independence (67%), according to family carers.

Ethical concerns have been raised about the way certain groups have been prioritised in decision-making about who should receive the coronavirus vaccine and the position of disabled people in that priority category list has been questioned (20 November 2020 Steering Group meeting).

Fair Treatment for The Women of Wales (FTWW) in their 2020 Manifesto raised concerns about how patients in the Welsh health service during the pandemic and post-pandemic, will or have been prioritised and the long-term impact of these judgements. They express particularly concerns about access to specialist services in Wales, which were already in short supply or inaccessible pre-pandemic. Attention is drawn to the fact that women's health is not mentioned once in Welsh Government's long-term strategy, 'A Healthier Wales', despite the prediction that conditions such as endometriosis (affecting 1 in 10 women) will now see a 3 year plus waiting time in one specialist centre in Cardiff and autoimmune conditions (80% female prevalence) have no centres of excellence in Wales.

Concerns have been raised about the access of long-term users of NHS services for non-Covid-related health conditions in Wales (for example Fight for sight, 2020). In the first lockdown 54% fewer patients received operations in Wales and it is estimated that it could take over three years to address patient backlog, with 49,000 people in Wales waiting more than one year for treatment: a ten-fold increase on last year (Swansea University Medical School: The Hidden cost of COVID, 2020, BBC1 9 November 8:30pm). Criteria to decide how patients will be prioritised post-pandemic will be important and must be non-discriminatory.

Increased reliance on the voluntary sector to ease the burden on statutory service providers and to meet the complex needs of citizens during the pandemic has highlighted the value of community-based services (especially smaller organisations). The Voluntary Sector Health, Social Care and Wellbeing Group (2020), while broadly supporting the Welsh Government's 'Connected

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Communities Strategy' for 'social prescribing' have called for future funding commitments to be made explicit sooner, rather than later, to ensure continuity.

During the pandemic numerous DPOs and academics (Park, August 2020) highlighted the relationship between low health literacy and some impairments. One example is research that found that, compared to hearing older adults, Deaf older adults and those experiencing hearing loss, may be at greater risk of COVID-19 related outcomes. Contributing factors are poor access to public information and inaccessible health services caused by an over-reliance on telephone services and inadequate provision of interpreters.

Members of the Steering Group relayed instances of disabled people requiring a diagnosis or treatment plan because they are attempting to secure reasonable workplace adjustments, Access to Work funding and welfare benefits such as PIP. Eligibility to benefits and resources of this kind are often dependent on medical evidence and the pandemic has severely slowed down this process.

The provision of Advocates is a requirement of the Social Services and Wellbeing Wales Act. Members of the Steering Group, however, raised concerns that individuals need to be sufficiently empowered to understand their rights and seek out suitably trained advocates, if required. It was felt it is essential that Welsh Government ensure Advocacy services in Wales are sufficiently resourced and available/accessible to all disabled people.

Findings from three surveys (April, May and June 2020) by the Research Institute for Disabled Consumers, tracked the impact of COVID-19 on disabled and older people. It found two thirds of 'shielders' were 'extremely uncomfortable or uncomfortable' about leaving the house and that only 1 in 10 received communications from their GP and NHS following easing of shielding restrictions. Concerns were also expressed about accessing medical appointments and medicine (42% and 38% respectively). Asked whether health and care professionals or PAs wore PPE when visiting, only 69% originally responded positively, though this figure in later surveys rose to 88%. In the latest survey, 31% of respondents remained concerned about the level of care they were currently receiving, or about the way it was provided.

Maternity provision has been uneven across health boards in Wales during the

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pandemic. A report by FTWW (November 2020) found increased levels of stress, anxiety, mental health distress and baby loss among women. Additional barriers have been experienced by disabled women, including the accessibility of COVID-19 compliant maternity environments. Where there has been a genuine need to be accompanied by an advocate or partner, disabled women have had problems conveying this and other adjustments in respect of revised processes and practices. After-birth care, including visits from health visitors to the home have been largely cancelled and conducted over the phone, excluding many mothers who are Deaf or have hearing loss. Evidence also suggests perinatal mental health issues are less likely to be identified in the absence of face-to-face appointments. It will be necessary to assess the long-term effects on future generations of inadequate and inaccessible maternity services.

Disabled people report trying to access services via their GP and experiencing poor communications between NHS departments and agencies within Wales and between Wales and England. Incompatible databases and software between different providers seem problematic and disjointed communications often mean service users with multiple impairments are expected to facilitate actions between different specialists, or across borders, at a time when they are unwell and need support. Such barriers increase stress, exacerbate health conditions and poor mental health. The pandemic has worsened pre-existing barriers. Patient-centred, human rights-based and social model approaches are needed to overcome current barriers experienced in the healthcare system (Steering Group).

We heard evidence from our 'intersectionality reference group' of some groups of disabled young people 'falling through the gaps' of provision during the pandemic. Among these were young people that had recently left care, young mothers who had their personal assistant support removed and children in care who received no contact with families. One person who worked with young trans people, reported that all support had been stopped and autistic trans youth had particularly struggled to understand what was going on.

A survey of over 600 carers across Wales (Carers Wales, 2020) found many were unaware of, or having to fight for, advice and support. Only 38% had seen information that would help them in their caring role and 41% had not heard of the Carers Needs Assessment. The number of unpaid carers rose from 1 in 6 to

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over one fifth of the population in Wales during the pandemic, which is an estimated 683,000 carers. Many will be ‘hidden’ carers and, having taken on caring responsibilities during the pandemic, may find it difficult to relinquish them.

## Recommendations

In the light of evidence presented we reaffirm our call for an urgent public enquiry into the disproportionate number of deaths among disabled people in Wales and the wider UK during the pandemic. There is a need to better understand and challenge factors that have led to a perceived acceptance of these deaths. An enquiry would review the range of evidence and recommendations made by this report but be capable of developing legally enforceable actions and remedies. The enquiry must be co-produced with disabled people and ensure intersectional equality issues are addressed. We recommend a clear time frame for the enquiry to report is set from the outset, to include deadlines for the implementation of recommendations.

The EHRC found evidence of medical discrimination being experienced by disabled people during the pandemic. Access to medical services ongoing medical care, rehabilitative services, and the negative attitudes of some medical professionals towards disabled people, have contributed to this. This indicates that a real culture change, including a change in attitudes towards disabled people is needed in our health services (DW December 2020). We strongly recommend that Welsh Government introduce a mandatory training requirement into the Welsh NHS, which is co-developed and co-delivered with Welsh DPOs, to begin to address this.

Opportunities to ‘build back better’ are available post-pandemic. Our report and the Black Asian minority ethnic report commissioned by the First Minister both highlight the need for health services to build genuine partnerships with diverse communities. The interrelationship of medical and social circumstances and their impact on health and mortality is now clearly established. Clinicians cannot work in depoliticised silos and Welsh health services need to ‘build back fairer’ by adopting multi-disciplinary approaches capable of addressing previously under-represented service user concerns. This will require a genuine commitment to

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funding neglected provision and co-production at every level of health service design, delivery, and evaluation and departmentally, locally, and nationally.

When routine health services eventually 'normalise', NHS Wales faces a struggle to accommodate patient needs locally. Welsh citizens lack access to some specialist services and should not be disadvantaged because of this. Clear gaps in services need to be identified early on and in line with the 'Prevention and Early Intervention Agenda', patient needs must be put ahead of barriers to care, imposed by devolved healthcare. Timely access to health and social care is needed to prevent escalating socio-economic problems that lead to a cycle of deprivation and worsening health and disability. Out-of-area referrals (including England) need to be facilitated and GPs empowered to make tertiary referrals. Pathways need to be re-examined and streamlined, putting patient choice and need at their heart. We recommend the co-production of a Patient Charter for Wales that includes diverse groups and gives patients more rights and power.

The pandemic demonstrated that different methods of health care delivery can make services more accessible to some disabled people and where this was demonstrated, we recommend this is maintained. However, some disabled people were excluded from accessing medical services reconfigured remotely. While we understand that Equality Impact Assessments were not always possible in emergency circumstances, it is important that they are now used. A hybrid model of in-person appointments (with relevant PPE) and remote appointments are recommended, but we fear that a move to remote provision will be viewed as a cheaper alternative. As such we recommend financial incentives to retain in-person provision is built into future health service planning.

Evidence demonstrates the disproportionate negative effect of the pandemic on disabled people's mental health and well-being. Factors such as isolation, loneliness, restrictions on movement, withdrawal of established social and statutory support, inaccessible services and public spaces, poor socio-economic living conditions, confusing public messaging, etc. played significant contributory roles. High levels of 'worry' and anxiety were reported among disabled people (ONS). We recommend more research is needed to better understand the relationship between these social factors, mental ill-health and disability. It is essential that social scientists and disability studies academics, as well as

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representatives from grassroots organisations are included in research advisory teams.

There is an urgent need for health and well-being data to be disaggregated by disabled status and other protected characteristics. In addition, further data is required on rates of COVID-19 infections in Wales, hospitalisations, effects on mental health and well-being: disaggregated by disability, sex, gender, age, race and income and across multiple 'high risk' groups (APA, 2020).

We request that emergency changes made to the Mental Health Act be reviewed and reversed immediately in Wales. In future we recommend that Welsh Government adopt a more nuanced patient-centred approach to the provision of mental health services, to establish a better dialogue about patient needs and preferences and mental health service delivery.

We recommend that Welsh Government invest in future research and recruit and train more local people to work in mental health services in Wales, including making it a focus of careers advice and workshops in educational settings and offering 'golden handcuffs' arrangements, with funded training packages available to those who commit to working in the field in Wales for x number of years.

We welcome the Welsh Government's 'Connected Communities Strategy' but recommend its 'success' be evaluated by reference to qualitative user outcomes and in consultation with DPOs, third sector and grassroots providers in communities. It is essential that a diverse range of users are involved in co-producing solutions and long-term (beyond three months) funding streams are made available to sustain the involvement of personnel.

It is important that Welsh Government establish priority criteria to ensure that disabled people receive timely diagnosis and medical evidence. These are often pre-conditions for accessing key areas of living, shopping, work, benefits. We also recommend Welsh Government increase funding for advocacy services to disabled people in Wales to support them in navigating and advocating their interests when dealing with health and public service providers.

We recommend an assessment of the long-term effects on future generations of

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inadequate and inaccessible maternity services during the pandemic. Accessible and specialist services closer to home require investment. We also recommend that women be allowed to self-register their requirements and that requests for reasonable adjustments are properly formalised to allow for proper consideration of whether a partner or advocate is needed at appointments.

In line with social model language and terminology, the report distinguishes between 'disability' and 'impairment'. 'Disabled people' refers collectively to people who experience disabling barriers in everyday life due to societal failure to take into account their impairments and/or health conditions when planning or delivering services.

Some barriers are impairment related and where relevant the report references the experiences of people with specific impairments or in the case of deaf people, linguistic identity. The report uses the terminology chosen by their representative organisations for example people with visual impairments, people with learning disabilities, deaf people.

The Steering Group acknowledges that the term 'people with learning disabilities' is not compatible with social model language given that 'disabilities' is used in place of impairments rather than to denote disabling barriers. However, in the absence of a social model alternative acceptable to members of their representative organisation All Wales People First, the report uses their own preferred term.

It is important to note, that deaf people who use BSL as their first or preferred language, also face a barrier of a cultural and linguistic nature. BSL has its own syntax and grammatical rules and is not a signed version of English and as such, written communication of any length is not conducive to understanding. BSL is an indigenous language of the UK and as a cultural and linguistic minority, not all deaf people consider themselves to be disabled.

The pandemic accentuated the serious lack of information in BSL compared to the myriad of literature, leaflets, advice and guidance information in written format. It has also highlighted the very limited access to information and services in BSL.

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Like many linguistic minorities, Deaf people enjoy a unique culture, as worthy of respect as any other.

## **Key findings: Socio-economic disadvantages**

### **DRC**

Disability Rights Commission, established to stop discrimination and promote equality of opportunity for disabled people. The DRC existed from 1999 to 2007 when it was replaced by the EHRC.

### **EHRC**

Equality and Human Rights Commission, a statutory non-departmental public body established by the Equality Act 2006. It brought together the work of the Commission for Racial Equality (CRE), the Disability Rights Commission (DRC) and the Equal Opportunities Commission (EOC), as well as taking on responsibility for protecting and promoting equality and human rights for everyone.

### **NICE**

National Institute for Health and Care Excellence

### **ReAct**

**ReAct** helps people affected by redundancy or unemployment gain new skills and encourages recruiting employers to employ a redundant or unemployed worker.

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## **SISS**

Self-Isolation Support Scheme, providing payments of £500 for those on low income, who cannot work from home and must self-isolate.

## **SEISS**

Self-Employment Income Support Scheme, providing grants for eligible self-employed people who have lost work and income during the pandemic.

## **TUC and Wales TUC**

The national Trades Union Congress represents all affiliated trades unions across the UK. Distinct from Wales TUC, which specifically represents trade unions in Wales that are also affiliated to the TUC nationally.

## **UNCRDP**

UN Convention on the Rights of Disabled People, when referred to using Social Model terminology. Outside the UK, it is commonly referred to as the UN Convention of the Rights of Persons with Disabilities.

## **Wales Union Learning Fund (WULF)**

**WULF** provides funding for Trade Union run 2 to 3 year training projects, to support employability skills and remove barriers to learning for traditional non-learners.

Disabled people were already known to experience significant and well documented socio-economic disadvantages pre-pandemic that have been further amplified by COVID-19. The influential Marmot reviews (2010; 2020) led by Professor Sir Michael Marmot and commissioned by the Health Foundation, established the indivisible links between socio-economic circumstances and

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health outcomes. Based on experiences in England, the reports also served to highlight the limits of devolution, given that key areas of social policy in Wales have continued to be constrained by decisions made in Westminster. In December 2020, Marmot published “Build Back Fairer: The COVID-19 Marmot Review”. This powerful evidence-based account of the impact of socio-economic inequalities on COVID-19 outcomes concludes by advocating the need for a fairer society based on principles of social justice, to reduce inequalities of income and wealth and to build an economy that puts achievement of health and wellbeing, rather than narrow economic goals, at the centre of policy.

In evidence about the impact of COVID-19 on disabled people in Wales produced for this report, we present data that demonstrates a clear link between outcomes and poverty, social deprivation, state benefits, housing and experiences of work and employment. All have contributed to the disadvantages disabled people have experienced during the pandemic. The combined weight of evidence from this report and the report produced by the First Minister’s Black Asian minority ethnic COVID-19 advisory group (June 2020) demonstrates a clear link between protected characteristic, socio-economic factors and health and well-being outcomes. Wales, like England, needs to understand its own inequalities better and our recommendations are designed to contribute to decision-making priorities moving out of this crisis, providing opportunities to ‘build back fairer’. Recognising material poverty because of socio-economic disadvantage is, nonetheless, just the first step. Welsh Government needs to distinguish itself from England and be willing to question, interrogate and challenge embedded institutionalised ableism wherever it is found in Welsh society. Only then will it be able to begin to address an even bigger historical problem faced by disabled people: a historic poverty of imagination and aspiration, which is the clear legacy of unequal opportunities.

## Relative Poverty and deprivation

A person is defined as living in relative income poverty if he, or she, is living in a household where the total household income from all sources is less than 60% of the average UK household income (as given by the median). Analysis of the most recent [Households Below Average Income \(HBAI\) dataset](#) shows that

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persons in households that include a disabled person are more likely to experience relative income poverty. Specifically:

- 37% of children who lived in a household with a disabled person were in relative income poverty, compared with 24% of children who lived in households where no-one was disabled.
- 31% of working-age adults who lived in a household with a disabled person were in relative income poverty, compared with 18% of those who lived in a household where no-one was disabled.

(Note: in the HBAI dataset, disabled people are identified as those who report any physical or mental health condition or illness, expected to last 12 months or more, and which limits their day-to-day activities a little or a lot (Equality Act 2010 definition)).

A report by Citizens Advice (2020) found 1 in 6 disabled people (16%) have fallen behind with their bills during the pandemic, compared to fewer than 1 in 10 non-disabled people (7%), suggesting pre-existing inequalities and levels of poverty have been further exacerbated.

Evidence suggests disabled women have, in particular, been pushed deeper into time, income and voice poverty, due to increasing levels of paid and unpaid care work and income insecurity as a consequence of the pandemic (Oxfam, 2020). In 2009 to 2010, 27% of Carers were in receipt of Disability Living Allowance. Carers UK found that, in 2014, only 18% of disabled carers were in work, 61% had given up work to care, and 74% of carers receiving Disability Living Allowance were on low incomes or had no-one in their household in paid work (Carers UK's Caring and Family Finances Inquiry, 2013).

The **Welsh Index of Multiple Deprivation (WIMD)** is the official measure of deprivation for small areas in Wales. Figures produced from the latest pooled APS dataset (2017 to 2019) were analysed for this report, alongside the recently released WIMD 2019 data. The resulting analysis showed that disabled people were more likely to be living in deprived areas, specifically:

- a third (32.3%) of people aged 16 to 64 living in the most deprived 10% of small areas were disabled, whereas 18.2% of people aged 16 to 64 living in

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the least deprived 50% of small areas were disabled. These figures compare with 21.8% of disabled people in the total population

- 13.8% of disabled people aged 16 to 64 in Wales were living in the most deprived 10% of small areas. This compares with 8.1% of non-disabled people aged 16 to 64 in Wales
- 57.2% of disabled people aged 16 to 64 were living in the most deprived 50% of small areas compared with 46.3% of non-disabled people.

## State Benefits

During the pandemic, there were widespread calls for the UK Government to increase key social security benefits to protect those in, or at risk of, poverty. For example, the Joseph Rowntree Trust (JRT) and OXFAM cited the need for increases in Child Benefit, Carer's Allowance, Universal Credit (UC) standard allowance, Employment Support Allowance, Disability Living Allowance, Personal Independence Payments, and others. Unlike UC, disability and sickness benefits have not risen, posing a substantial disadvantage to all disabled people, many of whom incurred additional costs associated with everyday living during COVID-19.

Evidence to support the above is to be found in a survey of 224 disabled people and people with mental health conditions. Conducted by The Disability Benefits Consortium between the 14 to 23 April 2020, it found 95% of those surveyed reported an increase in living costs. This is supported by additional evidence from a wider survey of families (Family Find, September 2020), which found half have lost income. More than 4 in 5 are experiencing increased household costs with more than 3 in 5 families reporting a decrease in levels of formal and informal support. Again, disabled women have been identified as significant low earners most dependent on 'legacy benefits' that have not increased (Women's Budget Group, 2020).

To address high levels of poverty and deprivation pre-crisis and the long-lasting impact of this crisis on household incomes, OXFAM (2020) called on the UK Government to widen the eligibility criteria for Carer's Allowance and make it available to those supporting people self-isolating. In addition, it lobbied for the removal of the five week wait for UC and the two-child limit on child benefit, to

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prevent further child poverty. To our knowledge these requests have still not been met.

A New Economics Foundation briefing (2020) on the operation of UC during the pandemic found payments to claimants were being suspended punitively and that disabled people and women were disproportionately affected. This included penalising people who missed appointments, despite restrictions during the pandemic on people's time, ability to travel and face-to-face contact.

The UK Government's self-isolation support scheme states: "You could get a payment of £500 to help with loss of earnings if you've been told to self-isolate and cannot work from home." Reports, nonetheless, suggest (BBC 20 January 2021) that three quarters of applications, many from low paid workers exposed to COVID-19 through their jobs, are being rejected. This particularly affects disabled people or people in a household living with a disabled person who have been told to shield and are often among the lowest paid.

One trade union reported the example to Wales TUC (2020) of a member with a visual impairment in a distribution site who cannot observe social distancing because of their impairment, being refused furlough. This member was inappropriately forced to take sickness absence and only received Statutory Sick Pay (SSP) (Wales TUC, 2020).

According to the TUC (Jan. 2021), the UK currently has one of the lowest rates of sick pay in Europe. Nearly 2 million workers do not earn enough to qualify for it mostly women. Workers in receipt of statutory maternity, paternity, adoption, or additional paternity pay as well as the self-employed, are not eligible to receive Statutory Sick Pay (SSP). The TUC published a poll suggesting 20% of workers who have been forced to self-isolate, but unable to work at home, have received no sick pay (or wages). 40% say they would have to go into debt, or arrears on their bills if their income dropped to £96 a week, the current level of SSP. This number rises to 48% for disabled workers.

## Housing

The 2020 Disability Wales Manifesto calls for Article 28 of the UNCRDP to be

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adopted into Welsh law to provide guidance for creating housing that is suitable for all and begin the work towards a Wales where no one has to worry about accessing appropriate housing. There are immediate and long-term issues associated with housing and COVID-19. Housing is an important social determinant of health and pandemic lockdowns raised the importance of the home environment in people's lives further, as the home was re-purposed in new ways. Disabled people as a group confront significant challenges finding suitable accessible and affordable housing (ESRC, Clair, 2020).

A recently published **Ad hoc analysis of housing tenure by protected characteristics** (year ending December 2019) shows that 46% of disabled people live in rented properties, compared to 28% of non-disabled people. Disabled people who rent are more likely to live in socially rented properties than privately rented properties, (whereas non-disabled renters are more likely to live in privately rented properties). There are also real barriers to home ownership for many disabled people because of the way the DWP treats mortgage repayments for those claiming benefits. Disabled people in employment can run a higher risk of defaulting on payments because of their presence in insecure and low paid jobs.

The **Resolution Foundation** reported in April 2020 that those who live in social rented housing or private rented housing are more likely to be impacted in their ability to work (UK Labour Force Survey analysis) than those who are owner occupiers.

In March 2020 the **Bevan Foundation** reported on what type of households in Wales might have sufficient liquid assets to replace regular income, should income be lost for 1, 2 or 3 months. Based on an analysis of the Wealth and Assets Survey, they found renters would be particularly badly hit if their income suddenly stopped, only 44% of private renters and 35% of social renters in Wales have enough savings to cover one month of their regular income.

A measure of overcrowding by disability can be derived from the **bedroom occupancy rating from the 2011 Census**. Respondents reporting a limiting long-term health problem or disability (including those related to age) (Equality Act definition) were asked to assess whether their daily activities were limited a lot, a little, or not at all. The proportion limited a little or a lot living in

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overcrowded households is lower than for the population in Wales overall, and those not limited. However, because the age profile of these people is older, and because older people are less likely to live in overcrowded households, this picture changes if the data are considered separately by age group.

The table shows that, in each age category, those whose activities are limited a little or a lot are more likely to live in overcrowded households than both those who are not limited and the population overall. The highest proportion (11.5%) was for children (those aged 15 and under) whose activities are limited a lot.

## Percentage living in households with an occupancy of -1 or less, by age group and disability status, Wales 2011 Census

				Percentage
Age group	Day to day activities limited a lot	Disability day to day activities limited a little	Day to day activities not limited	Total
Age 0 to 15	11.5	10.9	9.0	9.1
Age 16 to 49	10.1	9.6	9.3	9.3
Age 50 to 64	4.6	3.5	2.6	3.1
Age 65 and over	2.9	2.1	1.6	2.1
<b>Total</b>	<b>5.0</b>	<b>4.7</b>	<b>7.3</b>	<b>6.8</b>

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During 2018 to 2019, a total of 2,631 households were accepted as being eligible, unintentionally homeless and in priority need and owed a duty to provide accommodation (under Section 75 of the Housing (Wales) Act 2014). Of these there were 294 cases (11% of all Section 75 assessments) where a household member was deemed 'vulnerable' due to a physical disability. A further 546 cases (21% of all Section 75 assessments) involved a member of the household deemed 'vulnerable' due to mental illness, a learning disability or learning difficulties, an increase on the 18% recorded in both 2017 to 2018 and 2016 to 2017.

A YouGov survey, commissioned by Habinteg Housing Association to mark the start of its annual #ForAccessibleHomes week, asked a nationally representative sample of 4,237 UK adults about the design of their homes and their experiences during the COVID-19 lockdown. The survey, carried out between 25 to 26 August 2020, found:

- Disabled people were over 3 times more likely than non-disabled people to report the inaccessibility of their home undermined their wellbeing during lockdown.
- Disabled people were 17 times more likely than non-disabled people to be unable to carry out all daily tasks and activities at home without assistance during lockdown.
- Disabled respondents were 23 times more likely than non-disabled people to not be able to use all parts of their kitchen without assistance during lockdown.
- Disabled respondents were 22 times more likely than non-disabled people to not be able to use all parts of their bathroom and without assistance during lockdown.
- Almost a quarter of disabled respondents (24%) said they do not have a home which meets their access needs.

Tai Pawb (2020), which promotes equality and social justice in housing in Wales, has reported a decrease in requests for adaptations because of fears among tenants about the risk of COVID-19 transmission. Full PPE has been required in interactions with clients, which had to be kept to a minimum (other than for urgent works). Concerns were raised about the availability of materials and difficulties faced by contractors in maintaining a sustainable supply chain. It is

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anticipated that as lockdown restrictions ease, pent-up demand will likely lead to a backlog of works. National guidance is urgently needed to ensure requests from disabled people are appropriately prioritised.

There have been concerns that disabled homeowners, particularly those claiming long-term disability or sickness benefits, may be forced into the rented sector because of pandemic related financial hardship. Home ownership is already limited to many disabled people, but particularly to benefit recipients. UK Government policy is to only cover mortgage interest payments in the form of a loan, which must then be repaid with interest **Support for Mortgage Interest (SMI)**. For those disabled people who have paid for adaptations to their home, the move into a rented property also represents a loss of vital adaptations that will be additional costs incurred to the public purse in terms of rent payable and works necessary. It is important that this group is, therefore, supported.

## Work and employment

Article 27 of the UNCRDP recognises the rights of disabled people to work and enjoy a job market that is open and accessible to them (DW, 2020). Analysis carried out for this report shows that of the 1,392,000 people currently in employment in Wales (year ending September 2020), 14.5% are recorded as disabled. In the context of a widely acknowledged reluctance on the part of disabled people to share details of their impairment for fear of discrimination, this figure may be an under-estimate.

For the year ending September 2020, the recorded employment rate among disabled people in Wales aged 16 to 64 was 48.5%. The equivalent figure for those not disabled was 80.6%. This demonstrates the level of employment disadvantage in Wales and equates to a disability employment gap of 32.1 percentage points, which is slightly lower for women than for men (28.9 percentage points compared with 35.4 percentage points). The disability employment gap has narrowed in recent years, though analysis shows it has decreased more for women than men.

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## Patterns of Employment

Type of occupation or industry employed in, critical key worker designation, exposure to COVID-19 associated with occupation, insecure employment tenure and self-employment, all emerged as significant during the pandemic.

### Critical (key) workers

In Wales, analysis of this group **from the APS** (based on occupations that could be directly matched to those listed in the **Welsh Government guidance**) (2019), by disability status (Equality Act definition), found that 15.4% of an estimated 491,000 critical workers were disabled, broadly equivalent to the proportion of disabled people in all employment (15.0%).

The proportion of employed disabled people who were critical workers was slightly higher than the equivalent proportion of employed non-disabled people, 34.7% compared with 33.6%.

### Employment within industries told to close

**An analysis of industries told to close from 23 March 2020** for the period that the initial COVID-19 restrictions were in place, produced for this report (December 2020), suggests a significant proportion of those affected by closures were employed disabled people. **This analysis** uses the initial **UK government list** of types of business that should remain closed during the current crisis. **The same list has been used by the Welsh Government.**

Key points for Wales are summarised below:

- Around 230,000 people were employed in industries in Wales in 2019 told to close after the initial COVID-19 outbreak, representing around 16% of the total workforce. Employees in those industries are more likely to be women, young and from a minority ethnic background.
- 36,400 (15.9%) of the people employed in industries told to close due to COVID-19 identified as disabled. This is slightly higher than the 15.0% in all

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employment.

- A higher proportion of employed disabled people work in industries told to close (16.6% compared to 14.7% of non-disabled employees).

## Self-employment

The UK Government's Coronavirus Job Retention Scheme (JRS) provided income for many employed in sectors told to close and the Self-Employment Support Scheme (SESS) similarly for those self-employed before the pandemic. Evidence suggests, however, the eligibility criteria to claim Government financial support cannot be met by many self-employed people either because of the length of their self-employment; having a mix of self-employed and PAYE work; being a Limited Company; being on maternity leave; or because of lower average income during periods of illness. The Scheme is also inequitable because it is based on overall profit averaged across the last three years, not overall income. Self-employed individuals with high costs (equipment, office rent), but low profits have been left unable to maintain businesses or income. SEISS only paid out 80% of profits in round one and 70% in round two, whereas employed individuals on furlough could have their income topped up to 100% by their employer.

**Analysis of self-employment by disability sourced from the APS** (year ending September 2019) for this report, shows that 15.3% of self-employed people in Wales were disabled, whereas 77.1% of self-employed people were not disabled (note that disability status was not specified for 7.6% of self-employed people).

Of the 32,200 self-employed disabled people in Wales, 64% were men and 69% were aged 45 and over. The proportion of disabled people in employment who were self-employed was 14.7%, slightly higher than the proportion of non-disabled people in employment who were self employed (13.5%).

## Employment in occupations at higher risk of COVID-19

The ONS have published [a number of bulletins detailing analysis of](#)

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**COVID-19 related deaths by occupation.** The analysis conducted for this report highlights some specific groups of occupations that could be considered at higher risk of COVID-19, or which, in their analysis for England and Wales, were found to have higher mortality rates involving COVID-19 than people of the same age in the general population.

A report by the JRF (September 2020) looked at who is at most at risk of losing their job, based on a COVID-19 Pre-Vaccine Job Risk Index that takes account of how difficult it is for someone to do their job when socially distancing. Individuals with so-called ‘work-limiting disabilities’ faced higher job risks, with 4 percentage points more likely to be in a high/very high-risk job than non-disabled people.

Welsh Government have undertaken and published **additional analysis of those people employed in high-risk occupations by protected characteristics.**

**Table 2: Disability status of those employed in occupations which have the highest potential exposure to the coronavirus (COVID-19), 2019**

Disability status (Equality Act definition)	Level	Level	Level	Proportion of all occupations	Proportion of all occupations	Proportion of all employed
	High risk occupations	Highest risk occupations	All occupations	High risk occupations	Highest risk occupations	High risk occupations
Disabled	72,700	9,100	218,700	33.2%	4.2%	16.2%
Not disabled	367,700	44,800	1,200,100	30.6%	3.7%	81.8%
Does not apply or	9,000	900	43,300	20.8%	2.1%	2.0%

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Disability status (Equality Act definition)	Level	Level	Level	Proportion of all occupations	Proportion of all occupations	Proportion of all employed
no answer						
All employed	449,400	54,900	1,462,000	30.7%	3.8%	100.0%

notes: people in employment aged 16 and over

Analysis of this data for this report shows that:

- 33.2% of employed disabled people in Wales were in high-risk occupations and 4.2% were in the highest risk occupations. This compares to 30.7% and 3.7% of employed non-disabled people, respectively. It also found 16.6% of people employed in the highest risk occupations were disabled (compared to 15.0% of people employed in all occupations).
- With reference to sex, 39.7% of employed women in Wales worked in high-risk occupations, with 5.3% employed in the highest risk occupations. This compares to 30.7% and 3.7% of employed men, respectively.
- Proportions of disabled and non-disabled employed women in high-risk occupations were similar (41.0% and 39.8% respectively), but markedly higher than the proportions of disabled and non-disabled men (23.6% and 22.9% respectively).

'We are not all in this together' argue Wales TUC, because low paid, insecure workers, women, Black and Asian workers, disabled people, and those living in poverty, have had very different experiences during the pandemic. The above data lends further weight to this view. The EHRC has also pointed out that since the economic crisis of 2008 there has been a significant increase in insecure jobs.

In a report by Labour Research (2020) reference is made to a survey of

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UNISON members conducted during the pandemic, which found 17% of black disabled members who should have been shielding at home were forced to go to work.

Headline findings from a report by Leonard Cheshire (October, 2020) based on an analysis of 1,171 working-age disabled adult respondents found that of disabled people in the UK in employment in March 2020:

- 71% (69% in Wales) have found that their work has been impacted by the pandemic
- 24% (25% in Wales) have since worked reduced hours
- 20% (25% in Wales) have since lost out on income
- 11% (15% in Wales) have felt at risk of redundancy
- 57% (64% in Wales) have felt more anxiety than usual due to concerns that their job is at risk
- 40% (39% in Wales) feel at greater risk of redundancy due to employers judging them because they are disabled.

## **Workplace measures introduced to mitigate the effects of Covid**

Leonard Cheshire (2020) found 74% of disabled people they surveyed placed on furlough believed the Government scheme had helped to protect their job. However, of all working disabled people placed on furlough in the UK who responded, 26% have been unable able to return to work. Wales TUC (2020) have reported instances of employers refusing furlough to disabled people who feel at risk from COVID-19: instead forcing them to claim SSP.

An article by Personnel Today references research by Scope (2020) which found 22% of disabled workers faced having to choose between going to their place of work and quitting their job and has called for those in the clinically 'extremely vulnerable category' to be given an automatic right to furlough. 18% of respondents had been refused a request to work from home, and 11% were not placed on furlough when they asked. Another 11% were told they could not be redeployed into another role. 55% said they felt disabled people had been forgotten in the government's recent economic recovery announcements.

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The safety of workplaces during the pandemic is questioned by evidence from a survey of 2,133 workers in England and Wales carried out for the TUC by BritainThinks, between 31 July to 5 August 2020. It found that less than half of employees (46%) thought their workplaces had introduced safe social distancing. Just 42% reported being given adequate PPE and 32% said they were worried about exposing others in their household to greater risk. Worryingly, only 38% surveyed said they knew whether their employers had carried out COVID-Secure risk assessments, despite it being a legal requirement to do so and share with staff. A survey by the Chartered Institute of Personnel and Development (CIPD), published in September 2020, also found 21% of employees attending workplaces were not satisfied with employer health and safety measures.

Those on low incomes and in insecure work, which this report shows include a significant number of disabled people, were found to be worse affected. 1 in 4 (27%) of low-income workers, those earning less than £15,000 per year, reported no action had been taken by employers to reduce the risk of coronavirus infections, while over two-thirds (38%) on insecure contracts said no measures had been taken to prevent transmission at work (TUC, 2020).

## **The impact of COVID-19 on future career ambitions of disabled people**

There is evidence to suggest the pandemic has undermined the confidence of disabled people, particularly young people. Leonard Cheshire report 42% of working age disabled people had experienced a negative impact on their future career ambitions (44% for young people aged 18 to 24). In terms of future earning potential: 48% believed the pandemic has had a negative effect (for people aged 18 to 24 this increased to 54%). In terms of ability to work, 45% reported a negative effect, including one in seven who said the effect had been very negative (14%). For young disabled people, this increases to 71%.

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## Fears about employer attitudes towards disabled people post-pandemic

20% of UK employers responding to research by Leonard Cheshire (2020) were less likely to employ a disabled person, 39% citing that this was due to physical, manual, or demanding work. Of those less likely to employ a disabled person, 22% said that this would depend on the 'type of disability' or its 'severity'. Key employer concerns included:

- 56% the practicalities of making workplace adjustments
- 54% the cost of making workplace adjustments
- 38% ensuring the application process is accessible to people of all disabilities

## Future employment prospects

The potential impact of recession, increased competition for employment and discrimination on disabled people's employment prospects has been highlighted (FTWW 2020; Disability@Work, 2020). Fears that employers may be less willing to employ disabled people because of increases in unconscious bias during times of acute stress and uncertainty (Civil Service, 2020) or because employers may be more risk averse as the economy picks up, have also been raised.

There is a long-standing problem that workplace cultures do not understand disabled people, highlighted by a BBC YouGov survey of over 1,000 disabled adults (Ibbeston, 2020). This reports that almost a quarter of respondents, (this rose to 37% among those with a learning, social, or a memory impairment), believed this was a persistent barrier, 17% perceiving active discrimination against disabled candidates.

A report by Citizens Advice based on an online survey of 6,015 adults between 29 June to 8 July 2020, suggests 1 in 4 disabled people (27%) are facing redundancy. This rises to 37% for those people whose impairment has a substantial impact on their activities. (Opinium survey data was weighted to be nationally representative of the UK). Demand for Citizens Advice discrimination

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advice web pages also increased four-fold during this period.

54% of all disabled adults employed pre-pandemic in the Leonard Cheshire study were not confident about being able to get a new job if they became unemployed. This increased to 68% of those aged 55 to 65. Furthermore, 50% of all disabled adults employed pre-pandemic were not confident about being able to re-train if they became unemployed, rising to 62% for those aged 55 to 65.

## **Working at home and flexible working during the pandemic**

In a survey of over 1,000 disabled people (Ibbeston, 2020) 33% of respondents said finding a workplace that suits their needs was a barrier to employment, with almost as many (30%) saying lack of options for working from home was particularly problematic.

Leonard Cheshire (2020) reports that 43% of disabled people employed pre-pandemic cited benefits from being able to work more flexibly during the pandemic. 47% of employers also stated an intention to offer homeworking in the future and 42% flexible working hours. Caution is, however, needed when discussing homeworking and flexible work, because the two are not inevitably correlated (Foster and Hirst, 2020b).

A UK-wide online survey of 4,455 working disabled members by the trade union UNISON, between 5 to 21 June 2020, found half worked from home during the COVID-19 crisis compared to 5% before it began. 73% felt they were more productive, or as productive working from home, compared to their pre-lockdown place of work. 54% believed they would benefit from home working in the future, yet 37% believed their employer was unlikely to accommodate this.

Research by Cardiff Business School and The Law Society of England and Wales conducted during the pandemic among disabled legal professionals, found homeworking increased productivity and accessibility for many (Foster and Hirst, 2020b). The survey of 108 respondents ran from 23 July to 16 August. Previous research reported homeworking had been a widely

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requested but refused reasonable adjustment in the profession pre-pandemic (Foster and Hirst, 2020a). Homeworking benefits included, better management of impairment effects such as pain and fatigue, the removal of a commute, increased access and opportunities to participate in on-line training, staff development events, networking and meetings. In common with the UNISON survey, more than 70% of disabled legal professionals expressed a preference to work remotely in the long-term. However, they also wanted choice about the location of their work.

Not all disabled people had access to homeworking during the pandemic and homeworking should not be viewed as a one size fits all, technological fix for disabled people (Foster and Hirst 2020b; Labour Research 2020; SCOPE, 2020). Occupation, socio-economic position, housing, personal circumstances, location, income, internet access, skills, caring responsibilities, impairment, availability of adjustments and employer support, have all been important factors in determining its success or appropriateness.

An article in Personnel Today references a survey by SCOPE which found age and location were factors when disabled people were refused furlough or home working during the pandemic. A third of 18 to 34 year-old disabled workers had been refused a request to work from home, while 20% had been refused redeployment and 15% had been refused furlough. Disabled workers in London were most likely to be refused their request; almost a third were not able to work from home, while 21% were refused furlough.

## **Reasonable adjustments and access to work services**

There is evidence to suggest that some, but not all, disabled employees found it difficult to secure appropriate reasonable adjustments from employers and support from Access to Work to facilitate working from home during the pandemic (Foster and Hirst, 2020; UNISON 2020; Labour Research, November 2020; ASLI UK, 2020). Limited access to people's homes was a major contributory factor.

Of 1,000 employed disabled people asked if they had requested reasonable adjustments from their employer during the pandemic (Ibbeston, 2020), 53% had

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not, 45% had. Disabled men (39%) were less likely than disabled women to have requested adjustments (50%). Among those who said their impairment 'limits them a lot', 58% had requested adjustments, while 38% had not. The vast majority of those who requested reasonable adjustments reported either all (60%) or some (33%) of the changes requested had been made. 65% of women said all their reasonable adjustment requests had been met, but only 50% of men. Men were more likely to report they had been partially met (44% versus 27% for women). The research concluded that support from employers during the pandemic is more likely to have increased than decreased.

Concerns have been raised about the operation of the Government's Access to Work (ATW) scheme. Groups representing disabled people had to make repeated requests to the Department of Work and Pensions (DWP) to accept digital signatures for ATW forms because of delays in payments. The effect of the latter is, by example, highlighted by organisations representing Deaf people employed as interpreters (ASLI UK, 2020). They fear a loss of skills and potential shortages will result, as interpreters were forced to find alternative employment. The long-term ramifications on Deaf workers as a group is one example of why more research is needed on how the pandemic has affected long term access to services for disabled people.

The voluntary sector in Wales has raised concerns that financial hardship caused by the pandemic will lead to a reduction in employment and activities in the sector lessening the sector's voice and its ability to work with marginalised communities (WCVA, 2020).

## Recommendations

Disabled people in Wales are more likely to experience relative income poverty and live in more economically deprived areas than non-disabled people. Nationally, disabled people have disproportionately fallen behind with household bills during the pandemic, because of their position in the labour market and increased costs associated with being disabled. We ask Welsh Government to support disabled people and to lobby Westminster to ensure the existing uplift in UC continues. In addition, we request Welsh Government take legal advice as to whether denying the same uplift to disabled people in receipt

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of legacy benefits (including ESA, PIP) amounts to placing them at a substantial disadvantage and, therefore, indirect discrimination. If this is the case and legacy benefits are given the same status as UC we believe they should also be backdated.

Welsh Government were quicker to act than England in the provision of some benefits during the pandemic. However, the pandemic also exposed the limits of Welsh devolution, with other devolved Governments able to vary benefit eligibility. We recommend that more and better data about the relationship between state benefits and socio-economic disadvantages in Wales is collected. We believe it is essential that Wales has greater autonomy over this area of decision-making. However, in the short term we recommend the setting up of a 'Disability Discrepancy Unit' similar to that proposed in the Black Asian minority ethnic (June, 2020) Report.

Evidence suggests the UK Government's Self-isolation Support Scheme is not working and an urgent review of current sick pay provisions to enable workers to self-isolate, is required. We recommend Welsh Government lobby for reform of both benefits and support the TUC's call in January 2021, to extend sick pay to all workers and increase sick pay to the real living wage: (£9.50 an hour or £10.85 in London).

This report has highlighted a significant shortage of accessible and appropriate housing available to disabled people in Wales, who are currently concentrated in the rented sector. There is an urgent need for further Wales-wide guidance on what constitutes 'priority' housing work so that disabled people's requirements are strategically addressed and for Wales to establish accessibility standards for social housing with DPOs. Mechanisms need to be put in place to ensure that local authorities and property developers comply with these standards.

Access to home ownership is limited to a small minority of disabled people in Wales. In the short-term we recommend Welsh Government target specific financial support for this minority. In the long-term, more research and analysis of the barriers to home ownership for disabled people and those in receipt of benefits pertaining to disability or long-term health conditions, including looking at possible measures to ameliorate current DWP policy, is undertaken.

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Housing security, quality and appropriateness of housing, have all been experienced by disabled people in Wales and are correlated with poor health outcomes (Marmot, 2020). We call on Welsh Government, as the Black Asian minority ethnic COVID-19 advisory group did, to commission further research into the significant role of housing during the pandemic. Our report illustrates how housing does not just affect health (including mental health), but has become increasingly significant in shaping employment, well-being, as an indicator of poverty and probability of exposure to domestic abuse.

We welcome the introduction of the socio-economic duty of the Equality Act in Wales on 31 March 2021. This Duty was rejected in England but must be a key part of Wales's commitment to 'build back better' and fairer. The Duty will apply to eligible public bodies and their "strategic decisions" and it is important that disabled/ diverse groups in Wales are central to setting objectives at the planning stage. Socio-economic Impact Assessments must go beyond tick box exercises (a criticism of other EIAs). All EIAs should be considered 'live' and ongoing documents, continually being scrutinised by relevant groups or stakeholders, who must be actively involved in the monitoring their outcomes.

We recommend Welsh Government issue clear guidance to local authorities and health boards on best practice, to include meaningful co-production. Welsh Government need also to ensure that local and pan-Wales mechanisms are in place to enable citizens to challenge impact assessments and decision-making, in line with the Wellbeing for Future Generations Act.

For the year ending September 2020, Wales had a disability employment gap of 32.1 percentage points and during the pandemic disabled people were represented in occupations and industries most affected by the crisis. It is also predicted that disabled people will be at greater risk of redundancy, post-pandemic. We recommend that the launch of Business Wales's new Disabled People's Employment Champions' should coincide with the development of a new employment strategy for disabled people. This needs to build on the findings of this report and be capable of adapting and responding positively to the challenges that have resulted from COVID-19. New benchmarks of good employment practice for employers need to be established in Wales to adapt to the post-COVID labour market. One challenge is likely to be an increase in demand for reasonable workplace adjustments given the impact of COVID-19 on

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long term physical and mental health and well-being.

There continue to be reports that some workers have felt compelled to continue to work in unsafe environments. This puts all workers lives at risk, but disabled people and those living in households with disabled people are particularly affected. We recommend Welsh Government immediately work with trade unions and the Health and Safety Executive in Wales to enforce meaningful penalties where risk-assessments are inadequate, or the law is broken. We also recommend that a confidential workplace ‘whistle-blower’ reporting procedure is established, to enable individual employees to report concerns about risks to their health and safety, or risks to others (clients, family etc.). We welcome the recent announcement by the First Minister on workplace risk assessments and believe our recommendations will complement these.

Many disabled people are in work that is insecure, self-employed, freelance or working in the gig economy. Sole traders should not be forced to register as Limited Companies to bid for public sector contracts, nor should those reliant on one employer on PAYE as ‘false freelancers’, be left with no access to employment rights if they suddenly lose work or become ill. We call on Welsh Government to investigate ways in which they can support the **freelance charter** to improve rights and protections for self- employed people.

The business case for homeworking has arguably, been won during the pandemic and the Economy, Infrastructure and Skills Committee is currently assessing the implications of Welsh Government proposals to support a long-term shift to increasing remote working by 30%. Given the benefits of home working to many (but not all) disabled people we recommend Welsh Government work in partnership with DPOs on this objective and to bring about a change in the law, to ensure home working is a legally recognised reasonable adjustment for disabled employees, to include a reversal in the burden of proof, so that employers would be required to demonstrate circumstances where home working would not be reasonable.

In the short term it is essential that the accessibility benefits of homeworking for disabled people are not reversed when physical workspaces become available. Thus, we ask that Welsh Government, Wales EHRC, the HSE and Access to Work jointly issue guidance to employers about the ‘reasonableness’ of

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homeworking as a long-term adjustment. Use should be made of factsheets recently commissioned by Business Wales and produced by Disability Wales, which provide details of how employers can appropriately support disabled people working from home.

Employers need immediate advice about the appropriate use of furlough, redundancy and sickness benefits when applied to disabled employees. Wales EHRC need to be supported to play a more proactive role in ensuring employers in Wales fully understand and comply with discrimination law (EQA 2010) and the provisions of direct, indirect disability discrimination, failure to make reasonable adjustments and disability discrimination by association. It is important that such information is conveyed to employers ahead of the end of the Government's Furlough Scheme, expected to coincide with an increase in levels of redundancies.

A significant backlog of Employment Tribunal (ET) claims is anticipated, post-pandemic. However, access to formal justice is often not available to many disabled workers, who typically require quick remedies to disputes about reasonable adjustments, to stay in work. Many disabled people are in low paid and insecure jobs and unable or unwilling to go to court because of lack of resources or the impact on their health/ pre-existing impairment. This suggests recorded levels of disability employment discrimination are an underestimate and formal routes of justice are inadequate. Unknown instances of employers using confidentiality agreements or 'gagging' clauses, which usually lead to a termination in employment, adds to this uncertainty.

We strongly recommend Welsh Government utilise existing traditions of social partnership in Wales, conduct further research and invest in developing new systems of alternative conflict resolution for disabled workers. Evidence shows it is essential that more disabled people are retained in existing employment. This can often be done by educating employers and resolving workplace disputes before they escalate into costly and time-consuming litigation. Such a strategy would also help to address the Welsh disability employment gap. The Wales TUC network of Workplace Equality Representatives should be utilised to support this proposal, but it is essential that to be effective, training and proper facility time is given to support this important role.

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Disabled people are often afraid to attempt a return to the labour market because of lack of confidence and fears that they will lose vital access to benefits. Long physical absences from the workplace can also be problematic, a factor likely to apply to a much larger proportion of the general working population. To address these challenges, we recommend Welsh Government to establish a timely 'return to work taskforce', to work with DPOs, 'long Covid' survivors and other relevant employer and health stakeholders. A mix of financial, emotional, psychological, legal and practical support is often required to facilitate successful employment rehabilitation. Different agencies need bringing together to develop such a strategy. (for example the new Welsh Government 'Disabled People's Employment Champions', occupational health and therapy services and Access to Work). We also recommend Welsh Government conduct research that examines the experiences of other countries, where provision of occupational health/ therapy services is more commonly based in the community and health services, rather than our current system that is over-reliant on patchy, employer-centred, occupational health provision.

Academics have suggested other steps that employers and government can take to minimise the negative consequence of the pandemic for disabled people in the labour market. These include:

- increased measurement and reporting of the proportion of the workforce that are disabled and the impact on them of changes made to working practices in response to recession
- retaining and supporting employees most "clinically vulnerable"
- providing additional support the significant number of self-employed disabled people
- introduction of mandatory reporting of the disability pay gap for large employers
- greater promotion and funding of Access to Work
- prioritisation of disabled people's employment outcomes (Disability@Work, 2020)

Post-pandemic it is important that disabled people's skills and training needs are properly met. We recommend Welsh Government ring fence resources for the Wales Union Learning Fund and ensure that reserved places for disabled people are made available on the ReAct programme, mentoring schemes and other

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skills and professional training programmes. In applications to Welsh Government for funding of such schemes, we recommend the inclusion of essential criteria that providers demonstrate how publicly funded schemes will be fully accessible to disabled people.

In the voluntary sector, where employment is precarious but support in the community has been vital during the pandemic and continued involvement will be vital to recovery, Welsh Government is asked to allow organisations to carry funding across financial years and provide a model of funding that will encourage continuity of staffing and volunteering. Reports that the volunteering infrastructure has been overwhelmed during the pandemic and unable to channel resources as quickly as it would like, need addressing (WCVA, 2020).

Welsh Government need to ensure that access to resources to aid recovery from the pandemic are fully accessible to all, including disabled people. There will inevitably be high demand for scarce resources and accessible application processes and timelines need to consider the requirements of different disabled people. Recent experiences of disabled artists in the creative industries reported to us, when Welsh Government launched two rounds of grant applications, suggest disabled applicants felt disadvantaged.

We recommend Welsh Government encourage employers to co-produce Workplace Wellbeing Policies with their employees and other relevant organisations, further to the NICE Quality Standard on Workplace Health, Long-term Sickness Absence and Capability to Work currently under consultation. We also ask that Welsh Government explore with diverse groups and trade unions, the development of a Workplace Wellbeing Charter Mark, the awarding of which would require evidence of co-production of policy and benchmarks.

## **Key findings: exclusion, accessibility and citizenship**

Disabled people as a group have experienced significant additional social exclusion during the pandemic. We identify inaccessible public spaces, services, practices, public ignorance, poor communications and policy-decisions, as new

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barriers faced by disabled people. A fundamental failure to consider basic requirements of different impairment groups and to consult adequately, lays at the heart of this. The result has been a loss of independence and a loss of citizenship that we call on Welsh Government to address as a priority.

The barriers faced by disabled people during this pandemic have been many and varied, but some could have been avoided if disabled people had been at the decision-making table at the planning stage of the crisis. Early official medical categorisation of some people as 'shielding', not only caused confusion, but excluded some disabled people and those supporting them from accessing life-saving vital goods and services. Food insecurity, access to medicines and medical services, everyday support, travel and technology, were just some of the problems experienced by disabled people that we highlight in this section.

Isolation, loneliness and confusion were experienced by many during the pandemic. For disabled people, however, this was accompanied by a real loss of power, voice, choice and citizenship, which impacted on essential day-to-day living and rendered them helpless and psychological traumatised. Society is difficult enough for disabled people to negotiate during times of stability, but when physical and social norms change overnight and public space and services close or fail to adequately take account of accessibility needs, disabled people become disenfranchised, socially and physically excluded and 'othered'. It was common during the pandemic for many disabled people to comment they felt the clock had been turned back twenty years in terms of their citizenship.

Evidence detailed below highlights distinctive barriers encountered by disabled people, which must be addressed in Wales if this loss of pandemic-related citizenship reported by disabled people is to be re-established and avoided in the future. While we acknowledge that there was no pre-existing 'blue-print' to manage the crisis and Welsh Government did try to respond to issues raised by DPOs as they emerged, the key lesson to be learnt is that inclusion and accessibility needs to underpin all decision-making.

During the pandemic, travel was particularly problematic for some disabled people. Reductions in public transport, fears of exposure to the virus and increased inaccessibility led to an increased use of private taxis. A survey by the RIDC (Aug. 2020) found 64% of disabled respondents who normally used

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public transport said they have not done so at all since the pandemic began. Higher travel costs have not been met by increases in legacy benefits, of which long-term sick and disabled people are more likely to be recipients (Joseph Rowntree Trust (JRT), 2020). In addition, the Coronavirus Act 2020 also relaxed duties on local authorities to provide free transport to disabled school children (s. 508A-F Education Act 1996) and provide alternative education to pupils who are ill or excluded (s.19 Education Act 1996) (BIHR, 2020; EHRC, 2020).

Problems with food shortages, panic-buying and on-line shopping were common early in the pandemic. One survey (RIDC, April, 2020) found almost half of disabled respondents using online shopping during the crisis, believed supermarkets were performing 'poorly or very poorly'. Priority shopping slots and deliveries were unavailable to large numbers of disabled people. One survey found 80% of disabled respondents were not included in the official shielded group, yet 57% of them had support needs (GMDPP, July 2020). Disabled people with special dietary requirements have been particularly affected (FTWW, 2020).

Evidence from The Food Foundation at Kings College, London (April, 2020) estimated the number of food-insecure adults in Britain quadrupled under the COVID-19 lockdown. Lack of food in shops, however, only accounted for 40% of insecurity experiences, with disabled adults and adults with children being disproportionately affected by access.

Following UK Government requirements that disabled people self-isolate, data from the RIDC (April 2020) reported that 6 out of 10 of 842 disabled respondents had not left their home at all and only 1 in 5 disabled and older people thought Government was doing enough to support them. The consequences have been increased exclusion, loneliness, isolation and declining mental health.

Digital Communities Wales began to address digital exclusion during the pandemic ([Digital Communities Wales \(gov.wales\)](https://gov.wales)) by improving access to digital devices and training. However, further focus is needed on the digital requirements of disabled people who have encountered significant barriers accessing on-line services, as well as isolation and loneliness (Welsh Government Social Isolation Steering Group, 2020). The likelihood that some public services will continue to operate remotely in the future makes it necessary

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to be able to evaluate and act upon the extent of digital poverty and variables influencing it in Wales for example geography, income, education, disability, age, gender and ethnicity and accessibility.

Evidence from surveys of disabled people suggest isolation, already twice as high amongst disabled people of all ages, is now even more acute. Digital exclusion has been a contributory factor, including limited access to broadband, computer technologies and skills (GDA, April 2020). The same survey reported that “Over 90% said they want disabled people’s voices to be heard in decisions about their own lives, and the evolving Covid response”.

The third sector and DPOs has quickly had to learn how to shift from face-to-face delivery, to working remotely: using a blend of online/digital interventions and other modalities. Digital inclusion and exclusion have posed both opportunities and challenges. Organisations are rapidly learning and adapting. DPOs, Community groups and local third sector organisations are better placed to create local solutions to national challenges.

Some groups representing people with chronic illnesses (Hale et al, 2020), have welcomed the explosion of online activity and connectivity during the pandemic. While it is acknowledged that technological solutions may not be a solution for everyone with chronic illnesses, fear has been expressed among disabled people that technological options that have increased accessibility and participation may be withdrawn or will diminish once more COVID-19 secure conditions are established.

Arts groups in Wales have raised concerns that performance and public entertainment venues will have limited capacity due to social distancing rules and in their drive to maximise capacity, accessibility for disabled people might be compromised or reserved seats sacrificed.

The ONS reported a 7% increase in police-recorded domestic abuse related offences between April to June 2020 compared to 2019. Provisional data indicates there were 64 domestic homicides recorded by the police in England and Wales between January and June 2020, of which 30 occurred in the period April to June: an increase in the number of domestic homicides recorded by the police compared with the same six-month period in the previous year. The

Government message to ‘stay at home’ exposed disabled women and girls, who before the pandemic were already identified as a group experiencing disproportionate levels of sexual and domestic violence, to further risk because of significant barriers to accessing support (EVAWC, 2020). Isolation and restricted access to pre-existing support networks, including those provided by local authorities, increased dependency of disabled people on abusers, including abusive carers.

Some groups of disabled people have experienced difficulties accessing public health messages (Armitage and Nellums, 2020) and double disadvantages have been experienced by disabled people from Black Asian minority ethnic communities, where English is not a first language. Information in a variety of different formats has been missing during the pandemic; so too has clear and consistent guidance that is well differentiated as ‘local’ or Welsh. This has been a particular concern of DPOs representing people with learning disabilities and it is noted that the Welsh media could and should be playing a more proactive role. Government agencies are also criticised for their use of inappropriate terminology and language when referring to disabled people: which is then replicated in media outlets and in social media (Steering group 20 November 2020 to 1 December 2020).

Many people in Wales consume news from England-based media sources, which can lack an understanding of devolution. The National Union of Journalists (NUJ, 2020) has noted that the closure of local offices, significant redundancies across newspapers and cuts to broadcasting have created a “lack of plurality and independence of the press” in Wales, including Welsh newspapers carrying advertising with COVID-19 advice for England. During the pandemic, it has been hard for disabled people to obtain accurate and accessible information that is relevant to their location and impairment, especially if they are not a member of a DPO, compounded by poor media literacy and disinformation on social media. Disabled people have also been subject to negative and disempowering rhetoric by Governments (as outlined in the social model section of this report).

In terms of citizenship and trust in government agencies, one survey (GMDPP, July 2020) reported that a third of disabled people felt “their local authority was not doing anything significant” whilst 76% of disabled people were “dissatisfied

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with the help provided by the government”.

Our enquiry received a significantly greater number of criticisms from disabled people and DPOs about local authorities in Wales than Welsh Government. It was felt that Welsh Government had been largely accessible and had reacted quickly and appropriately to problems raised. This contrasted with treatment of disabled people by some local authorities. Disabled people believe their under-representation in decision-making processes and/or a poor commitment to co-producing solutions is most problematic. Regional Partnership Boards, for example, bring all public service bodies together and hold funding on a local level, but citizen representatives are too few to represent the variety of lived experiences of disabled people. Systems need to be in place to ensure different impairments and intersectional characteristics are adequately represented.

As a consequence of official physical and behavioural guidance issued by Governments during the pandemic, disabled people have experienced significant additional barriers accessing public spaces, streets and public services. YouGov (July, 2020) carried out a survey of 1,115 disabled people on behalf of SCOPE and found they were concerned about: not being able to wear a face-covering; entering some public places with a carer; queuing for long periods when shopping; access because of closed off high streets to traffic; availability of accessible public toilets and 87% were concerned about social distancing.

Evidence submitted to the Senedd's Equality, Local Government and Communities Committee by the Co-production Network for Wales and WCVA Cymru highlights the impact of COVID-19 on the voluntary sector suggests there has been increased recognition from public bodies (and local authorities) of the value and the role that the third sector plays particularly their flexibility responding to need, low eligibility criteria based on trust and community relationships and the creative and immediate support they provide. Public bodies and local authorities have increasingly put more trust in the sector, sharing information more readily.

Loss of independence has been a significant consequence of the pandemic for many disabled people. Some people have found the absence of services and support they usually access has meant they have been unable to go out of the

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house, others have had to rely on informal support (friends and family) to facilitate basic day to day living. A recent survey by RNIB Cymru found 66% of blind and partially sighted respondents feeling less independent now compared to before lockdown.

The Health Social Care and Wellbeing Act (2014) places a statutory duty on local authorities to take a preventative approach to meeting support needs. A report entitled “Rehabilitation for people with sight loss in Wales” (2020) produced by the Wales Council of the Blind in partnership with WROF, (Welsh Rehabilitation Officers Forum), the professional body representing Rehabilitation Officers for Vision Impairment (ROVIs) found that, while rehabilitation services provided by Rehabilitation Officers are intended to meet this requirement for visually impaired adults, to enable independence and wellbeing, currently only 8 out of 22 local authorities meet the minimum standards for the number of qualified Rehabilitation Officers per head of population. In some parts of Wales, people with a vision impairment are waiting longer than twelve months for rehabilitation support. Need assessments have been badly affected by COVID-19 and there is now even less consistency in provision with each local authority taking a different approach. Evidence from Steering Group members suggests in many instances, no assessments are taking place or, if they are, they are being undertaken remotely. Severe restrictions on the provision of rehabilitation for children and young people with a vision impairment are being experienced and where Covid restrictions have brought about school closures, parents and children have had to manage as best they can without specialist support.

Evidence suggests autistic patients, patients with mental health issues and learning-disabled patients have found many of their self-help activities (such as in-person community groups) severely curtailed during this time, and many are now very isolated and unable to communicate their difficulties through the limited mechanisms currently available (FTWW, 2020).

Below are some examples of how barriers during the pandemic detrimentally affected disabled people’s right to independent living and contributed significantly to increased social exclusion.

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## Social distancing and communications

People with visual impairments with or without guide dog assistance reported being unable to judge their compliance to 2m social distancing requirements, leading to incidences of abuse or being challenged by members of the public. This group is also at increased risk of contracting the virus from surfaces because of the use of touch to navigate.

British sign language (BSL) users (of which there are approximately 87,000 within the UK Deaf community), report their requirement for public information during the pandemic was not properly met by public authorities or media in England and Wales. Welsh Government have provided a sign language interpreter for all announcements. The Westminster Government has repeatedly failed to do so. However, broadcasters in Wales do not necessarily include the sign language interpreter in the aired footage, cutting Deaf BSL users out of accessing the announcements if they are viewing them on the news. One survey involving 936 Deaf disabled people found 47% of respondents complained that official advice was 'unclear' (GMDPP, July 2020).

It is important to note, that Deaf people who use BSL as their first or preferred language, also face a barrier of a cultural and linguistic nature. BSL has its own syntax and grammatical rules and is not a signed version of English and, as such, written communication of any length is not conducive to understanding.

## Impact of face masks

Social exclusion, pain and fear are just a few of the reported effects disabled people have reported when being required to wear face masks during the pandemic. It took some time for public authorities and the general public to appreciate that face masks were not tolerated or appropriate for all. This has led in some instances to disabled people being subjected to abuse and hostility. For Deaf and disabled people, face masks have been particularly problematic. Lip readers and anyone with even a mild hearing loss has found it difficult, if not impossible, to adequately communicate because of distorted speech and facial expressions. An article in the British Medical Journal (Grote et al., 2020)

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highlights the need for transparent masks (or interpreters) in healthcare (and other) settings, to allow full participation in discussions on ward rounds and other social contexts.

## **Confusion and anxiety around pandemic rules and guidance**

Official guidance about rules at different stages of the pandemic have caused widespread confusion in the population as a whole, but had a serious impact on some disabled people: for example, people with learning difficulties, dementia mental health issues. Different guidance applying to different parts of the UK and, more recently, to different areas within a region, has compounded initial confusion and led to stress and anxiety.

People with learning disabilities and their families report experiencing particular confusion and stress (AWPF et al June 2020), especially where Welsh government guidance has applied to shared living accommodation and extended households have been created (AWPF, August 2020b).

However, a larger proportion of disabled people (83%) than non-disabled people (77%) supported “strict” or “very strict” enforcement by police of government rules aimed at combatting the coronavirus such as social distancing; disabled people were less likely to socialise within large groups than non-disabled people; only 5% of disabled people mixed with groups exceeding five (from outside their household), compared with 9% of non-disabled people (ONS: September and November 2020).

## **Shielding and lifting of restrictions**

Some disabled people who should have been shielding did not receive shielding letters (for example blind and visually impaired people) and others received them without understanding why. This led to inconsistent access to food and other commodities. Evidence suggests shielding has affected some groups of disabled people disproportionately, for example, people with mental health issues, learning disabilities, older disabled people (AWPF, August 2020). Many

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still remain unable to access their local communities, friends and families. The consequences have been acute isolation, loneliness anxiety and depression.

Some people have experienced lifting of restrictions positively, but for others these events and changes in rules governing them have provoked confusion and great anxiety.

## **The impact of changes to the built environment and the re-making of streets**

The mobility and freedom of some disabled people has been severely limited by changes to public spaces and streets in cities and towns during the pandemic. Groups representing people with visual impairments have particularly highlighted the detrimental impact of changes made to familiar learned routes, to the lay-out of pavements, pop-up cycle routes, kerbs and crossings and the loss of, or restrictions on, sighted guides (RNIB Cymru and Guide Dogs Cymru, May and August 2020).

## **Use of public transport**

Confidence in using public transport among disabled people has become low and has had a negative impact on mobility, participation in everyday life and citizenship. The Research Institute for Disabled Consumers' 4<sup>th</sup> survey (August, 2020) asked 1,665 disabled and older people on the RiDC consumer panel what would encourage them to use public transport in the future. It received 724 responses. The top three things were: other passengers wearing PPE (29%); social distancing (26%); the cleanliness of public transport (20%). 9% of respondents who had travelled by public transport during the pandemic said they have an exemption from wearing a mask because of their disability and said this could cause problems with staff and passengers. 52% of respondents said they were unsure about returning to using public transport after COVID-19 travel restrictions have been fully removed.

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## Use of different technologies

Disabled people with a range of different impairments have reported increased social exclusion and/or social inclusion depending on their impairment, the type and variety of technologies encountered and the quality of the interaction and the attitudes of other users. A key determinant of whether experiences with technology have been positive or negative is the extent to which they have been appropriate, accessible and fit for purpose.

Technology does not obviate the need for information to be provided in different formats and for some people its use in some contexts can never replace direct human contact. There has been an assumption during the pandemic that technology is available and accessible to all, which needs to be challenged. Digital exclusion has been reported by Deaf BSL-users and older Deaf people unfamiliar with technology. Several reports have noted that Deaf people in rural areas and young Deaf adults were unable to communicate with anyone during periods of lockdown (Redfern and Baker, 2020; Wright et al, 2020).

Evidence suggests that some groups of disabled people have found new opportunities for working, socialising, connectivity and learning through the increased use of remote platforms during the pandemic (Hale et al, 2020; Foster and Hirst, 2020, Warner, 2020). Organisations representing people with learning disabilities for example, have highlighted how new opportunities to learn skills previously not available to this group have emerged, which it was previously wrongly assumed would be beyond their capabilities (Warner, Learning Disability Wales, 2020).

## Restricted access to services and essential healthcare

Disabled people have been disproportionately affected by restricted access to essential services including health care and rehabilitation during the pandemic. A survey by 'Fight for Sight' (June 2020) of 325 people with sight loss found 73% of respondents had difficulties accessing treatment, with 4 in 10 concerned their sight would deteriorate or lead to irreversible damage (RNIB, 2020). Visually impaired people were not prioritised or categorised in the official 'shielding'

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group and were excluded from accessing vital goods and services.

Inclusion London (June 2020) found over 60% of Deaf and disabled people questioned said they had struggled to access food, medicine and necessities. GPs and other public services set up telephone hotlines during the pandemic to minimise physical contact, but no forethought was given to access for Deaf and disabled people.

## Recommendations

We recommend a system of self-registration for those 'shielding' in Wales. Early introduction would have gone some way to preventing problems experienced by disabled people who found themselves excluded from priority access to medicines, food and services and we recommend this is introduced as part of future emergency planning.

Welsh Government need to address the restrictions on disabled people's mobility as a matter of urgency by increasing funds to enable disabled people to access 'safer' travel. Passenger assistance must be available on public transport and needs to consider access issues faced by different impairment groups, the impact of social distancing, queues and exits.

We recommend that Welsh government requires all local authorities to develop a work force plan to address the increasing shortage of Rehabilitation and rehabilitation specialists over the long term for visually impaired people.

We are aware that during the pandemic more funds were allocated to address abuse against women and girls. However, as the EVAWC (2020) highlight, these services were already under-funded and more resources are needed to address specific accessibility and risk factors faced by disabled women and girls experiencing domestic abuse. We call for an immediate amendment to the emergency legislation and for Welsh Government to ring-fence funds to meet these needs.

Too often, publicly funded 'help-lines' or their equivalent fail to address the accessibility of disabled users. We recommend a compulsory code of practice is

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developed for public and third sector providers, which ensures that accessibility requirements are met as a standard part of the public procurement process.

The UK government's response to a petition launched by Deaf and disabled people to include a BSL interpreter in the room for daily briefings has been totally inadequate: Welsh, Scottish and many other governments manage it. We call for broadcasters, as well as Welsh Government, to ensure footage on the news and social media includes BSL and subtitles. This is important for access but also for normalising the use of BSL. (ASLI and NRCPD, March 2020).

There have been widespread calls for the introduction of a 'coronavirus courtesy code' to raise public awareness of disabled people's rights to safely access public spaces, and the barriers that social distancing has posed for disabled pedestrians, road and public transport users. We recommend development of a courtesy code by Welsh Government and that this is a key focus of the Welsh Government's communication campaign as lockdown measures begin to ease and we move into the next phase of recovery.

While acknowledging that conditions that gave rise to some changes during the pandemic were unprecedented and introduced in emergency conditions, the consequences have been catastrophic for some disabled people. The UN recommends disabled people are integrated fully into emergency planning to ensure that access and inclusion problems are identified and proactively put in place and we call on Welsh Government to ensure this for the future.

We call on Welsh Government, local authorities, Public Health Wales and care service providers to urgently ensure they make it clearer to people with learning disabilities who are shielding what their rights are. We also ask that all local authorities and care providers remember that they still have well-being duties towards people with learning disabilities even if the way these are delivered differs.

Evidence from this enquiry has highlighted how disabled people's experiences in Wales during the pandemic have varied by location because of uneven treatment by local authorities. The Steering Group learnt that some Regional Partnership Boards provide potential models of good practice because they have actively sought to improve representation and coproduction with disabled

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people. We recommend Welsh Government set up a working group to conduct further research, with the aim of producing best practice guidance to local authorities in Wales and develop a Public Services Accessibility Charter and kitemark. We also recommend that, to encourage better representation from diverse communities and to go some way to addressing power imbalances, representatives' expenses are met and their time is remunerated.

To address digital exclusion and poverty we recommend that in partnership with DPOs, Digital Communities Wales urgently develop an education and skills programme specifically tailored to disabled people. Such a programme would require extensive consultation and co-production.

Properly resourced media literacy initiatives are needed in schools and communities in Wales. Citizens should be supported to recognise and access reliable news sources that enable them to make informed decisions about their lives (especially important in emergency situations). A greater visibility of disabled people in media is also needed to improve attitudes and understanding. Ways to incentivise TV and film industries to increase the representation of disabled people throughout the production process e.g. writing storylines and scripts, producing, researching, performing and in roles as crew are also required. This needs to consider the success of previous or existing diversity initiatives and whether there is value in introducing quotas or targets for representation. We recommend Welsh Government uses its influence to encourage the robust collection and publication of diversity data throughout TV, film and journalism industries and encourage greater efforts and investment to improve access and inclusion within the journalism industry, including opportunities for accessing courses, skills, training and apprenticeships. This should link to wider efforts to support the local news industry in Wales which is vital to increasing diversity and inclusion.

The pandemic revealed a need for further work and investment to be focused on developing communities (virtual or in-person) and technologies to facilitate social connections and mitigate loneliness in Wales. We recommend Welsh Government work closely with DPOs, third sector and grassroots community organisations, who are all uniquely placed to tackle isolation and loneliness because they have knowledge about disabled people and local communities. There is a real need to build on this accumulated knowledge and invest in

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connecting people in a way that is accessible to all.

We recommend a review of the level and type of publicly funded services available to people with learning disabilities. In the past day care has been provided, but since the pandemic increasing evidence (AWPF, Aug, 2020) suggests there has been a growth in confidence and technological skills, increasing the importance of virtual communities. Some people are participating in online training and are gaining confidence in leading and delivering this training and resources are required to reorientate existing services to develop skills further.

We call on Welsh Government to urgently address the centralisation of power that has taken place during COVID-19 by continuing to strengthen the positive reciprocal relationships that have developed during the pandemic between DPOs and the statutory sectors. This requires a re-examination of current funding to compensate for the loss in fund-raising capacity during the crisis and a recognition that organisations need long-term resources and support as well as crisis Covid-19 relief funds.

To ensure that Welsh citizens are sufficiently digitally included there is a need to look through a co-production and citizen involvement lens. We support the calls of Co-production Network for Wales for Welsh Government to establish working groups to promote shared learning and examples of inclusive good practice.

We welcome the establishment of a new fund to support disabled people seeking elected office for the 2021 Senedd elections and the 2022 Local Government elections, to address some of the barriers that prevent disabled people from participating in local democracy and standing for elected office. However, this initiative needs to be expanded to all aspects of government, policy-making and public service provision in Wales. To ensure that disabled people apply for jobs, senior level promotions, publicly procured contracts and advisory roles, we recommend that a proactive approach to reasonable adjustments accompanies the advertising of all such roles, so that applicants are clear that the potential to adjust timetables, deadlines or funding is available.

We call on Welsh Government to introduce a proactive policy on disability budgeting. The genesis of this idea comes from the concept of Gender

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Budgeting. This involves analysing a budget's differing impacts on disabled and non-disabled people to guide the allocation of resources to address a range of inequalities that have become embedded in public policies. Large attainment gaps between disabled and non-disabled people in education, employment, health, housing, entrepreneurship and public and political life persist. Disability budgeting is a way for Welsh Government to promote equality through fiscal policy.

- Professor Debbie Foster, Cardiff University, Report Author
- Rhian Davies, Disability Wales, Chair of Steering Group
- Andrea Gordon, Guide Dogs Cymru and in agreement with Wales Council of the Blind and RNIB Cymru to represent the visually impaired sector
- Lee Ellery, Independent Member of the Disability Equality Forum, member of Co-production Network for Wales and Swansea co-production network and Swansea Disability and Inclusion Panel facilitated by Leonard Cheshire Cymru
- Gaye Hampton, Wales Council for Deaf People, Welsh Government Accessible Communications Group
- Debbie Shaffer, Founder of the Fair Treatment for the Women of Wales
- Dr Natasha Hirst, Photojournalist, trade union and disability activist
- Joshua Reeves, Leonard Cheshire Cymru
- Joe Powell, All Wales People First
- Jon Luxton, Welsh Government, Specialist Adviser
- Welsh Government Social Research and Statistical colleagues, collation of evidence and statistics on behalf of group

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# Glossary of terms

## Endnotes on use of language and terminology

### Acronyms

### Steering Group membership

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