Legal, Financial, Physical and Structural: A Socio-Legal Analysis of the Reasons Why Disabled People are More Likely to Experience Homelessness

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Abstract

This paper seeks to identify the barriers impeding Disabled people's access to safe and secure housing, and to evaluate the extent to which UK law and government policy mitigates their harm. To provide context, the author revisits the atrocities experienced by Disabled people during the Second World War and the international measures taken in the aftermath of that war. The paper briefly reviews the evolution of the medical and social models of disability, considering how they inform domestic and international legal instruments. The discussion then turns to financial barriers facing Disabled people including additional costs, low employment and the scarcity of accessible housing. The paper explores the impact of welfare reform to the financial support available to Disabled people and the challenges when invoking the reasonable adjustment duty. Subsequently the focus turns to hidden disabilities: the prevalence of comorbidity; the debate surrounding the inclusion of substance dependency as a mental illness; and the unique challenges facing those with dual diagnosis. The paper will then evaluate key government approaches to homelessness since 1990, their economic and political context and the extent to which they have addressed homelessness. To conclude, the author will challenge the assumption that homelessness is the scourge of individuals who society has a moral duty to assist. They will argue instead that homelessness is a symptom of structural inequality and it is in addressing these harms that homelessness can be prevented for the most part and individuals' economic, social and cultural human rights can be realised.

1 Introduction

The UN Committee on the Rights of Persons with Disabilities (CommRPD) reviewed the "cumulative impact of legislation, policies and measures" adopted by the UK and in 2016 found "reliable evidence that the threshold of grave or systematic violations of the rights of persons with disabilities has been met".[1] In 2019, 83% of rough sleepers reported health vulnerabilities, yet homelessness has continued to rise despite government pledges to end it by 2024,[2] with 1.3 million people remaining on social housing waiting lists in 2023.[3] That winter, compared to the previous year, the number of people who were made homeless rose by 16%,[4] while the number of people sleeping rough increased by 27% in 2023.[5] Experts have investigated the reasons for the disproportionate number of Disabled people in the homeless population.[6] Research has also considered legislative and policy approaches to homelessness and antidiscrimination.

This paper seeks to answer the question: *What are the barriers impeding Disabled people's access to secure housing, and to what extent does UK law and government policy address them?* The author first considers the historical injustices faced by Disabled people, and the initial international and domestic legal protections that were enacted in response. This paper will then discuss the economic, physical, systemic and misunderstood barriers that Disabled people must overcome to obtain and afford secure long-term housing. As each set of barriers is reviewed, the government legislative and policy responses will be outlined. To evaluate the extent to which these approaches mitigate the harms caused, attention will be paid to the

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[1] Committee for the Rights of Persons with Disabilities, 'Inquiry concerning the United Kingdom of Great Britain and Northern Ireland carried out by the Committee under article 6 of the Optional Protocol to the Convention', (CommRPD October 2016) 18, 18.

[2] Ministry of Housing, Communities & Local Government 'Understanding the Multiple Vulnerabilities, Support Needs, and Experiences of People who Sleep Rough in England: Initial findings from the Rough Sleeping Questionnaire' (MHCLG December 2020) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/944598/Initial_findings_from_the_rough_sleeping_questionnaire_access.pdf> accessed 29 August 2024.

[3] LG Inform, 'Total households on the housing waiting list at 31st March in England' (2023) https://lginform.local.gov.uk/reports/lgastandard?mod-metric=105&mod-area=E92000001&mod-group=AllRegions_England&mod-type=namedComparisonGroup accessed 16 July 2024.

[4] Department for Levelling Up, Housing and Communities, 'Statutory homelessness in England: October to December 2023, 20 April 2024' (2024) https://www.gov.uk/government/statistics/statutory-homelessness-in-england-october-to-december-2023/statutory-homelessness-in-england-october-to-december-2023#temporary-accommodation accessed 16 July 2024.

[5] Department for Levelling Up, Housing and Communities, 'Rough sleeping snapshot in England: autumn 2023, 29 February 2024' (2024) https://www.gov.uk/government/statistics/rough-sleeping-snapshot-in-england-autumn-2023/rough-sleeping-snapshot-in-england-autumn-2023 accessed 16 July 2024.

[6] Beth Stone and Emily Wertans, 'Homelessness and disability in the UK' (Centre for Homelessness Impact 2023)

economic and political context, the model of disability that informed it and the impact on levels of homelessness.

2 Methods

This study takes a Critical Realist approach and acknowledges the powerful impact of society, as well as the law, and therefore adopts a socio-legal methodology. The author initially adopted a legal-doctrinal approach, examining first the legislative and jurisprudential framework, as it relates to homelessness and Disabled people. The existing literature regarding disability rights, homelessness and housing, including government policy, was then reviewed to give context to the discussion. A range of sources were examined including legal and sociological books and articles, government and NGO reports as well as academic, scientific and empirical research.

The scope of the empirical research was narrowed to two English regions: Yorkshire and the West Midlands. The study relies on primary data gathered from eleven key stakeholders in Local Government and the VCSE sector. This choice was made due to logistical considerations and pre-existing professional and academic networks. Including two regions allowed for comparisons of the approach of different councils with their respective demographics, resources and personnel, in terms of disability and homelessness provision.

Primary data was collected via semi-structured one-on-one interviews which lasted between 30 and 60 minutes. This structure was chosen for three reasons. Firstly, it allowed the author to respond to and be informed by any unanticipated answers, especially as they often allowed for common themes to become apparent. Secondly, it reduced the formality and allowed for more free-flowing dialogue. Thirdly, it gave the interviewee more agency and helped to mitigate the inherent power imbalance.

In each interview, there were questions regarding the working relationship between local government and the voluntary, community and social enterprise (VCSE) sector; how the organisations could better work together and the experience of Disabled people who experience homelessness or housing insecurity. The interviewee was asked for their views on how organisations could work together better to improve the situation for their service users. All but three interviews were undertaken remotely, at the participants' request.

Interviews took place during June and July 2024. Interviews were recorded as this allowed for a more natural dialogue and ensured the accuracy of the data captured. The recording was transcribed verbatim, anonymised and supplemented, where necessary, with additional

observations and notes to provide relevant context. The researcher adopted a thematic analysis of the transcripts: a "matrix-based method for ordering and synthesising data".[7] This approach allowed the researcher to uncover patterns and themes from the data collected.

One limitation of the research is that the author interviewed participants from only two regions of England, with the majority based in Yorkshire. As such, the views of the interviewees cannot be said to reflect their colleagues nationwide and may incorporate some regional bias. The author took a reflexive approach and was mindful of their positionality, previous experience and world view. As a white, middle-class, non-disabled person, the author does not share personal experiences with those at the centre of the research though does share some commonalities with the research participants. The author's previous project related to disability hate crime in York. The author has endeavoured to remain unbiased in addition to being fully transparent regarding the methodological approach taken.

3 A historical lack of legal and societal equality

"How a society treats its most vulnerable is always the measure of its humanity."[8]

3.1 Persecuted: An International Approach to Addressing Atrocities

Disabled people have been persecuted,[9] pathologised[10] and pitied[11] over the centuries, frequently treated as subhuman. Almost 250,000 Disabled people, including children, were

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[7] Jane Ritchie and Jane Lewis, *Qualitative Research Practice: A Guide for Social Science Students and Researchers* (Sage 2003), 219.

[8] Matthew Rycroft, UK Mission Ambassador to the UN, 'How a society treats its most vulnerable is always the measure of its humanity' (Statement at the Security Council Open Debate on Children and Armed Conflict, New York, 18 June 2015) <https://www.gov.uk/government/speeches/how-a-society-treats-its-most-vulnerable-is-always-the-measure-of-its-humanity> accessed 16 July 2024.

[9] Holocaust Memorial Day Trust, 'The Holocaust: Nazi Persecution of Other Groups: 1933–1945: Disabled People' (2024) https://www.hmd.org.uk/learn-about-the-holocaust-and-genocides/nazi-persecution/disabled-people/ accessed 2 September 2024.

[10] The medical model of disability focuses on diseases and disorders and looks at 'fixing' the person rather than considering that genetic and biological variations are representative of the heterogeneity of the human species. For further details, see: 'NEURO*DIVERSITY: Medical & Social Models of Disability' (Neurodiverse Inclusive Central E-Network 2017) <https://www.neurodivercitysg.com/medical-model-vs-social-model.html#:~:text=The%20medical%20model%20looks%20at,and%20control%20in%20their%20lives.&text=The%20social%20model%20does%20not,what%20the%20person%20can%20do.> accessed 7 September 2024.

[11] The Charity Model of Disability views the Disabled person as having a 'problem' and being a victim or an object of pity. For further details, see: 'Inclusive Participation Toolbox: What are models of disability' (CBM Participation 2024) <https://participation.cbm.org/why/disability-participation/models-of-disability#:~:text=The%20charity%20model%20identifies%20the,recipients%20and%20beneficiaries%20of%20services.> accessed 7 September 2024.

'euthanised' under the Nazi regime.[12] This is an example of the "massive affront to human dignity of the Second World War",[13] which precipitated the creation of the United Nations with the aim to "promote peace, justice and better living for all humankind".[14] Following its creation, the United Nations, began the "codification, at the international level, of human rights and fundamental freedoms".[15] The Universal Declaration of Human Rights (UDHR) 1948[16], is explicit, unlike the UN Charter of 1945,[17] in its inclusion of disabled people,

> "Everyone has the right to a standard of living adequate for the health and well-being … including … **housing …** and the right to security in the event of … **disability**."[18]

Though not legally binding itself,[19] the rights upheld in the UDHR were distributed between two separate Human Rights treaties. The International Covenant on Civil and Political Rights (ICCPR) [20] prohibited discrimination but did not make specific reference to disability as a motivator. The International Covenant on Economic, Social and Cultural Rights (ICESCR) [21] outlined the right to housing but, unlike the ICCPR, states party to the ICESCR are not considered immediately liable, instead the rights need only be realised progressively. The difference in the timeframe and legal liability accorded to civil and political (CP) rights as opposed to economic, social or cultural (ESC) rights, may have resulted in a hierarchisation of human rights, with Degener referring to ESC rights as "second generation".[22] Some question

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[12] Holocaust Memorial Day Trust, 'The Holocaust: Nazi Persecution of Other Groups: 1933–1945: Disabled People' (2024) https://www.hmd.org.uk/learn-about-the-holocaust-and-genocides/nazi-persecution/disabled-people/ accessed 2 September 2024.
[13] Jane Connors and Sangeeta Shah, 'United Nations' in Daniel Moeckli and others (eds), *International Human Rights Law* (4th edn, OUP 2022), 385.
[14] United Nations, 'Model United Nations: History of the United Nations' (2024) https://www.un.org/en/model-united-nations/history-united-nations accessed 2 September 2024

[15] Connors (n13), 385.
[16] Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR).
[17] United Nations, *Charter of the United Nations,* 1 UNTS XVI, 24 October 1945. Art 1(3).
[18] Ibid, Art 25.
[19] Ionel Zamfir, 'The Universal Declaration of Human Rights and its relevance for the European Union' (EPRS, Members Research Service, PE 628.295 November 2018).
[20] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR).
[21] International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR) art 11.
[22] Theresia Degener, 'A human rights model of disability' (2014) 8 <https://www.researchgate.net/profile/Theresia-Degener/publication/283713863_A_human_rights_model_of_disability/links/5644463208aef646e6ca7886/A-human-rights-model-of-disability.pdf> accessed 2 September 2024.

whether this contributed to the right to housing not being actualised for more than one in five people in the world.[23]

Farha argues that "[t]he global housing crisis is intensifying".[24] The symptoms of this "global crisis"[25] are visible here in the UK including "a 27% increase in rough sleeping"[26] (from 2022 to 2023). The disproportionate impact on Disabled people is perhaps less visible. This phenomenon was explored in a 2023 paper,[27] which reported that, while there are approximately 14.6 million Disabled people in the UK (22% of the general population),[28] "an analysis of single people experiencing homelessness reported a disability prevalence rate of 34%".[29]

"The first duty of the government is to keep citizens safe."[30] (The Home Office)

While historical discrimination and unfulfilled international protections may have contributed to the disproportionately high levels of homelessness experienced by Disabled people, the protective duty owed by the government remains. The UK government outlawed discrimination against disabled people under the Disability Discrimination Act (DDA) 1995, with a ministerial reassurance that the bill "will not place undue burdens on those [employers] who will be responsible for delivering its provisions".[31] Despite voting for the Conservative government bill, the Labour Party highlighted and critiqued its "unduly restrictive" definition of disability.[32] Disabled people now had legal redress against direct discrimination, failure to make a reasonable adjustment and victimisation within, inter alia, employment and occupation,

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[23] Balakrishnan Rajagopal, *Special Rapporteur on the Right to Adequate Housing*, 'Protecting the Right to Housing in the Context of the COVID-19 Outbreak' (OHCHR 2024) https://www.ohchr.org/en/special-procedures/sr-housing/protecting-right-housing-context-covid-19-outbreak accessed 29 August 2024.
[24] Ibid.
[25] Ibid.
[26] Department for Levelling Up, Housing and Communities, 'Rough Sleeping Snapshot in England: Autumn 2023' (2024) https://www.gov.uk/government/statistics/rough-sleeping-snapshot-in-england-autumn-2023/rough-sleeping-snapshot-in-england-autumn-2023 accessed 29 August 2024.
[27] Stone (n6).
[28] Department for Work and Pensions, 'Family Resources Survey: Financial Year 2020 to 2021' (2023) https://www.gov.uk/government/statistics/family-resources-survey-financial-year-2020-to-2021 accessed 17 July 2024.

[29] Beth Stone and Emily Wertans, 'Homelessness and Disability in the UK' (Centre for Homelessness Impact 2023)25 citing Nicholas Pleace and Joanne Bretherton, *Crisis Skylight: Final Report of the University of York Evaluation* (Crisis 2017)
[30] Home Office, 'Home Office' (GOV.UK, 2024) https://www.gov.uk/government/organisations/home-office accessed 5 September 2024.
[31] Ibid.
[32] Ibid.

education, transport and the exercise of public functions. The efficacy of, "reasonable adjustments" and its impact on reducing barriers to employment will be discussed further in 4.2.

3.2 Pathologised: From "Fixing" the Individual to Removing Barriers

The rights of Disabled people, including to not be discriminated against, are the subject of the UN Convention on the Rights of Persons with Disabilities[33] (CRPD) which the UK ratified in 2009. The drafting of the CRPD was groundbreaking due both to its authorship and outcome; for the "meaningful participation" of Disabled people from the global south and for honouring the motto of the Disability Rights Movement, "nothing about us without us".[34] It was the "first internationally legally binding instrument to address specifically the rights of persons with disabilities at a global level".[35]

Further, the treaty immortalised a shift in the paradigm: unlike previous legal approaches rooted in the medical model, the CRPD adopted the social model of disability.[36] The medical model of disability frames disability as "the result of individual impairments that could be 'fixed' by medical or technical intervention".[37] This narrative was challenged by disability rights activists, arguing that it was barriers in society rather than their medical condition that disabled them.[38] Crystallising this concept, Mike Oliver named it "the Social Model" and contrasted it with the incumbent individual (or medical) model.[39]

The CRPD does not explicitly required governments to ensure new policy and law comply with it,[40] and some argue that the social model approach was not followed when drafting the Equality Act.[41] The UK act considers that any "hindrance" experienced by a Disabled person "results

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[33] Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) A/RES/61/106, (CPRD).
[34] Strength and Solidarity Podcast, '26. Disability rights: How 'nothing about us without us' powered a global treaty' (19 July 2022) comments by Alberto Vasquez, Centre for Inclusive Policy in Geneva https://strengthandsolidarity.org/podcast/26-disability-rights-how-nothing-about-us-without-us-powered-a-global-treaty/ Accessed 17 July 2024.
[35] 'How 10 Years of the CRPD Have Been a Victory for Disability Rights, 6 December 2016' (The Huff Post 2016) https://www.huffpost.com/entry/how-ten-years-of-the-crpd-have-been-a-victory-for-disability_b_58473671e4b0cc9e7cf5dbdd?timestamp=1481064573703 Accessed 17 July 2024.
[36] Degener (n22), 4.
[37] Coreen A McGuire, 'What is disability history the history of?' (2024) 22(5) *History Compass*
[38] UPIAS, 'Fundamental Principles of Disability' (London: Union of the Physically Impaired Against Segregation 1976).
[39] Mike Oliver, 'The social model of disability: thirty years on' (2013) 28(7) Disability & Society 1024.
[40] House of Lords Library, 'Disability Discrimination Act: 1995 and Now, 6 November 2020' (2024) https://lordslibrary.parliament.uk/disability-discrimination-act-1995-and-now/ accessed 17 July 2024.
[41] Equality Act 2010.

entirely from the impairment" and "anchors itself firmly in the medical or individual model of disability".[42] The Equality Act[43] combined 116 separate pieces of legislation, "harmonising protection"[44] for nine protected characteristics, including disability, and rendered the DDA obsolete. The Equality Act[45] incorporates a duty to reduce socioeconomic inequalities (which often disproportionately impact those with protected characteristics). However, critics argue that the Act has not gone far enough to remove barriers preventing disabled people from engaging fully in society.[46]

3.3 Pitied: From an Individualised to a Societal Approach

Although leading national and international organisations[47] have rejected the medical model, the transition to the social model has been neither seamless nor without its critics. Three decades after he named the concept, Oliver wrote that, "almost from the beginning, critics of the social model began to emerge. Initially these came from the major disability charities".[48] Questioning whether it was "simplistic and possibly misleading",[49] Shakespeare also highlighted the argument put forth by several Feminist disability scholars that, as a model, it "excluded many dimensions of personal experience, particularly issues relating to impairment and identity".[50] Degener hails the social model of disability as summarising the success of the Convention. However, she has sought to develop the model further, into a human rights model of disability.[51] Distinguishing the two models, she explains that, while the former addresses CP rights of inclusion, the latter also empowers disabled people in terms of ESC rights, emphasising the importance of shelter and employment for Disabled people.[52]

As part of their efforts to monitor the UK's implementation of the CRPD, the CommRPD published a review in 2017 of the progress made by the UK on its treaty obligations. The head of the treaty body concluded that the UK Government's social cuts "had led to a human tragedy

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[42] Anna Lawson, 'Disability and Employment in the Equality Act 2010: Opportunities Seized, Lost and Generated' (2011) 40(4) Industrial Law Journal 359, 364.
[43] Equality Act 2010.
[44] Equality and Human Rights Commission, 'Equality Act 2010: The Purpose of the Equality Act' (August 2018) https://www.equalityhumanrights.com/equality/equality-act-2010 accessed 24 August 2024.
[45] Equality Act 2010.
[46] House of Lords Library (n40).
[47] The UN, the World Health Organisation and Disability Rights UK among others.
[48] Oliver (n39), 1025.
[49] Tom Shakespeare, 'Social Models of disability and other life strategies' (2004) 6(1) Scandinavian Journal of Disability Research 8, 12.
[50] Ibid, 13.
[51] Degener (n22).
[52] Degener (n22), 4.

as they had completely disregarded vulnerability".[53] The inquiry also drew attention to the "continued gaps in legal protection provided by the Equality Act 2010",[54] calling into question both the UK government's action and inaction in addressing barriers faced by Disabled people.

4 Financial and Physical Barriers

A British Disabled person is more likely to be living in poverty than their non-disabled counterpart. There are several reasons for this disparity. One is the cumulative effect of the extra, disability and ill-health-related costs that Disabled people often incur.[55] Another is that multiple barriers to employment mean that Disabled people are much less likely to be in paid work.[56] Further, as a marginalised group, Disabled people are disproportionately likely to experience in-work poverty.[57] Consequently, Disabled people, and the households in which they live, often depend on benefit payments and the welfare state.[58] As a result, "households containing a person in receipt of disability benefits are more heavily impacted by reforms than other households".[59] A "chronic shortage of accessible homes"[60] is a further barrier Disabled people must overcome to access safe, secure housing. This section will consider to what extent the Government has taken effective action to mitigate these barriers.

4.1 The Disability Price Tag

The disability price tag (DPT), is defined by Scope as "the additional amount of money a disabled household would need to have the same standard of living of a non-disabled household".[61] The DPT comprises three key elements: the cost of specialist equipment,

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[53] United Nations Office at Geneva, 'Meeting Summaries: Committee on the Rights of Persons with Disabilities Reviews Report of the United Kingdom: 24 August 2017' (2017) https://www.ungeneva.org/en/news-media/meeting-summary/2017/08/committee-rights-persons-disabilities-reviews-report-united accessed 2 September 2024.
[54] Ibid.
[55] Leticia Veruete-McKay and Others, 'The disability price tag: Summary report 2023' (SCOPE, 2023).
[56] House of Commons Work and Pensions Committee, 'Disability employment gap: Second Report of Session 2021-22' (House of Commons, 30 July 2021).
[57] James Richards and Kate Sang, 'The intersection of disability and in-work poverty in an advanced industrial nation: The lived experience of multiple disadvantages in a post-financial crisis UK' (2019) 40(3) Economic and Industrial Democracy, 636.
[58] Joseph Rowntree Foundation, 'UK Poverty 2024: The essential guide to understanding poverty in the UK' (JRF, 2024), 66.
[59] Policy in Practice, 'The Cumulative Impacts of Welfare Reform: A National Picture' (Policy in Practice, August 2017), 6.
[60] Equality and Human Rights Commission, 'Housing and disabled people: Britain's hidden crisis' (EHRC, May 2018), 7.
[61] Veruete-McKay (n55), 3.

products or services that Disabled people require; the need to spend more on everyday things such as having groceries delivered; as well as the increased cost incurred due to higher usage of essential items including utilities.[62] The second and third elements are compounded due to Disabled people being more at risk of poverty and the consequent poverty premium.[63] The cumulative effect is that, on average "disabled households (with at least one disabled adult or child) need an additional £975 a month to have the same standard of living as non-disabled households".[64]

Many Disabled people must pay for specialist essential products and services. These include, "powered wheelchairs or … physiotherapy".[65] This "disability premium", is "caused by inequality, rather than by disability itself".[66] Their description echoes a social model of disability approach, viewing disability as something for society to address, rather than the individualised approach of the medical model.[67] It could be argued that the current approach sees the DPT as an individual's burden. The second and third elements of the DPT relate to how it often costs Disabled people more to use "every day" products and services,[68]

> "People just daren't turn the heating on because of the cost. But if you've got … your wheelchair to charge, you've got a hoist you've got to charge…"[69] (Disability VCSE Worker)

The effect of DPT on Disabled people is compounded by structural discrimination, the poverty premium and the unequal impact of the COVID-19 pandemic.[70] "The Inequality of Poverty"[71] investigates the connection between the poverty premium and protected characteristics and concluded that disability, is associated with an increased risk of poverty in the UK. Nearly half

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[62] Veruete-McKay (n55).
[63] The 'Poverty Premium' refers to the idea that those living in poverty pay more for essential goods and services. For further details, see: 'Research: Reducing the Poverty Premium' (University of Bristol 2024) < https://www.bristol.ac.uk/research/impact/poverty-premium---sara-davies/#:~:text=The%20Poverty%20Premium%20is%20a,for%20essential%20goods%20and%20services.> accessed 7 September 2024.
[64] Veruete-McKay (n55), 3.
[65] Joseph Rowntree Foundation (n60), 66.
[66] S Davies and D Collings, 'The Inequality of Poverty: Exploring the link between the poverty premium and protected characteristics' (The University of Bristol PFRC, Feb 2021) 31.
[67] Oliver (n39).
[68] Davies (n66), 31.
[69] VCSE (Disability) Chief Executive (Yorkshire, Friday 12 July 2024).
[70] World Bank Group, 'Chapter 1. The Economic Impacts of the COVID-19 Crisis' (2024) https://www.worldbank.org/en/publication/wdr2022/brief/chapter-1-introduction-the-economic-impacts-of-the-covid-19-crisis accessed 5 September 2024.
[71] Davies (n66).

of households in poverty include a Disabled person, making additional financial burdens harder to manage. Since 2016–17, UK inflation has driven up the cost of food and essentials, disproportionately affecting Disabled households, which spend a larger share of their budget on these necessities .[72] Further, Disabled people in poverty often rely on expensive pre-payment meters[73] and are "more likely to lack digital capability"[74] and so be at a disadvantage as often the "best deal" is online.[75] These elements combine to reduce a Disabled person's financial flexibility and increase the barrier to accessing secure housing.

The government acts as "the guarantor of fairness within the welfare system".[76] Many Disabled people, and the households in which they live, depend on benefit payments and the welfare state.[77] Successive UK governments have expanded benefits and protections available to its Disabled citizens, theoretically improving their daily lives. However, following fourteen years of austerity and a ten-year period (2010–20) in which the UK Social Security system underwent several changes,[78] the benefits and government support now available to Disabled people, including those living in poverty, has changed. The Department for Work and Pensions (DWP) explained that these changes were to create a benefits system that "rewards work, and … helps people lift themselves out of poverty, and stay out of poverty".[79] However, "households containing a person in receipt of disability benefits are more heavily impacted by reforms than other households"[80] with those in receipt of certain benefits losing more than £50 weekly.

In its review of the DWP,[81] a House of Commons Select Committee (the Committee) raised several concerns about their approach and how it impacts Disabled people. The Committee concluded that the Work Capability Assessment intended to determine whether a person is medically 'fit for work' was not a satisfactory tool and that Job Centre Plus (JCP), the client-facing part of the Department, was not itself accessible to Disabled people. As well as citing

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[72] Veruete-McKay (n55).
[73] Davies (n66).
[74] Davies (n66), 8.
[75] Davies (n66), 8.
[78] Ian Green, Secretary of State for Work and Pensions, 'From welfare state to welfare system' (Reform Conference, London, 16 November 2016) <From welfare state to welfare system – GOV.UK (www.gov.uk)> accessed 3 September 2024.
[77] Joseph Rowntree Foundation (n58), 66.
[78] House of Commons Library, 'The Aims of Ten Years of Welfare Reform (2010–2020)' (2020) https://commonslibrary.parliament.uk/research-briefings/cbp-9090/ accessed 29 August 2024.
[79] Department for Work & Pensions, 'DWP Reform: DWP's Welfare Reform agenda explained' (DWP February 2015) <https://assets.publishing.service.gov.uk/media/5a808d5ce5274a2e8ab50cc5/dwp-reform-agenda-explained-1-feb-2015.pdf> accessed 29 August 2024.
[80] Policy in Practice, 'The Cumulative Impacts of Welfare Reform: A National Picture' (*Policy in Practice*, August 2017), 6.
[81] Work and Pensions Committee (n56).

examples of British Sign Language users not being provided with an interpreter and visually impaired people not receiving help from staff, the Committee advised that JCP staff should be given disability training on different impairments. As a public sector organisation, JCP has an anticipatory duty to provide reasonable adjustments.

4.2 The Disability Employment and Pay Gap

"Gaining paid employment still is a massive challenge."[82] (Disability VCSE Worker)

"Disabled people are considerably less likely to be in employment than non-disabled people."[83] While acknowledging a five percentage point reduction in the disability employment gap (DEG) over the preceding eight years and an increase in the number of Disabled people in employment, the Committee explained that the existing gap is the result of "unacceptable barriers" to Disabled people gaining, retaining and improving their employment.[84] To contextualise further, there is a higher number of people reporting that they are Disabled and a general uptick in the UK labour market.[85] As of July 2021, the DEG was just under thirty percentage points. However, this statistic does not elucidate the disability pay gap (DPG) or how the DEG impacts people with different impairments. The Committee recommends that government improves the quality of data it collects regarding the employment status of people with specific impairments as the DEG is in fact wider for, "people with learning disabilities, mental health problems and epilepsy, and people with multiple health conditions".[86]

> "It just seems to be a reluctance and fear of employing disabled people."[87] (Disability VCSE Worker)

Complex and nuanced, the DEG results from exterior walls barring entry to Disabled people as well as social injustice[88] and in-work poverty[89] that prevent Disabled people from sustaining their employment. The DPG reflects barriers to career progression, not just employment access.[90] The DPG refers to "the difference between how much disabled employees are paid,

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[82] VCSE (Disability) Chief Executive (Yorkshire, Friday 12 July 2024).
[83] Work and Pensions Committee (n56), 5.
[84] Ibid, 3.
[85] Ibid.
[86] Ibid, 9.
[87] VCSE (Disability) Chief Executive (Yorkshire, Friday 12 July 2024).
[88] Rupert Harwood, 'What Has Limited the Impact of UK Disability Equality Law on Social Justice?' [2016] 5 Laws <https://www.mdpi.com/2075-471X/5/4/42> accessed 20 July 2024.
[89] Richards (n57).
[90] Work and Pensions Committee (n56), 12.

on average, compared to their non-disabled counterparts"[91] and according to the TUC it, along with the DEG, comprises the "double discrimination" that Disabled people face at work.[92] The pay gap rose from 15.5% in 2019 to 19.6% in 2020,[93] and might be viewed as one reason why, "[i]n-work poverty disproportionately impacts…the disabled".[94]

The government addressed work place discrimination, first through the DDA and later the Equality Act,[95] with the codification of a duty by an employer to make reasonable adjustments (the Duty) should the "Disabled person concerned [be] at a substantial disadvantage in comparison with persons who are not disabled".[96] This duty, has been described as "ill-equipped to achieve its original purpose".[97] Harwood draws this conclusion having determined "a strong reluctance to make reasonable adjustments for workers on zero hours contracts" and a fear amongst Disabled workers that enforcing their right to reasonable adjustments may lead to dismissal and benefit sanctions.[98]

The definition of 'disability' employed by the DDA[99] and subsequently the Equality Act[100] has been repeatedly criticised as too narrow and reflecting a medicalised approach,[101] citing the exclusion of those who have one-off or short-term impairments.[102] It is also argued that not all workers who are covered by the Act are aware of this fact and due to the emphasis on medical evidence, some workers struggle to convince their employer that they are disabled.[103] It has also been highlighted that some provisions of the Equality Act have not (yet) been brought into effect, including a provision providing legal protection to those with two or more protected characteristics.[104] It is further argued that the Duty could be strengthened by requiring the employer to assess the work environment with reference to the (prospective) employee in

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[91] Ibid, 18.
[92] Ibid.
[93] Trades Union Congress, 'Written Evidence to Parliamentary Committees' (*Written evidence from the Trades Union Congress (TUC) (DEG0134)* < https://committees.parliament.uk/writtenevidence/19223/pdf/> accessed 22 July 2024.
[94] Richards (n57), 636.
[95] Equality Act 2010.
[96] Disability Discrimination Act 1995, c.50, Part II, Employment, Section 4A (1).
[97] Harwood (n88), 42.
[98] Ibid.
[99] Disability Discrimination Act 1995.
[100] Equality Act 2010.
[101] Harwood (n88); Colin Barnes, 'Disability Activism and the Struggle for Change' (2007) 2(3) *Education, Citizenship and Social Justice* 203; Carol Woodhams and Susan Corby, 'Defining Disability in Theory and Practice: A Critique of the British Disability Discrimination Act 1995' (2003) 32(2) *Journal of Social Policy* 159.
[102] Harwood (n88), 49.
[103] Harwood (n88).
[104] Harwood (n88).

question and anticipate potential reasonable adjustments as is the case with public sector organisations.[105]

Richards and Sang concluded that disability and in-work poverty were "inextricably linked"[106] and, rather than mitigate disadvantages experienced, employers were considered to have created barriers and agreed only to "minimal reasonable adjustments".[107] Rather than incorporating less taxing duties, allowing more rest breaks and taking a more flexible approach to how tasks were carried out, by treating Disabled workers exactly as their non-disabled counterparts and not accounting for their less-than-ideal health, half of those interviewed were not able to increase their hours and therefore their income.[108] Whether a consequence of its formation or execution, ineffectiveness of the Duty is seen here to be limiting entry to, and success within, the workplace for Disabled people. Unemployment or in-work poverty will only increase reliance on the Welfare System and compound economic barriers to accessing housing.

4.3 Inaccessible Housing

The EHRC described housing as the cornerstone of independent living,[109] a right that is enshrined in the UN Convention on the Rights of Persons with Disabilities.[110] For a Disabled person, an inaccessible home can lead to: mobility problems, the indignity of not being able to live independently, poorer mental health, being four times less likely to be in work and feelings of social isolation and anxiety.[111]

> "She cannot leave her flat unless someone physically picks her up and carries her out."[112] (Disability VCSE Worker)

In 2020, the Government committing to 'raising accessibility standards for new homes', mandating that the minimum standard for all new homes be elevated to M4(2),[113] which refers to Category 2 – accessible and adaptable dwellings. However, the Government failed to

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[105] Public Health England, 'Reasonable Adjustments: A Legal Duty' (September 2020) https://www.gov.uk/government/publications/reasonable-adjustments-a-legal-duty/reasonable-adjustments-a-legal-duty accessed 18 August 2024.
[106] Richards (n57), 652.
[107] Ibid, 653.
[108] Ibid.
[109] Ibid.
[110] Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) A/RES/61/106, (CPRD).
[111] Equality and Human Rights Commission (n60), 5.
[112] VCSE (Disability) Chief Executive (Yorkshire, Friday 12 July 2024).
[113] Ibid.

implement this, leading to the House of Commons Levelling Up, Housing and Communities (LUHC) Committee expressing its disappointment.[114] While acknowledging that England has the oldest housing stock in Europe, the LUHC Committee nevertheless highlighted the findings of the EHRC report, including that a lack of accessible homes had left disabled people "demoralised and frustrated".[115] The result is that only 7% of homes in England meet the basic accessibility requirements[116] and with the current default requirements for new build homes in most of the country guaranteeing neither accessibility nor adaptability, the EHRC have labelled this a crisis.[117]

Long, if not indefinite, waiting time have confined Disabled people to one or two rooms without access to proper bathing facilities resulting in an increased reliance on social care and family members, accidents and hospital admissions, often culminating in serious deterioration in mental wellbeing.[118] The expectation is that local authorities (Las) will build homes to meet the needs of those within their borders but there is an insufficient number of accessible homes. National data shows that the number and proportion of Disabled people is increasing with a rise from 11.9 million (19%) in 2013–14 to 16.1 million (24%) in 2016,[119] and evidence shows that accessible housing results in savings on health and social care and future adaptations.[120] However, the lack of "good" data available[121] is perhaps a reason why few LAs set targets for accessible housing. Building accessible housing is initially more expensive (£1,100 more on average) and therefore unappealing to developers. However it is significantly less expensive than retroactively adapting a property.[122] This is a possible reason for the report's finding that 68% of LAs reported that developers did not comply with accessibility regulations.[123]

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[114] House of Commons Levelling Up, Housing and Communities Committee, 'Disabled people in the housing sector: Seventh Report of Session 2023-24' (House of Commons, 20 May 2024), 20.
[115] Ibid, citing: Equality and Human Rights Commission, 'Housing and disabled people: Britain's hidden crisis' (EHRC, May 2018).
[116] Levelling Up, Housing and Communities Committee (n114), 20.
[117] Equality and Human Rights Commission (n60).
[118] Equality and Human Rights Commission (n60) 6.
[119] ONS (2014), 'Family Resources Survey 2012 to 2013'. Available at: https://assets.publishing.service.gov.uk/media/5a74de8240f0b65f61322e4f/family-resources-survey-statistics-2012-2013.pdf [accessed 19 August 2024]; ONS (2024) 'Family Resources Survey: financial year 2022 to 2023', Available at: Family Resources Survey: financial year 2022 to 2023 – GOV.UK (www.gov.uk) accessed 19 August 2024.
[120] Equality and Human Rights Commission (n60).
[121] Ibid, 7.
[122] Ibid, 25.
[123] Equality and Human Rights Commission (n60), 8.

Nevertheless, evidence suggests that if the more accessible regulations became industry standard, the difference in costs would eventually become negligible.[124]

Both the LUHC Committee and the EHRC report highlight the proportion of Disabled people currently living in unsuitable accommodation;[125] as such, more immediate solutions are necessary, in the form of adaptations to existing homes. Disabled Facilities Grants (DFGs) support adaptations but face delays, averaging twenty-two weeks.[126] Problems with adaptations are particularly acute within the private rental sector (PRS). A 2018 External review determined that the process was, "slow and cumbersome";[127] the upper limit of £30,000 was too restrictive and often resulted in cheaper, ineffective solutions being adopted. Further, a higher proportion of grants goes to those in social housing, despite Disabled people increasingly being housed in the PRS.

"A year [wait time] for Disabled Facilities Grant, and they don't seem at all ashamed about it."[128] (Disability VCSE Worker)

Reasons why a third of Disabled people living in the PRS are currently living in unsuitable accommodation include a conflict with tenancy duration. DFGs are intended as a long-term solution and require the applicant to have a tenancy of at least three years.[129] However, many private landlords are only able to offer tenancies of a year or less, meaning that their tenants do not qualify.[130] Further, both the EHRC and LUHC Committee reports included examples of private landlords refusing to support DFG applications, with common areas being a key source of contention. Considering that Disabled people on average must pay more to achieve the same standard of living,[131] but that they are less likely to be in employment and, if they are, more likely to be paid less than their non-disabled peers,[132] they are far less likely to be able to subsidise adaptations to their homes themselves.

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[124] Ibid; Women and Equalities Committee (2017), 'Building for Equality: Disability and the Built Environment'. Available at: https://www.parliament.uk/business/committees/committeesa-z/commons-select/women-and-equalities-committee/inquiries/parliament-2015/ disability-and-the-built-environment-16-17> accessed 19 August 2024.
[125] Equality and Human Rights Commission (n60), 8.
[126] Housing Grants, Construction and Regeneration Act 1996 Pt 1 Ch 1 Disabled Facilities Grants.
[127] Sheila Mackintosh et al., 'Disabled Facilities Frant (DFG) and Other Adaptations: External Review' (UWE Bristol December 2018), 3.
[128] VCSE (Disability) Chief Executive (Yorkshire, Friday 12 July 2024).
[129] Equality and Human Rights Commission (n60), 43.
[130] Ibid.
[131] Veruete-McKay (n57).
[132] Work and Pensions Committee (n14).

5 Invisible Disability

> "hidden disabilities … people think they should be able to just get on with."[133] (Homelessness VCSE Worker)

5.1 Mental Illness

> "It feels like 99% of the people that come to us struggle with their mental health."[134](Homelessness VCSE Worker)

Homeless people are more likely to experience mental illness than members of the general population.[135] A 2021 review called for healthcare services to revisit how they assess, treat and follow up homeless people.[136] The review outlined not only the harm that could be avoided by addressing mental ill health but also the fact that, in many cases, mental illness is treatable and such treatment could help to address health inequalities. The prevalence of psychiatric morbidity among homeless individuals varies depending on the type of homelessness they are experiencing, be it the use of temporary leased accommodation, staying in night shelters or special hostels or sleeping rough, but mental disorders were particularly prevalent amongst those staying in homeless hostels.[137] There was also variation in the types of mental illnesses experienced with depression, affective disorders, substance dependence, psychotic disorders, schizophrenia and personality disorders being the most commonly occurring. A higher frequency of mentally ill individuals at emergency shelters and hostels has led many to argue that providing mental health training to emergency shelter and hostel staff could increase reach and improve interactions for both staff and service users.[138]

> "How do you cope with [mental health] … If you live in a large hostel?"[139] (Homelessness VCSE Worker)

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[133] VCSE (Homelessness) Former Head of Governance (West Midlands, Tuesday 2 July 2024).
[134] VCSE (Homelessness) Worker 1 (Yorkshire, Friday 14 June 2024).
[135] Seena Fazel, John R Geddes and Margot Kushel, 'The health of homeless people in high-income countries: descriptive epidemiology, health consequences, and clinical and policy recommendations' (2014) 384 The Lancet 1529.
[136] Stefan Gutwinski et al, 'The Prevalence of Mental Disorders Among Homeless People in High-Income Countries: An Updated Systematic Review and Meta-Regression Analysis' (2021) 18(8) *PLOS Medicine* <https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1003750> accessed 3 August 2024.
[137] Bernice Prinsloo, Catherine Parr and Joanne Fenton, 'Mental Illness Among the Homeless: Prevalence Study in a Dublin Homeless Hostel' (2012) 29(1) *Irish Journal of Psychological Medicine* 22
[138] Ibid, 22.
[139] VCSE (Homelessness) Worker 2 (Yorkshire, Thursday 27 June 2024).

Despite the acuteness of their vulnerability and need, a 2019 article found that homeless individuals are more likely to have problems accessing healthcare; underlining the assertion that this population are "among the most marginalised and vulnerable in society";[140] detailing the acute prevalence of physical ailments, mental disorders, addiction, victimisation, early childhood trauma, and incarceration.[141] The literature identifies homeless individuals who are mentally ill as experiencing specific additional barriers due to their housing insecurity that in turn exacerbates their health status, particularly in terms of accessing care services in the community following discharge from hospital.[142] A homeless person is forty times less likely to be registered with a GP.[143] Lack of access to primary care settings was shown not only to impact the health care infrastructure, as it increased the chance that someone would attend Accident and Emergency, but also the quality and standard of living due to untreated psychiatric and physical health problems compromising social integration and employment.[144]

> "Mental health is caused by homelessness and homelessness causes mental health."[145] (Homelessness VCSE Worker)

5.2 Dual Diagnosis

> "People who are homeless… their main things will be addiction and physical and mental health"[146] (Homelessness VCSE Worker)

Substance dependence is incorporated as a mental illness and therefore a disability by the American Psychiatric Association (APA) and the World Health Organisation (WHO);[147] but it is excluded from the definition of disability in most circumstances by the Equality Act 2010. This exclusion also differs from the approach adopted by the CRPD,[148] which does not preclude such conditions from its remit. The approach of the Act was questioned at the time by the UK Drug Policy Commission (UKDPC – no longer in operation) as to whether it was fair to problem drug users, considered one of the most disadvantaged groups in society, with 80% not

[140] Christian Schütz and others, 'Living with Dual Diagnosis and Homelessness: Marginalized Within a Marginalized Group' (2019) 15(2) Journal of Dual Diagnosis 88, 88.
[141] Ibid; Fazel (n135).
[142] Prinsloo (n137).
[143] Ibid.
[144] Ibid.
[145] VCSE (Homelessness) Worker 2 (Yorkshire, Thursday 27 June 2024).
[146] Ibid.
[147] Simon Flacks, 'Deviant Disabilities: The Exclusion of Drug and Alcohol Addiction from the Equality Act 2010' (2012) 21(3) Social and Legal Studies 395.

[148] CRPD (n33).

in employment. The UKPDC highlighted the frequent co-occurrence of physical and mental health problems alongside substance use. However, this argument was not mentioned during the parliamentary debates preceding the enactment of the Equality Bill.[149] In contrast, in the USA, Australia, and Canada, alcohol and drug dependence are not explicitly excluded from the definition of disability.[150]

> "I visited hostels which actually had drug dealers living in [them] … what we've got is a system that is not fit for purpose."[151] (Homelessness VCSE Worker)

Substance dependence, and its definition, is a political as well as a legal issue, with public opinion at least a consideration, if not a deciding factor.[152] According to the Royal College of Psychiatrists, those experiencing drug and alcohol addiction, alongside people with schizophrenia, are those most stigmatised among those with mental ill health.[153] This high level of stigma has been attributed by some to perceptions of greater blameworthiness or danger compared with other types of mental illness.[154] Further, some ascribe a loss of self-control or even a "disease of the will"[155] to those who are dependent on addictive substances. A dichotomy between disability and substance dependence is theorised by Schneider and Ingram who contrast two groups – *dependents [sic]* – which includes Disabled people, is viewed positively, while the other – *deviants* – including "drug addicts", is perceived negatively.[156] While this is a theoretical work, there is evidence that the public do indeed view these two groups differently: an Australian court ruling that was consistent with opioid dependency being considered a disability was met with outrage from the national media, with newspaper articles denouncing those experiencing addiction as "junkies" and "enemies of society".[157]

Although its existence is widely acknowledged, the source of the stigma is disputed. It has been argued that the stigma is exacerbated by punitive drug policies and rhetoric surrounding the

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[149] Flacks (n147).
[150] Ibid.
[151] VCSE (Homelessness) Worker 3 (West Midlands, Thursday 27 June 2024).
[152] 'The Overton Window' (Mackinac Center for Public Policy 2019) < https://www.mackinac.org/OvertonWindow> accessed 5 September 2024.
[153] Flacks (n149) 399 citing AH Crisp, M Gelder and E Goddard, 'Stigmatization of people with mental illness: A follow-up study within the Changing Minds campaign of the Royal College of Psychiatrists' (2005) 4 World Psychiatry 1106.
[154] Flacks (n147), 399.
[155] Flacks (n147), 400 citing M Valverde, *Diseases of the Will: Alcohol and Dilemmas of Freedom* (Cambridge University Press 1998).
[156] Anne Schneider and Helen Ingram, 'Social Construction of Target Populations: Implications for Politics and Policy' (1993) 87(2) The American Political Science Review 334.
[157] Flacks (n147), 400.

links between drug and alcohol use and crime. Flacks[158] cites, as an example, the UK Government 2010 Drug Strategy, in which the then Home Secretary described substance dependence as a key cause of, "societal harm, including crime, family breakdown and poverty".[159] Alternative theories consider the role that the perception of "choice" plays, leading to the idea of people being "deserving" and "undeserving" or the idea of reversibility should someone experiencing addiction "choose" to stop.[160] For others, it is the exclusion from legal protection itself that attaches stigma.[161]

The philosophical argument must be accompanied by an examination of the reality for a significant proportion of homeless individuals who are both dependent on an addictive substance and have a mental illness, a combination which is described as dual diagnosis.[162] Concurrent mental ill health and substance abuse disorders are particularly prevalent in the homeless population,[163] and there is a strong correlation with those who are chronically homeless.[164] Compared with other members of the homeless population, itself a marginalised group, those with dual diagnosis were often more vulnerable with even more complex needs.[165] The prevalence of dual diagnosis may even be underestimated given that a lot of research centres on those living in homeless shelters, whereas those who are sleeping rough are more likely to be affected.[166] Additionally, a 2019 study found that individuals with dual diagnosis were more likely to have problems accessing the health care system and were less likely to receive optimal care. These findings corroborated the existing literature.[167]

In contrast to the prevalence and acuity of dual diagnosis, studies have shown that many services intended for use by homeless individuals are not designed to address the reality of concurrent substance dependence and mental illness.[168] A systematic review of clinical

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[158] Ibid.
[159] HM Government Drug Strategy (2010) 'Reducing Demand, Restricting Supply, Building Recovery: Supporting People to Live a Drug Free Life' (London: Home Office) 2.
[160] Flacks (n147).
[161] Flacks (n147), 404.
[162] Schütz (n140); Sam Tsemberis, Leyla Gulcur and Maria Nakae, 'Housing First, Consumer Choice, and Harm Reduction for Homeless Individuals With a Dual Diagnosis' (2004) 94(4) *American Journal of Public Health* 651
[163] Schütz (n140).
[164] Tsemberis (n162).
[165] Schütz (n140).
[166] Ibid.
[167] Schütz (n140).
[168] Tsemberis (n162); Ray Alsuhaibani et al, 'Scope, Quality and Inclusivity of International Clinical Guidelines on Mental Health and Substance Abuse in Relation to Dual Diagnosis, Social and Community Outcomes: A Systematic Review' (2021) 21 *BMC Psychiatry* 209 <https://bmcpsychiatry.biomedcentral.com/articles/10.1186/s12888-021-03188-0> Accessed 3 August 2024.

guidelines advocated for more person-centred and integrated care, given the "very high co-prevalence" of substance use disorder and severe mental illness, highlighting the lack of consideration for coexisting disorders.[169] The Review's conclusion echoes the finding of a 2011 study in Dublin where services distinguished themselves as either addressing psychiatric illness or addiction, without considering possible opportunities for collaboration, the need for which remains particularly acute.[170]

Given the high prevalence of substance dependence among Disabled homeless people,[171] a failure to adequately treat and support those with drug and alcohol addiction will disproportionately impact Disabled people, impeding their route out of homelessness. Dual diagnosis was mentioned multiple times by the research participants interviewed. In addition to highlighting its pervasiveness, they referenced the reduction of financial investment in specialist services that had proved effective during previous policy approaches.[172]

> "Where a worker would have had … 12 clients, a worker on average now in most Drug services, it's about 90."[173] (Homelessness VCSE Worker)

Alongside offering a theory for the resurgence in homelessness after the significant reduction in the early 1990s, the participant added that drug services had had a dual role as the "first line"[174] in mental health support, with workers often identifying a psychiatric condition in addition to substance dependence. As such, it can be argued that reduced funding for drug services reduces the opportunities to identify and support those with mental ill health. If substance dependence is indeed a mental illness, then the Equality Act excludes a significant number of Disabled people from the legal protection it can provide.

6 UK Approaches to Housing and Homelessness

Levels of housing and homelessness over the last thirty-five years have fluctuated amid Government interventions and global economic downturns. In the late 1980s and early 1990s, the Government addressed rising numbers of rough sleepers with the successful Rough Sleeping Initiative (RSI). Following the economic crash in 2008, the ensuing recession,

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[169] Alsuhaibani (n168), 209.
[170] Prinsloo (n137), 23.
[171] For example, in one study, more than a third of individuals with Intellectual Disability ascribed their homelessness to substance dependence: Cécile Mercier and Sylvie Picard, 'Intellectual Disability and Homelessness' (2011) 55(4) *Journal of Intellectual Disability Research* 441
[172] See 6.1.
[173] VCSE (Homelessness) Worker 2 (Yorkshire, Thursday 27 June 2024).
[174] VCSE (Homelessness) Worker 2 (Yorkshire, Thursday 27 June 2024).

consequent austerity measures and welfare reform, rough sleeping increased again, and the Conservative government responded with the Homelessness Reduction Act in 2017. Exploring new methods, the government also funded three regional pilots of Housing First,[175] an approach designed to tackle chronic homelessness, which is strongly associated with individuals who have a dual diagnosis.[176]

6.1 The Rough Sleeping Initiative

While a statutory duty to house homeless people was first introduced in 1977,[177] the RSI was a policy strategy of a Conservative government, introduced in 1990, which, it is argued, came closest to achieving functional zero homelessness.[178] The initiative was, initially, a £30 million, three-year programme to fund outreach and resettlement workers as well as emergency hostel places and other temporary and permanent accommodation in London.[179] The RSI was extended twice, with the final extension expanding the reach nationwide. A lack of data regarding geography and the scale of the problem on a national level impeded the allocation of budgets.[180] Shortly after the start of the third and final phase, there was a change of government, but the initiative ran its course until 1999.

In 1998, under the now Labour government, a newly created group, the Social Exclusion Unit, released a report identifying unemployment, low incomes and intergenerational poverty as wider, structural causes of homelessness as well as individual factors such as mental ill health, addiction and family breakdown.[181] Taking a preventative approach, the Unit recommended provisions for care and prison leavers as well as an inter-agency approach at the local level to be coordinated nationally.[182]

The Rough Sleepers Unit (RSU) was set up in 1999, tasked with reducing rough sleeping in England by two thirds within three years, in fact meeting its target within twenty-four months.[183] The scheme used a combination of methods that included hiring mental health and addiction services specialists as well as taking a preventative approach regarding care and

[175] Emily Batchelor, '"It's like a dream come true" An inquiry into scaling up Housing First in England' (APPG for Ending Homelessness, Crisis, 2021), 3.
[176] Tsemberis (n162).
[177] The Housing (Homeless Persons) Act 1977.
[178] Matt Downie, 'Everybody In: How to end homelessness in Great Britain' (London: Crisis 2018), 51.
[179] Wendy Wilson, 'Rough Sleepers Initiative (RSI) 1990 – 1999' (House of Commons Library, Standard Note SN07121 2015).
[180] Downie (n178), 175.
[181] Ibid.
[182] Ibid.
[183] Downie (n178), 176.

prison leavers.[184] Its early success has been, at least partially, attributed to the political importance it was assigned; the Government department was managed by the deputy prime minister with a direct reporting line to the prime minister.[185]

A year after the RSU met its ambitious target,[186] the government took a legislative approach to the issue of homelessness, enacting the Homelessness Act.[187] The 2002 Act put more responsibility on LAs, requiring them to "take a more strategic, multi-agency approach to the prevention of homelessness and the provision of accommodation for homeless people".[188] While the stated intention was to improve protection for homeless individuals and the Act encouraged a preventative approach while strengthening the duties owed to them, it was emphasised that the duty was owed to people who were homeless "through no fault of their own".[189]

> "[the] Housing Options Team get 260 contacts a week for people … that's a lot of people that are at crisis point."[190] (LA Worker)

One preventative element was the introduction of Housing Options, increasing the breadth of advice and assistance available. The proactive approach of Housing Options has been praised, although LAs are restricted to the social housing they have available or the decreasing number of properties in the PRS which are affordable. Further, under the 2002 Act,[191] the relief duty, but not the duty to prevent, was encompassed by the statutory framework and, as such, created an asymmetry between the prevention duty and the relief duty.

6.2 The Homelessness Reduction Act 2017

> "The intention is great, because I do think we could, should do more to prevent homelessness… But I think we always tried to prevent homelessness, even when there wasn't a legal duty to do it."[192] (Homelessness VCSE Worker)

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[184] Downie (n178), 176.
[185] Emma Norris, 'What Angela Rayner's new homelessness unit can learn from New Labour' (*Institute for Government*, 12 June 2024) < https://www.instituteforgovernment.org.uk/comment/angela-rayner-homelessness-unit > accessed 29 August 2024.
[186] Ibid.
[187] Homelessness Act 2002.
[188] 'Homelessness Act 2002 Explanatory Notes' (legislation.gov.uk) < https://www.legislation.gov.uk/ukpga/2002/7/notes#:~:text=The%20Act%20requires%20local%20housing,no%20fault%20of%20their%20own.> accessed 29 August 2024.
[189] Ibid.
[190] Local Authority Worker #3 (Yorkshire, Friday 12 July 2024).
[191] Homelessness Act 2002.
[192] VCSE (Homelessness) Former Head of Governance (West Midlands, Tuesday 2 July 2024).

The Homelessness Reduction Act (HRA) 2017 was hailed as representing "the most significant reform" of the previous four decades regarding the "duties of local authorities towards people experiencing homelessness".[193] The HRA went some way to redress the imbalance between the prevention and relief duties with a statutory prevention duty that was extended to fifty-six days. Further, the Act compelled LAs to develop a personalised plan for individuals experiencing, or threatened with, homelessness.[194] The HRA, came in the wake of the Welfare Reform Act 2012 and evolved from proposals put forth by a panel of industry experts,[195] and many LAs.[196] However, concerns and criticisms have since been levied on a range of aspects. The government initially allocated £72.7 million to LAs, which contrasts starkly with the £2.44 billion that was spent by LAs in 2022–23 on homelessness services.[197]

> "We've got a lack of [housing] stock. That is a really protracted process at the moment, talking months, and months and months."[198] (LA Worker)

More concerns, both practical and philosophical, were forthcoming. A critical analysis of the Act's application in the West Midlands, following interviews with various VCSE sector homelessness organisations as well as staff at Coventry City Council, acknowledged the "mixed responses from both policy makers and organisations".[199] The report highlighted participant concerns regarding insufficient financial resources and a lack of available housing relating to relationships between the council, homelessness organisations and private landlords, as well as a call to abolish the priority status.[200] Bevan, too, highlights the significance of the HRA, calling it groundbreaking, but argues that in practice, it is "contributing to, rather than obviating, the marginalisation and social exclusion of homeless people".[201] Bevan argues that the Act conceives homeless people as "self-responsibilised [sic] citizens responsible for their own housing precarity".[202] He paints the effect of the Act as marginalising, contrasting this

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[193] Carla Reeson, 'Personalisation under the Homelessness Reduction Act 2017: how personal are personal housing plans?' (2024) Journal of Social Welfare and Family Law 2 <https://www-tandfonline-com.libproxy.york.ac.uk/doi/full/10.1080/09649069.2024.2381993> accessed 29 August 2024.
[194] Homelessness Reduction Act 2017 s 3.
[195] Reeson (n193).
[196] Downie (n178), 103.
[197] National Audit Office, 'Report: The effectiveness of government in tackling homelessness: The Department for Levelling Up, Housing & Communities' (Session 2024-25 HC 119).
[198] Local Authority Worker #3 (Yorkshire, Friday 12 July 2024).
[199] Cerise White and others, 'The Homelessness Reduction Act: A critical analysis of its application in the West Midlands' (2018) Capabilities in Academic Policy Engagement 3.
[200] White (n199).
[201] Chris Bevan, 'The Homelessness Reduction Act 2017: furthering not fracturing marginalisation of those experiencing homelessness' (2022) 18 International Journal of Law in Context 41, 42.
[202] Ibid, 52.

construction with the "widespread recognition that the principal causes [of homelessness] are structural".[203]

6.3 Housing First

> "We need to try Housing First because they [homeless individuals] need their own place, because it's not working in these environments [hostels]."[204] (LA Worker)

In the 2017 Autumn Budget, the UK government announced funding for three regional pilots of the Housing First model (Housing First).[205] The Government initially pledged £28 million, which funded 1,100 Housing First places in Greater Manchester, Liverpool City Region, and the West Midlands Combined Authority (WMCA).[206] Housing First is often described by contrasting it with the more traditional, and previously dominant approach, often referred to as 'treatment as usual' (TAU). TAU generally involves an initial stay in a hostel or homeless shelter before progressing to "move-on" accommodation. The underlying premise of TAU is that the individual who has been experiencing homelessness must prove that they are "tenancy-ready" before being provided with long term accommodation.[207]

In addition to longer term accommodation being contingent upon compliance with certain requirements and acceptance of substance dependency treatment, the tenancy for the move-on accommodation is often limited to two years. This is a condition of the Government funded Rough Sleeping Accommodation Programme (RSAP) to ensure the 6,000 places provided can be used by the greatest number of people.[208] While this approach aims to help as many individuals as possible, it necessarily focuses on immediate need rather than ongoing support. In contrast, flexible ongoing support is one of the eight tenets of Housing First and it was envisioned as an antidote to the issue of chronic homelessness.[209] People experiencing chronic homelessness were likely to have a combination of mental illness and substance dependence,[210] often alongside other issues. The model is targeted towards those with "poor physical health,

[203] Bevan (n201), 52.
[204] Local Authority Worker #3 (Yorkshire, Friday 12th July 2024).
[205] Batchelor (n175), 3.
[206] Batchelor (n175).
[207] Batchelor (n175), 11.
[208] Batchelor (n175), 10.
[209] Tsemberis (n162).
[210] Ibid.

limiting illness and disabilities" as well as those with a dual diagnosis and any combination thereof.[211]

> "The Housing First pilots [were] targeting your entrenched longer term rough sleepers. Within that, absolutely, there is an over representation of people with disabilities."[212] (LA Worker)

The European Federation of National Organisations Working with the Homeless (FEANTSA) Housing First Guide refers to the Model as "probably the single most important innovation in homelessness service design in the last 30 years".[213] Housing First's success is measured by retention rates, substance use, and well-being improvements. There are multiple studies and strong evidence to support its effectiveness in ending chronic homelessness. In North America and Europe, research shows that Housing First helps 80% of participants, many of whom have the highest need, to escape homelessness.[214] A review of four key randomised controlled trials of the Housing First model determined that there was strong evidence that the model is effective with regard to ending homelessness. [215]

Other key principles of Housing First include "rapid access to a stable home"[216] and separation of that housing from any treatment, encouraging active engagement with support without coercion or threat of losing their accommodation.[217] The model acknowledges housing as a human right and not contingent on sobriety or abstinence.[218] As sobriety is not enforced, concerns are sometimes raised that this will lead to higher levels of substance use in comparison to where individuals receive TAU. However, the meta-analysis determined that such fears are "contradicted by these data".[219] In terms of the final marker, the evidence is not as conclusive. The review showed reduced use of non-routine health services compared to those receiving TAU. Other indicators, such as rates of suicidality, HIV, criminality and mental well-being

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[211] Nicholas Pleace, 'Housing First Guide Europe' (FEANTSA 2016) 12 <https://www.feantsa.org/download/hfg_full_digital1907983494259831639.pdf> accessed 30 August 2024
[212] Local Authority Worker 1 (West Midlands, Wednesday 26 June 2024).
[213] Pleace (n211).
[214]Nicholas Pleace and Joanne Bretherton, 'The Case for Housing First in the European Union: A Critical Evaluation of Concerns about Effectiveness' (2013) 7(2) *European Journal of Homelessness* 21
[215] *American Journal of Public Health*, 'Is the Housing First Model Effective? Different Evidence for Different Outcomes' (2020) 110(9) *American Journal of Public Health* 1376.
[216] Downie (n178), 170.
[217] Pleace (n211), 24.
[218] Downie (n178), 170.
[219] AJ Baxter et al, 'Effects of Housing First Approaches on Health and Well-Being of Adults Who Are Homeless or at Risk of Homelessness: Systematic Review and Meta-Analysis of Randomised Controlled Trials' (2019) 73 *Journal of Epidemiology and Community Health* 379, 385

show positive results for Housing First participants but not necessarily any more so than their TAU counterparts.[220]

The UK has followed in the footsteps of the USA, Canada, France, Denmark, Spain, the Netherlands, and Australia in introducing the Housing First Model. In 2022, the Government extending the funding for the regional pilots to 2025. The pilots are supporting high need individuals, with 84% of the people accessing the WMCA pilot having mental health needs, while 26% have a physical disability. One particular organisation delivering Housing First services reported that, of their 171 clients, "144 have mental health issues, 148 experience drug misuse, 82 experience alcohol misuse, 140 have dual diagnosis … 103 have physical health issues and 67 have disabilities."[221] There is also positive evidence from all three regional pilots that the Housing First model is proving effective with 88% of participants sustaining their tenancies as of September 2020. The mayors of each region have also publicly voiced their support for this approach and of the need to scale up the program to a national roll out.[222] The All-Party Parliamentary Group for Ending Homelessness has released a report to "make a compelling case to the Government that the national roll out of Housing First is essential if we are to end the plight of homelessness of the most vulnerable people in our society".[223]

7 Conclusion

In 1948, the UDHR proclaimed "the inherent dignity … of all members of the human family".[224] Since then an internationally recognised Human Rights Treaty has been drafted *by* Disabled people, *for* Disabled people[225] and the focus of discussion has moved from how to fix Disabled people to how to remove the barriers that disable them, emphasising that disability is not an individual issue but a societal one.[226] Some argue there is still distance to travel and outline a Human Rights model which not only protects against discriminatory action but empowers Disabled people to realise their ESC rights.[227] Domestic legislation is accused of not embodying more progressive models of disability, with the DDA and EA said to have codified

[220] Peter Mackie, Sarah Johnsen and Jenny Wood, 'Ending rough sleeping: what works?' (An international evidence review Crisis London December 2017), 38.
[221] Batchelor (n175), 13.
[222] Batchelor (n175), 17.
[223] Batchelor (n175), 4.
[224] UDHR (n16) Preamble.
[225] CRPD (n33).
[226] Oliver (n39).
[227] Degener (n22).

the medical model, embedding an individualised view of the barriers that Disabled people must overcome to access secure housing.

Some of the barriers Disabled people face are financial and physical. In England, it costs more for Disabled people to achieve the same standard of living as their non-disabled counterparts[228] and much of this increased expenditure relates to everyday costs. Further, only half of Disabled people are employed, compared to 80% of the general population. This Disability Employment Gap is stark but masks the fact that even when Disabled people are employed, they are more likely to experience in-work poverty. These three issues contribute to the fact that Disabled people are more likely to live in poverty in England. As such, many Disabled people are unable to obtain the 7% of housing that is minimally accessible in England. A third of Disabled people in privately rented properties live in unsuitable accommodation. Government housing grants face delays, restrictive limits, and eligibility issues in the private rental sector.[229] The result is that a Disabled person is less likely to be able to afford secure housing but, should they be able to, there is great difficulty in assuring it is safe.

Many research participants raised concerns about their service users with hidden or invisible disability. Mental illness was raised repeatedly as being extremely prevalent among homeless individuals along with the lack of suitability and provision in the homelessness sector. Research has shown that mental ill health also occurs more frequently among those with intellectual disabilities and is often experienced concurrently with substance dependence. While being ubiquitous among the homeless population, particularly those with mental illness, substance dependence is not universally accepted as such. While national and international health organisations accept it as a psychiatric condition, it is not included in the Equality Act's definition of disability. Arguably a political decision, as it goes against international consensus, the exclusion of substance dependence from the definition of disability brings additional barriers to those experiencing it: eliminating the possibility of legal protection while the resources for specialist drug and recovery services have decreased.

Successive UK governments have addressed homelessness with a mixture of legislation and policy decisions. The Housing Act,[230] the Homelessness Act[231] and the Homelessness Reduction Act,[232] placed increasing responsibility on Housing Authorities to first relieve and

[228] Veruete-McKay (n57).
[229] Equality and Human Rights Commission (n62).
[230] The Housing (Homeless Persons) Act 1977.
[231] Homelessness Act 2002.
[232] Homelessness Reduction Act 2017.

later prevent homelessness; but it was a policy strategy[233] that had the more definitive success. The trends in homelessness recorded reflect the peaks and troughs of the UK economy with 2023 figures being 120% higher than in 2010, following a period of austerity, welfare reform and the Covid-engendered economic downturn. The deployment of mental health and addiction service specialists, alongside a preventative approach, are credited with the success of the RSU at the turn of the century.

The HRA focuses on individual responsibility, overlooking structural causes of homelessness.[234] In contrast, the government has been praised for funding a Housing First approach in three regions, an essential element of which is ongoing support for participants with issues such as mental health and substance dependency.[235] With regional funding guaranteed until 2025, an all-party parliamentary group, many industry experts, and professionals in the sector are calling for a scaling up of Housing First across the country to follow in the footsteps of schemes in other Western nations. Housing First addresses homelessness but not its root causes. This author concludes that homelessness is not the individual's problem and rather shines a light on the structural inequality that precipitates it. Law and government policy must address the source of this inequality to fully realise Disabled people's right to 'housing, and to the continuous improvement of living conditions'.[236]

> "He always says, … thank you so much for … helping me get this place [home] … it's the best thing that's ever happened to me."[237] (LA Worker)

[233] Rough Sleepers Unit.
[234] Bevan (n203).
[235] Batchelor (n175).
[236] CRPD (n33) art 28.
[237] Local Authority Worker 2 (Yorkshire, Friday 28 June 2024).