

Submission for the visit by the United Nations Special Rapporteur on extreme poverty and human rights in the United Kingdom

Business Disability Forum, London, United Kingdom

September 2018

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Section 1: Business Disability Forum - Who we are, what we do, and our submission

1.1 Business Disability Forum is a non-profit membership organisation which exists to transform the life chances of disabled people. We do this by bringing business leaders, disabled people, and Government together to understand what needs to change to increase the life opportunities and experiences of and disabled people in employment, economic growth, and society in general in a way that also benefits business. We provide

practical, evidence-based, strategic solutions for businesses to recruit, retain, and provide inclusive products and services to disabled people.

1.2 We have focused on two key areas within the Special Rapporteur's stipulated interests: our definition of 'poverty' and the experience of disabled people; and Brexit, particularly the implications for disabled people's rights to accessible transport under the UK's proposed Trade Bill 2017-19.

Section 2: How Business Disability Forum defines 'poverty'

2.1 Business Disability Forum uses the approach taken by the UK Government's Office for National Statistics (ONS) to measure poverty in the UK, combined with the Joseph Rowntree Foundation (JRF)'s understanding of social factors leading to poverty. The ONS defines persistent poverty as households who earn less than 60 per cent of the median household income. The current median household income is currently £27,200¹, meaning households with an income of less than £16,320 are, by definition, living 'in poverty'.² A major inquiry by the UK's Equality and Human Rights Commission (EHRC) into *Being Disabled in Britain*³ found that 30 per cent of working age adults in families where at least one person is disabled were living in poverty, compared with 18 per cent of households without a disabled family member. In addition, the National Policy Institute can ascribe poverty "directly associated with disability" to 28 per cent of disabled people in the UK, which is over 3 million individuals.

2.2 We use JRF's social "causes" of poverty, as we see disabled people experiencing inequalities and both direct and indirect discrimination in those same areas. They include the following:

- Unemployment, under-employment, and discrimination at work.
- Low levels of skills and education.
- An ineffective welfare system.
- High costs of living.
- Discrimination through work and access to services.

Section 3: Disabled people are living in or at risk of living in poverty

Disabled people in the UK have a magnified experience of the above 'social causes' of poverty, as can be evidenced below.

3.1 Unemployment, under-employment, and discrimination in work

Disabled people are less likely to be employed than non-disabled people. There exists a 32 percentage point gap between the employment rate of disabled and that of non-disabled

¹ As per Office for National Statistics, *Living Costs and Food Survey*, 10 January 2018 release.

² National Policy Institute, press release August 2016.

³ Equality and Human Rights Commission (April 2017), *Being Disabled in Britain: A Journey Less Equal*.

people. Currently, 48 per cent of working age⁴ disabled people are in work, compared to 81 per cent of non-disabled people, meaning less than half of disabled people of working age are in work.⁵ This is despite the overall employment rate in the UK being at its highest for forty years.⁶

- i. Business Disability Forum is also developing work to address the multiple disability employment gaps which exist for disabled people in the UK; of note, we see people who require ‘human support’ rather than technological solutions are at most risk of not getting or falling out of work due to the ‘cost’ and lack of funding to provide the support that works for them. The groups who experience this most are people with learning disabilities, severe mental health conditions, and people who require ‘human’ communications support (such as interpreters).⁷
- ii. Evidence from research carried out by the Equality and Human Rights Commission shows disabled people who are in work also experience an often significant pay gap – a reported 13 per cent pay gap for disabled men, and 7 per cent for disabled women. The research also shows the impairment-dependent element of disability pay gaps: people with learning disabilities, severe mental health conditions, and neurological conditions experienced a bigger gap than other impairments (for example, the biggest pay gap exists for men with learning disabilities, at the time of writing, stands at an unacceptable 60 per cent).⁸
- iii. The EHRC warn that the causes of the disability pay gap are “complex”.⁹ Business Disability Forum suggests the pay gap is a consequence of recurring, systemic discrimination across all levels of society including, as above, unemployment, progression in employment, lack of support when in work, lack of access to inclusive healthcare and support services, and lack of accessible transport to fully take part in training and career development opportunities.
- iv. Disabled people experience significant discriminatory barriers in the workplace. Research carried out by Leigh Day employment lawyers found that 30 per cent of

⁴ “Working age” in this context is defined by the Office for National Statistics as people between the age of 16 and 64.

⁵ Office for National Statistics, *Labour Market Status of Disabled People*, 14 August 2018. The Department for Work and Pensions are taking this employment gap seriously and this has led to a number of strategies (such as the *Work, Health and Disability* green paper which led to the *Improving Lives: The Future of Work, Health and Disability* strategy and working groups (such as the Work and Health Unit) forming to close the gap.

⁶ Office for National Statistics, *Labour Market Statistics*, September 2018.

⁷ For example, the percentage of disabled people in work overall is 48 per cent but, for people with learning disabilities, it is just 6 per cent.

⁸ Equality and Human Rights Commission (2017), *The Disability Pay Gap*.

⁹ Equality and Human Rights Commission, 2017: viii).

disabled employees were not confident to tell a potential employer about their disability while, when in work, this figure rises to 50 per cent. In addition, one in five disabled employees taking part in the research experienced discrimination in work. Apply this fraction to the number of disabled people in the labour market as a whole, and there are a potential 800,000 disabled workers experiencing discrimination in the workplace.

- v. The UK employment tribunal system also continues to see an increase in receipts from claimants experiencing disability discrimination in the workplace.¹⁰

3.2 Low levels of skills and education

Disabled people overall have less qualifications and skills-training opportunities than non-disabled people. Over 18 per cent of disabled adults have no qualifications, compared to 6 per cent of non-disabled adults.¹¹ Although we have been pleased to see an increase of almost 50 per cent in disabled people going to university, there remains a ‘outcomes gap’ post-graduation: over 50 per cent of disabled graduates enter full-time work, which is lower than those with no disability (which is currently 57 per cent). Disabled graduates are also more likely to gain part time employment (14 per cent, as opposed to 12 per cent for non-disabled graduates). In addition, there is an overall unemployment rate of disabled graduates of 6 per cent, as opposed to 4 per cent for non-disabled graduates.¹²

3.3 An ineffective welfare system

- i. Although the welfare system is designed to be “fair, affordable and able to reduce poverty”¹³, disabled people have been significantly and adversely disadvantaged by changes to welfare support, particularly during the last five years.
- ii. A recent inquiry by the Work and Pensions Committee found that many disabled people experience the process of claiming Personal Independence Payments (PIP) to be inaccessible, evidencing a huge amount of distrust by claimants, and saw how 290,000 disabled people were refused PIP awards on first application, but were granted them on appeal.¹⁴ In addition, a reported 59 per cent of PIP applicants needed assistance with completing the application form. Furthermore, early findings from the current inquiry on the roll-out of Universal Credit by the Public Accounts

¹⁰ Ministry of Justice, Employment Tribunal Statistics, September 2018.

¹¹ Office for National Statistics, *Annual Population Survey, 2015-16*.

¹² Allen, M. and Coney, K. (2018) *What Happens Next? 2018 A report on the first destinations of 2016 disabled graduates*.

¹³ Department for Work and Pensions.

¹⁴ Department for Work and Pensions (2018) *Personal Independence Payment Claimant Research – Final Report: Findings from three waves of qualitative and quantitative research exploring claimants’ experiences of the PIP claim process*.

Committee shows claimants are not receiving payments on time, and the use of foodbanks has increased.¹⁵

- iii. Leigh Day Law, a practice of lawyers specialising in disability and human rights, took the Department for Work and Pensions (DWP) to the High Court earlier this year (14 June 2018) to represent two disabled men who saw a £178 reduction of their welfare payments due to the replacement of their existing benefit (the Severe Disability Premium) with Universal Credit (UC), despite being told their welfare payments would be unaffected. At the time of the case, there were 500,000 people in receipt of the Severe Disability Premium who would see this payment replaced by Universal Credit. The High Court found that the Secretary of State for Work and Pensions unlawfully discriminated against the two disabled men.
- iv. In April 2013, the Government implemented legislation which is commonly referred to as the 'Bedroom Tax', whereby people receive less financial support for housing based on the number of 'unnecessary' bedrooms they have in their home. Weeks prior to its implementation, the UK Government at the time assured disabled people they would not be affected. This has, however, not proven to be the case, and disabled people have in fact seen a decrease of 14-25 per cent in the amount of housing benefit they receive. Disabled people often need an additional room for an overnight carer to sleep in or to store large medical equipment. In a case brought against the Government by five disabled people in 2014, the Court of Appeal found that, via the implementation of the Bedroom Tax, the UK Government had discriminated against disabled people. Since this case, various groups and individual disabled people have continued to bring cases of discrimination against the Government because of the Bedroom Tax.

3.4 High costs of living

Aside from increased costs of living in the UK in general, research carried out by the Extra Costs Commission in 2015 found that disabled people spend on average £550 per month on disability related costs (such as accessible transport options; specialist or assistive equipment; and having to pay premiums on some types of insurance).¹⁶ A updated report finds that the monthly spend directly related to a disability now stands at an average of £570 per month and, for some, this can reach up to £1,000 per month.¹⁷

Section 4: Brexit - Implications of the Trade Bill 2017-19 on accessible transport

4.1 Accessible transport

¹⁵ See the Inquiry homepage on the Public Accounts Committee's website: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/public-accounts-committee/inquiries/parliament-2017/universal-credit-17-19/> [Accessed 12 September 2018].

¹⁶ Extra Costs Commission (2015), *Driving Down the Extra Costs Disabled People Face*.

¹⁷ Touchet, A. and Patel, M. (2018) *The Disability Price Tag: Policy Report*.

Although research we undertook in February 2018 showed 39 per cent of businesses feel there would be no change to disability related legislation post-Brexit, and 47 per cent did not feel Brexit would have any impact on disabled people's opportunities¹⁸, the development of Brexit related policy has caused us and other human rights organisations to become increasingly concerned. We are concerned by the drafting and development of the Trade Bill 2017-19 (currently, at time of writing, at the House of Lords Committee stage). The Bill currently allows ministers to change a wide range of laws without Parliamentary scrutiny in order to implement international trade agreements. One of the Acts affected by this is the Equality Act 2010, which secures many rights for disabled people, particularly related to the provision of accessible public transport. Of huge concern to us is, if Trade Bill goes through Parliament unamended on this issue, there are no safeguards to prevent ministers to remove rights granted by Parliament requiring public vehicles to be accessible to disabled people.

4.2 The wider context of considering the accessibility of transport in the UK

This comes at a time when a UK-wide scrutiny into disabled people's experiences of public transport has been rigorously explored by human rights and disabled people's user-led organisations, finding that disabled people are already greatly disadvantaged by the standard of public transport in the UK. Since 2013, Select Committees and All Party Parliamentary Groups (APPG) in the UK¹⁹ have looked at the competence of transport to meet the needs of people with disabilities in the UK. In addition the Department for Transport also led a major consultation on accessible transport this year, which led to the publication of the UK's *Inclusive Transport Strategy: Achieving Equal Access for Disabled People* in August this year.

4.3 Accessibility becomes optional and disposable

Business Disability Forum, alongside other human rights based organisations, wrote to the Secretary of State for International Trade (Liam Fox) in July of this year to urge a reconsideration of this element of the Bill (see Appendix 1 for the letter, and Appendix 2 for his response which does not adequately address our concern). However, the Trade Bill passed without acknowledgement of our concerns and remains unamended. The Trade Bill will return to the House of Lords this autumn, and this is crucial time for us. Unless the House of Lords grant amendments to the Bill in line with our concerns, specific aspects of the Equality Act 2010 will be immediately suspended if accessibility requirements make doing trade deals difficult. The Trade Bill, in effect, makes accessibility for disabled people an optional, disposable element of any contract the UK enters into to supply transport to UK citizens.

¹⁸ See <https://businessdisabilityforum.org.uk/media-centre/news/press-release-businesses-unprepared-for-threats-to-disability-rights-post-brexit-survey-finds/> [Accessed 10 September].

¹⁹ For example, the Transport Committee (2013-2014); Young Disabled People's APPG (2015-2016); APPG on Disability (2018).

4.4 How inaccessible transport enhances poverty

The UK's *Improving Lives: The Future of Work, Health and Disability* strategy²⁰ recognises that transport represents a “wider barrier”²¹ to disabled people getting and staying in work, alongside three key “settings” (work, healthcare, and welfare) crucial to employment opportunities for disabled people. However, as part of our submission to the Work and Pensions Committee's inquiry into the progression of closing the disabled employment gap in (submitted to the Work and Pensions Committee in June 2018), Business Disability Forum recommended that transport is given strategic visibility and attention in the Strategy as the ‘fourth’ setting. Workplace adjustments related to transport (for example, travelling to work, and travelling to meetings, or between ever-growing ‘multi-sited’ workplaces) are some of the most commonly requested adjustments we see employers making for employees, due to them experiencing difficulties with inaccessible or lack of inclusive travel. Access to Work, the UK Government's scheme for providing funding support to businesses to help cover the cost of adjustments, has decreased funding available to cover transport-related support for disabled employees. We have therefore seen an increased number of calls to our Advice Service regarding employees who have had to have some of their work duties reallocated to another employee, change roles completely, or reduce their hours since Access to Work changed its policies on transport-related support.

4.5 Summary: Brexit and implications for accessible transport

With the Equality Act 2010 under imminent threat from the Trade Bill, and with an evidenced lack of willingness by any UK Government political party to consider the implications this has for disabled people, combined with Access to Work's significant reduction in funding for transport-related support, lack of access to accessible transport leaves disabled people at increasing risk of being cut off from social networks, leisure activities, education and employment opportunities, and from access to healthcare services.

Section 5: Who the Special Rapporteur should visit during the UK visit

5.1 Business Disability Forum invites the Special Rapporteur to visit us so that we can share our unique insight into how Government and businesses (employers and service providers) work together to increase life chances for disabled people to prevent poverty.

5.2 We also suggest the Special Rapporteur visits the Joseph Rowntree Foundation to gain a deeper understanding of the seriousness of poverty and diminishing human rights in the UK as a whole.

²⁰ Published by the Department for Work and Pensions (2017).

²¹ *Improving Lives: The Future of Work, Health and Disability* (2017, para. 8).

5.3 We also urge the Special Rapporteur to visit the Equality and Human Rights Commission as their role in enforcing anti-discriminatory structures and challenging human rights breaches in the UK is pivotal, and must only be given more power and resources to continue this work on behalf of *a//* UK citizens.

Appendix 1: Letter to Liam Fox (Secretary of State for International Trade) regarding the Trade Bill

Rt Hon Dr Liam Fox MP
Department for International Trade
King Charles Street
London
SW1A 2AH

Friday 13 July 2018

Dear Secretary of State,

As the Trade Bill is debated on the floor of the House of Commons on Tuesday (17 July), we urge you to consider the unintended, yet serious, consequences it could have for the one in five people in the UK who have a disability.

As representatives of disabled people, businesses and campaigners for human rights and equality, we recognise the need for the UK to shape its own trade and investment agenda once we leave the European Union. However, we are concerned by provisions in the Trade Bill that put human rights and equality law protections at risk.

As it stands, the Bill lets ministers change a wide range of laws – including the Equality Act – without parliamentary scrutiny, in order to implement international trade agreements. There are no safeguards to prevent ministers from using these new powers to remove rights granted by Parliament.

These unprecedentedly broad powers could be used, for example, to change parts of the Equality Act which require public vehicles to be accessible for disabled people. Statistics from the Department of Transport show that disabled people rely far more on public transport than non-disabled people to access leisure facilities, local services and shops. Accessible public transport is of course also critical to disabled people's ability to work. Removing this requirement would undermine progress made in making public transport more accessible and leave disabled people cut-off.

Such broad powers have not been and cannot be justified to achieve the Bill's stated aim – of rolling over existing trade agreements the UK has through our membership of the EU.

We urge you to add a commitment to the text of the Bill to protect human rights and equality laws during the process of legislating for the UK's exit from the EU. There must be

no roll-back on vital protections for disabled people or any other group that faces discrimination.

The UK is a world leader in human rights and equality protections and this must not change as we leave the EU. We are not willing to sacrifice disabled people's rights in the name of international trade.

Yours sincerely,

Liberty

Business Disability Forum

Action on Hearing Loss

Ambitious About Autism

Amnesty International UK

The Association of Chief Executives of Voluntary Organisations

British Stammering Association

Dimensions

Disability Law Service

Disability Rights UK

Equality and Diversity Forum

Just Fair

Leonard Cheshire

Mencap

NAT (National Aids Trust)

Women's Budget Group

René Cassin

Research Institute for Disabled Consumers

Royal National Institute of Blind People

United Response

Appendix 2: Response from the Secretary of State regarding the Trade Bill

Diane Lightfoot
Chief Executive Officer
Business Disability Forum

Dear Ms Lightfoot,

Thank you for your letter dated 16 March, seeking clarity on clause 2 of the Trade Bill. I read your letter with interest. I absolutely agree that the UK is world leader in human rights and equality protections; a position that this Government is absolutely committed to maintaining. We are proud of our positive record, in not only human rights and equality protections, but across the whole spectrum of standards that we have championed both domestically and globally.

As the UK leaves the EU, we are seeking to maintain continuity as far as possible in the effects of existing trade arrangements. Continuity in existing relationships is something that a whole range of sectors have overwhelmingly highlighted, as essential to the UK's successful exit from the EU.

As the Secretary of State and I have repeatedly stated in both the House of Commons Chamber and Trade Bill Committee, we are not seeking to change the effects of our existing agreements. This commitment extends to preserving existing rights and standards across the piece. In relation to human rights and equality protections, specifically I am happy to provide you with a clear commitment that, throughout this exercise, we will absolutely maintain existing provisions in both areas.

The Prime Minister also made this intention clear in Florence, when she stated that we will 'defend the international order that we have worked so hard to create - and the values of liberty, democracy, human rights and the rule of law by which we stand'.

We have sought to develop legislation which is appropriate in the light of our policy intention. The clause 2 power is part of a suite of EU Exit-related legislation, that the Government has brought forward to ensure that it is able to deliver continuity as the UK leaves the EU. The drafting of the clause 2 power reflects the circumstances in which we may have to use it, but also contains clear constraints.

For example, the Trade Bill power is limited to five years - this period can only be extended with the express permission of both Houses of Parliament. The Trade Bill powers may not be used to create criminal offences, even though this exclusion is not made explicit on the face of the Bill.

In the case of free trade agreements (agreements covering substantially all trade that must be notified to the WTO), the powers in the Trade Bill will only be available if the partner country had signed a free trade agreement with the EU before exit day. Likewise, the power can only be used to implement a trade agreement with a third country, if that country had already signed a trade agreement with the EU before exit day.

These limitations, taken together the commitments we have made, will, I hope, reassure you that the passing of the Trade Bill will not lead to the erosion of the existing protections for disabled people, that are so important to the fabric of our society.

Yours sincerely,

[Hand signed]

RT HON GREG HANDS MP

Minister of State for Trade Policy

Department for International Trade

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