STOP THE WORLD – WE WANT TO GET ON!

Human Rights for Disabled People

A resource and training manual

by Disability Awareness in Action

for DisabilityLib
RESOURCE AND TRAINING MANUAL FOR HUMAN RIGHTS AND DISABLED PEOPLE
By Disability Awareness in Action, Produced as part of the DisabilityLib project,

funded by the Big Lottery.

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CONTENTS

INTRODUCTION 5

PART I – Human Rights 6

Chapter 1 - Human Rights - what are they? 6
  Absolute, qualified and limited 7
  Civil and political rights, economic, social and cultural 7
  States’ obligations 8

Chapter 2 - The History of Human Rights and Disabled People 9
  World Programme of Action 10
  Standard Rules 10
  Social Model 10

Chapter 3 - United Nations Human Rights instruments and how they work 13
  Legal status 13
  Process of treaties 14
  Reservations 14
  Optional Protocols 15
  Monitoring of HR instruments 15

PART II – Making them work 16

Chapter 4 - Convention on the Rights of People with Disabilities 16
  Core Values 16
  History 17
  How the Convention works 18

Chapter 5 - The CRPD in the UK 20
  Practical uses 20

Chapter 6 - Human Rights in Europe 25

Chapter 7 - Human Rights in the UK 26

STOP THE WORLD - WE WANT TO GET ON!
INTRODUCTION

Disability Awareness in Action was one of the members of the DisabilityLib (Listen, Include, Build) Alliance funded by the Big Lottery for a project of three years to build the capacity of disabled people’s organisations (DPOs) in England.

Since 1992 DAA has been providing information to disabled people worldwide on their human rights, to support their actions at the grass roots. So DAA’s role in the Alliance was to build on that experience and provide information and training on human rights for DPOs in England.

We did this through the provision of a monthly e-newsletter, an interactive website including free access to our popular resource kits and up-to-date news, eight residential three-day courses and a one day Stage 1 course on human rights and disabled people.

It was clear from these courses that there was a great need for another resource kit that would provide a framework for disabled people in providing training to their colleagues within their DPOs - specifically on human rights - and help them to take the appropriate action to support rights for disabled people.

This manual is based on DAA’s previous wide experience and the outcomes of these intensive trainings.

Human Rights is a huge subject and has become very technical and legal. We have tried to simplify and give you the important points in their relevant contexts.

We are not able to answer all your questions in one manual. So we give you links from which to get further and fuller information. And you can always Google for what you want.

DAA would particularly like to thank all the delegates who attended our courses. This manual could not have been written without their input, encouragement and commitment.

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PART I – HUMAN RIGHTS

Chapter 1

HUMAN RIGHTS – WHAT ARE THEY?

Human rights are a moral code by which every individual person’s humanity is respected and protected.

The Universal Declaration of Human Rights (1948) was developed and agreed by all members of the United Nations as a result of the Holocaust and the atrocities of World War II.

It is the responsibility of governments to ensure human rights - and to put in place the necessary systems and laws to uphold those rights.

Human rights are:

- **Fundamental** – they are a basic, essential value.
- **Universal** – they are for everybody, everywhere.
- **Indivisible** – you cannot have one right without the others.

They provide, in particular:

- **Dignity** – each individual is valued for themselves, not for their economic status or usefulness.
- **Freedom** – and protection from discrimination, from violence and abuse, from torture and degrading or inhuman treatment.
- **Equality** – all people are equal regardless of their situation, status, gender, sexuality, age, disability, faith.
- **Justice** – the right to social supports and protection, liberty and self-determination.

Absolute, qualified and limited rights

The rights set out in the Human Rights Act are divided into absolute, limited and qualified rights.
**Absolute rights** give absolute protection and can never be interfered with, not even in times of war or national emergency. Lack of resources is never an excuse for interfering with an absolute right.

Examples: prohibition of torture, inhuman and degrading treatment.

**Qualified rights** are rights that the state can lawfully interfere with in certain circumstances. Generally in such articles, the right is set out at the start and then qualified within the article by certain criteria, such as:

- whether the interference is in accordance with the law;
- is in pursuit of a legitimate aim;
- and whether it is necessary in a democratic society.

Examples: the right to respect for your private life or the right to freedom of expression.

**Limited rights** are limited in ways and circumstances which are set out in the text of the particular article itself.

Example: Article 5 - The right to liberty and security.

For further information see:

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**Civil and political rights**

Rights relating to participation in public life, such as right to a fair trial, freedom of speech, freedom from torture.

**Economic, social, cultural rights**

- Rights that concern the production, development, and management of material for the necessities of life.
- the right to preserve and develop one’s cultural identity.
- Rights that give people social and economic security.

Examples: the right to food, shelter, and health care.
States’ obligations
States have two types of obligations within human rights treaties: negative and positive.

A positive obligation requires the state to take steps to prevent or protect the right. For example: making information accessible, prevention of hate crime or domestic violence.

A negative obligation is where the state must not take certain actions. For example: the state must not kill, nor subject people to torture or ill treatment.
Chapter 2
THE HISTORY OF HUMAN RIGHTS & DISABLED PEOPLE

“As a preliminary warning, it should be pointed out that to deal correctly with this topic it is essential to rid ourselves of any feeling of pity or commiseration. We are not dealing with a strictly humanitarian problem, still less with a situation requiring our charity. Far from that, the treatment given to disabled persons defines the innermost characteristics of a society and highlights the cultural values that sustain it.”

UN Special Report on Human Rights and Disabled Persons.

Disabled people are human beings and therefore should be included in all the supports and protections of all human rights instruments.

However, the reality is that disabled people have been seen as different. Disabled people as a separate group requiring non-discrimination are not mentioned in any of the human rights instruments before 2000. Although disabled children are mentioned in the Convention on the Rights of the Child, the main focus is on health.

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In 1981 the world began to see that equality of opportunity was essential for disabled people’s full participation in society. Equality and participation were the mission of the International Year of Disabled People (1981).


In 1984, Leandro Despouy was appointed UN Special Rapporteur on Disability and Human Rights. His report **Human Rights and Disabled Persons** was finally agreed by the UN in 1992 ([http://www.un.org/esa/socdev/enable/dismsre3.htm](http://www.un.org/esa/socdev/enable/dismsre3.htm)). The report was quite clear that disability was a human rights issue and that it required massive social change at all levels to ensure disabled people protection against violations of their rights. Despouy also identified the problems with the impairment based definition of disability and recommended that the World Health Organisation classification of Impairment, Disability and Handicap be changed (the ICIDH).

1993 saw the appointment of the Special Rapporteur on Disability, supported by a Panel of Experts made up of representatives of the international DPOs; and also the adoption of the **Standard Rules on the Equalisation of Opportunities for Persons with Disabilities**. These Standard Rules were guidance on how states could implement the World Programme of Action (WPA). Later reports from the Special Rapporteur showed that not many countries were implementing them.

**Social Model**

The main reason for disabled people being left off the rights agenda has been the definition of disability as a medical outcome.

During the 1970s, UPIAS (the Union of Physically Impaired Against Segregation) in the UK and other DPOs around the world articulated disability as a negative social response to
people with impairments. It was society that had to change to ensure equality and participation – not the disabled person. This social model approach has liberated disabled people and been the bedrock of the disability rights movement worldwide.

Very, very slowly the non-disabled world has accepted this definition.

In 2003, after a long and painful process, the WHO changed the ICIDH to the International Classification of Functioning, Disability and Health (ICF) and saw disability as the result of the negative response of the environment and social attitudes.

In 2005, the UK’s Life Chances Report accepted the social model definition of disability. Though unfortunately the Equality Act 2010 (was the Single Equality Act) does not and still uses a definition based on impairments and health conditions.

In 2008 the Convention on the Rights of Persons with Disabilities (CRPD) in its preamble describes disability as an evolving concept and recognises that:

“disability arises from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others.”
Article 1 of the CRPD states:

“The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”

The CRPD upholds the social model definition of disability by firmly placing disabled people as holders of human rights and showing that Disability is a Human Rights issue.
Chapter 3

UNITED NATIONS HUMAN RIGHTS INSTRUMENTS AND HOW THEY WORK

In 1966 the Universal Declaration on Human Rights was followed by the two International Covenants forming the International Bill of Human Rights.

These were the first treaties to put a duty on member states to implement them, after they had signed and ratified them.

THE INTERNATIONAL BILL OF HUMAN RIGHTS

consists of:

• Universal Declaration of Human Rights 1948

• International Covenant on Economic, Social and Cultural Rights 1966

• International Covenant on Civil and Political Rights 1966

• Optional Protocol to the International Covenant on Civil and Political Rights

• Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty

For a full list of the human rights treaties see Appendix 1.

Legal Status
The legal status of these instruments varies.

Covenants, statutes, protocols and conventions (as above and Appendix 1) are legally-binding, after the State has ratified or acceded to them.

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These instruments are not laws in themselves. They only become law when the State turns them into its own law.

**Declarations, principles, guidelines, standard rules and recommendations** have no binding legal effect, but have a moral force and provide practical guidance to States in their conduct.

All the legally-binding human rights instruments cover disabled people. Even if not actually named, disabled people are implicit in the catch all of ‘and others’ at the end of the list of groups who face discrimination and so should have the protection of that treaty.

The Convention on the Rights of the Child does mention disabled children specifically but focuses mainly on health.

**The Process of Human Rights Treaties:**

1. UN agrees to formulate one.
2. UN works with States to write it.
3. Final document is agreed by the UN General Assembly.
4. Each Member State decides for itself to sign the treaty.
5. Then each State goes through an internal process checking on what it would have to do, then gets its parliament to agree to ratify (this can take years!)
6. After ratification the State implements the treaty by:
   - ensuring laws, policies and practices follow the treaty.
   - providing full reports to the UN monitoring body.

**Reservations**

Sometimes member states ratify a treaty but ‘reserve’ or make an ‘interpretive declaration’ on one or several of the articles. This means that they will not implement those articles or only implement in line with their ‘interpretive declaration’.

It is important to note that if a member state does reserve, then they cannot report on any progress that they might be making on that article.
Optional Protocols
Optional Protocols allow individuals to take their own case to the UN regarding the specific concern of the protocol, once they have exhausted all other legal opportunities in their own member state.

Optional Protocols, as human rights treaties, have to be signed up to and ratified in the same way as the relevant convention.

Monitoring
Each human rights treaty has its own monitoring committee or commission. This is made up of independent experts, selected as outlined in the particular treaty.

They meet two or three times annually and review the reports sent in by member states, which they send in every four or five years. The committee then reports to the member state pointing out what they have done well and where they may not be implementing the particular treaty.

There are no punishments for violating a treaty, but the naming and shaming within these committee reports, which are available to the public, has an effect.

Any national non-governmental organisation (NGO) or international NGO (INGO), can send in an alternative report based on their particular expertise and experience. These alternative reports can, if asked by the committee, be given orally as well as in writing.

The Office on the High Commission for Human Rights (OHCHR) provides the secretariat for these monitoring committees and they mostly operate out of Geneva.

See Appendix 2 for further details of UN structures regarding human rights.
PART II –
MAKING THEM WORK

Chapter 4

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)

Four Core Values of Human Rights Law of particular importance in the context of disability

- The dignity of each individual, who is deemed to be of inestimable value because of his/her inherent self-worth, and not because s/he is economically or otherwise ‘useful’,
- The concept of autonomy or self-determination, which is based on the presumption of a capacity for self-directed action and behaviour, and requires that the person be placed at the centre of all decisions affecting him/her;
- The inherent equality of all regardless of difference;
- And the ethic of solidarity, which requires society to sustain the freedom of the person with appropriate social supports. (http://www.ohchr.org/EN/Issues/Disability/Pages/DisabilityIndex.aspx)

Article 1 says:

“Purpose

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with
disabilities, and to promote respect for their inherent dignity.

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”

The CRPD, like all other human rights treaties, is a moral code for how governments should behave.

Of particular interest is that it is the only convention where the target group were fully involved in putting the Convention together. Disabled people were often members of government delegations working on the Convention and there was a large lobby of disabled people – calling themselves the International Disability Consortium – representing DPOs and international DPOs during the elaboration process. They have since operated an e-group which gives news on what is happening and allows an exchange of views.

**History:**


December 2001 – Resolution passed in UN General Assembly for UN and its member states to start work on a convention on the rights of disabled people.

2002–2006 – Ad hoc committees worked on the Convention with a coalition of disabled people, which called itself the International Disability Coalition (IDC) and worked under the
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18

banner ‘Nothing About Us Without Us’. The IDC has since operated as an e-group to ensure a wide debate.

December 2006 – UN Convention passed by UN General Assembly.

March 30, 2007 – 120 countries officially signed the Convention.

The enable website keeps an up-to-date tally of signings and ratifications. (http://www.un.org/disabilities/default.asp?id=23)

How the Convention works

The CRPD works and is monitored in much the same way as all the other treaties. It is not a law, but what it says can be used

• to support cases that are being taken through the courts and

• to back up your arguments when campaigning or lobbying for rights.
Every four years member states have to produce a report to the monitoring committee on how they are implementing the Convention and what progress they are making. The first report has to be in two years after the Convention is ratified. Most importantly - NGOs can submit alternative reports to the committee.

The CRPD, in Article 33, is the only Convention to say how monitoring should take place within each member state. It requires that each country must set up a framework of a government focal point, an independent rights organisation and civil society, particularly disabled people and their representative organisations.

Chapter 5

The CRPD in the UK

The UK was very active during the ad hoc committees and was among the first to sign the Convention in New York in March 2007. It then ratified it on June 8, 2009. It also signed and ratified the Optional Protocol.

Unfortunately, the UK government reserved on four substantive Articles and issued an interpretive declaration on Education (see Appendix 3).

For monitoring:

Focal point is the Office on Disability Issues.

Independent rights organisation is the Equality and Human Rights Commission.

Civil Society – the government has set up a working group, led by UKDPC (United Kingdom Disabled People’s Council) to assist with the monitoring.

As with all the UN human rights conventions and treaties, there is no legal enforcement – just the public naming and shaming after any negative comments from the committee.

Practical uses of the Convention

As a lobbying tool

The Convention is the first human rights instrument to be absolutely clear about disabled people’s right to be treated as full and equal human beings.

Although disabled people should be considered as fully human under the pre-existing conventions, we were not specifically mentioned (except in the Convention on the Rights of the Child) and therefore ignored.
As evidence

It can be used at all levels as further evidence that disabled people must be included in the rights agenda – and shows exactly what that means for local and national statutory authorities.

It can be used for responses to local and national policies and equality schemes that affect disabled people.

It can be used as evidence to prove a violation in any case taken in relation to either the Equality Act or the Human Rights Act – and, for instance, in arguments with the Crown Prosecution Service if they consider it impossible to take a case because of the level of someone’s impairment.

As a training and awareness raising tool

Because the Convention goes into the details of what makes human rights for disabled people it is an excellent support to training both non-disabled and disabled people in disability rights and equality.

Disability Pride

For the first time, an international document has really spelt out the humanity of disabled people and recognises, officially, that disability is a social response not a personal fault.

What does the Convention say?

Sections:

Preamble – this sets the legal and social framework of why the Convention came into being and contains a social model description of disability.

“Recognising that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others.”

CRPD Preamble (e)

General Principles (Article 3) – the general principles under which the Convention should be implemented. These principles can be used to reinforce an argument of why some action or inaction is a violation.

General Obligations (Article 4) – these are the things that governments must do and how they should do it.

Below are some of the highlights of Articles 5 – 32, the parts that describe the rights.

- It emphasises and confirms our right to life, equality, integrity, freedom and security.
- It confirms our rights to justice and equality in law.
- It protects us from torture, degrading and inhuman treatment and gives us freedom from exploitation, violence and abuse.
- It says that all people have capacity, and the right to full and independent support to ensure that capacity.
- It specifically mentions the right to independent living, community support, including personal mobility and the right not to be put into an institution against our wishes.
- It gives the right to fully supported, inclusive education.
- It gives the right to full environmental access, freedom of expression and fully accessible information.
- It gives the right to liberty and nationality.
• It gives respect for privacy, the home and family.

• It gives the right to highest possible standard of health and protects against denial of health care – including food and fluids.

• It gives the right to housing and rehabilitation, work and employment and an adequate standard of living and social protection.

• It promotes participation in political, public and cultural life, recreation, leisure and sport.

• It puts a duty on governments to raise awareness on disability issues.

• And it says how we can all cooperate together around the world.

And four times – in the Preamble, General Obligations, Monitoring and International Cooperation, the Convention repeats the importance of close consultation and active involvement of disabled people, through their representative organisations (DPOs).

‘Nothing About Us Without Us’

Articles 33 onwards are technical and administrative details of how to operate the Convention.
**UNITED NATIONS**

Convention on the Rights of Persons with Disabilities – OUR CONVENTION

**Member State**
signs and ratifies, and takes responsibility for implementation

It is also implemented by statutory authorities - national, local and regional.

**Disabled People – Protected!**

**UN MONITORING COMMITTEE**

Member State
Reports every 4 years through …

**Government focal point**
(Office for Disability Issues in UK)

**Independent Human Rights organisation**
(Equality and Human Rights Commission in UK)

**Civil Society**
(UK Disabled Peoples Council in UK)

**DPO Evidence**

**Individual**

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Chapter 6

HUMAN RIGHTS IN EUROPE

**Council of Europe**

Founded on May 5, 1949 by 10 countries

Present membership – 47 countries

Based in Strasbourg

Mission – to develop the European Convention on Human Rights principles and other texts on the protection of individuals, throughout Europe.


Also the European Charter for Regional or Minority Languages and the European Social Charter.

**The European Court of Human Rights** (ECHR) is available to everyone in Europe once they have failed to win a judgement in all the processes in their own country.

Only in rare cases, if they have not been able to get help from their own justice system, can an individual get help from the European Court.

If a case is accepted by the European Court then all the individual's costs and expenses are covered.

Governments have to abide by the judgement of the European Court.

**European Union (EU)**

Human rights, democracy and the rule of law are core values of the European Union.

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Embedded in its founding treaty, they have been reinforced by the adoption of a Charter of Fundamental Rights.

Countries seeking to join the EU must respect human rights. So must countries which have concluded trade and other agreements with it.

The EU has signed and ratified the Convention on the Rights of Persons with Disabilities – the first time it has done this in relation to a UN Treaty.

**EU Directives**

These are really the laws of the EU and all member states have to abide by them. There are some that have bearing on the human rights of disabled people – such as the transport directive and the equality directive.
Chapter 7

HUMAN RIGHTS IN THE UK

The UK has signed and ratified all the UN human rights treaties, though they have often filed reservations and particularly for the CRPD – see Appendix 3.

**Human Rights Act 2000** (HRA) implements most of the European Convention on Human Rights within UK law. Although strictly speaking it is the Human Rights Act 1998, as that is when it was passed, it did not come into force until 2000, so you may find better reference to it on the internet using 2000.

All public bodies (such as courts, police, local governments, hospitals, publicly funded schools, and others) and other bodies carrying out public functions have to comply with the Convention rights – and now the Human Rights Act.

Now individuals can take human rights cases in domestic courts, although they can still argue their case at the European Court if they have failed all legal remedies open to them in the UK. Many good judgements have come out of the European Court, see Appendix 4 for some of them.

The Human Rights Act sets out the fundamental rights and freedoms that individuals in the UK have access to. They include:

- Right to life
- Freedom from torture and inhuman or degrading treatment
- Right to liberty and security
- Freedom from slavery and forced labour
- Right to a fair trial

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• No punishment without law
• Respect for your private and family life, home and correspondence
• Freedom of thought, belief and religion
• Freedom of expression
• Freedom of assembly and association
• Right to marry and start a family
• Protection from discrimination in respect of these rights and freedoms
• Right to peaceful enjoyment of your property
• Right to education
• Right to participate in free elections

The present Coalition government wants to abolish the Human Rights Act and put in place a Bill of Rights.


**EQUALITY ACT 2010**

Provides a new cross-cutting legislative framework of discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society. It replaces the old, separate, non-discrimination acts and covers age and faith as well as disability, gender, sexuality and race.

Chapter 8

HOW TO USE THESE RIGHTS AT LOCAL AND NATIONAL LEVELS

In your organisations, Human Rights can be used:

- As the mission and bedrock of your organisations and work
- As evidence for social change and influencing government and public authorities
- As the focus for campaigns and lobbying
- As evidence for arguments on individual cases

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As the mission and bedrock of your organisations and work

We cannot expect government and local authorities to implement disabled people’s rights if we don’t do it within our own organisations.

We must walk the walk as well as talk the talk.

Things you can do to bring human rights into your organisation:

- State that you are a human rights organisation in your mission statement
- Have human rights as the lead objective in your policies, strategies and programmes
- Ensure that this is clear in your funding proposals
- Train all trustees, staff and volunteers in human rights
- Give information to your members on human rights

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• Raise awareness among the public and the media on disability and human rights
• Support individual disabled people to obtain their rights
• Work with other human rights organisations as allies, not just locally but regionally and nationally
• Remember that human rights are universal and indivisible, so you must ensure that your organisation does not infringe the rights of other individuals.

As evidence for social change and influencing government and public authorities

Evidence on how disabled people’s rights are being violated is an essential part of any campaign or lobbying. You should always put facts and figures and individual case studies in all briefings, press releases, campaign documents, letters to policy makers.

You can collect the evidence through:

• Monitoring your own work and keeping data on all the cases that come to you. Lobbying your local public authorities to implement Article 31 of the CRPD which requires all statistical and research data to be disaggregated to identify barriers.
• Noting any research data that comes your way.
• Sharing this information with UKDPC so that it can be used for monitoring UK implementation of the Convention.

CONFIDENTIALITY

When reporting or recording cases of disabled individuals it is essential that the person cannot be identified unless they have given written consent or their name is already in the public domain.
Written notes on case work should be kept under lock and key and only available to the staff person concerned.

Confidential material must not be available on the internet.

**As the focus for campaigns and lobbying**

Whatever particular issue you are campaigning for there is a human rights violation. This needs to be highlighted to show how this is happening and which part of the CRPD or our laws says so.

For instance:

- in campaigning against savage welfare cuts we need to show how the CRPD says that disabled people should have an adequate standard of living and social protection (Article 28) and live independently and included in the community (Article 19) and that government has a general obligation (Article 4.2) to take measures to the maximum of its available resources and should (Article 4.3), in issues concerning disabled people, closely consult with and actively involve disabled people.

- In campaigning about lack of access to information we need to talk about Article 9 on accessibility and Article 21 on freedom of expression and opinion and access to information.

- In campaigning about lack of health care, we need to remind people about non-discrimination laws and Article 5 (Equality and Non-discrimination) of the CRPD and Article 25 (Health). Section (f) of the health article can be particularly helpful as it specifically outlaws the withdrawal of food or water on the grounds of disability.
Don’t forget! You cannot use the articles that the UK has reserved on as it has not ratified them.

As evidence for arguments on individual cases

You can use the CRPD, the Human Rights Act and the Equality Act 2010, as appropriate, when you are in discussions with public authorities on why an individual disabled person should not be treated in the way that they are, or are being deprived of a service that they have a right to.

If the public authority does not respond properly you can, with the disabled person’s permission, take their case to an ombudsperson, if there is one, or on to the courts. In the case of benefits, employment and education you will take the case to the appropriate tribunals. If none of these works you can, as we outlined above, go to the European Court of Human Rights.

For the legal process you will need a pro-bono lawyer. It is not likely that either your organisation or the individual will have the money to go to court. Legal aid is only available in certain cases – check the internet for the latest regulations on legal aid.

You will be taking a case under either the Human Rights Act or the Equality Act 2010, or to Judicial Review (see Glossary). In all cases, evidence from CRPD will strengthen your case.

The National Pro Bono Centre is now open

Legal charities the Bar Pro Bono Unit, LawWorks (the Solicitors’ Pro Bono Group) and the ILEX Pro Bono Forum aim to provide a joined-up service to members of the public in need of legal help who cannot access legal aid and who cannot afford to pay legal fees.

http://www.probonouk.net/

New Pro Bono groups of lawyers are opening up all round the country. Inquire at ProBonoUK.

Below we have put some individual situations that you might come across with suggested Articles in the CRPD that could be relevant to support your case.
Things to remember:

• The difference between absolute, qualified and limited rights – it is always better to have an absolute right, then there can be no argument of reasonableness.

• Article 17 – Protecting the integrity of the person is an absolute right which can be used in a lesser case than under Article 15 – Freedom from torture or cruel, inhuman or degrading treatment or punishment.

• Note that Article 15 has been used in cases where disabled people have not had proper access to toileting and bathing.

• In cases of non-discrimination you need to quote the Equality Act 2010 too if you are taking the case under the Human Rights Act.

• Always use relevant parts of the General Principles (Article 3) and Obligations (Article 4).

What can go wrong:

• You get a lawyer or judge who has little experience in arguing rights.

• They take your case under the wrong article of the HRA.

• Reasonableness is used as an excuse for not implementing the right.

Remember – a violation remains a violation, even if the justice system does not allow it. So it remains evidence.

Cases:

I’m a person with learning difficulties. A week ago I received my tenancy agreement from the housing association, but I can’t understand the meaning of it. I called them and said that I can’t sign it unless they make it accessible; they said that if I will not sign it, I will not get a flat.

Article 21 – Freedom of expression and opinion, and access to information.

Article 12 (3) – Equal recognition before the law – support in exercising their legal capacity.

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B is a mental health service user; she was voluntarily admitted to a hospital. After a while B felt better and decided to leave the hospital. Doctors did not agree and started to threaten her. B became really angry and pushed doctors away. In response to this B was tied up to her bed and the door to her room was locked.

This is a difficult case because B was violent. But the treatment by the doctors was inhuman and degrading. Therefore Article 15 was violated.

I was refused entry to a nightclub in Kent. They said that customers “might become upset” if they had to drink from a glass I had used. The manager also warned me that I might get “picked on” by customers because of my appearance. I have a genetic disorder, epidermolysis bullosa, which gives me blisters on my hands, feet and neck.

Article 5 – equality and non-discrimination.

It would also be possible to say that the landlord was in breach of health and safety because he apparently did not wash glasses between customers!

R was not allowed to take her guide dog in a taxi – the taxi driver said he was allergic to dogs’ hairs.

Under the Equality Act 2010 taxi drivers have a duty to carry an assistive dog unless he/she has got an exemption on medical grounds – which must be shown to the dog owner.

If no exemption had been given the taxi driver is in breach of the Equality Act 2010 and Article 5 and Article 20 of the CRPD.

I took my daughter, aged 10, who has severe impairments to the hospital to be treated for pneumonia. When her condition worsened doctors did not want to ventilate her and placed a “Do Not Resuscitate” note on her file - against my wishes.

Article 10 – Right to Life

Article 25 (f) – discriminatory denial of health care etc.

Sarah and Peter are both people with learning difficulties. They are expecting their first child. But local authorities told
them that their child will be removed, because they could not care for a robotic baby that local authority gave them to test their parenting skills.

Article 23 – Respect for home and the family – especially Section (b) requiring that access to the necessary means to enable them to exercise these rights are provided.

This article also says that the rights of the child are paramount – so there has to be an argument why the care of a robotic baby without support is not a test of parenting skills.

See Appendix 4 – Kutzner v. Germany 2004, for a similar situation but different outcome after being taken to the European Court.

N’s condition deteriorated and she now needs intensive care and support. Local authorities told her that they can only provide care in an institution, because it is too costly for them to care for her at home.

Article 19 says disabled people have the full right to live independently.

Article 4 General Obligations says governments should take measures to the maximum of available resources.

The authority should also be asked to prove that costs are more at home than in an institution. Especially in view of present policies on care in the community.

Helen’s direct payments were reduced to the point where she could no longer afford a personal assistant for help with tasks including toileting, eating, taking a bath and other every day tasks. This led to the aggravation of her serious kidney condition.

Article 15 – Degrading and inhuman treatment – which is the outcome of lack of financial assistance.

Article 19 – Independent Living.

Article 25 – Health.

And Article 4 General Obligations as above.

FB, a profoundly deaf man, suffered a serious assault. The police investigated, and the Crown Prosecution Service (CPS) decided to proceed with a prosecution. On the morning of
the trial, the Senior Prosecutor decided not to proceed. The prosecution had concluded that FB would not be a credible witness because he could not speak and needed a sign language interpreter.

**Article 13 – Access to Justice.**
Part III – Training

Chapter 9

SPREADING THE WORD

Training members is one of the most important roles of an organisation. It contributes to the development of individuals and to the democracy and development of the whole organisation.

People are the central resource of any organisation. You can make that resource grow by recruiting new members and by increasing the skills and participation of existing members.

Training isn’t always formal, through workshops or courses. It can happen through involvement in any aspect of a project.

An important decision for formal training is who is to be trained? Is training an individual better than training a whole group? Who will benefit?

Questions for Trainers:

How things are done may be more important than what is done. So ask yourself:

• Am I learning and teaching at the same time?
• Am I a facilitator of training projects or just the creator? Do I encourage or dominate debate?
• Do I create dependency, or do I give room for self-determination or self-sufficiency?
• What do members think my role is? - What is my attitude to them?
• Am I encouraging development, based on a relationship of mutual trust?

STOP THE WORLD - WE WANT TO GET ON!
Planning Human Rights Training:

Set your objectives

Example based on DAA’s three-day residential training:

To bring to life Human Rights through a full understanding of the international, regional and national human rights instruments, especially the UN Convention on the Rights of Persons with Disabilities, and to learn how to use them.

Set your outcomes

Example, based on DAA’s three-day residential training:

- Delegates will be effective in communicating their knowledge about disabled people’s human rights within their organisations and to other disabled people.
- Disabled people will be more informed at grass-root level and enabled to take appropriate action.
- Human Rights training as ‘education for change’; both personal and social development.

Access:

The training event should aim to be inclusive, accessible and enjoyable and provide a safe environment for learning.

Choose your venue carefully and make sure that it is as accessible as possible, with options for wheelchair accessible rooms, wet rooms, vibrating pillows, clear emergency escape routes, good garaging and flexible catering to allow for different diets. The meeting room should be large with natural daylight, nearby accessible loos, loop system, flip charts, etc.

Make sure that you know your delegates’ needs in time to book the appropriate support, such as sign language interpretation and to provide the written material in large print, Braille, Easy Read.
Planning a programme:

Training for half or a whole day will only scratch the surface of the subject but can be useful to discuss what human rights are and the CRPD.

A video can be useful to aid discussion. And so can ready-made cases to discuss with each other and trainers.

For in-depth training, three half-days are essential to cover all you need:

- One half-day followed by a whole day and then another half-day allows people to travel at either end. Do not register more than 15 delegates with two trainers.

What you need to cover

Example:

**Foundation:** What are human rights?

**Knowledge:** How the Convention works and how this fits into national laws. Illustrated case examples in different areas e.g. dignity, health, education.

**Skills:** Understand legal framework in order to be able to identify different rights in case situations. Able to collect evidence of rights abuses.

Appendix 7 gives the programme used by DAA.

Training tips:

Provide support and reference material in delegates’ packs – in accessible formats for each delegate.

Ensure that your sessions are no more than an hour and a quarter with ample breaks for drinks and meals.

A tired brain does not learn! Be flexible with the programme when training. Different groups go at different speeds. Finish a session early if delegates are tired.

Vary the ways of working – split the delegates into pairs or groups for some sessions.

Change the speed of delivery.

Talking about violations, disabling and inhumanity can be depressing – so try to bring in humour wherever possible.

STOP THE WORLD - WE WANT TO GET ON!
And allow individuals to express their anger – as long as it not offensive to the rest of the group.

Give delegates time, at the end of training, to fill in evaluation and expenses forms and give them to you directly.

**REMEMBER!**

RIGHTS ALLOW US TO BE HUMANS TOO.

STOP THE WORLD, WE WANT TO GET ON –
ABBREVIATIONS

CRPD    Convention on the Rights of Persons with Disabilities
DPO    Disabled People's Organisation
HRA    Human Rights Act
ICIDH   International Classification of Impairment, Disability and Handicap
INGO   International Non-Governmental Organisation
NGO    Non-Governmental Organisation
UKDPC  United Kingdom Disabled People's Council
UN     United Nations
WHO    World Health Organisation
WPA    World Programme of Action Concerning Disabled Persons

LINKS

Absolute, limited and qualified rights
    http://www.yourrights.org.uk

Copies of Convention on the Rights of Persons with Disabilities

Guidance on CRPD

Evidence giving
    http://www.disabilityrightswatchuk.org

Human Rights Act 2000

Judicial Review
    http://www.publiclawproject.org.uk/AdviceGeneral.html

Equality Act 2010 (was the Single Equality Act)

World Programme of Action

STOP THE WORLD - WE WANT TO GET ON!
GLOSSARY

Allies
An ally to disabled people is someone or an organisation which recognises their role in disablism and wants to try to eradicate it from their behaviour and to join, shoulder to shoulder, with disabled people in struggle for human rights.

Appendix 3 is a long, but useful, analysis of what being an ally involves.

Disablism
Disablism is the discriminatory, oppressive or abusive behaviour arising from the belief that disabled people are inferior to others.

Disaggregated
Means: broken down into parts. In the case of disaggregated data as required under the CRPD it means that when data is given, for example, on how many people in a given area are on a waiting list for housing, information on the people must be broken down (or disaggregated) into different groups such as men and women and must include disabled people.

Integrity
The word means ‘The state or quality of being entire or complete; wholeness; entireness; unbroken state’ and also ‘the steadfast adherence to a strict moral or ethical code.’ This means that the difference of disability is no excuse for violating someone. Ethical meanings of integrity used in medicine and law refer to the wholeness of the human body with respect for ‘sacred’ qualities such as a sense of unity, consistency, purity - unspoiled and uncorrupted.

Integrity is the underlying meaning behind the whole CRPD. However it has its own article – Article 17. In relation to Article 17 of the CRPD it says that a disabled person “has a right to respect for his or her physical and mental integrity on an equal basis with others.” What it is trying to do is to protect in cases when treatment has not been as severe as killing, torture or cruel and inhuman or degrading treatment but there is still interference with a disabled person's mind or body. Examples would be medical treatment without consent.
or treatment that does not recognise that disabled people are as human as non-disabled people.

**Judicial Review**
Judicial review is the procedure by which you can seek to challenge the decision, action or failure to act of a public body such as a government department or a local authority or other body exercising a public law function. If you are challenging the decision of a court, the jurisdiction of judicial review extends only to decisions of inferior courts. It does not extend to decisions of the High Court or Court of Appeal.

For further information: http://www.hmcourts-service.gov.uk/cms/1220.htm#two

**Member States**
By member states we mean any country which is a member of the United Nations.
ABOUT THE PICTURES

Front cover: Pilgrim crowd at Lourdes © piccaya, F

Kagoshima City, Japan, November 3rd, 2008. Elderly Japanese Festival Dancers in wheelchairs at the Ohara Matsuri dance festival. They are being pushed by young volunteers who are also holding umbrellas to ward off the rain. © Wayne D’Eon, 123

Don’t do it! © ioannis kounadeas, F

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Participants in the annual Dance Parade event in Rotterdam, Holland on August 8 2009 © Jan Kranendonk, 123

Rickshaw driver with cataract in one eye on January 18, 2008 in Delhi, India. It's estimated that 20 million people were blind due to cataract in India. © Paul Prescott

Gavel and book, F

Unidentified people in Cyprus carnival parade, March 1, 2009 in Limassol, Cyprus © Ruzanna Arutyunyan, 123

Metal door entrance button for handicapped people. © iofoto, F

Pensioners, including one aged 99 and some in wheelchairs, surrounded the Town Hall in protest at the “decimation” of day centres and luncheon clubs for the elderly. 20 January, 2011 © Camden New Journal

No! © ioannis kounadeas, F

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Vieux dossier sanglé (Old dossier strapped together) © Olivier Dirson, F

Outsider © CofkoCof, F

United Nations Hall © Handicap International

Many 3D humans with empty chat bubbles © ioannis kounadeas, F

Fille trisomique en pleine réflexion (Girl with Down’s Syndrome deep in thought) © philidor, F

Boy playing on gymnastic rings at PROJIMO. From Nothing About Us Without Us: Developing Innovative Technologies For, By and With Disabled Persons by David Werner, Published by HealthWrights

Fille trisomique en pleine réflexion (Girl with Down’s Syndrome deep in thought) © philidor, F

Two 3D humans look at human with megaphone © ioannis kounadeas, F

Elderly Thai blind man sits by the roadside and plays music for passing tourists and Thai people to make money. April 3, 2007 in Bangkok © Charlie Milsom, 123

Standing out © Paul Morley

This page A disabled boy is able to stand on his own two feet for the first time, Shafiqul Islam © Commonwealth Photographic Awards

Old Asian man with walking stick © Paul Maguire, F

A disabled man is able to work as a receptionist, Dr. Md Rashid Un Nabi © Commonwealth Photographic Awards

Handicap sign shape © triling, F

F = source Fotolia.com

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A school boy, Efrain, made this wooden walker for a disabled child visiting PROJIMO, then proudly helped him learn to use it. From Nothing About Us Without Us: Developing Innovative Technologies For, By and With Disabled Persons by David Werner, Published by HealthWrights

STOP THE WORLD - WE WANT TO GET ON!
### APPENDIX 1

**THE CORE INTERNATIONAL HUMAN RIGHTS AND THEIR MONITORING BODIES**

There are nine core international human rights treaties. Each of these treaties has established a committee of experts to monitor implementation of the treaty provisions by its States parties. Some of the treaties are supplemented by optional protocols dealing with specific concerns.

<table>
<thead>
<tr>
<th>Date</th>
<th>Monitoring Body</th>
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<tbody>
<tr>
<td>ICERD</td>
<td>International Convention on the Elimination of All Forms of Racial Discrimination</td>
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<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<tr>
<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
</tr>
<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination against Women</td>
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<tr>
<td>CAT</td>
<td>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</td>
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<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<tr>
<td>ICRMW</td>
<td>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</td>
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<tr>
<td>CED</td>
<td>International Convention for the Protection of All Persons from Enforced Disappearance</td>
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<td>13 Dec 2006</td>
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<td>16 Dec 1966</td>
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<td>15 Dec 1989</td>
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<td>10 Dec 1999</td>
<td>CEDAW</td>
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<td>25 May 2000</td>
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<td>25 May 2000</td>
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<td>12 Dec 2006</td>
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**ICRPD**  
Convention on the Rights of Persons with Disabilities  
13 Dec 2006  
CRPD

**ICESCR - OP**  
Optional Protocol to the Covenant on Economic, Social and Cultural Rights  
10 Dec 2008  
CESCR

**ICCPR-OP1**  
Optional Protocol to the International Covenant on Civil and Political Rights  
16 Dec 1966  
HRC

**ICCPR-OP2**  
Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty  
15 Dec 1989  
HRC

**OP-CEDAW**  
Optional Protocol to the Convention on the Elimination of Discrimination against Women  
10 Dec 1999  
CEDAW

**OP-CRC-AC**  
Optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict  
25 May 2000  
CRC

**OP-CRC-SC**  
Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography  
25 May 2000  
CRC

**OP-CAT**  
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment  
18 Dec 2002  
CAT

**OP-CRPD**  
Optional Protocol to the Convention on the Rights of Persons with Disabilities  
12 Dec 2006  
CRPD
APPENDIX 2

UN HUMAN RIGHTS STRUCTURES

The Human Rights Council, which replaced the Commission on Human Rights, held its first meeting on 19 June 2006. This intergovernmental body, which meets in Geneva 10 weeks a year, is composed of 47 elected United Nations Member States who serve for an initial period of three years, and cannot be elected for more than two consecutive terms.

The Human Rights Council is a forum empowered to prevent abuses, inequity and discrimination, protect the most vulnerable, and expose perpetrators.

Special Procedures is the general name given to the mechanisms to address either specific country situations or thematic issues in all parts of the world. Special Procedures are either an individual – a special rapporteur or representative, or independent expert – or a working group. They are prominent, independent experts working on a voluntary basis, appointed by the Human Rights Council.

Special Procedures’ mandates usually call on mandate-holders to examine, monitor, advise and publicly report on human rights situations in specific countries or territories, known as country mandates, or on major phenomena of human rights violations worldwide, known as thematic mandates. There are 30 thematic mandates and 8 country mandates. All report to the Human Rights Council on their findings and recommendations. They are sometimes the only mechanism that will alert the international community on certain human rights issues.

An example of a Special Procedure is the 1993 Report on Human Rights and Disabled Persons, by Leandro Despouy, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. This excellent report was an important step on the road to the CRPD.

Office of the High Commission on Human Rights supports
- the work of rapporteurs, representatives and working groups through its Special Procedures Division (SPD) which services 27 thematic mandates
- the Research and Right to Development Division (RRDD) which aims to improve the integration of human
rights standards and principles, including the rights to
development
• the Field Operations and Technical Cooperation Division
(FOTCD) supports the work of country mandates
and assists
• treaty bodies in harmonizing their working methods and
reporting requirements through their secretariats.

Treaty-based bodies (or Monitoring bodies)
There are nine human rights treaty bodies, which are
committees of independent experts that monitor
implementation of the core international human rights
treaties. They are created in accordance with the provisions of
the treaty that they monitor.
• Human Rights Committee (CCPR)
• Committee on Economic, Social and Cultural Rights (CESCR)
• Committee on the Elimination of Racial Discrimination (CERD)
• Committee on the Elimination of Discrimination Against
Women (CEDAW)
• Committee Against Torture (CAT) & Optional Protocol to
the Convention against Torture (OPCAT) - Subcommittee
on Prevention of Torture
• Committee on the Rights of the Child (CRC)
• Committee on Migrant Workers (CMW)
• Committee on the Rights of Persons with Disabilities (CRPD)
• The Committee on Enforced Disappearance (CED)

International Criminal Court
At the end of 2000, the international community adopted a
treaty creating the world’s first independent and permanent
International Criminal Court.

The International Criminal Court (ICC) is able to investigate
and prosecute those individuals accused of genocide, crimes
against humanity, and crimes of war. The ICC complements
existing national judicial systems and will step in only if
national courts are unwilling or unable to investigate or
prosecute such crimes. The ICC will also help defend the rights
of those, such as women and children, who have often had
little recourse to justice.

STOP THE WORLD - WE WANT TO GET ON!
Appendix 3

**CRPD UK Reservations & Interpretive Declaration**

**Work and Employment – Convention Article 27**

Mainly the United Kingdom accepts the provisions of the Convention, subject to the understanding that none of its obligations relating to equal treatment in employment and occupation, shall apply to the admission into or service in any of the naval, military or air forces of the Crown.

**Education – Convention Article 24 Clause 2 (a) and 2 (b)**

The United Kingdom reserves the right for disabled children to be educated outside their local community where more appropriate education provision is available elsewhere. Nevertheless, parents of disabled children have the same opportunity as other parents to state a preference for the school at which they wish their child to be educated.

**Liberty of Movement - Convention Article 18**

The United Kingdom reserves the right to apply such legislation, insofar as it relates to the entry into, stay in and departure from the United Kingdom of those who do not have the right under the law of the United Kingdom to enter and remain in the United Kingdom, as it may deem necessary from time to time.

**Equal Recognition Before the Law – Convention Article 12.4**

The United Kingdom’s arrangements, whereby the Secretary of State may appoint a person to exercise rights in relation to social security claims and payments on behalf of an individual who is for the time being unable to act, are not at present subject to the safeguard of regular review, as required by Article 12.4 of the Convention and the UK reserves the right to apply those arrangements. The UK is therefore working towards a proportionate system of review.
Declaration:
Education – Convention Article 24 Clause 2 (a) and 2 (b)

The United Kingdom Government is committed to continuing to develop an inclusive system where parents of disabled children have increasing access to mainstream schools and staff, which have the capacity to meet the needs of disabled children. The General Education System in the United Kingdom includes mainstream and special schools, which the UK Government understands is allowed under the Convention.

APPENDIX 4

SOME DISABILITY CASES TAKEN TO UK and EUROPEAN COURTS

UK COURTS

A, B, X and Y v. East Sussex County Council [2003]

Facts:
The case concerns two young women with significant multiple impairments, they had big support needs and depended on lifting in all activities related to their everyday life. Their local authority applied a “no manual lifting policy” for social workers on the grounds of health and safety. As a result, the council had refused to employ carers to work in the family home and had been seeking to place the women in residential care instead. The council had also refused to consider the option of direct payments - which would allow the family to employ their own workers to carry out manual lifting and related tasks - in the belief that they did not have the capacity to manage such arrangements, even with appropriate assistance.

Judgement:
In its decision the court stressed the fact that in such case “no manual lifting policy” contradicted with human rights of disabled people. The Court emphasised that any risk

STOP THE WORLD - WE WANT TO GET ON!
assessment, while establishing safety policies, needs to take into account the needs of the disabled person and their Convention rights. Policies should help to avoid hazardous manual lifting so far as that is reasonably practicable and in accordance with the best interests of the disabled person, their dignity and the promotion of their independence and their Convention rights; but authorities also should recognise that the needs of the disabled person may mean that it is not reasonably practicable to avoid a particular risk or to reduce it as much as might otherwise be appropriate.

There may be circumstances where a disabled person’s needs are such that it is not reasonably practicable for a hazardous lift to be carried out by hoisting, so that manual lifting is required.

The court emphasised that all lifts required for maintaining the client’s dignity, comfort and quality of life must be performed somehow. Also that, in situations where lifting is unavoidable (for example where there is prolonged resistance or great and obvious distress), the risk to the person of not being lifted is patently an overriding factor that would trump the carer’s ordinary health and safety concerns.

In the particular case of the sisters in the East Sussex case, for example, the judge stated that it is likely to be unlawful for care workers to:

• allow them to remain sitting in the bath for any really appreciable time without lifting them out, or

• leave them sitting on the lavatory for a long time, or

• leave them in a chair or elsewhere with the risk that bedsores will develop, or

• fail to pick them up if they have a fall and remain lying – particularly in a public place, or

• leave them sitting in bodily waste for any appreciable time.

The judge also emphasised that the sisters’ rights to participate in the life of the community (and those of other disabled people in similar situations), and to have access to an appropriate range of recreational and cultural activities, are so important that a significant amount of manual handling may be required.
Bernard v. LB Enfield [2002] EWHC 2282 (Admin)

Facts:
Mrs Bernard, a severely disabled woman who was a wheelchair user, her husband and their six children were housed in inappropriate and inadequately-adapted local authority accommodation in the London Borough of Enfield. Mrs Bernard was only able to access the lounge which was a bedroom at night for her and her husband. She could not use her electric wheelchair at home at all and was using a shower chair instead. She could not use the stairs and therefore had no access to the first floor where the bathroom and bedrooms were situated. She was not able to reach or use the kitchen and cook, to look after her children, to answer or open the door. Her husband could not leave the house for long and developed back injuries, because he had to lift his wife too often. Mrs Bernard fell several times. She attempted to limit her fluid intake in order to go to the bathroom less often. This was a particular problem as she was incontinent.

Although her care plan stated that she needed assistance to move to a suitably adapted property, the council failed to take action even after a court order to rehouse Mrs Bernard was made.

Judgement:
The High Court decided that the council’s failure to act showed a “singular lack of respect” for the claimant’s private and family life; she and her family had been living in conditions denying them any meaningful private or family life. The court awarded damages of £10,000. The court found violation of Article 8 of the Human Rights Act.
“Suitably adapted accommodation would not merely have facilitated the normal incidents of family life... it would also have secured her ‘physical and psychological integrity’. She would no longer have been house-bound, confined to a shower chair for most of the day, lacking privacy in the most undignified of circumstances, but would have been able to operate again as part of her family and as a person in her own right rather than being a burden, wholly dependent on the rest of her family. In short, it would have restored her dignity as a human being.”

Source:

**EUROPEAN COURT**

**Price v. The United Kingdom**

**ECHR, Third Section, 12 September 2000 and 19 June 2001**

**Facts:**
Miss Price is a quadriplegic person who had to spend four days in prison according to a court’s order. The prison facilities were not adequate for her disability. She spent a night at a detention place, in which she could not use the bed and had to sleep in her wheelchair, the facilities were not adapted to the needs of a disabled person and the cell was too cold. However, no action was taken by the police officers to change that situation. Moreover, once in prison, she was unable to reach the bed or toilet, faced problems with hygiene and fluid intake, and with mobility as her wheelchair battery ran down. By the time of her release she had to be catheterised because of the lack of fluid intake.

In this case the sentencing judge took no steps to ascertain where she would be detained or to ensure that it would be possible to provide facilities adequate for her as a disabled person.

Price alleged that her committal to prison and treatment in detention violated Article 3 of the Convention.
Judgement:
The Court found no evidence of any positive intention to humiliate or debase Miss Price. However, it considered that to detain a severely disabled person in conditions where she was dangerously cold, risked developing sores because her bed was too hard or unreachable, and was unable to go to the toilet or keep clean without the greatest of difficulty, constituted degrading treatment contrary to Article 3.

Source:

Kutzner v. Germany 26 February 2002

Facts:
Ingo and Annette Kutzner are married and parents with learning difficulties. Their two daughters, C and N, were visited by social services who were concerned about the children’s development.

There was early years support to the family. However, as parents they often had ideas about how to bring up the girls, which sometimes conflicted with the expert view. The relationship between the support worker and the parents went bad. The social worker wrote a very negative report about them.

German Guardianship Court withdrew the Kutzners’ parental rights over their two daughters and ordered their placement with foster parents, notably on the ground that the Kutzners did not have the intellectual capacity required to bring up their children, but also on the ground that the girls were very late in their mental and physical development and their parents had failed to cooperate with social services.

Later the Kutzners tried to appeal this decision with support from the family doctor and an expert psychologist who
believed that the children should return to their family. In order to make a decision the regional court consulted two expert opinions of psychologists. The first report stated that the Kutzners were incapable of bringing up their children because of lack of their intellectual capacity. The second report concluded that the parents were incapable of helping their children to develop their personalities and there was a risk that the parents would become increasingly aggressive towards them in future. The regional court upheld the decision of Guardianship Court, and the Kutzners’ daughters were removed and placed in separate families. The Kutzners’ rights to see their children were seriously restricted: they were not allowed to see their children during the first six months, and later visits were restricted to one or two hours and were held in presence of someone from social services.

Judgement:
European Court of Human Rights ruled that Germany did violate the Kutzners’ right to private and family life, by removing their children from them. There were no signs that the children were abused, neglected or ill treated, and although authorities could have concerns about late development of the children, they failed to consider and provide support and other alternative measures to withdrawing the Kutzners’ parental rights. Interference with the Kutzners’ parental rights was disproportionate to the aim of protecting the interests of their children.

Source:  
APPENDIX 5

HOW TO BE AN ALLY

FOOD FOR THOUGHT: BECOMING AN ALLY TO OPPRESSED PEOPLE

Excerpt from Becoming an Ally: Breaking the Cycle of Oppression by Anne Bishop
Published by Fernwood Publishing, Halifax

“How To” - Becoming an Ally

Having written that subtitle, I must now admit that I cannot tell anyone exactly how to become an ally. I can, however, use my growing analysis of the process and my experience to offer some guidelines. Most people in our society do not yet see the connections between different forms of oppression, or even have a general sense of how oppression works. Therefore, we still find ourselves dealing in most instances with one form of oppression at a time, and in a given setting, we are either in the role of oppressed or ally. I hope these observations will be as useful to you as they have been to me when I find myself in the ally role.

1. It is important to be a worker in your own liberation struggle, whatever it is. Learn, reflect on, and understand the patterns and effects of oppression, take action with others, take risks, walk towards your fear to find your power.

2. Try to help members of your own group understand oppression and make the links among different forms of oppression.

3. Listen, listen, listen, listen, listen, listen, listen, listen, listen, listen, listen, listen, listen, listen, listen.

4. Remember that everyone in the oppressor group is part of the oppression. It is ridiculous to claim you are not sexist if you are a man, or not racist if you are white, and so on. No matter how much work you have done on that area.

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of yourself, there is more to be done. All members of this society grow up surrounded by oppressive attitudes; we are marinated in it. It runs in our veins; it is as invisible to us as the air we breathe. I do not believe anyone raised in Western society can ever claim to have finished ridding themselves completely of their oppressive attitudes. It is an ongoing task, like keeping the dishes clean. In fact, the minute I hear someone claim to be free of the attitudes and actions of a certain oppression (as in “I’m not racist”) I feel they have barely begun the process. Humility is the mark of someone who has gone a piece down the road and has caught a glimpse of just how long the road is.

There is a parallel here with the principles of the twelve-step addiction recovery process. Just as the twelve-step programs teach that the process of healing from addiction is never finished, so it is with the process of unlearning oppression. A white person never becomes non-racist, but is always a “recovering racist,” more often referred to as “anti-racist.”

The other thing that makes members of an oppressor group always oppressors, no matter what kind of education process we have been through, is that, until we change the politics and economics of oppression, we are still “living off the avails.” We would not be where we are, doing what we are doing, with the skills and access we have, if we did not have the colour, gender, sexual orientation, appearance, age, class, or physical abilities we have.

Resources and power continue to come to us because we are members of the dominant group in relation to the particular form of oppression where we seek to be allies. So, until we succeed in making a more humane world, yes, we are racist (or ageist, or classist, or heterosexist, and so forth).

5. Having accepted that every member of an oppressor group is an oppressor, try not to feel that this makes you a “bad” person. Self-esteem does not have to mean distancing yourself from the oppressor role; it can come instead from taking a proud part in the struggle to end
oppression. We waste a great deal of energy in denying our responsibility for oppression. What would happen if all that energy could be put to work figuring out how to end it?

6. Remember that in the oppressor role you cannot see the oppression as clearly as the oppressed group can. When people point out your oppressive attitudes or language to you, your first response should be to believe it. Then it is time to ask questions and learn more about the oppression going on in that particular situation.

Try not to leap to defend yourself in one of the many ways oppressors use to deny responsibility for oppression. It is true that you will likely meet members of the oppressed group who will want to claim every little thing is oppressive and use it as a focus for their anger. You will also perhaps find members of the oppressed group who will try to use your efforts to unlearn oppression to manipulate you.

It is all part of the process - their process. The point is not to defend yourself; it will not work anyway. If you can deal with your own defensive feelings, you can turn the situation into a discussion that you, and perhaps everyone else, can use to learn more about the oppression, and you will be less vulnerable to manipulation. The defensiveness, or guilt, is the hook for the manipulation.

Also, if you can use your own experience of liberation to understand the anger of the oppressed, you will be able to accept it as a member of an oppressor group, not as an individual. Leave their process - working through their anger - to the oppressed group. Give your attention to your own process - becoming an ally. Then we can all participate in the process we share, ending the oppression.

7. Count your privileges; keep a list. Help others see them. Break the invisibility of privilege.

8. If you hear an oppressive comment or see an example of oppression at work, try to speak up first. Do not wait for a member of the oppressed group to point it out. Sometimes this draws a response of “Oh, I don’t mind,”
“It was just a joke,” or even anger directed at you from a member of the oppressed group. That person may be speaking out of their internalized oppression, or you may be off base. Just accept it, if you can; admit it is not your experience. More often you will find members of the oppressed group grateful that they did not have to raise the issue for a change.

9. You must be patient and leave lots of room for the greater experience of members of the oppressed group, but there are also limits. If it becomes clear over time that you are being used or mistreated, say something and/or leave the situation.

10. Try to avoid the trap of “knowing what is good for them.” Do not take leadership. They are the only ones who can figure out what is good for them, and developing their own leadership strengthens their organisations. It is fine to add thoughts or resources to the process by asking questions of the individuals with whom you have already built up some trust and equality; that is, who will not take it as coming from an authority greater than themselves just because you are a member of the oppressor group. It is not all right to take time at their meeting or public gathering to present your own agenda, or to suggest in any way that they do not understand or see the big picture.

11. Never take public attention or credit for an oppressed group’s process of liberation. Refuse to act as a spokesperson, even when reporters gravitate to you because they are more comfortable with you or curious about you. You should speak in public only if members of the oppressed group have asked you to speak from your point of view as an ally.

12. Do not expect every member of the oppressed group to agree - does your group agree on everything?

13. Learn everything you can about the oppression - read, ask questions, listen. Your ignorance is part of the oppression. Find people in the oppressed group who like to teach and who see value in cultivating allies in general, or you in particular. Ask them your questions. Do not expect every
member of the oppressed group to be ready and willing to teach you. When you are in the ally role, you have privileges and comfort in your life that members of the oppressed group do not have because of the oppression; they may not want to also give you their time and energy so that you can learn about them. They may not have the time or the energy.

14. Support the process of unlearning oppression with other members of your own group. Do not usurp the role of communicating the experience of the oppression; that one belongs only to members of the oppressed group. You can, however, share with other members of the oppressor group the journey of becoming an ally; you can help break through others’ ignorance of the oppression. Members of your own group might hear you when they cannot hear a member of the oppressed group.

15. Remember that you will probably have to go out of your way to maintain your friendships and connections with members of the oppressed group. Our society is set up to separate, so that without a little extra effort, you will live in different parts of town and never cross paths. On the other hand, do not fall over backwards. It is not good to ignore the friends and support base you have already established because you are spending all your time working at the barriers, or becoming a “hanger on” of the oppressed community in an inappropriate way.

16. Try not to look at the oppressed for emotional support. They will likely be ambivalent about you, happy on one hand to have your support, annoyed on the other at your remaining oppressor arrogance, your privilege, the attention you get as a member of the dominant group. Their energy is needed for their own struggle. This does not mean you will not receive support from members of the oppressed group sometimes more than is warranted. For example, look at the praise men get for doing housework when women still do the vast majority of it. Try not to expect the oppressed group to be grateful to you.

17. Be yourself. Do not try to claim the roots and connectedness that a history of oppression can give to a

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community if it is not your own. Do not become what the Mi’kmaw community calls a “Wannabe.” Dig into your own roots. The oppressive history of the group you belong to is a burden you carry. Search out the history of allies from your group as well. Dig even deeper than that. Every group started out as a people with roots in the earth somewhere. Find your own connection with your people’s history and the earth. If it is absolutely untraceable, find appropriate ones, rebuild roots and connectedness in the present, for yourself. But do not try to steal someone else’s; you cannot anyway.

18. Be yourself. Be honest. Express your feelings. Do not defend your internalized oppressor attitudes; say that it hurts to discover another piece of it. Do not sit on your doubts (except in public gatherings or meetings where you are an observer), ask them of someone you trust. The key word is ask. Assume that you are a learner; good learners are open.
APPENDIX 6

READING LIST

Websites

The Disability Archive – http://www.leeds.ac.uk/disability-studies/archiveuk or just key in leeds disability studies archive.

This archive has writings by leading disabled activists and is a great source of information.

Disability Awareness in Action – http://www.daa.org.uk – an international information network on disability and human rights. This website has many up-to-date news, resource kits, research reports on disabled adults and children, briefings and information from international violations data as well as copies of monthly newsletters dating back to 2000.

The social model


Genetics


Equality


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**History and experience**


*Annie was institutionalised at 3 – thought to be a helpless ‘vegetable’, unable to communicate. At 18 she left the institution with her teacher after a Supreme Court judgement had found her able to communicate and manage her own affairs. She eventually went to university and has written a book on ethics.*
APPENDIX 7

PROGRAMME

Day 1  March 25
12 noon  Registration
2.00  Welcome, working together, introductions and expectations
2.30  What are Human Rights?
3.15  Break
3.45  International and national legal context
5.00  Round up and general discussion.
5.30  End of day 1
7.00  Dinner together

Day 2
9.30am  Welcome and expectations
9.45  UN Convention – Rights and Principles
10.45  Break
11.15  Case Work: identifying the right
12.30  Lunch
2.00  Case work: looking at real cases
3.30  Break
4.00  Delegates as Experts: understanding violations of rights and taking action.
5.15  End of Day 2
7.00  Dinner together

Day 3
9.30am  Implementing and monitoring
10.00  Strategic Planning for DPOs
11.00  Break
11.30  Were expectations met? – filling in the gaps
12.30  Close of HR Training sessions

Farewell lunch will be provided. We hope you will stay.

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