

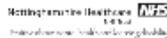
The Convention on the Rights of Persons with Disabilities: Paradigm Shifts and Opportunities for Change

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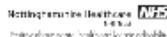
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Basics

- A UN convention – it's law
- Implementation overseen by Committee on the Rights of Persons with Disabilities
- UK has signed protocol allowing individual complaints
- Not directly enforceable in UK courts

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General Principles

- Respect for dignity and autonomy
- Non-discrimination
- Respect for human diversity
- Equality of opportunity
- Accessibility
- Equality between men and women
- Respect for children with disabilities

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Things we will like

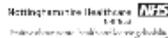
- Freedom from exploitation, violence, abuse (art 16)
- Right to independent living and inclusion in community (art 19)
- Right to health (art 25)
- right to work and employment (art 27)
- right to adequate standard of living (art 28)
- right to participation in political and public life (art 29)
- right to participation in cultural life, recreation and sport (art 30)

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■ Capacity (Art 12)

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law...

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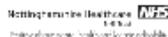


■ Compulsory Treatment

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. [...] States Parties shall:

- (d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including **on the basis of free and informed consent** by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care.

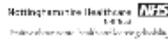
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Right to Liberty (Art 14)

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:
 - (b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that **the existence of a disability shall in no case justify a deprivation of liberty.**

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Legislation authorizing the institutionalization of persons with disabilities on the grounds of their disability without their free and informed consent must be abolished. [...] This should not be interpreted to say that persons with disabilities cannot be lawfully subject to detention for care and treatment or to preventive detention, but that the legal grounds upon which restriction of liberty is determined must be de-linked from the disability and neutrally defined so as to apply to all persons on an equal basis.

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Conclusions

- it's here
- No one is really sure yet how it will pan out
- Some very good provisions in it
- Major potential for misunderstandings, bruising rows
- A challenge to re-think what we do
- For more, see (2012) 75(5) Modern Law Review 752.

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