

# **EXECUTIVE COUNCIL**

## **RESTRICTED**

**Title of Report:** UN Convention on the Rights of People with Disabilities

**Paper No:** 44/09

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**Report of:** Director Of Health & Social Services

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### **1.0 Purpose**

1.1 Inform Honourable Members of the UK's offer to extend the Un Convention on the Rights of Persons with Disabilities to Overseas Territories.

### **2.0 Recommendations**

2.1 Honourable Members are recommended to defer the decision to extend the Convention until further work can be undertaken to clarify the implications, resources and feasibility of the extension to the Falkland Islands

### **3.0 Summary of Financial Implications**

3.1 The financial implications are unclear at present but have the potential to be substantial.

### **4.0 Background**

4.1 The UK signed the UN Convention on the Rights of Persons with Disabilities on the 30<sup>th</sup> March 2007 which then came into force on the 3<sup>rd</sup> April 2008. The purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all disabled people while promoting respect for their dignity on an equal basis with all other people. The UK is preparing to ratify the Convention and have requested that all Overseas Territories notify HMG by 1<sup>st</sup> March 2009 whether or not they wish the Convention to be extended to them.

4.2 If the Falkland Islands is willing to have the Convention extended to it, the Government will need to ensure that sufficient laws, policies, practices and procedures are in place so that it can comply with the Convention's provision. There is no requirement to fit in with the UK's timescales as the Convention can be extended to the Falkland Islands at any time after the UK ratifies.

- 4.3 The financial implications of extending the Convention could be substantial and it is not clear what the timescales, once ratified, will be. The issues of capacity and capability within the community to achieve the obligations also needs further exploration and work.
- 4.4 The international legal position states that a country is bound once a treaty or convention is ratified and not having domestic legislation to implement it is not a defence. Usually a country would not ratify a convention until it has put the domestic legislation, to enable compliance, in place.
- 4.5 At present it may be more prudent for the Falkland Islands Government to defer the extension of the Convention until further work can be done but an indication of their commitment to the rights of people with disabilities or vulnerable people overall might also be the development of a Vulnerable Peoples Strategy. This would incorporate most of the necessary work and allow Government control over the action plan, work agreed, timescales, resources and achievable goals while reassuring HMG.

## **5.0 Financial Implications**

- 5.1 The financial implications of extending the Convention could be substantial and it is not clear what the timescales, once ratified, will be. The issues of capacity and capability within the community to achieve the obligations also needs further exploration and work.
- 5.2 Examples of some of the potential costs are the two care packages recently applied for; disabled toilets costing approx £5,000 each; automatic doors at £4000 single - £8000 double.

## **6.0 Legal Implications**

- 6.1 These have been set out above.

## **7.0 Human Resources Implications**

- 7.1 There will be H.R. implications and issues to consider especially for manpower, skills, expertise and capacity although at this stage it is not possible to fully quantify.

## **Appendix I**

### **UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES**

#### **Obligations of the Convention on Disability Rights**

This is not a definitive outline of the Convention but purely to give a broad overview of the obligations that are covered by the Convention.

- The Convention guarantees that states will take appropriate action to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against disabled people;
- State parties shall prohibit all discrimination on the basis of disability and guarantee to disabled people equal and effective legal protection against discrimination on all grounds; states parties should undertake appropriate measures to raise awareness throughout society regarding disabled people , to foster respect for the rights and dignity of disabled people;
- States will take appropriate measures to ensure that disabled people have access on an equal basis with other non-disabled people, to the physical environment, transportation, information and communications and to other services provided to the public;
- States will need to reaffirm that every human being has an inherent right to life and ensure that disabled people are treated on an equal basis with other non-disabled people.
- States will, in conjunction with other obligations of international law, ensure the protection and safety of disable people in situations of risk and humanitarian emergencies;
- States need to reaffirm that disabled people have equal recognition before the law;
- States shall ensure that disabled persons have effective access to justice on an equal basis with other non-disabled people in order to facilitate their role as direct or indirect participants in all legal proceedings;
- States shall make sure that disabled people enjoy the rights and liberties of other non-disabled people and should not be deprived of their liberty because they are disabled;

- States shall make sure that disabled people, on an equal basis with other non-disabled people, are prevented from being subjected to torture or cruel, inhuman or degrading treatment or punishment;
- States will take all appropriate action to protect disabled people from exploitation, violence and abuse;
- All disabled people have the right to respect for his or her physical and mental integrity on an equal basis with other non-disabled people.
- States shall recognise the rights of disabled people to liberty of movement, freedom of choose their residence and to nationality, on an equal basis with other non-disabled people. Disabled people should not be deprived of their nationality or their right to enter a country because they are disabled;
- States recognise the equal rights of all disabled people, in line with others, to live in the community with their full inclusion and participation in that community;
- States will ensure the personal mobility of disabled people with the greatest possible independence this includes personal mobility, and mobility aids;
- States will ensure that disabled people can exercise their right to freedom of expression and opinion on an equal basis with other non-disabled people.
- States will protect disabled people from being subjected to arbitrary or unlawful interference with their privacy, family or home or correspondence or other type of communication or attacks on their honour and reputation.
- States shall take effective and appropriate measures to eliminate discrimination of disabled people in matters relating to marriage, family, parenthood, and relationships on an equal basis with other non-disabled people.
- States will recognise the right of disabled people to education. Disabled people should not be excluded from general education because of their disability, nor should disabled children be excluded from primary and secondary education because they are disabled.
- States should recognise that disabled people have the right to the highest attainable standard of health without discrimination without discrimination on the basis of disability.
- States shall take effective and appropriate measures to enable disabled people to attain and maintain maximum dependence and full inclusion and participation in all aspects of life.
- States recognise the rights for disabled people to work on an equal basis with other non-disabled people.

- States recognise the rights for disabled people to an adequate standard of living for them and their families, including food, clothing and housing.
- States shall guarantee to disabled people political rights and the opportunity to enjoy them on an equal basis with others.
- States recognise the right of disabled people to take part in an equal basis with others in cultural life.
- States undertake to collect appropriate information, including and research data, to enable them to formulate and implement policies to give effect to the present Convention.
- States recognise the importance of international cooperation and its promotion, in support of national efforts for the realisation of the purpose and objectives of the Convention, and will undertake appropriate and effective measures in this regard, between and among states and as appropriate in partnership with appropriate organisations and civil society.
- States will prepare a framework to promote, protect and monitor implementation of the Convention.
- A committee will be formed to consider state parties reports on progress towards meeting the obligations under the convention and any measures taken to meet its obligations.