



Lack of legislative
protections for accessibility
and inclusion in the digital
world for disabled people.

By Just Include

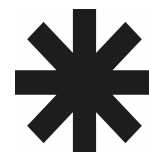
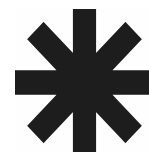


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Abbreviations

UKG	UK government
UNCRPD	United Nations convention on the rights of people with disabilities.
NI	Northern Ireland
UK	United Kingdom
GB	Great Britain
EU	European Union
EQA	Equality Act of 2010
DDA	Disability Discrimination Act of 1995
DWP	Department for Work and Pensions



1. Introduction

Currently, both Northern Ireland and Great Britain have legislative protections in place to protect disabled people from discrimination and to ensure accessibility and inclusion within society through the Disability Discrimination Act in NI and the Equality Act of 2010 in GB, as the UK works towards implementing the UNCRPD. It must be noted that current disability legislation and the UNCRPD have very limited protections in terms of the digital world. These legislative protections and treaties were written before the digital world became an integral part of society i.e. UNCRPD ratified in 2008.

UNCRPD will be vital in creating an inclusive and accessible physical society, however, UNCRPD is a stepping stone in the advancement of accessibility and equality for disabled people. However as society continues to enter the digital world, the accessibility gap within the digital world will widen with disabled people being excluded. Thus robust legislation is needed to ensure the digital world is completely inclusive and accessible.

2. Aim of Campaign

To ensure that the UKG and the Northern Ireland Executive put legislative measures in place to ensure that the digital world is fully accessible and inclusive for disabled people. Not only in terms of websites, apps, software and digital documents but also in digital art and entertainment products, for example, film, computer games etc.

Aims:

The creation/amendment of multiple pieces of legislation requiring accessibility and inclusion of digital products for the Private sector e.g. applications to digital entertainment.

There is a need for greater regulations on the accessibility of websites and any publications by both public and private sectors.



The government needs to ensure there is greater education for both the general public and businesses on accessibility and inclusion in the digital world.

3. Background and Context

3.1. Northern Ireland

From the 2021 Northern Ireland census, almost 1 in 4 are living in NI with a disability. NISRA. (2021).

The Disability Discrimination Act of 1995 and its amendments is the piece of legislation which protects the rights of people with Disabilities in Northern Ireland. Last amended in 2006. Disability Discrimination Act. (1995)

The DDA provides protections for disabled people in areas such as:

- Access to goods, premises and services
- Employment
- Health
- Education
- Motoring, travel and transport
- Disability discrimination

There are little to no protections for accessibility and inclusion within the digital world as the only protection provided by the DDA is the requirement of certain sectors and authorities for example the health service to provide information in alternative formats Disability Discrimination Act. (1995), this could mean digital documents however there is no specific reference to digital formats.

When the Disability Discrimination Act was passed in 1995 and amended up to 2006, the internet and modern technology such as computers were not as prominent or did not have the same reliance by society as they do today. Thus there were very little to no protections implemented to ensure disabled people have access and equality in the digital world.



Northern Ireland is the only region of the UK to have equality legislation devolved to the Northern Ireland Assembly from Westminster in 1998. It must also be noted that the Northern Ireland Assembly and Executive haven't passed any Equality legislation having relied on Westminster to do so.

3.2. Great Britain

England, Scotland and Wales now have the Equality Act of 2010 which superseded the DDA and offers enhanced protections in areas such as indirect discrimination

The EQA does provide better protections to ensure accessibility and inclusion in the digital world, it considers both physical and digital access to services including websites, documents and apps. It also states that organisations must make reasonable adjustments, to enable disabled people to access services, this could include measures such as digital documents, Bird, D. (2021).

In 2018 Westminster implemented The Public Sector Bodies (websites and mobile applications) (No. 2) Accessibility Regulations 2018 to require public bodies websites to be accessible, Bird, D. (2021).

However, these protections don't go far enough in ensuring inclusion and accessibility as referenced later in this document.

2.3. EU

Before the UK left the EU in January 2020, they had to follow EU website laws for example The European Union's Directive on the accessibility of Website and Mobile Applications. The law came into effect in December 2016, Crownpeak (2022)

As a result, the UKG implemented The Public Sector Bodies (websites and mobile applications) (No. 2) Accessibility Regulations 2018.

However other EU legislation such as the European Accessibility Act doesn't apply meaning that accessibility protections have been greatly reduced since Brexit.



3.4. UNCRPD

The United Nations Convention On The Rights of People with Disabilities was ratified by the UKG in 2008, while not implemented into law yet. This convention ensures that disabled people's rights are protected and that they have equality.

Article 9 - Accessibility, of the UNCRPD, states that "To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and other facilities and services open or provided to the public, United Nations (2006). The UNCRPD will hopefully go some way to make the digital world accessible and inclusive to disabled people however the UNCRPD doesn't go far enough and has certain limitations i.e. it was ratified in 2008 before the digital world became essential and widespread within society. Furthermore, although it references "information and communications technologies" United Nations (2006), there is a need for more specific legislative protections to cover different digital industries.

Furthermore, without an accessibility and inclusive digital world article 3 - general principles of the UNCRPD, principle c "Full and effective participation and inclusion in society" United Nations (2006), can't be met especially as society continues to become more reliant on technology.

4. Issues

4.1. Online website

Due to inadequate accessibility legislation, the vast majority of websites don't meet web accessibility standards. A report conducted by the charity AbilityNet which analysed the top 1 million web pages found that less than 1% are likely to meet standard accessibility standards. Furthermore, 97.8% of home pages had automatically detected Web Content Accessibility Guidelines (WCAG) 2 AA Failures, however AbilityNet also stated that automatically detected errors only make up a small proportion of all possible WCAG failures thus under 1% of websites are likely to be fully compliant. Furthermore, Webaim found that 90% of websites are inaccessible to disabled people who use assistive technology ("Less than 1% of website home pages are likely to meet accessibility standards"), Cahalane, C. (2019). It must be noted that WCAG 2 AA Standards are



what is used as a starting point for UK Government websites. The UKG also requires most public bodies' websites to meet the WCAG 2 standard, set out in the Public Sector Bodies (websites and mobile applications) (No. 2) Accessibility Regulations 2018. Bird, D. (2021).

This means that disabled people who use assistive technology such as screen readers, dictation software etc, don't have the same access to information and the web as non-disabled people. This is significant as there are an estimated 14.6 million disabled people in the UK, Kirk-Wade, E. (2023). There are an estimated 2 million visually impaired/blind people RNIB (2017). People who are Blind/VI often rely on magnification and screen reader software which often has the most issues with digital accessibility.

4.2. Digital documents

Due to both a lack of legislative protections and a lack of awareness, quite often digital documents aren't produced in an accessible way in which assistive technologies i.e. screen readers and other reading software are used by those who are blind or visually impaired. This is especially prevalent when it comes to everyday documents such as invoices or bank statements that are often produced in a pdf format. Although it must be noted that the public sector is required in Great Britain to make information accessible by law under the Public Sector Bodies (websites and mobile applications) (No. 2) Accessibility Regulations 2018 Bird, D. (2021). However, there are no such regulations for the private sector. This makes it harder for some disabled people to access documents and information in their daily lives and also in the workplace.

4.3. Apps and software

The number of applications and software available for everything from smartphones to computers that are accessible to disabled people who use assistive technology is often limited. From not being screen reader compatible or useable by those that use assistive technology that changes the way they interact with their digital world i.e. voice control, to not including options for large text, lack of contrast or difficult-to-use interferences.

This often means that some disabled people either have to ask for help from a family member or friends or have to spend a significant amount of time looking for applications which are accessible to perform everyday tasks which people who do not rely on assistive technology for example screen readers would be able to perform in a matter of minutes, without even thinking about it.



Statistically, Ofcom. (2019), the UK's communication regulator found in 2019 that 81% of non-disabled people have a smartphone compared to just 53% of disabled people. Part of the reason for the gap in smartphone usage between disabled and non-disabled people could be accessibility barriers that many disabled people encounter such as applications and websites not being accessible and incompatibility with assistive technology for example. screen readers resulting in barriers to accessing the internet and digital information.

This is evidenced by statistics available for application and software accessibility showing that 65% of free apps on IOS (Apple's mobile operating system) and 75% of free apps on android (Google's mobile operating system) met accessibility standards compared to 35% of paid IOS Apps and 29% of paid Android apps met accessibility standards. This analysis was carried out by the digital design company Diamond, which analysed the top 20 free and paid apps on both platforms and looked at 4 aspects of accessibility DiBenedetto, C. (2021).

For example in November 2022 following Elon Musk's buyout of Twitter, he announced massive layoffs of staff in order to save money. The accessibility team was completely axed, Knibbs, K. (2022). They were responsible for ensuring the accessibility of the platform to disabled people and implemented several accessibility features i.e. ALT text and closed captions to make the platform more accessible to people with visual and hearing impairments.

There should be legislation to prevent this, but currently, there are no legislative protections in the UK or around the world which makes actions like this illegal. Yet again disabled people are denied the same access to the digital world as non-disabled people.

Overall disabled people are often excluded from the digital world either through inaccessibility of software or apps. This means that disabled people don't have access to the same digital information and digital communication i.e. social media as non-disabled people and as such aren't able to participate fully in society.

4.4. Relation to employment and education

As illustrated above the current lack of accessibility and inclusion in the digital world is bound to have some influence on the employment gap faced by disabled people both in Northern Ireland and the United Kingdom. According to the most recent statistics, only 36% of disabled people are in work in Northern Ireland according to a report carried out



by Ulster University BBC. (2022). In Great Britain, the employment rate is 52.6% for disabled people compared to 82.5% for non-disabled people. GOV.UK. (2022)z Furthermore, the Royal National Ins for the Blind (RNIB) has reported that only 1 in 4 people with a visual impairment are in employment in the UK, with the statistic being the same for the past 20 years, RNIB (2019).

Although digital accessibility is not the main cause for such a disparity in unemployment rates both in Northern Ireland and Great Britain, which is due to inadequate protections provided by both the EQA in GB and DDA in NI. The lack of digital accessibility must still have a role in such damning statistics either due to accessibility of software and documents used within the workplace or the fact that some disabled people may struggle to access job adverts.

Furthermore the lack of digital accessibility in applications, websites and publications must have some amount of impact on disabled children and young people's attainment in education. For example, the Office for National Statistics found that disabled people were less likely to have a degree-level qualification with 21.8% having a degree-level qualification compared to 38% of non-disabled people. The attainment gap at GCSE is 5 points between disabled and non-disabled people, ONS (2019).

Students who rely on assistive technology such as screen readers may not be able to access the full range of information available to them online or use revision or study apps leading to more limited knowledge on a particular subject or making revision for exams more challenging than for non-disabled peers.

4.5. Digital Entertainment

4.5.1 Film and TV Industry

Ofcom, the UK's communication regulator, set statutory targets for TV channels in Ofcom's code on television access services published in 2004 with relevant amendments, following the Communications Act of 2003. This requires broadcasters to meet set statutory targets of accessible content based on the total amount of broadcasting hours per year, with the targets getting higher annually for a broadcaster over a 10-year period. The highest target for broadcasters is 80% of content subtitled, 10% audio described and 5% signing. However, the BBC must meet 100% of content subtitled and channels 3 and 4 are required to meet 90% of content subtitled. However, there are exclusions which do exist such as the intended audience size for the programme or the technical difficulty or cost of the provision of the assistance , Ofcom. (2023).



However, for many disabled people who have visual or hearing impairments, this means that they aren't provided with the same experience as non-disabled people and as such, they are excluded from the enjoyment, or the amount of information provided by the programme.

Both the private and public sectors of the TV industry should have to make all programming fully accessible because they are essentially selling a service/product not too dissimilar to a physical business selling a service/product - in which legislative protections around accessibility exist. However, because the TV industry is a digital sector, no accessibility regulations exist.

Furthermore, the BBC and Channel 4 are fully funded by the taxpayer, and as such should be required to offer full accessibility features i.e. Audio Description, Subtitles etc. on all programming.

In terms of the film industry, not all films provide an audio description track or subtitles. Although statistics are limited, a study conducted by Lenstone found that only 25.4% of films and series on Netflix have audio descriptions. Furthermore, another on-demand streaming service Disney+ was found to have 62.6% of content audio described PosAbility Magazine. (2021). It can be deduced that these statistics are even direr when it comes to how many films have accessibility features such as AD on release from movie distributors as streaming services such as Netflix often record and add audio descriptions to popular films which have released without it.

Disabled people often don't have the same experience or enjoyment of films as non-disabled people because of a lack of accessibility features. Surely film studios should be required to include accessibility features such as Audio Description or subtitles by law as they are creating and selling a product and, as stated before, it shouldn't matter if a product is digital or physical for it to be accessible and inclusive.

4.5.2 Video Game Industry

For some people, video games are no more than a trivial form of entertainment, but for the 20% of the 2.8 billion people worldwide who play video games who are disabled, Waller, C. (2022). in the \$220 billion industry, Grand View Research (2020). many face a range of barriers, from inadequate information on a game's accessibility to no screen reader support, to no subtitles. Disabled people who play games have a range of impairments from motor impairments to hearing and visual impairments. However, the majority of video games produced are inaccessible; Scope found in 2020 that out of more than 1300 people surveyed 66% say they face barriers to gaming, Scope, (2021).



It was also found that 2 in 5 disabled people who play games have purchased games that they are unable to play due to poor accessibility, Scope, (2021). This indicates that game publishers and developers don't provide enough information about accessibility options pre-purchase or make it difficult for this information to be found.

There have been attempts to introduce accessibility regulations, particularly in the USA with the 21st Century Communication and Video Accessibility Act (CVAA), Grand View Research (2020). Any video game communication released after 2019 or older games updated after 2019, must be accessible to those with sight, motor, speech, cognitive, and hearing impairments. However, it must be noted that the regulations only require communications functionality, like in-game chat and the game's User Interface (UI).

This, however, has improved video game accessibility worldwide very little in the years since, still in 2023 not all games come with inbuilt screen readers and settings to customize things like controls and visual or audio options. Even those that have a built-in screen reader in order to be compliant, that's as much accessibility as the game offers, making them far from accessible for people who are blind/VI. Even for other disabled people who have motor or hearing impairments etc. the bare minimum is done by developers across the world in terms of accessibility, often still leaving games inaccessible to disabled people.

There have been a few big-budget games which have been made fully accessible. The Japanese technology firm, Sony's game development studio, Naughty Dog, has produced two games which have been made fully accessible. The Last of Us parts 1 and 2 have used creative techniques to ensure accessibility for disabled people regardless of visual, hearing or motor impairment. For example, using audio cues and audio description to convey the game to blind people, high contrast for people with visual impairments or visual cues for people with hearing impairments along with fully customisable controls.

Video game publishers and developers should have to make all video games fully accessible as ultimately, they are selling a product or service and if products/services were inaccessible in other industries there would be regulations. As such, the UK needs to legislate with robust regulations which ensure the accessibility of video games for all.

5. Proposals



5.1. Online websites and digital documents

Legislative protections are needed to ensure that the private sector makes their websites compliant with the WCAG 2 AA accessibility standards. But also, to ensure any information produced by the private sector, including digital documents, are accessible to disabled people by using best accessibility practices and ensuring compatibility with assistive technologies such as screen readers. This would greatly improve the amount of digital information that disabled people can access, but also improve access to the internet, allowing disabled people to participate more fully in society and expanding the opportunities available to them.

There also needs to be awareness generated on how to make digital information accessible and comply with accessibility standards, both for the public/private sector and also for the general public. Including accessibility standards as part of the education curriculum would ensure young people know how to make websites and digital documents accessible. Awareness could also be spread by government departments i.e. DWP and the Department for Communities to ensure that the general population and businesses/organisations are aware of digital accessibility best practices.

5.2. Apps and software

There needs to be legislation requiring the private sector, and to a lesser extent the public sector, to ensure apps and software, either free or paid, meet accessibility standards and guidelines, meaning they are accessible to all disabled people regardless of access needs and those who use assistive technologies e.g. screen readers or magnification software. This would also prevent companies from ignoring accessibility. Again, this would allow disabled people to participate fully in society and could even help to lessen the employment gap.

5.3 Digital entertainment

To ensure that disabled people have the same access and enjoyment from digital entertainment i.e. films and video games as non-disabled people, we need legislative protections that require film studios to produce films with accessibility features such as audio description tracks and subtitling. Furthermore, regulatory requirements are required for the game development industry, requiring them to make video games fully accessible via the means of audio description, high contrast, and configurable controls



among other accessibility techniques. This will enable disabled people to have the same access to and enjoyment of digital entertainment.

5.4 How digital accessibility protections could be implemented into domestic legislation

The implementation of protections for accessibility and inclusion of disabled people in the digital world into legislation could exist in several ways:

Protections for accessibility and inclusion of disabled people in the digital world could be implemented as a series of amendments to existing equality legislation.

A single piece of legislation requiring digital accessibility could be created which would provide regulations for both the private/public sectors requiring accessibility of websites, digital documents, apps and software, as well as the film and video game industries.

Multiple smaller pieces of separate legislation could be created, for instance website and document accessibility, apps and software accessibility, film accessibility and video game accessibility.

This may be a more realistic approach to ensuring protections exist for digital accessibility.

These protections could be implemented at Westminster and then implemented by the NI Executive, if required, due to equality legislation being devolved in Northern Ireland.

However, potentially as equality legislation is devolved in Northern Ireland, the NI Executive could implement this legislation on its own without Westminster, if necessary.

6. Conclusion

The state of disability rights and equality is dire, both in Northern Ireland and the UK. Although there is a recognised need for UNCRPD to be implemented into domestic legislation to bring about an accessible and inclusive society for disabled people, there does seem to be a lack of both awareness and legislative policy to tackle the inaccessibility of the digital world. This is ultimately because the EQA and the UNCRPD were drafted in the late 2000s and the DDA in the mid-1990s, really before the



widespread reliance on technology for everyday tasks such as communication, entertainment and information. Furthermore, society is going to continue to become more reliant on technology in upcoming years as new technologies such as Artificial Intelligence (AI) become more integral in people's lives, and without legislative protections for disabled people, they will be excluded and left behind.

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