

Minister asks for information on abuse scandal

A Liberal Democrat minister is to investigate why the Crown Prosecution Service (CPS) has refused to prosecute any of the NHS staff accused of abusing 18 disabled people at a day centre.

The CPS decided two weeks ago – for the second time – not to bring any charges over the alleged abuse at the Solar Centre in Doncaster.

An internal NHS investigation, which reported in 2008, found evidence of 44 incidents between 2005 and 2007, involving abuse of 18 people with learning difficulties and high support needs.

The report by the trust which runs the day centre, Rotherham Doncaster and South Humber Mental Health NHS Foundation Trust (RDaSH), makes it clear that nine members of staff claimed they witnessed abuse.

And Disability News Service (DNS) has seen safeguarding reports into the abuse of two of the service-users, which appear to show there is clear evidence against three former members of staff.

Last week, the CPS agreed to re-examine its decision not to proceed with any charges, after DNS questioned why no charges were possible when RDaSH appears to have taken at least nine witness statements describing ill-treatment.

Now the care services minister, Paul Burstow, has asked officials at the Department of Health to look into the case, after DNS brought it to his attention at the Liberal Democrat party conference.

Burstow said: “I appreciate why people are concerned about this particular case, which is why I have asked officials to look into this and report back to me.”

A CPS spokeswoman said they were still “conducting a review”. But she said that Keir Starmer, the director of public prosecutions and head of the CPS, was now being kept informed of progress on the case.

29 September 2011

BBC set to apologise over inaccessible complaints system

A disabled man looks set to win an apology from the BBC after it admitted failing to provide him with an accessible way of lodging a complaint.

John Cresswell-Plant was contacted by a local radio producer last year over a press release he and fellow disabled activists sent BBC Radio West Midlands.

But after Cresswell-Plant – who has autism – made it clear that he and his colleagues would need some adjustments made in order for a live radio interview to take place, he said the producer lost interest in the story.

He had asked the producer to allow him to finish answering questions without being interrupted, and not to ask any questions that might be open to misinterpretation.

But when he tried to complain about the interview being dropped, the BBC's complaints department failed to make the "reasonable adjustments" he needed under discrimination laws.

Now the BBC Trust general appeals panel (GAP) – the BBC's highest authority for complaints – has concluded in a draft ruling that the complaints department failed to make the necessary adjustments for Cresswell-Plant. It says it will apologise to him on behalf of the BBC.

Among Cresswell-Plant's concerns, he said he was not given a direct contact to speak to in the complaints department, as the Equality and Human Rights Commission suggested he should ask for.

The panel's draft findings note that, although Cresswell-Plant repeatedly asked to speak directly to the person handling his complaint, he was never allowed to do so.

And although he asked for written notes or transcripts of his conversations, this does not appear to have been provided by the BBC.

The panel notes that, although some adjustments were made by the complaints department, the specific adjustments Cresswell-Plant asked for were not carried out.

The draft findings point out that, although the BBC complaints department claimed there were proper procedures in place to deal with people with learning difficulties, the panel had not yet been shown a copy of them. It is now likely to ask to see the relevant policy.

But the panel's draft findings also conclude that the live interview with Cresswell-Plant did not take place for "editorial reasons", rather than because the producer did not want to make the necessary adjustments.

The BBC is also arguing that newsgathering is not seen as a "service" under equality laws and therefore there was no need for reasonable adjustments to be made for the interview.

Cresswell-Plant, who will continue to campaign for journalists to make reasonable adjustments for all disabled people, said: "They will make an adjustment for somebody who

is in a wheelchair to be interviewed for the news, somebody who is deaf to be interviewed, why not somebody who has a learning difficulty? It is still accessibility.”

A BBC Trust spokeswoman said: “The trust would not comment on an appeal finding ahead of publication. The finding is still being finalised and will be published in due course.”

29 September 2011

Judge rules disabled woman should not be allowed to die

Campaigners have welcomed a high court judge’s ruling that a “minimally conscious” disabled woman should not have her life-supporting treatment withdrawn.

The family of the woman, who has brain damage and is known as “M” for legal reasons, had told the court that she would not have wanted to be kept alive in such circumstances.

But Mr Justice Baker has ruled that these statements were not legally binding, and that M currently has “some positive experiences”, while there was a “reasonable prospect” that those experiences could be extended.

Dr Kevin Fitzpatrick, of the campaigning disabled people’s organisation Not Dead Yet UK, expressed sympathy with the family but said the judge’s ruling was “an example of where the right processes are working”.

He said: “We understand that the family are going through a very difficult period, but we have had the appropriate checks and balances.

“The difficulty we are left with is that we have to come to a place where a judgement is made on the quality of life for an individual not able to advocate for themselves. In this case, it resulted in a judgement that said this woman had a quality of life.

“This is a matter where the right process was followed. It is an exemplar for us of how things should work. The protections that are required are in place and this case shows that.”

M was left with brain damage after falling ill with viral encephalitis in 2003. She receives food and water through a tube, which the family want to be removed in order to hasten her death.

Doctors initially believed M was in a coma, until later realising she was capable of some response, was aware of her environment, and was in what is known as a “minimally conscious” state. She now lives in a care home.

Yogi Amin, from law firm Irwin Mitchell, which represented M's family, said they had "demonstrated their love and devotion for her throughout this case" and "brought this application to court in what they perceive to be her best interests".

He said M's relatives believed that she had been clear before her illness that she would not have wanted to live in the condition that she is in now.

Amin said evidence was provided to the court that M was unable to communicate consistently, or move or care for herself, and that she regularly experienced pain, distress and discomfort, while there was no evidence that her condition has improved.

He added: "However, the judge has decided in this particular case, after considering all the evidence, that balancing the benefits and disbenefits to M does not fall on the side of withdrawing treatment."

He said the law had now been "clarified" and the high court would have the power in other cases to decide if it was in a person's best interests for such treatment to continue.

29 September 2011

Demand for Paralympic tickets is 'unprecedented'

Demand for tickets for next year's Paralympics in London has reached "unprecedented" levels, according to the 2012 organising committee.

Between 9 and 26 September, 116,000 people applied for tickets to next summer's games, applying for a total of 1.14 million tickets.

Out of 300 ticketed sessions, 126 are now over-subscribed in at least one of the price categories and so will need to have their tickets allocated via a ballot – the first time any Paralympic games has had to take such a step.

There are only three sports – road cycling, sitting volleyball and powerlifting – in which there are no oversubscribed sessions in at least one price category.

Although it is the first time any organising committee has put tickets on sale so far in advance – and not on a "first come, first served" basis – a spokesman for the International Paralympic Committee (IPC) said that "we never have seen demand like this".

He said: "To have applications for 1.14 million tickets after a three-week ticket window is phenomenal."

In 2008, the Beijing organising committee eventually sold 1.82 million tickets at full price, while the government bought another 1.64 million and distributed them to community groups, schools, and other organisations. Athens sold just 850,000 tickets for the 2004 Paralympics, while Sydney sold 1.2 million in 2000.

But the figures for the past three Paralympics are for final ticket sales, while there is nearly a year to go until the 2012 games open.

Sir Philip Craven, the IPC's president, said: "To have over a million tickets applied for 11 months out from the games is unprecedented and underlines the growing excitement for what will be a tremendous sporting event.

"This will be the first time ballots have been held for a number of sports, and I could not be more thrilled."

Payment for tickets will be taken by 31 October, with notification of whether applications have been successful sent by 18 November.

More Paralympic tickets will be put on sale in December, with a final batch to be made available next spring.

29 September 2011

Mobility aids firms are using 'unfair sales tactics'

Some companies that sell mobility aids are targeting disabled and older people with "unfair sales practices", particularly when visiting them at home, according to a new report.

[The market study into mobility aids](#) by the Office of Fair Trading (OFT) says some disabled and older people are paying too much for their mobility aids.

It accuses a "small minority" of firms of subjecting disabled and older people to unfair practices, such as high pressure and "misleading" sales practices.

Consumer Direct, the OFT's advice service, has received more than 4,000 complaints about mobility aids sales in each of the last three years.

The OFT has launched investigations into two national mobility aids companies, one over unfair doorstep selling practices, and one over the company's "terms and conditions" and the quality of its service.

It is also investigating other "similar behaviour" which it said could lead to further action, including the possible removal of credit licences from "a number" of companies.

But despite the concerns, the OFT has “provisionally” concluded that it is not necessary to refer the entire mobility aids market to the Competition Commission, although it is now seeking views on this decision, with responses needed by 20 October.

The new report says as many as half of consumers could be paying too much for their equipment because they are failing to “shop around” – often due to poor mobility, lack of access to the internet or time pressure – with the price of one mobility scooter varying by as much as £3,000.

About half of the websites and adverts the OFT checked failed to quote any prices.

The OFT has launched a “[doorstep selling consumer awareness campaign](#)”, which provides “practical tips” and advice on rights.

It is also supporting trading standards departments to target firms suspected of engaging in unfair sales practices.

And it has secured an agreement from the British Healthcare Trades Association (BHTA) to update its code of practice so all of its members display price information on their marketing material and websites.

Alan Norton, chief executive of [Assist UK](#), which leads the national network of Disabled Living Centres – which provide free, impartial advice on independent living equipment – welcomed the measures proposed by the OFT.

Assist UK worked with the OFT on its investigation and passed on reports from its mystery shopping project, which has been carried out by disabled people over the last three years.

Norton said that assistive technology equipment “can be an essential tool in gaining independence and it is important that these products are available at a fair and reasonable price for all”.

He added: “We will be monitoring the developments and will report any trading irregularities to the OFT and the BHTA to take the appropriate action.”

Chris Shaw, chief executive of the [Disabled Living Foundation](#), also welcomed the report.

She said: “What we are all after is people making informed choices and the right choices for them. We completely endorse the need for high quality and accurate information and for all suppliers to provide that as a matter of course to their consumers.”

Meanwhile, the OFT has published [new guidance for businesses](#) considering granting credit to disabled people who might not have the “mental capacity” to make “informed borrowing decisions”.

It sets out the steps consumer credit companies should take to identify such borrowers, help them understand credit agreements, and reduce the risk of them securing “unaffordable or clearly unsuitable credit”.

David Fisher, director of the OFT’s consumer credit group, said: “It is important to balance the right of a person to make a decision, with their right to safety and protection when they can’t make decisions to protect themselves.”

29 September 2011

Labour conference: Disabled activist shames ‘flustered’ Miliband

A prominent disabled activist has launched a highly critical attack on Labour leader Ed Miliband during a televised question and answer session over his failure to speak out on the government’s hated “fitness for work” tests.

[The session took place at the Labour conference](#), but the audience included members of the public who were not party members.

One was Kaliya Franklin, the disabled blogger and activist who co-founded [The Broken of Britain](#), who accused Miliband – to loud applause from the audience – of failing to speak out for disabled people because of hostile media attacks that have labelled benefits claimants as “scroungers”.

She told him that the issue of disabled people being the “hardest hit” by the cuts had been “airbrushed almost entirely from the conference”.

Miliband claimed he was not afraid to use the word “disability” and was “determined to say that disabled people need support and help and compassion”, but that “you have got to separate out ill-health and disability from worklessness and the decision not to work”.

He claimed he was not “trying to sweep this under the carpet”.

But Franklin accused him – again, to loud applause – of “reinforcing the destructive rhetoric that is coming from the coalition government at a time when sick and disabled people desperately need a champion to stand up for us”.

Miliband accepted he should have said in his main conference speech that “you have to defend people with disability and ill-health and say that they shouldn’t be under attack”, but said he “genuinely” didn’t think that “saying you are tough on abuse of the benefit system is a non-Labour thing to do”.

Franklin, who blogs at [Benefit Scrounging Scum](#), said: “We got the reaction we expected. He didn’t know what to say. He was completely flustered and lost the plot.

“He didn’t really have an answer. I had a go at him and said he was part of the problem because he had used part of this rhetoric himself.”

In a speech in June, Miliband horrified disabled activists by accusing some incapacity benefit (IB) claimants of failing to “take responsibility” and of “shirking their duties”.

Franklin said: “It was clearly one of the questions he didn’t want to deal with.”

She added: “I told him we have had enough of this, that he was not talking about us or supporting us, and he is complicit in this when he knows fraud levels [for IB] are negligible.

“When I hammered him about the fraud rates he didn’t roll his eyes and say, ‘oh, for God’s sake, will you go away,’ but for a moment the mask slipped and that was his expression.

“I just don’t think he cares. It’s not something that is one of his particular passions and he wants it to go away.”

But she added: “We had a forthright discussion and he did actually have to come out and say for the first time that he should have said in his speech that sick and disabled people needed protection.”

And she welcomed the Labour leader’s pledge to meet with her to discuss her concerns in more depth.

After her exchange on Wednesday evening, Franklin was swamped by members of the media intent on interviewing her about her concerns, but almost nothing has yet been written or broadcast about her exchange with Miliband.

29 September 2011

Labour conference: Members hear support call for the ‘Hardest Hit’

Labour party members have been urged to support protest events being led by disabled people who are “fighting back” against the government cuts and reforms that will push them deeper into poverty and exclusion.

The call from the party conference platform came from Dave Allan, general secretary of Labour’s disabled members group and a member of the union Unite.

He praised the thousands of disabled activists who took part in the TUC’s anti-cuts protest in March, and the national Hardest Hit demonstration in Westminster in May, and called for

party members to “support disabled people and carry on the fight-back” against welfare reforms, and cuts to benefits and services for disabled people.

A series of regional anti-cuts protests, organised by disabled people’s organisations and disability charities as part of the Hardest Hit campaign, will take place across the UK on Saturday 22 October.

During a short equalities debate, held on the final morning of the conference, Allan attacked the coalition’s “empty promises” to disabled people.

And he attacked cuts such as closing the Independent Living Fund to new claimants, reducing support that helps disabled people with their mortgage interest payments, and new restrictions to the Access to Work scheme.

Allan said planned cuts to spending on disability living allowance, and proposals to replace it with a new benefit – included in the government’s welfare reform bill – were “particularly pernicious”, and would lead to many disabled people losing their jobs.

He said the “real barriers” facing disabled people were in “access to decent and well-paid employment, transport, education, care and health and social services”, and that discrimination was “the main barrier for disabled people to find work”.

Earlier in the debate, the shadow home secretary Yvette Cooper briefly mentioned disabled people.

She pointed to the government’s decisions to block implementation of key parts of Labour’s Equality Act and to target disabled people for “hundreds of millions of pounds of cuts... not through helping them into work, but through Treasury-driven targets against the vital support they need to live their lives.”

The [regional Hardest Hit protests](#) on 22 October have been planned for nine English regions, as well as Belfast, Cardiff and Edinburgh, and are being organised by the UK Disabled People’s Council and members of the Disability Benefits Consortium.

The English events will take place in Birmingham, Brighton, Bristol, Leeds, London, Manchester, Newcastle, Norwich and Nottingham.

The previous day, disabled people and other activists across the country will be lobbying their MPs at their weekly constituency surgeries.

The protests have been timed to coincide with the progress of the welfare reform bill through the House of Lords.

29 September 2011

Labour conference: Party 'blocked attempts to debate work tests'

Labour has been accused of blocking attempts at its party conference to discuss the problems caused by the government's controversial "fitness for work" tests.

Following successful moves by Liberal Democrat campaigners at their conference last week to overturn their party's policy on incapacity benefit reform and the work capability assessment (WCA), disabled activists had hoped for a similar platform to raise the issue at the Labour conference.

But party managers refused to allow the leading disabled blogger and party activist Sue Marsh to speak during Monday's "prosperity and work" debate.

The issue was also marginalised during the speeches of the Labour leader, Ed Miliband, and Liam Byrne, the shadow work and pensions secretary.

Miliband referred to the need for the welfare system to reward "the right people with the right values" and said benefits were "too easy to come by for those who don't deserve them and too low for those who do", while calling for a system that "works for working people".

He and Byrne both mentioned the impact of government plans to time-limit the contributory form of employment and support allowance (ESA) – the replacement for incapacity benefit – but only on "cancer patients".

Byrne mirrored some of the hostile, disablist language used by newspapers such as the Daily Mail and the Daily Express, by telling the conference that voters at the last election "felt that too often we were for shirkers not workers".

He also claimed that Labour "is and always will be the party of work", and warned that there were "welfare cuts that we will have to accept".

Neither mentioned the impact the test – introduced by the Labour government – has had on tens of thousands of disabled people who have been denied the benefits they need after being assessed for the government by the private company Atos Healthcare.

Marsh, who blogs at [Diary of a Benefit Scrounger](#) and is political strategist for [The Broken of Britain campaign](#), said she was "desperate to show the people I write for that the party hasn't given up on them".

But even though she was mentioned by a speaker during the Liberal Democrat debate on the issue last week, she was not allowed to speak from the platform at her own party's conference.

She also had a bid rejected by the party for the subject to be voted on as a potential topical “contemporary issue” for debate.

She accused her party of “marginalising the issue” and said she had shown her proposed speech to her regional director in a bid to secure a speaking slot.

She said she wanted to persuade her party to admit that while ESA had been “a good theory that not many disabled people disagreed with, it is not actually working in practice”.

And she warned that disabled people were “getting angrier by the day” over the issue of the WCA and incapacity benefit reform.

Stephen Timms, the shadow work and pensions secretary, told Disability News Service that the party was “very open to discussing it, very open”.

And Margaret Curran, the shadow disabled people’s minister, said there was “absolutely not” any plan to marginalise the issue at the conference, and added: “If there is, they have not told me.”

But Pam Thomas, a disabled Labour member of Liverpool City Council, said the test needed to be scrapped and replaced.

She said: “We may not all agree on many things just because we are disabled people but this is the one thing that probably unites us. The test is causing an awful lot of stress to people who can’t work.

“We have campaigned for the right to work. I feel that even though I have always worked and have been a disabled person, if I cannot work anymore I will be really stuck. I would have liked that to be debated.”

A Labour spokesman said: “Labour’s annual conference discussed welfare, public services and jobs on conference floor, and fringe events covered individual issues in detail.

“Unfortunately it is not possible to cover every issue in five days or for every speaker to be called in debate, so those motions which will be heard are selected by the delegates’ vote on the priorities ballot and speakers are called at the discretion of the chair.”

But when asked again whether the party deliberately sidelined discussion of the WCA issue, he declined to comment further.

29 September 2011

Labour conference: Shadow minister calls for action on harassment

A shadow minister has backed calls by disabled activists for new measures to tackle the harassment of disabled people.

Fiona Mactaggart, Labour's shadow equalities minister, spoke out following the publication of the Equality and Human Rights Commission's (EHRC) major report into disability-related harassment.

She told Disability News Service that addressing the problem of "bullying and harassment" had to be a key priority for her party, so that disabled people could "feel on equal terms in society".

She said: "It is so unacceptable and we need to find ways of more effectively punishing perpetrators.

"If you are scared of being a victim it stops you playing an equal part in society. Fear limits your capacity to do things, or your willingness to attempt to do things."

Mactaggart said she believed that the report showed there was probably a need for a new offence of incitement to commit a crime on the basis of disability-related hostility, as there is for incitement on the basis of racial or religious hatred.

The shadow minister said she believed that trying to change society – as campaigners did to tackle sexism – would not be enough.

She said: "We have got to have something stronger. You can't just do it through social action."

She said many police forces did not appear to have a strategy for effectively prosecuting the perpetrators of disability-related harassment.

She added: "At the moment, the police strategy [in some forces] is 'cross your fingers and hope it will go away'."

Mactaggart said there was a need for a new specialist unit within police forces that would focus on disability-related harassment and disability hate crime, which would liaise with disabled people's groups, educate frontline police officers and have a "strategic attitude" to prosecuting such offences.

She added: "The EHRC report really does show that where there is some of this expertise and working in partnership, these issues are much more effectively dealt with than in places where there is not."

28 September 2011

Labour conference: Labour 'will not match Liberal Democrats on welfare reform'

A shadow minister has pledged that her party will continue to push for changes to the coalition's welfare reform bill, but has suggested that Labour will still back key parts of the government agenda.

Margaret Curran, Labour's shadow minister for disabled people, said it was vital to "get people back to work, because we have got to start growing the economy".

She told Disability News Service that the changes to Liberal Democrat party policy that were voted through last week – thanks to the support of disabled activists – were signs of "progress".

But she hinted that the Labour party would not back all of the policy changes approved through the Liberal Democrat motion in Birmingham.

Curran said concerns with the work of Atos Healthcare, the company that carries out "fitness for work" tests on disabled people – assessments introduced by the Labour government – were "real".

But she said she had not researched details of the plan approved by Liberal Democrat members to replace Atos with a public or voluntary sector organisation once its contract expired, so she did not know "how feasible that would be".

But she did say that there were "certainly enough complaints about Atos for that to be thought about".

She said Labour supported the review of the WCA by Professor Malcolm Harrington, and believed that his recommendations should be "fully implemented", but she also accepted the need to "look at the performance of Atos".

Curran said she believed Labour peers would concentrate on several key issues as the welfare reform bill passes through the Lords.

These will include calls for the government to drop plans to remove the mobility component of disability living allowance (DLA) from disabled people in state-funded residential care.

Other priorities will be to persuade the government not to extend the length of time it takes to qualify for personal independence payment – the proposed replacement for DLA – from three months (as it is with DLA) to six months, and for it to abandon plans to subject every disabled person to new assessments.

But Curran said her party would not support calls for the government to drop completely its plans to time-limit the "contributory" form of ESA for those found able to work in the future, and she said that Labour's suggestion of replacing the one-year limit with two years would be "a very reasonable amendment" to the bill.

She said: "Labour have taken the view that we think a two-year limit, given the times that we are in and given that we do have to manage rising budgets and such like, we do get that, we do have to cut the deficit."

But she added: "There is a very substantial argument that there should not be any limit and I understand that. I am sure some of that will be at the heart of the Lords debate.

"In an ideal world of course we would want to make sure we could perhaps spend more on it, but we are not in an ideal world, and we have also got to get people back to work."

28 September 2011

Labour conference: Legal aid cuts will 'decimate' social welfare legal system

Government cuts to the legal aid budget will lead to the "decimation" of the civil law system and cause huge problems for disabled people, Labour party members have heard.

The cuts are part of the government's legal aid, sentencing and punishment of offenders bill, which is currently at its committee stage in the Commons.

Steve Hynes, director of the charity Legal Action Group, which promotes equal access to justice, said one of the areas campaigners were particularly concerned about was social welfare law.

He said the cuts would have a particularly damaging impact at a time when the government was introducing radical reforms of the benefits system.

He said: "If you change the benefits system in that way, that creates a need for advice and legal advice in our communities."

The concerns were raised at a fringe meeting at the Labour party conference, organised by the Law Society and the campaign coalition Justice for All, whose members include RADAR, Disability Alliance and Disability Law Service.

Lord Bach, the former Labour legal aid minister, told the meeting: "I insisted right to the end that social welfare needed to have more money spent on it, not just because it was a time of recession but because it was the right thing to do.

"This type of law, the law that the government, including Liberal Democrats, are determined to abolish is the most crucial part of legal aid."

He said the cuts would "clog up the courts" with "helpless cases", and added: "On a practical level, it is a complete nonsense. On a financial level it is a complete nonsense.

“It is going to cost the state infinitely more in the end to sort out the problems that arise because social welfare law is effectively abolished.”

He said Labour peers would “do our very best to at least manage the worst effects” of the legislation.

Andy Slaughter, a shadow justice minister, said the benefits system was “in crisis, virtually” with success rates at appeals as high as 80 per cent when the claimant was represented, compared with substantially lower success rates for those without representation.

He said the cuts would also mean disabled people would not be able to secure representation in the higher courts, which he said was “nonsensical”.

Slaughter said he hoped peers would grab the legal aid measures “by the scruff of the neck”.

Lucy Scott-Moncrieff, vice-president of the Law Society, said that plans to introduce a “telephone gateway” as a first point of contact for all those seeking a civil legal aid lawyer would create serious problems for many disabled people, such as residents of care homes who wanted to challenge the standard of care they were receiving.

She said: “Who brings the phone to them? Someone from the care home. Who knows what is going on? Someone from the care home.”

27 September 2011

News provided by John Pring at www.disabilitynewsservice.com