**A New Equalities and Human Rights Commission Report – Harbinger of an Authentic 1948 Moment for Social Care?**

The Equalities and Human Rights [Commission](https://www.equalityhumanrights.com/en/publication-download/strengthening-right-independent-living) has published a document setting out how *independent living,* as defined by the United Nations’ Convention on the Rights of Persons with Disabilities, can and should be written into domestic law. The document addresses the breadth of issues relevant to *independent living*. It has recommendations in relation to wider social infrastructure issues including transport, employment and housing.

In relation to care and support, its recommendations represent, knowingly or otherwise, what would amount to the ‘1948 moment’ which the likes of [Jeremy Hunt](https://uk.news.yahoo.com/uk-could-1948-moment-recovering-105933264.html) say is needed.

What is independent living?

It is first important to understand what the UN means by *independent living*. It is firstly about living in the place of one’s own choosing, whether in one’s own home or communally. Secondly it is about being able to make all the day to day choices that non disabled people take for granted. It applies to people of whatever age and whatever their impairment of body or mind. It applies as much to an older person who wants to go to bed at a time of their choosing as a younger disabled person wanting to make their contribution to society. In other words, it’s a vision that applies to every single person in need of care and support.

This is a very different understanding from its original meaning created by the disabled people’s movement in the 1980’s which it is still sometimes believed to mean. They described it as a very specific, alternative service model whereby the person managed their own support staff in their own home. Made possible by the 1996 Direct Payments Act, it has been a very successful model in the 25 years since, but only for the small minority with the skills, energy and time to take advantage.

Independent living and wellbeing

The Commission notes the close relationship between the wellbeing principle of the Care Act and *independent living*. In effect, if a person can tick all nine dimensions of wellbeing - which includes having control over one’s services, dignity and engagement in society - they will be experiencing *independent living*.

*Independent living* has, of course, the benefit of international credibility.

How can it realistically happen?

Resources are, of course, key. How can you reconcile such an ambitious vision with having to work within budgets which are settled in the hurly burly context of competing interests for limited public funds with the outcome so uncertain?

The key is to acknowledge the simple and self evident truth that the adoption of any person centred ambition, *independent living* or any other, cannot be certain to be affordable within existing resources. There will be a measure of unmet need. The test of society’s commitment to the vision will be its scale.

The UN approach is straightforward and surely reasonable. It does not expect states to make the resources required for *independent living* a legal right or in any other way guarantee all the funding required. What it does expect is that states adopt a strategy of *progressively realising* the resources that are required and do so through ‘concrete steps’.

The Equalities Commission accordingly reflects this approach. It believes the Secretary of State should periodically set out plans for how the resources required will be *progressively realised*.

Making the plan a reality

The start point, the first and essential *concrete step*, must be knowledge of the scale of *unmet need*. And this will require real information about the scale of unmet need at any point in time on a continuous loop to the budgeting process. That will require the wholesale transformation of the way needs are assessed, support planned and resources allocated.

Whilst the law does not require it, policy in England, as other parts of the UK, prohibits exposure of unmet need. Any need for continuing support that calls for council resources is required as a matter of policy to be treated as an inescapable legal duty to meet.

An entirely new system of assessing need and allocating resources will be required. Assessments must start from the vision of how life should be for the person. Practitioners must identify and cost all needs for wellbeing and *independent living* for every older and disabled person in need of care and support. Budget holders must control spending not by controlling the local eligibility threshold, but by making decisions about what they can afford. They must learn to secure the greatest degree of *independent living* or *wellbeing* for the greatest number of people their budgets allow. IT systems must capture information about needs met and unmet for strategic reporting.

Political benefits

Political leaders may not like being put on the spot in the way the Commission’s recommendation might suggest. However, it would be hard to mount an argument against its reasonableness. It does nothing more than expose political leaders to their responsibilities.

But they can look forward to a real silver lining - the banishment of the fear of social care as a bottomless pit of demand. The vision of *independent living* would create a positive, aspirational context for understanding ‘need’. Research has long shown that support plans built on the best that life can be for the person and based on their own strengths, no matter how dire their circumstances, require less public resource than plans built on how bad life is and deficits. It is widely acknowledged that the latter is the hallmark of the current system. The need for, and existence, of stand alone ‘strengths based’ strategies alone testifies to it. Swimming against a powerful tide, such strategies are doomed to [fail.](https://www.tandfonline.com/doi/pdf/10.1080/09687599.2017.1281974) The tide must be turned so that ‘need’ is routinely understood in the context of making life as good as it can be for the person. This will result in support plans that build on the person’s strengths as a matter of routine.

Scotland

Amongst the UK nations, Scotland is ahead on this agenda. It is on the brink of contemplating such a transformation. Its [review](https://www.gov.scot/news/backing-for-feeley-review-recommendations/) of social care has recommended a new paradigm, one that will deliver on human rights with *independent living* at its core. Whether the Scottish government makes the leap is a matter of international as well as domestic interest. We have previously set out [10 tests](https://www.communitycare.co.uk/2021/03/30/ending-eligibility-ten-tests-establishing-human-rights-based-approach-adult-social-care/) of the Scottish Government’s authenticity of any claim to put human rights at the heart of their reforms.

Conclusion

Whilst the Commission recommends the Secretary of State be required to publish plans to address unmet need as a matter of law, then the change can be achieved without legislation. All that is required is moral compulsion and pragmatic good sense delivered through change in policy. It will not require a single penny more for new services. The only ‘price’ is the political courage and integrity required.

At the heart of the change is reversal of the dynamic between *needs* and *resources*. Currently, in social care, resources precede need. The Commission’s recommendation would require a reversal – *need* must precede *resource*.

This was, of course, a founding principle of the NHS in 1948. If not always working perfectly, by and large it has survived. Introducing the same principle in social care would amount indeed to an authentic ‘1948 moment’.