

Disability Discrimination...in real life *and* in public law



Public Law Project

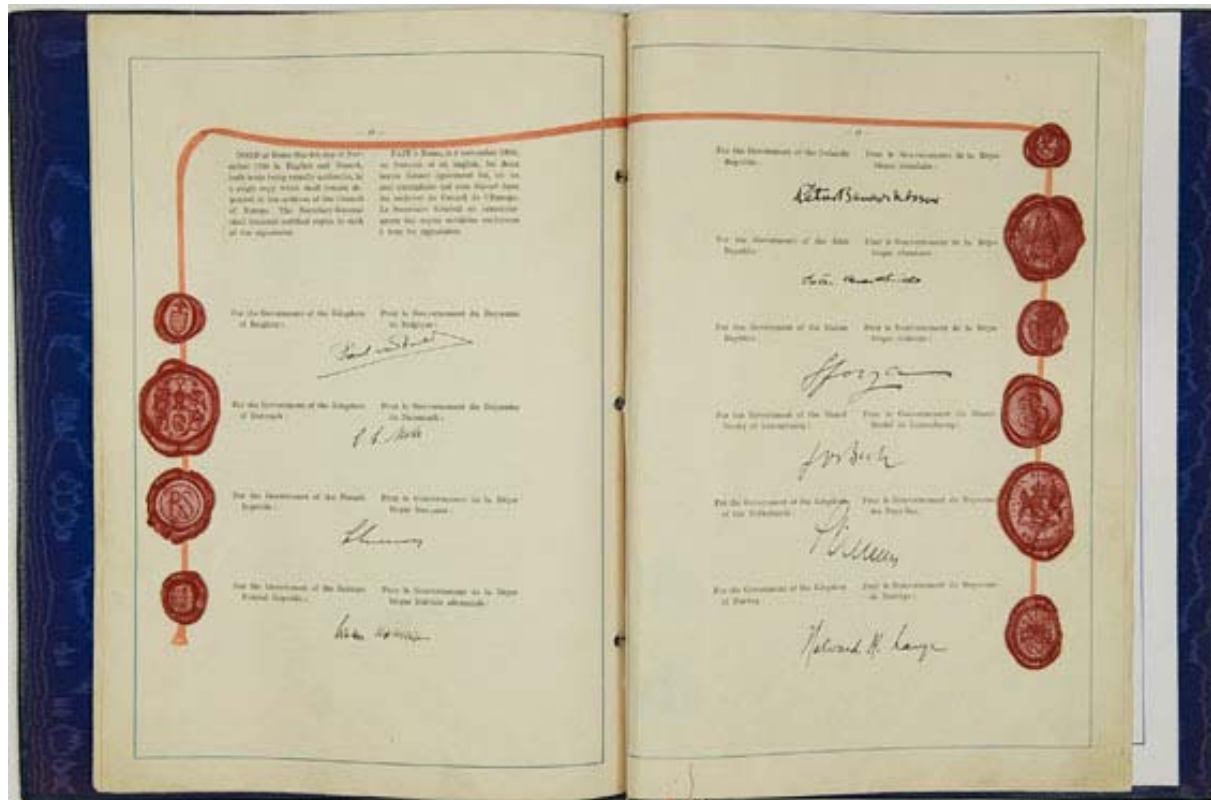
Cardiff – March 2018

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Audrey Ludwig – ISCRE and Founder of Suffolk Law Centre @Suffolklawcentr

Lara Prothero-Whittaker– Newport CAB and Discrimination Lead
@NewportCABDiscrimin

European Convention on Human Rights & Human Rights Act 1998



Equality Act 2010



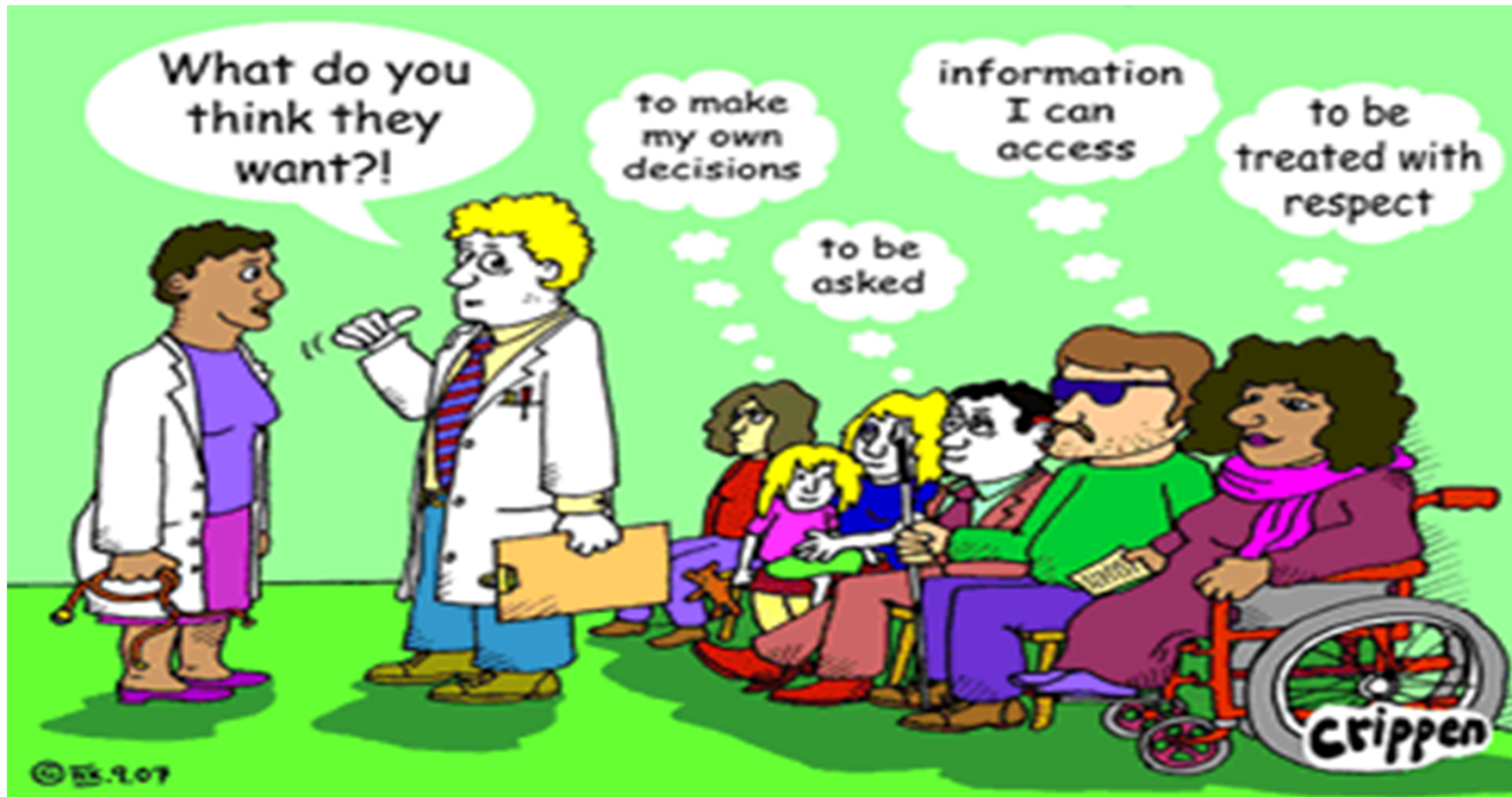
Equality Act 2010

1. Direct Discrimination
2. S.15 Discrimination arising from Disability
3. Indirect Discrimination
4. Duty to Make Reasonable Adjustments
5. Harassment & Victimisation

via Employment Tribunals, County Court claims and judicial review in the High Court

All in force – examples from practice

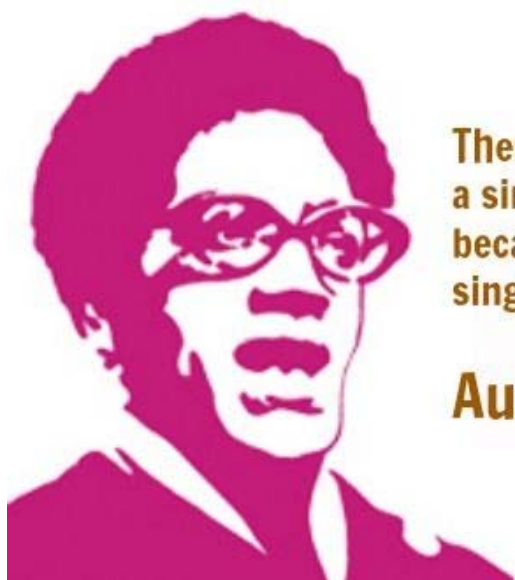
6. Public Sector Equality Duty



In force – examples from practice

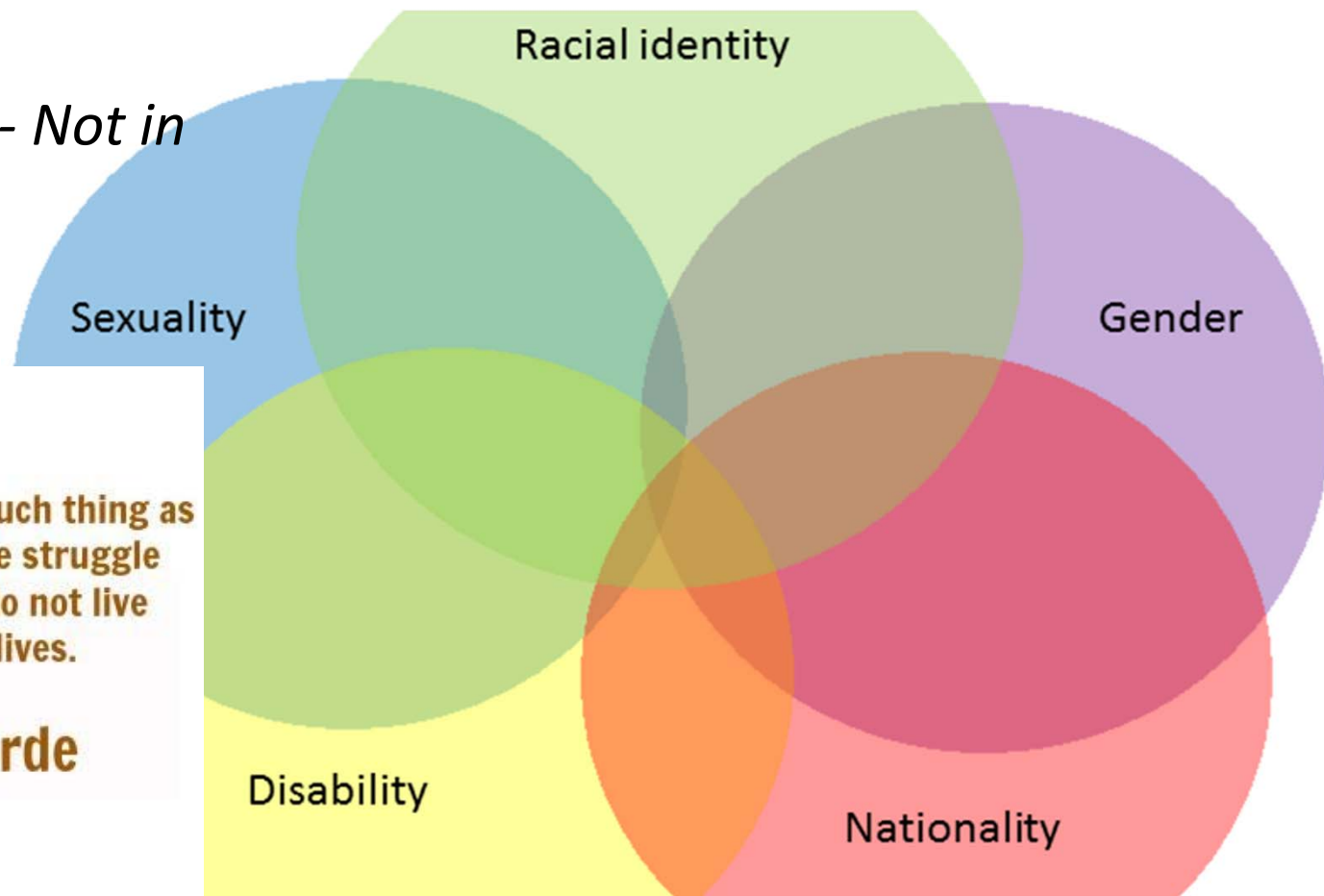
7. Combined Discrimination or An Intersectional Approach

s.14 Equality Act 2010 - Not in force



There is no such thing as a single-issue struggle because we do not live single-issue lives.

Audre Lorde





CONVENTION on the RIGHTS of PERSONS with DISABILITIES

- Ratified but not incorporated
- Principles of respect for dignity, non-discrimination, participation and inclusion, respect for difference, equality of opportunity, and accessibility
- Includes Article 19 – living independently – Article 20 – personal mobility and Article 28 – adequate standard of living and social protection
- Complaints by UK activists triggered UN Committee on Rights of Persons with Disabilities first inquiry into member state – reported October 2016
- UN Committee’s Concluding Observations in October 2017 found laws, regulations and practices that discriminate against persons with disabilities:



Disability Discrimination in Public Law...

- Mathieson v SSWP [2015] 1 WLR 3250 - Article 14 prohibits discrimination in the enjoyment of Convention rights on the grounds of status
- Is discrimination objectively justified? *Bank Mellat v HM Treasury (No 2)* [2014] AC 700 x4 limbed test, which must be satisfied to overarching standard of “manifestly without reasonable foundation”?
 - See R (Carmichael) v Secretary of State for Work and Pensions [2016] 1 WLR 4550 – Bedroom tax case; and
 - R(RF) v Secretary of State for Work and Pensions with MIND and EHRC [2017] EWHC 3375 (Admin) – PIP regulations case

Disability Discrimination in Real Life



- Audrey Ludwig – Ipswich and Suffolk Council for Racial Equality (ISCRE) and Founder of Suffolk Law Centre @Suffolklawcentr
 - Challenges of assisting with disability discrimination in rural areas
 - Referral networks and working with NGOs
- Lara Prothero-Whittaker – Newport Citizens Advice Bureau @NewportCABDiscrimin
 - Challenges of assisting with disability discrimination in South Wales
 - Referral networks and other advisers



Thank you



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