

**Human Rights Check UK
SCLD Response to the British Institute of Human Rights
Call for Evidence
July 2016**

SCLD is an independent charitable organisation and strategic partner to the Scottish Government in the delivery of Scotland's learning disability strategy, the Keys to Life. Our mission is to work in partnership with people with learning disabilities of all ages as well as family carers to challenge discrimination and to develop and share good practice. Our goal is an inclusive Scotland where everyone is valued and respected for who they are and what they contribute as equal citizens. We are committed to finding new and better ways to improve the lives of people with learning disabilities and engage with a wide range of stakeholders including people who commission and provide services for people with learning disabilities, those who act as advocates or are working in research, as well as people with learning disabilities and carers. We also aim to be a knowledge hub and to build an evidence base, sharing how policy is being implemented and building on an understanding of what really works. We welcome the opportunity to respond to the Human Rights Check UK call for evidence.

1. What human rights issues are of concern to you and your organisation?

People with learning disabilities have a right to enjoy the same basic rights and freedoms as all other citizens in Scotland in order to live with dignity, equality and fairness. They are also entitled to support to enable them to live independently with choice, control and protection. We strongly support the UN Convention on Rights of Persons with Disabilities which sets out what governments have to do to make sure that the rights of disabled people are protected.

SCLD are concerned, however, that many of the basic principles reflected in the UNCRPD such as dignity; non-discrimination; participation and inclusion; respect for difference; equality of opportunity and accessibility are still no more than an aspiration for many people living with learning disabilities in Scotland.

We would like to focus on six areas of the UNCRDP that we think are particularly crucial in ensuring the rights of people with learning disabilities are properly secured and protected:

- The right to equality (Article 5)
- The right to accessibility (Article 9):
- The right to independent living (Article 19)
- The right to home and family life (Article 23)
- The right to work and employment (Article 27)
- The right to an adequate standard of living and social protection (Article 28)

The right to equality (Article 5)

People with learning disabilities in Scotland still experience discrimination in their day to day lives. This can be direct discrimination such as bullying, hate crime and physical abuse. Incidences of which can also be exacerbated by media representations which portray them as 'spongers' and 'scroungers'. Indirect discrimination also occurs where organisational and structural barriers mean that people's needs are not met and they are being treated unfairly as a result. Discrimination and inequality also exists where people with learning disabilities do not have choice and control over their own lives e.g. where they live and the kind of support they receive with some people being denied their right to privacy and a family life as well.

The right to accessibility (Article 9)

People with learning disabilities need to be able to access information; public spaces and buildings; technology; services and transport in a way that suits their needs in order to know their rights and be able to make their own choices and enjoy a good standard of living.

- **Information**

Lack of accessible information can affect all aspects of people's lives including choice and control, employment, benefits, banking, staying safe and leisure activities. It is important that information is available which is clearly worded and easy to understand. Having pictures alongside the words to support the message and other formats such as CD or DVD can also be helpful.

- **The physical environment**

The mobility of many disabled people living in Scotland is often restricted by spaces and buildings systems which are difficult to access. While accessibility to public spaces has improved significantly in recent years, there is still work to be done to make sure that buildings are accessible and that disabled people are included in the design of new buildings and adaptations.

- **Computers and technology**

Digital exclusion is more common among people with learning disabilities. Those who do not have access to the internet or technology which is adapted to their needs can be prevented from taking part in groups, staying in touch with family or finding the information they require. They can also face barriers when applying for jobs and benefits as these are often exclusively online now. Additionally people with learning disabilities who have communication needs do not always receive the support or the equipment they require to be included.

- **Transport**

Public transport in Scotland is not always accessible to disabled people and timetables can be overly complex. Having to book rail transport 24 hours in advance means that people do not have the same freedom and cannot be as spontaneous as people who do not have to do this. People in rural areas can also find it more difficult to get transport and this can impact on people's ability to live independently.

The right to independent living (Article 19)

People with learning disabilities have the right to the same freedom, choice, control, dignity and control as other citizens at home, at work and in the community. These rights are often denied to disabled people due to social, economic, financial or environmental barriers. Being able to choose where you live and who you live with is particularly fundamental for people with learning disabilities. At present, however, this choice is not automatic everyone with learning disabilities in Scotland.

Cuts to local authority budgets are impacting on the availability and quality of social care services. Some local authorities have begun introducing charges for some services and at the same time many disabled people, including people with learning disabilities, are being negatively affected by changes to welfare benefits.

These factors are making it increasingly challenging for people to access good, flexible, personalised support to enables them to live independently in the community. It is important that individuals are properly supported to make their own decisions and decide for themselves how support and services should be organised to meet their needs.

Respect for home and the family (Article 23)

Many people with learning disabilities feel that they do not enjoy the same right to a family life as other people. The number of children removed from their parents and then fostered, adopted or accommodated is very high. Many people are unable to access the support they need to be effective parents and feel pre-judged about their ability to be good parents.

Becoming a parent does not automatically lead to a re-assessment of support needs for people with learning disabilities who were not eligible for social care support as they were growing up. In some parts of Scotland there is disagreement between adult learning disability teams and children and families teams as to who should fund support to adults that benefits children.

The right to work and employment (Article 27)

Many barriers exist which can prevent people with learning disabilities from getting a job. Employers still frequently make assumptions about the capabilities of people with learning disabilities which count against them in the application and interview process. In many cases the support that people with disabilities need for their skills to be recognised and developed is not available.

Some people with learning disabilities need support with the practical side of having a job, for example, getting ready in the morning, getting to and from work. Access to Work which allows for the costs of aids and adaptations to be met is available, however the scheme has not been widely publicised by the UK Government and many people are unaware that it exists.

Another issue is that people with learning disabilities are often left doing voluntary work for long periods of time without ever getting the opportunity to progress to genuine paid employment. Some programmes like [Project Search](#) have been successful in helping people with learning disabilities into full time employment. In general, however, supported employment services, in Scotland have evolved without any overarching framework or consistent funding arrangement.

The right to an adequate standard of living and social protection (Article 28)

People with learning disabilities frequently face multi-faceted and deep rooted challenges which result in inequalities leading to poorer outcomes e.g. being more likely to live in the most deprived areas, to experience ill-health, to have no educational qualifications and poorer employment outcomes.

The UK Government's welfare reform and cuts have had a disproportionate impact on the lives of disabled people. The reassessment process involved in transferring claimants from DLA to PIP has been criticised for setting arbitrary ability tests and being focussed on what people cannot do rather than the skills and abilities people have. Many reassessment decisions have been overturned on appeal but a significant proportion of claimants have had their payments reduced. People with learning disabilities have told us that the process has caused them a lot of stress and anxiety.

They have also said that there has not been enough accessible information or communication about how the changes to the benefits system would affect them. This has caused people added anxiety and ill-health impacting on their confidence and in some cases increasing people's isolation.

These changes to welfare benefits have happened at the same time as cuts to local authority services and increased service charges meaning that disabled people are finding it more difficult to participate fully in society.

2. What steps have been taken since to improve the situation?

Scotland's National Action Plan for Human Rights (SNAP)

[Scotland's National Action Plan for Human Rights \(SNAP\)](#) aims to ensure that everyone, including people with learning disabilities, has their human rights respected and protected. The SNAP encompasses the UN Convention on Rights of Disabled People and reinforces the Scottish Government's commitment to promoting and protecting human rights for all.

Keys to Life Strategy

The [Keys to Life Learning Disability Strategy](#) is one of the ways the Scottish Government is working towards the goals of the UN Convention on Rights of Disabled People. The strategy aspires to improve the life choices and quality of life of people with learning disabilities by ensuring they are included in every aspect of community life as equal citizens and that the voice of every person with learning disabilities is heard and respected.

The Learning Disability policy team is responsible for co-ordinating the delivery of the strategy. Key strategic partners who are involved with delivery include the [Scottish Commission for Learning Disability \(SCLD\)](#) and the [Scottish Learning Disability Observatory \(SLDO\)](#). Delivery partners include integrated joint boards, health boards, local authorities and third sector organisations who work with people with learning disabilities.

The Keys to Life implementation framework and priorities 2015-2017 identifies four strategic outcomes;

1. **A Healthy Life:** People with learning disabilities enjoy the highest attainable standard of living, health and family life.
2. **Choice and Control:** People with learning disabilities are treated with dignity and respect, and protected from neglect, exploitation and abuse.
3. **Independence:** people with learning disabilities are able to live independently in the community with equal access to all aspects of society.
4. **Active Citizenship:** People with learning disabilities are able to participate in all aspects of community and society.

Strategic Outcome 1: Reducing the stark health inequalities people with learning disabilities face has been a key priority. There has been investment to create the Scottish Learning Disabilities Observatory at the University of Glasgow and funding for a wide variety of health improvement activity, including projects in physical, oral health, healthy eating and palliative care.

Strategic Outcome 2: Developing effective intervention to raise awareness and tackle hate crime has been a key priority. SCLD have supported a variety of projects to investigate Hate Crime experienced by adults with learning disabilities. Resources have also been developed to tackle bullying in schools experienced by young people who have learning disabilities.

Strategic Outcomes 3: Having the right support, accessible information and transport and a knowledgeable workforce to deliver services has been a key priority. Partners have been supported to deliver: over 100 changing places facilities across Scotland; the Achieving Better Communication (ABC) skills development programme; training in Talking Mats to health and social care staff.

Strategic Outcome 4: Developing the capacities and capabilities of people with learning disabilities and communities through opportunities for inclusion and

participation to help them be better connected and in control has been a key priority. People with learning disabilities have been supported to participate in a variety of supported employment models. A range of friendship initiatives has been commissioned aimed at reducing social isolation.

Self-Directed Support

The [Social Care \(Self Directed Support\) \(Scotland\) Act 2013](#) gives disabled people greater control over the provision of their care and support needs and enables them to take as much control as they want of their individual budget. The Act requires local authorities to offer people four choices on how they can manage their care and support arrangements:

- **Option 1** - Direct Payment (DP) which the person receives uses to budget for and purchase agreed support
- **Option 2** - The money is held by the Local Authority or a third party but the person still decides how the money is spent and organises it (with support to do this if required)
- **Option 3** – The Local Authority organises and purchases the services the person wants
- **Option 4** – A mixture of these options.

The Act also contains duties on local authorities to give information to help individuals in receipt of care packages to make an informed choice.

Equality Act 2010

The [Equality Act 2010](#) requires local authorities and service providers in the statutory, third and independent sectors not to discriminate on the basis of protected characteristics and to make reasonable adjustments in certain situations. It places duties on public bodies to:

- eliminate discrimination, harassment and victimisation,
- advance equality of opportunity,
- promote good relations between those who share a relevant protected characteristic and those who do not share.

Local Authorities should undertake Equality Impact Assessments (EIA) to identify whether there is a disproportionate impact of a policy on people of a protected characteristic/group compared to those out with that group.

Scottish Independent Living Fund

Following the closure of the UK Independent Living Fund (ILF) on 30th June 2015, the Scottish Government established a new organisation, [Independent Living Fund Scotland \(ILF Scotland\)](#), to administer ILF for existing recipients of the fund in Scotland. The fund is designed to help almost 2900 disabled people across Scotland

people to exercise choice and control over their support and enable them to live as independently as possible.

3. What do you think the government should be doing on this issue?

Right to Equality

- Work in partnership with local authorities to fully implement equality legislation and encourage a rights-based approach to this.
- Continue to work with Police Scotland and other partners to tackle incidences of hate crime and increase rates of reporting.

Right to Accessibility

- It is important that Government encourages the adoption of person centred approaches and co-produced services and that people with learning disabilities are involved in creating easy read information.
- Public authorities, like the NHS and local authorities could do more to make accessible information is more widely available to people with learning disabilities.
- People with learning disabilities should be involved in designing and accessing transport services.
- Transport companies should make sure they ask people with learning disabilities about different aspects of travelling.
- There should also be training for transport staff to improve attitudes and understanding of what support people with learning disabilities need.

The right to independent living

- Work to ensure that SDS legislation results in a wider diversity of provision and more innovative support packages which are better placed to meet the personal outcomes of people with learning disabilities.

The right to work and employment

- Use new powers contained within the [Scotland Act 2016](#) to offer people with learning disabilities a consistent level of employability support across each of Scotland's 32 local authorities.
- This should comprise flexible, person-centred support tailored to individuals to help them progress into sustainable paid employment.
- Create a clear source of information where people can find out what services and options are available.
- Improve post-school and post-college transitions to better support young people with a learning disability into sustained positive destinations.
- Greater focus on progression into real, sustainable employment. At present a large number of school pupils with a learning disability enter college provision on leaving school but cycle between a succession of low level courses with little sustained progression.

The right to an adequate standard of living and social protection

- Consider ways to use new social security powers contained within the [Scotland Act 2016](#) to mitigate the impact of UK welfare reform on people with learning disabilities.
- Consider widening the eligibility criteria for the Scottish Independent Living Fund.

4. If you could tell the government one thing about human rights, what would it be?

Despite significant advances in commitment to human rights in recent years, both at a policy and legislative level, there is still much to do to ensure that the human rights of people with learning disabilities are properly secured and protected. With this in mind and in the context of the EU referendum result, we believe that it is imperative that the UK Government and the Scottish Government remain committed to the Human Rights Act and the European Convention on Human Rights. Without continued adherence to these international agreements there is a danger that human rights, equality rights and worker's rights will be eroded and much of the progress made to date will be undone.

For more information contact:

Lorne Berkley
Policy Development Officer
Lorne.b@scl.d.co.uk