



## Consultation Response

# Strategic Police Priorities for Scotland

The Scottish Commission for  
Learning Disability  
October 2019



The Scottish Commission for Learning Disability (SCLD) welcomes the opportunity to respond to this important consultation. 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* (2013)<sup>1</sup> and The keys to life Implementation Framework (2019-2021)<sup>2</sup>. The implementation framework defines a learning disability as follows:

*"A learning disability is significant and lifelong. It starts before adulthood and affects a person's development. This means that a person with a learning disability will be likely to need help to understand information, learn skills and live a fulfilling life. Some people with learning disabilities will also have healthcare needs and require support to communicate."*

(The keys to life, 2019-2021, p.9)

SCLD is committed to creating an environment in which systems and culture are changed and in which people with learning disabilities have opportunities and are empowered to improve their own lives. In particular, SCLD is focused on sharing innovation and good practice so that those providing services and interventions can learn from each other. SCLD also aims to be a knowledge hub and to build an evidence base, sharing how policy is implemented and building on an understanding of what really works.

This response aims to support the Scottish Government in the development and delivery of policy through sharing knowledge and providing practical solutions to policy-based challenges in line with SCLD's strategic plan 2017-21.

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<sup>1</sup> [The keys to life \(2013\)](#)

<sup>2</sup> [The keys to life \(2019-2021\)](#)

In developing this response SCLD has:

- Drawn on existing evidence and previous consultation responses regarding both hate crime, gender-based violence, rape and sexual assault
- Met and discussed the proposed Strategic Priorities with a group of people with learning disabilities at ENABLE Glasgow: Fortune Works.

SCLD fully supports the proposed Strategic Police Priorities of: **Crime and Security, Confidence, Partnerships, Sustainability, People** and **Evidence**. In particular, SCLD welcomes the inclusion of equality and human rights, values and diversity and developing services from an evidence base. In reference to each of these areas, SCLD would ask that particular attention is given to the human rights, strengths and needs of people with learning disabilities, concerning their interaction with police services in Scotland, both as the accused and as victims. Particular attention should be given to people with learning disabilities, due to their experience both as victims of crime including hate crime, gender-based violence, rape and sexual assault and their experience in the criminal justice system as the accused. Evidence concerning each of these areas is outlined below.

## **People with learning disabilities experience of hate crime, rape and sexual assault**

### Hate Crime

For people with learning disabilities in Scotland, hate crime, street harassment and bullying is a real and lived experience, which causes high levels of distress and insecurity. A report from the EHRC<sup>3</sup>, which cited a Capability Scotland survey report, found that of 129 people with disabilities surveyed, 47% had experienced hate crime. In the same publication, the EHRC cited Gillen who found that 16% of 2,000 people with learning disabilities who had responded to the community care survey

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<sup>3</sup> [Equality and Human Rights Commission \(2011\)](#)

in 2007 had experienced street bullying. Further, a report from Lemos and Cranes (2012)<sup>4</sup> highlighted the exploitation and manipulation experienced by people with learning disabilities.

### Gender-Based Violence, Rape and Sexual Assault

SCLD is aware that people with learning disabilities may be at greater risk of experiencing sexual abuse (Solley & Doe, 1991 cited in Lund, 2011<sup>5</sup>). SCLD recognises the increased risk experienced by women with learning disabilities. This has been highlighted by McCarthy (1998)<sup>6</sup> who discussed the multiple disadvantages which are experienced by women with learning disabilities and how this can lead to increased risk in both institutional and community settings. With regard to gender-based violence, a 2015 report by Wise Women<sup>7</sup> identified that, of the disabled women surveyed, 73% had experienced gender-based violence<sup>8</sup>. The gender-based violence of women with disabilities experience was reflected in Engenders report *'Disabled Women: Our Bodies Our Rights'* in which recommendations were made to ensure disabled women's needs were reflected in Equally Safe Scotland's Strategy to prevent and eradicate violence against women and girls<sup>9</sup>.

### The experience of people with learning disabilities in the criminal justice system

Research from the EHRC (2017)<sup>10</sup>, examined existing evidence about people with learning disabilities experience of the criminal justice system and found:

- That there was no routine protocol for identifying individuals with learning disabilities
- That appropriate adult provision was limited

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<sup>4</sup> [Lemon & Crane \(2012\)](#)

<sup>5</sup> [Lund \(2011\)](#)

<sup>6</sup> [McCarthy \(1998\)](#)

<sup>7</sup> [Wise Women \(2015\)](#)

<sup>8</sup> [62 Women Surveyed](#)

<sup>9</sup> [Engender \(2018\)](#)

<sup>10</sup> [Equality and Human Rights Commission \(2017\)](#)

- That often the individual who had been accused did not understand what was happening in decisions
- Challenges following community-based orders
- That there was a lack of accessible information in prisons and a lack of access to relevant support services.

The EHRC stated that the 38 interviews they conducted with people with learning disabilities who had experience of the criminal justice system showed that these experiences continued to take place across Scotland.

The experience of hate crime and rape and sexual assault experienced by people with learning disabilities is concerning particularly when we consider that people with learning disabilities may be hesitant in approaching the police due to fear. When meeting with a group of people with learning disabilities to discuss the Strategic Police Priorities, SCLD staff asked individuals what they thought when they saw police officers. One person said that they were “*scary*”. Another person said, “*When I see a police officer I think...’ What have I done?’*”. This feeling of fear about police officers is of significance when we consider the particular risk which may be posed to individuals with learning disabilities. Further, when SCLD staff spoke to the group about the proposed Strategic Priority of **confidence**, individuals told us that they were not confident in the police and did not feel they trusted them, but that they wanted this to change in the future. This lack of confidence could be furthered by the perception that the criminal justice system is unfairly weighted against people with learning disabilities and is a system in which individuals are excluded from understanding decision-making.

To work towards addressing this lack of confidence, SCLD believes there are four key areas which should be addressed within the Strategic Priorities. These are listed and discussed below:

1. Ensuring The United Nations Convention on the Rights of Persons with Disabilities<sup>11</sup> (UNCRPD) is reflected in the Strategic Priorities
2. Data recording and reporting on hate crime, gender-based violence, rape and sexual assault experienced by people with learning disabilities
3. How learning disability is identified when working with: the accused, victims and witnesses
4. Ensuring visibility of learning disability across the Equality Impact Assessment and Child's Rights and Wellbeing Impact Assessment.

## **Ensuring The United Nations Convention on the Rights of Persons with Disabilities is reflected in the Strategic Priorities**

### *Q1. Do the revised Strategic Police Priorities reflect the needs of your community?*

SCLD fully supports the intention of the Strategic Police Priorities, particularly a focus being given to equality and human rights, values and evidence. However, SCLD believes that for these Strategic Priorities to be met consideration must be given to ensuring the human rights of people with learning disabilities are ensured in police services.

SCLD, therefore, asks that attention is given to the following articles of the UNCRPD with a view to exploring how the Scottish Police Authority and Police Scotland can help to ensure these rights:

- Access to Justice (Article 13)
- Freedom of torture, cruel or degrading treatment or punishment (Article 15)
- Freedom from exploitation, violence and abuse (Article 16)
- Freedom of expression and opinion, and access to information (Article 21).

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<sup>11</sup> [United Nations Convention on the Rights of Persons with Disabilities \(2006\)](#)

To achieve this, SCLD asks that the Strategic Priorities aim to best reflect issues experienced by people with learning disabilities regarding hate crime, gender-based violence, rape and sexual assault (Please refer to recommendation 1). There will be a role here for learning disability awareness training and equality and human rights training.

SCLD believes there is also a role for police services in regard to Article 27 of the UNCRPD which says,

*“States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities...”*

(UNCRPD, Article 27)

This relates to the Strategic Priority of **people** which outlined that a diverse workforce should be empowered to deliver high-quality services. SCLD believes that part of a diverse workforce should include people with learning disabilities. The group of individuals SCLD spoke to told us they thought there could be roles made available for people with learning disabilities in training police officers about their experiences and in roles such as caring for police animals. Public services, including NHS Scotland, already run a supported employment initiative for young people with learning disabilities called Project SEARCH. This project allows young people to develop skills in employability through attending classes and also working in roles such as portering, catering, domestic duties and administration<sup>12</sup>. To ensure diversity of the police workforce which does not exclude people with learning disabilities, similar projects could be trialled within Police Scotland<sup>13</sup>. Please refer to recommendation 2.

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<sup>12</sup> [Project SEARCH](#)

<sup>13</sup> [Project SEARCH](#)

## Data recording and reporting

In regard to hate crime, of the ten UK cases examined in the Hidden in Plain Sight Report<sup>14</sup>, we know that of these 10 cases, seven individuals had a learning disability or undiagnosed learning need. However, despite this knowledge base, disaggregated data figures on learning disability and victims of crime are not available. This was reflected in the same report which in 2011 stated,

*“This lack of data compounds public authorities’ lack of understanding of disability-related harassment. Without such data, authorities can’t understand disability-related harassment in their area, assess the effectiveness of their responses to it and develop interventions to prevent it. ”*

(EHRC, 2011, p.76)

For SCLD, the identified gap in hate crime reporting is concerning and does not best equip services to address hate crime. While SCLD acknowledges and welcome improvements made to hate crime reporting through the use of third party reporting centres, SCLD believes the further attention is required in recording and publishing disaggregated data regarding learning disability and the experience of hate crime. This will mean that improvements in reporting will be reflected in data recording and monitoring and can be used to improve services. Please refer to recommendation 3. This is further discussed in SCLD’s response to the consultation on how official statistics present information on recorded crime and related topics.

Similarly, data on gender-based violence, rape and sexual assault of people with learning disabilities in Scotland is not available. For example, in the Domestic Abuse in Scotland: 2017 - 2018 statistics the only data presented is about gender and age<sup>15</sup>. To best ensure both police services and crisis support services, including but not limited to Scottish Women’s Aid and Rape Crisis Scotland, are best equipped to plan

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<sup>14</sup> [Equality and Human Rights Commission \(2011\)](#)

<sup>15</sup> [Scottish Government \(2017-2018\)](#)



effectively to address the needs of women with learning disabilities, there will be a need for this data to be recorded and reflected in the official statistics on recorded crime. Please refer to recommendation 4. Ensuring this will support a move to the strategic police priorities of equality and human rights as well as cementing the role of evidence in ensuring high performing and innovative services.

## **How learning disability is identified when working with: the accused, victims and witnesses**

*Question 4: How do you think the progress towards delivering the strategic police priorities should be measured?*

One of the challenges with data collection is the identification of learning disability in victims of crimes including hate crime, rape, sexual assault or domestic violence or as the accused. This was discussed in the EHRC research briefing on learning disability in the criminal justice system in which they stated,

*“Criminal justice agencies have no consistent way to identify individuals who have learning disabilities throughout the criminal justice system. Most agencies rely on frontline staff’s observations and experience to identify individuals with learning disabilities. Police Scotland is seen by many as having a key role in identifying at the point of arrest and charge, and for this information to be shared as an individual progresses through the system, however, they have no routine screening at present and will rely on individual officers to identify people who are having difficulty understanding. As a result, there is significant potential for learning disabilities to remain unidentified, and for individuals to progress through the system unsupported.”*

(EHRC, 2017, p.3)<sup>16</sup>

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<sup>16</sup> [Equality and Human Rights Commission \(2017\)](#)

Further, SCLD is aware that at times, people with learning disabilities will not disclose they have a learning disability<sup>17</sup>. As stated above, this may make it difficult for those recording incidents of crime to assess whether individuals involved have a learning disability or a learning need. More critically, without disclosure it may be difficult for those interviewing the individuals to provide the required support.

This was also an issue addressed in the publication from the ‘*Supporting Offender's Network, Criminal Pathways for People with Learning Disabilities*’ document. In this, people with learning disabilities said that when they came in contact with the police they wanted to be asked if they had a learning disability and if they required support to understand<sup>18</sup>.

With regard to the proposed Strategic Police Priorities of evidence and **people**, SCLD believes attempts must be made to establish whether individuals involved in the criminal justice system have a learning disability or learning need. This will be critical for data recording and monitoring for the development of services and interventions, and to ensure support where appropriate. As part of the strategic police priorities’ focus on equality and human rights attention should be given to how this is most appropriately achieved and support offered. Questions used by health visitors in establishing if parents have a learning disability or learning need may be helpful here. Please refer to recommendation 5.

## **Ensuring visibility of learning disability across the Equality Impact and Child’s Rights and Wellbeing Impact Assessment**

*Question 6: Do you have any comments to make on our partial equalities impact assessment? This is available as an associated downloadable document.*

SCLD welcomes the Partial Equality Impact Assessment (EQIA) / Children’s Rights and Wellbeing Impact Assessment (CRWIA) and views this as an important tool in

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<sup>17</sup> [Equality and Human Rights Commission \(2017\)](#)

<sup>18</sup> [SOLD Network \(2015\)](#)

ensuring equality of access in public services. However, SCLD would ask that further attention is given to the following:

- Ensuring the rights of children with learning disabilities are visible across all of the EQIA and CRWIA
- Addressing the specific needs and strengths of people with learning disabilities in the disability section of the EQIA. This issue pertains to wider considerations regarding data collection
- Attention and consideration being given to the rights of people with disabilities, including learning disabilities in line with the UNCRPD. A focus of this should be on the following articles:
  - Access to Justice (Article 13)
  - Freedom of torture, cruel or degrading treatment or punishment (Article 15)
  - Freedom from exploitation, violence and abuse (Article 16)
  - Freedom of expression and opinion, and access to information (Article 21).

SCLD welcomes the opportunity to work with the Scottish Police Authority and Police Scotland in ensuring the Equality Impact Assessment / Childs' Rights Impact Assessment adequately addresses the needs of people with learning disabilities. This could be partially achieved using a Fairer Scotland Impact Assessment and building on this to better reflect the needs of people with learning disabilities. Please refer to recommendation 6.

## Summary

SCLD welcomes the proposed Strategic Police Priorities. However, SCLD believes that for these priorities to be reflected in the lived experience of people with learning disabilities consideration must be given to:

- Reflecting key articles from the UNCRPD within the strategic priorities

- Ensuring diversity of the workforce by employing people with learning disabilities and utilising training programmes such as Project SEARCH
- Ensuring that service planning is based on statistics which highlight people with learning disabilities' experiences of crime, including but not limited to hate crime, gender-based violence, rape and sexual assault
- Committing to developing an appropriate protocol for identifying an individual's suspected learning disability or learning need and providing tailored support
- Reflecting the needs and strengths of people with learning disabilities in the EQIA and CRWIA.

By working to ensure the above, SCLD believes policing in Scotland will evidence a strong commitment to equality and human rights, as well as a dedication to evidence and the provision of high-quality services, which will result in building public trust and the confidence of people with learning disabilities.

## Recommendations

- 1) Strategic Police Priorities should reflect issues relating to people with learning disabilities as both victims and as the accused. This should reflect Articles 13, 15, 16 and 21 of the UNCRPD
- 2) Opportunities for supported employment in police services for people with learning disabilities should be explored and trialled to ensure workforce diversity
- 3) To support the Strategic Police Priority of **evidence**, a commitment should be made to ensure disaggregated data on hate crime and learning disability is recorded and presented in the official statistics for recorded crime in Scotland
- 4) Collect and present disaggregated data on gender-based violence, rape and sexual assault and learning disability as part of the official statistics on recorded crime

- 5) As part of the Strategic Police Priorities' commitment to equality and human rights, focus should be given to developing a protocol for how police identify an individual with a learning disability or learning need and how support should be given. This will need to be supported by learning disability awareness training. This identification should be used to better plan for Scottish Prison Services
- 6) Scottish Police Authority and Police Scotland work with SCLD to ensure the EQIA and CRWIA meet the needs of people with learning disabilities.

## Appendix One

### Focus Group at ENABLE Glasgow Fortune Works

SCLD visited the Respect Group at Fortune Works to ask this group's opinion about the strategic police priorities. We spoke to six people about what their views were about the six proposed police priorities. Using stickers, we asked those participating to vote on whether they agreed with each of the proposed priorities. Below is what they said about each of the priorities.



*Figure 1: Stickers used to vote on each of the Strategic Police Priorities*

#### Crime and Security

All those who participated were supportive of the strategic priority of crime and security. In particular, they supported a commitment to equality and human rights. For the group, this meant ensuring people with learning disabilities were protected from hate crime. The group felt this meant that people with learning disabilities should get extra help when they need it, that people with learning disabilities should be safe and that people should always get the help they need.

#### People

Everyone agreed that all parts of the police should have diverse staffing. The group didn't think it would be helpful if all police were the same. The group thought that there should be opportunities for people with learning disabilities or learning difficulties in the police. They thought people with learning disabilities could get jobs training the police about their experiences and could potentially help with looking after police animals.

## Evidence

The group agreed that evidence was important. They thought that if the police did not support their work with the evidence they could get into trouble or “lose their jobs”.

## Confidence

The group were unsure about the strategic priority of confidence. One person in the group said that right now they were not confident and did not trust the police, but that they wanted to trust the police in the future. The same person spoke about how they had reported an incident to the police and a statement was taken but that following this they never heard anything about it. He said this made him feel he didn't trust them and that the police “needed to reply”.

## Sustainability

The group all agreed that it was important that the police planned for the future. SCLD staff gave an example of this as the police making plans when smartphones were invented to deal with things like online bullying. The group thought it was important that police planned for the future to stop crimes from happening.

## Partnerships

The group thought it was important that the police worked in partnership with a range of organisations, including learning disability organisations such as Fortune Works. The group had recently been visited by a local community policeman. They said that meeting regularly with the police would help them to feel safe in talking to them as they would know they were friendly. They also felt that the police coming to visit them helped engaging with them feel less formal and made them feel like part of the community.



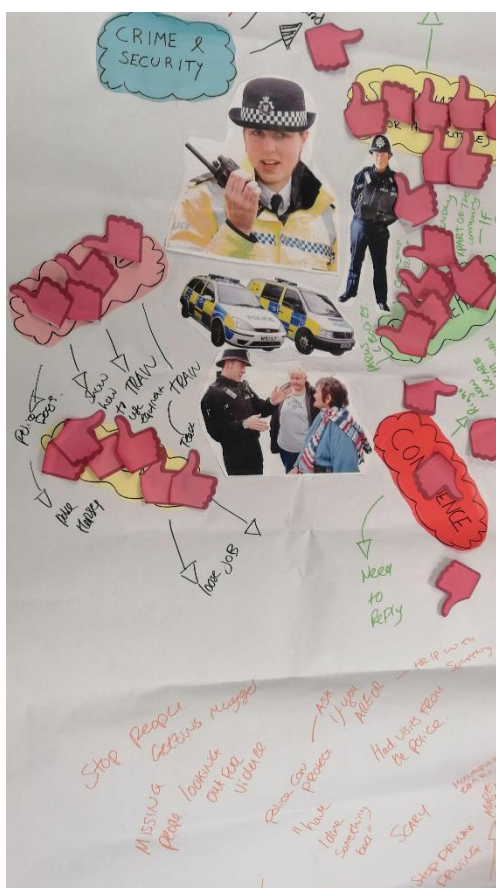


Figure 2: Notes outlining the opinions of those who participated.

## General

As well as the points above, the group made several more general points about the police. When asked what they thought of when they saw the police one person said, “...have I done something bad?” The group were also asked what they thought the police should do for them, that the police would sometimes ask if they were ok when he met them on the street. Another person said they might ask you where you are from and if you need help. There was also a general discussion about what the police do; stopping people who have knives, looking out for violence, looking for missing people, stopping people getting mugged.

SCLD thanks The Scottish Government for the opportunity to respond to this important consultation.



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For information on Scotland's Learning Disability Strategy *The Keys to life*, visit: [www.keystolife.info](http://www.keystolife.info)

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