



**Consultation Response**

# **Consultation on the Letter of Rights Scotland**

The Scottish Commission for Learning Disability  
December 2019



The Scottish Commission for People with Learning Disabilities (SCLD) welcomes the opportunity to respond to the Scottish Government's consultation on the Letter of Rights for Scotland. SCLD is an independent charitable organisation and 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. 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 being implemented and building on an understanding of what really works.

In responding to this consultation, SCLD has drawn on our organisational experience in accessible communication and in particular the development of easy read documents.

## Ensuring the right to justice for all people with learning disabilities

All people have a right to liberty and security under Article 5 of The Human Rights Act (1998)<sup>1</sup>. This includes being given information on arrest and charges in a language that the individual understands. Further, The United Nations Convention for People with Learning Disabilities (UNCRPD) Article 12 (Equal recognition before the law)<sup>2</sup>, Article 13 (Access to Justice)<sup>3</sup> and Article 14<sup>4</sup> (Liberty and Security of the person) should ensure that people with learning disabilities:

- Are supported to exercise legal capacity
- Are able to access age-appropriate accommodation as both direct and indirect participants in legal proceedings
- Are not deprived of liberty on the basis of disability.

The above sits alongside the Article 21<sup>5</sup> (Freedom of expression and opinion, and access to information) which states that all people with disabilities should have information “... *in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost*” (UNCRPD, 2006, Article 21)<sup>6</sup>.

Despite this, we know from people with learning disabilities in Scotland that their experiences in police custody have not always reflected a realisation of their human rights. People with learning disabilities may face barriers in communication and

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<sup>1</sup> [The Human Rights Act \(1998\)](#)

<sup>2</sup> [Article 12, UNCRPD \(2006\)](#)

<sup>3</sup> [Article 13, UNCRPD \(2006\)](#)

<sup>4</sup> [Article 14, UNCRPD \(2006\)](#)

<sup>5</sup> [Article 21, UNCRPD \(2006\)](#)

<sup>6</sup> [UNCRD \(2006\)](#)

understanding which may negatively impact them while in police custody. Take for example this comment made by Supporting Offenders with Learning Disabilities (SOLD) Network in which people with learning disabilities questioned how the advice was provided to them by a solicitor. They talked about the challenges faced in this process and said,

*“We all have a learning disability. That means we need help to understand new information, to learn new skills, and to cope independently. It also means we have extra communication needs. This can make coping with situations involving lots of information very difficult and stressful...Have we really had any useful legal advice if we either cannot understand it or simply forget what you have been told?”*

(SOLD Network, 2017, p.8)<sup>7</sup>

To ensure that people with learning disabilities' human rights are respected, protected and fulfilled in line with both the Human Rights Act and the UNCRPD, SCLD welcomes the development and intention of the Letter of Rights for Scotland. However, for the rights of people with learning disabilities' rights to be meaningfully realised, further attention to parts of the proposed letters is needed. This should sit alongside further consultation and discussion with people with learning disabilities. We have outlined our suggested changes and comments below.

## **Letter of Rights Standard Version**

SCLD does not believe the Letter of Rights is easy to understand. While SCLD appreciates the intention, we would highlight that there are several parts of the Letter of Rights which could potentially cause confusion and uncertainty.

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<sup>7</sup> [SOLD Network \(2017\)](#)

For example, the explanation of rights at the beginning of the document described as *'important freedoms and supports'*. Without an explanation of what is meant by this this statement could be unhelpful. The use of terms such as *'exceptional circumstances'* for some people will not be accessible. Instead, it would be more helpful to outline what these circumstances would look like. Further, terms like *'compulsory supervision order'* or *'warrant'* without explanation will be unhelpful in terms of promoting understanding. It would instead be helpful to explain each term the first time it is used. For example, stating what a compulsory supervision order is when using the term at the beginning of the document.

For SCLD there is a particular gap in terms of how the role of the Appropriate Adult is explained in this document. To improve this, we would suggest further examples of the ways in which an Appropriate Adults can support a person's understanding and what this service would look like in practice. Any changes to the Letter of Rights should also be aware that the term *'Mental Disorder'* is under review as part of the Learning Disability and Autism in the Mental Health Act Review and therefore should reflect any changes in future publications.

## **Letter of Rights Easy Read Version**

SCLD believes the Easy Read version of the Letter of Rights could be improved and would benefit from being brought in line with existing easy read standards. In terms of improvement, we would ask that all statements make one point and be accompanied by a picture. We note that at present the document is not consistent in how it uses pictures to support written statements. Some pages have a number of pictures while others have large amounts of text, making several points and only one or two pictures to support understanding.

SCLD would refer the Scottish Government to Mencap's *'Make it Clear Guide'*, which we have attached alongside our submission. We would also ask that reference is paid to

[Mencap's Accessible Information Standards](#) as a good practice example of how to develop easy read documents. As well as this, other good practice examples including the SOLD Network's [Easy Read Guide on Arrest](#) should also be drawn upon.

SCLD would ask the Scottish Government to consider if there is value in having a standard document and an Easy Read version. SCLD would suggest that a well-made Easy Read document should work for many people who would choose the plain English document. SCLD, therefore, asks that consideration is given to only producing one easy read document for all. This will best ensure the document is actively used and should ensure consistency of practice nationally.

To ensure a high-quality Easy Read document is produced, SCLD would ask that consultations on this document should be ongoing. We would welcome the Scottish Government meeting with [The Keys to life expert group](#) and advocacy groups working with people with learning disabilities including, but not limited to, [People First \(Scotland\)](#), [ARC Scotland](#) [Equal Say](#) and [Central Advocacy Partners](#).

## **Alternative Versions**

SCLD believes that in addition to an Easy Read Document, this information should be available in a range of accessible communication methods. This should include an accompanying video and braille version. This document could also potentially be made into a set of illustrative cards which could be used to explain the situation. Further, [Common Knowledge UK](#) has experience of developing mobile phone applications which read out text for individuals and include images. Work could potentially take place with this organisation to develop an interactive piece of software which could be used to support understanding.

SCLD, along with *The Keys to life* Expert Group, would welcome the opportunity to support the development of any further alternative versions where this was appropriate.

## Summary

SCLD welcomes the development of a letter of Rights in Scotland and the development of accessible resources to support this. We do however question the value of creating both a standard document and an Easy Read version. Instead, we would welcome one document for everyone which is in Easy Read. We believe this will avoid inconsistent practice nationally and confusion about when an Easy Read version of the letter of rights should be used. Further, we would ask that attention is paid to how any Easy Read document is laid out and would ask that these meet accessibility standards and guidelines. Attention will also need to be paid to the use of complex words and phrases and how we can provide a better explanation of what is meant by these terms. This should help to avoid any unnecessary confusion and distress for a person with a learning disability in police custody. SCLD would welcome the opportunity to support the Scottish Government in the further development of the Letter of Rights and would welcome the opportunity for *The Keys to life* expert group and advocacy groups from across Scotland to have the opportunity to support the development of this document. SCLD thanks the Scottish Government for the opportunity to respond to this important consultation.

## Contact us

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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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