

## **SCLD**

The Scottish Commission for People with Learning Disabilities (SCLD) promotes respect, protection and fulfilment of the human rights of people with learning disabilities. Our vision is of a fairer Scotland where people with learning disabilities live full, safe, loving and equal lives. We influence the development of policy, practice and legislation with a focus on human rights, leadership and evidence. We are respectful, inclusive, collaborative and pioneering.

## **Overview**

People with learning disabilities in Scotland continue to experience long-term systemic discrimination, multi-layered trauma, exclusion, stigma, poor outcomes and daily denials of their human rights. They experience barriers to accessing rights across a wide range of domains including active citizenship, full engagement in civil and public life and a lack of access to justice, independent living, education, employment, relationships, and family life<sup>1</sup>.

People with learning disabilities want and deserve their rights to be respected, protected and fulfilled in the same way as every other citizen in Scotland but current legislative provisions, policy and service delivery do not enable this. People with learning disabilities daily face direct, indirect and multiple forms of discrimination on all grounds, without access to an effective remedy. The inter-sectionality of discrimination is disempowering and unjust.

SCLD welcomes the First Minister's message in the Programme for Government that 'we must take action to tackle persistent inequality and to advance equality of opportunity for everyone in Scotland, supporting those who are most disadvantaged and who face the greatest barriers to realizing their rights.'

However, we believe there is a pressing need to turn Scotland's equality and human rights rhetoric into reality. While not a substitute for legislation, we believe there is potential for this strategy to provide a framework to help government and the wider

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<sup>1</sup> [SCLD's LDAN Bill Consultation Response \(2024\)](#)

public sector to meet their legal obligations on equality and human rights. The strategy must ensure that equality and human rights considerations are central to informing policymaking and service delivery, in order to support and empower marginalized groups, including people with learning disabilities, to realise their rights.

To do this, it is essential that officials and policy makers at all levels are committed and equipped to listen to, and learn from, the lived experience of people with learning disabilities. Moreover, there is a need to recognise and tackle persistent structural and systemic barriers that people with learning disabilities experience in terms of equality and human rights:

- On average, people with learning disabilities die 20 years earlier than the general population. Children with learning disabilities are 11 times more likely to die in childhood than their nondisabled peers. From 2011 to 2022, 260 children and young people with learning disabilities died in Scotland. The causes of many of their deaths were avoidable, treatable, and preventable.<sup>2</sup>
- There are 192 people with learning disabilities living in hospital, of which 83 are classified as a delayed discharge. More than 23% of those with learning disabilities and complex needs in hospital have been there for over ten years and a further 14% of people have been in hospital for between 6-9 years. 25% of those who are delayed discharge have been delayed for between 2-5 years and 13% have been delayed for over 6 years<sup>3</sup>.
- Available data suggests that the employment rate for people with learning disabilities is between 4-8% and 29% for autistic people, compared with Scotland's national employment rate of 82.5% for non-disabled people and 50.7% for disabled people<sup>4</sup>.
- People with learning disabilities have highlighted that care charges and barriers in accessing disability payments stop them from being able to live the life they choose. These concerns are supported by research highlighting that

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<sup>2</sup> [Avoidable deaths in children and young people with learning disabilities in Scotland | Our research | Scottish Learning Disabilities Observatory \(sldo.ac.uk\)](#)

<sup>3</sup> [Insights into Learning Disabilities and Complex Needs: Statistics for Scotland](#)

<sup>4</sup> [Learning Disabilities, Autism and Neurodivergence Consultation Bill](#)

local authority thresholds for receiving social care have risen over the past decade.<sup>5</sup>

- Women with learning disabilities encounter significant barriers to disclosing and reporting crimes of gender-based violence including fear of being subjected to Adult Support Protection, guardianship and child protection procedures. Additional barriers include limited access to safe spaces and appropriate adults, and not being believed or taken seriously.<sup>6</sup>
- Data on reported crimes collected in 2020-21 showed that in nearly three-quarters of disability-aggravated hate crimes (73%), the perpetrator showed prejudice towards those with a learning disability. Furthermore, the data found that people with learning disabilities said they were often not believed when they reported crimes<sup>7</sup>.

Therefore, it is critical to ensure that sufficient and appropriate resources and policies are directed towards people with learning disabilities for whom rights are most at risk accompanied by effective monitoring and accountability structures. However, it is also critical that this strategy does not view people with learning disabilities as a homogenous group but rather engenders an intersectional approach to equality and human rights, which recognises the multiple disadvantages that people experience.

### **Proposed Vision and Objectives**

We agree with the vision, particularly the commitment to ‘tackling the persistent and entrenched systemic inequalities’. As already stated, people with learning disabilities experience structural inequality and systemic disadvantages that are embedded with the social, economic and political framework. Any approach to mainstreaming equality and human rights across government and the wider public sector must recognise and address the particular discrimination, poorer outcomes and denial of rights that people with learning disabilities face.

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<sup>5</sup> [The State of Our Rights, SCLD \(2023\)](#)

<sup>6</sup> [‘Unequal, Unheard, Unjust: But Not Hidden Anymore’, SCLD \(2023\)](#)

<sup>7</sup> [The State of Our Rights, SCLD \(2023\)](#)

We support the strategy's objectives and welcome the intention to use the PANEL principles to place people's rights at the centre of policy development and implementation. However, it is critical that staff at all levels have the necessary knowledge and undertaking around how to apply the principles in practice.

### **Strengthening Leadership**

We agree that strengthening leadership is a key driver for equality and human rights. At a political level, there is a need for the equality and rights of people with learning disabilities to be considered across all portfolios. Leaders need to have an awareness and understanding of the impact of decisions and priorities on particular groups including people with learning disabilities and these issues cannot solely lie within the remit of a specific portfolio or department within government.

### **Developing Accountability and Transparency**

SCLD believes that increased accountability and transparency are critical elements to enhancing equality and human rights. The strategy outlines that within Government, external accountability takes place, in part, through key stakeholder groups, including the SHRC and EHRC, who examine policy intentions and make recommendations.

We believe there could be a role for people with learning disabilities in this process. For example, SCLD's Include for Good 'rapporteurs' consist of 10 people with learning disabilities, who are working with the SCLD board, leaders and organisations across Scotland to help change attitudes and make Scotland a more equal place<sup>8</sup>. In our view, it is critical to ensure that the lived experience of people with learning disabilities directly impacts equality and human rights at all levels of government and public services.

In terms of transparency, we agree with the importance of everyone being able to access information affecting them including legislative activities, policy making, legal provisions, policy enforcement, public expenditure and other relevant information. To this end it is essential that accessible information in multiple formats is available to people with learning disabilities.

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<sup>8</sup> [Include for Good Programme](#)

## **Ensuring effective regulatory and policy environment**

SCLD believes there is a need for a cohesive legislative framework, alongside an effective regulatory and policy environment, in order to mainstream equality and human rights in Scotland.

In our view, the Scottish Government must fulfil its promise of a Scottish Human Rights Bill and we believe strongly that incorporation of the CRPD need to be a central part of this. Indeed, we believe that only a maximalist approach to CRPD incorporation, within the confines of the devolution settlement, will set the minimum standards required to address the decades of systemic discrimination faced by people with learning disabilities.

Furthermore, in our view, a robust Learning Disability, Autism and Neurodivergence Bill is equally critical to respecting, protecting and fulfilling the human rights of people with learning disabilities. We believe the Bill should place new duties on public bodies, the Scottish Government and existing bodies to help realise and uphold the rights of people with learning disabilities in Scotland.

We agree that Equality Impact Assessment (EQIAs) should be fundamental to ensuring that equality and human rights are fully considered as part of policy and legislative development. However, in our experience, far too often they are not undertaken and where they are, they are frequently an afterthought and poorly carried out. We believe there is a requirement for training and guidance, at all levels, to improve current approaches to, and quality of, EQIAs.

## **Utilising Evidence and Experience**

The collection of robust data on the experience of people with learning disabilities is vital in mainstreaming equality and human rights within Scotland. Currently, there are many gaps in equalities data and evidence for people with learning disabilities – including for those facing multiple layers of discrimination due to intersecting protected characteristics.

This lack of data significantly hampers the ability to measure equality and human rights impacts across the board. Whilst the Public Sector Equality Duty does require Local Authorities to set measurable equality outcomes in Scotland, there is a lack of formal obligation on authorities to collect and monitor specified information. Without

legal obligation and resources to collect this data, local authorities and other responsible bodies are likely to continue to make do with the current systems and processes, in which disaggregated data for people with learning disabilities is either incomplete or non-existent.

Article 31 of the UNCRPD makes it clear that gathering data and statistics, analysing and applying that knowledge to the design and delivery of public services is key to the realisation of rights, equally. It stipulates that governments “*collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention*”, including appropriate disaggregation.<sup>9</sup>

SCLD believes it is vital that the Scottish Government and other public bodies in Scotland collect and report appropriate data as part of mainstreaming equality and human rights in Scotland, to enable the formulation and implementation of policies that improve outcomes for people with learning disabilities.

Learning from lived experience is also essential. It is critical that the Scottish Government and local authorities engage with people with learning disabilities in a systematic and accessible way, in order to inform and co-produce policy development. The consultation document references lived-experience panels as a key tool for the Scottish Government in this process.

In 2021, SCLD was funded by the Scottish Government to create a Human Rights and Learning Disability Lived Experience Board to help share the opinions, ideas, and experiences of people with learning disabilities in the development of the new Human Rights Bill for Scotland. The Board worked to advise the Scottish Government on the essential steps it must take to ensure the Bill worked for people with learning disabilities. Board members shared their expert knowledge and experience of the most important and impactful aspects of human rights for people with learning disabilities as well as their denial and abuse<sup>10</sup>.

SCLD believe that there is value in this model and we would advocate for further such approaches across government. Furthermore, we believe there is a need for

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<sup>9</sup> More information is available at: <https://keystolife.info/wp-content/uploads/2019/03/Keys-To-Life-Implementation-Framework.pdf>

<sup>10</sup> [The right to equal rights, SCLD \(2024\)](#)

the Scottish Government to improve how they collaborate closely with diverse stakeholder groups, ensuring this informs robust impact assessment processes.

### **Enhancing Capability and Culture**

Enhancing human rights capability and culture require equipping the public sector with appropriate resources to ensure that staff, at all levels, have the necessary understanding of equality and human rights.

We believe, it is critical that training and development in this regard, recognises the needs of people with learning disabilities and that this is co-produced and co-delivered through their direct involvement and participation.

Furthermore, as previously stated, it is imperative to improve staff capacity to conduct equality impact assessment (EQIA) for policies impacting people with learning disabilities. This is critical for policy development and intersectional analysis.

### **Improving Capacity**

SCLD strongly agrees with the strategy's aim of supporting the Scottish Government and wider public sector to allocate the resources and budget required to fully integrate equality and human rights across the board. We agree this should include resource allocation and budgeting decisions for third sector organisations.

As a human rights defender, SCLD works to uphold, protect and raise awareness of the human rights of people with learning disabilities. This includes incorporating people with learning disabilities' diverse experiences into our work through our advisory groups and on-going stakeholder engagement.

We see this core mission as an important part of helping to mainstream equality and human rights for people with learning disabilities, and helping to ensure that, as a marginalised and disadvantaged group, their needs are considered in policy and delivery structures and processes.

**For further information please contact:**

Lorne Berkley  
Strategic Lead: Policy and Rights  
Scottish Commission for People with Learning Disabilities  
[lorne.b@sclld.co.uk](mailto:lorne.b@sclld.co.uk)