

Consultation on the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)

Analysis of Responses

Summary

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Introduction - the consultation and who responded

This report presents the analysis from the Scottish Government Consultation on its Draft Delivery Plan 2016-2020 on the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The consultation, which was open between 8 September 2015 and 18 January 2016, was available in various formats. Funding was provided to Disabled People's Organisations (DPOs) to support engagement with disabled people across Scotland as part of the consultation and the Independent Living in Scotland (ILiS) project produced a resources pack to support this process.

There were 91 responses to the consultation. Of these, two-thirds (61) were received from groups/organisations and one third (30) was received from individuals. The largest category of respondent was third sector/equality groups who submitted 38 of the responses (42%). Eighty-nine respondents gave permission for their responses to be published.

Recurring themes emerging from the consultation

Consultees were generally supportive of the delivery plan and its aims, but wanted it to go further.

The need for meaningful, early, and on-going engagement with disabled people, disabled people's organisations (DPOs) and other expert stakeholders was highlighted repeatedly throughout the consultation responses. This consultation process should be on-going from the start right through to the monitoring and evaluation stage. It was also seen as important to engage with the families and carers of disabled people. The SG itself, identified engagement as one of the cross-cutting themes required to underpin delivery of the outcomes, but consultees felt that more work was required in this area.

Inclusive communication was highlighted repeatedly as being very important, and includes, but needs to go beyond, British Sign Language (BSL), Braille and producing Easy Read information. It is about communicating with people on a level that they can understand, so that they can understand their rights and have their opinions heard.

Some commitments are too vague - consultees wanted firm targets and set deadlines by which to meet them.

Widening the plan to cover all disabled people was highlighted. Certain commitments focus on specific disabilities, specific workforces, a particular age, or gender (including, for example, commitment 23 around a NHS Scotland Learning Disability Employment Programme; commitment 30 which refers to a Child Internet Safety stakeholder group; and commitment 54 about

exploring violence against disabled women and girls). It was also stated that all disabled people should be covered by the actions in the plan.

Geographical inequalities were mentioned in relation to a number of commitments, such as a lack of transport in rural areas, and variation in service provision (for example Additional Support for Learning) in different areas. Commitment 13 (funding for a new para sport facility in Inverclyde), in particular, was widely criticised for not meeting the needs of disabled people who live outwith the central belt of Scotland, and there were comments indicating that consultees would prefer local sporting facilities services to be improved and made more accessible.

Not all barriers are physical - attitudes and stigma were often described as the biggest barrier, but there is a belief that parts of the plan focus too much on physical access. Attitudinal barriers might be less tangible and harder to tackle than physical barriers, requiring long term strategies around education and awareness, but it is crucial that they are addressed. The Scottish Government recognises (in Section 3) that the barriers facing disabled people need to be known, understood and addressed.

The cross cutting nature of the commitments would mean groups across different areas of government working together to achieve desired outcomes, and different agencies communicating and working together. It was also noted that the links between different UN treaties and pieces of legislation had to be made. Many of the commitments are interdependent on others. It was highlighted that access to transport has an impact on access to other key areas such as education, health services, employment and sport and culture. Similarly, adequate housing was seen as necessary in order to access other rights.

It was also noted that basic needs had to be met through an appropriate social security system, in order to realise other rights.

There was a desire for person-centred services, which treat disabled people with dignity and respect, and meet their needs in a time and place which is suitable.

Disability and equality training for staff across a range of services including health; leisure; transport; justice; and education was called for. Training and awareness-raising for employers was also called for so that they would be more confident and better able to employ disabled people and make necessary reasonable adjustments.

Disabled people are not a homogeneous group and have different needs and desires. In particular, intersectionality was mentioned. It is important to consider how various factors, such as sharing more than one protected characteristic, can lead to multiple disadvantage.

Human rights –There was a belief that human rights needed to be more central to the delivery plan. In particular, it was mentioned that the PANEL approach (participation, accountability, non-discrimination, empowerment and legality) to human rights should be used. It was also stated that PANEL principles should be embedded throughout the delivery plan.

Model of disability used – The delivery plan states that it uses a social model of disability as opposed to the medical model. Whilst there seemed to be a preference for the social model of disability, it was commented that sometimes the language used in the delivery plan seemed to be more in line with the medical model rather than the social model.

Some consultees wished to go beyond the social model of disability to a bio-psycho-social model, which includes elements of both the medical and social model, or to use an assets based model of disability which focuses on what people can do rather than what they cannot do, or to a human rights based model of disability, which recognises that legal, physical, attitudinal, social, cultural and communication barriers within the community are what exclude disabled people.

Implementation of the delivery plan – Many comments were made about how the plan could be put into practice. These included the need for engagement with disabled people; providing adequate funding and resourcing; cross-cutting working; building on existing knowledge and sharing good practice; and the need for monitoring and evaluation.

Monitoring and evaluation – The need to monitor and evaluate the commitments was emphasised, both to ensure that they were implemented and adhered to, and to assess whether or not they were having an impact on the lives of disabled people. It was important to include disabled people and DPOs in this monitoring and evaluation process. It was also noted that commitments needed to be specific and include timescales.

Dissatisfaction with the current situation for disabled people - A number of responses from individuals and groups who represent disabled people expressed their dissatisfaction with the current situation. This dissatisfaction crossed a range of different areas, including, but not limited to: access to transport; access to sport and culture; access to work, including the recruitment process; the low numbers of disabled people taking up Modern Apprenticeships; assessments for disability-related benefits; the current advocacy provision; people with learning disabilities or autistic spectrum disorders being subject to the Mental Health (Care and Treatment) (Scotland) Act 2003; the experience of accessing health and social care; gaps in the provision of information and support; and engagement processes which do not

feel meaningful, or lead to change. There was a belief that much needed to change, and that disabled people need to be involved in directing that change.

Gaps

Some consultees highlighted areas where there were key gaps in the delivery plan.

The absence of a focus on mental health and commitments relating to mental health was a key area of concern. It was seen as essential to include an explicit focus on mental health if there was to be parity between those with physical disabilities and those with mental health conditions. It was also commented that there should be more focus on other “unseen” disabilities such as autism, and learning disabilities.

More focus is needed on children and young people, and the early years. This reflects both the specific vulnerabilities faced by young disabled people due to their age, which can make them more reliant on others to meet their needs. The crucial role that early years has on future outcomes was also commented on, and that in order to improve the future outcomes of disabled children and young people, there needed to be a specific focus on meeting their needs early on.

There were calls for more focus on education, for children and young people, but also further education for adults, including those for whom employment might not be an option due to their disability. There was a preference for disabled children and young people to be educated in mainstream schools. It was also believed that that all children should learn about disability and equality and tolerance from a young age. This was seen as a preventative strategy against stigma, discrimination and hate crime.

It was stated that there was not enough focus on social care in relation to health and social care integration, and the role that social care can play in supporting disabled people in their lives. There were concerns about a health-led focus of health and social care integration, which both fails to recognise the key role that social care can play in supporting disabled people to lead independent lives, and has the potential to be preventative, and lessen their need to access health care. There were also concerns that a health focus would be more concerned with intervention at crisis stage, rather than longer term investment in preventative social care support.

Transition periods, particularly between school and post-school and children to adult services, are seen as a particularly vulnerable times and can result in young disabled people losing valuable support services. It was felt that more attention needed to be paid to improving transitions, especially for the most vulnerable, such as disabled young people who have been in care.

It was believed that more emphasis should be given to the right to a personal and social and family life, and the need to take steps to reduce social isolation and promote social inclusion.

It was mentioned that access to civic and political life should have been included.

It was mentioned that access to justice should include civil justice.

The Four outcomes

Section 2 of the delivery plan sets out four outcomes the Scottish Government and its partners are working towards. The outcomes were developed and agreed in co-production with disabled people's organisations.

These outcomes are about disabled people having equal and inclusive access to:

1. the physical and cultural environment, transport and suitable, affordable housing
2. healthcare provision and support for independent living, with control over the best use of resources, including support for disabled children
3. to education, paid employment and an appropriate income and support whether in or out of work
4. the justice system without fear of being unfairly judged or punished, and with protection of personal and private rights

Nearly three-quarters (73%) of respondents agreed that together these four outcomes cover the key areas of life the Scottish Government and its partners must focus on to achieve the rights of disabled people.

Amongst those who agreed, disagreed, or neither agreed nor disagreed, key gaps were identified, primarily around the lack of focus on mental health, children, and social care. For some consultees these gaps meant that they could not endorse the four outcomes.

Outcome 1 – Equal and inclusive access to the physical and cultural environment, transport and suitable, affordable housing

Sixteen commitments were included under Outcome 1. Consultees were asked if they felt that these commitments would help the Scottish Government make progress towards Outcome 1. Over three quarters (77%) agreed that they would.

Commitments under Outcome 1 included transport; housing; tourism; culture; sport; and an awareness raising campaign highlighting the barriers that disabled people face. Commitment 1 (transport accessibility) and commitment 16 (One Scotland awareness raising campaign) received the most comments. Links were made between the different commitments and accessing other rights. Transport was recognised as important for accessing other services, and adequate housing was seen as a prerequisite for accessing other rights.

A lot of the comments received under Outcome 1 indicated that consultees were generally supportive of these commitments. Recurring themes mentioned included engagement, inclusive communication, and comments about the practicalities of implementing the commitments.

Access issues were mentioned in relation to transport, housing, sport and culture and tourism. Attitudinal barriers, among service providers and members of the public, were emphasised, in addition to physical barriers. In relation to accessible design it was stated that access was about more than wheelchair access and that it should also cater for other unseen disabilities.

The need for training around disability and equality was mentioned for a range of service providers, such as those who plan and design buildings, bus drivers, taxi drivers, and people working in sport, culture and tourism.

The limited nature of commitments was noted. In relation to an award for accessible design (commitment 3), for example, it was commented that an award alone would not be sufficient to improve accessibility, whilst funding for a para-sport facility in Inverclyde as part of improving disability inclusion in sport (commitment 13) was criticised for not benefiting disabled people from outwith the central belt.

Suggestions were also offered around various commitments, such as what guides might include (commitments 7 and 8); what the One Scotland awareness raising campaign could include (commitment 16); and how virtual access to historic sites could be explored (commitment 12).

Outcome 2 – Equal and inclusive access to healthcare provision and support for independent living, with control over the best use of resources and support for disabled children

Nineteen commitments were included under Outcome 2. Consultees were asked if they agreed or disagreed that these commitments would help the Scottish Government make progress towards Outcome 2. Nearly three-quarters (73%) agreed that they would.

A recurring theme was a desire for the commitments to be expanded to include others beyond the scope of the commitment. For example, commitments 17 and 18 (health inequalities data collection and advocacy) explicitly refer to people with learning disabilities. It was suggested that that they should apply to all disabled people.

It was also suggested that commitments 22, 23, and 24 (employment within the NHS) should be extended to all workforces

Commitment 26 relates to carrying out Child Rights and Wellbeing Impact Assessments on all policies relating to children, but it was argued that this should be extended to embrace policies not specifically aimed at children but which will affect children.

There were also calls for commitment 30 (Child Internet Safety stakeholder) to be expanded to include vulnerable adults, and for the scope of mental health legislation being reviewed in commitments 31 and 32 to be expanded.

Finally, it was suggested that commitment 35 (learning and development framework for foster carers) should be widened out to include all parents and kinship carers of disabled children.

Other recurring themes include comments relating to implementation, engagement and inclusive communication, and there were calls for more detail and clarity around some of the commitments (18, 27, 28, 30 and 32).

Questions were asked about why this Outcome was the only one to specifically mention children, with the suggestion that either children are included specifically in the titles of all the outcomes, or a separate fifth outcome about children is included.

Outcome 3 – Equal and inclusive access to education, paid employment and an appropriate income whether in or out of work

Thirteen commitments were included under Outcome 3. Consultees were asked if they agreed or disagreed that these commitments would help the Scottish Government make progress towards Outcome 3. Seventy-one per cent agreed that they would.

Recurring themes emerging under the Outcome 3 commitments related to the implementation of the commitments and the need to engage with disabled people.

The importance of supporting post school transitions to help young people access work or further education was emphasised, and there was a call for person-centred services in connection with commitments 43 and 44 (Disability Employment Services in Scotland and support to help disabled people into work).

When commenting on commitment 46 (Disability Benefits Advocacy Support) and commitment 48 (establishing a social security system that treats people with dignity and respect), consultees reflected on their dissatisfaction with the current benefits system administered by the Department of Work and Pensions (DWP). They spoke of the negative impact of cuts to welfare and benefits and dissatisfaction with, and stress caused by Personal Independence Payments (PIP) and Employment Support Allowance (ESA) assessment procedures. There were calls for the Scottish Government to continue to mitigate against Westminster cuts to welfare spending.

Consultees provided numerous suggestions for how a future Scottish social security system could improve on the current system. Most suggestions were made by one consultee. Those which were suggested by more than one consultee were: the need to overhaul assessments (3); developing a system that does not take away the motivation to find work (3); and better co-ordination between benefits, social care, work and education (2).

Outcome 4 – Equal and inclusive access to the justice system without fear of being unfairly judged or punished, and with protection of personal and private rights

There were six commitments included under Outcome 4. Consultees were asked if they agreed or disagreed that these commitments would help the Scottish Government make progress towards Outcome 4. Eighty per cent agreed that they would.

Commitment 50 (encouraging the reporting of hate crime against disabled people) received the most comments. There was a belief that education and awareness-raising around hate crime, such as what hate crime is, the impact of hate crime, and how to report a hate crime, was required. It was believed that disabled people, the general public, children and professionals who deal with hate crime, could all benefit from education and awareness-raising. It was also believed that disabled people needed more support to report hate crime.

The need for engagement and inclusive communication were recurring themes.

There was also a belief that some of the commitments should be expanded. In relation to commitment 51 (accessible information), for example, consultees suggested that the kind of information made available in accessible formats should be widened and for the range of formats to be increased.

Similarly, with commitment 52 (accessibility of sites and services) consultees wanted this to be widened out to go beyond wheelchair access and consider a wider range of potential barriers.

Commitment 54 refers to violence against disabled women and girls, but some consultees pointed out that disabled men and boys may also face violence, and that violence against any disabled person needs to be addressed.

The three cross-cutting themes

The delivery plan outlines three ways of working, which will underpin all that is done to deliver each of the outcomes. The themes identified are:

- disabled people are empowered to participate fully
- communication is accessible and inclusive of all
- raising awareness - barriers facing disabled people are known, understood and addressed

Consultees were asked if they agreed or disagreed that these were the most important themes that the Scottish Government needed to build in to the way it works across all activity to achieve the rights of disabled people. Three quarters (75%) agreed that they were.

Whilst most consultees were broadly supportive of these themes, there were suggestions for themes which should have been included, or given more focus. In particular, it was felt that human rights should have been more central to the delivery plan, and also that the rights of the child should have been given more prominence.

Other themes suggested were: free social care at point of delivery, in order to strengthen disabled people's empowerment and participation; combatting social isolation and promoting social inclusion; supporting people to lead independent healthy lives; intersectionality; and violence

Next steps and any further comments

Consultees were asked for any comments they had about next steps. The most common theme related to the content, layout and structure of the plan and consultation. It was felt that both the plan and consultation could have been easier to read and more user friendly.

The implementation and evaluation of the plan was also commented on. Evaluating progress against the commitments was seen as very important. Again, the importance of engaging with disabled people was highlighted. Some consultees mentioned the commitments that they would like to see added to the delivery plan. These included: specific commitments around mental health and health and social care integration.

Conclusion

On the whole consultees were generally supportive of the disability delivery plan and its aims, outcomes and themes. They did, however, want it to go further, and also noted a number of key omissions. In particular, the lack of focus on mental health, on children and young people and on social care was seen as especially problematic. It was also stated that there should be a stronger focus on human rights within the delivery plan.

Certain themes were repeatedly raised. These included: the need for meaningful engagement with disabled people; the importance of inclusive communication; and awareness-raising of barriers to independent living. Poor attitudes, stigma and discrimination were also often cited as being the most significant barriers to equality of opportunity and independent living in disabled people's experience.

What next?

Scottish Government officials are currently strengthening the disability delivery plan on the basis of responses to the consultation, and we hope to publish the final plan at the end of the year.

ANNEX A – Outcomes and Commitments

Outcome 1 – Equal and inclusive access to the physical and cultural environment, transport and suitable, affordable housing

Commitments	
1	Transport accessibility
2	Design for Ageing
3	Raising awareness of accessible design
4	Homes which are more accessible
5	Accessible housing
6	A new help guide aimed at boosting accessible design
7	A new help guide to assist tourism businesses
8	A new help guide setting out key accessibility hints and tips
9	Access statement online tool builder
10	Widening access and increasing opportunities for disabled people to engage in culture, heritage and the arts
11	Recording and reporting of workforce diversity information
12	Improving access to the historic environment and collections relating to the historic environment
13	Disability Inclusion in Sport
14	Action plan to promote disabled people's participation in sport and physical activity
15	sportscotland investments
16	One Scotland awareness-raising campaign

Outcome 2 – Equal and inclusive access to healthcare provision and support for independent living, with control over the best use of resources and support for disabled children

Commitments	
17	Health Inequalities of people with learning disabilities data collection
18	Advocacy
19	The New framework for Hearing the Citizen Voice
20	Routes to Inclusion – ‘Engaging disabled people and their organisations’
21	Allied Health Professionals and Independent Living – delivery plan
22	NHS – two-year internship for disabled graduates in partnership with NHSScotland and Glasgow Centre for Inclusive Living Equality Academy
23	NHSScotland Learning Disability Employment Programme
24	Disability Inclusion Promotional Campaign
25	Measure compliance of NHS Boards on embracing equality diversity and human rights in the NHS in Scotland
26	Child Rights and Wellbeing Impact Assessment (CRWIA) for all policy development affecting children
27	Fund for projects to support disabled children and their families
28	Information Hub
29	Transitions Test of Change Project
30	Child Internet Safety stakeholder group
31	Review of inclusion of people with learning disabilities or autistic spectrum disorders under the Mental Health (Care and Treatment) (Scotland) Act 2003.
32	Consult on Scottish Law Commission’s review of the Adults with Incapacity Act and thereafter carry out a scoping exercise in relation to a wider review of the Adults with Incapacity legislation

33	Review of policies on guardianship and consider circumstances in which supported decision making can be promoted
34	An integrated children's rights and equalities impact assessment for the Scottish Children's Reporter Administration
35	Enhanced learning and development framework for foster carers

Outcome 3 – Equal and inclusive access to education, paid employment and an appropriate income whether in or out of work

Commitments	
36	Continued commitment to implement additional support for learning
37	Anti-bullying – respectme and review and refresh of the ‘National Approach to Anti-bullying for Scotland’s Children and Young’
38	Overarching commitment from Fair Work Directorate
39	Investment in Developing the Young Workforce and further investment to support young people with barriers to employment including disability
40	Supported Employment Model
41	Supported Businesses
42	Establishment of a Fair Work Convention
43	Disability Employment Services in Scotland
44	Ensuring flexible and integrated support is put in place to support individuals with particular needs, including disabled people into work
45	Abolish fees for employment tribunals and consultation re barriers that disabled people face when raising a claim at an Employment Tribunal
46	Disability Benefits Advocacy Support
47	Future reform of local taxation will take into account the particular needs expressed by disabled people
48	Establishment of a social security system that treats people with dignity and respect during their time applying for, being assessed and receiving disability benefits

Outcome 4 – Equal and inclusive access to the justice system without fear of being unfairly judged or punished, and with protection of personal and private rights

Commitments	
49	Review of legal aid contributions for disabled people
50	Encourage reporting of hate crimes against disabled people
51	Accessible information
52	Accessibility of sites and services
53	Develop and deliver a 'pilot' improvement project focusing on preventing and removing disability hate crime from society
54	Engage with DPOs to explore extent of violence against disabled women and girls, in the context of our ambitions under Equally Safe

Annex B – List of groups/organisations who responded

Aberdeen City Council (1- Business Hub)
Aberdeen City Council (2 - Equalities Team)
Action on Hearing Loss Scotland
Alzheimer Scotland
British Deaf Association
Capability Scotland
Centre for Mental Health and Incapacity Law, Rights and Policy - Edinburgh
Napier University
Children and Young People's Commissioner
College Development Network
College of Occupational Therapists
Community Transport Association
Disability Agenda Scotland
Downs Syndrome Scotland
Dundee Learning Disability & Autism Strategic Planning Group
East Ayrshire Council
Enable
Equality Human Rights Commission and Scottish Human Rights Commission
Free Church of Scotland
Glasgow Centre for Inclusive Living
HIV Scotland & NAT (National AIDS Trust)
Inclusion Scotland
Independent Living Fund Scotland
Independent Living in Scotland Project
Lead Scotland
Leonard Cheshire Disability
Living Streets Scotland
Lothian Centre for Inclusive Living (LCiL)
Members of the Rights for Life Steering Group
Mental Welfare Commission for Scotland
Moray Disability Forum

National Autistic Society Scotland - Young Campaigners Group
National Deaf Children's Society
NHS Forth Valley (Women and Children's Sexual Health)
NHS Health Scotland
PAMIS
Paths for All
People First (Scotland)
Perth and Kinross Council
RCPsych in Scotland
Royal College of Physicians of Edinburgh (RCPE)
Royal College of Speech and Language Therapists
SACRO
Saving Down syndrome
Scottish Commission for Learning Disability
Scottish Courts Tribunal Service
Scottish Disability Equality Forum
Scottish Learning Disabilities Observatory
Scottish Trade Union Congress
Self Directed Support Scotland
Sense Scotland
Social Work Scotland Ltd
Social Work Students BA (Hons), School of Education & Social Work
Social Work, Dundee City Council
Society for the Protection of Unborn Children (SPUC) Scotland
Stirling Area Access Panel
Stirling Council
The Electoral Commission
The Health and Social Care ALLIANCE Scotland (The ALLIANCE)
The Law Society of Scotland
Thistle Foundation
Together (Scottish Alliance for Children's Rights)



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