

Scrutiny of the rights of disabled people

Auditor General and Audit Scotland
response to the Equalities, Human
Rights and Civil Justice Committee

Introduction

The Auditor General and Audit Scotland welcome the opportunity to respond to the Committee's scrutiny of how public authorities are advancing the rights of disabled people, particularly in relation to independent living, access to services, and the effectiveness of policy implementation at national and local levels.

Through public audit, we aim to provide clear, independent and objective assurance on how effectively public money is being managed and spent. We are independent of both the Scottish Government and public bodies, and we are currently consulting with the Scottish Parliament on our forward work programme. We will take this feedback into our considerations for future work. We support the public sector to address inequalities and to protect human rights, but we do not assess compliance. We make recommendations for improvements intended to have a positive impact for people in Scotland.

We have not carried out specific work on services for people with learning disabilities and/or who are autistic. However, some of our audits looking at health, social care, housing and education touch on some of the Committee's areas of interest, including moving to a more preventative approach, directing resources to support this, and developing the skills and capacity of the workforce.

Current audits still to be published and areas of potential interest for the committee are:

- [Delayed discharges](#), due to publish in early 2026 – This audit will provide an independent assessment of how effective the current arrangements to address delayed discharges from hospital are, by looking at leadership, governance, and the levels and quality of integration. The audit will analyse the impact the initiatives put in place by Scottish Government, Integration Authorities, NHS Boards and Councils are having to reduce delayed discharges.
- [Adult Disability Payment](#), due to publish in autumn 2025 – The audit will look at how well ADP is being managed and assessed, how well the financial and non-financial consequences of this approach are being managed, and if ADP is contributing towards wider efforts to improve outcomes for people with disabilities.

- Local government workforce innovation, Accounts Commission report due to publish in August 2025 – this will provide information on how councils have responded to workforce challenges and approaches to workforce planning to meet future needs.

Response to the Committee's questions

1. Funding and Resource Allocation - To what extent are current funding structures and resource distribution effectively supporting the transition from institutional models of care to independent living? Are public authorities allocating resources in a way that ensures Scotland meets its legal obligations?

We have not carried out work to allow us to answer this question specifically. Taking an equality and human rights-based approach to budget setting helps towards delivering better outcomes for everyone. In our [Fiscal sustainability and reform in Scotland report](#), we recommended that the Scottish Government should incorporate this approach into its overall public service reform programme as soon as possible, to ensure the results are used to inform decisions about changes to policies and services across portfolio areas. This work should be clearly aligned to the new National Performance Framework.

The Accounts Commission report on [Integration Joint Boards Finance and performance 2024](#) set out the increasing financial pressures and constraints facing IJBs:

- Integration Joint Boards (IJBs) face a complex landscape of unprecedented pressures, challenges and uncertainties. These are not easy to resolve and are worsening, despite a driven and committed workforce. The health inequality gap is widening, there is an increased demand for services and a growing level of unmet and more complex needs. There is also variability in how much choice and control people who use services feel they have, deepening challenges in sustaining the workforce, alongside increasing funding pressures.
- We have not seen significant evidence of the shift in the balance of care from hospitals to the community intended by the creation of IJBs. They operate within complex governance systems that can make planning and decision making difficult. They cannot address the issues across the sector alone. Whole system collaborative working is needed as part of a clear national strategy for health and social care that will promote improved outcomes across Scotland but reflects the need to respond to local priorities.
- The workforce is under immense pressure reflecting the wider pressures in the health and social care system. Across the community health and social care sector there are difficulties in recruiting and retaining a skilled workforce. The Covid-19

pandemic, the cost-of-living crisis and the impact of the withdrawal from the European Union have deepened existing pressures. Without significant changes in how services are provided and organised, these issues will get worse as demand continues to increase and the workforce pool continues to contract.

Our [NHS in Scotland 2024](#) report highlighted the lack of certainty about medium-term financial plans and late and one-off funding allocations during the year making financial management difficult for NHS boards. The absence of national plans that provide indicative medium-term financial planning assumptions, workforce projections and national priorities, continues to affect the ability of individual boards to identify the types of service transformation and reforms that are now necessary.

2. Effectiveness of Self-Directed Support (SDS) - Given previous Audit Scotland reports on SDS, has there been measurable improvement in its implementation? How are local authorities ensuring that SDS is administered in a way that genuinely supports disabled people's right to independent living?

We have not done any direct work around the implementation of self-directed support since our [2017 report](#) and [2019 impact report](#) (a summary of the main findings from both are set out [here](#)). However, through our ongoing engagement with the social care sector we understand that an implementation gap remains. There remains wide variability in how the SDS policy is implemented across Scotland with a mixed experience for people in having full choice and control of their support.

3. Workforce Capacity and Training - How are workforce shortages and training gaps in social care affecting the ability of disabled people to access services? Are public bodies effectively planning for workforce sustainability, and is there adequate funding to support fair pay and recruitment?

Our [NHS in Scotland 2024](#) report highlighted that despite growth in the workforce across several medical professions, vacancies remain unfilled and high levels of staff absences continue to put pressure on staff and the wider system.

Our [Integration Joint Boards Finance and performance 2024](#) report highlighted the immense pressure the workforce is under, reflecting the wider pressures in the health and social care system. Across the community health and social care sector there are difficulties in recruiting and retaining a skilled workforce. The Covid-19 pandemic, the cost-of-living crisis and the impact of the withdrawal from the European Union have deepened existing pressures. Without significant changes in how services are provided and organised, these issues will get worse as demand continues to increase and the workforce pool continues to contract.

[Scotland's Local Government Workforce Report 2024](#), jointly produced by Solace, the Improvement Service and SPDS (Society of Personnel Development Scotland), noted that councils overwhelmingly reported facing challenges to recruit and retain staff. While the overall workforce has grown, it has failed to keep pace with increasing demands across the sector. This has resulted in significant staff shortages across councils and the report highlighted critical workforce gaps in the social care and social work sectors.

Our delayed discharges audit will consider the challenges and pressures the workforce is under, including from increasing demand and complexity of care requirements, and the impact vacancies in social work and NHS staffing are having on discharging people, care packages, rehabilitation and readmissions.

There is a lack of affordable and suitable housing, especially in rural areas, affecting attracting and retaining staff. A recent [key worker homes in the south of Scotland report](#) highlights that recruitment and retention are significant problems in social care. It states that housing problems may be affecting 1 in 5 staff (19%) in the independent care sector, and 730 Local Authority staff (6% of the total council workforce). Newly qualified social workers and entry level care support workers are disproportionately affected.

4. Local Authority Compliance with Human Rights Obligations - What evidence exists to show that local authorities are delivering services in a way that upholds their human rights obligations, particularly in relation to housing, social care, and education?

Our [Additional support for learning](#) (ASL) audit reported that current attainment measures show a wide gap in outcomes for pupils receiving ASL and other pupils. More appropriate ways of measuring the achievements of pupils who receive ASL are still at a very early stage of development. This, coupled with gaps in understanding additional support needs, makes it difficult to assess whether the Scottish Government, councils and their partners are planning for and providing the appropriate support to meet pupils' needs, in line with their rights.

Our [Tackling digital exclusion report](#) found that online public services do not always consider the needs of people without digital access, which may put their rights at risk. People with learning disabilities, older people and homeless people are all at greater risk of social isolation but can benefit when they are supported to use digital tools and technology. However poorly planned digital services can disadvantage vulnerable people. Some council services that citizens frequently find difficult to access include: the Blue Badge scheme that helps people with disabilities or health conditions park closer to their destination; council housing adaptations; and cost of living support and guidance.

The Accounts Commission's report [Delivering for the future: Why leadership matters in July 2024](#), highlighted the importance of effective and sustained leadership as it becomes harder for councils to do more with less. An area for improvement for councils is ensuring that equality impact assessments are completed at an early stage to inform policy and strategy development, and that equality impact assessments are published.

Our delayed discharges audit is looking at barriers to moving people from institutions into appropriate accommodation. This includes the impact of delays in securing legal mechanisms for adults with incapacity, such as power of attorney and guardianship orders. A reported barrier is the many homes do not meet the needs of older and disabled people. The [Equality and Human Rights Commission](#) found in 2018 that 61,000 people needed adaptations to their existing homes. The [Scottish Government](#) has committed to introduce a Scottish Accessible Homes Standard from 2025/26 for new homes.

5. Accountability Mechanisms - Are current oversight and accountability structures sufficient to ensure that disabled people's rights are being upheld in practice? What improvements could be made to strengthen public bodies' compliance with human rights-based approaches?

We have found effective governance and clear lines of accountability can be lacking or hampered by complex arrangements and lack of clarity where there is joint responsibility across public bodies for delivering services and improving outcomes. For example, in [Health and social care integration: Update on progress](#) – we highlighted challenges around a fragmented structure of services and complicated governance and approval processes, which can delay decision-making.

Our [NHS in Scotland: Spotlight on governance report](#) summarises challenges in service planning arrangements set out in our 2023 report on adult mental health services. IJBs, NHS boards, councils and third sector organisations are all involved in the planning of adult mental health services. Challenges with information sharing and complicated governance and approval processes made it more difficult to develop and provide person-centred services. The roles and responsibilities of health and social care partners are not always clearly distinct, and sharing of data and information between health and social care partners is another area of difficulty. The Independent Inquiry into Mental Health Services at NHS Tayside found that governance arrangements for the planning and provision of services were complex and unclear.

Our [Social care briefing](#) in January 2022 stated that regardless of what happens with reform (when a National Care Service was being proposed), some things cannot wait. We said a clear plan was needed urgently to address the significant challenges facing social care in Scotland based on what can be taken forward without legislation. We recommended that the

Scottish Government should develop this quickly, with clear timescales, to remove any uncertainty about the future direction of social care, building on lessons learned from previous reform. And in doing so it is important to develop an understanding of what a preventative and human rights-based approach to social care looks like and a plan for co-producing it.

We also highlighted limitations of social care data, which included:

- No individual social care record in the same way that each member of society has an NHS record. This makes it difficult to assess whether social care is meeting people's needs.
- No consistent method for recording unmet need. A person may be assessed as needing social care support but may not meet the eligibility criteria in place. This makes it difficult to assess the level of unmet need and therefore what more is required to deliver a person-centred, human-rights approach to social care.
- No coordinated approach to anticipating future demand for and costs of delivering services. Although some individual health and social care partnerships base their strategic plans on data for the prevalence of conditions in their area, for example heart disease, there is limited evidence of this being used in budget decisions.

Embedding a human rights-based approach

We have been developing our approach to how we embed human rights in our work. Our latest [mainstreaming report](#) provides a summary of the main work we have done so far on this and how we are working with others, including SHRC, to develop it.

Our [Tackling digital exclusion audit](#) is one where we have done the most detailed work on taking a human-rights based approach, which we are learning from and taking into other audit work. We used the [PANEL principles](#) to inform taking a human-rights based approach. This allowed people with experience of digital exclusion to participate in and inform the audit. People with lived experience formed a reference group, providing insight and feedback, helping to improve the accessibility of the findings.

We have recently published a new [DEI strategy](#) and have identified actions to further embed human rights, which will include updating our audit methodology and guidance and raising awareness among colleagues on how to best do it. To date it has applied to our performance work, but we are looking to expand it to some extent into our financial audit work.

We have set an equality outcome for our audit work for 2025-2029:

“Our scrutiny of spending decisions considers impacts on people who use public services from an equalities and human rights perspective. In doing so, our reporting and recommendations support public bodies to tackle inequalities in Scotland and are more person-centred and relevant to protected and minority groups.”

Actions to achieve this outcome will include a more systematic assessment of all protected characteristics as part of equality considerations at key stages of the audit and considering the impact of spending and budget decisions on equalities and human rights, including from a socio-economic perspective.