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.¹

Overview
The Scottish Commission for Learning Disability (SCLD) is an independent charity and a strategic partner to the Scottish Government in the delivery of The keys to life (Scotland’s learning disability strategy). We are an intermediary organisation and work directly with people with learning disabilities to hear and act on what they say and work with partners and stakeholders to ensure their human rights are respected, protected and fulfilled. Agreeing budgets, upholding an inclusive culture and maintaining focus are all needed to ensure strategic outcomes are met and individuals are protected, safe and able to live their best lives free from discrimination.

SCLD welcomes the Committee’s inquiry into public sector funding to third sector organisations that deliver national equalities and human rights priorities, as it is a high-level acknowledgement of the importance of independent organisations that serve as ‘human rights defenders’. We note that the UN Declaration on Human Rights Defenders is now nearly 21 years old and it sets out the key scrutiny role for non-governmental organisations (NGOs) which complement the work of our two National Human Rights Institutions (NHRIs)² and the Children and Young People’s Commissioner for Scotland. We also welcome the Committee’s decision to assess the accountability of public bodies partnering with the Third Sector in achieving better outcomes for those groups who have equality needs or require support to access their rights. The Third Sector needs to be allowed to influence public bodies’ services and policies, given what it knows from people’s experience and current practice. It also requires to have the time to gather information, provide analysis, better understand and use key tools and reports such as the EHRC’s ‘The Cumulative Impact of tax, social security and public spending decisions in Scotland.’³

Currently, people with learning disabilities in Scotland require a range of support to access their rights and SCLD agrees with Dr Alison Hosie of the Scottish Human Rights Commission (SHRC) that public funds should invest in ‘preventative spend’ so that an abuse of rights occurs only rarely⁴.

² EHRC Scotland and SHRC
SCLD has confined its submission to the requested four pages but would be happy to give oral evidence to the Committee and to convene a meeting of learning-disabled people and also one with their families.

Recommendations
1. **Preventative Spend:** There needs to be a wider understanding that learning disabled people are a protected group under the Equality Act 2010 and are separately covered, along with their families and friends, by the Human Rights Act 1998 including Section 6 – duty on public services and those delivering services of a public nature to comply with the European Convention on Human Rights (ECHR).

2. **Reacting to Rights Abuses:** Consideration should be given to establishing an independent enforcement mechanism which people can access, supported by advocacy services, so that when rights abuses happen, they have an effective remedy as set out in Article 13 ECHR.

3. **Make Rights Happen:** Introduce visible accounting on outcomes and impact of public services using the model being developed by the SHRC. This should complement a range of other measures that should already be in place such as pro-active publication of information by health boards and local authorities.

4. **Partnership Working:** SCLD believes that success will come from rights holders and duty bearers working smarter to achieve already agreed outcomes. SCLD seeks to fulfill a leadership role within its sector and believes the First Minister’s current work on human rights leadership should build on the strengths within the Third Sector too.

5. **Accountability:** Scrutiny of the draft budget and its performance in delivering the NPF is a daunting process and the focus should be given to simplification to build participation and evidence led policy, service and performance reform.

Given our knowledge, experience and practice SCLD offers the following analysis and opinion.

1. **Key public policy areas where learning disabled people are struggling to access their rights.**

Whilst the majority of people with learning disabilities in Scotland do not live their lives in institutional settings, nor do they live their lives at the heart of their communities as equal and active citizens. A range of barriers exist for many, so they are prevented from being fully included in their communities.

**Reserved Issues:** the UK welfare benefit system is a hugely problematic. The UN Special Rapporteur on Extreme Poverty published his report on his visit to the UK, which contained 11 recommendations. People with disabilities featured in his analysis of extreme poverty ‘Nearly half of those in poverty – 6.9 million people – are from families in which someone has a disability…Those with disabilities are also highly vulnerable to cuts in local government services, particularly within social care, which has left them shouldering more of the costs of their care…’. At his meeting with UK NGOs in Geneva on 27th June, he was clear that civil society has a role in pushing for, and scrutinising if, the recommendations are delivered. That work needs to be funded in Scotland.

**Devolved Issues:** SCLD agrees with the analysis offered by the Scottish Government that ‘people are still unable to make their contribution or live their lives as they would want because of the barriers in their way. Our homes, our transport, our workplaces, our public

---

5 The Special Rapporteur’s Report on the UK, paras 76-77 is available at https://undocs.org/en/A/HRC/41/39/Add.1
services and our local environments are all too often designed or operated in ways that can exclude people with learning disabilities. Inaccessible communication, negative attitudes, low expectations, discrimination and inequality impact in ways which interact and affect the chances of disabled people - even to have social connections and human interaction.6

2. What type of public sector funding (European, national or local) is provided to your organisation to support vulnerable groups and those with protected characteristics to access public services?
SCLD is funded by the Scottish Government and that enables us to work across Scotland. We work to make our evidenced policy and voice count and all the resources we develop are free to all.

3. Is the level of public sector funding provided enough to deliver national priorities and better outcomes for people and communities?
Given the challenges in the wider third sector funding environment we believe there is insufficient funding for organisations and cost/benefit analysis shows that where funds can be allocated on a preventative basis, crisis can be avoided7.

4. Are there public funding challenges for the third sector; if so, what would be the implications for delivering equalities and human rights outcomes?
Specific funding should be made available to Third Sector organisations to deliver both equalities and human rights outcomes and for that focus to be treated not as an add on but mainstreamed across their work.

5. What administrative systems are in place to monitor the impact on equalities and human rights outcomes from public sector funding to the third sector?
A number of separate administrative systems are required by international human rights law but it is unclear to what extent they have been operationlaised in Scotland. The UN Convention on the Rights of Persons with Disabilities (CRPD) is given effect via ‘A Fairer Scotland for Disabled People – Our Delivery Plan to 2021’.8 Article 31 of CRPD requires the UK and Scottish Governments to collect appropriate information, including statistical and research data, to enable the formulation and implementation of policies to give effect to the listed rights. Also, to share and make the information accessible to enable informed scrutiny. Article 33 requires co-ordinated monitoring of compliance including with civil society, involving in particular persons with disabilities and their representative organisations.9

The UN’s International Covenant on Economic, Social and Cultural Rights requires the Scottish Government, and through bodies such as health boards and local authorities, to progressively realise to the maximum extent of available resources, all of the rights equally and that includes the right to the highest attainable standard of physical and mental health; the right to an adequate standard of living; the right to food and clothing;

---

7 See https://d1ssu070pg2y9i.cloudfront.net/pex/aberlour/2017/01/07154846/Aberlour-Family-Service-Evaluation.pdf for detailed cost/benefit analysis
8 More information is available at http://www.gov.scot/Publications/2016/12/3778
the right to adequate housing. There is a shortage of reliable data and information to prove how that is happening.

**Model Publication Scheme – The Freedom of Information (Scotland) Act 2002** requires designated public authorities to adopt a publication scheme approved by the Scottish Information Commissioner. They have to make available the information they have committed to publish and that includes: 'Class 2: How we deliver our functions and services', 'Class 4: What we spend and how we spend it' and 'Class 7: How we are performing'\(^\text{10}\). Despite these duties, insufficient data and information is available.

**The SHRC’s Human Rights Budgeting (HRB) Tools** help organisations to calculate how much is spent and how much should be spent on respecting, protecting and promoting economic and social rights.\(^\text{11}\) However there are challenges as the process needs to be mainstreamed along with equalities budgeting. Before organisations engage, they need to be convinced the effort will yield a positive outcome i.e their evidence will make an impact.

6. **What changes could be made to improve accountability for national priorities being delivered by the public sector in partnership with the third sector?**

   Greater independent scrutiny and enforcement of existing rights. Third Sector organisations that operate as ‘Human Rights Defenders’ should be valued and understood as core to an integrated rights respecting strategy. The 1998 ‘UN Declaration on Human Rights Defenders’ encourages every one of us to play a role locally, nationally and internationally in standing up for human rights to make our country more inclusive and fairer. By adopting international human rights standards, we ensure dignity and respect for all of us.

**Conclusion**

SCLD recognises that budget scrutiny is one of the recommendations in the Committee’s Inquiry Report, of November 2018, which made a total of 40 recommendations for action.\(^\text{12}\) Therefore the Committee will understand the gap between high level political leadership and commitments and the actual impact and outcomes from public spending. Not one thing will make Scotland a rights respecting country and we need to take stock and be realistic about why barriers persist to the full enjoyment of rights for learning disabled people. The First Minister’s Advisory Group on Human Rights Leadership report ‘Recommendations for a new human rights framework to improve people’s lives’ is welcome and we look forward to the impact it makes on the Third and Public Sectors. We note that the First Minister has announced the setting up of a Task Force\(^\text{13}\).

\(^\text{10}\) Scottish Information Commissioner, version updated in November 2018 at http://www.itspublicknowledge.info/ScottishPublicAuthorities/PublicationSchemes/PublicationSchemesHome.aspx

