

## **EQUALITIES AND HUMAN RIGHTS COMMITTEE**

### **DRAFT BUDGET SCRUTINY 2020-21**

#### **SUBMISSION FROM DEAF SCOTLAND**

**“Blindness cuts us off from things, but deafness cuts us off from people”.**  
**Helen Keller<sup>i</sup>**

#### **Overview**

deafscotland welcomes the opportunity to provide comment to the Equalities and Human Rights Committee of the Scottish Parliament to inform its scrutiny of the next Scottish Government’s Draft Budget for 2020-21. Adequate public sector funding to third sector organisations such as ours, will deliver national equalities and human rights policy and services priorities and outcomes. deafscotland also offers commentary on the accountability of public bodies in achieving better outcomes for those groups whose human rights are not being respected, protected or fulfilled, who have equality needs or require support to access their rights.<sup>ii</sup>

deafscotland understands that the inclusion of a ‘Human Rights Outcome’ in the Scottish Government’s 2018 National Performance Framework (NPF) creates an opportunity for enabling budget allocations to fund communication through procurement and fund Third Sector agencies such as ourselves to achieve economies of scale in building knowledge and capacity especially on human rights, as well as funding the work of our member organisations. However, we believe there needs to be more explicit action to deliver human rights-based budgeting to ensure that Scotland is meeting its international and national human rights obligations. Also, that a greater understanding the human rights consequences of how society treats people who are deaf and hard of hearing and agreement to address the consequent vulnerability. We agree the result of this participative process will be changes to policy priorities and allocation of resources.

#### **Hurdle of Inclusive Communication**

Key to realising human rights generally is the right to effective communication so that people can access and participate in what is going on and can be understood when they communicate<sup>iii</sup>. This includes participation in third sector organisations as well as the ability to influence public spending decisions. deafscotland promotes the social model of disability, a person-centred, rights-based approach. Communication is a basic human right and is critical to humans: it connects people and enhances relationships. “Communication” is defined in the UN Convention on the Rights of Persons with Disabilities (UNCRPD) as including “languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology”. “Language” includes spoken and signed languages and other forms of non-spoken languages. The UNCRPD requires Governments to ensure respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, independence, full and effective participation, inclusion in society and equality of opportunity. So, these international rights matter in Scotland<sup>iv</sup>

Language is an important part of communication. Communication beyond language is just as important. For too many people language and/or communication is interrupted, as barriers exist across races or through physical disability such as stroke. We describe language and communication as human rights however they are also “enablers” to help people engage with and enjoy a rights-based approach.

Communication is central to employability, life-skills and sustaining relationships. People can leave school with **language qualifications** including in British Sign Language (BSL). A commitment to building proficiency, confidence and developing further (approved/accredited) training in **communication** can only be a positive thing and that requires change. We see these changes as fitting with the “socio-economic” duty to use public funds and address barriers in successful, sustainable ways. deafscotland knows that BSL users are much less likely to be included and involved in mainstream engagement, participation and consultation processes. This is also the case for those with other access barriers who are Deafened, Deafblind or Hard of Hearing. Mainstream approaches and methods tend to create barriers for all those affected by deafness.

### **Third Sector**

The United Nations Paris Principles provide the international benchmarks against which national human rights institutions (NHRIs) can be accredited by the Global Alliance of National Human Rights Institutions. Scotland has two NHRIs: the Scottish Human Rights Commission and the Equalities and Human Rights Commission. The PP’s set out a clear role for civil society organisations which is broader than ‘Third Sector’ eg it includes professional associations of lawyers, doctors and trade unions organisations. The ‘fundamental role’ played by the non-governmental organisations needs to be better funded both centrally and locally by the public sector in Scotland without comprising the scope and independence of the Third Sector in Scotland.<sup>v</sup>

### **Deafness**

The first hurdle to the equal enjoyment of rights is for the public sector to appreciate the extent of deafness and to approach deafness as an equality **and** as a human rights issue. Also, performance should also be monitored against existing obligations under international human rights law such as Article 2 of ICESCR which is the duty to progressively realise economic and social rights to the maximum extent of available resources.

The four ‘key pillars’ of are: Deaf (including BSL users; 12,533 – Census 2011); Deafblind (4,000); Deafened (355,000); and Hard of Hearing (600,000). There is a spectrum of deafness requiring society to make different adjustments to address the barriers people face on a daily basis to enjoying family life, accessing and achieving in education and learning, participating in training, securing and being promoted in employment and participating in culture. deafscotland believes Scotland can be a society where all people have their human rights respected and delivered but something needs to change to make that happen.

### **Focus of Public Spend**

From our practice and experience, human rights have failed to realise their potential in Scotland and need to be understood as providing a distinct legal framework which must be complied with. It is 21 years since the UK Human Rights Act was passed

and the Scotland Act was passed establishing a Parliament to govern on devolved areas in Scotland including education, housing and health. Human rights promotion and delivery were key parts of both laws, but the pace of compliance is slow and inconsistent. It is 13 years since the Scottish Commission for Human Rights was established by the Scottish Parliament which serves as an independent watchdog.

Given the human rights issues which remain, something needs to change and a new strategy is needed which integrates high level political commitments with **mainstreaming** human rights in everyday places across public services so that the equal enjoyment of rights is evidenced in the funding, design and delivery of services as well as people experiences of using those services. The impact will be a fairer, more inclusive rights respecting Scotland. Therefore, we welcome the 47 recommendations across the two reports published in 2018 and would urge that, nearly a year later, there is action to deliver them. Third Sector organisations are only part of the solution given the limits on our power to force change.

In the adoption of the 2030 Agenda for Sustainable Development in 2015<sup>vi</sup>, the UK along with other UN member States agreed to ground the new agenda in international human rights law and that the SDGs aim to realise the human rights of all. That commitment is backed by an analysis that over 90% of the 169 SDG targets are linked to standards from the international human rights and labour rights frameworks. There is an opportunity to explore the practical monitoring of the SDGs and human rights. deafscotland believes that part of the solution is to better fund independent Third Sector organisations to ensure Scotland is a rights respecting country.

### **Insufficient public sector funding**

More public sector funding is needed to deliver national priorities and better outcomes for deaf people, their families and communities. There are a variety of key public policy areas where people are struggling to access their rights.

People There are over a million people affected by hearing loss in Scotland. Despite welcome initiatives such as the British Sign Language (Scotland) Act 2015 which meets the needs of nearly 13,000 people, much more needs to be done to achieve effective communication for all. Even when British Sign Language (BSL) is respected and delivered, organisations and companies should only use accredited interpreters, so the communication is meaningful<sup>vii</sup>.

Children Specialist teachers who provide deaf pupils with support in schools are being reduced causing many to be "left behind". Under a third of deaf pupils (29%) go to university, compared to almost half (45%) of their hearing classmates. The Scottish Government's latest figures show that Scotland's 3,300 deaf children have lost nearly a third (29%) of their specialist teachers in the past eight years.<sup>viii</sup>

Families Latest Scottish Government data shows that last year 11.8% of deaf learners left school with no qualifications (compared with 2.6% of all pupils). The National Deaf Children's Society report 'Getting It Right from the Start', details how effective early years support is critical to closing this attainment gap. 90% of deaf children are born to hearing parents with no experience of deafness, so early years support is vital to empower families and create equity. With the right support from the very start, deaf children can achieve just as much as their hearing peers. While

the British Sign Language (Scotland) Act (2015) and national Getting It Right for Every Child (GIRFEC) approach have the potential to improve outcomes for deaf children and their families, there is still much to be done to ensure all 3,000 deaf children in Scotland get the support needed to fulfil their potential.<sup>ix</sup>

Students 46% of deaf students who need support at university were still waiting for it when their course began. Of those, more than half (59%) experienced delays of more than two months and over a quarter (28%) waited six months or more. Support for deaf students varies depending on an individual's needs, but it can include a notetaker, specialist tutor or British Sign Language Interpreter. Technology might include a radio aid or streamer, which transmit a lecturer's voice to the deaf student's hearing aids or cochlear implant. One key issue is that the Government needs to subsidise training to attract new support workers who are vital to meet the needs of deaf students. Education providers need to publish and advertise notetaking jobs to fellow students in the university as it's an easy way to earn money and can increase awareness for those who might not have met a deaf person before.<sup>x</sup>

Older People Hearing loss can be age related: for those aged over forty about 40% are affected; over sixty it is 60%; and over seventy five it is 90%. Hearing loss has consequences as people are more likely to become socially isolated and separated from their geographical communities, families and friends and accessing services can suddenly become very problematic. Greater scrutiny on the (economic and other) impacts of overlooking deafness in older people is required to target tailored services.

### **Public Funding Challenges**

There is not a history of specific funding for third sector organisations which are focused on human rights. Increasingly equality organisations are being required to tag on human rights work without sufficient learning opportunities, scrutiny of what that work entails and its specific outcomes. There is a greater need to uncouple the equality and human rights approaches and for focus and evaluation of outcomes to shift on to human rights specific work. The third sector is often tasked with addressing problems caused by the impact of how public funding is spent. Greater scrutiny of the unintended consequences of some funding decisions would prevent some problems arising in the first place. This may entail greater emphasis on socio-economic impact and some departmental restructuring.

Poverty provides a good example of how huge the task can be. Professor Phillip Alston, the UN Special Rapporteur on Extreme Poverty and Human Rights<sup>xi</sup> visited the UK in 2018 and reported that although we are the world's fifth largest economy 14 million people are living in poverty, 1.5 million in destitution, one in every two children are poor, reduced life expectancy in some areas, vast numbers of 'in work poor' and huge dependency on food banks so there are endemic problems. A good number of these people will have a significant hearing loss themselves or live in families where the adults have a significant hearing loss.

### **Barriers to Human Rights Delivery**

Human rights awareness amongst the population generally is an issue that impacts on those who have responsibilities for compliance as well as for rights holders in public services and those funded by public money. For example the

Scottish Human Rights Commission (SHRC) commissioned YouGov to understand current knowledge and attitudes on human rights in 2017. The online survey of 1500 (16+) revealed that: 42% were supportive, 30% conflicted, 13% opposed, 14% disengaged and a sizeable 45% did not know what word to associate with human rights<sup>xii</sup>.

Therefore, when asking staff to deliver rights and to roll out policy on human rights, it is important that there is a shared understanding of what that means in theory as well as practice. There are a number of separate policies which need to be joined up to make an impact on rights and opportunities including:

- Through the new NPF<sup>xiii</sup>
- A Fairer Scotland for Disabled People<sup>xiv</sup>
- Fairer Scotland Action Plan.<sup>xv</sup>
- The Scottish Government is planning to incorporate the UN Convention on the Rights of the Child (UNCRC) into Scots law<sup>xvi</sup>
- Disability Recruitment and Retention Plan of the Scottish Government<sup>xvii</sup>

### Reporting on Outcomes

To improve accountability for national priorities being delivered by the public sector in partnership with the third sector we think specific reporting requirements are needed to enable focus at the point of funding, the process of making service decisions and to enable informed scrutiny.

### Conclusions and Recommendations

Despite one million in Scotland experiencing deafness and despite the range of issues facing our community, the income of deafscotland is broken down as:

**Financial Year 2018-19, Income, 286,193; Expenditure 390,025; Reserves £115,455 and 20% of income £55,961 spent in communication support. Of the income 20% is direct Scottish Government grant, 20% is indirect Scottish Government grant and 40% is self-generated. Further information is available on request.**

Therefore, our income from the public sector is insufficient to support deaf and deafened people even though the Equality Act 2010 requires action as they have 'protected characteristics' when accessing public services and there is huge shortfall in service accessibility. Applying human rights law enables our work to focus on the equal enjoyment of specific rights such as 'respect for private and family life', 'the right to form an opinion' and 'the right to an effective remedy'.

deafscotland is happy to work with the Scottish Government, the public sector, NHRIs and the public sector to deliver a 'rights respecting Scotland' that is inclusive, mainstreaming, taking a whole population approach and promoting communication for all. We think all are keys to an integrated Scotland, not just for those with a hearing loss. However, deafscotland (and others) needs increased resources to fund its work which is cascaded through members across urban and rural Scotland.

### About deafscotland

deafscotland<sup>1</sup> is the lead and national, specialist body on all matters concerning those affected by deafness in Scotland. It is membership based and supports networking activity, promotion of good practice, sharing of learning and development of good quality information that is accessible to all. It works with duty bearers, rights receivers and rights defenders across the public, private and third sectors.

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<sup>i</sup> Helen Keller was an American educator, advocate for the blind and deaf and co-founder of the American Civil Liberties Union (ACLU). She is the first known deaf-blind person to earn a Bachelor of Arts degree.

<sup>ii</sup> Committee's terms of reference for the Call for evidence

<https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/110195.aspx>

<sup>iii</sup> For more information go to the Inclusive Communication Hub at <http://inclusivecommunication.scot/>

<sup>iv</sup> Articles 2 and 3 of the UNCRPD available at UN website at

<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html>

<sup>v</sup> See GANHRI website at <https://nhri.ohchr.org/EN/AboutUs/Pages/ParisPrinciples.aspx>

<sup>vi</sup> See UN website at [https://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/70/1&Lang=E](https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E)

<sup>vii</sup> For more information see the website of The National Registers of Communication Professionals Working with Deaf and Deafblind People at <https://www.nrcpd.org.uk/>

<sup>viii</sup> BBC Scotland News Report of NDCS analysis of Scottish Government's latest figures. 6<sup>th</sup> August 2019 at <https://www.bbc.co.uk/newsround/49233439>

<sup>ix</sup> 'Getting It Right from the Start' report from NDCS September 2016 <https://www.ndcs.org.uk/about-us/news-and-media/latest-news/scottish-deaf-children-need-better-early-years-support/>

<sup>x</sup> A National Deaf Children's report pub 19<sup>th</sup> June 2019, based on 134 deaf students' experiences at university <https://www.ndcs.org.uk/about-us/news-and-media/latest-news/almost-half-of-deaf-students-start-university-without-support/>

<sup>xi</sup> The Special Rapporteur's Report on the UK is available at <https://undocs.org/en/A/HRC/41/39/Add.1>

<sup>xii</sup> See SHRC Annual Report 2017- 2018 pg. 22 at

[http://www.scottishhumanrights.com/media/1807/shrc\\_annual\\_report\\_2018\\_vfinal.pdf](http://www.scottishhumanrights.com/media/1807/shrc_annual_report_2018_vfinal.pdf)

<sup>xiii</sup> <https://www.gov.scot/publications/fairer-scotland-disabled-people-employment-action-plan/>

<sup>xiv</sup> <https://www.gov.scot/publications/fairer-scotland-disabled-people-delivery-plan-2021-united-nations-convention/pages/3/>

<sup>xv</sup> <https://www.gov.scot/publications/fairer-scotland-action-plan/>

<sup>xvi</sup> See UN website at <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>xvii</sup> For an update see <https://www.gov.scot/publications/scottish-government-response-consultation-increasing-employment-disabled-people-public-sector/pages/6/>

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<sup>1</sup>The working title of the Scottish Council on Deafness which was established in 1927