EQUALITIES AND HUMAN RIGHTS COMMITTEE
DRAFT BUDGET SCRUTINY 2020-21
SUBMISSION FROM INCLUSION SCOTLAND

1. Introduction

1.1. Inclusion Scotland is a ‘Disabled People’s Organisation’ (DPO) – led by disabled people ourselves. Inclusion Scotland works to achieve positive changes to policy and practice, so that we disabled people are fully included throughout all Scottish society as equal citizens.

2. What are the key public policy areas where individuals and protected groups are struggling to access their rights?

2.1. The Scottish Government’s own recent review of the National Performance Framework (NPF)\(^1\) shows the differences in outcomes between disabled and non-disabled people in Scotland and provides a useful baseline for assessing the key public policy areas where disabled people in Scotland are still struggling to access their rights. The review found:

- Higher likelihood of living in relative poverty after housing costs with a disabled person in the household, i.e. 24% of families with a disabled member compared to 17% of families with no disabled members. After excluding disability related benefits from household income, the relative poverty rate after housing costs in 2015-18 was 30% among households with a disabled member, compared to 16% among those without a disabled member.
- Higher levels of child material deprivation in households containing a disabled person – at 20% compared to households without a disabled person at 8%.
- Higher rates of food insecurity among disabled people – 18% compared to 5% among non-disabled people.
- A disability employment gap in Scotland of 35.5%.
- Lower educational attainment among disabled people, in a context where 25% of disabled people have low or no qualifications at SCQF level 4, compared to 10% of non-disabled people.
- Over 61,000 disabled people in Scotland who need adaptations to their home and over 17,000 wheelchair users living in housing that doesn’t meet their needs.

2.2. This month we surveyed our members to see what their key priorities were in terms of rights denial and policy change. Their 6 key priorities, in line with the key findings above, were access to social security and issues of income security, social care support, employment, accessible and affordable housing, inclusive education and tackling stigma and discrimination.

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\(^1\) Scottish Government (2019) Scotland’s Wellbeing – Measuring the National Outcomes for Disabled People
2.3. The Scottish Government are committed to interventions in all of these policy areas as detailed in *A Fairer Scotland for Disabled People* and the subsequent *A Fairer Scotland Employment Action Plan*. Whilst we commend the Scottish Government for their overarching commitments to equality and inclusion for disabled people in Scotland contained in these plans, many of the promised actions are simply a round-up of pre-existing activities or lack ambition in key places.

2.4. For example, the supplementary *Fairer Scotland for Disabled People Employment Action Plan* seeks ‘to reduce by at least half, the employment gap’ between disabled people and non-disabled people. Despite the clear urgency for action, the target for achieving this ambition is 2038, and that is only to halve the gap.

2.5. Many actions offer work to stage events, undertake research, and produce strategies and guidance. There is little inkling of how these activities will translate into positive and tangible change for disabled people.

2.6. Furthermore, opportunities for our involvement in the delivery and evaluation and monitoring of *A Fairer Scotland for Disabled People* has been piecemeal, and has sometimes been hindered by lack of accessible and inclusive practice and information, and by the capacity and resource issues facing many Disabled People’s Organisations.

2.7. **A lack of access to civil justice** for disabled people in Scotland underpins rights denial in all of the public policy areas identified by disabled people as priorities. The lack of a coherent and co-ordinated system of legal support for disabled people itself makes evidencing disabled people’s unmet legal needs difficult. Nonetheless, the scale of disabled people’s need for access to civil justice is demonstrated by statistical analysis of new cases presented by individuals contacting the Equality Advisory and Support Service in Scotland. This showed that in 2018 disabled people constituted over 65% of the caseload to this service, whilst they make up 20% of the population in Scotland.

2.8. Austerity-driven cuts to support and services for disabled people in Scotland form the background to rights denial. Between 2010 and 2015, £22 billion of benefit cuts arising from the UK Government’s Welfare Reform programme fell on disabled people. Cuts to Employment and Support Allowance (ESA) claimants and restrictions placed on entitlement to Personal Independence Payments (PIP) are resulting in further losses to disabled people across the UK.

2.9. The roll-out of Universal Credit brings additional threats, despite Scottish Government welcome action on payment frequency and allocation within households. The transfer of DLA claimants to PIP is expected to have been largely completed before the new Scottish Social Security system is in place. 105,000 Scots disabled people are expected to lose out with nearly half those on the Higher Mobility part of DLA losing it following reassessment for PIP. Meanwhile evidence

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2 Scottish Government (2016) A Fairer Scotland for Disabled People: delivery plan

3 Scottish Government (2018) A Fairer Scotland for Disabled People: employment action plan

4 EASS Percentage of new cases by protected characteristics for Scotland January 2018

5 Guardian (2015) Every welfare cut listed: how much a typical family will lose per week
continues to accumulate of the damaging impact on claimants of flawed and punitive assessment and sanctions regimes for reserved benefits.

2.10. We are conscious that the UN found the United Kingdom to be in ‘grave and systemic violation’ of United Nations Convention on the Rights of Disabled People (UNCRPD) articles on independent living, work and welfare because of these cuts, and that more recently the Rapporteur for Extreme Poverty and Human Rights was damning of the UK’s austerity approach which is driving poverty across the UK.

2.11. Eligibility criteria for social care support across Scotland have become ever more restrictive, while charges levied on individuals by local authorities can be as much as 100% of a disabled person’s disposable income. A recent survey of our members, which follows up on a similar survey from 2015, asked if things had got better, stayed the same, or got worse in relation to the statement, “In 2015 disabled people told us that cuts to social care and rising care charges meant that social care was not supporting them to participate in all aspects of society”. 73% of respondents told us that things had got worse.

2.12. Poor access to goods and services, transport and the built environment are common causes of disability discrimination in Scotland, preventing disabled people from taking up opportunities for education and employment, and participating and contributing to the lives of their communities.

2.13. Unemployment amongst disabled people in Scotland is widespread and persistent. In 2018 the employment rate of Scots disabled people of working age was 45.6% compared to 81% for non-disabled people. Thus, the disability employment gap was 36% and non-disabled people in Scotland are 70% more likely to be in employment than their disabled peers. Despite disabled people making up 20% of Scotland’s population, they make up only 11% of the private sector workforce and 11.7% of those working in the public sector.

2.14. The low rates of employment amongst disabled Scots are compounded by their being more likely to be in low-paid, entry-level jobs even if they are lucky enough to find employment. According to the Equality and Human Rights Commission (EHRC) the average rate of pay for disabled workers is £9.90 ph compared to £11.40 ph for their non-disabled peers - a difference amounting to £2,730 a year for those in full time work.

2.15. Lack of employment and low rates of pay make Scots disabled people more dependent on benefits for some or all of their income. Thus, “welfare reforms” (cuts) to other benefits would impact disproportionately on disabled people even if there were no cuts to the level of disability and carers benefits. However, there have been cuts to such benefits particularly to Employment Support Allowance (ESA) and the disability and carers premiums for both adults and children on Universal Credit. The

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EHRC estimates that the cumulative impact of tax and welfare reforms on households containing disabled people will be as follows:

- Households with at least one disabled adult and a disabled child are projected to lose over £6,500 by 2021-22. Households with no disabled adults and no children will on average gain around £750 from the reforms.
- The most disabled will be the worst hit - households with six or more disabilities will lose almost £3,150 a year on average.
- Disabled lone parents with at least one disabled child will lose almost £10,000 of net income\(^9\).

2.16. As can be seen disabled people - one fifth of Scotland’s population – are currently facing an unprecedented onslaught to their incomes and livelihoods at a time when legal remedies to enforce rights are insufficient and largely inaccessible to them.

2.17. Brexit too will impact on a wide range of rights, current legal protections, and support systems for disabled people in Scotland that affect their everyday lives – human rights, discrimination, healthcare and access to medicines, social care support and food security - and access to funding for their organisations, as will be discussed further on.

2.18. Disabled people are also likely to be impacted by other emergent issues that have considerable implications on Scottish Government spending – responding to climate change or new ways of ensuring income security for example – but the potential impacts for disabled people have yet to be fully recognised and addressed.

3. **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?**

3.1 National funding to support our role as an intermediary organisation. Inclusion Scotland continues to receive a core funding grant from the Scottish Government’s Equality Unit, who also fund our work on internships and access to politics, and our Highland’s Involvement Project. The Scottish Government’s department of Adult Social Care Support Reform funds our People-led Policy project and its Community Planning and Empowerment Unit fund the Access to Elected Office Fund Scotland. Last year we also received funding for our work on the United Nations Convention on the rights of Disabled People (UNCRPD) from the Equality and Human Rights Commission (EHRC) and as the Scottish partner in the UK-wide Disability Research on Independent Living and Learning (DRILL) we received funding from The Big Lottery Fund. We have recently received an award from the Big Lottery’s Lived Experience pilot programme.

4. **Is the level of public sector funding provided enough to deliver national priorities and better outcomes for people and communities, please provide evidence?**

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\(^{9}\)EHRC (2018) The cumulative impact of tax and welfare reforms
4.1 We are very aware that the Scottish Government has committed to taking an overall more progressive approach to human rights than the UK Government and are committed to achieving better outcomes for disabled people.

4.2 We welcome the work of The Equality Budget Advisory Group (EBAG) which helps shape the Scottish Government's equality and human rights approach to the budget.

4.3 We particularly commend the Scottish Government for recently announced funding for an income supplement for families at risk of poverty; the significant financial mitigation in Scotland of austerity impacts which disproportionately disadvantage disabled people, such as the ‘bedroom tax’; the retention of the Independent Living Fund which is open to new applicants and the involvement of disabled people in the design of some elements of a new Scottish Social Security system based on dignity, fairness and respect.

4.4 We also strongly support the recommendation of the First Minister’s Advisory Group on Human Rights for the development of a new Act of the Scottish Parliament that will provide further rights to people in Scotland. Our understanding is that this will be drawn from UN human rights treaties ratified by the UK but not yet incorporated, including economic, social and cultural rights, and will therefore include rights for disabled people included in the UNCRPD. We are keen to ensure that the opportunity will be taken to incorporate full treaty rights for disabled people, as has been the approach with the United Nations Convention on the Rights of the Child (UNCRC). We also remain sceptical that disabled people will be able to exercise these new rights in any meaningful way for the reasons already described.

4.5 However, in relation to levels of public funding and outcomes for disabled people we remain very concerned that cuts to local government funding and austerity-driven cuts to services are impacting on disabled people realisation of their right to independent living. The current situation with social care support – rising demand that is fast outstripping investment, coupled with an approach providing little more than ‘life and limb’ support to decreasing numbers of disabled people - is directly at odds with the commitment of the Scottish Government to making disabled people’s human rights a reality.

4.6 Even when the principles of dignity, respect and control are built into the fabric of national social care policies, as with Self-Directed Support (SDS), we find that local authority budget constraints, inflexibility, lack of adequate infrastructures, and poor information and advice provision about options have frequently led to very poor experiences for disabled people seeking SDS. Resource Allocation Systems which purport to offer transparency in terms of how personal budgets are calculated, have become feared systems of perceived oppression – where disabled people re-assessed for SDS see their packages of support cut dramatically.

4.7 It is not uncommon for Disabled People’s Organisations who support disabled people to access Self-Directed Support to report to us anecdotal conversations they have had with Local Authorities about individual care packages, where Heads of Social Work have openly said that they ‘simply do not have the budgets to fund independent living’ for disabled people.
4.8 Also, while the extension of free personal care to people under 65yrs is in principle welcome, we remain concerned about where funding for this is to come from, and how ‘personal care’ is to be defined. If, as we fear, it amounts to nothing much more than free auxiliary nursing care within the community, then in no way does this take us forward, in terms of social support for full and equal participative citizenship for disabled people who need social care support.

4.9 Resourcing social care support and recognising its wider role in enabling quality of life, participation and the contribution disabled people in Scotland make to our economic and social infrastructure, is a political choice. We believe if the Scottish Government is serious about disabled people realising their human rights it must invest in a national infrastructure for social care support, one that facilitates the delivery of a statutory framework of common outcomes.

4.10 We are also concerned that the measures and indicators used to evaluate well-being, spend and performance of Local Authorities in relation to adult social care are primarily concerned with home and residential care for older people, as evidenced by the Local Government Benchmarking Framework\textsuperscript{10}. No account is taken of independent living for disabled people and no Local Authority to our knowledge is collecting evidence on ‘unmet need’ for social care support so we have no clear picture of what tightening eligibility criteria actually mean for disabled people missing out on a service.

4.11 In relation to funding for our own organisation - Disabled People’s Organisations have a key role to play in combating rights denial in the areas of public policy making that disabled people themselves identify as being key priorities as well as ensuring that civic society in Scotland is equipped to participate in the effective monitoring of UN Human Rights Conventions as they relate to disabled people. This is explicitly recognised in General comment No. 7 (2018) by the UN Committee on the Rights of Disabled People where the UN has highlighted the obligation on State Parties to involve Disabled People’s Organisations (DPOs) and to ensure they are adequately funded\textsuperscript{11}.

4.12 However, despite our ever-expanding role, Inclusion Scotland’s Core Funding from Scottish Government has not increased in the last 6 years. This effectively means that our operational budget is falling in real terms. As expenses are rising, we have less money available for engagement of disabled people, so vital to ensuring that their lived experiences are fed back to policy and decision-makers, and that real co-production forms an integral part of the way that policy interventions and services are designed in Scotland.

4.13 We are also aware of many smaller Disabled People’s Organisations, most recently Inverclyde Council on Disability, that are going to the wall because of a lack of funding. In 2015, disabled people believed that their organisations were facing a funding crisis. In the same recent survey, almost two thirds responded to say that things had got

\textsuperscript{10} National Benchmarking Overview Report 2017-18  

\textsuperscript{11} Committee on the Rights Of Person's with Disabilities (2018) General comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention  
http://docstore.ohchr.org/SlashHandler.ashx?enc=6QkG1d%2FPPRIAGhKb7yhsnbHatvuFkZ%2Bi93Y3D%2Baa2jFYzWLBu0vA%2BBr7QovZhbyqzjDNolweYI46WXrJ6aB3Mx4y%2FspT%2BQrY5K2mKse5zj o%2BfvBDVu%2B42R9ik1p
worse, with the majority of remaining respondents stating that things had stayed the same.

4.14 Explanations revealed that the same money is stretched, pitting DPOs against each other, and partnership and collaborative working is seldom explored. We also recently separately surveyed our DPO members of Inclusion Scotland and asked about the greatest challenge their organisation faced. Half the respondents (and the most popular answer by far) said money/funding/support from Local authorities was the biggest challenge to their operating. Another stated that their biggest challenge is, “getting decision makers to realise what life is like for disabled people and how their decisions affect them”.

5. Are there public funding challenges for the third sector; if so what would be the implications for delivering equalities and human rights outcomes?

5.1. European funding directed towards equality and human rights in Scotland is worth around €1.1 billion in the period 2014-20\textsuperscript{12}. The UK Government has made a commitment to replace EU structural funds with a UK Shared Prosperity Fund (SPF) when the UK leaves the European Union (EU). However, a continuing lack of detail about the proposed amount, scope, focus and operation of the SPF has meant that concerns about the future of funding for equality and human rights persist. Inclusion Scotland are concerned that a temporary pause or complete discontinuation of this funding after Britain’s exit from the EU would weaken the voluntary sector.

5.2. This could have significant implications for Disabled People’s Organisations, particularly those who provide employability support programmes and skills training to disabled people in Scotland if sufficient and similarly targeted replacement funding is not available. It will also lead to greater competition between the remaining Disabled People’s Organisations for alternative funding.