

Inclusion Scotland's response to COSLA's UN CRPD Local Government Delivery Plan consultation

1. About our response

- 1.1. Inclusion Scotland is a network of disabled peoples' organisations (DPOs) and individual disabled people. Our main aim is to draw attention to the physical, social, economic, cultural and attitudinal barriers that affect disabled people's everyday lives and to encourage a wider understanding of those issues throughout Scotland.
- 1.2. Inclusion Scotland believes central to addressing the inequalities faced on a daily basis by disabled people is the fundamental right to Independent Living. Independent Living has been defined by disabled people, and endorsed by the Scottish Government as meaning:

"disabled people of all ages having the same freedom, choice, dignity and control as other citizens at home, at work, and in the community. It does not mean living by yourself, or fending for yourself. It means rights to practical assistance and support to participate in society and live an ordinary life."¹
- 1.3. During summer 2014, Inclusion Scotland consulted disabled people at a series of events and using an online survey. We asked them about the UK government's delivery of their UN CRPD rights, and also: 'What are the most important things the Scottish or UK governments could change to improve your life?'
- 1.4. In "A Vision for an Inclusive Scotland"² we set out what disabled people told us. We called for the removal of the many barriers to inclusion that disabled people experience, and argue why action to do so must be co-ordinated across policy areas. We agree that COSLA and its members have a key role to play in achieving this vision, and are pleased to provide this response which incorporates the views of our disabled members.
- 1.5. In 2015, we hosted 'Grasping the Thistle' discussion forums with disabled people, disability organisations and other stakeholders, about difficult issues within the UNCRPD. For example, where articles are interpreted differently from their intention by the signatory, the UK state party. Article 24, the right to education, is one such example that has relevance to COSLA's set of proposals on young school leavers' education. Our on-going engagement work with a wide range of statutory, third sector and disabled people's organisations on hate crime also feeds into our response to this set of proposals.
- 1.6. We have continued to consult with seldom heard groups of disabled people on their rights during 2015. Inclusion Scotland's UNCRPD engagement project is funded by the Equality Unit of the Scottish Government (SG) to ensure engagement about their disability rights with seldom heard, or hard to reach, groups of disabled people, to continue to inform our draft List of Issues shadow report to the UN, and also to engage on the SG's UNCRPD Draft Delivery

¹ Our Shared Vision for Independent Living in Scotland, Scottish Government, April 2013, <http://www.scotland.gov.uk/Publications/2013/04/8699/1>

² <http://www.inclusionScotland.org/index.php/policy-parliament/29-a-vision-for-an-inclusive-scotland>

Plan consultation. While some of that engagement will continue after the COSLA consultation deadline, we have so far consulted with LGBT disabled people, BME disabled people, disabled women, disabled people in care homes and disabled children and young people, to gather their specific views on their experience of their human rights.

1.7. We are pleased to note that COSLA has involved Disabled People's Organisations and the Independent Living in Scotland project whilst drafting these proposals. This sets an important example for future work of its members in initiating co-production with disabled people and our organisations, as much as possible, of future action arising from proposals in the plan. We also warmly welcome the emphasis given to co-production with disabled people, as opposed to mere consultation. Done well, the added value of co-production can bring is very considerable, not just in leading to better-informed outputs but also, through the process, mutually improved understanding and valuing of all participants' roles and perspectives. However, for many, this is a new way of working. Support and capacity-building may be required. See, for example, the Independent Living in Scotland's co-production tool-kit³

1.8. A note about language

We appreciate that this draft plan has been brought together by different parts of COSLA at an impressive rate. We would urge consistency of language in the final Delivery plan. The United Nations 'Convention on the Rights of Persons with Disabilities' is so called because it is translated from the French, one of the main languages used by the International Committee in Geneva. Disabled People's Organisations (DPO's), run by and for disabled people (as distinct from the many, non-representative, often better-resourced and more powerful disability organisations led by non-disabled people) refer to 'disabled people', rather than 'people/persons with disabilities', because we use the social model (as opposed to the medical, charity and bio-psycho-social models of disability) which says that people with impairments (and some people with long-term conditions) are disabled by the barriers they face in society. We therefore refer to the UN Convention on the Rights of Disabled People. Whilst this model is acknowledged in the plan, it refers in places to people with disabilities and to disabled person's organisations throughout. Clear consistent use of language and an explanation of this will increase understanding among staff that work in member Councils, and help them further understand the added value of working directly with DPO's.

1.9 We are pleased to see high level principles that use well established approaches that we use such as PANEL, as referenced in point 1.5 of the COSLA draft delivery plan. We hope that these high level principles and the actions identified in the document are progressed in reality with the same enthusiasm as they have been referenced and compiled.

2. Local Democracy and promoting equality

Encouraging disabled people to participate in local democracy

2.1. We welcome this important area of consideration by COSLA. Disabled people make up one in five of the population. Yet we face massive physical, informational and attitudinal barriers to participation in Scottish political life. As a consequence, we are under-represented as Local Authority Councillors, on Health Boards and in the Scottish Parliament. This is not a party political issue but an issue for democracy and the realisation of human rights. The points and actions raised in this section represent good consultation with disabled people's organisations, and we hope that this work continues in this vein to improve disabled people's access to participation in local democracy and their Article 29 rights.

³ See: <http://www.ilis.co.uk/get-active/publications/co-production-toolkit>

- 2.2. Inclusion Scotland has recently been involved in delivering a small pilot project to provide internships in the Scottish Parliament for disabled graduates. This scheme – the value of which was extremely highly rated by all who took part - needs to be expanded and funded on a long-term basis. The learning from this exercise led to the development of an internship model for disabled graduates, which we would like to see rolled out across the public sector.
- 2.3. We are also working with the Scottish Government to explore the development of an Access to Elected Office fund to provide more general practical support to disabled people wishing to be involved in Scottish politics at national or local level. We would be more than happy to discuss this project with the relevant officer at COSLA to look at where we can promote each other's work in this area.
- 2.4. COSLA should ensure that good quality and comprehensive information is gathered on how many Councillors and Officers are disabled in each Scottish Council, disaggregated from data about other Council staff. COSLA should also collect comprehensive equal opportunities data, on impairment groups and other protected characteristics, to identify whether any are particularly under-represented and explore any particular barriers they may be encountering.
- 2.5. It would also be useful for Scottish Councils to capture any reasonable adjustments they make for disabled Councillors and Officers. One example recently introduced to City of Edinburgh Council is meetings that are live-webcast so that members who have mobility problems can take part remotely. A range of examples of good practice such as this one, once gathered, could be disseminated to COSLA's wider membership to provide information to other Scottish Councils on improving their access. Inclusion Scotland would also find this useful for providing information to other organisations we work with who are looking to improve their accessibility to disabled employees.
- 2.6. We agree with actions 2 and 4. Mapping of disabled people's organisations (DPOs) and peer-advocacy projects would be an extremely useful piece of work that could then feed into the work of action 2 and a number of other actions raised throughout the draft plan. It is worth considering whether this exercise should be undertaken by the Local Authority itself, or whether more would be achieved (directly and indirectly) by commissioning a local DPO to carry this out.
- 2.7. COSLA members should however note that not all Council areas will have a DPO within its area or region. With regard to action 5, we would encourage Scottish Councils to encourage and support ad hoc groups that might exist to form constitutional organisations with a (majority disabled people) board of trustees representing a wider range of equality groups. This sort of capacity building work could be supported by Inclusion Scotland, which strives to support development of our organisational members. Where no DPO exists, there would need to be a good deal of both financial and administrative support from a Council to help establish it.
- 2.8. We have been distressed to learn that some Scottish Councils have been disempowering local DPO's by removing their funding, either through restructuring of the local third sector interface to incorporate the services that were formerly being outsourced to the DPO 'in-house'. This was recently the case with Fife Council. Or in the case of West Lothian Council, by putting services traditionally provided by DPOs out to tender and then accepting the lowest bid without taking into account other considerations, and then commissioning organisations for (rather than of) disabled people. Neither of these strategies recognise the added value that DPOs provide by involving their members in co-producing local authorities' policies and strategies; advising them on how best to communicate with hard to reach

disabled people; and, most importantly, as experts on their own needs and barriers. We would recommend that recognition of this additional value, and the promotion of empowerment and equality, is built into procurement frameworks.

- 2.9. The capacity of DPOs is a hugely important issue in relation to Action 6, which is about local authorities working with DPOs to integrate human rights into their impact assessment models. Many local DPOs provide some kind of personal development with their members. They are also called on to consult disabled people on local and sometimes national policy changes; to work to influence local committees and public bodies; provide advice on subjects that range from welfare benefits to Health and Social Care to making information accessible; as well as many providing other information and advice services directly to local disabled people. If Scottish Councils are called to work with local DPOs on a range of different issues, from human rights to local employment opportunities, then DPOs themselves need to have the financial and staffing capacity to be able to meet with those increased demands from Scottish Councils.
- 2.10. Point 3.10 describes proposed work to bring the Scottish National Action Plan (SNAP) human rights innovation forums into the purview of local authorities interested in hosting pilot forums. The best way, again, for Scottish Councils to open it up to disabled people is to work in co-production with disabled people and their organisations. Disabled people should also be encouraged to attend the pilot human rights innovation forums so that they can drive them with their direct experience and knowledge of how their rights can and should be improved. Therefore there should be another corresponding action that develops on action 6, which incorporates work to make these meetings accessible and promoted to disabled people, including seldom heard disabled people, and their organisations.

Tackling Inequalities

- 2.11. When Inclusion Scotland consulted a group of LGBT disabled people this year, we were told that despite the protections afforded them by the Equality Act 2010, they were not being seen in terms of their intersectional identities, and that discrimination they experience on the basis of intersectional identity is neither recognised nor addressed. 'There needs to be good general awareness that there is a whole collection of identities and experience', said one participant. 'It is important that the awareness focuses on the fact that several identities can intersect ... This stems from the protected characteristics cited under the Equality Act 2010' (UNCRPD focus group, June 2015). Better awareness that protected characteristics intersect contributes to a greater visibility where it is accepted that people can be both LGBT and disabled.
- 2.12. Inclusion Scotland therefore welcomes that equality impact assessments take place on the impact of policies on specific groups with protected characteristics. We recommend that Local Authorities go further than this in their assessments, and seek the views of people whose identities intersect, and for whom services and policies may be inappropriate. We cite Disabled LGBT people in the point above, but this could also be happening, for example for BME disabled women and girls (for example, Gypsy Travellers), who are more likely to be also carers.⁴ This could warrant an action for this section.

⁴ MECOPP have a library of resources that are useful for a range of policy and service areas on this carers of and disabled Gypsy Travellers http://www.mecopp.org.uk/resources-gypsy_traveller_resources.php?section_id=252 as well as reports about other minority ethnic carers and disabled people on their website.

- 2.13. Another key issue for addressing inequality is domestic abuse and other inequalities experienced by disabled women. The rate of gender-based violence for the general female population in Scotland is 1 in 5.⁵ Disabled women however are twice as likely as non-disabled women to experience gender-based violence,⁶ including domestic abuse, sexual assault and rape.⁷ 1 in 2 disabled girls will have experienced some form of sexual violence before their 18th birthday, compared to 1 in 5 disabled boys.⁸ Local authorities, as key service providers of housing support, homeless services and health and social care, and child protection services should consider carefully how to promote and protect this group from further vulnerability through their equality duties.
- 2.14. Additional actions related to these points would further help to realise disabled people's rights under articles 5 (Equality and non-discrimination), 6 (disabled women), 7 (disabled children) as well as an array of other UNCRPD rights as they relate to the policy and service areas under consideration within scope of the LAs' specific duties under the Equality Act 2010.

Community Planning and Outcomes

- 2.15. We note that some good practice is described as the approach being taken to community planning and outcomes in points 3.15 to 3.17. Points 3.15 and 3.16 cite various policy interventions where disabled people have placed value on 'personal outcome setting' and a 'more rounded outcomes focus'. However, we note many examples of retrogression of rights in relation to health and social care, Self-Directed Support and education, in different Locality Authority areas, because disabled peoples' outcomes are being overruled by financial expediency. According to one of our largest DPO members, Glasgow Disability Alliance, their members told them that, 'disabled people must be involved in setting the outcomes...so that services meet need. This will involve co-planning. This will also involve a shift from "doing to" to "working with" disabled people and will make better use of resources'.⁹
- 2.16. We'd encourage COSLA to set an action in relation to this section that would in some way compel Scottish Councils to take this approach, rather than deciding on major cuts to integral services that impact most on disabled people and then consulting on the cut. Had City of Edinburgh Council taken this approach to working up its health and social care budget, it may have found efficiencies drawing on the experiences of disabled people directly, rather than imposing a 10% cut. Doing to and not with, as referred to in the previous point, is largely the experience of most disabled people in reference to policies and services at all levels of government. This usually leads them being denied their article 19 rights to living independently in the community and such practices may also be regressing the rights in article 4, General Obligations of State parties, including part 3 of article 4, which states:

'In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve [disabled people], including disabled children, through their representative organisations'.

⁵ <http://togetherwecanstopit.org/what-is-domestic-abuse/>

⁶ Hague, Gill, Ravi K Thiara, Pauline McGowan and Audrey Mullender (2008) 'Making the links: Disabled women and domestic violence, Women's Aid.

⁷ <http://www.niaendingviolence.org.uk/perch/resources/double-oppression-violence-against-disabled-women.pdf>

⁸ Shah, Sonali, Sarah Woodin and Lito Sitsou Unpublished paper under review 'Hidden voices: Disabled Women's Experiences of Violence and Support over the lifecourse'

⁹ GDA 'Are you being served? Coproduction in challenging Times: A briefing from Glasgow Disability Alliance <http://www.gdaonline.co.uk/fileuploads/are-you-being-servedcoproduction-0371.pdf>

3. Employment, Employability and Education

Local Government as an Employer

- 3.1. Point 4.3 is important to progressing many of disabled people's rights in the Convention, and we are pleased that schemes to support and improve accessibility to the workplace cited in point 4.4 are being used to supporting an increase in employment of disabled people with a range of different impairments and conditions.
- 3.2. April 2015 figures reveal that the employment of disabled people has fallen to 43.9%, while the non-disabled employment rate has risen slightly, once again, to 80.9%¹⁰ a rate similar to its pre-recession level - although there are now many more people in part-time and self-employed work – implying a widening of the gap in employment rates of disabled and non-disabled people.
- 3.3. Action 9 refers to the possibility of considering Positive Action to ensure Scottish Councils are supporting disabled people to work for them. Positive Action can be justifiable, but it must be accompanied by support and capacity-building both for the employee and the employer. Without this it can become tokenistic and, worse still, set disabled people up to fail in roles they are not equipped to perform well in.
- 3.4. To ensure that this support and capacity building is applied appropriately, we recommend that all staff members making recruitment decisions should have the following compulsory training:
- Reasonable adjustments
 - Disability Equality and Disability Awareness Training
 - awareness of the Access to Work scheme and its applications.
- 3.5 We also recommend that that positive policies are put in place to retain existing staff who acquire an impairment, including looking to some of the approaches listed above to ensure that employees who become disabled are well-supported and adaptations are considered to their work habits and other access needs.
- 3.6 The draft plan acknowledges that Councils use the Access to Work scheme operated by the DWP, but we would like to see this promoted further. Relevant council officers should all be aware of it so that it can be promoted to new disabled staff members, as well as training on reasonable adjustments so that no disabled person faces discrimination in hiring practices due to fear of the costs of hiring them.
- 3.7 Take-up in Scotland is low and it only supports a tiny proportion of working age disabled people. Figures obtained by Inclusion Scotland show that 2,840 disabled people in Scotland (just over 2% of the working age population) received support through Access to Work in the year to April 2014. This is just 8% of all AtW recipients in the UK, although Scotland has a higher prevalence of disabled people (about 11% of the total).¹¹ We recommend therefore that its use is also promoted to all of the organisations that Councils support or procure services from.
- 3.8 Other internal human resources policies that would improve hiring and retention of disabled staff members include impairment related leave policies, making inclusive communications available (e.g. BSL interpretation or palantypists for D/deaf staff members at meetings), and information to be made available in accessible formats where required. This are just examples

¹⁰ Labour Force Survey, ONS Feb, April 2015 (not seasonally adjusted)

¹¹ Regional Breakdown provided by DWP to the UK Statistics, April 2015

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/421499/access-to-work-statistics-april-2015.pdf

and organisations such as Momentum Scotland can provide more detailed advice about improving Council's recruitment and retention policies.¹²

- 3.9 Inclusion Scotland welcomes COSLA's commitment to internships for disabled people in each Scottish Council. The following paragraph set out the internship model we have developed in co-production with participants in our pilot Scottish Parliament internship scheme. We are keen to roll this model out across the public sector and would be more than happy for COSLA to seek our help or partnership to ensure best practice and to inspire learning from evaluations of our projects.
- 3.10 COSLA may be aware of Inclusion Scotland's Employability and Civic Participation projects. One such project delivered the successful Scottish Parliament internship pilot project, and another is now working in partnership with SCVO and SDEF and funded by Scottish Government, to support third sector organisations to hire disabled graduates on paid internships, and to support the interns to get quality experiences from these internships. This project improves organisations' awareness of employees with diverse impairments, their value and worth and the reasonable adjustments needed. As it comes towards the end of its funding it is being evaluated to improve on the methods used thus far, and to look in the round at continued barriers to successful and accessible placements.
- 3.11 We also encourage COSLA to work closely with DPOs that represent and advocate for people with learning difficulties, and those that do the same for people with mental health conditions/issues, to actively help remove the barriers to their employment.¹³¹⁴ This is because these groups of disabled people experience some of the worst discrimination and stigma in accessing training and employment opportunities. Only 13% of adults with learning disabilities who are of working age are in full-time employment or training in Scotland.¹⁵
- 3.12 Negative political and social attitudes about the 'value' of some disabled people in employment abound, particularly around particular impairment groups. We would like to see the COSLA counteracting these attitudes by raising awareness of the Access to Work schemes and actively encouraging employment of people with learning disabilities and mental health problems. We note areas of good practice supported by the Scottish Government, e.g. programmes such as 'Project Search', which could be made more widely available. Again, Councils and health boards could do likewise.

Supported Employment and Supported Businesses

- 3.13 Inclusion Scotland have consistently provided evidence to both the UK and Scottish Parliaments over employability and supported employment strategies. Currently we are drawing parliamentarians' attention to evidence about the proposals in and proposed amendments to the current draft Scotland Bill, through which further devolution of powers to Scotland is being promised.
- 3.14 While Inclusion Scotland and our members do not support segregated employment, because it keeps disabled people away from mainstream work places and hides away disabled people from non-disabled people, we have watched with dismay as hundreds of disabled people working for different supported employers were made redundant in the midst

¹² See also, Rupert Harwood, 2014, 'The Dying of the light': the impact of the spending cuts, and cuts to employment law protections, on disability adjustments in British local authorities', in *Disability and Society*, Vol. 29: 10 for more detailed recommendations.

¹³ For the former, we'd suggest People First should be the first stop for advice and they could signpost to other employability projects that their members find useful and rewarding. 'The Same as You?' (recently reviewed) also offers good guidance on what public sector employers should be doing to improve employability of that group. <http://www.gov.scot/Resource/0039/00393998.pdf>

¹⁴ DPOs that work with disabled people with mental health issues or conditions include Voices of Experience (VOX), the Mental Health Foundation and HUG – Action on Mental Health in the Highlands.

¹⁵ http://www.sclid.org.uk/sites/default/files/10_facts_about_esay_colour_0.pdf

of the UK's recession. This happened with few options for retraining and contributed to the general reduction in the rates of employment that disabled people were experiencing.

- 3.15 We have heard about the closure of supported employers such as The Engine Shed in Edinburgh, an organisation that provided training and employment opportunities to people with learning difficulties. This was due to City of Edinburgh Council removing its funding. The result is disabled people losing their jobs with little or no support to find other work or training. With reference to the 13% figure cited above (point 3.7), this does not appear to be in line with COSLA's Supported Employment Framework for Scotland.
- 3.16 As the draft plan notes, the situation is in no way consistent across Scotland. An Inclusion Scotland member organisation has recently opened a supported employment style café and events/meeting space that aims to provide training opportunities to young people with additional support needs, including disabled young people. Whilst the enterprise has backing and some funds from its Council, it is not funded to pay the young people any wages. Therefore at the current time it is only able to employ volunteers, i.e. young people who can afford to work for free, but who will also risk losing their benefits when Universal Credit comes in, despite the clear skills and training acquisition the opportunity provides. We urge Scottish Councils to do more to support social enterprises such as these and to help them procure more funding if not provide it.
- 3.17 Inclusion Scotland supports the notion in point 4.11 of the draft plan that it is time for a discussion about the involvement of [disabled people] in the wider economy and welcomes the move to promote a potential role for DPOs in supporting employability services for disabled people, particularly where it could provide sustainability for projects already successfully doing this. Inclusion Scotland has now built up valuable experience, for example, through the positive employability outcomes from our pilot Parliamentary disability employment scheme (all interns moved on to either paid employment or full time study following their experience). We would like COSLA to note our willingness to assist in the discussion and any further work that COSLA undertakes with DPOs.
- 3.18 A report by the House of Commons Public Accounts Committee on the Work Programme found that only 11% of new Employment and Support Allowance claimants achieved job outcomes compared to the Department's original (22%) and revised (13%) performance expectations. Therefore, almost 90% of Employment and Support Allowance claimants on the Work programme have not moved into employment.¹⁶
- 3.19 In contrast, the Equality Internship programme Inclusion Scotland has undertaken with SDEF and SCVO has so far been successful due to the levels of ongoing support at all levels of both recruitment and retention, from providing advice to applicants on what makes a successful application, to providing support for employers to retain and support the disabled intern. We take an approach that is based on the lived experience of disabled people, considering all of the issues a disabled person may have (social care, transport, housing, etc.). Our role has been crucial to supporting individual disabled interns to address concerns like these, support them through Access to Work claims and other issues they face, and to help them to identify the learning and skills that can help them procure further work.
- 3.20 New employability programmes could genuinely address the barriers that individual disabled people face in securing employment - providing tailored support to enable us to obtain jobs with career structures and decent pay. People with learning difficulties are finding it harder and harder to get 'real' jobs that give them the experience to progress to jobs with better pay. Addressing this issue should be a priority for any new employability programme.
- 3.21 Inclusion Scotland also welcomes the possibilities presented by the further devolution of powers to develop, in coproduction with disabled people, a system of support for disabled

¹⁶ <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmpublic/457/45702.htm>

people that promotes independent living. This includes support to remove the barriers that prevent disabled people from participating in employment. However, as we have advised Scottish Parliamentarians, there is a risk that as presently framed the draft clauses will restrict the flexibility to develop new and imaginative employability programmes.

3.22 Even still reserved powers will continue to have an impact on disabled people wanting to get work experience and acquire skills through volunteering. Under the Universal Credit, which is being phased in in some areas sooner than others in Scotland, disabled people volunteering to get work experience will likely be penalised as the rules stipulate that they should be looking for work for 35 hours a week. The draft Scotland Bill devolves employability services whilst arbitrarily applying conditionality and sanction schemes, which seems to be out of sync with devolution of this service. We have raised this with the Scottish Parliament.

Enterprise

3.23 We support Action 14, for COSLA and Business Gateway will get disabled people's feedback via their organisations on how to strengthen business support mechanisms to disabled people who are either in business or seeking to develop one. Supporting the establishment of social enterprises may be one route identified. We suggest further work may need to be done on how disabled people in business can compete and sustain themselves when they face so many attitudinal barriers to work itself.

Education

3.24 58% of disabled people in Scotland have no formal qualifications, compared with 24% of those who have no disability or long term health condition.

3.25 We have raised concerns previously over the practical exclusion of disabled children from their education. We know that this has been happening summarily, as support is withdrawn from local authorities and/or health boards for the disabled child in question to have the support they need to remain at school throughout the term and the year. According to Scottish Government data collected in 2009-10, 'learners are more likely to be excluded [from school], [including] where,

- they have a disability [sic] (1.6 times more likely)
- they have an ASN variable across type of need and provision
- the additional support need is social, emotional and behavioural' .

3.26 Some Disability organisations believe that their stakeholders and/or service users are benefitting from having 'choice' for disabled children to attend special schools. Parents and carers should of course be provided with options that appear to best meet the needs of their disabled child, but GIRFEC, the UNCRC and the UNCRPD say that children should be involved in any decision making about their education, suitable to their age and capability.

3.27 In further engagement with disability organisations and some disabled people, the overall consensus, however, is that mainstream AND specialist education is failing our D/deaf and disabled children and that a lot of work needs to be done to achieve progress on the rights within article 24.

3.28 This led some to say that there is in fact little choice available for disabled children or children with Additional Support Needs (ASN), or their parents, particularly if the child has complex needs. Special schools are not delivering equality of education (in terms of educational standards, access to the curriculum and quality of learning) for disabled children, and are segregating them. Yet mainstream schools remain inaccessible, or fail to promote full inclusion, for children with any of the following impairments or conditions:

- Autistic Spectrum Disorders (ASD)
- learning difficulties

- mental health problems
- physical impairments along with other conditions that mean they have complex needs,
- blind and partially sighted children,
- D/deaf and Deafblind children.

3.29 Whilst we welcome the promotion of joint approaches to ensure that disabled children are not taken out of mainstream education, we remain concerned that integration of health and social care has only just started and that real joined up work and culture change may not happen quickly enough to ensure that services link with one another around each individual.

3.30 For example, our draft report to the UN committee references the over-prescription of (often inappropriate) drugs for disabled children to control their behaviour, whilst noting that Child and Adolescent Mental Health (CAMH) services are not reaching the children that need their support. This then impacts on their school experience and whether they are considered appropriate or not for mainstream schooling. Add this to the above evidence that children are being excluded because their other support needs are not being met, we remain concerned that this joined-up working is not yet being implemented across the board.

3.31 Some attention also needs to be paid to college education, particularly for young people with learning disabilities. After changes to Further Education funding priorities SCLD found that ‘part-time courses for people with learning disabilities have been cut by more than a third and most students had very little notice that their college place was being cut’.¹⁷ If this meant that young people with learning disabilities were being offered more appropriate courses that could help progress them into a career, this would be a positive change. However, there is very little evidence to suggest that this might be the case.

3.32 We warmly welcome Action 15 which will broaden the scope of education of non-disabled children and young people about disability. We fully support this endeavour but also believe that without experience of co-education with disabled children, non-disabled children may not fully appreciate how other disabled children live, their dreams, hopes and fears and their barriers, without learning with them in a fully inclusive environment. Separate schooling also increases the ‘othering’ of disabled people as non-disabled children may not encounter them until adulthood, and will have established their prejudices by then.

3.33 Inclusion Scotland have been working closely with statutory partners and other disability and disabled people’s organisations to raise the awareness of what constitutes disability hate crime and harassment and how to report it. However, work to raise school children’s awareness may help to promote positive images of disabled people as normal people who face barriers to doing the same things as you. We understand there may be a correlation between bullying of disabled children and hate crime beyond school – but for disabled people this is a continuation of the treatment they have had from others throughout their lives. Disabled people come to accept harassment and bullying as “normal”, but it can leave them isolated and afraid to go out and participate in their community.

3.34 We therefore recommend that COSLA members work with schools for this action to include information about the impacts of bullying and hate crime on disabled people’s self-worth and confidence. Again, we’d encourage Scottish Councils and schools to involve local and national DPOs in this work.

¹⁷ http://www.sclld.org.uk/sites/default/files/sclld_joint_briefing_final.pdf

4. Communities, Transport and Building Capacity

- 4.1 Inclusion Scotland and our partner organisations will continue to work with COSLA to take forward action 17. We note however that there are no further actions in relation to housing adaptations. However, Inclusion Scotland have been working with partner disability organisations on a Housing Statement of Ambition, and have recently been reviewing evidence and identifying actions on improving accessibility of housing.
- 4.2 The Scottish Household Conditions Survey (SHCS) estimates that there are 836,000 households in Scotland where there is someone with a long term condition (LTC) or disability. Of these, 212,000 are defined as family households, 398,000 as pensioner households and 226,000 as “other”, presumably single people and couples without children. The SHCS estimates that there are 493,000 homes that have been adapted for people with LTC or disability, which is 21% of the housing stock overall. 32% of social housing is adapted, and 17% of private sector housing (owner occupied or private rented).
- 4.3 However, the survey also highlights that there are 129,000 households with a person with a LTC or disability that are in housing that is in need of being adapted. This is approximately 5% of the total housing stock.
- 4.4 “Mind The Step : An estimation of housing need among wheelchair users in Scotland” , published in 2012 by Horizon Housing Association and the Chartered Institute of Housing, estimated that there is a shortfall of 17,042 barrier free houses, affecting 14% of wheelchair users. Research by Capability Scotland concluded that this lack of accessible housing was ‘restricting disabled people’s lives; having an impact on quality of life; and potentially leading to isolation, health problems and a lack of confidence/self-esteem’.¹⁸
- 4.5 In addition, disabled people have been disproportionately affected by the bedroom tax (under occupancy penalty). Disabled people may be “under-occupying” as they require additional space to store equipment, or because their partner cannot sleep in the same room, or because there was no other housing available that was adapted to meet the requirements of their impairment.
- 4.6 We recommend that Local Housing Strategies and Housing Need and Demand Assessments take into account cultural and other needs in relation to disabled people from minority backgrounds. For example, disabled Gypsy Travellers may still want to stay on sites that their families live on and need to be supported for the adaptations they would need. We also note that some families that include frail or disabled people or people with Long Term Conditions do not always get their housing needs met.
- 4.7 We have also heard about disabled asylum seekers with physical impairments living in one bedroom top floor flats with their families, meaning their rights to mobility and independent living in the UNCRPD are entirely compromised.
- 4.8 A majority of homeless people are also disabled, so the LHS and homelessness strategies need to take account of their other potential support needs to pick up and remain in tenancies.
- 4.9 Many disabled people are inappropriately admitted to hospital or other care settings, or prevented from being discharged from hospital or care, due to the lack of suitably accessible or adapted housing. Housing has a key role to play in Health and Social Care Integration (HSCI) and in supporting independent living. Disabled people we have consulted since the HSCI legislation was first drafted have always said that housing should be incorporated into the integration process as it is such an integral part of disabled people’s social care and general health, as well as their ability to live independently. Moreover, without suitably adapted housing for people to move back to, one of the central ambitions of HSCI – the easing of the ‘bed-blocking’ phenomenon – will not be addressed.

¹⁸ Capability Scotland April 2014 ‘1 in 4: Housing, Human Rights and Disability – Final Report’ available here,

- 4.10 The actions identified by the Housing Statement of Ambition group include requiring 10% of new build housing developments, or 20 or more, to be built to or easily adaptable to accommodate wheelchair users. This would address the shortfall of barrier free housing affecting wheelchair users.
- 4.11 A full audit of current and anticipated household needs and of the existing and planned housing stock needs to take place. Its purpose is to establish the shortfall in accessible and adapted housing and ensure that this is addressed through the Housing Needs and Demands Assessment and Local Housing Strategies. Scottish Councils are well placed to contribute to that work.
- 4.12 A stakeholder group of experts, including disabled people, should establish the effectiveness of current accessibility standards in building control regulation, housing for varying need and planning advice on inclusive design. This is to increase the availability of adapted and accessible housing, and ensure that building standards are co-produced with disabled people and effectively implemented, monitored and enforced. There is also a need to tie in reviews of building standards (for private developments) and housing for varying need (social rented) - to raise the base level of accessibility across all tenures.
- 4.13 As well as ensuring new build housing is fully accessible or adaptable, we would like to see an expansion of the support available for adapting existing housing across social and private rented and owner occupied sectors. As well as increasing the stock of adapted or easily adaptable homes, this would address the backlog of homes in need of being adapted, and support the health and social care integration and independent living.
- 4.14 We recommend that further actions are identified in co-production with DPOs to help meet the aspirations of disabled people and their organisations for much more accessible housing and in COSLA's ambition to include housing in HSCI.

Transport

- 4.15 Inclusion Scotland welcomes COSLA's involvement in the development of a joint vision statement for transport accessibility mentioned in action 18. We hope that the final plan will be more precise as to when this will be finalised.
- 4.16 Action 19 and the preceding paragraphs are welcomed due to the experience our members tell us about. In addition, research conducted with Scottish Accessible Transport Alliance (SATA) members in 2013 found that the main issues affecting disabled transport users in Scotland are availability and accessibility of public transport. Lack of consistency and poor attitudes (from taxi drivers and bus drivers) were also expressed, and differences in provision in rural and urban areas were noted as being a big problem for those living in rural areas.¹⁹ These findings resonate with some of the outcomes and issues raised through the Accessible Transport Summit.
- 4.17 There should be much more work done through Scottish Councils' Local Transport Strategies to look at a range of accessible transport options, including responsive community transport and accessible buses. As many Scottish Councils implement contracts for bus companies, they could be doing more within these contracts to promote the use of accessible bus fleets. These two areas of consideration are particularly crucial for people in rural areas.
- 4.18 Getting transport accessibility right is also absolutely essential for meeting disabled people's article 9 and 19 rights to access and independent living, respectively. It is also important as

¹⁹ SATA Newsletter, Spring 2014: Item titled 'SATA's DPULO project'
http://www.scottishaccessibletransport.org.uk/assets/SATA_News_No_12.pdf

other rights, such as access to health care, sports and culture, for instance, are all contingent on having accessible transport needs met wherever people live.

Digital

- 4.19 We agree with COSLA that greater profile should be given to adaptive software or hardware, for people with communication impairments, but also for other disabled people such as those who are visually impaired, deaf-blind, or who are paralysed, for example, and for others with multiple and complex impairments.
- 4.20 An overarching disability equality strategy to digital inclusion would not only improve digital access; it has the potential to open up social worlds for disabled people who continue to face barriers to their inclusion in their local communities. For people on low incomes, the cost of equipment and internet access may already be prohibitive. For disabled people who may require specially adapted equipment or software, this is an even more significant barrier.
- 4.21 Inclusion Scotland has been highly concerned since the move to 'digital by default', the strategy adopted by the UK government which means that forms, including benefits forms, have to be completed on line as the standard approach. We show below why this is particularly discriminatory, but importantly we provide COSLA members with information on how they can improve their digital strategies within a disability equality framework.
- 4.22 Disabled people are significantly less likely to live in households with access to the internet than non-disabled people. In 2010 58% of disabled people lived in households with internet access, compared to 84% of non-disabled people (Source: British Social Attitudes Survey 2010).
- 4.23 The Scottish Government reviewed access to digital participation in 2012.²⁰ That review found that –
- Internet access and use was higher among those who do not report having a disability or long-standing illness.
 - Only 44% of disabled people personally had access to and used internet.
 - This compares to 79% internet access and usage amongst those without a disability.
- 4.24 There are a variety of reasons for this – some related to income levels amongst disabled people and others which are impairment specific.
- 4.25 People with visual impairments are amongst those with the greatest practical difficulties in using the internet. There are particular problems in reading (special software is often required), navigating (many websites and social media are not fully accessible) and form completion (many online forms are difficult to read and even more difficult to complete even when using specialised software).
- 4.26 Those with a higher income were more likely to have access and use the internet than those on lower incomes. Disabled people are more likely to be living on a lower income. In Scotland in 2009/10 19% of individuals in disabled households were in relative poverty. For non-disabled households the figure was 16%. Of course disabled people claiming benefits are more likely to be on a low income in any case
- 4.27 Internet access and use was higher among those who were working compared with those who were not working. Only 55% of those without work have internet access compared to 84% of those in work. Disabled people are more likely to be out of work and reliant on benefits than

²⁰*Digital Participation in Scotland: A Review of the Evidence*
<http://www.scotland.gov.uk/Publications/2011/12/22155754/0>

non-disabled people – currently less than 44% of disabled people are in work compared to nearly 82% of non-disabled people.

- 4.28 Those with higher levels of qualifications were more likely to have access and use the internet. Only 36% of people with no qualifications have and used internet access compared to 74% of those with school level qualifications and 91% of those educated to degree level.
- 4.29 Those with learning difficulties, both congenital and acquired (e.g. through brain injury, oxygen deprivation at birth, etc.) and those with learning impairments (such as dyslexia) are amongst those most likely to have no qualifications. But even those disabled people with only physical or sensory impairments and no learning difficulties are more likely to leave school with no qualifications. Thus disabled people are more than twice as likely as non-disabled people to have **no qualifications** (26% as opposed to 10%).²¹
- 4.30 These concerns were echoed in the Citizens Advice Scotland's 2013 evidence report, 'Offline and left behind: Digital Exclusion amongst Scotland's CAB clients',²² which showed again the clear correlations between internet usage and age; whether in or out of work; income and poverty; areas of deprivation and educational attainment. Disabled people are more likely to fall into the low usage categories by any of these measures.
- 4.31 This is, therefore, a significant risk of digital participation, and those who provide public services in particular should always take account that **there will always be a significant number of people who will never be able access services digitally**, and ensure that there are adequate alternative options available so that these people do not suffer from discrimination as a result.
- 4.32 There is limited provision in public libraries and other public buildings, but this is often time limited, can be charged for, and the equipment or software required to overcome a particular impairment may not be available. It is therefore probably unrealistic to expect provision in public places to be able to meet the needs of, for example, someone who needs to complete a complex application for benefits online.
- 4.33 If Scottish Councils could help disabled people that receive support through or via them to fund or procure funding for equipment that they need to participate digitally, this might be a way of improving digital access to really hard to reach groups of disabled people. We respect that there are projects funded by SG to update skills for people affected by welfare cuts and poverty. Scottish Councils could look to these projects to bolster any work being undertaken by themselves on this.

5. Health Care, Social Care & Social Care

Health and social care

- 5.1 While we welcome the importance attributed to health and social care, we would query the notion that they are – or should be viewed as - 'one service'. It is true that the National Health and Wellbeing outcomes²³ and the principles underpinning integration²⁴ are common to both. Integration between the two should prove helpful to people who use both, or need to move from one setting to another.
- 5.2 Failure to provide adequate social care may bring adverse consequences for health and well-being, and need for social care support may be increased due to inadequate healthcare.

²¹ Source: People – Equality - Disability: Key Facts.

²² <http://www.cas.org.uk/publications/offline-and-left-behind>

²³ See <http://www.gov.scot/Topics/Health/Policy/Adult-Health-SocialCare-Integration/Outcomes>

²⁴ See: <http://www.gov.scot/Topics/Health/Policy/Adult-Health-SocialCare-Integration/Principles>

However, we would argue that the role of social care extends well beyond the meeting of healthcare goals (e.g. prevention, addressing 'bed-blocking').

- 5.3 With that in mind, we warmly welcome the acknowledgement in section 6.1 of the draft plan that social care is an essential service, and that it serves multiple purposes beyond merely the provision of 'life and limb' support to enable survival. It should indeed support disabled people's social inclusion, enabling them not just to participate but to contribute to wider society – including paid employment.
- 5.4 This is in accordance with Article 19, which states that to ensure they equally enjoy the rights laid out in the ECHR it is necessary to ensure that 'disabled people have a right to live in the community, with the support they need and can make choices like other people do'. For some, social care is a prerequisite to the fulfilment of this human right and thereby others. It is vital that healthcare, as the bigger, better-resourced partner, does not subsume social care, narrowing its role down in the process.
- 5.5 It has long been the fear of disability activists that the integration of health and social care would signal a resurgence of a 'medical model' of disability. This stipulates that disability is attributable to a medical condition, which thus needs to be treated, cured and/or self-managed. In contrast, the social model ascribes disability to the social barriers that confront people who have impairments. These include negative attitudes, and inaccessible buildings, transport and communication methods. It follows that a person with a severe impairment may not experience disability and inequality if such social barriers are removed. The extent of impairment is in no way intrinsically proportionate to the extent of disability and inequality experienced.
- 5.6 We agree that social care plays a key role in promoting disabled people's equality and human rights, and would obviously add 'independent living' to that list. It is important to note that the way in which social care is delivered is as important as what is delivered, if it is to enable the service user to have choice and control over their services and who provides them, which is integral to the concept of independent living.
- 5.7 Indeed, we would argue that the overarching purpose of both health and social care should be to promote independent living, albeit in different ways. The principle of service user choice and control should span both forms of care. This is consistent with the principles of health and social care integration. In particular, it is consistent with the ethos of Self-Directed Support (SDS).
- 5.8 Unfortunately, the reality on the ground falls a long way short of these positive intentions. There is ever-increasing anecdotal evidence that the introduction of SDS is being used merely as a foil for reassessing and then cutting care packages, and of the failure of local authorities to offer all 4 options, despite their statutory obligations to do so. Inclusion Scotland is currently working with Self-Directed Support Scotland to design and deliver a survey in order to acquire firm evidence of on-the-ground experience.
- 5.9 While the power shift from professionals to service users that SDS entails may well pose challenges to delivery agents and organisational culture, particularly around approaches to risk, it seems likely that the key barrier to effective delivery is insufficient financial resources. As we await the Chancellor's pronouncements on 25 November regarding the fate of the Scottish Budget, we know there is a possibility of a cut of anything up to 40 per cent. This clearly implies that the capacity of local authorities to deliver SDS effectively, in line with the policy intention, is likely to become even more circumscribed.
- 5.10 As acknowledged in section 2.23 of COSLA's draft plan, the impending financial squeeze makes it more important than ever to work with disabled people to ensure limited resources are

targeted on what works. Inclusion Scotland wholeheartedly supports the recognition that disabled people should be meaningfully involved in the health and social care integration process, in order to ensure that outcomes work for everyone. However, a proactive approach is likely to be necessary to forge connections and communication channels between DPOs, Third Sector Interface (TSI) organisations and local integration structures.

- 5.11 Similarly, linking individual disabled people into locality planning and securing disabled service user involvement, requires a clearly articulated strategy and support. Capacity building for all concerned is likely to be required, so that disabled people and their organisations understand HSCI and how to intervene effectively, and TSIs and statutory bodies know how to ensure that engagement activities are fully accessible. Much of this might be provided by (suitably resourced) DPOs themselves.
- 5.12 Inclusion Scotland has received Scottish Government funding to deliver a project specifically to explore the engagement of disabled people in the context of HSCI, the role of TSIs and capacity-building needs all round. We will be focusing our activities on 3 localities, forging in-depth networks and collecting learning and good practice for wider dissemination. We are also involved in the 'Our Voice' initiative, aiming to establish service user engagement structures at local and national levels. It is hoped that these initiatives will be helpful to Scottish Councils and HSCI partners, seeking to engage disabled people and/ or co-produce HSCI developments.
- 5.13 We agree that HSCI is not sufficient alone to meet likely future demands. There may be some scope for savings, e.g. through more efficient management of transitions from hospital back into communities, though this might logically entail additional expenditure on social care and housing adaptations. A cost-cutting goal has never been presented as the main driver behind integration. Instead the goal has been described – including in legislation - as being to increase the good health and well-being of service users.
- 5.14 Whatever the attempts by Scottish Councils to protect spending on social care, there is ample evidence that social care funding is already in a state of crisis. The increasing demand placed on health and social care due to an ageing population and increasingly complex needs can reasonably be expected to increase demand for both. However, the ambition of moving more people out of hospital into their homes and community settings may transfer expenditure demands from health to social care services, shifting the balance between them.
- 5.15 The importance of adequately funded social care, with independent living at its heart, becomes critical, if a welcome move out of hospital is not to result in social isolation within the community.
- 5.16 On this basis there are strong grounds for conducting an in-depth review of health and social care funding. A 'national discussion' on the subject might form part of this exercise. Indeed, the Independent Living in Scotland project is in the process of setting up a national dialogue on social care funding. But, while dialogues, discussions and conversations are welcome – and an important first step – their value or lack of it will be judged by the action that follows.
- 5.17 It is also the case that budgeting systems and allocation methods and formulae can be extremely complex, posing significant challenges to accessible communication. A national discussion on broad principles and priorities needs to be underpinned by in-depth research and expert debate. We would therefore favour the establishment of an expert Commission on health and social care funding – including representation from service users and their representative organisations – to find ways of enacting the outcomes of a national discussion.

5.18 While we understand the potential value of exploring health and social care funding together rather than separately, as proposed by action 24, it is clear that neither have surplus cash to spare. This points to the need to look beyond, not just budgets for health and social care but others like social security that are also significantly under-resourced and also essential to the realisation of disabled people's human rights.

5.19 It is also obvious that healthcare is free at the point of use whereas social care often is not. If funding is to be integrated and the aim is to blur distinctions between the two formerly separate services, then presumably the basis for funding both needs to be one and the same. It would be completely unacceptable to introduce upfront charges for healthcare. The only solution is to make social care free at the point of use.

Charging for social care

5.20 We welcome the acknowledgement that 'many disabled people object to being charged for the care and support services that they receive – and need' (section 6.5). We are entirely justified in objecting. Disabled people are already disproportionately poor²⁵, less likely to have access to earned income²⁶ and likely to experience extra costs²⁷ through no fault of our own. Why, in addition, should we have to pay to exercise our human rights, particularly when others do not have to?

5.21 Social care is not a luxury. As spelt out in section 6.1 of COSLA's draft delivery plan: 'Social care is essential for the equality and human rights of disabled people'. The whole point of human rights is that they unconditionally and equally apply to everyone on grounds of their humanity.

5.22 A further problem with social care charging concerns the variability of charges in different local authority areas²⁸. This creates a post-code lottery and compounds 'portability' problems, compromising the freedom of movement of disabled people relocating from one local authority area to another.

5.23 Attempts by COSLA to increase the consistency of local authority charging policies are welcome. Similarly it is welcome that some local authorities have introduced an income disregard in recognition of disability-related expenditure (DRE)²⁹. This goes some way to mitigating one of factors cited above that combine to increase the poverty of disabled people, decrease their access to independent living and breach their human rights. There are other mitigation strategies that can be explored, such as reducing tapers – the rate at which charges rise as income rises – and the treatment of partners' incomes.

5.24 However, none of these address the fundamental point that the imposition of social care charges amounts to an abuse of disabled people's human rights and a tax on care. The question is, whether mitigation – continuing though lessening that abuse/ tax - is good enough? Inclusion Scotland does not believe that it is.

²⁵ See: <http://odi.dwp.gov.uk/disability-statistics-and-research/disability-equality-indicators.php>

²⁶ See: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/406369/labour-force-survey-disabled-people.pdf and <http://www.gov.scot/Resource/0047/00471945.pdf>

²⁷ See: <http://www.scope.org.uk/Get-Involved/Campaigns/Extra-costs/Extra-costs-commission/Full-Report>

²⁸ See: <http://scotlandagainstthecaretax.org/index.php/the-issues>

²⁹ See: <http://scotlandagainstthecaretax.org/index.php/the-issues/17-an-attempt-to-reform-the-care-tax>

5.25 The cost of removing charging for all non-residential services for all age groups (personal and non-personal care) has recently been estimated to be £55million per year with regard to current users, rising to £300million as a result of ‘additional demand’³⁰ from eligible users. This is a truly shocking figure – not because it is a large sum of money but because of the scale of currently unmet need that it appears to reveal. It suggests that very many people are not getting the social care they need to be able to exercise their human rights because they cannot afford to pay for it.

5.26 There may well be cases to make about the lack of priority accorded by some local authorities to social care against other services and initiatives, and scope to re-allocate monies accordingly. Moreover, it is profoundly worrying to see evidence showing that in the first 3 years of the Council Tax freeze, social care charges increased well beyond the rate of inflation to help meet resulting shortfalls³¹. It is completely unacceptable that a reduction in one form of tax, paid by all, appears to have been accompanied by an increase in another form of tax, only paid by people likely to be disproportionately unable to afford it.

5.27 Furthermore, as a means of reducing expenditure we have seen the tightening of eligibility criteria for social care, thereby excluding many people with a genuine need. Another strategy is to restrict the types of activity that can be funded by social care, reducing down to mere ‘life and limb’ support.

5.28 What is clear is that the difficulties created by social care charging have been around for many years and they have become increasingly more pronounced, while progress even to mitigate them has been glacially slow. The Scottish Government has the power to regulate charges but this has not been used in 14 years. This can be read in a number of ways, none of them satisfactory. It could be taken to indicate that:

- The Scottish Government believes that charging particularly disadvantaged people to exercise their human rights is perfectly acceptable
- The Scottish Government believes that Local Authorities simply do not have capacity to fully fund social care for all who need it to achieve independent living, even on a basis of appropriate prioritisation of resources. Of course, that being so, we would argue it becomes incumbent on Scottish Government to re-examine its allocation of resources and take action to address the funding shortfall.
- Despite strong evidence to the contrary, the Scottish Government persists in the view that Scottish Councils can come to a consensus to end care charges. If it is indeed the case that local authorities have the capacity to deliver an end to social care charging but have so far failed to act, this suggests a need for legislation to enforce action.

5.29 The involvement of DPOs in the ‘ongoing revision of COSLA Charging Guidance’ (action 25) must therefore be on a basis that a) their rejection of social care charging altogether is not compromised, and b) there must be evidence of rapid, real and positive progress. Similar considerations apply to actions 26 and 27. Both are welcome but do not go far enough.

5.30 Inclusion Scotland remains firmly of the view that social care charging is the antithesis of social justice and it has no place in the ‘Fairer Scotland’ we all want to see.

Social Security

5.31 Inclusion Scotland shares COSLA’s disappointment (as raised in point 6.12 of the draft plan) in the disproportionate impact of the welfare cuts on disabled people. We further acknowledge

³⁰See:http://www.scottish.parliament.uk/S4_PublicPetitionsCommittee/General%20Documents/20151102_PE1533_P_Scottish_Government.pdf

³¹ See: <http://scotlandagainstthecaretax.org/index.php/the-issues>

that COSLA members have a duty of care through the support they provide and also regarding homelessness prevention and wider poverty strategies.

- 5.32 COSLA and some of its members will be aware of the vast amounts of analysis and information sharing we have done around this subject since the cuts were announced in 2010. We have been working hard to influence change at both Scottish Government and Council level – wherever we can influence it to improve the situation of disabled people in poverty.
- 5.33 In addition to that awareness raising, we have conducted research with disabled people into the impacts of the welfare reforms as they were being experienced in 2014. Our report, ‘Second Class Citizens? How welfare reform marginalises disabled people’³². The findings offer a timely reminder of the specific and damaging impacts, but also, through structured interviews with individual disabled people, it also provides us with specific feedback from more vulnerable groups of disabled people, such as a woman who had experienced sexual violence and the re-ignition of trauma of having to deal with male decision-makers.
- 5.34 Inclusion Scotland have also just initiated our brand new Rights and Resilience project which is a pilot project currently working in three local areas. Taking a human rights approach, this Scottish Government funded project will examine the isolation of contributory factors to poverty and the role of benefits for individual disabled people. It will then explore these factors with local disabled people’s organisations, other local third sector organisations, and local statutory bodies.
- 5.35 The project aims to locate and promote best practice, identify what improvements could be made and where, and share this learning across the different services and agencies, providing capacity in the form of accessible materials and events. The project’s wider aims are to establish where learning can influence Scotland-wide policy and service delivery and to encourage replication of strategies that work to promote the rights and resilience of disabled people in poverty.
- 5.36 We look forward to working with the Councils in Edinburgh, Dumfries and Galloway and Dundee on this pilot, which we hope will see the value of working with the project officer to support delivery of the outcomes. Local statutory bodies have a range of related outcomes and targets to meet. For example, NHS Boards need to deliver their Outcome Focussed Delivery Plan for Welfare Reform Mitigation and Scottish Councils their Equalities (Public Sector Equality Duty) and National Outcomes (e.g. “*We have tackled the significant inequalities in Scottish society*”). Health & Social Care Partnerships need to fulfil their duty to “*take account of the particular needs of different service-users*”, as well as meet outcomes concerned with reducing health inequalities, and improving quality of life.
- 5.37 COSLA seem also to be aware of the many different ways in which these cuts disproportionately and negatively impact disabled people: harsh conditionality and sanctions, resulting in them losing benefits for significant periods of time; introduction of yet more face to face assessments; inappropriate assessments for people with certain impairments or conditions; cuts to Disability Living Allowance (DLA) via the introduction of Personal Independence Payment (PIP); delays to PIP decisions; loss of Employment Support Allowance (ESA) after one year; the impacts of the bedroom tax; further cuts and conditionality through the introduction of Universal credit, and many, many more.
- 5.38 In a report for Joseph Rowntree Foundation, the New Policy Institute has recently found that disability poverty across the UK is consistently underestimated. Using two different adjustments,

³² March 2015, Inclusion Scotland

<http://www.inclusionScotland.org/attachments/article/13/IS%20welfare%20reform%20impacts%20guide.pdf>

the study has found 'at least a 'missing million' of people in poverty in households with a disabled person'.³³

- 5.39 Disabled people already face additional costs associated with their impairment. A recent study by the disability charity Scope found that disabled people spend an average £550 a month in disability related expenses (e.g. taxis, increased use of heating and electrical amenities, costs of maintaining equipment, etc.).³⁴ The study says: 'As a result of these extra costs, disabled people:
- Are twice as likely to have unsecured debt totalling more than half of their income
 - Are three times more likely to use doorstep loans
 - Have on average 108,000 fewer savings and assets than non-disabled people
 - In the 55-64 age-group, the gap in the mean level of private pension wealth is 125,000.
- 5.40 While disabled people are twice as likely to experience material deprivation as non-disabled people,³⁵ welfare reform is further undermining their right to an adequate income as a disproportionate amount of the cuts to welfare benefits fall on disabled people.³⁶ Our own survey in 2014 revealed that 67% of disabled people felt their income had deteriorated over the last 5 years, while 75% felt they sometimes, rarely or never had enough to live on and 60% feel they currently do not have enough to meet their needs.
- 5.41 The Scottish Consortium for Learning Disability's 'Deprivation analysis of adults with learning disabilities known to Scottish local authorities' (2013)³⁷ reports that 'adults with learning disabilities are significantly overrepresented in the most deprived areas of Scotland, and underrepresented in the least deprived, when compared with the distribution of the general Scottish population.'
- 5.42 Economically poor disabled people are worst affected by cuts to benefits and services, deepening inequality between disabled and non-disabled people even further. We are concerned that the cumulative impact of the UK Government's welfare reforms together with reduced support services through cuts to funding for Self-directed Support (SDS), for example, and increased charging reduce disabled people's capacity to live independently and participate in the community, by eroding the financial resources and services they rely on to do so.
- 5.43 In our representations and response to the Scottish Parliament Welfare Reform Committee's considerations of devolution of powers and the new Scotland Bill, we have made suggestions about how a Scottish welfare system could be fairer.
- 5.44 Disabled people have told us that would like to see the continuation of a nationally delivered benefits system, but one that aligns itself, rather than is integrated itself, with other services, and takes a human rights approach. We would therefore be wary of integrating the money for benefits and services or replacing benefits with services (by funding them from the benefits funds); in short, of Councils administering disabled people benefits.
- 5.45 Disabled people have consistently told us this is not a desirable outcome, as they are afraid their benefits would get subsumed into other budgets due to a lack of ring-fencing, and worse still, subject to local Council cuts. Further complications could result, for example, in the calculation of the proportion that each area would need. Importantly, Councils integrating and administering benefits as part of other services may undermine that well-recognised need for disabled people to

³³ <http://npi.org.uk/publications/income-and-poverty/disability-long-term-conditions-and-poverty/>

³⁴ SCOPE 2014 Priced Out: Ending the Financial Penalty of Disability by 2020
<http://www.scope.org.uk/Scope/media/Images/Publication%20Directory/Priced-out.pdf?ext=.pdf>

³⁵ DWP (2013) 'Fulfilling Potential: Building a deeper understanding of disability in the UK today'

³⁶ Inclusion Scotland Welfare Reform briefings, 2010-14

³⁷ <http://www.sclid.org.uk/simd-chart-and-table>

have additional financial income to help them to cover the additional costs associated with their impairment (as mentioned above).

- 5.46 It is very important that benefit levels are consistent across the nation and not subject to local variation. If these too were subject to variability, along with social care charges, disabled people's freedom of movement would be further comprised by 'portability' issues, and the negative impact of post-codes lotteries would be enhanced. It is also the case that the way in which rights operate in the social security system is very different to the process for assessing and awarding social care. When it comes to claiming benefits, there are legally defined criteria, which should be assessed in a legally-defined way. Failure to award benefit to those who meet criteria can be challenged, up to Tribunal level. There are thus transparent benchmarks, and comparison against those and with others is feasible and equal treatment is promoted. In contrast, the down-side of personalisation (and there are positive aspects too) can be a lack of transparency and hence scope for discriminatory, inequitable practice to go undetected.
- 5.47 A key point made is that the current system is geared to one outcome – placement in the labour market. By adopting a more joined-up approach as outlined above - i.e. making links between welfare, health and well-being, Social Care and housing - a future Scottish welfare system could aim to recognise and support the social value of a range of other roles including voluntary and care work, as the COSLA plan suggests in point 6.20. As it currently is, these roles are dis-incentivised by the UK benefits system.
- 5.48 Disabled people want to see fewer and less frequent face to face assessments. Disabled people believe that more decisions could be made using the information provided with the application, including doctor or consultant reports or reports from social care professional assessments, reducing the need for face to face assessments.
- 5.49 The current assessment regimes are exhausting disabled people and are often the cause of additional problems such as the onset of mental health problems due to anxiety of going through multiple face-to-face assessments for a range of different benefits and services. For example, one person may have to go through regular PIP and ESA assessments, social care assessments for SDS as well as an assessment for the Scottish blue badge) and for social care services. Most of these involve both paper and face to face assessments. Whereas in the past, and despite some of their drawbacks, all disabled people had to do was to fill in paper assessments, e.g. for DLA.
- 5.50 In addition, most of these assessments have changed beyond recognition, redesigned using the bio-psycho-social model to enforce functionality tests on disabled people, e.g. for both ESA and PIP. The impacts are that disabled people's conditions are worsened and they face additional mental health problems. There may be a role for better sharing of information from existing health or social care assessments to reduce the need for multiple assessments for claiming of benefits.
- 5.51 Although this is an option worth considering, we are cautious because not all disabled people on benefits receive social care services, and we are aware of some confusion around the role of the care component of PIP. For example, an undesirable outcome would be a social worker re-assessing someone in receipt of social care for a reduced package of care and assessing them off their benefit because of the false assumption that the care component is to pay for social care. It is not; it is to help cover the additional costs associated with impairment where the person has care needs. Our recommendation made in point 5.48 would ensure that evidence, rather than decision making, was shared with decision makers from a range of services.
- 5.52 Disabled people and carers should be empowered to co-produce new guidelines for disability benefits assessments. COSLA could be in a position to support them in this, through its potential role of delivering assessments. Inclusion Scotland has experience in co-producing small projects, so that disabled people could feed into the design of the delivery of the new Scottish Welfare Funds, for example. Inclusion Scotland are keen to be part of that co-production by bringing our members and partner organisations into the process, and by offering our vast expertise on

welfare reform, co-production, access issues, accessible information formats and event organisation.

6. Conclusion

Next Steps

- 6.1 Inclusion Scotland are impressed with COSLA's practical draft delivery plan for implementing and progressing disabled people's rights in the UNCRPD. As is evident from our response, there are areas where Inclusion Scotland are well placed to provide expert advice and/or input into the design of particular new programmes and services for disabled people. The potential for assistance with co-production or capacity is high. Having said that, like many other third sector organisations, we receive the majority of our funding from Scottish Government for particular projects. We therefore tend to be limited to the capacity we have for those projects. However, where project outcomes align with the actions in the draft delivery plan, we would warmly welcome involvement and the advantage to COSLA members would be the reach of our membership, all disabled people, across Scotland.
- 6.2 As outlined in section 2 of this response, we are also concerned about the capacity of our member organisations. Most DPOs are facing cuts or are having to narrow the focus of their work as the value of their funding is reduced. A lot of local DPO's are funded by their Scottish Councils, which in some cases are passing on the cuts they are faced with to the DPO's they were supporting.
- 6.3 Linked to this concern is the issue of capacity of COSLA member organisations to deliver on many of the actions outlined in the Draft Delivery Plan, all of whom are facing major cuts to their funding stream via UK government cuts.
- 6.4 Despite this reservation, we hope that much of the work outlined therein will be undertaken in the spirit of preventative spending, as recommended by the Christie Commission's 2011 report on the Future Delivery of Scotland's public services.³⁸ The involvement of disabled people and their organisations right at the start of a project, or in the design of a service for instance, mitigates against the cost of redesigning it to meet their needs further down the line.
- 6.5 We look forward to the final COSLA delivery plan and to the progress report for 2016-17. We recommend that the SHRC has a monitoring role on the impact of actions on progression of disabled people's UNCRPD rights; and Audit Scotland could also be useful to monitoring progress externally.

If you have any questions on this response, or for more information, please contact:

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³⁸ <http://www.gov.scot/resource/doc/352649/0118638.pdf>

