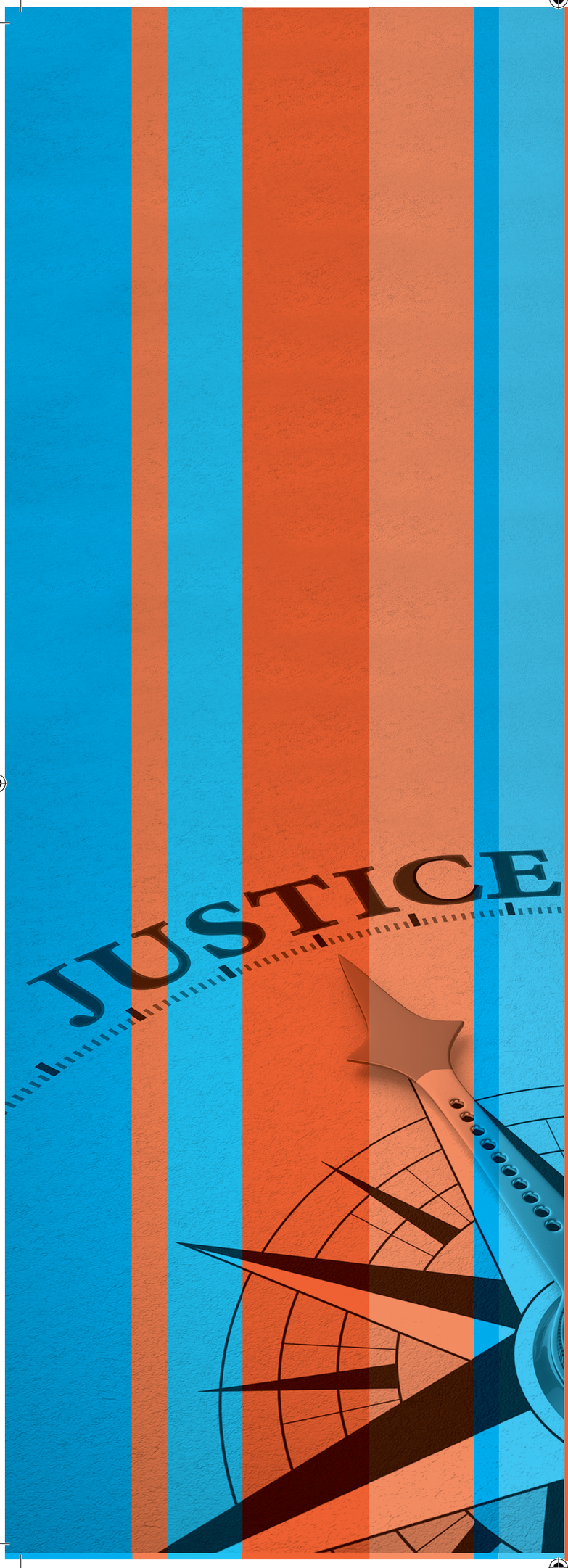

Solutions Series: 7

The Solutions Series: Justice is served? Disabled people's access to justice.

The Solutions Series is series of 'pop-up think tanks' hosted by the Independent Living in Scotland project (ILiS). Each think tank brings people together in coproduction to seek solutions to a specific barrier to independent living. This is the seventh report in the Solutions Series.

"Justice is served? Disabled peoples' access to justice" sought solutions to the barriers to access to justice for disabled people. This report reflects the discussion on the day and not necessarily the views of ILiS.

The ILiS Project: March 2015

Acknowledgements

ILiS would like to thank all the participants for their contributions to the think tank. We would especially like to thank Professor Nick Watson, Chair of Disability Studies at the University of Glasgow, for agreeing to chair the think tank.

Thank you also to Kainde Manji, Equality Consultant, for reporting and editing support.

Look out for more reports from The Solutions Series at www.ilis.co.uk

1. Summary of the solutions

Below is a summary of key solutions identified at the 'pop-up think tank.' You can find out more about each of them at Section 5. The solutions listed here came from different participants at the think tank and do not necessarily represent an agreed, nor the only, way forward. They should be considered as a number of possible ways to drive forward action.

a) Working together

Lawyers and disabled people should come together in a new network, to improve knowledge, understanding and connections across both sectors.

A national forum on access to justice for disabled people, should be set up.

Directories (of legal services on disability, and of DPOs) should be developed, published and publicised.

Legal firms should work locally with Access Panels to audit accessibility of their services.

b) Knowledge, training and expertise

A network of Disability Law Centre's should be set up covering every region of Scotland, supported by a national Disability Law Centre. These could be publicly funded by the Government and/or by the Scottish Legal Aid Board.

Training in disability equality and human rights law should be developed for those working in justice, and promoted; including through; a new network of DPOs and lawyers, the Law Society, LawWorks Scotland and the Strathclyde University Law clinic.

Disability issues should be covered in training in legal practice so that all legal services, not only specialist legal services for disabled people, are accessible to disabled people. To this end, disability equality and human rights should be added to the Law degree.

The potential of a system of accreditation for lawyers on disability equality should be explored.

c) Strategic litigation

LawWorks Scotland and The Strathclyde University Law Clinic could explore the potential of taking more strategic cases for disabled people, including via DPOs.

The Scottish Human Rights Commission (SHRC) should be able to take cases in Scotland and/or, the Equality and Human Rights Commission (EHRC) should be able to take cases on only human rights.

1. Summary of the solutions *Continued*

d) Cost

More information on the help provided by Trade Unions and personal insurances to take up cases should be made available.

The Scottish Government could remove fees for tribunals.

LawWorks Scotland and Disabled People's Organisations (DPOs,) could work together to identify lawyers who are willing to partner DPOs to help take cases on a pro-bono basis.

Where an organisation can support it, Judicial Review is often more cost effective than individuals taking cases themselves, and should be promoted for cases about Public Authorities.

Increasing the capacity of the Equality and Human Rights Commission (EHRC) to take more Judicial Reviews and giving the Scottish Human Rights Commission (SHRC) this power too, will take the burden off disabled people to take cases on an individual basis, and could help improve case law.

There should be a statutory provision in Scotland to make allowances for Disability Related Expenditure when applying for Advice and Assistance funding.

e) Institutional solutions

Enforcement of disability equality and human rights could be taken out of the courts and put into a tribunal system.

Scrutiny bodies in Scotland could renew their focus on public sector compliance with Human Rights law and develop activities to support this.

Public Authority complaints systems should be reviewed to ensure they are truly impartial. The Public Services Ombudsman could produce and publicise more accessible information on the right to remedy.

f) Changing cultures

A campaign, targeted at disabled people about their rights, should be developed. It could be modelled on the #everydaysexism campaign.

The Crown Office Procurator Fiscal's Office could work with DPOs to include broader disability equality and human rights in their young people's education programme in schools.

Building on earlier work by the Disability Rights Commission, a programme of education in schools, focussed on disability equality and human rights, and anti-bullying, should be developed and added to the Curriculum for Excellence.

2. background to the Solution Series

The Independent Living in Scotland (ILiS) project works with the Scottish Government, disabled people and other key stakeholders on the strategic interventions that make equality and human rights the reality for disabled people in Scotland (see appendix 1 for detail on independent living and human rights).

"The Solutions Series" which is hosted by ILiS is a series of solution focused discussions – 'pop up think tanks' – designed to bring together Disabled People's Organisations (DPOs), decision makers, academics, public service leaders and other key experts from across Scotland and beyond. Each pop up think tank in the Series will consider, and seek solutions to, a specific issue that has been identified as preventing or hindering progression of the equality and human rights of disabled people in Scotland.

Each think tank will result in a report capturing the solutions offered. This will be used to promote wider awareness and understanding of the issue and to influence and direct change at national and local levels.

This is the report of the seventh pop up think tank in The Solutions Series: "Justice is served? Disabled people's access to justice" which took place on the 3rd of December (International Disabled People's Day) 2014. The think tank was chaired by Professor Nick Watson. A full list of participants is provided at appendix 2.

A number of key stakeholders were unable to attend this particular event. With the permission of the participants there on the day, ILiS worked with those who couldn't be there, following the event in order to include their views and their solutions for change, in this report.

3. The issue: *disabled peoples access to justice*

A combination of desk based research and conversations with DPO's, academics, representatives from the world of justice, and decision makers helped determine the specific emphasis for the discussion ahead. It found that:

- Disabled people's rights are not yet the reality they experience.[1]
- The various remedies to address this, including complaints and reviews processes, scrutiny and regulation, and the law are insufficient to protect these rights.[2]
- Testing and thus upholding the law in a court or tribunal is the final port of call to ensure justice is served, however disabled people often don't go to a court or tribunal because:
  - It is unaffordable. [3] [4]
  - The knowledge they have of their rights and the justice system limits their ability to challenge things through the court. [5]
  - There are too few specialist legal advice services for disabled people. [6] [7] [8]
  - Disabled people are frightened they will lose what support they have. [9]
- A lack of advocacy for disabled people compounds all of the above.[10]

3. The issue *Continued*

All of this means:

- Organisations and service providers can act with impunity when overlooking disabled people's rights.
- Disabled people's rights are not protected – and are in fact regressing.
- Society loses out on the rich diversity of experience, knowledge and contribution of disabled people.

1) Figures from the Equality Advice line show that disabled people make up two thirds of the calls but don't make up two thirds of the protected groups, this shows they are disproportionately facing barriers
2) Inquiry into implementation of Article 19 of the UNCRPD"; Joint Committee on Human Rights; 2012
3 http://www.gmb-southern.org.uk/fees-lead-to-79-drop-in-employment-tribunal-claims/
4) SHRC; "Scotland's National Action Plan", chapter 8
5) Gore & Parckar; "Rights and Reality – disabled people's experiences of accessing goods and services"; for Leonard Cheshire; 2010
6) http://www.equalityhumanrights.com/sites/default/files/documents/Scotland/Human_Rights_in_Scotland/UNCRPD_-_Scotland/factsheet_2.pdf
7) http://www.capability-scotland.org.uk/media/63459/jdsg_final_report_rh_21898_26908.pdf
8) See also GOODING, C. 2000. Disability Discrimination Act: from statute to practice. Critical Social Policy 20, 533-549. and ROULSTONE, A. 2003. The Legal Road to Rights? Disabling Premises, Obiter Dicta and the Disability Discrimination Act 1995. Disability & Society, 18, 117-131
9) http://www.scottishhumanrights.com/ourwork/crpd/seminar
10) "Ten years of advocacy provision"; The Scottish Independent Advocacy Alliance; 2013

4. The discussion

The think tank considered solutions to the following specific question:

How can we address the barriers disabled people have in enforcing the law?

It specifically considered:

- Structural, policy and procedural barriers.
- The costs of taking a case to court or tribunal.
- Information available to disabled people, and their knowledge of the system.
- The knowledge and readiness of the legal professions to take cases – including the lack of advocacy and advice focussed on disability.
- Disabled people's fears about taking a case to court.

The Chair welcomed the group. He noted the injustices disabled people face, despite the myriad laws which have been put in place to 'protect' them. He also noted that whilst using the law is the last resort to protect their rights, it is important that it is seen as a feasible option for disabled people. The think tank had been convened because too often this is not the case.

a) Knowledge and expertise

Disabled people have little knowledge of where to get advice when their rights have not been met. This is the result of various issues, including that there is not sufficient easily available information on their rights. In addition, Public Authorities are not readily aware of the responsibilities they have. Lastly, the legal profession have limited understanding of disability issues, which has a huge impact when taking cases for disabled people. All of these things were considered as key barriers to progress.

4. The discussion *Continued*

It was felt that we are not yet at the starting line. Disabled people often do not realise that they are being discriminated against, or that there is anything that they can do to remedy this. Where they do have this awareness, they do not always know where to go for advice on this or what area of law their issue falls in – and they do not always frame their concerns in terms of 'equality and human rights'.

Furthermore, disabled people have few formal places to go to get the specific advice they need. In the case of disability law, it is not simply knowing about equality and human rights, but knowledge of how it applies in cases of benefits, employment, community care, goods and services and so on. This often means that existing services providing legal advice are considered to be too generic.

It was felt that a 'third party' approach could help improve this. Organisations could act on behalf of disabled people, and bring their situation to the attention to the legal profession, including by signposting disabled people on appropriately. Disabled People's Organisations (DPOs) understand the complexities of the injustices disabled people face, and the systematic causes of them, and would be an obvious choice. However, they rarely have the capacity or funding to give out individual advice, take cases, or to signpost individuals to the right place in the targeted way needed – yet they are often the first port of call for disabled people seeking such advice. Furthermore, DPOs are not generally funded for this type of support work by funders.

Better links between disabled people, their organisations and the legal sector would improve the range of expertise out there too, however these need strengthened through working together and better communication and information.

All of this is compounded by the fact that Public Authorities do not always understand what their obligations are in terms of the equality and human rights of disabled people. There is therefore a lack of awareness at a strategic level, which, if addressed, could help avoid the need for such advice and legal input at an earlier stage – or indeed, altogether.

b) Culture

It was noted that there is now a presumption – including legally – that disability is an issue of oppression and equality, not, as many years before, an issue of medical change. However, participants felt that some disabled people are not yet of the mindset that they can or should pursue access to justice and enforce the rights they have – and in some cases, it was felt that Public Authorities or the general public themselves were not of this mindset either. This culture was thought to be a barrier to disabled people's access to justice. A number of reasons were suggested for this.

Research shows disabled people are more likely to be bullied in schools than others, yet less than 2 cases of bullying are reported per year. Participants noted that this could be because instead of challenging bullying when it is encountered, the common response from authorities was to exclude disabled people from mainstream schools – i.e. to remove the victim. It was felt that this could in part contribute to a culture where, from an early age, disabled people learn to believe that they are different and that unlike the majority of other children, a solution to the injustice they face is their exclusion rather than the implementation of the rights they have.

The ways in which the rights of disabled people are (miss) understood by the general public was also thought to prevent progress. Some people assume that because 'x' behavior is so outrageous or indeed illegal, it cannot or will not happen (e.g. it is not uncommon for disabled people to hear the statement; "oh they will have access, its illegal not to"). In addition, sometimes people also assume that if something is illegal, someone will prevent it e.g. police it. However, participants noted that neither is the case. Such assumptions send clear messages to disabled people, causing treatment that is in reality wrong or illegal, to be normalized.

It was also felt that the Scottish Government and Public Authorities could do more to promote a culture of upholding disabled people's rights.

To address these barriers, culture change is needed working from the grassroots up. Strategic, legal intervention could help this, but DPOs and the third sector, where the expertise in disability lies, do not have a history of third party intervention in this area (due to many of the reasons previously outlined at section a).

c) Institutional barriers

Where the issues outlined above at sections 'a' and 'b' can be overcome, and there is an appetite to take a case, it was felt that the systems and structures in place for effective remedy can often be disempowering.

Before some legal remedies are considered, internal complaints systems need to be exhausted. However, these were considered to be onerous, tiresome, wearing and sometimes not impartial – one participant described the experience of using a complaints systems as being a "bit David and Golliath". As a result, people are often 'burnt-out' simply getting through this part of the system, leaving little or often no energy nor will, to pursue the next step in the process – courts or tribunals. Thus complaints systems themselves could act as a further barrier preventing legal action and ultimately access to justice.

Further, where complaints systems do find in favour of the disabled person – which of course is helpful for the person concerned – they often settle out of court preventing the development of case law and legal precedent. The result is that instead of strategic change, individuals are left to fight each case at a time.

All of this means that the process of getting to court is long and drawn out. It all relies on a level of knowledge, bravery, resilience and will-power that few people have, and that, as a result of the systematic oppression they face, disabled people have even less of.

"People need to be so brave and resilient to get through any system like this". (think tank participant).

Alternatives to individual action were suggested. Strategic litigation and third party intervention, were considered helpful, however, few organisations (including those in the Public Sector e.g. the SHRC/EHRC – see below) with the expertise necessary to do this effectively have the capacity to take on such cases.

c) Institutional barriers *(Continued)*

Judicial Review might also offer an alternative, but this was considered expensive and cumbersome for individuals to use on their own. The proposed three month time limit for taking cases to judicial review that is due to come in, was recognised as a further barrier to this approach (if disabled people are unaware that their rights have been breached it is less likely that they will be able to initiate the process within this time period).

Lastly, the work of the two national Human Rights Institutions (the SHRC and the EHRC) was commended. However, participants highlighted the fact that the SHRC does not have the ability to take cases in Scotland, and that the EHRC cannot take cases with a purely Human Rights focus and has reduced capacity due to recent cuts. Similarly the requirement of the EHRC to work with all equalities groups may inhibit a focus on disability. All this means that opportunities for pursuing strategic litigation in this area are limited.

d) Cost

The cost of taking legal action was considered to be a huge problem.

The Scottish Government reduced the budget allocation for Legal Aid but it remains demand led. Scottish Government has offered assurances that the delivery of savings will not result in a reduction in access to or coverage of Legal Aid. Instead the savings will come from a focus on better value for money. However, some people noted concerns around whether access to and coverage of Legal Aid could be maintained in light of the reductions.

Many disabled people face additional costs of living that are associated with disability. Scope estimate that this extra cost is on average, £550 a month and; that benefits, such as Disability Living Allowance (DLA), paid to disabled people to protect them from the increased costs of disability, do not cover them.[11] The fact that the statutory discretion to make allowances for disability related expenses that may not be covered by benefits such as DLA does not exist when applying for Advice and Assistance was therefore a concern.

Cases based on disability discrimination are much more likely to have to rely on expert reports – either to prove the impairment and resulting disability or to show that an adjustment is effective and reasonable – than in other cases, which acts as an additional burden and makes the chances of obtaining pro bono support much more difficult than in other areas.

11) http://www.bbc.co.uk/news/business-28482968

5. The solutions

The think tank identified a number of possible solutions to the issues identified in section 4 above. These could work either in isolation or as part of a parcel of activities contributing towards the changes needed. The solutions listed here came from different participants at the think tank and do not necessarily represent an agreed, nor the only, way forward. They should be considered as among **a number of possible ways** to drive forward action.

a) Working together

Justice organisations and disabled people should be better connected.

A network of lawyers interested in work on disability, and DPOs, should be set up to support sharing of information and increase knowledge and capacity – of lawyers and DPOs. This arrangement would be of mutual benefit to DPOs and lawyers. DPO's would benefit because they'd have access to legal professionals, including qualified lawyers, to refer their members to and; disabled people themselves would benefit, because case law could also be improved through better sharing of information and signposting. Similarly, members of the network from the justice profession would benefit from the expertise offered by DPOs in this area of law.

In addition, a national forum on access to justice for disabled people, including disabled people and representatives from the justice sector should be set up. The forum could coordinate the work suggested in this report; help to strengthen links between disabled people and the justice sector and; oversee a piece of research, coproduced with disabled people, building on the recent work carried out by the Scottish Legal Aid Board on why Scots don't go to court.

The Law Society connect people to lawyers who practice in the area of law they need representation/advice on. DPOs could work with the Law Society to promote this initiative to disabled people and also to refine the signposting – including as part of the network suggested above.

A directory of legal services specialising in disability, where they operate, and what their area of expertise is, should be developed and shared with DPOs and other organisations. This would help organisations to link up and to signpost appropriately. The directory could be developed through the Law Society who already host a list of lawyers and their expertise. A similar directory of DPOs should be developed for the benefit of the legal profession. ILiS have a directory of DPOs that could be amended for this purpose.

To address some of the physical barriers to accessing justice e.g. lawyers offices not being accessible, communication support not being available etc. justice organisations should work locally with Access Panels. Access Panels can be contacted through the national umbrella organisation, the Scottish Disability Equality Forum (SDEF).[12]

b) Knowledge, training and expertise

Knowledge and expertise must be developed to ensure disabled people have access to justice. Working more closely together will help this (particularly as part of the network at 'a') but can be improved in a variety of other ways too.

Disabled people in England go to court more often than disabled people in Scotland. It was suggested that one reason for this was that there is a law centre in England funded to specifically focus on disability. One-stop-shops like these, supporting disabled people to get the right remedy, at the right time, and for free, are needed across Scotland.
To achieve this, a network of Disability Law Centres should be set up covering every region of Scotland, supported by a national Disability Law Centre. These must be able to provide independent, expert, legal advice and advocacy in the area of disability equality and human rights. They should also help people to understand their rights and how to defend them. It was suggested that this network of the centres could be publicly funded by the Government or by the Scottish Legal Aid Board. DPOs, the Scottish Government, SLAB and Local Authorities could work together in the coming year, to explore this.

If such law centres existed, they would help raise the profile of disabled people's rights and show them that they can and should uphold those rights.

Further education is still needed. Training in disability equality and human rights law should be developed (in coproduction with disabled people) to ensure that more people working in the justice sector, understand the issues, and that more disabled people understand their rights. This training could be promoted to the legal

12) http://www.sdef.org.uk/

profession through the network of DPOs and lawyers (suggested 'a'), the EHRC, the Law Society in Scotland and LawWorks Scotland. The Strathclyde University Law clinic could also contribute given their role in training solicitors, and could work with DPOs to include training on disability equality and human rights law as part of their wider training remit.

Disabled people's own knowledge and understanding of the system must also be developed. The Strathclyde University Law Clinic is developing a public education programme. Disability equality and human rights law could be included in this and could target disabled people as a group experiencing significant unmet need in this area. The proposed network of law centres could similarly be charged with developing and rolling out a programme of public education.

Disability issues should be covered as part of the in-house training in legal practice so that all legal services – and not just specialist ones, are accessible to disabled people. To this end, disability equality and human rights should be added to the Law Degree.

Accreditation of lawyers in specific areas can help to highlight to people who need these services where to find the expertise. The Law Society currently run an accreditation scheme for mental health law; and; the Crown Office Procurator Fiscal Service is looking at an accreditation scheme for solicitors in criminal law. A small group of people could come together to consider the potential of extending both areas of work to include accreditation on disability equality.

c) Strategic litigation and improving case law

An increase in Scottish case law relating to equality and human rights for disabled people is needed.

The network of lawyers and DPOs (see 'a' above) would help to build a community of people focussed on strategic litigation, through increased understanding, connections between lawyers and DPOs and better signposting of cases.

In addition, and to help address some of the costs associated with accessing justice, LawWorks Scotland, as a group of lawyers who provide pro-bono legal advice, could be part of the network suggested at 'a'. Through this, they could work together with DPOs and others, to increase the up-take of strategic cases, particularly in the areas of welfare, social care and access to goods and services.

Furthermore, a change in law that enables the Scottish Human Rights Commission (SHRC) to take cases in Scotland and/or, enabling the Equality and Human Rights Commission to take cases on human rights grounds alone, would also help.

The Strathclyde Law Clinic has recently started supporting immigration cases in order to develop case law in this area. They undertook at the think tank to consider expanding this work to include cases in disability.

d) Cost

Access to justice needs to be more affordable. A number of suggestions to help with the cost of taking a case to court were suggested.

Trade Unions and personal insurances can sometimes help individuals to pay for legal cases. More information on this should be made available to disabled people as initial means to enable access to justice.

Using powers that may come to Scotland through the Smith Commission agreement, the Scottish Government could remove fees for tribunals.

Identifying lawyers who are willing to take on pro-bono cases, and connecting them with disabled people seeking legal advice, support and representation, would help reduce the burden of cost for disabled people when accessing justice. LawWorks Scotland could undertake work with DPOs to identify lawyers who are willing to partner DPOs to help take cases on a pro-bono basis.

Judicial Review may be a costly option for an individual, however, where it can be used strategically, including with the support of an organisation, it can save money because individuals would not need to take cases in isolation. The EHRC can take such cases on behalf of disabled people. However, as noted in section 4, they have limited capacity to do so. Increasing this capacity was considered a priority. In addition, giving the Scottish Human Rights Commission powers to take cases could add further capacity in Scotland, and increase the number of cases through the courts and thus develop more case law.

There is already statutory provision to make allowances for Disability Related Expenditure when applying for Legal Aid, this provision should be extended to include applications for funding for Advice and Assistance. This would help ensure that the additional costs associated with disability would not be a barrier to accessing funding for access to justice.

e) Institutional solutions

Some institutional changes are needed to improve access to justice for disabled people.

Taking responsibility for enforcement of disability equality and human rights out of the courts and placing it into a tribunal system could reduce bureaucracy. It would also allow for experts in the area to make decisions rather than relying on the judiciary in such a complex area of law. This was a proposal previously suggested by the former Disability Rights Commission. The EHRC, SHRC, DPOs, justice organisations and the Scottish Government could explore the potential for doing this.

Scrutiny bodies in Scotland could develop a renewed focus on public sector compliance with Human Rights law, and develop associated activities to support this. DPOs could work with scrutiny bodies to help steer this approach.

Public Authority complaints systems must also be addressed, in order that they become viewed as being truly impartial processes. The Public Services Ombudsman could also produce accessible information on the right to remedy.

f) Changing cultures

Disabled people need to know that they can uphold their rights and a culture where it is ok to do so must be fostered. As well as the training suggested, leadership and culture change is needed to make this happen.

It was felt that such leadership and culture change should include the 're-packaging' of disability discrimination, so that the general public can understand what it is as well as how to prevent it. In addition to the information programmes suggested above, a campaign, targeted at disabled people, should be developed and promoted. This campaign could highlight that: disabled people have rights; that they don't need to and should not, put up with bad treatment; and that it is possible to enforce their rights. Such a campaign could use a combination of methods, including social media.

f) Changing cultures *continued*

The #everydaysexism campaign was suggested as an example of good practice in this area, it helps to raise awareness of and challenge the every day occurrences of sexism and gender discrimination experienced by women around the UK. A similar campaign, perhaps using the hashtag #everydaydisableism could help highlight to disabled people the sorts of experiences they shouldn't have to put up with. It would also highlight the prevalence of such treatment to the wider public. DPOs could work together on such a campaign, and learn from the #everydaysexism example. In addition, DPOs could ask their members for information/case studies of #everydaydisablism to influence policy and practice. This would also help to foster culture change at a strategic level.

Hearing that ill treatment is wrong, from a young age, was also thought to be crucial. It can help build disabled people's confidence, encourage them to uphold their rights, and thus help create a culture where human rights are recognised and respected. The Crown Office & Procurator Fiscal Service recognised this and has developed a programme educating young people on hate crime in schools. The COPFS could work with DPOs to help extend this work to include broader disability equality and human rights.

In addition, a programme of education in schools, focussed on disability equality and human rights, and anti-bullying, should be developed and added to the Curriculum for Excellence.

6. Next Steps

Several of the solutions outlined could be made to work in isolation if necessary, or together as part of a combined approach towards making change happen. ILiS will aim to work with key stakeholders to help progress some of the solutions suggested and it is hoped that this report will also inspire others to act together towards change.

6. Next Steps *Continued*

The ILiS project March 2015

Email: **contact@ilis.co.uk** Website: **www.ilis.co.uk**

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Appendix 1

Independent living, equality and human rights – an understanding

Independent Living is defined by disabled people themselves 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".

For many disabled people, this practical assistance and support (such as access to the environment, advocacy, personal assistance, income, and equal opportunities for employment), underpinned by the principles of independent living, **freedom, choice, dignity and control is essential for them to exercise their rights and duties of citizenship, via their full and equal participation in the civic and economic life of Scotland.**

Without it, many disabled people cannot; enjoy the human rights they are entitled to[13] on an equal basis to others – as set out in the Human Rights Act and the European Convention of Human Rights, live free from discrimination and harassment as the Equality Act 2010 promotes, nor contribute to a wealthier and fairer, healthier, safer and stronger, smarter and greener Scotland.[14]

Independent living thus promotes a modern understanding of disability and disability equality that can support policy and practice to protect the human rights of disabled people. It achieves this by recognising the essential role of "material support" in ensuring disabled people can "participate in society and lead an ordinary life".

The role independent living plays in protecting the human rights of disabled people is recognised and underpinned by international human rights and equalities obligations to which the UK and Scotland are party to; including the recognition that all of the rights outlined in the ECHR and Human Rights legislation belong to disabled people, and that these are further strengthened and contextualised by the rights set out in the UNCRPD.

13) ILiS; "ILiS Response to the JCHR Inquiry into the Implementation of Article 19 of the UNCRPD", 2011
14) ILiS; "Response to the SDS Strategy in Scotland", 2010

Appendix 2 List of participants

Bill Scott	Inclusion Scotland
Brian Simpson	The Law Society Scotland
Carole Ewart	Human Rights Consortium Scotland
Catherine Garrod	Coalition of Care and support Providers in Scotland
Cathy Asante	Scottish Human Rights Commission
Heather Fisken	Manager, Independent Living in Scotland project
Jacky Wall	Strathclyde University Law Clinic
Morven Brooks	Scottish Disability Equality Forum
Nathan Gale	Equality Network/SG Justice Equality Advisory Group
Professor Nick Watson	Glasgow University (Chairing)
Paul Brown	The Legal Services Agency
Paul White	Law Works Scotland
Ruth McQuaid	Crown Office and Procurator Fiscal Service

Solution Series: 7

Justice is served?
Disabled people's access to justice

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