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United Nations Convention on the Rights of Disabled People

Scottish Civil Society Shadow Report
March 2022
Summary Report
The Scottish Civil Society Shadow report identifies key issues on the implementation of the United Nations Convention on the Rights of Disabled People (UNCRPD) in Scotland. Scotland is a nation within the UK State Party and has a Parliament with powers over a range of policy areas.

The Scottish Civil Society Shadow report has been produced by Inclusion Scotland, in collaboration with a steering group of third sector and Disabled People’s Organisations in Scotland.

To gather evidence to inform the Scottish Civil Society Shadow report, three online capacity building events took place to tell Deaf and disabled people (DDP) about the UNCRPD, the current review and to gather their input. Separate discussions were held with three seldom-heard groups – Black and minority ethnic (BAME) disabled people, young LGBT+ disabled people and disabled people living in an assessment and treatment unit.

A call for evidence was also launched. This consisted of a mixed-methods, self-selecting online survey for DDP people conducted by Inclusion Scotland which received 127 responses (this data is referenced as 2021 UNCRPD survey throughout this report). There was a separate survey for organisations.

This summary report addresses the UNCRPD articles in order of their appearance in the Convention, setting out some of the key findings under each.
Articles 1-4 – General obligations and principles

Key findings:
- The Scottish Government plans to incorporate the UNCRPD into Scottish law.
- The UK Government has launched a consultation which could lead to radical changes being made to the Human Rights Act.
- There is concern that the UK might not keep pace with progressive, positive developments around equality and rights from the EU and could trigger rights regressions.

Article 5 – Equality and non-discrimination

Almost all respondents (96%) to the 2021 UNCRPD survey said that there are still negative attitudes and discrimination towards disabled people in Scotland.

Key findings:
- Negative attitudes and discrimination persist and were perceived to worsen during pandemic.
- Rhetoric of politicians and the media around who was at risk from Covid-19 and who was going to be prioritised for treatment made disabled people feel expendable.
- DDP experience intersectional discrimination, but there is a lack of data.

Article 6 – Disabled women

70% of respondents to the 2021 UNCRPD survey said that they don’t think the rights of disabled women and girls are given enough attention.

Key findings:
- Deaf and disabled women have taken on more responsibility, including caring, since start of pandemic.
- Deaf and disabled women more likely to say they will be in more debt after the pandemic.
- Deaf and disabled women struggle to access health care and get concerns taken seriously because of discriminatory attitudes.
• There is a lack of accessible sexual and reproductive health care for Deaf and disabled women.

Article 7 – Disabled children

62% of respondents to the 2021 UNCRPD survey said that they didn’t think children’s rights are protected. 22% said they were unsure.

Key findings:

• Parents of Deaf and disabled children felt abandoned during the pandemic. There was a lack of educational support and cancellation of social care support services.
• Deaf and disabled children experienced increased anxiety which impacted on moods and behaviour.
• Waiting times for Child and Adolescent Mental Health Services increased.
• Deaf and disabled children experience bullying at school, but the Scottish Government does not collate data at a national level.
• Little progress has been made to meet commitments to support families, carers and children to learn BSL.
• Restraint and seclusion are used more frequently on Deaf and disabled children in schools.

Article 8 – Awareness raising

• DDP have called for more human rights awareness and education amongst government, policymakers, the NHS, service providers and disabled people themselves.

Article 9 – Accessibility

Three quarters (76%) of respondents to the 2021 UNCRPD survey said that buildings, housing, transport and information are still not accessible for disabled people.

Key findings:
Internet access
- The pandemic has accelerated the move to online services, but DDP people are still less likely to have access to the internet.
- Increased online working and activities has benefited many DDP. But people are worried these gains will be lost.
- Older Deaf BSL user women and deaf and hard of hearing women in particular struggle to access appropriate support to get online.

Public spaces
- Schemes like ‘Spaces for People’ and ‘Low Emission Zones’ have increasingly excluded DDP from public spaces.
- One-way systems in shops and use of inaccessible spaces for distancing during pandemic didn’t consider needs of DDP.

Public transport
- Changes during the pandemic and safety concerns prevented DDP using public transport.
- Limited wheelchair access on buses mean people can’t confidently plan journeys or travel with other wheelchair users.
- Almost half of train stations are inaccessible.
- Accessible transport particularly lacking in rural areas.
- Difficulties locating and accessing public toilets prevents DDP people from travelling.

Housing
- DDP people are still living in inaccessible housing as there is a chronic shortage of accessible and adapted housing.
- The Scottish Government has committed to creating a new cross tenure accessibility standard for all new homes by 2025/26.

Article 10 - Right to Life

Key findings:
- 6 in 10 people who died with Covid-19 were disabled.
- Infection and death rates were higher for people with learning disabilities.
- Before the pandemic children and young people with learning disabilities were 12 times more likely to die prematurely.
• DDP and older people were given Do Not Resuscitate orders during the pandemic, including people with dementia and people with learning disabilities.
• A consultation is taking place on proposals for a new law that would introduce legally assisted suicide.

Article 11 - Situations of risk and humanitarian emergencies

87% of respondents to the 2021 UNCRPD survey said that there wasn’t enough planning in place to protect disabled people during the pandemic.

• The UK and Scottish Governments were underprepared for the pandemic. There were limited plans to protect people at risk and to ensure essential services could continue to operate.

Article 12 – Equal recognition before the law

56% of respondents to the 2021 UNCRPD survey felt disabled people’s right to make their own decisions isn’t protected. A large minority weren’t sure (30%).

Key findings:
• The number of people subject to a guardianship order increased between 2019/20 and 2020/21.
• The Coronavirus (Scotland) Act 2020 delayed the expiry of guardianship orders during the pandemic, extending orders in force during this time by 176 days.
• The Rome Review concluded that learning disability should no longer seen as a ‘mental disorder’ under mental health law.
• The Scottish Mental Health Law Review’, is currently reviewing developments in mental health law and practice since the Mental Health (Care and Treatment) (Scotland) Act 2003 came into force.
Article 13 – Access to justice

73% of respondents to the 2021 UNCRPD survey felt that disabled people find it hard to get support if they have a legal problem.

Key findings:

- There is a lack of support for DDP in justice system.
- There is no compulsory training of Scottish judiciary on disability.
- Increased adoption of audio-visual technology and remote trials in the criminal justice system may act as a barrier to understanding and communication for DDP.
- There are still barriers preventing DDP people getting advice – lack of availability, inaccessible information and buildings, not being listened to, costs, lack of legal aid and discriminatory attitudes.
- Costs associated with reasonable adjustments are not being met by legal aid, for example Deaf BSL users requiring the use of interpreters when dealing with lawyers.
- Deaf BSL users are still not allowed to serve on juries.
- There is a lack of available high quality BSL/English interpreters in courts and police stations.

Article 14 – Liberty and security of person

Key findings:

- Detentions under the Mental Health Act increased by 9.1% during the pandemic - compared to five-year average increase of 5% year on year.
- In 2018, 705 people were in out of area placements (45% for more than 10 years) and 67 people on delayed discharge (22% for more than 10 years).
- People living in assessment and treatment units said that they would like to live in the community and that the additional restrictions during lockdown impacted their wellbeing.

Article 16 - Freedom from exploitation, violence and abuse

Key findings:

- There was a 14% increase in the number of disability hate crime charges between 2019/20 and 2020/21.
- There is a lack of intersectional data on hate crime.
• There are higher rates of domestic abuse for DDP, but there is a lack of intersectional data on domestic abuse and disabled women.
• Support available to Deaf BSL user women and deaf or hard of hearing women experiencing domestic abuse is limited.

**Article 18 – Liberty of movement**

• Changes to the Blue Badge permit scheme and European Health Insurance Card could make it more difficult for DDP people to travel to Europe.
• The lack of portability of care packages/plans makes it very difficult for people to move to different local authority areas.

**Article 19 – Living independently and being included in the community**

71% of participants in the 2021 UNCRPD survey said disabled people are still not given the support they need to live independently.

**Key findings:**

• 1 in 20 people were receiving social care support during 2018/19.
• Increase in demand and limited budgets has put pressure on local authorities’ ability to provide adequate Self-directed Support.
• DDP lost social care support during the pandemic – people were left in desperate situations as a result. Some people still have not had their support fully reinstated.
• The Scottish Government has committed to bringing forward the National Care Service Bill, following the recommendations of the Independent Review of Adult Social Care.
• The number of unpaid carers increased to over 1 million during the pandemic.
• DDP have experienced disruption to support due to Brexit.
Article 21 – Freedom of expression and opinion, and access to information

- UK government briefings during the pandemic were inaccessible to BSL users. There was a general lack of BSL and Easy Read information during pandemic.
- Measures like distancing, face masks and online services impacted on deaf or hard of hearing people’s ability to communicate and access services.

Article 23 – Respect for privacy and the family

- Deaf and disabled women (particularly those with learning disability) with children experience greater intervention from social services.

Article 24 – Education

Around 60% of respondents to the 2021 UNCRPD survey said that disabled people are not fully able to take part in education in Scotland today.

Key findings:

- Deaf and disabled children are less likely to do well and leave school with qualifications.
- Deaf and disabled children are considerably more likely to be excluded.
- The move to online learning during the pandemic was not accessible for some autistic children, Deaf BSL user children and visually impaired children.
- There is concern about the impact of school closures on Deaf and disabled young people – possible that there will be an increase in the attainment gap.
- There are not enough teachers with BSL skills in mainstream schools.
- Deaf asylum seekers/refugee’s need for support for learning BSL is not recognised. People have entitlement to English classes but there is no equivalent for Deaf asylum seekers.
Article 25 – Health

82% of respondents to the 2021 UNCRPD survey said disabled people still struggle to access the health care they need.

Key findings:

- DDP and children lost access to health services during pandemic and reported their health had got worse.
- DDP adults experienced an increase in moderate to severe symptoms of depression.
- Children and young people have been sent to England or treated in inappropriate settings because there are no dedicated NHS mental health inpatient units in Scotland for children and young people with learning disability and/or autism.
- There is a lack of choice in BSL interpreters in health care.
- Older Deaf BSL users with conditions like dementia need more appropriate and accessible support.

Article 27 – Work and employment

Most respondents (88%) to the 2021 UNCRPD survey said that disabled people still find it difficult to find and keep a job.

Key findings:

- The disability employment gap remains significant at 32.8 percentage points.
- In 2019, for every £1 that a non-disabled employee earned, a disabled employee earned £0.83 on average.
- Stigma and discrimination towards DDP workers appear to have increased during the pandemic.
- DDP reported feeling at greater risk of redundancy.
- The move to working from home has benefited many DDP.

Article 28 – Adequate standard of living and social protection

Almost three quarters (73%) of 2021 UNCRPD survey respondents said disabled people don’t have enough money to have a decent life.
Key findings:

- Poverty rates remain higher for households with a disabled person.
- Energy costs are disproportionately high for DDP, and they will be impacted by rising energy costs.
- During the pandemic DDP were more likely to say their finances had been negatively impacted.
- The Scottish Government has prioritised a ‘safe and secure’ transition of disability benefits and has retained rules which are strongly opposed by DDP.
- Since the transition from Disability Living Allowance to Personal Independence Payment, 25% of people undergoing reassessment lost support. Over half of new claims have been rejected.
- Many DDP didn’t get the Universal Credit £20 per week uplift during the pandemic as they were on legacy benefits.
- DDP have been unable to access food and medicine during the pandemic because of unequal access to delivery slots and inaccessible systems.
- DDP were at higher risk of food insecurity prior to pandemic but it has got worse.

Article 29 – Participation in political and public life

51% of respondents to the 2021 UNCRPD survey said that disabled people still have problems voting in elections and taking part in politics.

Key findings:

- Election of first wheelchair user to Scottish Parliament in 2021.
- Still issues with lack of data about Deaf and disabled politicians.
- In 2019/20, only 7.2% of public board members were disabled people.
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