



**Independent
Living in Scotland**

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Solutions Series: 2

Rights to reality - implementing Article 19 of the United Nations Convention on the Rights of Disabled People (UNCRPD) in Scotland

The Solutions Series is a 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 second report in the Solutions Series.**

“Rights to reality – implementing Article 19 of the UNCRPD in Scotland” sought solutions to accelerate progress towards implementation of Article 19 of the UNCRPD in Scotland. This report reflects the discussion on the day and not necessarily the views of ILiS.

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We would especially like to thank Neil Crowther, international human rights expert, for agreeing to chair the Think Tank and John Finnie MSP for sponsoring the event in the Scottish Parliament.

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

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

A message from Baroness Jane Campbell of Surbiton to “The Solutions Series: rights to reality” Think Tank on 21st January 2013 at the Scottish Parliament.

“I am delighted that ILiS has developed a Pop-Up Think Tank, to follow on and run with the work that was initiated by the Westminster Joint Committee on Human Rights on implementation of Article 19 of the UNCRPD in 2012. As a member of the JCHR, I was privileged to lead this enquiry which resulted in many powerful comments and recommendations as to how government should change and develop, in order to comply with it.

The UNCRPD is unlike any other international human rights Convention; it was conceived by disabled people for disabled people. It provides a reference point, a bar, below which standards should not fall, for the rights of disabled people in our society. When our policy makers strategize, it must be there in their minds, their words and their actions. When our courts seek justice, it should be there in their thoughts and deliberations and

inform their judgements. And when disabled people seek change, it must ring loudly in our heads and continue to be driven by all our ambitions, built on what has liberated us so far and lift us to greater successes as equal citizens.

That is why the way in which we work together – decision makers, lawyers, disabled people, academics and politicians – is so vital to ensure a UNCRPD approach is progressed and promoted to its optimum success. Collaboration must be the hallmark. This pop up Think Tank will do just that. It will raise the profile of the Convention through coproduction and it will support acceleration of progress on it in Scotland and hopefully in time to the rest of the United Kingdom. I wish you well and will take a keen interest in what happens next...”

Baroness Jane Campbell
of Surbiton



1. Summary of the solutions

The solutions identified in discussion at the Think Tank and highlighted in this report originate from a variety of organisations and individuals. As such they do not necessarily represent the agreed, or indeed the only way forward.

Below is a summary of key solutions identified in the discussion as ways to accelerate progress on Article 19 of the UNCRPD in Scotland. You can find out more about each of them at Section 5.

a) A framework of action on the UNCRPD –

- an agreed Framework of Action on the UNCRPD (including aims, methods and measurements) should be developed as part of the national Independent Living Programme Strategic Approach
- implementation of the Framework must; inspire confidence in disabled people; and be supported by simple rules that reduce bureaucracy

b) Grow leadership and understand what change is needed –

- sectoral leaders, alongside disabled people, should work to expand awareness and action on the UNCRPD
- indicators of what success on the UNCRPD looks like should be developed
- real life stories and examples should be used to help people understand independent living and human rights – what works and what is needed

c) Support is needed for people to work together towards change –

- disabled people need support, and their organisations need greater resources, to work together and with decision makers, towards change
- there needs to be safety and openness to hold difficult discussions without fear of repercussions

1. Summary of the solutions *Continued*

d) Legislation and legal redress

- Scotland should introduce an ‘Independent Living Act’ that –
 - > includes a strategic duty on national and local government to; have due regard to the rights of disabled people to live independently and be included in their community
 - > includes a second duty; to involve and engage disabled people and their organisations, in the meeting of the first duty
 - > encourages collaboration
- more law clinics should be set up to help disabled people, their organisations and allies to safeguard disabled people’s rights to independent living

e) Make the most of existing opportunities –

- policy and decision makers should assess the impact of all their policies and decisions on human rights
- scrutiny bodies and regulators should work with DPO’s to take account of their lived experience in monitoring progress on the UNCRPD and set up an ‘observatory’ to support this
- disabled people’s involvement in the referendum on Scotland’s independence, Public Sector Reform, Community Planning Partnerships and the forthcoming integration of health and social care needs to be supported
- Disabled People’s Organisations (DPOs) should be closely involved in the current re-writing of the guidance on community planning partnerships

2. BACKGROUND

The Independent Living in Scotland (ILiS) project is working with the Scottish Government, disabled people and other key stakeholders on the strategic interventions that will make independent living 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 DPOs, decision makers, academics, public service leaders and other key experts from across Scotland and beyond. Each pop up Think Tank in The Solutions Series will consider, and seek solutions to, a specific issue which has been identified as preventing or hindering progression of independent living in Scotland. Each Solutions Series discussion 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 level.

This is the report of the second pop up Think Tank in The Solutions Series: **“Rights to reality – implementing Article 19 of the UNCRPD in Scotland”** which took place on the 21st of January 2013. A full list of participants is provided at appendix 4.

3. The issue: Implementing Article 19 of the UNCRPD in Scotland

The UNCRPD re-affirms the human rights of disabled people. It underpins and promotes an understanding of disability and independent living that recognises the essential role of “material support” in ensuring that disabled people can “participate in society and lead an ordinary life”.

This Solutions Series pop-up Think Tank built on the UK Parliament’s Joint Committee on Human Rights (JCHR) Inquiry into implementation of Article 19 of the UNCRPD across the UK¹.

The ILiS Think Tank brought together people with relevant responsibilities under the Convention along with disabled people, their organisations and others to consider the implementation of Article 19 in Scotland. Through pre-event desk-based research and conversation with experts, ILiS identified the following as key issues for discussion (more detail at appendix 2);

- evidence of retrogression of the rights of disabled people
- that the current domestic legal framework is insufficient to protect the rights of disabled people as set out in the UNCRPD
- there is a mixed understanding of what these rights are and what they mean (by both rights holders and those with responsibilities for them)
- generally, there is a lack of leadership on the issue

1. JCHR; “Report of the Joint Committee on Human Rights into the implementation of Article 19 UNCRPD”, 2011

4. THE DISCUSSION

The Think Tank discussion split into 2 main areas: the understanding of human rights (see a. below), and the best mechanisms to make these rights a reality (see b. below).

A summary of the discussion is given below, including quotes from participants, which are anonymised.

a) Understanding of human rights and independent living in Scotland.

It was argued that many people do not fully understand human rights generally, and how this relates to independent living for disabled people.

“There is a real mix of understanding among those with rights and those with duties and obligations for the rights of disabled people... or perhaps even to conceive of these issues in human rights terms”

The Think Tank agreed that public focus on ‘unpopular’ examples of human rights breaches where the rights holder is perceived as being ‘un-deserving’ e.g. ‘slopping out’ by prisoners on remand, is responsible for promoting this lack of understanding. Rather than being tools and approaches to support a free and equal society, human rights are often perceived as something only intended for a few and that these few are **divided – however unintentionally – into those who deserve human rights and those who do not; and those who are empowered to access them e.g. through legal aid, and those who are not.**

4. THE DISCUSSION *Continued*

This promotes conflict and division, rather than equality, participation and independent living.

Further, the portrayal of disabled people as benefit cheats and scroungers in politics and the media means that many people are unsure what human rights apply and to whom, and in what contexts. The result is that **people do not understand what it means to have their own human rights protected, or challenged and therefore are not able to recognise when disabled people’s rights have been failed:**

“People are yet [to develop] the language to recognise that their human rights are being infringed”

This confusion and lack of understanding contributes to the difficulty for decision makers to automatically consider the impact of the policies and practices they deliver on human rights because they do not see how they are relevant at all or, possibly worse, relevant to certain groups of people such as disabled people. This means human rights are not yet universally available through policies and practices which should be promoting them as standard. Consequently, we are missing out on

the potential of human rights to foster an inclusive, free and equal society which supports independent living.

The Think Tank also agreed that people do not have a strong understanding of the relationship between equality, independent living and human rights. Whilst they may understand it is right to treat disabled people equally, they do not necessarily link this equal treatment to access to human rights and support for independent living. This is partly due to a lack of understanding of what independent living looks like:

“It’s easier to identify what independent living is not, than what independent living is”

The Think Tank agreed that independent living means different things to different people, at different times and in different arenas. This makes it hard to identify indicators and measurements which pinpoint independent living in practise. Without knowing what independent living is and what success could look like, policy and decision makers do not know what to aim for, and more crucially, what to change in order to get there:

4. THE DISCUSSION *Continued*

“We create the right kind of climate for change, but we don’t design what the change will be and how we are going to do it... we are good at describing what’s happening to people on the ground, but we tend to miss the whole bit in the middle about what made the difference”

This is made more difficult when there is less money to spend, as there is at this time, because organisations are increasingly required to justify what they are spending money on and why, and to provide tangible evidence of results in a short space of time. This means **bodies rely more on indicators which are easy to evidence, even although they ‘know’ that doing something different, but that doesn’t have a set of indicators associated with it, would work better. Without indicators, they are less willing or able progress ‘best’ approach or to “take the first step towards change, in good faith”.**

Innovating to promote independent living is restricted when people do not know what it is and what it looks like. For example, it is sometimes seen as being about having rights to services, rather than having more meaningful rights to participate and be included

in society and rights to autonomy and so on. The former approach results in decision makers and service providers focussing on one-size-fits-all services that they cannot afford, rather than having a focus on what they could do differently to support independent living. This later approach would still include service provision but provision in a new way that supports choice, control, autonomy and participation.

The Think Tank recognised that there is a reluctance to gain a better understanding of human rights; **“people don’t want to talk about it”**. One participant felt that when they mention the role of social support and the importance of participation and human rights, some decision makers, particularly within middle management, become defensive and do not want to engage.

4. THE DISCUSSION *Continued*

b) Mechanisms for implementation

Regardless of the best route to implementing Article 19, **the role of disabled people in how it is implemented was recognised as crucial.**

It was suggested that disabled people and DPOs involvement at a high level (e.g. by participating in strategic groups) is not the only way to ensure that we hear from disabled people about what is really happening:

“We have stopped hearing from disabled people... [we are having] abstract theoretical discussions and not [talking about] how we make sure that a grown man who is not incontinent isn’t given pads because we can’t afford to get somebody into his home to enable him to use the toilet...We are missing those issues if we talk at this level...We assume that we have the laws, therefore its fine”

Some people felt that this was due to a lack of resources for DPOs to support them to help disabled people tell their stories in the places that will make a difference. **Many DPO’s are having their funding cut back and many have never had enough to do this in the first place.**

People also noted that some DPO’s cannot readily support disabled people to ‘freely’ criticise decision makers, nor to do so themselves; **it is hard for DPO’s to tell the “brutal truth” because they are afraid of ruining an essential relationship or, at worse, losing their funding.** Some suggested that this situation leaves disabled people without effective mechanism to assert their rights and without effective advocacy to do so.

Nevertheless, many felt that as an alternative, a purely legal route is “too big a stick” and also that it would take too long to change things through legal duties and redress. There was a fear that an overly legalistic approach, particularly in a time when difficult financial decisions are needed meant that:

“hard choices [mean] right conflicts with right”

It was also noted that **taking someone to court means the two ‘sides’ cease talking and moving forward. Instead of effecting change together, they work in isolation to make their own case stronger and spending time not being found ‘guilty’.**

4. THE DISCUSSION *Continued*

As well as being confrontational, people agreed that the **law is limited in its use as it doesn't automatically mean consistent good practise** e.g. applicable planning policies can be similar from one authority to the next, yet the level of accessibility on the ground varies widely; and, **it places unrealistic expectations on disabled people themselves to take action**, who, because they are so disempowered to start with, could not realistically contemplate taking such action. Others highlighted that **even where disabled people do try to take a legal case, many lawyers do not fully understand the barriers disabled people face**. Overall, it was felt a **focus on the law alone is not enough to accelerate progress** towards independent living.

Another approach would be for disabled people and DPOs to work together with policy and decision makers to identify the barriers and then to systematically break these down. This builds on the approaches to independent living taken so far by DPOs and their partners in the Independent Living Programme².

Collaboration works well when the reality, and thus the need for change, is clearly understood. Case studies can help to do this. However, they are hard to find without strong and well-funded DPOs. Also such an approach can run the risk of embarrassing the organisations which disabled people seek to partner and collaborate with. People can also be reluctant to openly criticise the services on which they depend.

As the scope to collaborate and the impact of it can be limited, it was agreed that a legal approach is still also needed.

“if you do away with legal underpinning unfortunately the rights don't exist anymore... without it [people] aren't even going to get the minimum and the minimum often isn't enough”

It was also noted that it could be hard to get people round the table to open their minds and consider human rights in collaboration, without being legally required to do so. One participant drew parallels with health and safety regulation, noting that until they were legally required to think about it, few people did so.

2. The shared Vision for Independent Living is published by Scottish Government at <http://www.scotland.gov.uk/Publications/2013/04/8699>. Further documents supporting the framework and activity of the Independent Living Programme, including the Strategic Approach document are expected to follow.

4. THE DISCUSSION *Continued*

Despite this, it was also felt important to guard against a focus on simply legal minimums which can sometimes be used as an excuse to prevent any further action i.e. beyond such a legal minimums.

Lastly, some concern was raised around the use of mainstreaming progression of the UNCRPD, as it could result in no transparent mechanism for implementing and/or monitoring the delivery of it. People also felt that this can compound a lack of leadership and responsibility on issues, where no one knows where to look for guidance and support'.

5. THE SOLUTIONS

The Think Tank identified a number of possible solutions to the issues identified in the discussion above. These could work either in isolation or as a parcel of activities 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 a number of possible ways to drive forward action.

“We need not stick our heads in the sand, we must use this [austere] context as best we can and work with it to progress our rights. Perhaps independent living is a solution in this context?”

a) A framework of action on the UNCRPD

It was clear that change was needed to accelerate progress on making the rights in Article 19 a reality for disabled people. Two ways to do

this were discussed; working in collaboration (see c. below) or using the law to enforce changes (see d. below). It was agreed that both approaches are necessary and in any case, what is most important, is to do “what is appropriate, when”. Through this, disabled people should feel confident there are mechanisms in place to realise their rights.

As such, an agreed framework of aims, prioritised actions and methods for bringing about change and the indicators of it, should be set out in a framework of action on the UNCRPD:

“you need expression for this collaboration...something...that is traceable and deliverable... [and for this to be supported by] sustained and relentless pursuit of the outcomes in it”.

The Strategic Approach to Independent Living (a partnership document of the Independent Living Programme, and in development at time of reporting) was considered a good place to start. Since it is not set out explicitly in terms of the UNCRPD – although it situates itself within it – the **Strategic Approach to Independent Living should be further developed into a framework of action on the UNCRPD more broadly.**

5. THE SOLUTIONS *Continued*

This framework would set the Independent Living Programme firmly within the context of human rights. It would support the explicit development of a national action plan on the UNCRPD by building on work already done. It would also outline the Scottish Government’s plans in a clear and accountable way and show the coordinated action taken on the UNCRPD, in line with their obligations, without having to reinvent the wheel.

b) Grow leadership and understand what change is needed

The discussion highlighted that one of the first steps must be to help people understand what independent living and human rights looks like for disabled people. This needs to be done in a way that people can relate to, rather than in abstract or legal terms:

“Martin Luther King said, ‘take that first step in faith’ and that is what brings the benefits in the long term.”

Addressing the need to help people better understand what independent living is, it was agreed that **real life stories and examples should be identified, developed and used to help people take first steps towards change.** These would bring the direct

experience of disabled people in an efficient and compelling way. They would come directly from disabled people, highlight issues from different policy areas and the relevant duties and obligations for human rights. This approach would help people to see the moral and ethical case and support disabled people and sectoral leaders to show leadership on independent living by situating independent living directly in people’s real lives. As Eleanor Roosevelt said, human rights begin “in small places, close to home”

Another solution sought **development of indicators for independent living, and for these to be developed in coproduction with disabled people themselves.** They should build on the work done as part of the Strategic Approach to Independent Living and take account of issues like ‘wellbeing’ and ‘participation’. They need to distinguish clearly between outcomes and outputs, for example, being able to participate in society and lead an ordinary life, as opposed to methods and arrangements used to encourage disabled people to uptake Self-directed Support.

5. THE SOLUTIONS *Continued*

c) Support people to work together to make change happen

People's willingness to work together was considered to be one of the strongest positives in this context. It was therefore suggested that it is important to build on this and to work together to get to where we want to be, rather than to jump straight to a legal approach from the outset.

"The law plays its part, but the more you can build on the basis of shared moral concern...the results will tend to be better"

The role of DPO's was considered crucial. Key to this, and other solutions in this report, is that **DPO's must be supported to work in collaboration with policy and decision makers to help make the rights in the UNCRPD a reality. This should include sufficient resources and support to speak out when things go wrong so that they can work in "brutal collaboration" to highlight the realities facing disabled people.**

d) Legislation and legal redress

The discussions highlighted that a legalistic approach is also still needed in order to push the agenda forward as well as to protect rights and to highlight their legal status.

One suggestion for this was to introduce an 'Independent Living Act'. The Act would include a strategic duty on national and local government to have due regard to the rights of disabled people to live independently and be included in their community. It would also crucially include a second duty to involve and engage disabled people in the meeting of the first duty.

The above solution, led to a further solution targeted at disabled people and DPOs. **Disabled people need support to understand the law as it currently stands to enable them to scrutinise decisions and to challenge them where needed. One way to do this and to build the capacity of disabled people and DPO's, generally and on the law specifically, is to work with students, who are eager to help and learn and who have fresh ideas.**

5. THE SOLUTIONS *Continued*

This has already been tried and tested on law students who support communities to understand their rights by running law clinics within universities, at about a third of the cost of using fully qualified lawyers. This has a dual purpose to support communities and help students get an understanding of the issues at the start of their career. **It was felt this model should be replicated across Scotland, as a way to build the capacity of disabled people and future lawyers on human rights and disability.** It was felt that this level of community engagement could also be useful in other areas of study e.g. social work.

To attract funding from universities, student engagement programmes would need **committed and passionate academics; "a Trojan horse in each department" to help convince others that it works,** inspire them to spend money on it and eventually and to include it as a legitimate part of study courses.

e) Make the most of existing opportunities

Think tank participants agreed that as well as looking outward, we need to look around us too. There is a need to build on current agendas and existing duties to ensure that they fully take account of independent living. To do this, **disabled people need to be further involved in opportunities to design the Scotland we want to live in e.g. the independence referendum, Public Sector Reform, the forthcoming integration of health and social care, the community planning partnership renewal programme and on-going work on the Equality Duties.**

Another suggestion was to encourage policy and decision makers to consider the **human rights impact of their plans and activities and that DPO's should be involved in doing this, including in the development of robust systems and in monitoring change and impact.** It was felt that this would promote a more pro-active approach than currently relying on disabled people themselves to challenge action on rights.

5. THE SOLUTIONS *Continued*

The use of scrutiny and ‘responsive regulation’ was also thought to be helpful. **Scrutiny and regulation bodies, in coproduction with DPOs and others, should shine a light on practise, set standards and identify what needs to change.** This means that if a public body is found not to be doing enough to make independent living happen, they would be encouraged and supported to change what they are doing, and how. **Where change was insufficient, scrutiny bodies and regulators, with DPO’s, would be able to use the law.**

The above suggestion supports collaboration and working together to get it right, whilst retaining enforcement pressures to fall back on. To support this, it was suggested that an **observatory on the UNCRPD and independent living is set up.** This would help shine the light on and share practice and DPO’s must be central to it.

A further solution was built around the recognition that there should be some **re-consideration of the role of government and local authorities in how they support people to participate in their communities.** This could include further embedding a preventative approach which would see **local and central government**

focussing on supporting social interaction and engagement across communities, as opposed to focusing on support for life and limb provision and crisis management. The Public Sector Reform agenda encourages this preventative approach, and continues to offer an opportunity to embed it. **The solution** also supports the close working between policy and decision makers, and disabled people and communities that is needed to make sure prevention is done right, early on. Working in this way is promoted by the UNCRPD.

Finally, this proposed solution also needs **community empowerment and thus that the role of community planning partnerships, in an improved format, would be the natural place to think about the whole community, including all aspects of independent living and the UNCRPD.** **The guidance on community planning is currently being re-written and DPO’s should be involved in this.** The issues of resource and capacity of DPOs to engage with 32 Local Authorities at the necessary level was highlighted as something that needs careful consideration if this approach is taken.

6. Next Steps

“People build will for change...but we don’t design what the change will be and how we are going to do it.”

To make progress, it was suggested there is a need to build on the will for change and focus on implementing the UNCRPD, and that the solutions identified by the Think Tank and highlighted in this report offer useful starting points for considering future action. Some of the solutions could be made to work in isolation if necessary, or together as part of a combined approach towards making change happen.

The ILiS project 2013

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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 to³ 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 Scotland⁴.

Independent living thus promotes a modern understanding of disability and disability equality that can support policy and practise 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.

3. ILiS; “ILiS Response to the JCHR Inquiry into the Implementation of Article 19 of the UNCRPD”, 2011

4. ILiS; “Response to the SDS Strategy in Scotland”, 2010

APPENDIX 2

Rationale for ‘The Solutions Series: Rights to Reality – implementing Article 19 of the UNCRPD in Scotland’

The UK Parliament’s Joint Committee on Human Rights (JCHR) report⁵ is an important tool for disabled people and wider society. It shines a light on some of the challenges to the human rights of disabled people in relation to the UNCRPD and in particular Article 19 – Living independently and being included in the community – and by making specific recommendations; the UK Parliament’s Joint Committee on Human Rights (JCHR) report⁶ is an important tool for disabled people and wider society. The comments and recommendations in the report on reserved matters are both relevant and useful in Scotland, however, as a UK report, it has limited impact on some of the devolved matters in relation to implementation of Article 19.

Building on the JCHR report, ILiS has pulled together additional evidence which considers the implementation of Article 19 specifically in Scotland. Using this combined evidence, ILiS has invited people with relevant responsibilities under the Convention along with disabled people and their organisations, to come together and to identify the solutions to the challenges for human rights in the UNCRPD for both disabled people and public authorities in Scotland.

The evidence

A combination of desk based research and conversations with DPO’s, experts and people with human rights responsibilities **concluded that key areas of focus for implementation of Article 19 in Scotland include:**

5. JCHR; “Report of the Joint Committee on Human Rights into the implementation of Article 19 UNCRPD”, 2011

6. TEXT TO BE SUPPLIED

7. JCHR; “Report of the Joint Committee on Human Rights into the implementation of Article 19 UNCRPD”, 2011

APPENDIX 2 *Continued*

a) The law

Evidence suggests:

- retrogression of the rights of disabled people;
- the current matrix of equality and human rights legal protections, are insufficient to promote and preserve the human rights of disabled people⁷
- little consideration of the UNCRPD in making new policy and legislation⁸

b) Leadership and accountability

Evidence suggests:

- a lack of understanding and awareness of the human rights of disabled people among those with human rights responsibilities and disabled people themselves. This, in turn, impacts on the leadership needed to protect and promote the human rights of disabled people⁹ that lines of accountability – from LA's to the Scottish and then to the UK Government – are not clear¹⁰ and further compounded in Scotland as a result of the concordat¹¹.

c) The role of Disabled People's Organisations (DPO's), of advocacy and legal advocacy

Evidence suggests:

a lack of involvement and capacity of disabled people and their organisations in policy making and of support to nurture this a lack of advocacy to protect and promote rights¹², including legal advocacy¹³.

8. JCHR; "Report of the Joint Committee on Human Rights into the implementation of Article 19 UNCRPD", 2011
9. EHRC & SHRC "Being part of Scotland's story under the UNCRPD: report of the participation event with disabled people", 2011
10. EHRC & SHRC "Being part of Scotland's story under the UNCRPD: report of the participation event with disabled people", 2011
11. ILiS "ILiS response to the JCHR inquiry into implementation of Article 19 UNCRPD", 2011
12. ILiS; "ILiS response to the JCHR inquiry into implementation of Article 19 UNCRPD" 2011
13. Inclusion Scotland; "Inclusion Scotland response to UK Government's report on the UNCRPD", 2011

APPENDIX 3

United Nations Convention on the Rights of Persons with Disabilities (UNCRPD): Purpose, definitions, general obligations and Article 19¹⁴.

Article 1: Purpose

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

Article 2: Definitions

For the purposes of the present Convention: "Communication" includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well

as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology; "Language" includes spoken and signed languages and other forms of non-spoken languages; "Discrimination on the basis of disability" means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

It includes all forms of discrimination, including denial of reasonable accommodation; "Reasonable accommodation" means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms; "Universal design" means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without

the need for adaptation or specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

Article 3: General principles

The principles of the present Convention shall be:

- a) Respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons;
- b) Non-discrimination;
- c) Full and effective participation and inclusion in society;
- d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- e) Equality of opportunity;
- f) Accessibility;
- g) Equality between men and women;
- h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities

Article 4: General obligations

1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:

- a) To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;
- b) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
- c) To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;
- d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;

- e) To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;
- f) To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;
- g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;
- h) To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;
- i) To promote the training of professionals and staff working with

persons with disabilities in the rights recognized in the present convention so as to better provide the assistance and services guaranteed by those rights.

2. With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.

3. 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 persons with disabilities, including children with disabilities, through their representative organizations.

14. Taken directly from the UNCRPD in full

APPENDIX 3 *Continued*

4. Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force for that State. There shall be no restriction upon or derogation from any of the human rights and fundamental freedoms recognized or existing in any State Party to the

present Convention pursuant to law, conventions, regulation or custom on the pretext that the present Convention does not recognize such rights or freedoms or that it recognizes them to a lesser extent.

5. The provisions of the present Convention shall extend to all parts of federal States without any limitations or exceptions.

Article 19: Living independently and being included in the community
States Parties to the present Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;

b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;

c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

APPENDIX 4 - PARTICIPANT LIST

Name	Position	Organisation
Tressa Burke	Chief Executive	Glasgow Disability Alliance (GLA)
Neil Crowther	Chair & International Human Rights Expert	
Ron Culley	Policy Manager	Convention of Scottish Local Authorities (CoSLA)
Derek Feeley	Director General	Scottish Government (Health)
Jo Ferrie	Convenor	Scottish Human Rights Network
John Finnie	Event Sponsor	MSP for Highlands
Duncan Isles	Human Rights Policy	Scottish Government
Professor Donald Nicholson	Director	University of Strathclyde Law Clinic
Máire McCormack		Office of the Scottish Commissioner for Children & Young People
Siobhan McMahon MSP	MSP for Central Scotland	
Muriel Mowat	Research Officer	Scottish Independent Advocacy Alliance (SIAA)
Charlotte Oclay		Office of Liam McArthur MSP
David O'Neill	President	Convention of Scottish Local Authorities (CoSLA)
Vicki Prias	Legal Officer	Scottish Human Rights Commission (SHRC)
Alistair Pringle	Director	Equality & Human Rights Commission in Scotland (EHRC)
Bill Scott	Manager	Inclusion Scotland
Stephen Stoyanof		Office of the Scottish Commissioner for Children & Young People
Yvonne Strachan	Head of Equality Unit	Scottish Government



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As well as visiting our website, why not call in on us via Facebook and Twitter and tell us your independent living news and views? Don't forget to like us!



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