



SCOTTISH CAMPAIGN FOR A FAIR SOCIETY

COALITION STAKEHOLDER SUBMISSION

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The Scottish Campaign for a Fair Society is supported by a range of organisations, including ALTRUM, Alzheimer Scotland, Coalition of Care and Support Providers in Scotland (CCPS), Down's Syndrome Scotland, ENABLE Scotland, Inclusion Scotland, In Control Scotland, Independent Living in Scotland, Learning Disability Alliance Scotland, Long Term Conditions Alliance Scotland (LTCAS), People First (Scotland), Sense Scotland, Values Into Action Scotland (VIAS).ⁱ

1. THE SCOTTISH CAMPAIGN FOR A FAIR SOCIETY

1.1 The Campaign for a Fair Society is a UK wide popular movement to challenge the unfair cuts that target the most vulnerable and to propose positive principles for a better system. Established in February 2011, the Scottish Campaign for a Fair Society believes everyone is equal, no matter their differences or disabilities. A fair society sees each of its members as a full citizen - a unique person with a life of their own.

1.2 We want to see the Governments of Westminster and Holyrood reverse, as a matter of urgency, the unfair cuts that target disabled people: more than 25% of the cuts fall on the most vulnerable 3% of the population. The Campaign has developed a seven point manifesto proposing radical welfare reform that includes promotion of independent living for older and disabled people, and full commitment to international human rights instruments (including the European Convention on Human Rights and the UN Convention on the Rights of Disabled People). In preparing this submission, we have used consultation materials drawn from individual consultations conducted by member organisations, and we also refer to secondary evidence.

2. NATIONAL FRAMEWORK

2.1 The Scottish Government is the devolved government for Scotland. It develops and implements policy, and is accountable to the Scottish Parliament. It is responsible for many issues related to welfare reform, although the governance on this is reserved to Westminster, including health, many aspects of social care, education and justice. The central UK government remains responsible for national policy on all matters that have not been devolved to Scotland, including foreign affairs, defence, trade and social security.

2.2 In this submission, we focus on the actions of both the UK and the Scottish governments and highlight where they each have a responsibility or impact on the realisation of human rights for disabled and older people in Scotland.

3. SUMMARY

3.1 Since the Scottish Parliament was established, there has been some good progress on establishing the principles of independent living in Scotland. For example, in 2009, the Scottish Government, along with COSLA and the newly established Independent Living in Scotland Project (funded by the Scottish Government) signed a joint statement committing to working together to realise the agreed vision therein. This vision was based on the core principles of choice, control, freedom and dignity; that disabled people across Scotland would have equality of opportunity at home and work, in education and in the social and civic life of the community. The joint statement established a steering group for the project made up of disabled people and disability organisations.

3.2 In a recent spending review, the Scottish Government committed to a programme of preventative spending, which we endorse as a way of ensuring people get the support and care they need at the point that it ensures independent living, rather than at a later point of emergency. For example, the Scottish government has recently proposed new mental health strategy which, over the next four years, will help shape the way that Scotland approaches mental health. However, there remain areas in which the Scottish Government can improve on its delivery of human rights, and potentially mitigate against some the worst effects of the cuts through the preventative spend approach to services it has committed to take.

3.3 In spite of some of the achievements made by the Scottish Government, we remain concerned that many rights that disabled people have fought hard for over the past 20-30 years will be eroded by the UK government's proposed radical welfare reform programme which is motivated by budget cuts. Disabled people are and will be disproportionately affected by the cuts labelled as 'welfare reform', both in terms of their income and the services they receive.

3.5 Due to our focus on the rights of disabled people, the main focus for specific comments within this submission is on those rights contained in the UN Convention on the Rights of Disabled People (UN CRPD)¹; where other instruments apply, these will also be highlighted.

¹ Ratified by the UK on 8 June 2009.

4. SPECIFIC COMMENTS

Progress of Implementation of the UN CRDP

4.1 Article 10 The right to life

4.1.1 We are very concerned about the numbers of disabled people taking their own lives and the connection that these deaths have with the budget cuts. There have been several recent suicides among disabled people across the UK that appear to have been as a direct consequence of people losing or not qualifying for disability and housing benefits. We are concerned that the suicide rate connected to cuts to these benefits will rise as the effects of the proposed Welfare Reform Bill, once implemented, are felt.

4.1.2 Women who receive a pre-natal diagnosis of disability for their child are being allowed to abort the baby up to 24 weeks into pregnancy, when many babies are born safely if prematurely at this time. Additionally, under the 1967 Abortion Act, abortion is permitted to the moment of birth if the baby has a 'serious' disability, yet there is no definition therein of 'serious' disability. The concern is that women are being advised to abort their child upon diagnosis of disability where there is a good chance that the child could have a good quality of life with the right interventions and support available for the family.

4.2 Article 12 Access to equitable Justice and Article 13 Equal recognition before the law

4.2.1 The Adult Support and Protection (Scotland) Act and its guidelines have the potential to violate a number of rights in the Convention. The rights within articles 12 and also 13 are at risk. This Act requires any public body carrying out functions under the Act to have 'regard' for the adult's ascertainable wishes and feelings (past and present), capabilities, background and characteristics. The Act gives local authorities powers to:

- carry out medical examinations to determine if an adult at risk has been sexually or physically abused and to determine their competence to make decisions
- remove an adult at risk [and not the abuser] from their own home and place them somewhere else where they can be protected
- exclude an adult suspected of abusing the adult at risk from their presence for up to six months – even if the adult at risk does not agree with the exclusion.

Disabled people are alarmed by the idea of removing the adult at risk, rather than the person suspected, from their own home, which violates their rights to privacy and to private home and family life. In addition, the exclusion of the suspected adult without

the consent of the adult considered at risk may be further violation of these rights, and overall creates a prejudice of limited legal capacity.

4.2.2 Disability and disabled people's organisations have had long-held concerns over existing inaccessibility of some of Scotland's prisons, and the poor understanding of disabled people's needs by prison staff. Whilst newly hired Court staff are now being trained in diversity and equality issues, this needs to be put in place nationally for all prison staff, as disabled people are likely make up a significant minority of Scotland's prison population, for instance, prisoners with a learning difficulty or learning disability,² and those with mental health conditions.

4.2.3 The Visiting Committees that regularly visit Scottish prisons unannounced will potentially be dissolved under a UK law to reform public bodies. A Scottish Government Consultation paper³ has examined whether individual monitoring of prisons could be adequately undertaken by HM Inspectorate [of prisons] in addition to [its] existing scrutiny functions. This, the consultation paper argues, would be achieved by merging the functions of visiting Committees with the Inspectorate and removing the Committees as separate entities in a bid to streamline and simplify public bodies.⁴ Disabled prisoners' human rights are at risk because the Inspectorate visits are much less frequent (currently every 4-5 years, announced), whilst the Committee's visits are much more regular and unannounced – meaning their scrutiny function may be more effective. Increasing the number of Inspectorate visits would prove expensive, and Scottish prison authorities would be subject to less regular scrutiny. In the care sector, gaps in such activities by the scrutiny body have led to a culture of bullying. We are concerned about the dangers inherent in this creep towards lack of accountability of the Scottish Prison Service for disabled prisoners.

4.2.4 Disabled people with communication and other access needs related to their impairments have had negative experiences of access to juries. For example, wheelchair users have complained about not being able to access courts following a call to jury service. These do not fit in with the concept of 'reasonable adjustment' and do not meet the right to accessibility.

4.2.5 There needs to be improvement of co-production in all services from central and Scottish Government, and the full realisation of the 'statutory right for all disabled people to access and benefit from independent advice and advocacy services, including from their fully trained and informed peers'⁵

² Conservative estimates are that we have approximately 1000 prisoners who have a learning disability or borderline learning disability.

³ Forthcoming.

⁴ Third Force News, 23/5/2011.

⁵ Independent Living in Scotland (ILiS) (April 2011) 'UK Joint Committee on Human Rights: Inquiry into the Implementation of the Right of Disabled People to Independent Living: Response from the Independent Living in Scotland project', p. 12.

4.2.6 With regard to the Government's reservation on article 12, we are concerned that there is no national strategy on advocacy services. The safeguarding of personalization is also needed e.g. in the protection of disabled people against financial and physical abuse.

4.2.7 A '1 in 4' survey conducted by Capability Scotland in 2009 found that 'a quarter of all respondents were negative in their impression of the justice system'.⁶

4.3 Article 16 Freedom from exploitation, violence and abuse

4.3.1 The Campaign for a Fair Society greatly welcomed the recent strengthening of Scottish hate crime law to help protect disabled people from hate crime. In the first year of reporting on hate crime statistics for disabled people in Scotland, 50 cases of crime aggravated by disability were recorded by the Crown office and the Procurator Fiscal. We believe that this does not represent the full experience of exploitation, violence and abuse experienced by disabled people, who, according to a number of recent reports⁷, are experiencing worsening levels of harassment due to their disability. For example, the disability charity SCOPE recently surveyed its members and found that almost half of respondents felt that attitudes towards them had got worse in the previous year and say 'they experience discrimination on either a daily or weekly basis'.⁸

4.3.2 Although disability hate crime has now been recognised in legislation, studies such as those cited above show that there is a lack of awareness of hate crime committed against disabled people, and that many disabled people do not report hate crime, or are not taken seriously when they do. The Campaign for a Fair Society believes that **the Scottish Government** need to do more work to ensure that people feel confident to report crimes committed against them aggravated by their disability, to issue guidance within the Scottish Justice System on the new aspects of hate crime legislation, and to monitor the implementation and impact of the Offences (Aggravation by Prejudice) (Scotland) Act 2009.

4.3.3 In Scotland, there have been reports recently of under-provision of care services for disabled people in receipt of Local Authority services due to a refocusing of priority on critical levels of support, i.e. 'life and limb' provision. The eligibility criteria for care services have been tightened by many local authorities in order to reduce the budget. As well as impacting the right to live independently and be included in the community that such services might support, it leads to inhumane and degrading treatment that challenges the individual's dignity, such as leaving a person in an incontinence pad or on a chemical toilet in their living room for a full day because they are being left without the support they need.

⁶ Capability Scotland August 2009 'Justice Disability Steering Group Access to Justice 1 in 4 poll Final Report'

⁷ Most notably, EHRC 2011 'Hidden in Plain Sight: Inquiry into disability-related harassment'.

⁸ <http://www.scope.org.uk/news/paralympics-attitudes-survey>

4.3.4 Care is regulated throughout the UK and the Scottish Care Inspectorate is responsible for recent closures of care homes that failed to ensure adequate standards of care. However, recent reports have highlighted a lack of uniformity in the delivery of training within, and patchy regulation and inspection of, care settings. It is unclear how the UK and Scottish Governments promote the training of professionals and staff working with disabled people in the rights recognized in the UNCRPD so as to better provide the assistance and services guaranteed by those rights in care and other settings (e.g. health, social services). ‘Whistle-blowing’ is viewed as high risk to survival for people who have worked in these settings. Training for staff that work with disabled people is seen as patchy and negatively impacted by local authority procurement strategies (i.e. cheap does not equal quality services). The concept of ‘personalisation’ of care thus remains unclear as people’s choices are limited to the cheapest options available as quality services are priced out of the market. We are therefore concerned that without effective training that better guarantees compliance with the care standards, that disabled and older people receiving support in their homes or in residential care homes will be subject to neglect and/or abuse.

4.4 Article 19 The right to living independently and being included in the community

4.4.1 Scottish disabled and older people welcomed the introduction of the self-directed support (through direct payments) strategy for the realisation of independent living when it was introduced by the Scottish Government. However, there has been an inconsistent take-up of direct payments and the numbers in receipt of this have not been to target to date. For instance, there is lower uptake amongst mental health service users than for those with more stable conditions and impairments, as mental illnesses and conditions tend to be more variable. Mental health service users have the same rights to this support as others and the Scottish Government therefore needs to do more to encourage uptake and to make renewing SDS easier.

4.4.2 The Social Work Inspection Agency (March 2010) called for LA’s ‘to take a more a pro-active approach to promoting direct payments as an option’. This report also observed that individuals opting into the strategy have had inconsistent experiences with its administration and management.⁹ Disabled people have expressed dissatisfaction relating to decision making by social workers overruling their own wishes; and that the procurement of social and care services for people to ‘buy’ with their direct payments have left only options driven by low cost considerations and have reduced the variation in community and social services available, thereby reducing choice and personal freedom.

4.4.3 Although on the face of it, it uses the language of independent living, the proposed assessment for PIP is a functional assessment of disability that does not account for the additional costs associated with disability or the aspirations of

⁹ SWIA ‘Improving Social Work in Scotland’ <http://www.scotland.gov.uk/Publications/2010/03/24113359/4>

disabled people to independent living. We are concerned that the way the descriptors for the categories are currently planned would relegate the right to independent living, rather than realise it, as people become poorer and more dependent on 'life and limb' services. In addition, the reform to PIP will remove mobility allowance from adults living in residential care, which will drastically curtail their mobility and thus participation in family life and in society in general. The Scottish Campaign for a Fair Society would like to see the welfare reform bill amended to allow adults living in residential care homes to continue to claim the mobility component of PIP.

4.4.4 Cuts to public services run by local authorities along with the new caps on local housing allowance are having the effect of reducing autonomy, as disabled people and their families lose access to essential local services that drive participation in society and the economy. They simultaneously have less real income due to the housing benefit caps to payments introduced in April 2011.

4.4.5 The current inability of Scots disabled people to 'port' care packages means that disabled people do not enjoy their rights 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' (Article 19).¹⁰ Lack of portability of care also impacts on disabled and older people's right to respect for the home and the family (article 23). Being subject to varying funding depending on your Local Authority can result in restricted access to accessible housing.

4.5 Article 21 The right to freedom of expression and opinion and the right to information

4.5.1 There are several policy areas in which accessible communication may be denied to disabled people, the consequences of which have the potential to impact on a much wider range of rights than that of access to information contained within Article 21.

4.5.2 In the drafting of policy, the accessibility of information for consultation is crucial to realising the right to accessibility to information (articles 9; 21). A few good practice initiatives cannot make up for the lack of information available in other areas. For example, some Government information leaflets - e.g. for the National Conversation - still routinely ignore existing guidance on accessible information, and the NHS is still communicating with blind people in inappropriate formats.¹¹ Such examples impact on a number of other rights, such as respect for privacy as articulated in article 22, and the rights contained within articles 17 (protecting integrity of the person), and 19 (living independently within the community). In other examples, the Office for Disability Issues was unable to provide accessible word

¹⁰ Independent Living in Scotland (ILiS) (April 2011) 'UK Joint Committee on Human Rights: Inquiry into the Implementation of the Right of Disabled People to Independent Living: Response from the Independent Living in Scotland project', pp 9-10.

¹¹ Sibley, E (2009) 'Towards an inclusive health service: a report into the availability of health information for blind and partially sighted people', Dr Foster Intelligence for RNIB.

format (for screenreaders) of its draft report on the UN Convention on the Rights of Disabled People (UNCRPD) when it consulted the public on that; and the Department for Work and Pensions did not have an easy read format of the initial draft of the assessment criteria for PIP during an informal consultation this summer. On request from Quarrriers and others, this was hurriedly put together only 2 weeks before the end of the consultation period which put people with learning difficulties at a distinct disadvantage, as other formats had been available for the full 3 month period. The Scottish Campaign for a Fair Society wants **the Scottish and UK Governments** to firmly commit to producing all publications in accessible formats for people with a range of impairments.

4.5.3 The Patients Rights (Scotland) Act (2011) addresses the right to Equal recognition before the law, which is laudable, but within the Act NHS staff only need to have 'due regard' to a person's request for communication support. Were this request to be ignored, the accessibility to advice and support to disabled patients would be severely curtailed and their right to access to information would be infringed under this law. We recommend that secondary legislation is put in place to make this mandatory in recognition of this right.

4.5.4 The code of practice accompanying the Adult Support and Protection (Scotland) Act (2007) (discussed above in section 4.2.1) has the potential to undermine Section 8(2) of this same Act, which provides that an adult at risk is not required to answer any questions at interviews, and that the adult must be informed of that fact before the interview commences. It does this by stating that requirements of the adult for BSL, translation, or documents to be made available in accessible formats (e.g. into Braille, easy read, or audio formats) only have to be considered by the local authority. If a decision not to meet these requirements based on e.g. cost resulted in the adult at risk or the officer not being able to understand the communication of their right to refuse to be interviewed, a clear transgression of the rights contained in article 21 (to freedom of expression and opinion, and access to information), and also to the rights to equal recognition in the law and legal capacity in article 12 will take place. The code of practice needs to be rewritten to ensure that the communication needs of the adult at risk are addressed before informing them of their right not to answer questions.

4.6 Article 23 Adequate Standard of Living and Social Protection

4.6.1 The replacement for Disability Living Allowance (PIP) aims to cut the amount of PIP paid overall by 20%, but it is likely that many more than 20% of disabled people may be subject to loss of DLA/PIP because changes are currently only being applied to working age adults, the proposed assessment for eligibility will make it harder to qualify for the new benefit, and change from three to two main rates of payment will automatically remove a significant proportion of recipients. The majority of people in receipt of the lower rate of care which will be removed have either a learning difficulty, a mental health condition or a cognitive impairment (e.g. autism).

People will be further disadvantaged if they lose the mobility component as this will also mean that they lose e.g. travel passes.

4.6.2 The experience of Work Capability Assessments (for ESA) have been medical rather than holistic, with a focus on getting people to work in a recession when there are fewer jobs available. The assessment was judged to be flawed by an independent review led by Professor Malcolm Harrington. For example, many IB claimants who have been assessed for the new benefit have had it removed and been put on job seeker's allowance, in spite of suffering conditions such as cancer, or, due to their impairment/ condition, having to receive significant levels of personal care and support throughout the day to manage it. At least a third of disabled people currently live in poverty and only 50% are in employment (compared to 80% of non-disabled people). Proposals in the current Welfare Reform bill will time limit receipt of contributory ESA to 12 months, in spite of the Department for Work and Pensions own prediction that the majority of people within the 'Work Related Activity Group' of the benefit will need the support for longer than 12 months.

4.6.3 The impact of caps to Local Housing Benefit recently introduced has been assessed by the Scottish Federation of Housing Associations. It found that claimants will be on average £11 a week worse off. Using Department for Work and Pensions Statistics, Inclusion Scotland have estimated that at least 62,000 households containing a disabled person will lose up to £15 pw in housing benefit. Given that a sizeable minority of disabled people live in specialist housing provided by housing associations, it is likely that they will face these additional costs, and disabled peoples organisations are concerned that the extra payment on additional bedrooms proposed in the current Welfare Reform bill will unfairly impact disabled tenants who have spare rooms for storing equipment and/or for occasional use of by a carer.

4.6.4 Care charges (falling under the **Scottish and Local Governments' remit**) reduce disabled people's available income particularly when they enter employment. The guidance available to local authorities in England allows disabled people to retain more of their income when care charges are being assessed. The current care charging guidance in Scotland, taken together with the recent cuts to the Independent Living Fund (ILF), have reduced the income of some disabled people in and out of employment to below Income Support levels (after housing costs, travel to work, etc. are taken into account). The Scottish Campaign for a Fair Society would like **the Scottish Government** to review legislation allowing Scottish Local Authorities to charge for care, and to remove the charges to disabled people, as we view the charges as a tax on disability. In addition to Council Tax, people are not charged an additional fee to enter libraries or to send their children to the local state school.

4.6.5 The rate of poverty in the UK for families with disabled children is already high: The Children's Society estimates that four in ten disabled children live in poverty

(325,000) UK wide.¹² This picture is set to worsen once the welfare reform bill is passed. Inclusion Scotland predicts that families with a disabled child will lose over £3,000 each by 2015 due to cuts in disability premiums and the proposed cap on benefits.

4.7 Article 24 The right to Education

4.7.1 There is a list of rights that cannot be realised without the right to education as laid bare in Section 1(c) of article 24, towards ‘enabling persons with disabilities to participate effectively in a free society’,¹³ and which are key to the principles of independent living.

4.7.2 Whilst the Scottish Campaign for a Fair Society welcomes the *More Choices, More Chances* scheme adopted by the Scottish Government, which potentially increases access to education for young people who have limited access to education, employment or training¹⁴, we would now like **the Scottish Government** to provide the details of how it is being monitored and evaluated, and thus its impact so far.

4.7.3 Children with learning difficulties are labelled as having behaviour problems because teachers do not know how to deal with them. Currently, as in the rest of the UK, disability equality training - which might give the teachers the skills and knowledge to address such issues - is not a mandatory part of training of teachers and other educators in Scotland. We find this unacceptable if **the Scottish Government** is to realise its commitment to GIRFEC, and to article 24. We would like ‘the Scottish Government to ensure that all teachers and support staff are fully trained to provide the right additional support for children and young people with learning difficulties and/or autistic spectrum disorders in Scottish schools’.¹⁵ Mainstreaming is also needed for disabled children so that they have the equal opportunity to learn according to the national curriculum, and also so that they can make friends with non-disabled children.

4.7.4 Deaf children should have the opportunity to continue to learn and use British Sign language (BSL) at school – learning BSL should be looked on as a valued social skill for all children. Deaf children should also be given the opportunity for social interaction with other deaf children as part of their culture.

4.7.5 The closure of the Independent Living Fund to new applicants in Scotland will have an impact on young disabled school leavers’ opportunities to continue their education, and will thus impact on their employability. **The Scottish Government** should ensure that young disabled people have full access to funding to cover the

¹² <http://www.childrenssociety.org.uk/news-views/press-release/four-ten-disabled-children-are-living-poverty>

¹³ UN CRPD p. 16 <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

¹⁴ point 197, p.69.

¹⁵ See Enable Scotland’s petition to the Scottish Parliament lodge in September 2011, available here here:

http://www.scottish.parliament.uk/S4_PublicPetitionsCommittee/Petitions/PE1409_Petition_Template_Final_Version.pdf

additional costs of accessing further education where this fund has been removed, and should review a programme of this type in relation to its programme of preventative spending.

4.7.6 This is taking place against a backdrop of reducing part time courses for learning disabled adults at further education colleges. This year, the Scottish Consortium for Learning Disability has found that 'part-time courses for people with learning disabilities have been cut by more than a third and most students had very little notice that their college place was being cut'.¹⁶

4.7.7 The Scottish Government has set out an ambitious vision ('Opportunities for All') that all 16-19 year olds will have a place in post 16 education and training and support appropriate to their needs. It remains unclear how the needs of young adults with learning disabilities are to be promoted in the implementation of this plan. We would welcome further guidance on this by **the Scottish Government**, co-produced by young learning disabled school leavers and their families and carers, who will also be impacted by cuts to college places outlined in point 4.7.6 above.

4.8 Article 25 Health

4.8.1 Whilst we welcome the publication by the Scottish Government of '*Achieving Fair Access*' (Fair for All-Disability 2006¹⁷), which provides 'guidance requiring service providers to make reasonable adjustments for disabled people in accessing goods, facilities and services', it remains unclear what the Scottish Government has been doing to review whether or not the guidance is being followed in practice. We recommend that this is followed up and reviewed, or monitored via Equality Impact Assessments required under the Equality Act (2010).

4.8.2 The equality training (NES) for post-graduate medical professionals in receipt of specialist medical training is limited, and a broader disability equality training for medical professionals and staff who inevitably regularly come into contact with disabled people should be delivered as a matter of course. An improvement in this provision might bypass the denial of rights experienced in examples given above (and in 4.5).

4.8.3 The UK Government states that the 'Delivery Framework for Adult Rehabilitation (2007) is implemented by employing a rehabilitation co-ordinator in '*almost*' (emphasis added) every health board. It is a post-code lottery on how adult rehabilitation for people with long-term conditions is met and monitored, and inconsistency may impact on the realisation of other rights.

4.8.4 In addition, the management of rehabilitation is seen as lacking. The experience of the management of 'Integrated Care Pathways' (ICP's), a system for multidisciplinary and multiagency care management run by NHS Scotland is felt by

¹⁶ http://www.sclد.org.uk/sites/default/files/sclد_joint_briefing_final.pdf

¹⁷ <http://www.healthscotland.com/documents/1982.aspx>

disabled people to be poor beyond discharge. We recommend monitoring of discharge plans and follow up with patients. ICP's also need to focus more on the social barriers to rehabilitation, as well as the medical ones.

4.8.5 We have been very concerned about the use of drug chemical 'coshes' for children with conditions such as ADHD and for adults in residential care. This practice needs to be investigated by the UK government and the NHS, and checks need to be put in place that more appropriate therapies for behavioural disorders are considered and used, and that such drugs are only ever used in extremely exceptional circumstances.

4.9 Article 27 Work and employment

4.9.1 The additional stress and burden that the removal of benefits to disabled claimants - through work capability assessments and the reform of DLA - is causing increasing distress to disabled people, particularly in a time of job shortages caused by the banking crisis in 2008 and the ensuing recession. Add to this unhelpful comments made by ministers about the minimum wage, and false reporting by some of the UK's national media on benefits fraud amongst this group, and it is easy to see how a high level of stigma and increase of harassment is being experienced by a large proportion of working age disabled adults who cannot currently work due to sickness or disability, and thus claim benefits.

4.9.2 Whilst the employability rate for disabled adults is almost 50%, for groups with particular conditions and impairments, this rate is much higher. For instance, Scottish Consortium for Learning Disabilities (SCLD) reports that 86% of learning disabled adults in Scotland are unemployed.¹⁸ The SCLD has also found that only 3% of people with learning difficulties and individuals on the autistic spectrum work 16 hrs + (the level of hours needed to ensure earnings do not fall below levels of poverty). The rate of unemployment for people with long lasting mental health problems is 79%.¹⁹ We recognise a number of issues prevent these groups from working, such as stigma, discrimination, low expectations and lack of support. However, as more and more disabled people are being transferred from Incapacity Benefit to job seekers' allowance, the **Scottish and UK Governments** must encourage employers to recognise and fulfil their responsibilities, including improving support and advice for employers, and encouraging disability equality training among staff teams. The UK Government needs to raise awareness of the existence of Access to Work funding for adaptations, and other such support for employers. We welcomed the Scottish Government's National Framework for Supported Employment,²⁰ published in 2010. However, there has been no legislation to underpin this guidance, and without legislation Local Authorities have largely ignored the recommendations in this document.

¹⁸ <http://www.heraldsotland.com/life-style/real-lives/still-a-big-job-to-do-1.1111481>

¹⁹ Scottish Government 2005 Disability and Employment in Scotland: review of evidence base.

²⁰ <http://www.viascotland.org.uk/publications/a-working-life-for-all-disabled-people>

4.9.3 The situation of low employment for disabled people is not improved by a raft of measures to remove benefits from those who work or aspire to work, and is further eroded by the recent experiences of disabled people in employment regarding telephone 'reviews' of Access to Work packages by the DWP, during which disabled people have reported that assessors have treated them as if they were committing fraud.

4.9.4 The UK and Scottish Government's, and public bodies could (but currently do not) lead by example by employing more disabled people. Consideration also needs to be given to making it a requirement for companies tendering for government contracts to show evidence of disability awareness including employing disabled people.

5. Concluding Comments

5.1 A general concern amongst disabled people is that without access to justice and proper awareness raising, conventions such as this are of limited use in terms of achieving human rights realisation/ preventing further rights violations in the UK. There is little available to disabled people in the way of national action plans for implementation of human rights, and therefore the scope of monitoring and evaluating them is limited. We would like to see **the Scottish Government** do more to ensure that disabled people have equal access to services and benefits that will assist them to live independently, have access to health care and education and employment opportunities, and are free to live their lives free from abuse and poverty. This is more important than ever at this time as **the UK government** introduce cuts to essential benefits that cover the additional costs incurred by disability.

5.2 Our submission to the Human Rights Council contains a number of issues and recommendations that we believe should be prioritised by the Scottish and UK governments. The Scottish Campaign for a Fair Society therefore urges the Human Rights Council to make these recommendations to the relevant governments so that work can be done to achieve human rights and equality for disabled and older people.

ⁱ Further information

For more information on this submission, please contact Dr Pauline Nolan, Policy and Engagement Officer at Inclusion Scotland, on 0141 221 7589 or at pauline@inclusionscotland.org.uk, or at the address below:

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