

Angela Constance MSP
Cabinet Secretary for Communities, Social Security and Equalities
St Andrew's House
Regent Road
Edinburgh
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Date: 2 December 2016

Dear Cabinet Secretary

UN CRPD Committee inquiry into the UK and the State Party response

We, the Equality and Human Rights Commission and the Scottish Human Rights Commission, are writing to you today in our shared role as the Scottish members of UKIM: the UK Independent Mechanism tasked by the UK Government with monitoring and promoting the UN Convention on the Rights of Persons with Disabilities (CRPD).

As you will know, the CRPD Committee carried out a formal inquiry into whether the UK's programme of welfare reform gave rise to grave or systematic violations of the rights of disabled people. The inquiry team visited Scotland to take evidence, including from the Scottish Government. The findings of the inquiry and the UK Government response have now been published.

The inquiry concluded that the UK Government's programme of welfare reform has resulted in grave or systemic violations of disabled people's human rights. Similar concerns have also been raised separately by the UN Committee on Economic, Social and Cultural Rights and the UN Special Rapporteurs on Housing, Disabilities, Poverty and Food.

UKIM has therefore written to the Minister for Disabled People, Health and Work about the inquiry's conclusions and our concern that the UK's response suggests that it will not be taking action on any of the recommendations. We have asked the Minister to reconsider this position in view of the continuing impact of welfare reform on disabled people's lives. A copy of the UKIM letter is attached for your information.

We commend the Scottish Government's action to mitigate where possible the effects of welfare reform. We are also pleased that you intend to take a distinctly different approach to social security. We welcome your commitment to embed respect for the dignity of individuals at the heart of the new social security system in Scotland and we look forward to working with you to make this approach a success.

We know that your Disability Action Plan will be launched this week and we share the view of Tressa Burke, CEO of Glasgow Disability Alliance, that the action plan is "a great starting point on which to build."

We support the Government's ambition to create a fairer Scotland for disabled people and, to that end, we want to draw your attention to the opportunity to act on the inquiry findings and recommendations, to improve and strengthen the work you are currently undertaking.

The inquiry report found that disabled people across the UK are struggling to maintain an acceptable minimum level of income. It recommends that any intended measure of welfare reform is rights-based and does not disproportionately and/ or adversely affect the rights of disabled people.

Welfare reform and pressures on public sector expenditure continue to have a serious effect on the lives of disabled people in Scotland. For example, since the UN inquiry, research has been published on the reasons people used the foodbank in Glasgow's Govanhill¹. The research found that the most striking characteristic of those who were using the services of the foodbank (as well as of the local law centre) was illness or disability. In nearly all cases, procedural benefit problems had resulted in people's income reducing, sometimes to zero.

The inquiry also recommends that any intended legislation and/ or policy measure respects the core elements of the rights analysed in the inquiry report.

We fully support the approach the Scottish Government has taken to involve disabled people in the development of the disability action plan. We agree that this involvement is a crucial part of helping to shape the plan and should be part of helping to shape all intended legislation and / or policy.

However, it is not clear that the development of the action plan included an analysis of where Scotland currently falls short of the requirements of

¹ Castlemilk Law and Money Advice Centre and Glasgow SE Foodbank (Nov 2016) "Why people go to foodbanks: A year of advice-giving at Glasgow South East Foodbank"

CRPD and where progress needs to be made. Such an analysis would help the Government to identify the gaps where further action is needed to improve disabled people's lives. It would also help to evidence the Government's commitment to meeting the requirements of the CRPD when reporting to the UN Committee.

We are also aware that in other policy areas the Scottish Government may not consistently give due regard to CRPD and the need to advance equality for disabled people. For example, we note that the recent consultation on increasing court fees did not appear to consider the potential disproportionate effect on disabled people, 21% of whom live in poverty, nor consider action that could be taken to mitigate this.

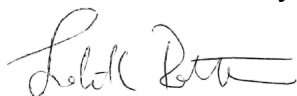
As we approach International Day of Persons with Disabilities, we ask you to consider how the inquiry findings can be used to strengthen the Scottish Government's current programme of work. The upcoming examination of the UK by the CRPD Committee in 2017 is an important opportunity for the Scottish Government to demonstrate how seriously it takes its international obligations under CRPD.

We therefore recommend the Scottish Government:

- Considers options for enhancing the status of the CRPD in domestic law, including a domestic mechanism for scrutiny of policy and legislation to ensure compliance with the CRPD.
- Conducts a comprehensive human-rights based cumulative impact assessment in relation to disability, on all legislation and policy.

Our two Commissions would be happy to meet with you or your officials to discuss these matters further and explore how the lives of disabled people across Scotland can be improved and their rights enhanced in the coming years.

Yours sincerely,



Judith Robertson
Chair SHRC



Alastair Pringle
Executive Director EHRC

Enc. UKIM letter to Penny Mordaunt MP – CRPD Inquiry and Annex – CRPD inquiry UKIM key concerns