Summary of points raised in Scotland's Human Rights Report Card: Universal Periodic Review civil society workshops in November -December 2021

About this report

In what ways has Scotland improved its human rights record in the last 4 years? What is better? What is worse? What human rights issues need more attention or action?

Every 4-5 years, the UK's performance on human rights is reviewed by Member States of the UN through the Human Rights Council. They then make a report card to the UK on what they have done well and what they need to do better. This is called the Universal Periodic Review (UPR). The next UK review is taking place in 2022.

It is really important that the UN is informed by the reality of human rights in people's lives in Scotland.

Therefore, the Scottish Human Rights Commission, as our National Human Rights Institution, will submit a report to the UPR. The Human Rights Consortium Scotland will also submit a civil society shadow report, a collective response from a wide range of organisations in Scotland.

In order to inform both of these submissions, the Consortium held a series of civil society workshops in November-December 2021 to gather evidence of some of the key human rights priorities in Scotland.

This report is a collated summary of the points raised in these discussions, together with some follow-up comments contributed by email.

We would like to thank all those who contributed to this report or took part in those discussions.

Please note three important points!

- **This is not a comprehensive report on human rights issues in Scotland.** Indeed, we know that there are serious human rights infringements which are not listed here. Instead, this is only a **collation of what those who were in the Nov-Dec 2021 civil society workshops spoke about, plus some added comments by email**.
- We note too, that the inputs to this report have not been fact or evidence checked, nor balanced in terms of the weight of impact on people's lives of the different issues raised. The

points raised do not necessarily reflect the view of the Consortium (or the SHRC). Again, this is a record of what was said by civil society participants in a series of workshops. It nonetheless stands as a helpful picture and record of the main rights issues of concern across many different civil society organisations across Scotland.

- Inclusion Scotland were also holding workshops in November 2021 to feed into reporting to the **UN on disabled people's human rights** – therefore, we did not hold a specific UPR workshop on disabled people's rights to avoid duplication (though issues affecting disabled people were raised by many people across these UPR workshops), and we will take into account key priorities identified by Inclusion Scotland when drafting the UPR submissions.

- **This is not the sole piece of evidence which will inform the SHRC submission or the Consortium shadow report.** Instead, both organisations will gather further evidence, both from people with lived experiences of rights infringements, from civil society, and from research and statistics to inform their final UPR submissions.

Human rights and COVID-19

General

- **Rules, service and policy changes during COVID-19 often did not fully consider minority or particular group needs.** For example: lack of consideration of how blind or deafblind people would be able to follow distancing measures or require touch during contacts; disabled people found it difficult not being allowed to sit down, stop and rest, and seating was removed from bus stations etc; public toilets were closed presenting challenges for older people/ children/ people with health conditions; for food deliveries, there was a lack of consultation with people with allergies, health conditions, and different cultural backgrounds, and a lack of Halal and Kosher food; street furniture has become more common which means people with vision and mobility issues are not able to access spaces as freely and independently as previously; Care Experienced children and young people were unable to see family, particularly compounded by lack of digital access; the combination of face masks, screens and distancing had a huge impact on deaf people, on people with learning disabilities and people with mental health problems; school meals & clothing money often arranged to be paid into bank accounts but many in the asylum system or who are homeless cannot open a bank account; impacts on mental health of those shielding over a very long period of time; a lack of COVID-19 information that was accessible to those who are illiterate in English or another language or in an accessible form such as Braille, Moon or Easy Read; where people were on zero-hour contracts, they were not able to be part of the Government furlough scheme and so whole families became entirely dependant on charity support; COVID-19 measures were very set up around support of 'normal' family, heterogeneous, rather than diverse systems of support seen throughout LGBTI communities, where LGBTI people often rely on support external to their family or household; the move to digital services such as accessing your GP through phone or digital, and you have to phone within certain times, is a barrier to healthcare for groups such as people from minority ethnic groups, people with sensory loss, those for whom English is not their first language or who have mental health issues; key forms for repeat prescriptions, appointments etc in digital-only formats were not appropriate for elderly or those without digital skills; the move to appointment-only visits to elderly care homes or playgroups; closing

audiology services with no replacement; closing addiction-related services with no replacement.

- There should be a **gendered approach to pandemic preparedness** because so many of the impacts on women's rights could have been avoided if we had learned lessons from other pandemics such as SARS, for example the lack of women in authority, distribution of care in the household, and the impact on domestic violence.

- There was little, if any, recognition by Government of **Article 11 of the UNCRPD** and the particular importance of protecting disabled people's human rights during the COVID public health emergency.

- There is a concern that these COVID-era practices and cuts in key health, addiction and community-related services have **not returned to pre-pandemic levels** and may continue. There must be review of measures and service changes which have been put in place during COVID and justification for any that remain.

- COVID has led to increased people drinking alcohol excessively at home and drinking more, social isolation, mental health issues, delayed treatment for physical health issues, educational delays, increased pressure on those with pre-existing communication barriers who were often already facing social isolation. These impacts, amongst others, all now **require additional support services for recovery**.

- It is important for the Scottish and UK Governments to learn from experiences during COVID-19 to improve human rights protections and realisation in the longer-term. COVID recovery plans and the COVID inquiries at UK and Scotland level should be human rights-based. In particular, gender should be systematically integrated into COVID recovery plans.

COVID-19 and digital exclusion

- **Lack of digital access during COVID-19 was a major barrier** to healthcare, information, participation and social contact for many, particularly women.

- People living in poverty, particularly asylum seekers, people experiencing homelessness, and women living with a perpetrator of domestic abuse, often did not have access to wifi due to the closure of local libraries.

- Online schooling had a significant impact on children and young people's right to education, particularly for children in Gypsy Traveller communities, children living in poverty, and disabled children.

- Digital exclusion was an increasing barrier outside of the pandemic too, affecting things like housing allocations and social security.

- Applications to the EU Settlement Scheme for secure immigration status for EU citizens living in the UK before Brexit was primarily online – although hard copies were available, this was much more difficult to access. **Proof of settled status remains only digital**, which is causing difficulties for those who are digitally excluded and means that people with settled status are losing out on house rentals and employment.

- The Scottish Government's provision of digital devices during COVID-19 was welcomed by many – however, there was concern that people **also needed training and support to use the devices** which often fell to community organisations to do who struggled to cope with demand. In particular, these community organisations then also needed core costs built in and resourced for their services to be sustainable over the longer-term.

- There is considerable concern about many **services remaining digital by default**, or primarily digital with offline options being harder to access and a second-rate option. Digital access to services works really well for some people – but for others, including many in marginalised groups, digital access is a barrier to the realisation of their human rights.
- Digital exclusion is symptomatic rather than causal – it stems from lack of digital literacy, language literacy, poverty, competencies around usage of technology, inbuilt exclusion of accessibility as standards do not reflect need, and other barriers. Participants spoke about the need for a more systemic review of the **digital capacity gap** amongst minority ethnic communities, and women in particular.

COVID-19 and valuing care

- **During COVID-19, many public authorities reduced or ceased to provide adequate care and support for disabled people in their homes and communities, and instead shifted this responsibility on to unpaid family carers.** This shift towards unpaid carers is impacting on women's rights, disabled people's rights and the human rights of parent carers of disabled children. Disabled people's right to independent living, to work and to participation were drastically affected, and for many disabled people, their care and support has never returned to pre-pandemic levels. Unpaid carers are often unable to work and take part in activities outside the home or outside of their caring responsibilities, and there are significant impacts on their health and adequate standard of living with very limited financial support available. Unpaid carers often face isolation and exhaustion from lack of any respite care or support, and suffered increased risk to life from the lack of PPE
- The lack of paid care and support in communities is a problem that existed before COVID-19 but was also exacerbated by it.
- The impact on women of increased unpaid caring roles is compounded by their **disproportionate levels of employment in sectors that were particularly badly affected during COVID-19**. For example, the majority of employees in the social care, retail and hospitality sectors are women. The lack of PPE in these sectors and the impact of high numbers of vacancies with increased risk of exposure to COVID-19 therefore particularly impacted women. This is a reflection and result of the long-term undervaluing of these jobs, a consequence of them being seen as 'women's work' and therefore somehow of lesser worth, leading to low pay and low career opportunities.
- Women also disproportionately took on more **home schooling and childcare responsibilities** during COVID-19 – even where men did more childcare than before, women were still doing far more again. Governments, both Scottish and UK, failed to take this added work into account in their policy planning.
- It is important that there is no long-term expectation and pressure on people, especially women, to remain as carers but that this should be a choice.
- **Government needs to value care and carers, and put in place the support, resourcing and infrastructure needed** so that their economic, cultural and social rights, as well as the human rights of those that they care for, are adequately protected.
- **Carers of disabled adult children** are much more likely to be women. They are very often lifelong carers. When young people leave school, even where they have had recognised additional support needs or have been to a special school, public authorities do not recognise

their need for additional support or care after school. Mums are having to leave their jobs because their child has left school and there is no one else to support or provide care. Even where a young person is in college or other activities, these are often very part-time, leaving huge gaps in care that is left to parents to fill. This has a significant impact on women's rights, often leading to lifelong poverty because of the knock-on impact on their incomes and pensions.

COVID-19 and right to family life

- **People in care homes were not allowed to have family visits**, even beyond where this was a proportionate response to COVID, and this was an infringement of their right to family life and had a massive impact on mental health. At a certain point all risk assessments were devolved to individual institutions / groups – this generated nervousness and extremely cautious approaches as many managers were very risk-averse. There was a common thread of insufficient policy guidance placing too much responsibility on individual decision-makers/managers, putting them in the position of duty-bearers. We need to recognise the residents of care homes as individuals with human rights and there can only be restrictions on their rights that are proportionate and necessary.
- The right to family life was also disproportionately restricted for people in The State Hospital where hospital restricted visiting guidelines were inappropriately applied, when this Hospital is in fact many people's home.

COVID-19 and right to life

- During COVID-19, **refugees were moved from flats into hotels**, often with very little notice. This increased their risk to COVID because they were housed alongside many others. It also impacted their physical and mental health, their participation in communities and their wellbeing. They had nowhere to cook and were required to eat the food provided with no choice, and given little money to cover other costs.
- Many participants spoke about **the disproportionate loss of lives to COVID-19** from particular groups including disabled people and people with learning disabilities, and from Black and minority ethnic groups.
- **DNACRs** were applied without any meaningful, or any, discussion with the individual.
- Decisions were taken about **who and who would not get treatment in hospital** based on their age or disability, with unlawful discrimination and devaluing someone's life, including on the basis of race.

COVID-19 in prisons

- During COVID-19, there was **overuse of segregation and isolation in prisons**, which often amounted to solitary confinement, and considerable **gaps in access to purposeful activities**, particularly for men on remand and women prisoners. Within the parameters of COVID legislation, prisons still had considerable leeway around prisoners' movements and activities which often has meant no access to education, restriction on liberty and etc, to ensure that the

prison population is safe. A lot of **rehabilitation plans in prisons have stalled completely**. Many people are being held in excessive security, with a rise in appeals for excessive security that are then going to Court of Session. People are held in medium security when they are ready for low security, or in high security when they are ready for medium security, because of a shortage of prison staffing and a lack of rehabilitation programmes.

- During COVID, **children deprived of their liberty in Young Offenders Institutions (YOIs) were being treated as adults where the Prison Rules have been amended.** This resulted in some children being unable to access showers or health support, particularly mental health services during 'lockdown'.

Housing

- Accommodation provided on behalf of the UK Government to those seeking asylum is often **poor standard** and does not meet the specific needs of disabled people; pregnant women; families; victims of trafficking, rape or torture; people with sensory loss, communication and language barriers; children and young people; or people with mental health conditions.
- People are often **moved to new asylum accommodation with little notice** and far from their communities, including children who then have to move schools.
- People from minority ethnic groups are more likely to live in **multigenerational, overcrowded housing** – Scotland needs to build more larger houses that work for these extended families.
- **Women and girls impacted by domestic abuse** are too often forced to leave their homes, often experiencing months of homelessness, rather than the abuser being forced to leave.
- There is a **lack of housing support services for women experiencing homelessness**, with women who were homeless at a young age now back on the streets after services have been withdrawn.
- There is a lack of housing especially for older, single women, particularly because women pay a higher proportion of their income towards housing, are less likely to afford a mortgage and have lower pensions.
- Women's homelessness is very often invisible because they are less likely to rough sleep - there **needs to be a gendered approach to housing and homelessness** policy.
- There is a lack of appropriate and culturally sensitive accommodation for **Gypsy/Traveller families**
- Many Housing Associations are moving to **'choice- based letting'** where you make bids for house you want online -this can mean however, that digital exclusion and not knowing how to work this system are additional barriers to people getting the housing that they need.

Education

- There are major problems with a **lack of implementation of additional support for learning legislation.** Participants spoke about children only having 1-2 hours of support each week, and a lack of partners coming together to support these children as was intended by the additional support for learning legislation.

- Too many teachers have **low aspirations for children and young people with learning disabilities**, leading to low educational attainment and young people stopped from pursuing the topics of interests to them.

- Children and young people who are Care Experienced or are young carers have low educational attainment.

- There is a **postcode lottery of opportunities in secondary and specialist education** – for example, in some Local Authority areas or schools, you can study for more exams and do a wider range of subjects than in other, often more deprived, areas.

- **Migrants and others with communication and language barriers have a lack of access to information on entitlement** and support for further and higher education and mechanisms to represent themselves or secure advocacy.

- The **residency requirements** for college & university exclude many migrant young people, including for many migrant young people who have grown up in Scotland and yet find they cannot access education.

- There is a lack of **support for pupils with low English language** skills in school, leaving many children struggling to access learning.

- Children from some minority ethnic groups, particularly boys of Caribbean descent, experience **disproportionate levels of exclusion** from school, and disproportionate barriers to educational attainment.

- There is a lack of consistency and quality in the **Relationship, Sexual Health and Parenthood (RSHP) education** provided in schools in Scotland, especially for young women with learning disabilities which is often left to the discretion of individual teachers.

- There remain high levels of **gender-based bullying** and harassment in schools.

- **LGBTI education is patchy** across Scottish schools, and many schools are unsure as to how best to support trans children and young people in particular. There is concern that faith-based schools do not fully engage in LGBTI education. There needs to be evaluation of LGBTI education to make sure that it is effective.

- There is a big **lack of support & protection in schools for intersex people**. There needs to be more awareness in schools and more inclusive education work for intersex people.

- There is disproportionately high levels of **bullying and cyberbullying of LGBTI children** & young people.

- **Deaf and blind children and young people** have to travel particularly far to school, often over Local Authority borders, and this impacts their health and time to play. There are also information, communication, equipment, teaching and other accessibility support barriers that impact on the attainment of children and young people with sensory loss.

Religion and belief

- There needs to be consideration that children and young people should have the **right to opt out of religious observance** in Scottish schools rather than rely on parental consent - the

Scottish Government committed to a consultation on this issue but this has not yet happened. Some one-faith focused activities or particular festival celebrations in schools can feel alienating for people of certain faiths or none - there needs to be clarity and an approach that educates about content of faith and involves community celebrations, without people feeling excluded and discriminated against. The Government needs to talk with faith groups when creating any guidance for schools related to faith.

- People from religious minority groups were less likely than people of no religion to say that most people in their neighbourhood could be trusted (18.9% compared with 59.6%).
- **Sectarianism** remains a deep-rooted problem in Scottish society
- People with learning disabilities, people who experience communication barriers and others receiving social care are sometimes not being supported to practise their faith.
- **Lack of clarity around freedom to practise religious beliefs publicly** or in workplace
- Under the Equality Act, Jewish & Sikh communities are regarded as **ethnic minorities as well as religious minorities**. There is concern that for some of the outcomes of the new Scottish Government Equality and Human Rights Fund, there was specific reference to only some of the protected characteristics of age, sex, sexual orientation, gender reassignment, disability and race, and not the protected characteristic of religion and belief.
- Participants spoke about a concerning lesser recognition given to communities of identity rather than communities of place. There is a lack of understanding that religious minorities are part of ICERD and acknowledging the discrimination based on religious identity that people often face.
- Religious minorities such as Jewish people face particular **discrimination in rural areas** where their numbers are often particularly small. Often public services including schools simply do not acknowledge them or do not take discrimination against them seriously.
- People experience difficulties accessing **kosher and halal food** in schools, hospitals and care homes, where it is often not available or understood to be important.
- There is a lack of appropriate care home provision and community care for those from religious minorities.

Mental health

Services

- There is **huge shortage of mental health services and very long waiting lists**, so that services are most often available for those in crisis. This includes shortages in mental health services especially for people from minority ethnic communities, and for people with communication and language barriers, and the burden of providing this support has fallen to small, under-funded community organisations.
- **Stigma** experienced by people with lived experience of mental ill-health
- **Discrimination** faced by people with mental ill-health in employment, services and education
- People moved from hospital to care homes during COVID without their consent and without legal authority
- Compulsion or coercion – we still have a mental health system based on these and deprivation of treatment and liberty – we need more compassion and less compulsion.
- A significant **lack of community and specialist support and beds** so people are stuck in secure facilities/hospital beds far longer than they should be. Significant delays in discharge

from hospital due to lack of appropriate community care provision – people often do not have a choice and no options are given, are often not given a care at home option, and often end up placed miles from their family.

- In forensic mental health services, there is evidence that there is **inconsistency of policy around rights within wards** in different security levels – so in some medium security there is access to phones and laptops, but often not in low secure settings
- People with mental health issues often have **life expectancy** of 15-20 years less than others - possibly as result of overmedication of strong drugs
- Concern about lived experience voice being heard in current mental health law review.
- We need more **support for decision-making** rather than substitute decision making, and less compulsory mental health orders.
- Lack of **accountability and redress** when there are problems with services or people experience infringement of rights
- Experience of the immigration system, as well as experience of torture and trauma for some **refugees**, can severely impact their mental health. Mental health services need to meet migrants' needs, including providing rehabilitation services.
- For **children in the care system**, they have experienced a high level of trauma and their coping mechanisms can make it difficult for them to engage with services in the way that the services are set up. With health services, it is 3 strikes and you're out, and you come to them rather than them to you, so the very design of these services can be a barrier to these children's right to highest attainable level of health.
- There are higher rates of **mental ill health for LGBTI people** due to stigma. However, they experience difficulties in accessing mental health services and there is a lack of understanding and recognition of LGBTI people's needs and rights within general mental health service provision.
- Big **waiting times to see specialists**, and inconsistent across Scotland
- No provision for **older people in mental health services** other than for dementia – this is a big gap, means no access to psychiatrist or other, and no access to support including regular adjustment for communication and language changing needs.
- Need for shift towards services being human rights-based - good rhetoric but often not in reality
- Local authorities are given a 'slap on the wrist' if they do not provide good services, but there is no real accountability or redress. The powers of the **Mental Welfare Commission** should be expanded so that local authorities are accountable to them for providing good services.
- The **amount of time** people are given with mental health support- like counsellors or psychologists- is often far too short. We cannot expect people's mental health problems to all be solved within a 6 week course of appointments.
- People do not get the option for consistent care or treatment. Seeing a new doctor each time wastes time, forces patients to repeat their story again and again, and increases the chances of mistakes being made.
- The heart of the matter is parity with physical health; until mental health is seen as just as important, there won't be adequate funding or good systems in place to help people.
- Better minimum standards need to be in place to ensure that all staff working in mental health are adequately trained and working in the right area.
- **Mental health tribunals** during COVID were by phone (still the case?), leading to a lack of participation of the person impacted most, and a lack of transparency of 'who was in the room'. This also applies to tribunals for those based in The State Hospital, and to parole board

hearings for those in The State Hospital, where it appears that videoconference instead of in-person hearings may continue for some time. Mental Health Tribunals are not impartial because they are strongly medical, do not properly test evidence, and their remit is far too narrow. They do not take account of the effect of the treatment on the difficult situation of the patient or carers.

- There is adhoc and inconsistent implementation of selfcare planning and crisis planning for people in hospital.
- A lack of uptake of **advance statements** – people are often unaware of what these are and then even when they are written, they are often not acknowledged, and then where they are acknowledged, many are then just overridden.
- **Huge shortage of CAMHS**, meaning that many children and young people are not getting the support that they need, impacting their childhood as well as their long-term health and even right to life.
- Too many **children and young people are in adult hospital mental health wards** – there were 86 admissions involving 62 children and young people in 2020-2021
- **Overuse of medication and lack of non-medication treatment** options, lack of involvement in decisions about medication - covert medications and medical constraint – safeguards are inadequate and not applied. Medication can sometimes be seen as an easy option rather than other options, and deal with symptoms and not the cause. This is also tied up with a lack of services and a lack of monitoring and review of medication, and as a way of controlling behaviour especially of children and young people.

Mental health detention

- **Mental health detention rates are increasing** - 6,699 detention episodes began in 2020-21, which was 10.5% more than in 2019-20 and higher than the average year-on-year increase in the previous years of 4.5%. There is a lack of effective safeguards – evidence from participants around people who are subjected to treatment orders, or detained, with no compliance with mental health law and human rights; too many people being detained without the involvement of a Mental Health Officer; a person can be detained and treated for 28 days without any hearing.
- Participants spoke about the concern that there are no or few prosecutions, or other actions taken, about professionals who ill-treat a person or make false statements on documents that lead to inappropriate detention.
- A lack of disaggregated data on people from ethnic minorities in mental health detention.
- COVID-19 emergency legislation, though never enacted, provided for a reduction in individuals' say over decisions related to mental health detention and accommodation
- Concern about the level of physical abuse in mental health detention
- Lack of face-to-face appointments with mental health teams leading to misunderstandings between the team, leading to clients waiting longer for services that they need – a lack of face to face meaning that people end up in crisis and detained rather than prevented.

Healthcare general

- The **Immigration Health Surcharge** is a barrier to many people's access to healthcare services, including many EU citizens who were forced into the immigration system after UK's withdrawal from the EU, even though they have lived here for many years.
- There is a lack of clarity and information around rights to healthcare for migrants that is leading to exclusion from GP registration.
- There is a lack of provision of **translators** in health services, which is driving people to call Out-Of-Hours or A&E to access translators.
- **Women's right to choose** about pregnancy termination is still predicated on the legal authority of two doctors, without which both women and health practitioners are subject to prosecution. The introduction of remote abortion services during COVID has been positive but there has been no update as yet on a commitment to maintaining these services in the longer term.
- Women's experiences regarding **reproductive and maternal health** are not systematically addressed. There is a particular lack of consideration of LGBTI women's and nonbinary people's experiences of reproductive services.
- Trans women experience significant barriers to healthcare
- There is a problem with **invasive medical procedures** and lack of training of medical staff for caring for intersex people. Importance of placing a moratorium on medically non-essential surgery on intersex children.
- There are **long waiting times of up to 41 months between referral and first appointment, for NHS gender identity services. Y**ou cannot access transition-related surgical services in Scotland but instead need to travel to England to access these. There are problems with providers in England & their contracts and so there has been a big gap in services, and little information, so there is huge despair at not knowing. These services are now urgent, are not given parity with other services, are more difficult for people as they get older, and services have been made worse by COVID-19 impact.
- The majority of bed nights in hospital are spent by people in their last years of life because of a lack of support at home and palliative care homes.

Environmental

- We need to do more to ensure equitable access to good quality, multifunctional, biodiverse greenspaces/ parks and nature rich semi-natural greenspace for the health and wellbeing benefits for people of all ages and groups.
- People's **human rights are impacted by environmental problems** including air pollution, heavy traffic, loss of green space, lack of recycling facilities, litter, flooding, poor sea quality, substandard and damp housing.
- **Right to play** – there needs to be space in any new housing for play, as well as access to green spaces. Public spaces and playgrounds need to be accessible for children with additional needs. There is concern that public parks are being given by Councils to other organisations, but that they need to be retained as public spaces, so that every child can have access within a certain walking distance to a green and open space for play.

Racism

- Participants said that **the rhetoric that Scotland is not as racist as England is not good enough and is not true** – people need to stop saying that. Scotland is seen as very friendly but we hide behind that and there is a **lack of recognition of systemic racism** in Scotland and by public authorities. In particular, we need to acknowledge racism faced by People of Colour, and recognise white privilege. We need far greater accountability on sustained action to address racism within Scotland.
- **Racism in schools**: there is a Scottish Government work group on race in the curriculum but the remit of that group is quite narrow. There is rhetoric and chat but not actual action to address the severity of the issue. Children and young people are being turned off of education because of racism. Councils in Scotland often don't recognise racism in schools, it is called bullying -they need to recognise there is an issue of racism, they need to record racist incidents, and embed steps to be anti-racist. Antiracism needs to also be built into school curriculum and school policies from Day One of a student/pupil's experience.
- Racial prejudice with over 35% people believing that Scotland will lose its identity if more Black, Asian and East European people come to live here.

Hate crime

- There are concerning reports of hate crime by children and young people attending schools local to where they live against children and young people with learning disabilities.
- The police provide **data on hate crime** to minority ethnic and religious community organisations far too late for them to be able to respond effectively - this data needs to be better, and shared much more quickly to better protect people.
- Since 2014-15, **homophobic hate crime reports have tripled and transphobic hate crimes** have quadrupled across the UK – there is high levels of distrust of LGBTI people of the police and a lack of understanding of hate crime reporting. Low level harassment is often not reported but affects safe housing – especially an issue during COVID lockdowns. There is a need for greater LGBTI rights awareness amongst those dealing with hate crime.
- Hate crime against People of Colour and minority ethnic people is persistent and has recently particularly increased against Asian population.

Data

- **There is a significant lack of reliable, published and disaggregated national and services data on the needs, numbers and experiences of people from different groups across a variety of public services.** There needs to be data collected in Scotland that properly reflects small minorities and communities of interest within public service areas/local authorities, and not only counts the majority, larger minorities or communities of place. In particular there is a significant lack of data around: gender-disaggregated and intersectional data; around Deaf/deaf people, those with vision loss and other disabilities and their needs and experiences; around

the experiences of **People of Colour and people from minority ethnic communities** in Scotland – there is a lack of cultural competency when it comes to research and data gathering on ethnic minorities in Scotland and some groups not even recognised in data at all. This data-gap only feeds into systemic inequalities and the lack of visibility of some ethnic minority groups, including from Asia and South East Asia. For example, hospitalisations during COVID were not disaggregated by minority ethnic groups at all. How can you make public policy if you don't know this? One of the implications of the lack of data is the tendency to perceive that racism in Scotland is not as bad as elsewhere, but without the data we have no way of knowing if this is true.

- It is disappointing that the **Census 2022** will be a missed opportunity to collect data on very small minority groups and does not properly ask questions around groups which are both ethnic groups as well as religious minorities such as Sikh or Jewish communities. The census is likely to miss the mix of ethnicity within for example, Christian churches which then impacts on funding made available. The Census will also not collect substantial data on Deaf people in Scotland, doing nothing to fill a significant gap in understanding about the deaf populations across the spectrum of Deaf; Deafened; Deafblind and Hard of Hearing, for service and policy design. Was there any involvement of ethnic minority leaders in designing the census? There is concern that census categories do not represent the diversity we have in Scotland and in the UK.

- If census 2022 is mainly online, then there will be less data on marginalised and digitally excluded groups, particularly people for whom English is not their first language.

Justice and policing

- For some offences, when children admit to things in a Hearing, sometimes without any redress to anyone advising them, this **stays on their record** even after they come off supervision. In a room without any representation, they then carry this with them for the rest of their lives. Currently if child accepts the grounds for referral, this is equivalent of a conviction and comes into management of offenders legislation and rules about how long it stays on their record. And 'relevant information' even if a child is under 12, can be held on police systems and used – there is someone in place at the moment who can consider if this is appropriate, but a lack of clarity and transparency around this.

- The **age of criminal responsibility** was raised to 12 years old from December 2021. However this is still too low comparative to other countries and too law with regards to General Comment 24, para 22 by the UN Committee on the Rights of the Child which states that this should be set at 14 years old. In addition, a child under 12 years old cannot be held criminally responsible, but the act itself is still a criminal act and so investigative interviewing still takes place such as swabs and investigative interviewing, and holding the child in custody whilst this takes place.

- The **Age of Prosecution** in Scotland is 12 years old. There is a presumption against prosecution in court for under 16s, instead they should be referred to the Children's Reporter. However, this is still patchy in practice and some children are still being dealt with in court who could have been referred to the Children's Reporter.

- A young person could be charged with a crime whilst a teenager and this can then sometimes take 2-3 years for the court case to complete. This can be because of the complexity and seriousness of the crime – however, **lengthy judicial timescales** can significantly negatively

impact a large proportion of a person's childhood. In addition, often children can become young adults before the case is heard, but with little evidence that their age change and maturity affects sentencing.

- **Victims of trafficking and criminal exploitation**, including children and young people, and particularly experienced by Vietnamese people, are far too often dealt with within the criminal justice system and the victims are detained and prosecuted for crimes, rather than given the support that they need.
- Refugees arriving on Scottish shores are not given safety but instead are treated as criminals by Police Scotland.
- Participants' experience suggests that disproportionate numbers of women with learning disabilities experience violent crimes but more data is required.
- Women **survivors of domestic abuse** have limited access to competent and affordable legal services.
- Medical and other sensitive records can still be accessed during criminal proceedings, undermining the right to privacy for rape complainers.
- There are low conviction rates for rape, domestic abuse, trafficking of women for sexual exploitation and FGM.
- Police Scotland have significantly increased the number of officers with **tasers**. Statistics show that more than 50% of taser discharge is on people who have mental health difficulties or who have a learning disability.
- The Independent **Review of Complaints Handling**, Investigations and Misconduct by Dame Elish Angiolini is being implemented but evidence suggests that in some instances police still fail to inform detainees of having notified the third party of their place of detention.p
- People on certain psychiatric orders are being prevented from **voting** even after discharge from hospital – those in forensic psychiatric units were omitted in the legislation.
- Community Justice Authorities are not able to hold local authorities to account, and so there is a lack of equity of services. Criminal justice-related services are very patchy throughout Scotland.
- Stays in **police custody** beyond 24 hours in Scotland persist.
- **Child's voices** are very inconsistently heard in court processes - England has a special qualification for solicitors required to work with children but there is no such requirement in Scotland so there is huge inconsistency in children's experience.
- There is **over-use of force on children and young people** in the justice system, for example during arrests, and strip searching of children is still occurring.
- Care Experienced children and young people are over-represented in the child and adult justice system.
- The Barnahus approach is being developed in Scotland for child victims but there is resistance to this being extended to child accused. This raises significant issues about how we understand children under the law and the CRC.
- Lord Advocate guidance includes that if a child is potentially subject to **criminal exploitation** then there is presumption against prosecution, and then this requires further investigation, not necessarily a referral to the national mechanism - this is not widely understood by police and prosecutors, and there are too many children who are prosecuted who should not be. There was significant increase in child criminal exploitation during COVID-19.

- **Fatal Accident Inquiries (FAIs**) take far too long, the process often excludes the victim's family, and there is a lack of implementation of FAI recommendations/learning.
- Scots law still currently allows for the possibility to delayed access to a lawyer in exceptional circumstances for those in police custody.
- **Legal aid** provision and access to realising rights should be easier and more straightforward.
- We need access to justice and accountability which is not prohibitively expensive and does not involve going to court.
- There is a backlog in domestic abuse cases due to courts being closed during COVID, with an additional waiting time of 1-2 years.
- When **women with learning disabilities** report a crime, they are often referred to adult support and protection rather than any steps taken to bring justice and deal with the perpetrator. For example, online abuse of women with learning disabilities can result in their computers being taken away, rather than reporting the abuser.

Prisons

- **Far too many women are being sent to prison** - the female prison population in Scotland has risen by 120% since 2000. There has previously been policy discussion about there being 200 women in prison and this needing to be cut by 100, but there are now 400 women in prison - rather than the numbers decreasing, it has actually increased. New legislation on minimum sentences is a positive development. However, there has been a lack of any serious attempt to improve alternative disposals. Sheriffs are reluctant to use alternative disposals, perhaps because of a lack of awareness of the options or a lack of confidence in their sustainability. Where there are alternative disposals, these are often more suited to younger men rather than women. Therefore, women are still in prison when they have committed non-violent or less serious crimes and do not pose a risk to themselves or their community.
- Women released from prison have significant difficulty in accessing financial assistance.
- Despite Barron Review recommendations, some female prisoners suffering from severe mental health disorders are still not transferred to an appropriate psychiatric facility within two weeks. Participants spoke about women having to transfer to England, far from their families and very unsettling.
- **Scotland's prisons are very overcrowded**, leading to many people living in a space with two people that was designed for one. This affects their right to adequate housing, to protection from inhumane treatment and to health. This also means that staff are overstretched and so people are kept in their cells for longer periods. There has been much talk over years on reducing prison numbers but short term prisons legislation hasn't actually reduced the number of people in Scotland's prisons.
- The presumption of liberty requires authorities to resort to deprivation of liberty (either through an arrest or as a punishment of imprisonment) only as a measure of last resort – authorities have an obligation to seek alternatives to detention. However, **far too many people in Scotland are on remand,** including many who do not end up with a custodial sentence. 70-80% of 16-17 year olds in Polmont are on remand. Howard League Scotland says the untried remand population stood at 1,293 in February 2020, and despite an initial fall it had grown to 1,753 by April 30 2021. It means the untried remand population increased by 35.5% over the 14 months. We need to be specific and direct judges on presumption against remand.

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- People are still put on remand because of **'no fixed abode',** in effect taking away someone's liberty because they are homeless.
- There is more evidence needed about **people in prison with Additional Support Needs;** there is a lack of screening for people needing additional support or healthcare when people enter prison / custody. Additional support needs in prison are often not well understood, with undetected/undiagnosed health and social care needs, especially because of ageing prison population.
- There needs to be more accessible information and support for communication in custody, in court, and as witnesses, for people with learning disabilities. There has been some progress around 'appropriate adults' but there is a lack of training for officers to identify when this is needed.
- There is a very concerning high number of **deaths in custody.**
- There are difficulties with adequate housing and accessing benefits for those **leaving prison** and their families. There are no discharge grants available for young people under 18 years old.
- People are still being released after 5pm on a Friday without housing and with a lack of care & support in place.
- Significant unmet need for mental health treatment and support within prisons.
- **Healthcare services in general are very poor in many prisons**. When you go to prison, you get taken off the GP's list and lose all of the support, and then there is considerable effort needed to re-establish this support afterwards – this is particularly difficult for those on remand. There is a lack of liaison between healthcare in prison with community healthcare.
- Prisoners do not always receive proper medical screening upon arrival, including their withdrawal status and their risk of self-harm or suicide.
- Long delays before prisoners can begin drug replacement therapies.

Access to paid work

- **Asylum seekers are denied the right to work** – this is an affront to their dignity, impacts their health, wellbeing and integration, and is a loss of potential skills and workforce to the UK.
- Too many migrants are in low paid, insecure jobs with poor conditions.
- There are particular **barriers for women** in returning to paid work or education – participants spoke about these including a lack of childcare, a lack of support from partners, a lack of financial support, a lack of employability support, and a lack of confidence and knowing where to get advice.
- Women's access to paid work has been significantly undermined by a radical increase in unpaid work due to the pandemic.
- Women's right to work is also affected by childcare that is lacking, expensive and often inflexible.
- **Disabled people** continue to be under-employed, lack employment and get paid less than non-disabled people.
- The **gender pay gap** is still too wide, with low pay persisting in many of the predominantly female and undervalued sectors such as childcare and social care.
- People from **minority ethnic groups experience discrimination in recruitment** as well as occupational segregation and disproportionately unfavourable working conditions. Muslims are

paid less than other groups, for example the pay gap between Muslims and those of no religion is as high as 19.3%.

- People from minority ethnic groups are under-represented in Modern Apprenticeships – participants spoke about many minority ethnic students putting in sufficient work and pursuing these Apprenticeship opportunities but that they are then not selected.
- Historically, minority ethnic students always perform better than white students but when it comes to employment then this is the reverse.
- Race needs to be part of public sector recruitment policies, in the same way that climate change is.

Participation

- **Participation in policy making and service design is too often tokenistic, rather than meaningful,** with little evidence of people's views actually shaping decision-making. There needs to be greater commitment to take the actions that Government has already heard need done.

- There have been positive steps taken to listen to the voices of children and young people in policy-making. However, the Scottish Government needs to do more to hear from minority groups of children and young people who are seldom-heard including migrants and refugees, Gypsy Travellers, disabled children, children whose lives are affected by parents in the armed forces, Care Experienced children and young people, justice experienced children and young people. Sometimes public authorities handpick the most articulate and easy to hear from, rather than enabling participation from marginalised groups. Public authorities need to use an inclusive communications approach to ensure that children and young people know about opportunities to participate in decision-making and can do so fully.

- Organisations who support participation, such as those who enable people with learning disabilities to participate, are too often not **properly resourced** in order to do so. People of Colour and minority ethnic people are also not being supported and resourced to participate in policy making decisions – instead there is a lot of pressure on third sector and small or non-resourced community organisations to carry a lot of the weight to input into policy or rights conversations. Organisations need sufficient and long-term resourcing for participation work.
- There is a lack of representation of women, particularly disabled, minority ethnic and LGBTI women in politics, in media and in local authority leadership, sometimes driven by gatekeepers in homes, communities or organisations putting up barriers to women's engagement. Too many women also do not stay in politics or public life because of the level of discrimination and abuse that they face, particular online, including death threats and rape threats – this is discussed further below.

- There is need for a specific mechanism to capture voices of children and young people on improvements in the justice system – there is some planning around collecting data from public sector but nothing from third sector, and from children and young people themselves.

- Lack of voice for people directly affected by mental health system and related decisions.

Independent Advocacy

- **Many people, in all different situations and with different needs, do not understand their rights and do not know how to access them. Independent Advocacy was seen as crucial for enabling this to happen.** In particular, participants spoke about the following groups needing increased provision of independent advocacy: people with learning disabilities, Care Experienced people including children and young people currently in local authority care; people in the immigration system; LGBTI people; people at every stage of mental health system; people in prison.
- There are a lack of child-friendly complaint mechanisms, and independent advocacy services can support children and young people to make both informal and formal complaints.
- However there are **significant gaps in availability of Independent Advocacy services**, and there is often criteria attached to accessing Independent Advocacy services which excludes too many people in need of the service. For example, Independent Advocacy in the Scottish social security system is only available to disabled people; there is some advocacy available for children and young people in the care system but this is patchy and limited; independent advocacy should be available for all children and young people to enable participation and help them get remedy to problems they are facing; advocacy should be available to all in the mental health system but is often only available for those in crisis and with statutory orders. People spoke about the considerable disappointment that the contract for advocacy on social security was given to a company from outside Scotland who have no experience of the benefits system and no idea about the geography of Scotland.
- Could the Mental Welfare Commission be given new powers to ensure that local authorities make adequate provision for independent advocacy?
- There is significant unmet need for Independent Advocacy in the justice system, particularly for children and young people and their families, and for those with additional support needs. People need someone non-bias as soon as they come into contact with the justice system, helping them to understand their rights and how to access them. People coming through court and police custody are not always being given relevant understandable information around their human rights and the process. Often people are simply given a piece of paper about your rights but if someone has additional support needs or a brain injury or affected by domestic abuse, giving someone a piece of paper is simply not sufficient.
- Collective as well as individual advocacy should be available.
- Any Independent Advocacy service commissioned by the NHS should be registered with Scottish Independent Advocacy Alliance, ensuring that it is truly independent.

Adequate standard of living, poverty and social security system

- More than one in four (260,000) of Scotland's children are officially recognised as living in poverty. Children and families from minority ethnic groups, children with a disabled family member, Gypsy/Traveller children, lone parent families, are at an increased risk of living in poverty.
- Government puts a 'sticking plaster' on this rather than finding proper solutions to poverty.
- The level of social security benefits is simply not enough and needs to reflect the cost of living.
- Women continue to bear the brunt of austerity measures - 63% of those impacted by the annual cap on household benefits have been lone parents, 90% of whom are women. 86% of total cuts to welfare and public services between 2010 and 2020 came from women's incomes.

- There has been scant gender analysis of the impact of 'household' benefits rather than entitlements or to individuals, including this creating a system that enables perpetrators of domestic abuse to control a women's access to money. This includes the new Scottish Child Payment that is also calculated on the basis of 'household', missing an opportunity to address this barrier to women's right to protection.
- Raise the minimum wage to make it fit with purpose and keep track with inflation.
- Trial Universal Basic Income.
- Listen to lived experience across different equalities groups when designing social security
- Increase pensions and bring back triple lock
- Transport subsidies should be equal across the UK
- More empowerment / education to get out of benefit system and achieve better standard of living.
- Eradication of the need for food banks
- Recognising and rewarding "low status" low paid jobs eg. delivery drivers, cleaners etc. who do essential work and get rid of the idea that people need to be incentivised to work.
- Close the poverty gap – with the increase in costs of fuel and food, even people who are earning cannot afford rent/mortgage, Government needs to prioritise addressing this.
- The benefit cap and two-child limit means that those in larger families are at increased risk of poverty, and cannot rely on a social security safety net even though they have the right to social security as set out in ICESCR.

Media – Harassment, Abuse, Racism

- Media reporting is very bias against Muslims and this increases hate crime, discrimination and harassment. This reporting also impacts beyond Muslims to others such as the Sikh community.
- The public **do not understand migration and migrant rights**, and the restrictions and reality of their lives and their stories – if they did, then the perception of migrants could be changed and improved. Government and politicians need to take responsibility for educating and raising awareness of people about migrants and all of the benefits that they bring to the UK and the importance of providing safety to refugees.
- Too often, the word deaf or Deaf is used in the media and by politicians to mean ignorant or stupid or in a derogatory way – this needs to end.
- **Public harassment faced by women, both online and offline, is at endemic levels.**
- **Negative and toxic debate around LGBTI rights**, particularly transgender rights, in Scotland and across the UK. There is a need for the Scottish Government to speak out more on trans people rights in particular, especially with regards to abusive or threatening behaviour on social media.

Refugees and asylum seekers

There was recognition that many of the barriers to rights facing people in **the immigration system** is because that system itself is deeply flawed, and infringes upon people's dignity in the way that it operates. However, many participants also spoke about the frustration that too often the Scottish Government uses devolved competence as an excuse and does not do enough to mitigate the hostile immigration system. **The Scottish Government needs to use all of its powers to the fullest extent to protect the human rights of people in the immigration system.** For example, they spoke about:

- **No Recourse to Public Funds** is a significant barrier to protecting the economic and social rights of many people. The Scottish Government must systematically find ways of providing the support and services that people need in a way that protects someone's dignity despite this restriction. Several Scottish social security benefits including possibly the Scottish Child Payment, are not available for people with No Recourse to Public Funds. There are difficulties for women with NRPF in accessing housing and refuge services.

- Asylum seekers are excluded from free travel for under 22 year olds – this should be addressed.

- Devolved services should **not ask for proof of immigration status** before you get access to the service, because this should not be a barrier to services. Even the fear that services may share details with the immigration system puts people off from accessing services that are vital to their health.

- There is a significant lack of immigration **legal advice** in Scotland, particularly in rural areas and for complex or specialist cases.

- There is a concern that due to EU withdrawal, there were many children and young people in the care system who did not apply for settled status on time and are now left with insecure immigration status.
- There should **be pathways to enable stable immigration status** – the Scottish Government could do more to enable these pathways in Scotland.
- There needs to be greater accountability around the New Scots Strategy and sustained and proper resourcing of the Ending Destitution Strategy.
- Glasgow City Council has withdrawn from being a dispersal city for refugees -this means that refugees are now being placed across different towns in Scotland with little access to the support and services that they need.
- People in the asylum system are entitled to a certain number of hours of **English as a Second Language (ESOL) lessons** each week - English is essential for integration, citizenship and for work. The hours available are simply not enough -the Scottish Government could provide far more. Asylum seekers who use sign language do not have the same entitlement to hours of BSL lessons each week -this gap affects a small minority very significantly and should be addressed.
- Disabled migrants sometimes only have identification/confirmation of their impairment after their arrival in the UK and they need support to access work, disability-related support, and the health services that they need.
- Newly recognised refugees are at **high risk of homelessness as asylum accommodation is withdrawn after a 28 day 'move on' period** following granting of their status, despite significant hurdles such as finding employment and accessing any support they need within this time. Local authorities could do more to make sure their basic rights are protected after this time.

- The Scottish Government could do more to address the poor mental health of refugees especially LGBTI refugees. LGBTI refugees are often quite isolated within asylum accommodation and the system, and need particular support for their mental health.

Participants raised a number of significant barriers to rights that fall within reserved areas:

- There should be a time limit on immigration detention
- The Nationality and Borders Bill is in direct contravention to the Refugees Convention and will result in significant infringements of people's human rights.
- There should be a right to family reunion, so that families can live together.
- In 2018, some children were still being held in Dungavel Detention Centre near Glasgow – has this been addressed?
- The level of asylum support is far too low, with people expected to live below the poverty line.
- Difficulties for LGBTI people getting refugee status because of the types of evidence required by the UK immigration system.

Additional issues: Disabled people

- Too many people with learning disabilities are **stuck in longstay hospitals** because there is no community housing & support available – this is a significant human rights infringement.

- Health inequalities research finds that **people with learning disabilities die up to 15 times earlier** than their peers from avoidable deaths, including respiratory illnesses - especially in light of COVID, this is very important.

- There is concern about the numbers of parents with learning disabilities who have had children removed from their care -it is unclear about the numbers of people affected and more research into this is needed.

- The **transition from school** for disabled young people was really difficult before COVID-19 due to gaps and barriers to services, education and employment but after COVID-19, it is now 'absolutely dire' – young people are being left in their family home with no paid care, no options, and no career based and future planning. All too often, young people with learning disabilities find that on leaving school, they are moved into day services or onto life skills courses for the rest of their lives, without any consideration of what they want to study or pursue. This also has consequences for parent carers – see more under 'Care' above.

- New smoke alarm laws – were D/deaf people considered at all in how the new law was made? What about making more buildings and homes safe for D/deaf people?
- There remains significant need for accessible housing for disabled people– what is being done on this, targets, accountability?

Additional issues: Women[1]

- There is a lack of recognition of addressing the needs and issues affecting **minority ethnic women**, and this had led to a lack of resources and specialist support for them. For example, they experience high levels of domestic abuse, and this increased significantly during COVID, but without enough community and specialist services to provide protection and support. Too many minority ethnic women do not know what rights they have or how to access them, and they cannot access mainstream services which would provide such awareness and support. Initiatives to help minority ethnic women, including asylum seekers and refugees, are often from small and community-based organisations who lack sustainable and adequate resourcing. Small organisations often end up competing against each other for resources, leading to less choice and lesser provision for women.

- There are **persistent high levels of gender-based violence against women and girls, and a shortage of services and a l**ack of investment in the sustainability of services **to meet this need** – domestic abuse increased during COVID-19 and whilst the Scottish Government were fairly quick to approach domestic abuse organisations to begin to understand and resource what could be done to mitigate this impact of lockdown, the underlying issue of lack of adequate and sustainable funding and enough support services is still there and has not been addressed. In particular, disabled women and girls experience very high levels of domestic and sexual violence. Often women's services are not equipped or resourced to work with women who have learning disabilities. Domestic abuse remains the third most common reason for a homelessness application.

- There is a very low rate of convictions in rape and sexual assault cases. In addition, a backlog in court cases exacerbated by COVID-19, means that victims of rape and sexual assault are waiting a long time before their case is heard, with all of the impacts on their health and wellbeing.

Additional issues: LGBTI people

- LGBTI women experience particular problems accessing gender based domestic abuse services.
- **Gender recognition** laws are out of step with international best practice, to allow trans people to change the sex on their birth certificate more easily and without intrusive medical requirements. The GRA law should be passed, particularly recognising that delay has increased the impacts of toxic debate and misinformation on human rights and LGBTI activists.
- There is concern about **potential roll-back and deprioritisation of LGBTI rights progress** in recent years. Participants called for Government to show leadership and courage to champion LGBTI rights.

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[1] There are additional issues and evidence available in Engender's CEDAW follow-up report available at: https://www.engender.org.uk/content/publications/CEDAW---FOLLOW-UP-TO-CONCLUDING-OBSERVATIONS-SCOTLAND.pdf

- There is concern about the impacts of chemsex and spiking on LGBTI children and young people's safety and wellbeing.
- LGBTI people experience higher levels of violence and abuse, and struggle to access justice.
- Too many LGBTI people have been harmed by **conversion therapy**. Conversion therapy needs a full and comprehensive ban in law, including for trans people.
- Social care services are not always inclusive of LGBTI older people

Additional issues: Children and young people

- **UNCRC Incorporation**: It is important that the UNCRC Incorporation (Scotland) Bill is amended as quickly as possible so it becomes law, and that public authorities are fully equipped to fulfil their new duties under the Act. The interrelatedness of the UNCRC, with CEDAW and UNCRPD and ICERD, for the full protection of children's rights needs to be fully understood and implemented.

- **Children in conflict with the law** - children just do not understand their rights or judicial process and children just shouldn't be in our court system. Children in adult courts does not meet Council of Europe guidelines and does not fit with the UNCRC.

- **16 and 17 year olds are children too** - At the moment, if you are 16 or 17 and not currently on compulsory supervision order then you are not referred to Children's Reporter, and can end up in a YOI rather than secure care. This is particularly the case given shortages of secure care placements. CAMHS is increasing up to 18, but currently physical conditions in the NHS are only up to 16 years old. 16 & 17 year olds can drop out of health services because often they are sent letters and not their parents, so they drop out or ignore the letters. The minimum age of marriage is 16 years old, but under the UNCRC you are a child until 18 years old.

- Concern that children institutionalised earlier and earlier as parents feel pressure to work; this should be a choice, people should be able to protect that early attachment time if they want to. There is a need to review parental leave policies and see how these could support gender equality and better family relationships, as well as bigger questions around demographic decline.

- There is a lack of education and **awareness about children's human rights** amongst those who work with them – everyone in public services needs children's rights training, and not only those specifically working with children and young people. Parents are often the first champion of their child's rights but often do not know where to get the advice or understanding that they need in order to do so effectively.

- There is very concerning evidence of damaging use of **restraint and seclusion of children**, particularly children with learning disabilities and those with complex needs.

- **Mosquito devices** – These devices are harmful to children and young people and discriminate against them. Whilst there is recognition of this, there is a lack of clarity where this sits within reserved responsibility for trade and devolved responsibility of health and wellbeing, and a lack of any action to address this.

Additional issues: General

- Funding in Scotland does not follow human rights priorities - **human rights-based budgeting** needs to be adopted by the Scottish Government and other public authorities.

- UK Government watering down of rights accountability through the Judicial Review & Courts Bill

- There is concern about the planned reform of the **Human Rights Act** and the need to maintain avenues and strength of government accountability on rights, and raise awareness of how the HRA protects our fundamental rights. There is increasing divergence around approaches to human rights at UK and Scottish levels – there must not be any regression on rights protections in law, but only strengthening.

- ICESCR incorporation – participants spoke about the need to benchmark and identify the minimum core of economic and social rights entitlements for survival, including housing, food, health, education, basic income.

- Public services in Scotland are not informed by an **intersectional approach** that recognises that where people face multiple barriers to their rights, there needs to be particular attention to addressing these barriers in service and policy design. All too often, the vague principle of intersectionality is pursued without a clear strategic ambition, leading to a watering down and homogenisation of equality concerns.

- All Scottish public authorities need to adopt an accessible information and **inclusive communications approach** to all of their services. The lack of support for communication needs excludes people from vital services and from participation and public life. Too many public bodies and organisations do not allocate enough resourcing to make what they do accessible. Inclusive communications is really important for people to understand their rights and know how to access their rights and therefore should be an integral part of development of the enhanced human rights framework in Scotland.

- **Resourcing for civil society and community organisations** is important for human rights protection – their crucial role was recognised during COVID-19 but resourcing is too often short-term, patchy, based on damaging competitive tendering and without core costs being met. There is a postcode lottery of some areas being eligible for more resources than others, and sometimes specialist or community groups for particular minority grousp miss out on funding to larger mainstream services. There is considerable emotional/financial fatigue in the 3rd sector due to COVID-19 and there having to step in and cover gaps in public services.

- End age cut offs for support available for Care Experienced people, and instead ensure that rights protections are lifelong for Care Experienced people.

- Sustainable and adequate resourcing for **Scotland's National Action Plan on Human Rights** (SNA) including support for an independent Secretariat, SNAP Actions, and an independent SNAP Leadership Panel. SNAP can be used to ensure that the rights incorporated with a Human Rights Bill are implemented in practice and make a real difference in people's lives.

- Some participants raised issue of the right to die and the Assisted Dying Scotland Bill proposed by Liam McArthur MSP. However, there was disagreement between participants on how this impacts human rights.

Positive developments in human rights protection

In some workshops and through a Menti poll, participants spoke about positive steps forward on human rights:

- Scots Law has been changed to give children equal protection from assault.
- The UN Convention on the Rights of the Child (UNCRC) Incorporation Bill was passed unanimously by the Scottish Parliament in March 2021. This Bill has wide support from across civil society, and includes key elements such as including children and young people with learning disabilities within it.
- The age of criminal responsibility in Scotland was raised from 8 years old to 12 years old (though still falling short of 14 years old recommended by the UN, see above)
- That there is a review of mental health law under John Scott
- Publication of women's health plan
- Scottish social security system
- Scottish Government commitment for new human rights framework including incorporation of CEDAW (women's rights convention), CRPD (disabled people's rights convention), CERD (convention on race rights) and ICESCR(covenant on economic, social and cultural rights), and the right to a healthy environment
- Planning Act (2019)
- Creation of the Scottish Sensory Hub
- Health and Social Care Standards: my support, my life
- Social Security (Scotland) Act 2018, including acknowledgement of social security as a human rights, and a right to advocacy for disabled people
- Expansion of free personal care, for the first time, to those under age 65
- New hate crime bill had some incremental positives
- Taking age limit off the Care Experience Bursary
- Right to vote in Scottish Parliament and local elections extended to all those with 'leave to remain' in the UK and to short-term prisoners
- Housing First policy
- Doubling Scottish Child Payment
- BSL Interpreters at First Minister COVID updates
- Open access to HIV treatment and care regardless of immigration status
- Domestic Abuse (Protection) Scotland Act 2021 gives additional protection for a victim of domestic abuse to remain in their own home, rather than being made homeless in order to be safe
- Carers Allowance Supplement increased for Oct 2021- March 2022

Appendix A

This is feedback from the Health and Social Care Alliance Scotland (the ALLIANCE) on additions to an initial draft of this report. The ALLIANCE also included suggestions for amended text which have been reflected in the main body of the report.

Health and Social Care Alliance Scotland (the ALLIANCE)

HRCS Universal Period Review Summary: ALLIANCE feedback

January 2022

Introduction

The Health and Social Care Alliance Scotland (the ALLIANCE) welcomes the opportunity to provide feedback on the Human Rights Consortium Scotland's draft summary of points raised in the Universal Periodic Review (UPR) civil society workshops in November – December 2021. Additional points and additions to the draft text are listed below.

Human rights and COVID-19

General

ALLIANCE members have shared experiences of confusing, limited and interrupted communication at all levels in health and social care settings: between services, for people who access services, and at the national public health messaging level.[i] A lack of tailored, person centred approaches throughout health and social care interactions meant that public health messaging was often confusing, inaccessible and contradictory. Some examples include:

- Written communication could be too ambiguous and lacking clarity on key information. This had a particular impact for autistic people

- The use of telephone based communication and Near Me video consulting at GP surgeries has created additional communication barriers for people with sensory loss and autistic people.

COVID-19 and digital exclusion

In relation to digital exclusion and the digital capacity gap it is important to recognise that the digital support available was not suitable for all, meaning some people have become further excluded. This issue was particularly acute for people with visual impairments who have faced difficulties using new technologies and apps, such as the NHS Track and Trace app.

COVID-19 and valuing care

COVID-19 has had a significant impact on the social care sector, with a subsequent impact on the rights of people accessing care and support and unpaid carers. Some of the key issues highlighted by ALLIANCE members are listed below:

- A significant proportion of social care packages were reduced and removed, despite Scottish Government guidance and resources to continue support.[ii] At the outset of the pandemic, some local authorities/HSCPs had increased eligibility criteria for social care and social care packages were being reduced or withdrawn, sometimes with little or no notice. As a result, people were left in difficult and distressing situations.[iii] Although UK and Scottish COVID-19 emergency legislation allowed for an easing of health and social care assessment duties, this did not apply to eligibility criteria or existing social care and carer support.[iv]

- During May and June 2020, the ALLIANCE, the SDS Collective, and the Scottish Human Rights Commission brought attention to the fact that some local authorities in Scotland had suspended or altered statutory complaints procedures during COVID-19. While COSLA and the Scottish Public Services Ombudsman were responsive when the situation was raised to them, it has raised concerns about the application of human rights in public services, and the impact on those that access social care. Transparency and accountability are key human rights principles that must be upheld.

- There is a lack of basic data available on people who receive social care. A recent report states that a lack of good quality social care data led to a late response to the care home crisis in Scotland during COVID-19.[v] Compared to the NHS, a lack of reporting and available data reflects the "relative invisibility of adult social care".[vi]

- It is unclear how decisions were made – and are being made – about which facilities were being reopened during the gradual remobilising of social care day services, including those for adults with learning disabilities, people with dementia, children and young people, and rural facilities.[vii]

COVID-19 and care homes

As outlined in the draft summary, there are key human rights considerations about the impact of COVID-19 on care homes in Scotland. Particular issues include the correlation between care home deaths and hospital discharges; whether decisions around visiting rights were reasonable, proportionate and in line with human rights; and whether there was adequate testing of care home residents and staff.

COVID-19 restrictions had a significant impact on tactile communication. For example, for people living with dementia touch is often the only means of communicating, particularly during the later stages. During COVID-19, many tactile activities were stopped. A lack of positive communication can cause rapid deterioration of people's health and wellbeing.

It is imperative that people have good quality, accessible and inclusive information in the right language and in a format that is understood. During COVID-19, accessibility issues were often delayed meaning people were not fully informed on a universal, equitable basis. This raises key concerns about people who experience communication or language barriers being indirectly discriminated against.

Housing

In relation to housing, it is important that the needs of those with communication and language barriers are addressed, including BSL and tactile BSL.

Education

During COVID-19, ALLIANCE members, PAMIS and Contact have indicated that children and young people with profound and multiple learning disabilities (PMLD) have continued to have limited access to education whilst restrictions have eased for others.

During COVID-19, disabled children and young people – and children and young people with sensory loss – have not received specialist educators, equipment and socialising, with a subsequent impact on maintaining attainment and narrowing the attainment gap. For people with sensory loss, touch is also a big part of development, and has been impacted due to social distancing measures.

Additionally, we know that people that need specialist equipment to meet communication, language or other barriers, do not always have access to this equipment outside of the classroom. This also applies to people who require specialist language and communication support, including BSL and tactile BSL.

Mental health

Services

During COVID-19, the mental health and wellbeing of disabled people, people living with long term conditions, unpaid carers, and other marginalised groups has been disproportionately and negatively impacted. Some of the key issues and statistics are outlined below:

- During COVID-19, people affected by deafness and other communication barriers were assessed by phone, with no adjustments. In relation to consistent care/treatment, person-centred mental health care and support, and "better minimum standards", there is a pressing need for communication and language adjustments to be routinely available.

- Disabled people are more likely than non-disabled people to have experienced anxiety about their physical health, as well as feelings of loneliness and struggling with their mental health.[viii] There is a need to identify and prevent the damaging impact of social isolation.

- Disabled people and people living with long term conditions were particularly impacted by deterioration in their health and wellbeing due to the reduced access to ongoing support, health and social care services necessary for them to self-manage and live well.[ix]

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- Research by Glasgow Disability Alliance (GDA) notes that many disabled people experienced barriers to accessing support for their mental health, and often felt dismissed, with referrals to GDA's Wellbeing Service increasing significantly at outset of the COVID-19 pandemic.[x]

- Inclusion Scotland found that respondents to their April 2020 survey were experiencing stress, fear and anxiety, with many losing access to health services and support for both physical and mental health during the pandemic.[xi] Feeling of stress, fear and anxiety during COVID-19 were particularly acute for people with lived experience of mental health problems, disabled people living alone or with limited access to digital communication.[xii]

- Unpaid carers have reported the practical and emotional challenges of providing full time, ongoing care throughout lockdown, often without access to support and respite.[xiii] A survey by Carers Trust Scotland indicated that 50% of unpaid carers surveyed described their mental health as "worse than before the pandemic", and 34% described it as "much worse than before the pandemic", with many experiencing more stress and loneliness.[xiv]

- Research shows that women are more likely to have been disproportionately impacted by the indirect consequences of COVID-19 than men. Close the Gap and Engender have noted the disproportionate impact that COVID-19 is having on women and girls, highlighting that disabled women and young women are more likely than men to have sought support for their mental health over the course of the pandemic or increased the support they are receiving for their mental healt Other groups such as socio-economically disadvantaged people, people with existing mental health needs living in areas of multiple deprivation, children and young people, and older people also experienced a negative impact on their mental health and/or increased risks of loneliness.[xv]

Healthcare general

During the COVID-19 pandemic, midwifery and health visitor services were initially stopped then restricted, with an impact on maternal and infant health.

More broadly, people with learning disabilities, communication and language barriers have faced issues around capacity to make decisions affecting their lives.

In addition to a lack of provision of translators in health services, there is also a lack of specialists to address communication and language barriers including BSL/English Interpreters, deafblind tactile communicators, guide communicators for vision loss and electronic notetaking for deafened/hard of hearing.

Environmental

Disabled people are adversely affected by climate change, and often feel overlooked or excluded in conversations about climate change. ALLIANCE members and partners have shared experiences of "eco-ableism" where actions to address climate change can create additional barriers for disabled people and people living with long term conditions. Examples include discussions on restricting the use of plastic straws and other single use plastic items, which many disabled people and people living with long term conditions rely on.[xvi]

We need to ensure that disabled people, people living with long term conditions and unpaid carers are involved in climate change discussions, particularly as new legislation and policies are introduced to respond to the climate change emergency. Central to this is the provision of good quality, accessible, inclusive communication available in multiple formats.

Racism

Data from ALLIANCE research, *My Support My Choice: User Experiences of Self-directed Support in Scotland* highlights barriers that prevent Black and minority ethnic people from enjoying equitable access to culturally appropriate SDS/social care.[xvii] Specific concerns include a lack of cultural awareness and equality, and a need for diversity and cultural sensitivity training. Participants also indicated a desire for a more culturally diverse social care workforce.

We also know that there is more account taken of popular Community languages. Inclusive practices are needed to ensure communication of messages are accessible for all.

Hate crime

There is a lack of reporting of disability hate crime, particularly for people with sensory loss. A cultural shift is needed to change pubic perception and attitudes towards disabled people and people with sensory loss. For example, there is a need for organisations and public bodies to positively advertise their arrangements and reasonable adjustments for positive, inclusive and accessible communication for all.

Data

There is a pressing need for local and national public bodies to improve systematic and robust disaggregated data gathering and intersectional analysis about people who access and apply for SDS/social care. There are sustained difficulties in gathering disaggregated data on people's experiences of social care in Scotland. This is due to issues such as different reporting periods for social care data across local authorities, and some authorities either not tracking or unable to share disaggregated data.[xviii] There is a pressing need for local and national public bodies to improve systematic, robust, inclusive data gathering and intersectional analysis about people who access and apply for SDS/social care.[xix] This should include disaggregation by all protected characteristics and socio-economic information like household income and SIMD. This is essential to ensure that the rights and needs of specific population groups are adequately upheld and considered in public services. Additionally, a lack of adequate data sharing processes are preventing the ambition of health and social care integration.

Justice and policing

In relation to justice and policing, adjustments are needed for people with communications and language barriers. Additionally, easier complaints systems are needed for public bodies, including the NHS. Current systems are often onerous and bureaucratic. There is concern that substantial issues are missed because of this.

Adequate standard of living, poverty and social security system

The £20 per week cut to Universal Credit (reversing an increase during the pandemic) has further reduced the adequacy of social security and increased poverty. In addition to the Benefit Cap, the two-child limit has a disproportionate impact on women, lone parents, and minority ethnic groups.

Although the Scottish Government has made some positive steps to increase the take up of social security payments, there is still a large amount unclaimed. There is also no reliable estimate of the levels of take up for disability benefits, and anecdotal evidence suggests there is significant under-claiming.

Personal Independence Payment (PIP) has a very poor level of accuracy of decision making, with a high level of decisions overturned by mandatory reconsideration and appeal. Although this is being replaced by the devolved Adult Disability Payment, with improvements to the assessment and administrative processes, many of the rules and eligibility criteria from PIP are duplicated, so it may not fully address the issues experienced by recipients.

Additional issues: Disabled people

In relation to social care, ALLIANCE members have repeatedly shared experiences that the current system does not work for many people and families across Scotland. Some key issues are listed below:

- Some people are not receiving adequate, person centred support (e.g. reductions in support, budget cuts, challenges in getting their support needs assessed) with an ensuing impact on human rights and the quality of life/mental wellbeing for people accessing support and unpaid carers.[xx]

- People have experienced poor communication and poor relationships with social work professionals raising concerns about decision making and autonomy; if people's opinions are not recorded and acknowledged during assessments, then they cannot be said to control or choose their support.[xxi]

- Several people have shared experiences of discrimination, intimidation and bullying within the social care sector. There are specific issues around stigma, racism, a lack of cultural awareness, and issues with transparency and accessibility in terms of social work processes and paperwork.[xxii]

- There is inconsistency in the approach to charging for social care across Scotland, and non-residential social care charging policies exist in some local authorities/HSCPs.[xxiii] During our Independent Review of Adult Social Care engagement sessions,[xxiv] participants described local authority applications for charging around care to be particularly complicated.

Additional issues: Women

As outlined elsewhere, there is a lack of detailed, accessible data about social care, and who accesses social care. There is a need for local/national public bodies to improve disaggregated data gathering and intersectional analysis. This should explicitly include gender disaggregated data, which distinguishes between the experiences of women as users of social care, and women who are unpaid carers.[xxv]

Around 85% of the social care workforce in Scotland identify as female, and around 70% of unpaid care is carried out by women. Workforce issues and issues relating to social care are therefore highly gendered. Unpaid carers receive inadequate financial support, and there is a lack of awareness among unpaid carers about the wider support that is available (e.g. access to self-directed support, respite support). In our engagement work, unpaid carers have explained that information about access to social care support, financial support and respite support is often not "forthcoming".[xxvi]

Social care is vital to society but continues to be undervalued, with low pay and poor terms and conditions. There are long term, ongoing problems with recruitment and retention in the sector, and we often hear of people leaving the sector to do less demanding jobs for similar or better rates of pay. Failure to address these issues will exacerbate the inequality in women's working conditions and Scotland's gender pay gap.

There is also a need for more choice and flexibility around women's lives, both when accessing appointments and for treatment and support options. ALLIANCE engagement to inform the Women's Health Plan highlighted access to services as one of the biggest issues for women.[xxvii] It can also be difficult to get an appointment that works around work/caring responsibilities. Another key theme was women feeling dismissed when they attend the GP with a health concern, and feelings of "not being taken seriously" or being rushed to make decisions about their health.

Additional issues: Children and young people

On the 'right to play' the document currently says: "there needs to be space in any new housing for play, as well as access to green spaces. Public spaces and playgrounds need to be accessible for children with additional needs." The ALLIANCE recommends that this should also include the requirements of children and young people with profound and multiple learning disabilities (PMLD).

ALLIANCE members, Play Scotland have raised concerns that, in light of ongoing restrictions around social distancing, there could be limitations on children, young people's, families and others' ability to gather spontaneously to play in groups. Restrictions also have an impact on the delivery of sensory play activities for children with sensory loss, for whom online/virtual delivery of services does not need their requirements.

As mentioned elsewhere, the pandemic has severely impacted children and young people's mental health, and CAMHS has had limited capacity. Children living in poverty have also been disproportionately impacted by the pandemic, particularly in areas such as food insecurity, where food closures meant that they missed out on free school meals.

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In relation to Article 12 of the UNCRC, children's perspectives and experiences have not been properly taken into account throughout the pandemic; there is some interesting work coming from New Zealand on this, with parallels to be found in Scotland.[xxviii] Together has also compiled a list of recommendations to address current challenges to children's rights during the pandemic.[xxix]

Additional issues: General

Impact of EU withdrawal

There are key concerns about the impact of EU withdrawal on social care throughout the UK. The ending of freedom of movement – combined with ongoing pressures, including COVID-19 – is likely to have a substantial impact on social care organisations, worsening their ability to fill vacancies. Employed staff and volunteers from across the world are a vital part of the social care workforce in the UK (research estimates that the percentage of EU nationals working in social care in Scotland was 5.6%[xxx]).

There is concern about EU nationals in social care posts who do not qualify for 'settled status' under the EU settlement scheme. While pre-settled status allows EU nationals to stay in the UK for a further five years, it may deter EU nationals from remaining in post if their right to work in the UK is not guaranteed. The eligibility criteria for a Health and Care Worker Visa means that social care providers will struggle to recruit international staff, exacerbating existing staff shortages and adding to the pressures already faced by the sector.

When vacancies cannot be filled, the quality of care received by disabled people, people with long term conditions and unpaid carers is compromised. Staff shortages can lead to long waiting times, a lack of qualified care workers, inflexible support, and a lack of personal choice and control. The uncertainty of the future is a deterrent to recruiting in the sector, and crucially, the implications of these challenges will be borne by those accessing care and support, including disabled people, people living with long term conditions and unpaid carers.

Sensory loss and access to food during COVID-19

During COVID-19, vision impaired people were not initially given priority for supermarket online shopping slots. It took a collaborative campaign by the large national organisations for people to be accorded priority and access.

Positive developments in human rights protection

There is a growing focus on human rights in Scotland, and a marked commitment to embedding social, cultural, and environmental rights alongside the civil and political rights contained in the European Convention on Human Rights. The Scottish Parliament is increasingly working towards embedding human rights directly into legislation, policy and practice. The ALLIANCE has played an active role in influencing much of this work through engagement with our members and partners. Some key examples are listed below:

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- Creation of the **Scottish Sensory Hub.**[xxxi] Based at the ALLIANCE, the Scottish Sensory Hub is an exciting new development for the sensory sector in Scotland. The Scottish Sensory Hub will act as a connecting bridge between Scottish Government, the third sector and the individual, and will enshrine a human rights-based approach for all. It will focus on three key themes of communication, information and mobility and will look to develop the social model of disability throughout the sensory landscape in Scotland.

- **Health and Social Care Standards: my support, my life.**[xxxii] Human rights based, outcomes-focused standards, developed in consultation with people with lived experience.

- **Social Security (Scotland) Act 2018**.[xxxiii] Acknowledges that access to social security is a human right, essential to the realisation of other human rights.[xxxiv] The Act includes an explicit provision for a right to advocacy for individuals accessing social security under section 10.[xxxv]

- **Expansion of free personal care.**[xxxvi] Made free personal care available to those under the age of 65 for the first time.

- **Health and Care (Staffing) (Scotland) Act 2019**.[xxxvii] Strives to drive improvement and assurance in nursing and midwifery, by ensuring appropriate staffing in the NHS.

- **Carer's Allowance Supplement (Scotland) Act 2021**.[xxxviii] Recognising the additional pressures unpaid carers faced during COVID-19, the Act provides for an increase in the amount of the Carer's Allowance Supplement for the period from 1 October 2021 to 31 March 2022.

- **Scotland's second National Action Plan for Human Rights (SNAP2).** Since 2017, work has been underway to develop SNAP2. This will mean that practical actions to improve the realisation of human rights in people's lives can be delivered, enabling Scotland to better fulfil its international human rights obligations. SNAP2 will also provide a practical mechanism to implement recommendations of the National Taskforce on Human Rights Leadership.[xxxix]

- **Community Links Workers**. Community Links Practitioners have a vital role in supporting people and signposting people to support and resources. The ALLIANCE's Links Worker Programme[xl] has a direct link to the right to health and aims to mitigate the impact of the social determinants of health for people that live in areas of high socio-economic deprivation.

- **Lived Experience Groups**. Work to involve rights holders in decision making in Scotland is advancing. In recent years, a growing number of groups and panels comprised of people with lived experience are being convened to inform and influence policy and practice. Some examples include the People Led Policy Panel,[xli] the Social covenant steering group,[xlii] and the lived experience panel of the National Suicide Prevention Leadership Group.[xliii]

- **Good Food Nation Bill**. The Scottish Government has committed to introducing a Good Food Nation Bill within this parliamentary session.[xliv] This will provide a legislative framework which places responsibilities on Scottish Ministers and specified public bodies to publish and adhere to statements of policy and outcomes in relation to food related issues, as well as indicators or other measures required to assess progress.[xlv] Transforming Scotland's food system and becoming a Good Food Nation will help to create a fairer, greener and healthier Scotland.

[i] The ALLIANCE, *'Health, Wellbeing and the COVID-19 Pandemic Final Report'*. Available at: https://www.alliance-scotland.org.uk/blog/resources/health-wellbeing-and-the-covid-19-pandemic-final-report/

[ii] The ALLIANCE, *'ALLIANCE policy briefing on COVID-19 social care assessment guidance'* (5 May 2020). Available at: https://www.alliance-scotland.org.uk/blog/resources/alliance-briefing-paper-on-covid-19-social-care-guidance/

[iii] The ALLIANCE, *'Social care and COVID-19 emergency powers'* (1 July 2020). Available at: https://www.alliance-scotland.org.uk/blog/news/social-care-and-covid-19-emergency-powers/

[iv] Sections 16 and 17 of the Coronavirus Act 2020 ('the 2020 Act') "allow for an easing of health and social care assessment duties in relation to adult social care, carer support and children's services in Scotland." These powers were 'switched on' by the passing of the "Coronavirus Act 2020 (Commencement No. 1) (Scotland) Regulations 2020/121" on 5 April 2020.

[v] Professor Bruce Guthrie, The University of Edinburgh, *'Navigating blindfold in a blizzard: the invisibility of social care in routine data'*. Available at: https://www.ed.ac.uk/files/atoms/files/acrc_briefing_1_social_care_data.pdf

[vi] *Ibid.*

[vii] The ALLIANCE, *'Reopening social care day services during COVID-19'* (16 June 2020). Available at: https://www.alliance-scotland.org.uk/blog/news/reopening-social-care-day-services-during-covid-19/

[viii] Scottish Government, *'The Impact of COVID-19 on wellbeing in Scotland: Ipsos MORI report'* (12 March 2021). Available at: https://www.gov.scot/publications/impact-covid-19-wellbeing-scotland-work-finances-neighbourhood-support-personal-wellbeing-behaviour-changes/pages/7/

[ix] The ALLIANCE, '*Health, Wellbeing and the COVID-19 Pandemic: Scottish Experiences and Priorities for the Future'*. Available at: https://www.alliance-scotland.org.uk/people-and-networks/people-at-the-centre-engagement-programme

[x] Glasgow Disability Alliance, *'Supercharged: A Human Catastrophe. Inequalities, Participation and Human Rights before, during and beyond COVID19'* (August 2020). Available at: https://gda.scot/app/uploads/2020/09/GDAa__Supercharged-Covid-19Report.pdf

[xi] Inclusion Scotland, *'Rights At Risk: Covid-19, disabled people and emergency planning in Scotland'* (October 2020). Available at: https://inclusionscotland.org/wp-content/uploads/2021/05/Rights-At-Risk-Main-Report.pdf

[xii] *Ibid.*

[xiii] The ALLIANCE, '*Health, Wellbeing and the COVID-19 Pandemic: Scottish Experiences and Priorities for the Future'*. Available at: https://www.alliance-scotland.org.uk/people-and-networks/people-at-the-centre-engagement-programme

[xiv] Carers Trust Scotland, *'COVID-19 in Scotland: The impact on unpaid carers and carer service support workers'*, p.10. Available at: https://carers.org/downloads/scotland-pdfs/covid-19-in-scotland.pdf

[xv] Scottish Government, *'Coronavirus (COVID-19): impact on equality (research)'* (17 September 2020). Available at: https://www.gov.scot/publications/the-impacts-of-covid-19-on-equality-in-scotland/; The ALLIANCE, '*Health, Wellbeing and the COVID-19 Pandemic: Scottish Experiences and Priorities for the Future'*. Available at: https://www.alliance-scotland.org.uk/people-and-networks/people-at-the-centre-engagement-programme

[xvi] The ALLIANCE, *Consultation response – single-use plastic items* (17 December 2020). Available at: https://www.alliance-scotland.org.uk/blog/resources/consultation-response-single-use-plastic-items/

[xvii] The ALLIANCE, *My Support My Choice: Black and Minority Ethnic Peoples' Experiences of Self-Directed Support and Social Care in Scotland* (December 2020). Available at: https://www.alliance-scotland.org.uk/wp-content/uploads/2020/12/ALLIANCE-SDSS-MSMC-Black-and-Minority-Ethnic-Report-Dec-2020.pdf

[xviii] Public Health Scotland, '*Insights in social care: statistics for Scotland*' (29 September 2020). Available at: https://beta.isdscotland.org/find-publications-and-data/health-andsocial-care/social-and-community-care/insights-in-social-care-statistics-for-scotland/

[xix] The ALLIANCE, '*My Support My Choice – People's Experiences of Self-Directed Support and Social Care in Scotland – Reports*' (October 2020). Available at: https://www.alliancescotland.org.uk/blog/resources/my-support-my-choice-peoples-experiences-of-selfdirected-support-and-social-care-in-scotland-reports/

[xx] The ALLIANCE, *My Support My Choice – People's Experiences of Self-Directed Support and Social Care in Scotland – Reports* (pp.53-57). Available at: https://www.alliance-

scotland.org.uk/blog/resources/my-support-my-choice-peoples-experiences-of-self-directed-support-and-social-care-in-scotland-reports/.

[xxi] *Ibid.,* p.69-70.

[xxii] *Ibid.,* pp.72 – 75.

[xxiii] Social Work (Scotland) Act 1968, s.87. Available at: https://www.legislation.gov.uk/ukpga/1968/49/section/87 ; *Mental Health (Care and Treatment) (Scotland) Act 2003, s.28.* Available at: https://www.legislation.gov.uk/asp/2003/13/section/28

[xxiv] The ALLIANCE, *Adult Social Care Review – People at the Centre.* Available at: https://www.alliance-scotland.org.uk/people-and-networks/social-care-review-people-at-the-centre/

[xxv] The ALLIANCE, *'My Support My Choice – Women's Experiences of Self-Directed Support and Social Care in Scotland – Reports'* (December 2020). Available at: https://www.alliance-scotland.org.uk/wp-content/uploads/2020/12/ALLIANCE-SDSS-MSMC-Women-Report-Dec-2020.pdf

[xxvi] *Ibid.*

[xxvii] The ALLIANCE, *Scotland's First Women's Health Plan: How Scotland's women want to plan future services* (March 2021). Available at: https://www.alliance-scotland.org.uk/wp-content/uploads/2021/03/Womans-Health-Plan-Event-Report.pdf.pdf

[xxviii] Julie Spray, *Are we being inclusive enough of children in our pandemic response?* Available at: https://thespinoff.co.nz/society/24-11-2021/are-we-being-inclusive-enough-of-children-in-our-pandemic-response

[xxix] Together*, Briefings and research.* Available at: https://www.togetherscotland.org.uk/about-childrens-rights/coronavirus/briefings-and-research/

[xxx] Scottish Government, *'The Contribution of Non-UK EU Workers in the Social Care Workforce in Scotland, June 2018'* (June 2018). Available at: https://www.gov.scot/publications/contribution-non-uk-eu-workers-social-care-workforce-scotland/documents/

[xxxi] The ALLIANCE, *The Scottish Sensory Hub.* Available at: https://www.alliance-scotland.org.uk/policy-into-practice/sensory-impairment/about-us/

[xxxii] Scottish Government, *Health and Social Care Standards: my support, my life* https://www.gov.scot/publications/health-social-care-standards-support-life/documents/

[xxxiii] *Social Security (Scotland) Act 2018.* Available at: https://www.legislation.gov.uk/asp/2018/9/section/1/enacted

[xxxiv] *Social Security (Scotland) Act 2018, s.1(1)(b).* Available at: https://www.legislation.gov.uk/asp/2018/9/section/1/enacted

[xxxv] *Social Security (Scotland) Act 2018, s.10.* Available at: https://www.legislation.gov.uk/asp/2018/9/part/1/crossheading/advocacy/2019-01-21

[xxxvi] The Community Care (Personal Care and Nursing Care) (Scotland) Amendment (No.2) Regulations 2018 - https://www.legislation.gov.uk/sdsi/2018/9780111038925/contents

[xxxvii] https://www.legislation.gov.uk/asp/2019/6/contents/enacted

[xxxviii] Scottish Government, *Carer's Allowance Supplement* (4 October 2021). Available at: https://www.mygov.scot/carers-allowance-supplement

[xxxix] Scotland's National Action Plan for Human Rights, *SNAP2.* Available at: http://www.snaprights.info/snap-2

[xl] The ALLIANCE, *Links Worker Programme.* Available at: https://www.alliance-scotland.org.uk/in-the-community/national-link-programme/

[xli] Inclusion Scotland, *People-Led Policy Panel (Adult Social Care Support).* Available at: https://inclusionscotland.org/disabled-people-become-a-leader/people-led-policy-panel; Scottish Government, *Adult social care reform: people-led policy panel.* Available at: https://www.gov.scot/groups/adult-social-care-reform-people-led-policy-panel/

[xlii] Scottish Government, *Social Covenant Steering Group.* Available at: https://www.gov.scot/groups/social-covenant-steering-group/

[xliii] SAMH, *National Suicide Prevention: Lived Experience Panels Expression of Interest.* Available at: https://www.samh.org.uk/national-suicide-prevention-lived-experience-panel

[xliv] Scottish Government, *A Fairer, Greener Scotland: Programme for Government 2021-22* (7 September 2021). Available at: https://www.gov.scot/publications/fairer-greener-scotland-programme-government-2021-22/documents/

[xlv] *Ibid.,* p.90.