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Equalities, Human Rights and Civil Justice Committee
The Scottish Parliament
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Via email ehrcj.committee@parliament.scot

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Dear Convenor,

"Tick Tock..." A human rights assessment of progress from institutionalisation to independent living in Scotland - progress since our report

In 2025, the SHRC published its 'Tick Tock' report assessing the progress made in delivering independent living for people with learning disabilities and/or who are autistic. In particular, this report looked at the progress delivered under the Scottish Government's Coming Home Implementation Plan 2022-2024. In our report, we made nine recommendations to the Scottish Government.

We recommended that urgent action be taken to address the many significant and concerning gaps in implementation of the plan, which failed to comply with the right to independent living as required by Article 19 of the UN Convention on the Rights of Disabled People. Further, we recommended the adoption of a human rights

framework to guide all future work, and that there should be both legislative intervention to protect the right to independent living and independent oversight of the situations of those remaining in inappropriate placements. Your predecessor Committee held an evidence session on our Report in April 2025, and was in correspondence with the Scottish Government about the issues we highlighted.

We last wrote to your predecessor Committee in January 2026, one year on from the publication of our report. We noted the imminent publication at that time of a new action plan by Scottish Government and COSLA, and committed to write to the Committee to provide our assessment of the extent to which the new plan delivers on our recommendations. We write to you now to provide that assessment in order to inform the Committee's work.

Overview Assessment

SHRC welcomes the constructive approach taken by Scottish Government and COSLA in response to our recommendations. Both agencies took swift steps to convene a joint programme of work to develop a new action plan. The resulting plan was published in March 2026.

Overall, the new action plan is a welcome step which injects much needed urgency into the situation outlined by our report. We believe further work is needed by duty bearers to truly engage with the right to independent living and to grapple with how its components can be turned into action in Scotland. SHRC has provided the framework and will support capacity-building, however, the onus is on duty bearers to take their commitments seriously and develop their own understanding.

We also welcome the Scottish Government's commitment in the Programme for Government to "invest up to £20 million via Scotland's Independent Living Fund to help people with learning disabilities and complex support needs to live well in their communities". This will be provided to individuals based on need, rather than distributed to Health and Social Care Partnerships, which has the potential to directly deliver the right to independent living for individuals. This is, of course, being delivered in a challenging context for health and social care reform which may place pressures on the system to act quickly. It is therefore crucial that safeguards are in place to ensure that the any actions taken comply with the requirements of Article 19.

This letter to the Equalities Human Rights and Civil Justice Committee provides our assessment of progress against our recommendations at this point in time, 18 months after the publication of the report. We assess that there has been partial implementation of three recommendations - i.e. some action has been taken - while implementation of a further 6 remains outstanding.

We appreciate that the Coming Home Implementation Plan 2026 is recent and not all actions have yet been taken forward. We also understand from the Scottish Government that other, additional, work is underway to deliver on the SHRC recommendations in 'Tick Tock' which are not addressed by the Implementation Plan.

Overarching 2025 SHRC Recommendation for Urgent action

The Scottish Government should develop, by early 2025, a fresh action plan to deliver the outstanding commitment of Coming Home. It must be concretely grounded in the CRPD Committee's guidelines and address all components of deinstitutionalisation, including mechanisms of redress.

Status: Partial

The new action plan was published in March 2026. It makes some notable shifts towards more concretely embedding human rights requirements, such as a commitment to ensure the effective transfer of resources from hospitals to communities and re-invest in alternatives with a long term aim of bed reduction, tackling explicitly the requirement of the CRPD committee to disinvest in institutional settings.

However, it does not mention the CRPD Committee's guidelines on deinstitutionalisation, nor does it set out how it addresses components of deinstitutionalisation. The Scottish Government consider redress to be complex and therefore requiring consideration in the new Parliamentary term.

Further work is needed by Scottish Government and COSLA to build duty bearers understanding of the components of deinstitutionalisation. SHRC will support this through its involvement in implementation, outlined below.

Accountability

We recommend that the Scottish Government designate an independent mechanism to monitor progress on achieving deinstitutionalisation under a new action plan. The mechanism should ensure the meaningful participation of disabled people, especially survivors of institutionalisation.

Status: Partial

The 2026 Action Plan partially addresses this by setting out an approach to monitoring "To ensure that the implementation of the Coming Home Action Plan is progressed within an appropriate human rights framework, and that effective support

and scrutiny is in place.” The primary mechanism is a Strategic Oversight Group to which various arms of delivery will report.

As our report demonstrated, using a set of indicators, human rights measurement provides clarity, transparency and accountability for the delivery of Article 19 and, by extension, other relevant human rights. The new accountability mechanisms therefore have the opportunity to employ a human rights measurement framework to ensure that the refreshed action plan delivers more successful realisation of CRPD rights.

While we welcome improved scrutiny of delivery, the mechanisms chosen are not independent of Scottish Government. They also lack the statutory footing that would have been provided by a statutory body assuming responsibility for accountability. In order for them to be effective, it is essential that their work is transparent and, in particular, that they embed disabled people in their operation. The plan makes a number of related commitments: to establish a Lived Experience Hub; to work with partners to finalise the model for lived experience engagement and; to develop a remit and terms of reference and establish governance mechanisms.

There is also a challenge in the multiplicity of oversight groups responsible for taking forward related aspects of the plan. For example, work carried out by the teams responsible for mental health law reform and the Human Rights Bill (see further below) is closely related but has separate accountability structures.

Delivery of this recommendation will require to be monitored and the views of people with lived experience will be essential to assessing its effectiveness.

Human rights measurement

We recommend that the Scottish Government employ measurable human rights indicators and concrete benchmarks in all further work on Coming Home, forensic patients and deinstitutionalisation.

We recommend that regulators and data collection agencies ensure their measurement and data frameworks explicitly reflect human rights requirements. In particular, they should ensure that institutional care, as defined by CRPD, is identifiable.

Status: Partial

SHRC has agreed to provide focused input to the Strategic Oversight Group to assist with the development of a human rights monitoring framework. As outlined above, this has potential to deliver measurable human rights based change.

There have been no separate commitments from regulators and data collection agencies to ensure that institutional care is identifiable in data frameworks. We have had encouraging conversations with the Scottish Government team reviewing the Health and Social Care Standards who are identifying areas in the existing standards which do not adequately reflect human rights requirements, including those on deinstitutionalisation and independent living.

The plan acknowledges that, in the case of some arrangements, "Although these have probably been developed with the best of intentions, they are in fact long stay institutions in themselves." It commits to collaborate with SHRC to define appropriate and inappropriate support solutions for people who have learning disabilities and complex needs. SHRC has agreed to support work to define institutionalisation, outlined below. We would expect that this work will lead change across regulators and data collection agencies.

This recommendation is therefore a work in progress. We will further monitor the outcome of the work in which we are involved. The Committee may wish to monitor progress by regulation and data collection agencies.

Publishing information on how money is spent

We recommend that the Scottish Government publish, by the end of 2025, an account of how the Community Living Change Fund was spent in all Health and Social Care Partnerships. This should include what the fund was spent on and identify whether the areas in which it was spent constitute independent living support services in terms of CRPD guidance.

We recommend that this evidence is scrutinised by Audit Scotland and/or the Public Audit Committee.

Status: Outstanding

The Scottish Government has committed to work with integration authorities to publish an account of how the Community Living Change Fund was spent in all integration authorities across the funded period 2021-2024 and to evaluate its impact.

This is a short-term commitment (up to six months) and we would expect to see publication of this evaluation imminently. We look forward to seeing this evaluation and we hope to see it demonstrate not only how the Fund was spent, but also evaluate its outcomes in realising the human rights of disabled people.

Forensic patients

We recommend that a specific plan of action be made to identify and address the situation of forensic patients who have been excluded from the scope of the Coming Home Implementation Plan. The plan should be grounded in the CRPD Committee's deinstitutionalisation guidelines and respond to the recommendations of the Barron review.

Status: Outstanding

The Scottish Government has committed through the Action Plan to further explore with partners the implications of including forensic patients, under 16s and autistic people without a learning disability on the Dynamic Support Register. This is a medium term commitment, to take place within 6 - 24 months.

However, in the Scottish Government's view, forensic reform is another complex matter to be considered in the new Parliamentary term.

Law reform

We recommend that the Scottish Government outline, within three months of this report, a clear timeline for the replacement of Mental Health (Care & Treatment) (Scotland) Act 2003 with updated legislation which complies with CRPD.

We recommend that the Scottish Government urgently clarifies its intention around incorporating CRPD, particularly Article 19 in the Human Rights Bill, and propose the strongest possibly duty, within the limits of devolved competence, for public authorities to comply with the right to independent living.

We recommend that the Scottish Government identify, by Spring 2025, the quickest legislative vehicle to establish a National Support Panel with statutory powers.

Status: Outstanding

This recommendation has seen very little progress. The Programme for Government 2026-2031 disappointingly provides no reassurance on action in any of these areas. There remains no timetable for reform of mental health law. The expected Learning Disabilities, Autism and Neurodivergence Bill, which could have established a National Support Panel, is no longer progressing. This is a significant downgrade of earlier commitments to this population. The status of a National Support Panel will now need to be considered via other legislative means.

While the Human Rights Bill is proposed for Year Two, the position on CRPD incorporation has not advanced. The SHRC will continue to engage with the Scottish

Government on its proposals for a Human Rights Bill and how the right to independent living will be addressed over the coming year.

Each of these aspects of the legal framework must be addressed to ensure that the right to independent living is recognised and supported in law. Most importantly, the legal framework must be amended to ensure that when disabled people's rights are not realised, there is accountability and redress.

A wider deinstitutionalisation plan

We recommend that the Scottish Government immediately commence development of a concrete action plan to replace any institutionalised settings with independent living support services across all settings in Scotland. Planning should comply with the CRPD Committee's guidelines on deinstitutionalisation.

Status: Outstanding

The Action Plan leaves consideration of this recommendation for the new Parliamentary session.

Better use of human rights

The Scottish Government should publicly commit to following all guidance issued by the CRPD Committee in ongoing work on this area. In particular, it should commit to follow the CRPD Committee's Guidelines on Deinstitutionalisation.

Status: Outstanding

The Scottish Government and COSLA have confirmed their commitment to taking a human rights based approach to their work. On CRPD Committee guidance specifically, the Scottish Government has stated that it is treated as "important and authoritative tools for policy development", albeit non-binding. As such it "will to help inform work in this area going forward."

This falls short of committing to following guidance which, as our report demonstrated, is both useful and essential to delivering human rights for disabled people. If all of the other recommendations take care to clearly engage with CRPD guidance to the maximum degree possible, we may yet see the commitment to a human rights based approach turn into reality. We will monitor the detail of how this operates over time and, in particular, whether advice provided by SHRC on gaps in adherence to human rights standards is addressed.

Remedies, reparations and redress

The Scottish Government should scope a set of mechanisms to provide all components of remedies, reparations and redress outlined by the CRPD Committee's Guidelines on Deinstitutionalisation. Scoping should take place by the end of this Parliamentary session (2026) with a clear timeline for implementation thereafter.

Status: Outstanding

This recommendation is outstanding and is stated as requiring further consideration in the new Parliamentary session. We would like to see further commitments on at least the beginning of a process to take this forward as soon as possible.

Summary

SHRC will continue to monitor the delivery of the action plan and all outstanding recommendations to ensure that change is delivered. At present, SHRC has agreed with Scottish Government and COSLA to

- attend the Coming Home Action Plan Strategic Oversight Group in an advisory capacity;
- provide focused input to the Strategic Oversight Group to assist with the development of a human rights monitoring framework;
- provide expertise to support work on defining institutionalisation within the context of appropriate support solutions for people who have learning disabilities and complex needs.

The Committee should be assured that the SHRC's role is advisory; the status of any guidance produced by the Scottish Government is independent of the SHRC, and we retain our role to independently assess the quality and impact of any resulting guidance in respect of promoting human rights compliance.

A number of the commitments in the action plan are short term (up to six months) and accordingly should be nearing completion this month. It may therefore be an opportune moment for the Committee to seek an update from the Scottish Government and COSLA on the state of progress.

We hope that this assessment will inform the Committee's own work and help identify areas for further scrutiny.

Yours sincerely,



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Chair, Scottish Human Rights Commission

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