

Equality and Human Rights Committee: Draft Budget Scrutiny 2020/21

23 August 2019

The Health and Social Care Alliance Scotland (the ALLIANCE) welcomes the opportunity to respond to the Committee's inquiry into the draft budget 2020-21 and the delivery of national equalities and human rights priorities in partnership with the third sector. The ALLIANCE co-convenor the Health and Social Care Action Group¹ of Scotland's National Action Plan for Human Rights (SNAP)² with NHS Health Scotland. We also partner the Scottish Human Rights Commission in a national Human Rights Budget Work programme³.

Human rights based budgeting

The ALLIANCE supports growing calls from bodies like the Scottish Human Rights Commission and Human Rights Consortium Scotland that Scotland needs to apply a human rights framework to its budget. This would add great value to realising social justice priorities in Scotland.

As the Scottish Human Rights Commission (SHRC) have acknowledged in their response, "At present, the Scottish Government does not take a human rights based approach to its budgeting (or more general policy development) and the budget is not routinely scrutinised through a human rights lens." Human rights based budgeting allows for the questioning of assumptions about the budget setting processes – moving the overall goals away from simply being focused on GDP, for example, and towards the realisation of rights as well as active participation of rights holders in the process.

What are the key public policy areas where individuals and protected groups are struggling to access their rights?

The SNAP Health and Social Care Action Group recently identified a range of issues where access to rights were considered to be most in danger, including:

¹ <https://www.healthandsocialcare-snap.com/>

² <http://www.snaprights.info/>

³ <http://www.scottishhumanrights.com/economic-social-cultural-rights/human-rights-budget-work/>

- A lack of freely available independent advocacy to support meaningful and active participation in decision making.
- Long waiting times for access to a limited range of mental health services, and problems with accountability and lack of redress in various service areas.
- Sub-standard levels of care in some care home and care at home settings for older people, despite a strong regulatory framework.
- Limited access to choice and control over social care for some groups (particularly older people) in the form of Self-directed Support.
- Problems with access to social care and rising eligibility criteria.

Over the last decade there has been a welcome development of human rights based approaches in the laws and policies that govern the support and services used by disabled people, people with long term conditions and unpaid carers. Three examples include the Social Care (Self-Directed Support) (Scotland) Act 2013, the Social Security (Scotland) Act 2018, and the Health and Social Care Standards. However, many of our members tell us that problems occur at the implementation and accountability stages. Rights-based principles must be translated into more consistent, positive outcomes to which individuals accessing support and services are entitled.

There is a need for increased understanding and application of human rights by duty bearers (not just rights holders) across health and social care. This should be a priority focus to support health and social care integration, as recognised by the principles of the Public Bodies (Joint Working) (Scotland) Act 2013.

Which groups of people are most likely to be affected and why?

We believe that the Committee should place particular emphasis on seldom heard people who are more likely to require state support; they often tell us that their human rights are not fulfilled. Particular groups affected include:

- Children and young people
- Women and girls
- People affected by mental health problems
- People with learning disabilities
- Older people
- Care experienced people
- Asylum seeker and refugee communities
- Black and minority ethnic communities
- LGBTQI+ communities
- People living in rural and remote areas of Scotland

- People with experience of homelessness
- People from the Gypsy/Traveller community

Is the level of public sector funding provided enough to deliver national priorities and better outcomes for people and communities, please provide evidence?

In 2016-17, the third sector spent £423.5 million on health related activity in Scotland's communities and £1.6 billion on social services⁴. The majority of this funding comes from relationships with local authorities, whose own funding continues to be under significant pressure⁵. Tighter and stretched local authority budgets affect third sector service provision and result in poorer experiences for those accessing services in the form of restrictive eligibility criteria, increasing charges, and growing infringements of their human rights.

There is a growing trend for local authorities to increasingly demand that third sector organisations deliver services ever more cheaply whilst at the same time retracting their support to those services provided in-house. In the face of financial uncertainty and increasingly stringent commissioning conditions, the Coalition of Care and Support Providers in Scotland (CCPS) recently reported a rising trend of third sector social care providers "handing back" contracts⁶.

A human rights based approach must extend to unpaid carers and the social care workforce as well as those accessing services. Across sectors (and including directly-employed Personal Assistants), staff often perform roles that are low paid, carry low status and attract too little support. As CCPS report, failure by the social care system to adequately fund the Scottish Living Wage not only contributes to this but is an important factor for social care providers falling into deficit, and draining their reserves⁷. The rights of staff must be protected to ensure the rights of those they support are secure.

As well as human rights budgeting, a key national initiative to support Scotland's shift towards a rights based approach is its National Action Plan for Human Rights (SNAP). An independent evaluation of SNAP recently concluded that whilst it has improved outcomes for people and communities in specific instances, as well as garnering strong cross-sectoral support, it does not have adequate resource to

⁴ <https://scvo.org.uk/projects-campaigns/i-love-charity/sector-stats>

⁵ <https://sp-bpr-en-prod-cdnep.azureedge.net/published/2018/12/19/Local-Government-Finance--Budget-2019-20-and-provisional-allocations-to-local-authorities/SB%2018-90.pdf>

⁶ http://www.ccpscotland.org/wp-content/uploads/2019/05/Handing_Back_report_CCPS.pdf

⁷ http://www.ccpscotland.org/wp-content/uploads/2019/05/Handing_Back_report_CCPS.pdf

implement all of its commitments⁸. SNAP is under resourced by the state and needs commitment from senior members of the Scottish Government in order to be effective. We believe that awarding public sector funding to SNAP can help deliver national priorities and better outcomes for people and communities.

The ALLIANCE also values the role of the Scottish Human Rights Commission as an independent national human rights institution (NHRI) that can support better understanding of and realisation of human rights across Scottish public life. However, we note with concern the view of the International Coordinating Committee of NHRIs that the SHRC “faces limitation in terms of its staffing and allocation of resources”⁹. We believe that careful consideration should be given to further resource the SHRC, whose work is essential to helping the Scottish Government, Scottish Parliament and other public sector bodies better understand their roles and responsibilities as the country’s leading human rights duty bearers.

Core funding by the Scottish Government of intermediary equalities bodies has been essential for advancing human rights in a number of key policy areas (including health and social care, children and young people, and gender) and realising better Government policy and law. The ALLIANCE recommends that the Scottish Government continue to support core funding for intermediary bodies.

Alongside others in the third sector, we remain concerned that Brexit and will have a particularly acute impact on the provision of health and social care services, particularly if there is reduced funding as a direct result of a “No Deal” scenario. We continue to call for an independent evaluation of the impact of Brexit in the four devolved health and social care systems of the UK¹⁰.

What changes could be made to improve accountability for national priorities being delivered by the public sector in partnership with the third sector?

As SHRC have noted in their response, “the promotion of accountability for meeting obligations is continuous in a human rights based approach.” Proactive mechanisms allow participation at the point of design and reactive measures enable aggrieved parties to raise their concerns regarding budgetary decisions. Judicial and non-judicial remedies are critical to accountability, but they are only useful if people know about, and have effective access to them.

⁸ <http://www.snaprights.info/wp-content/uploads/2019/07/SNAP-Evaluation-vFinal-16-July-2019.docx>

⁹ <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20MARCH%202015%20FINAL%20REPORT%20-%20ENGLISH.pdf>

¹⁰ <https://www.alliance-scotland.org.uk/blog/news/call-for-brexit-health-and-social-care-review-marches-on/>

We agree with SHRC that financial policies and the budget development process “are perceived to be inaccessible to most people. However, public participation can contribute to a more open relationship between government and civil society and lead to both a more balanced distribution of public resources and greater accountability for national priorities being delivered by the public sector in partnership with the third sector.” We support the call by the Scottish Human Rights Commission for a publicly accessible human-rights tracker tool.

Data collection about the rights of seldom heard groups (including those from the protected characteristics outlined in the Equality Act 2010¹¹) could be improved. At present, whilst data sources are available in relation to specific areas e.g. workforce diversity or admissions, retention and attainment in education settings¹², these could be “disaggregated” to link them to the various seldom heard groups in order to report progress towards equality and human rights outcomes and enable Governments to make evidence-based policy.

About the ALLIANCE

The Health and Social Care Alliance Scotland (the ALLIANCE) is the national third sector intermediary for a range of health and social care organisations. We have a growing membership of over 2,700 national and local third sector organisations, associates in the statutory and private sectors and individuals. Many NHS Boards, Health and Social Care Partnerships and Medical Practices are associate members.

Our vision is for a Scotland where people of all ages who are disabled or living with long term conditions, and unpaid carers, have a strong voice and enjoy their right to live well, as equal and active citizens, free from discrimination, with support and services that put them at the centre.

The ALLIANCE has three core aims; we seek to:

- Ensure people are at the centre, that their voices, expertise and rights drive policy and sit at the heart of design, delivery and improvement of support and services.
- Support transformational change, towards approaches that work with individual and community assets, helping people to stay well, supporting human rights, self management, co-production and independent living.
- Champion and support the third sector as a vital strategic and delivery partner and foster better cross-sector understanding and partnership.

¹¹ <https://www.legislation.gov.uk/ukpga/2010/15/contents>

¹² <https://www.equalityhumanrights.com/sites/default/files/effectiveness-of-psed-specific-duties-scotland.pdf>

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