



**The Health and
Social Care
Alliance
Scotland
(the ALLIANCE)**



**ALLIANCE response to call for views
on Public Sector Equality Duty**

28 February 2025

Introduction

The Health and Social Care Alliance Scotland (the ALLIANCE) welcomes the opportunity to respond to the Equality, Human Rights, and Civil Justice Committee inquiry into the operation of the Public Sector Equality Duty (PSED) in Scotland. We submitted a response to the earlier consultation activity around PSED in 2022 and were also co-signatories of a joint response as part of a partnership group of 25 organisations working for equality and human rights in Scotland.¹

Since then, we have raised concerns with ministers about a lack of consistent implementation of the PSED, the importance of inclusive communication, and the need for real progress towards improving equal access to services and human rights within Scotland.

Due to the unreasonably short window for this call for evidence of three weeks, we have not been able to engage members to respond on the operation of the PSED in its entirety as we would have wished. For that reason, our response focuses primarily on inclusive communication within the PSED. Inclusive communication is a crucial part of enabling people to access their human rights. We would ask that the Committee provides a longer period in which to respond to future Calls for Views.

Question 1: To what extent do you think that listed public authorities understand the terms and the aims of the PSED in Scotland?

The ALLIANCE works extensively with listed public authorities and has discussed inclusive communication with a range of relevant listed authority leads. We have also discussed the overlap between PSED duties (and the original proposed addition of a duty around inclusive communication) and the reporting requirements under the BSL (Scotland) Act 2015, as part of recent work analysing listed authorities' legislative compliance with the latter in their local BSL plans.² Much of the work surrounding our report on BSL local plans indicated that listed authorities typically wanted to comply with and support the terms and aims of both the PSED and the BSL



(Scotland) Act 2015, but that there was confusion among listed authorities about implementation and data collection.

Research by the Coalition for Racial Equality and Rights (CRER) suggests that, for many public bodies, the main difficulty in complying with the PSED is a lack of activity to report on, rather than the bureaucracy with the reporting process itself.³ There is a wider lack of accountability around the PSED, and no repercussions if listed authorities fail to meet the minimum obligations. This is the same issue found within the ALLIANCE's 2024 report on legislative compliance with the BSL (Scotland) Act 2015.⁴ Action is needed to improve legislation, implementation, enforcement and accountability mechanisms to ensure compliance and meaningful change at ground level.

At present, some listed authorities are not engaging meaningfully with the Public Sector Equality Duty.⁵ The current wording of the duties in the PSED is ambiguous, which can lead to inconsistency in the quality and breadth of mainstreaming reports across listed authorities. This was highlighted in research by CRER, which looked at how public sector bodies in Glasgow have fulfilled their legal obligations to publish information under the Scottish Specific Duties:

“As a result of non-prescriptive guidance, organisations understandably took a variety of approaches to their duty to report on mainstreaming.”⁶

There are improvements to be made in terms of data collection, and how that data is used. CRER highlighted that many mainstreaming reports do not sufficiently detail how activities are related to the protected characteristics.⁷ It found that “no report discussed all eight relevant protected characteristics and only 15% of reports detailed seven protected characteristics”.⁸ Significantly, this illustrates a decline since 2019, where 50% of reports detailed seven protected characteristics.⁹ Reporting on a limited range of protected characteristics makes it challenging to evaluate the extent to which mainstreaming is taking place across all protected



characteristics. Additionally, a lack of disaggregated data gathering prevents intersectional analysis, and overlooks the challenges faced by people with more than one protected characteristic.

Many listed authorities' PSED mainstreaming reports and local BSL plans consist of descriptive narrative rather than substantive content demonstrating how equality has been embedded. This demonstrates a need for reports to outline the practical ways in which real change has been initiated, or is being initiated, at ground level.

The ALLIANCE is currently undertaking research into the inclusive communication training and monitoring processes in place across listed authorities. We would be happy to share our findings with the Committee once that report is published later this year.

Question 2: Is the PSED in Scotland delivering on its aims to improve outcomes for people with protected characteristics?

In its current form, the PSED in Scotland is not delivering on its aims to improve outcomes for people with protected characteristics. While laudable in intention, the gap between policy and practice remains substantial. In particular, the ALLIANCE is concerned by the limited oversight and consequences if listed authorities do not comply with the legislation. At present, there is a lack of accountability process, with no repercussions for public bodies who fail to meet their legal obligations at national or local level. Accountability is a key human rights principle and should underpin the PSED.

There is a need to develop wider, systemic culture change in relation to the PSED, and resources at a national level to support public bodies to achieve this. A wider culture shift is needed for listed authorities to prioritise and focus on the purpose of the PSED at all levels, including leadership level. Additionally, the relationship between human rights and equality should be strengthened in the PSED, if it is to deliver on outcomes for people with protected characteristics. As outlined in technical guidance from the



Equality and Human Rights Commission, “it is good practice for those exercising public functions to consider equality and human rights together when drawing up equality or human rights policies”.¹⁰

There are practical tools that can be used to embed an equalities and human rights based approach, such as the five-point PANEL Principles (Participation, Accountability, Non-Discrimination and Equality, Empowerment and Legality), which can be used to ensure that people’s human rights are at the heart of policy and practice.¹¹ Consideration could also be given to enacting the AAAQ Framework.¹² The framework is underpinned by key elements of the human right to the highest attainable standard of physical and mental health. This means that the provision of goods, services and facilitates that are necessary for the realisation of people’s rights to health could be measured against indicators of whether they are “available”, “accessible”, “acceptable”, and of “good quality”.¹³

The ALLIANCE recommends that the reintroduction of the PSED on inclusive communication is required to see full delivery of the Duty’s aims. Inclusive communication is a gateway to everyone’s human rights. It lets us live well and participate in our communities and should be an expected part of everyday life. Without a right to inclusive communication, many people with protected characteristics – including disabled people and people who are Deaf, Deafblind, or who have Visual Impairments – are not able to access their human rights or civic life.

Most of us will require inclusive communication support in our lifetimes.¹⁴ Currently, that frequently means barriers to equal access to employment, education, health and social care, and community life. To embed specific, clear PSED duties and responsibilities around inclusive communication would be a significant step in the right direction, in keeping with PANEL principles, and the aims and intentions of the original legislation. Listed authorities must ensure that everyone has equal access to local support with strong accountability structures in order to see meaningful change.



Question 3: Do you think the Scottish Government’s proposed reforms will assist listed authorities in embedding an equalities focus and in turn improve outcomes for people with protected characteristics?

The ALLIANCE recommends that the Scottish Government reinstate a duty on inclusive communication into its planned PSED reforms, to enable people to access their human rights and improve outcomes for people with communication support requirements. This should include a clear system of recourse and accountability where duty bearers do not comply with legislation.

Question 4: What are your views on the Scottish Government’s revised approach to assisting listed public authorities to embed inclusive communication?

The ALLIANCE is particularly concerned by the decision to opt for the provision of limited training for Scottish Government officials, and non-statutory guidance for public bodies rather than creating a new inclusive communication duty as was previously proposed.

In 2023, the Minister for Equalities, Migration and Refugees stated that the Scottish Government would include “a new duty on listed public bodies in relation to their use of inclusive communication” as part of the review of the effectiveness of the Public Sector Equality Duty (PSED) in Scotland.¹⁵ This commitment to embed evaluation and assessment of inclusive communication work was welcome, and responded directly to the performance indicators recommended in the 2011 Principles of Inclusive Communication.¹⁶

However, in 2024 Ministers made the decision to drop that commitment to an additional duty on inclusive communication and instead focus on capacity building for listed authorities.

Without statutory duties on inclusive communication, Scotland is unlikely to see systematic change, and improvements in people’s ability to access



their human rights. Without real and meaningful reform, existing inequalities will be perpetuated.

Although the 2021 Scottish Government consultation paper reviewing the operation of the PSED consultation identified barriers to embedding inclusive communication practices, including costs and insufficient understanding of communication needs,¹⁷ these barriers to inclusive communication are not insurmountable.

Furthermore, it is equally important to evaluate the costs of *not* providing inclusive communication support within public life. To give a key example, most people in Scotland will experience sensory impairment in our lifetimes (Deafness, Deafblindness, Visual Impairment).¹⁸ However, at present Scotland lacks the levels of infrastructure and implementation that are needed to fulfil people's rights and need to live well. Instead, evidence shows that people with sensory impairments experience daily inequality, stigma, and barriers to accessing public services and civic society. Research indicates that people with sensory impairments experience higher rates of unmet health and social care need than other parts of the population; they also routinely face barriers to education, employment, and civic life.¹⁹

There is an acute need for Scotland to embed systems that enable all of us to have equal access to all public services and areas of civic life and to live well. There is also a strong economic case for meaningful and more efficient investment in inclusive communication. For example, while the global cost of sensory impairment is substantial, evidence suggests that interventions to improve ear and eye health and ensure early interventions and support have a substantial positive impact – in terms of people's quality of life, their economic contributions, and reductions to overall State spending (particularly within health and social care).²⁰

While inclusive communication provision and training costs money, the current lack of widespread support for people's communication needs leads to education attainment gaps, a range of health inequalities, and reduced



employment rates. Notably, people with acquired communication support needs report leaving the workforce earlier than they would wish due to a lack of inclusive communication support. This is a waste of skills and talent – one which is likely to become more acute given aging population demographics and the proportion of people with age-related sensory impairments.

The current proposal - to train Scottish Government officials in better inclusive communication practices, have officials assess existing guidance and materials on inclusive communication, and draw public authorities' attention to those materials - is inadequate and is unlikely to prompt meaningful change. Whilst training for Scottish Government officials may be helpful for individuals, and in specific cases, drawing listed authorities' attention to existing resources may also be beneficial,²¹ neither of these approaches will ensure the systematic provision of inclusive communication to the people who need that support.

Without a duty to track and provide support, with public accountability and reporting, there is little chance of meaningful change in this area. As such, a substantial part of Scotland's population will continue to experience communication barriers in their lifetime, and reduced access to services and civic life.

As mentioned in our response to question 1, the ALLIANCE is currently undertaking research into the inclusive communication training and monitoring processes in place across listed authorities. We would be happy to share our findings with the Committee once that report is published later this year.

Some listed authorities are alive to the need to consider and respond to these issues. It is welcome that some public bodies – such as NHS24 – are considering including specific mention of communication support needs and sensory impairment within their Equality Outcomes planning. This good practice should be cascaded across all listed authorities, to ensure that



communication needs are met, and people have equal access to public services and civic life.

The ALLIANCE strongly recommends that the PSED should go further than the current revised approach to inclusive communication. We recommend that the PSED should include:

- An explicit definition of inclusive communication, co-produced by people with lived experience.
- A requirement to collect and publish data on inclusive communication support requests, and how they were answered (e.g. BSL, relay interpretation, large print, Easy Read, Moon, Braille, Bonnington Symbols, spoken, digital and print formats, etc.). Where possible, this should include intersectional analysis.
- A requirement to collect and publish data on inclusive communication training and resources available to listed authority staff, with figures on the staff uptake of any training available.
- A requirement to reflect and report on any barriers to collecting data and providing support, in order to improve systems.
- A recommendation that listed authorities should consider the overlap between the PSED duties and wider legislation with relevant plans and reporting requirements, e.g. the BSL (Scotland) Act 2015, and the Social Security (Scotland) Act 2018.
- A clear system of recourse and accountability where duty bearers do not comply with legislation.

Inclusive communication must be embedded throughout public systems, sustainably funded, and be about multi-way communication – not just one-way sharing of information. A PSED commitment on inclusive



communication, with accountability at the heart of work, is a key part of planning for a Scotland where everyone can enjoy their human rights. Looking to the future, Scotland must plan for inclusive communication support; it cannot afford to do otherwise.



About the ALLIANCE

The Health and Social Care Alliance Scotland (the ALLIANCE) is the national third sector intermediary for health and social care, bringing together a diverse range of people and organisations who share our vision, which is a Scotland where everyone has a strong voice and enjoys their right to live well with dignity and respect.

We are a strategic partner of the Scottish Government and have close working relationships with many NHS Boards, academic institutions and key organisations spanning health, social care, housing and digital technology.

Our purpose is to improve the wellbeing of people and communities across Scotland. We bring together the expertise of people with lived experience, the third sector, and organisations across health and social care to inform policy, practice and service delivery. Together our voice is stronger and we use it to make meaningful change at the local and national level.

The ALLIANCE has a strong and diverse membership of over 3,500 organisations and individuals. Our broad range of programmes and activities deliver support, research and policy development, digital innovation and knowledge sharing. We manage funding and spotlight innovative projects; working with our members and partners to ensure lived experience and third sector expertise is listened to and acted upon by informing national policy and campaigns, and putting people at the centre of designing support and services.

We aim to:

- Ensure disabled people, people with long term conditions and unpaid carers voices, expertise and rights drive policy and sit at the heart of design, delivery and improvement of support and services.



- Support transformational change that works with individual and community assets, helping people to live 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 cross-sector understanding and partnership.

About the ALLIANCE Scottish Sensory Hub

The ALLIANCE Scottish Sensory Hub provides a platform for the voice of anyone in Scotland with lived experience of Deafness, Deafblindness or Visual Impairment. It was launched in 2021 with substantial support from Scotland’s sensory sector, and draws experience from deafscotland (formerly the Scottish Council on Deafness) and SCОВI (Scottish Council on Visual Impairment).

Lived experience is at the heart of everything the ALLIANCE Scottish Sensory Hub does. It acts as a bridge between the Scottish Government, public bodies, the third sector, and individuals, and enshrines a human rights based approach for all. The Scottish Sensory Hub was founded to provide a strategic forum for cross-sensory input into policy and practice. It focuses on three key areas to promote living a good life – communication, information, and mobility – and is supported by an advisory group, with members from across the sensory sector.

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³ Coalition for Racial Equality and Rights, *Equality in Glasgow 2021: Progress of Glasgow’s Public Bodies in Meeting the Scottish Specific Public Sector Equality Duties* (Oct 2021), available at: https://www.crer.scot/files/ugd/b0353f_a1478d0e1b3f4155a884114edacd021d.pdf

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⁶ As above, p.12.

⁷ As above, pp.13 – 15.

⁸ As above, p.13.

⁹ As above.

¹⁰ Equality and Human Rights Commission, *Technical guidance on the Public Sector Equality Duty: Scotland*, p.7 (Sept 2016), available at: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-scotland>.

¹¹ Scottish Human Rights Commission, *A human rights based approach: an introduction*, available at: https://www.scottishhumanrights.com/media/1409/shrc_hrba_leaflet.pdf.

¹² Public Health Scotland, *The Right to Health*, available at: <http://www.healthscotland.scot/health-inequalities/the-right-to-health/overview-of-the-right-to-health>.



¹³ As above. Also, OCHR, *The Right to Health – Fact Sheet No. 31*, p. 4., available at: <https://www.ohchr.org/documents/publications/factsheet31.pdf>.

¹⁴ Michael A. Akeroyd and Kevin J. Munro, “Population estimates of the number of adults in the UK with a hearing loss updated using 2021 and 2022 census data”, *International Journal of Audiology* (May 2024), available at: <https://doi.org/10.1080/14992027.2024.2341956>.

¹⁵ Emma Roddick MSP, “Public sector equality duty: stakeholder letter” (4 October 2023), available at: <https://www.parliament.scot/-/media/files/committees/equalities-human-rights-and-civil-justice-committee/correspondence/2023/public-sector-equality-duty-in-scotland-4-october-2023.pdf>.

¹⁶ Scottish Government, *Principles of Inclusive Communication* (2011), available at: <https://www.gov.scot/publications/principles-inclusive-communication-information-self-assessment-tool-public-authorities/>.

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²¹ For example, Scotland’s Inclusive Communication Hub, hosted by Disability Equality Scotland in partnership with Sense Scotland, available at: <https://inclusivecommunication.scot/>.

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