Scottish Government Consultation on their UNCRPD Draft Delivery Plan 2016-2020
Additional comments from Equality and Human Rights Commission (EHRC) & Scottish Human Rights Commission (SHRC)

1. Our role

1.1 The EHRC, SHRC, the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission are designated, by Article 33(2) of UNCRPD, as the UK Independent Mechanism (UKIM). The role of UKIM is to promote, protect and monitor the implementation of the UNCRPD in the UK.

1.2 The UNCRPD engages both reserved and devolved issues in Scotland. The EHRC and SHRC work together to ensure the seamless promotion, protection and monitoring of the implementation of the UNCRPD in Scotland.

2. Model of best practice

2.1 We welcome the approach that has been taken to coordinate the implementation of the UNCRPD by the Scottish Government Equality Unit. We are particularly supportive of the decision to use the UNCRPD as the framework to deliver change and positive outcomes for disabled people in Scotland and are pleased to have the opportunity to comment on the draft.

2.2 We are impressed with the process devised by the Equality Unit, choosing to work with UKIM, disabled people and their organisations to bring evidence of the barriers facing disabled people directly to the attention of those responsible for making policy. This provided officials with an important opportunity to develop evidence based policy that meets disabled people’s needs as well as the broader Scottish Government policy objectives. We commend the departments and policy leads that took advantage of this opportunity and urge those who did not, to do so.

2.3 This approach provides a strong model for achieving change in areas across the social justice agenda at the same time as meeting the Government’s other international human rights obligations - such as the International Covenant on Economic,
Social and Cultural Rights (ICESCR) and the Convention on the Elimination of Discrimination against Women (CEDAW).

2.4 Like UNCRPD, the Scottish Government must report on how it is meeting its obligations under other international human rights treaties. The UNCRPD model provides a good example of how to integrate the implementation of human rights obligations with the delivery of the Government’s strategic objectives.

3. Definition of disability

3.1 We support the Government’s adoption of the social model of disability. However, in our view it would be helpful if Section 1.3 ‘Defining disability’, included the purpose of the UNCRPD and the definition of disabled people as stated in Article 1 of the UNCRPD.

4. Implementation of the UNCRPD

4.1 It is not clear that the development of the draft plan included an analysis of where Scotland currently falls short of the expectations of UNCRPD and where progress needs to be made.

4.2 The UN Committee on the Rights of Persons with Disabilities has delayed its consideration of the UK’s implementation of the UNCRPD. We understand that it will review the UK in 2017. As the independent monitoring mechanism, we have produced our interim report\(^1\) on the list of issues we think the UN Committee should consider as part of its review. The UKIM interim list of issues was developed in consultation with disabled people and has been welcomed by DPOs. The Scottish Government had the benefit of this report during the development of the draft delivery plan. However, we were disappointed by how few commitments in the draft delivery plan seek to address the issues raised in the interim list of issues report.

4.3 We understand the rationale for grouping the commitments under each of the Outcomes and listing the UNCRPD articles that key objectives ‘fit well with.’ However, it is difficult to see how the commitments will result in disabled people enjoying their rights under each of the Articles. As we understand it one of the central purposes of the delivery plan is to implement the UNCRPD. Therefore, it is important that the commitments, which we understand to be actions, correspond with specific Articles/ rights.

\(^1\) [http://www.scottishhumanrights.com/resources/reports/uncrpdloireport](http://www.scottishhumanrights.com/resources/reports/uncrpdloireport)
4.4 In our view, it may be more effective to look at each Article, to consider the issues that need to be addressed and state the commitments that will address these issues and so, ultimately, ensure that disabled people enjoy their rights under that Article. For example:

Commitment 1: Transport Scotland will take forward the issues raised by disabled people on the accessibility of door to door journeys in Scotland in a Plan for Accessible Travel.

This commitment will make progress towards UNCRPD Article 9 - Accessibility.

4.5 We appreciate there is cross-over between some of the UNCRPD Articles. However, it is possible to adopt this alternative approach and explain that one commitment will deliver progress against more than one Article. For example,

Commitment 53: We will work with a local authority to develop and deliver a pilot improvement project focusing on preventing and removing disability hate crime from society.

This commitment will make progress towards UNCRPD Articles 8 – awareness raising; 13 – access to justice and 16 – freedom from exploitation, violence and abuse.

4.6 We also have concerns that a significant number of the commitments are vague and it is difficult to understand what action will be taken by policy officials. As a result, we are unable to identify how these commitments will deliver disabled people's rights or the objectives and outcomes identified by the Government and how success can be measured.

5. Addressing the issues for all disabled people

5.1 The purpose of the UNCRPD is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms for people ‘who have long-term physical, mental, intellectual or sensory impairments, which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.’\(^2\)

5.2 We are aware of the concerns expressed in the response by the members of the Rights for Life Steering Group and we share their

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\(^2\) Article 1 UNCRPD
concern that people with mental health issues appear to have been omitted from the plan.

5.3 The absence of action in relation to mental health is also evident because many of the commitments are partial and do not address the issue for all disability groups, despite their being evidence that other groups are fairing particularly badly. For example, there is a commitment to support the use of data in the development of NHS action plans to improve health services for people with learning disabilities. Evidence of significant health inequalities also exists for people with mental health problems. However, there is no commitment to improve health services for this group of disabled people.

6. Is Scotland Fairer report

6.1 We appreciate that the Is Britain Fairer report, the EHRC review of progress towards equality and human rights in Britain, was not available until after the draft delivery plan was published. However, it contains important information about disabled people in Scotland. We have made reference to some of this information in the consultation response to explain why we think there are some significant gaps in the draft delivery report. We would also note that the EHRC will be publishing Is Scotland Fairer at the end of January 2016, which may help improve areas of the delivery plan.