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SIAA submission of evidence: Draft Scottish Budget Scrutiny 2020-21

Scottish
Independent
Advocacy
Alliance

Introduction

The Scottish Independent Advocacy Alliance (SIAA) is a membership organisation that has the overall aim of ensuring that independent advocacy is available to any vulnerable person in Scotland. Independent advocacy safeguards people who are marginalised and discriminated against or whom services find difficult to serve, empowering people who need a stronger voice by enabling them to express their own needs and make their own decisions.

This response draws on the experiences of our members and their expertise in supporting vulnerable people to have their voices heard. This provides a clear evidence-base in terms of what currently works and what needs to change in order to create a budget that meaningfully upholds human rights for equalities groups.

General comments

Independent advocates are human rights defenders, supporting vulnerable people and groups and standing up to injustice. Consequently, SIAA and our members have been supportive of the Scottish Government's increasing focus on human rights, including the setting up of the First Minister's Advisory Group on Human Rights Leadership and its commitment to incorporating the United Nations Convention on the Rights of the Child within this parliamentary term.

However, for rights-based policies to be translated effectively into meaningful practice and positive outcomes, they need to be supported by adequate, stable, transparent budgeting. Evidence from our members indicates that this is currently not the case – there is a gap between the rhetoric around

independent advocacy and the reality experienced by advocacy providers and users. For instance, anyone with a mental disorder has a statutory right to access independent advocacy under the Mental Health (Care and Treatment) (Scotland) Act 2003. However, reductions in funding and increasingly complex case-loads mean that, on the ground, independent advocacy organisations frequently do not have the capacity to meet demand. As a result, people with "mental disorders" are not able to uphold their rights. This situation is particularly acute for children and young people with "mental disorders".

According to the Office of the High Commissioner for Human Rights, "Budgets are fundamental government tools for policy implementation and the best way to ascertain if national development priorities on paper are the actual ones in practice" (*Human Rights in Budget Monitoring, Analysis and Advocacy*, p 4, 2010). Consequently, SIAA welcomes this opportunity to contribute to the Equality and Human Rights Committee's scrutiny of the 2020-21 budget, in relation to the delivery of national equalities and human rights priorities.

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

Feedback from our members highlights a number of public policy areas where vulnerable groups are experiencing significant barriers in accessing their rights. These include:

- Health and social care integration
- Social Care (Self-directed Support) (Scotland) Act 2013
- Mental Health (Care and Treatment) (Scotland) Act 2003
- Adults with Incapacity (Scotland) Act 2000

- Social security

Many of these policy areas – including health and social care integration, self-directed support and recent developments in Scottish social security - were developed with an explicit human rights-based focus. However, this is not successfully translating into practice, meaning that vulnerable people are not able to have their basic rights to health and an adequate standard of living realised. These issues are compounded by the fact that independent advocacy organisations are not consistently or adequately funded to work with people affected by these policy failings, to support them to have their rights upheld.

In relation to mental health, people are struggling to access their rights in a number of ways. For instance, there is no provision in Scotland for specialist women-only services, meaning that women requiring these services are required to travel to England, often hundreds of miles away from home and the support of friends and family. In addition, members report of issues around people not being able to realise their right to a private life when they are living in supported accommodation which only offers single beds.

As well as identifying specific areas of policy and law where people are struggling to access their rights, members also highlighted some underpinning *approaches* to public policy that create barriers to people accessing their rights. For example, members highlighted the austerity agenda and related cuts to services and funding that have contributed significantly to people's inability to access their rights across a wide range of intersecting policy areas. Another set of problems arises from a policy approach that puts the onus on individuals changing their behaviours to improve their health or wellbeing outcomes without addressing the systemic barriers that public services and

systems create for people in marginalised groups e.g. failing to recognise that people with complex support needs will require more flexible and/or specialist services.

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

Our members highlighted the following groups as being most likely to be affected, due to a lack of understanding of their needs across public services and a lack of funding to support them to navigate these services:

- People with mental health conditions, both in hospitals and in the community
- People with assessed social care needs accessing Self Directed Support
- Adults with learning disabilities facing legal interventions
- People who are marginalised in multiple ways including intersections of class, race, gender, LGBTIQ+ people, migration/citizenship status and disability.

3. What type of public sector funding (European, national or local) is provided to your organisation to support vulnerable groups and those with protected characteristics to access public services?

The core funding for independent advocacy organisations comes from local authority and NHS funds. This funding is generally short-term approximately 3 years.

Some of our members also receive project funding from the Scottish Government, local authorities or trusts to deliver independent advocacy for

specific groups, for example people accessing Self-directed Support or families of children with complex needs. These funded projects are generally short-term and have strict eligibility criteria. Consequently, they do not improve access for the vast majority of people who are seeking independent advocacy, including both those with a statutory right to advocacy which they are unable to fulfil and those without a statutory right but, nonetheless, significant need.

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

No, the level of funding provided to independent advocacy organisations across Scotland is not enough to deliver services at the scale required to support the delivery of national priorities and better outcomes for people and communities.

Independent advocacy organisations have done an admirable job of responding positively to testing circumstances in order to minimise their negative impact on the marginalised people they support. Our members punch well above their weight in terms of what they deliver on shoestring budgets and have shown considerable resilience in their ability to flex and respond to reduced budgets and changeable funding streams. However, it is an unavoidable truth that inadequate funding leads to poorer outcomes for vulnerable people and groups who cannot be supported to know their rights, fight for their rights and/or seek redress when necessary. Our members are unequivocal on this matter.

SIAA's 'Advocacy Map' shows that, in 2015-16 (the latest version available), levels of statutory funding decreased by 4%, accompanied by a reduction in the number of both paid and volunteer advocates. During the same time period, advocacy organisations reported an increase of 11.5% in the numbers of people they supported. Additionally, people seeking independent advocacy are bringing increasingly complex cases that touch on multiple overlapping areas of policy that inevitably require more time and resource to support.

This combination of reduced funding and increased need has placed significant strain on already over-stretched services. SIAA members report that they can often do no more than 'fire fight' – they are increasingly having to prioritise people in crisis, delivering services to the most acute cases in a reactive way. This has resulted in:

- the need to prioritise referrals, meaning limited access to independent advocacy and long waiting lists for those not in crisis
- very limited opportunity for preventative work to prevent people tipping over into crisis
- limited or non-existent scope for members to do awareness-raising activities around independent advocacy and rights

For example, independent advocacy organisations' service level agreements frequently stipulate that they must prioritise people going to mental health tribunals. In the context of reduced staff and limited budgets, this mean that they frequently do not then have the capacity to support clients with mental health problems living in the community, working with them in a pre-emptive way *before* a crisis point. Similarly, despite their statutory right of access, children and young people with mental disorders consistently face a gap in

provision. Their right to independent advocacy remains abstract, as it does not translate into meaningful practice.

Increased funding would allow independent advocacy organisations to develop both the breadth and depth of their services, working in a strategic, preventative way to help the Scottish Government achieve its national outcomes. Consequently, SIAA supports the Scottish Human Rights Commission's call for the Scottish Government to adopt a human-rights based approach to budgeting in order to ensure that rights on paper become rights in practice.

5. Are there public funding challenges for the third sector; if so what would be the implications for delivering equalities and human rights outcomes?

In addition to inadequate levels of funding, there are a number of additional funding challenges for the third sector which have a negative impact on its ability to deliver equalities and human rights outcomes. Within the context of independent advocacy provision, our members report the following:

- **Short-term, insecure funding and delays in receiving funding decisions and payments** mean it is very difficult to plan ahead in terms of project delivery and workforce planning. Job insecurity can result in a high staff turnover, meaning a loss of knowledge and expertise to the organisation and additional time and resource caught in an avoidable cycle of recruitment and training. In addition, a lack of stability can have a deleterious effect on employee morale and mental health. As one of our members, said, "One of the most important issues is short term contracting…it becomes

unsustainable at both an organisational level and a personal level for workers".

- The **administrative burden of completing funding applications** takes resource away from delivering independent advocacy and therefore less time supporting the delivery of equalities and human rights outcomes. The loss is felt keenly by our individual members, with the issue becoming hugely significant when repeated multi-fold across the third sector.

- **Conflicts** can arise when independent advocacy organisations challenge local authorities and health boards, the bodies that provide their core funding. They need to be able to do their work and hold these bodies to account without fear of a loss of funding. The independent element of independent advocacy is absolutely integral to the practice of our members – their core work of standing alongside people to protect and promote their rights should never be compromised because of concerns about the impact this work will have on future funding.

- **Competitive tendering** resulting in competition between independent advocacy organisations for shrinking pots of money.

- **Geographical challenges** arising from funding that is increasingly focused at a Health and Social Care Partnership level rather than health board-wide. This presents challenges for services that have been traditionally delivered across the health board in its entirety. One member notes that this has adversely affected the collective advocacy service that it has historically provided across a number of local authorities within one health board.

6. What type of administrative systems are in place to monitor the impact on equalities and human rights outcomes from public sector funding for the third sector?

It is standard practice that independent advocacy organisations are required in their service level agreements to gather and monitor data for the purposes of evaluation. In order for this data to be meaningful and useful, it is therefore critical that independent advocacy organisations are required to ask the right questions in the right ways.

SIAA and our members have, for a number of years, been concerned that the data required by commissioners is too reductive and quantitative, focusing almost exclusively on metrics that are relatively straightforward to measure such as numbers of service users, number of tribunals attended etc. However, while these metrics are appealing because they are easy to count, they do not accurately capture the positive impact that independent advocacy has on equalities and human rights outcomes. To address this issue, SIAA is currently developing a toolkit that will be made available to independent advocacy organisations and funders, which will support them to capture some of the more intangible outcomes of their work and help them to better plan, monitor and continually enhance their impact.

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

Currently, third sector organisations are frequently cast as junior partners in the relationship, with a paternalistic public sector retaining control of budgets and key decision-making.

For example, policy-makers delivering the integration of health and social care services in Scotland recognised the key role that third sector organisations had to play in ensuring the success of the initiative. However, third sector organisations are only allowed one representative on each Integrated Joint Board (IJB), the body set up to decide how to resource provision and spend the budgets allocated to it by local authorities and NHS boards. In addition, this third sector representative is a non-voting member, leading to uncertainty and lack of clarity about their role.

The key change that needs to be made in order to improve accountability is a shift in culture and practice, so that partnerships between public sector and third sector organisations are properly integrated with both partners sharing responsibility and having equal access to resources and power. This should be supported by practical day-today changes, such as increased robustness in the requirements for the public sector to have effective, current and co-produced Equality Impact Assessments in place for all elements of the delivery of public services.