

Report

Report to:	Education Resources Committee
Date of Meeting:	21 May 2024
Report by:	Executive Director (Education Resources)

Subject:	Proposals for a Learning Disabilities, Autism and Neurodivergence Bill: Consultation
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1. Purpose of Report

1.1. The purpose of the report is to: -

- ♦ update Committee on the authority's response to the online national consultation by the Scottish Government in respect of proposals for a Learning Disabilities, Autism and Neurodivergence Bill, commissioned by the Minister for Social Care, Mental Wellbeing and Sport.

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s): -

- (1) note the response on behalf of the authority to the online consultation in respect of proposals for a Learning Disabilities, Autism and Neurodivergence Bill, commissioned by the Minister for Social Care, Mental Wellbeing and Sport.

3. Background

- 3.1 The Scottish Government is committed to the social model of disability. Unlike the medical model, where an individual is understood to be disabled by their impairment, the social model views disability as the relationship between the individual and society. The consultation explores some of the barriers faced by those with Learning Disabilities, Autism and Neurodivergence. These barriers can be in relation to inaccessible buildings, transport and communication as the cause of disadvantage and exclusion, rather than the impairment itself. The aim then, is to remove the barriers that isolate, exclude and so disable the individual.
- 3.2. Within South Lanarkshire Council, we are committed to protecting, respecting, and championing the rights of people with learning disabilities and neurodivergent people. We welcome the opportunity to complete this consultation on proposals for a Learning Disabilities, Autism and Neurodivergence Bill.
- 3.3. In the 2021 Programme for Government, a commitment was given to carry out scoping work for a Learning Disabilities, Autism and Neurodivergence Bill. The scoping work took place between May and July 2022, with 30 events involving 18 different stakeholder organisations. To enable co-design of the consultation with people with lived experience, three Bill panels were established: a Lived Experience Advisory Panel (LEAP), a Stakeholder Panel and a Practitioner Panel. The LEAP includes 25 people with various conditions including autism, learning disabilities,

ADHD, dyslexia and Down's Syndrome. The proposals in the consultation document represent output from early scoping work and input from the three Bill Panels.

4. The Consultation

- 4.1. Part One of the consultation explores 'reach' and definitions, considering who the Bill should apply to and in what circumstances. It is highlighted that beyond the definition of disability in the Equality Act 2010, existing definitions covering neurodivergent people and people with learning disabilities in Scotland are not statutory.
- 4.2. The consultation states that the aim is for the Bill to:
- Make a difference to how neurodivergent people and people with learning disabilities are seen and treated
 - Support neurodivergent people and people with learning disabilities to feel more visible
 - Ensure that everyone providing support or services to neurodivergent people and people with learning disabilities is clear about their duties under the Bill
 - Support people without a formal diagnosis to know how the Bill applies to them.
- 4.3. The Scottish Government's proposal to have a broad approach covering neurodivergence and learning disabilities is explored further within Part Two of the consultation.

Within this section there are several overarching themes:

- ◆ A Statutory Strategy,
 - ◆ Mandatory Training,
 - ◆ Inclusive Communication,
 - ◆ Data,
 - ◆ Independent Advocacy,
- 4.4. In addition to the overarching themes outlined above, consultees were asked for their views on specific themes:
- ◆ Health and Wellbeing
 - ◆ Mental Health and Capacity
 - ◆ Social Care
 - ◆ Housing, and Independent Living
 - ◆ Complex Care Coming Home
 - ◆ Relationships
 - ◆ Access to Technology
 - ◆ Employment
 - ◆ Social Security
 - ◆ Justice
 - ◆ Restraint and Seclusion
 - ◆ Education
 - ◆ Transitions to Adulthood

5. Current Position

- 5.1. The South Lanarkshire Council Autism Strategy Group met in January 2024 to review the consultation proposals and plan how best to ensure a wide and varied representation of views were gathered from partners across the authority.
- 5.2. Partners were approached and asked to review the specific proposals within each theme, relevant to their departments. The response from each partner was reviewed, collated and submitted to Liz Burns (Quality Improvement Officer, Inclusive Education Service) and Sharon Grant (Manager (Children, Families and Justice), Social Work Resources).

The draft consultation document was developed over a series of meetings and further clarification was sought where necessary.

The draft was finalised in April 2024.

- 5.3. The attached response (Appendix A) represents the gathered views of all relevant services.
- 5.4. For South Lanarkshire Council, the consultation process highlighted three emerging themes:
 - ◆ The need for inclusive communication and the development of Easy Read and other accessible formats for neurodivergent people and people with learning disabilities
 - ◆ Mandatory training on neurodivergence and learning disabilities to support public facing staff to better understand the individual's needs.
 - ◆ To strengthen the rights of neurodivergent people and people with learning disabilities to access advocacy. The voices of those with lived experience should be central to these developments.

6. Employee Implications

- 6.1. None

7. Financial Implications

- 7.1. As this is a response to the consultation on the Bill there is no financial implication currently. Should the Bill be passed there would be cost implications for the authority.

8. Climate Change, Sustainability and Environmental Implications

- 8.1. None

9. Other Implications

- 9.1. None

10. Equality Impact Assessment and Consultation Arrangements

- 10.1. Equality impact issues were considered during the consultation process

- 10.2. Views were sought from a range of stakeholders during the consultation period. including establishments, Education, Health, Social Work, Autism Resource Coordination Hub (ARCH), Housing and Technical Resources.

Carole McKenzie
Executive Director (Education Resources)

1 May 2024

Link(s) to Council Values/Priorities/Outcomes

- ◆ Education and learning: inspiring learners, transforming learning, strengthening partnerships.

Previous References

None

List of Background Papers

None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:

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Learning Disabilities, Autism and Neurodivergence (LDAN) BILL: Consultation



Scottish Government
Riaghaltas na h-Alba

Part 1: Reach and definitions: who should the Learning Disabilities, Autism and Neurodivergence (LDAN) Bill include?

Proposal 1: 'People who are Neurodiverse'/'Neurodiverse People'.

We agree that the term Neurodiverse/Neurodiverse People is too broad. The term Neurodivergent better reflects the cohort of people the Bill will support.

Proposal 2: 'People who are Neurodivergent'/'Neurodivergent People'

Following consultation with partners and our Neurodivergent community the preferred term is 'Neurodivergent/Neurodivergent people'. We feel this term covers all neurodiverse condition including Autism, Dyslexia, ADHD, Tourette's etc. We do however recognise that within each of these neurodiverse conditions there are specific and unique needs. The Education (Additional Support for Learning) (Scotland) Act 2004 also recognises this. A child or young person's specific needs can be met without the need for a diagnosis or label. The term Neurodivergent is best applied, as well as the term Autism, not as a generic replacement for it.

Which of these proposals do you not agree with (if any), please tell us why?

Proposal 3 : We could take an approach that specifically names and defines populations of people in the Bill. This would increase the visibility of these groups and more clearly state who the Bill applies to for the benefit of those people, as well as for practitioners.

We would have reservations in agreeing with Proposal 3. Whilst we agree that increased visibility of individual groups of the population is beneficial, we understand that if a specific cohort was not listed in the Bill, then they could be excluded from the benefits the Bill can offer. Would it be possible to add additional cohorts of the population at later date, further clarification of this would be beneficial.

Part 2: Themes

Section 1: Statutory Strategies for Neurodivergence and Learning Disabilities

The Scottish Government has previously produced national strategies on learning disability and separately on autism. Following the COVID pandemic, a joint plan produced in partnership with Convention of Scottish Local Authorities (COSLA) was published covering both learning disabilities and autism – the Towards Transformation Plan. The Scottish Government continues to work to this plan pending decisions on the shape and content of the Learning Disabilities, Autism and Neurodivergence (LDAN) Bill.

The Scottish Government is proposing to take a broad approach covering neurodivergence and learning disabilities.

Proposal 1 Introduce a requirement for a national strategy on neurodivergence and learning disabilities to be produced by the Scottish Government.

We would be keen that any strategy would be a mandated strategy incorporating duties and not powers. The Scottish Government's response to the inequalities experienced by autistic people was the introduction of the Scottish Strategy for Autism (2011-2021).

Within South Lanarkshire Council there has been a Local Autism Action Plan in place. An active Autism Strategy group meets tri annually to review progress and plan future actions.

Progress has been good, and impact has been measured. Extensive training on Autism has been delivered by ARCH, (Autism Resource Centre Hub) to several partners including staff from South Lanarkshire Partnership Housing. This has had a direct impact on public facing staff who share that they have better understanding of the housing and support needs of people with Autism. Members of staff within Social Work. Family Support Hubs have also benefitted from training.

As a council we have made good progress and would welcome a bill that has a mandatory strategy as this would constitute a rights-based approach. However, we would have some concerns around the funding implications that the mandatory strategy would bring and would welcome further clarification in relation to this.

Proposal 5: Ensure that people with lived experience have to be involved in the development of the strategies.

We currently work closely with those with lived experience to improve our understanding of their specific needs. Involving those with lived experience within the specific cohorts would be an essential part of creating a strategy that reflects current needs.

The different minds campaign created in partnership with Autistic people raised the profile of Autism and feedback has highlighted positively, the recognition of Autism as a difference rather than a disability. We would welcome the opportunity to further raise awareness of not only Autism, but Neurodivergence and Learning Disabilities.

Section 2: Mandatory Training in the Public Sector

Proposal 1: Mandatory Training for Public Services

We would welcome mandatory training within the Public Sector for public facing staff. Involving those with lived experience would enhance the quality of training offered by targeting the specific needs of those service users.

We would also be keen that training would ensure that the specific and unique needs of each neurodiverse condition be considered. It is our experience that public facing staff are keen to build confidence and knowledge around neurodivergent people. Within South Lanarkshire Council, ARCH provides awareness raising sessions and direct training to colleagues across the authority.

Section 3: Inclusive Communications

Proposal 1: Alternative means of communication

We acknowledge that alternative forms of communication would be beneficial for neurodivergent people and people with learning disability. Alternatives may include online meetings, face to face appointments or letters. It is important to acknowledge that there should be flexibility in means of communication offered and that this is in response to the changing needs of the individual.

Proposal 2: Easy-read

We would welcome further discussion around a broad duty to make available on request Easy-read versions of certain publications. The Easy-read versions provided as part of this consultation process have been welcomed by service users. Working with those with lived experience to produce Easy-read versions that are high quality and provide essential information in a clear visual way would be a core part of this development.

A duty on National Health Service (NHS) Boards and Health & Social Care Partnerships (HSCPs) to require appointment letters to automatically be produced in Easy-read may be a welcome option for some of the identified group however this would need to be sensitively handled with service users.

A duty on the Scottish Police Service, the Scottish Courts and Tribunal Service and the Scottish Prison Service to automatically provide information to people in certain circumstances including when accused or convicted of a crime in an accessible way, including standard bail conditions would be welcome.

Section 4: Data

Proposal 1

We would agree that a central Commissioner analysing data would be welcome. This would give a degree of independent review of the needs of those covered within the Bill. Further information would be required around parameters of data collection as these may be limited locally and not fully reflect need.

We agree that centrally collating LDAN data would inform decisions around the needs of the population. Further clarity is required around what the data set would include and how this would inform improvement through the national strategy and in turn locally. Further information is required around whether the data would have an impact on local funding - would this be protected funding to deliver on evidenced based need identified through the data?

We would welcome the establishment of consistent data collection and reporting mechanisms in relation to LDAN people across Scotland.

Proposal 4

We would welcome consideration of a Scottish version of the Learning Disability Mortality Review (LeDeR) programme.

Section 5: Independent Advocacy

There is a requirement for investment in both individual and collective advocacy. As outlined in proposal 1, a consistent approach is required across the country and working with Scottish Independent Advocacy Alliance and other organisations would assist with this. Steps should be taken to strengthen the rights of neurodivergent people and people with learning disabilities to access advocacy. The voices of those with lived experience should be central to these developments. However, placing either powers and/or duties on local authorities and HSCP's to introduce regulations around independent advocacy and provision of information on access to advocacy does not address the lack of advocacy provision in our communities, the cost of this provision and lack of funds available to develop this provision. Without this, there are significant constraints to the delivery of the proposal to strengthen and improve access to existing advocacy provisions.

Similarly, the provision of some specific legal rights to free, independent advocacy to neurodivergent people and people with learning disabilities outlined in proposal 2 is welcomed. Again, current financial constraints on delivery and availability of advocacy services would have to be considered and mitigated, for this to be meaningfully advanced.

Part 3: Specific Themes

Section 1: Health and Wellbeing

Karen McGuigan Public Health Specialist has advised that Health will submit a response.

Section 2: Mental Health and Capacity Law

Karen McGuigan Public Health Specialist has advised that Health will submit a response.

Section 3: Social Care

We would identify that aspects of all proposals are welcome.

Proposal 1 – Local authorities workforce planning and workforce training should be inclusive of the needs of neurodivergent people and people with learning disabilities. This should include training appropriate to role and plans should set out how inclusive communication and accessibility requirements are met.

Proposal 2 – Legislating that local authorities and commissioned services provide training to employees appropriate to their role would increase competence and confidence in the workforce. Extending this beyond a neurodivergent approach to the training so that it focusses on neurodivergence and learning disabilities, would be more responsive and inclusive.

Proposal 3 – improving on existing processes to improve accessibility to services and supports for neurodivergent people and people with learning disabilities should be a priority. Easy read materials and the provision of alternative means of communication being available including within complaints procedures is positive.

All these proposals outline positive improvements for neurodivergent people and people with learning disabilities. Implementation of these in practice will require additional targeted workforce time and funds. We would welcome further information on funding to support the identified proposals.

Section 4: Housing and Independent Living

The council is broadly supportive of all five proposals relating to the ‘Housing and Independent Living’ section of the consultation document. The proposals will help to enhance and direct work that is already undertaken by housing to support customers with a range of disabilities and support needs, including those who are neurodivergent.

Generally, the council would emphasise the need for any additional responsibilities or services arising from this Bill for local authorities to be fully funded. This would include any monitoring or reporting requirements.

It is also important to note that a strong partnership approach will be essential to delivering on the proposals within the Bill and to ensuring that the needs of neurodivergent people and people with learning disabilities are appropriately considered and taken into account.

Proposal 1: Advice, advocacy, and guidance

It is recognised that the process of applying for housing and dealing with other housing related matters, such as accessing adaptations or homelessness, may be challenging for many people.

Social housing landlords generally provide advice, assistance and information on a range of housing related matters through local teams and via on-line tools.

Given the particular challenges that neurodivergent people and people with learning disabilities may face, the council would consider it appropriate that, within a housing context, specialist independent advice, support and advocacy is made available.

Proposal 2: Neurodivergence and learning disabilities strategies

The council is supportive of embedding independent living principles into key policies, plans and strategies and considers this key to eliminating disadvantage and safeguarding change for neurodivergent people and people with learning disabilities. Depending on the breadth of the Bill, additional funding is likely to be required to deliver the desired outcomes.

It is worth highlighting that the needs of neurodivergent people and people with learning disabilities are considered within the current South Lanarkshire Local Housing Strategy (LHS) 2022-27, where there is an action to ‘continue to further explore and develop suitable housing options for adults with learning disabilities and neurodiversity issues’.

Strong partnership working arrangements and approaches already exist between housing and a range of partners in respect of areas such as homelessness, development of new council homes, retrofitting existing homes and meeting housing needs and support to help people remain in or return to their home. These arrangements will continue to be essential

to delivering on strategic priorities and outcomes to support and meet the needs of neurodivergent people and people with learning disabilities.

Proposal 3: Mandatory training for housing professionals

The council is supportive of mandatory training for housing professionals to ensure they are equipped with the appropriate knowledge and skills to support neurodivergent people and people with learning disabilities.

This would enhance the strong links and networks that already exist with partners which facilitate sharing of information and knowledge to help support professionals in their work with a wide range of people with particular needs.

Proposal 4: Data

Recognising the disadvantage and inequalities that currently exist for neurodivergent people and people with learning disabilities, the council is supportive of the proposal to improve on data collection to enable a better understanding of the specific needs of these groups. It should be noted however that improving data collection will be reliant on the capability of IT systems.

Proposal 5: Inclusive communications

This would be welcome however consideration should be given to workforce and funding implications.

Section 5: Complex Care – Coming Home

Proposal 1 Dynamic Support Registers

We would not agree with this proposal. The current arrangements are broadly effective without the need for a statutory duty. Within South Lanarkshire a dynamic register has recently been set up. We have found this to be positive and it has given us more oversight of out of area placements etc; this has allowed us to identify patterns/needs/risks of individuals and will help us plan, shape and deliver services in the future. This process has also ensured a multi-agency approach by all responsible agencies to ensure the needs of the person are at the forefront of decision-making processes. However, this is a significantly increased workload for local authorities as it is a live document; funding has been provided to set this up for the initial 3 years, to support the Coming Home Agenda, however ongoing funding will be required to sustain progress.

Proposal 2 The National Support Panel (“the Panel”) should work with and support the new Dynamic Support Registers and Peer Support Network and we think there are different ways to do this.

Option A: Legislative Panel Conducting Individual Reviews within Defined Parameters

Option B: Legislative Panel Conducting Peer Reviews of Local Processes

Option C: Non-legislative Panel Conducting Peer Reviews of Local Processes

Option C would be our preferred option. This would allow for shared learning and problem solving of more complex situations. We recognise that it would be important to ensure that those current processes in place; Mental Welfare Commission, Ombudsman, ASP Significant case reviews and local reviews were not duplicated with the introduction of a Panel Conducting Peer Reviews. We would welcome further clarification of threshold and scope of the process.

Section 6: Relationships

Proposal 1: Access to Independent Advocacy

Proposal 1 – as noted access to independent advocacy should be promoted and supported for neurodivergent people or people with learning disabilities in all aspect of their life.

Advocacy should be responsive and tailored to the presenting needs of the individual. This includes within relationships and examples detailed in a) and b).

Proposal 2: Data

Proposal 2 – Data collection would have to be purposeful to shape supports, services and policy. It is not detailed who would provide this data and how and what the implications on services and providers could be. Further consideration and detail would be required to make an informed view on data collection.

Proposal 3: Inclusive communications

Proposal 3 – As noted, the development of easy read and other accessible formats for neurodivergent people and people with learning disabilities would be welcomed. Cost and workforce implications would have to be accounted for.

Proposal 4: National and Local Strategies

Proposal 4 – local strategies outlining service delivery should include neurodivergent people and people with learning disabilities. This proposal makes reference to evaluation and reporting but does not expand on the parameters of this reporting and its purpose. It is unclear what the implications this would have for LA's.

Proposal 5: Accountability

Proposal 5: Accountability – introducing powers of investigation to a new or existing body to investigate ongoing and historic cases of child removal from parents with learning disabilities implies that on balance past and current decision making of agencies has been flawed or prejudiced. It is unclear what data this proposal is based on. It would be pertinent for service providers and practitioners to have access to learning in this area. This has the potential to have implications on practice and calls into question professional value base of agencies, courts, and the Scottish Children's Reporters Administration/children's hearings. While supportive of increased accountability of practice and decision making in this area it would be essential to consult with practitioners that this would impact to get a sense of, if barriers in practice exist, how these could be addressed and what a new accountability structure would be.

All proposals have workforce time and financial implications that would necessitate the allocation of additional funds. Without additionality, disinvestment from existing services would be required. In the current climate resourcing and funding streams are finite with no flex to redirect funds.

Section 7: Access to Technology

Proposal 1 - We could also consider how to ensure that training is available to people with learning disabilities in digital skills and online safety.

We would welcome this proposal. Currently, there is a range of publications to support online safety for those with learning disabilities, some are also available in Easy Read versions. The challenge can be who provides the support to those with learning disabilities to access this material and work through it to ensure it can be applied within daily living. We are keen to find out more about the potential offer of training and how this would be delivered.

Proposal 2 - We could gather clear data on the number of people with learning disabilities and neurodivergent people accessing and using technology.

Whilst we welcome this proposal, gathering data that reflects fully the number of people with disabilities and neurodivergent people may be challenging. At a local level we may be able to gather data however this may not reflect fully the identified groups. Some people may not want to or be able to supply this information. Further consideration as to how this would be implemented would be required.

Proposal 3 - We could make more support available to directly help people with learning disabilities and neurodivergent people access and use technology.

We would agree with this proposal. Often people with a learning disability can be digitally excluded, this was evident during the pandemic. Further information around the proposed

support and the funding that would be provided to enhance the improvement of access and use of technology would be required.

Section 8: Employment

However, given the work that is currently ongoing, and our limitations on changing the law in this area, we are not currently proposing any legislative changes. Instead, we intend to explore the following in order to promote and encouraging more inclusive approaches:

Section 9: Social Security

Proposal 1 National and Local Strategies

We agree with the proposal and would ask that Social Security adapt their practices to further support neurodivergent people and people with learning difficulties.

Points to consider. An adviser line to allow quicker access to information from experienced advisors. We would welcome further support from Social Security Scotland staff when closing cases, when clients do not have appropriate ID. This can have a negative impact on vulnerable clients. Process is quicker if forms are completed online. Social Security Scotland to remove the need for a client to open a my govscot account which requires the client to have an email address. Without this, third parties cannot complete online claims for Adult Disability Payment, re-determinations, appeals etc. Exploration into extended awards without requirement for regular reviews would also be welcome.

Proposal 2: Mandatory training for social security staff

We agree with proposal 2. In addition to mandatory training, simplified correspondence and claims forms would be welcome. Further consideration for claimants who are waiting for the awards but as yet do not have an official diagnosis.

Proposal 3: Data collection

We agree with proposal 3. Data could be gathered to show how many neurodivergent people and people with learning difficulties accessed claims. Determine whether there are challenges accessing claims i.e online or paper form and whether assistance would support with this process. This data may support in future planning around a need for better, simplified online access and support for this group.

Section 10: Justice

From a justice perspective we welcome all the proposed changes in the Learning Disabilities, Autism and Neurodivergence (LDAN) Bill which will make a huge difference to the quality-of-service delivery that Neurodivergent individuals receive when they interact with the civil and justice service providing agencies. This is a very welcome development which will promote equality, development of responsive services, creation of responsive communication pathways and above all it will facilitate a growth of organisational awareness and systems change which would support human rights and more dignified and respectful interactions with the neurodivergent population, appearing and/or encountering the justice system across Scotland.

Proposal 1: Strategies and a co-ordinated approach

We support this approach, as the creation of a single national strategy that would deal with neurodivergence and learning disabilities in the civil and criminal justice systems, could enable coordinated and informed interventions. This approach will stop the fragmented and complex interactions between different parts of the justice system which can reduce heightened levels of risk for this cohort and enable them to receive more coordinated communication, support, and fairer access to the civil and justice service provisions.

Proposal 2: Data and the identification of neurodivergent people and people with learning disabilities in the justice system

We would like to see development of a one common screening tool across criminal justice agencies which could be used to identify vulnerable Neurodivergent individuals as soon as they enter the justice system so that they can get the required support, guidance and formulation of assessment about their vulnerabilities. In addition to this, we support and acknowledge the critical requirement to ensure that neurodivergent individuals and people with learning disabilities and their needs can be appropriately identified at key points of contact with the justice system.

From an accountability perspective, placing a duty on public bodies such as the Police, Crown Office and Procurator Fiscal Service (COPFS) and the Scottish Prison Service, to seek to identify neurodivergence and learning disabilities when people are encountering the criminal justice system, is another desirable development in the LDAN Bill.

Proposal 3: Inclusive communication

We feel that this is the most crucial element of the LDAN Bill, to ensure people understand their rights and responsibilities in relation to compliance during the different stages of their justice and civil case processes, as this aspect of the development will empower this cohort to access fair justice and support and could reduce their chances of accumulating further convictions due to their improved compliance with the statutory orders.

We also believe that those in contact with the criminal and civil justice systems need to be able to fully understand the information they are being given whether they are a victim, witness, party or potential offender. If information is not accessible, this can result in people being either unaware of their rights or unaware that they are at risk of breaching standard or special bail conditions etc.

Proposal 4: Mandatory Training

We support the opportunity within the Bill to consider mandatory training on neurodivergence and learning disabilities for all health and social care staff with an extension to other public bodies such as police, prison, COPFS and relevant courts and tribunals staff.

Proposal 5: Advocacy

We strongly support the provision of advocacy. However, responsibility for this aspect of the service delivery does require further consideration and consultation. Whilst we acknowledge the reference in the mandatory training that could include information about the role and availability of advocacy in the civil and criminal justice systems as well as information about the Appropriate Adults scheme would be a good idea, it will not introduce meaningful whole system change to progress in an informed way.

Proposal 6: Diversion from Prosecution (DfP)

We are of the opinion that as with others, neurodivergent people and people with learning disabilities could benefit from the use of Diversion from Prosecution where they are alleged to have committed offences. Better identification within the justice system and targeted training for staff to understand how to do this could help. A requirement to identify needs should allow better information to be provided by the Police to COPFS in the Standard Prosecution Report (SPR). We also believe that training and awareness raising provided to professionals working in COPFS on neurodivergence and learning disabilities, how it impacts on people's lives and how it can have an influence on offending behaviour could help with increasing consistency of decisions around

Diversion from Prosecution for these groups. This training could also include the role of support in reducing the likelihood of re-offending.

We feel that from a trauma informed standpoint, language around criminal justice can be modified further.

Section 11: Restraint and Seclusion

Yes, we agree that the Learning Disabilities, Autism and Neurodivergence (LDNA) Bill would not be the right place to explore options for legislation around Seclusion and Restraint.

Within South Lanarkshire Council we recognise that children and young people can display distressed behaviours, and this is often within the context of an additional support need. These needs would not be limited to a Learning Disability, Autism and Neurodivergence. As an authority we have developed clear guidelines on Promoting Positive Relationships and Understanding Distressed Behaviour. Our staff track and monitor any signs of distress a child/young person may display. This information is used to plan appropriate, supportive interventions that support the reduction in distressed behaviours and training in de-escalation strategies is also offered.

Section 12: Transport N/A

Proposal 1: National and Local Strategies

Proposal 2: Mandatory training

Section 13: Education

Proposal 1: Strategies and reporting requirements

We would agree that Children's Services Plans could articulate a commitment to neurodivergent children and young people and children and young people with learning disabilities and this is the case when there is a specific multiagency action in the current Children's Services Plan for this group. We currently reference children within the plan, who may require additional support such as young carers, children who have parents in the armed forces and those with a disability.

Proposal 2: Mandatory training for teachers, practitioners, and other educators

We would welcome mandatory training for student teachers to further meet the needs of all learners. The Standards for Provisional Registration states that student teachers should have knowledge and understanding of Pedagogical Theories and Professional Practice. Teachers should have knowledge of additional support needs and the stages of learners' cognitive, mental, social, emotional, physical and psychological development and their influence on learning and wellbeing.

Across Scotland there has been a documented increase in learners with a range of additional support needs. We would welcome an enhanced offer of training from universities to support new teachers to meet the complex range of needs we have within our mainstream and special schools. This could be developed further in the initial year of teaching.

Currently, in line with recommendations from the Additional Support for Learning (ASL) Review Action Plan, within South Lanarkshire Council, we have a Continual Professional Development (CPD) HUB. The HUB provides extensive training opportunities with the 4 interlinking themes- Rights & Participation, Relationships, Inclusion and Universal Support and Wellbeing and Care. Content is updated regularly and reflects the current education landscape within Scottish Education. We utilise training provided by the National Autism Implementation Team (NAIT) across establishments. We would welcome any additional

training that would further improve the educational offer we have to support our children and young people.

We would have some reservations however around mandatory training requirement for teachers, practitioners, and other educators on learning disabilities and neurodivergence as part of their Continued Professional Development (CPD). A core component of teachers' professional commitment is understanding the needs of all learners. The professional commitment of teachers in Scotland is to lead learning through developing deep knowledge of learning and teaching. Each teacher, practitioner and other educators should have access to appropriate training that can enhance their practice. Further consideration should be given to the purpose, content, frequency and the measurement of the impact of any mandatory training.

Proposal 3: Data

In principle, we would agree with this proposal. We would want to continue to use our current SEEMIS Management Information System for recording of said data. The need for more conditions to be reflected within the disaggregated data is clear. One concern would be that a specific neurodivergent condition was omitted from any updated list. Further discussion around this would be welcome. Further clarification would also be required around whether a formal diagnosis would be required for a neurodivergent condition to be recorded. With lengthy waiting lists for assessment any data collected may not reflect a clear frequency across the population.

We would be keen to extend the disaggregated data we currently collect and use this in a meaningful way to support planning for this cohort of the population. This would provide further information around the attainment gap of these groups, school leavers and positive destinations and to understand the size of these populations and any trends.

As an Authority we currently collate data on the use of part-time timetables within our establishments.

Section 14: Children and Young people – Transitions to Adulthood

Principles of Good Transitions, The Association for Real Change (ARC) Scotland and legislation relating to transitions should be inclusive of neurodivergent people and people with learning disabilities. Introducing further legislation could add further challenges in policy and implementation for transition practices for young people, families and staff. It would be beneficial to support the current implementation gap between existing transition legislation, policy and practice.

Part 4: Accountability

We agree that The Bill can be used to ensure that there is improved accountability for the delivery of rights for the identified groups.

We would agree with elements of options 1,3,4,5 and would welcome further clarify in relation to all.

Option 1

We agree that A Commission or Commissioner could be set up to help people secure their rights.

Option 2

We acknowledge that Neurodivergent people and people with learning disabilities already come within the remit of the Scottish Human Rights Commission (SHRC), the European Convention on Human Rights (ECHR), the Children and Young People's Commissioner and other more specialist bodies like the Scottish Public Services Ombudsman (for public

service complaints) and the Mental Welfare Commission. However, within these groups, we feel that there is not a specific focus on the LDAN group.

Option 3

We would welcome further discussion around this option. Having people with lived experience of neurodivergence or learning disabilities, to raise the awareness of their rights within public bodies and promoting a culture where the rights of neurodivergent people and people with a learning disability are upheld would be welcome.

Option 4

We agree that better resourcing of existing Disabled People's Organisations (DPOs) to allow them to support and advocate for the rights of neurodivergent people and people with learning disabilities would be beneficial.

Option 5:

We agree that continuing to work with people with lived experience (like the Lived Experience Advisory Panel (LEAP)) to produce national standards and guidance to help people understand the needs and wishes of neurodivergent people and people with learning disabilities and uphold their rights would be beneficial.

Liz Burns/Sharon Grant March 2024