Scottish National Action Plan on Human Rights
1st meeting of the Health and Social Care Action Group, 26 June 2014

1. Welcome

Audrey Birt, Chair of the Health and Social Care Alliance Scotland (the ALLIANCE) and Co-Chair of the Scottish National Action Plan on Human Rights (SNAP) Health and Social Care Action Group, welcomed delegates to the session. SNAP was published in December 2013 and is a roadmap for the realisation of all internationally recognised human rights in Scotland. Based on evidence and broad participation it has been developed by a Drafting Group from across the public and voluntary sectors and overseen by an Advisory Council.

As part of the fourth priority area in SNAP, NHS Health Scotland and the Health and Social Care Alliance Scotland (the ALLIANCE) have been appointed as co-convenors for the Human Rights Action Group on Health and Social Care. This work is being led by Shelley Gray, the ALLIANCE, and Cath Denholm, NHS Health Scotland, who will co-convene the group. The group will be co-chaired by Audrey Birt, the ALLIANCE, and Margaret Burns, NHS Health Scotland.

The purpose of the group is to support us to identify, promote and test actions; identify indicators (in liaison with the SNAP Measurement Group); and problem solve where barriers to progress are found. The Action Group is accountable to the SNAP Leadership Panel and is required to report on its progress every 6 months. This first session was designed to begin engagement about the Action Group, its shape and membership as well as its approach. A range of stakeholders from across health and social care were invited to participate and share views on where the Action Group should focus its energies.

The publication of SNAP coincides with a wider public service reform agenda, including the integration of health and social care, self-directed support and the Healthcare Quality Strategy. These elements all seek to emphasise the greater involvement of people who use support and services and communities in responding to changing societal and demographic needs.

Audrey highlighted the three outcomes pursued by the Action Plan (Better Culture, Better Lives, Better World) and support through nine key priorities. ‘Priority 4 – Enhancing respect, protection and fulfilment of human lives to achieve high quality health and social care’ was the focus of this event, but much of the plan is interdependent.
2. A Human Rights Based Approach in action

To support delegates understanding of how human rights based approaches can be shaped and look in practice, the Action Group heard two live examples.

Keys to Life – Chris Creegan (Scottish Consortium for Learning Disability (SCLD))

Chris Creegan, Chief Executive, Scottish Consortium for Learning Disability, told the Action Group that creating a human rights culture can improve outcomes, services and decision making. Viewing services through a human rights lens offers a focus on the individual’s particular strengths and wishes.

Scotland’s Learning Disability Strategy, the Keys to Life, was published by the Scottish Government in partnership with COSLA but it is “owned” by stakeholders across Scotland – including people with learning disabilities and their carers. Its focus is about improving quality of life and while service provision is part of that, it is central to policy and strategy to think about people’s lives rather than services which may be only one part of their life.

SCLD was involved in leading evaluation of the previous learning disability strategy – the Same as You – and that involved working with and speaking to people with learning disabilities and carers. The findings of that review – which influenced the Keys to Life – endorsed the critical nature of a human rights approach, particularly around accessible information, equality legislation and tackling discrimination and abuse.

The Keys to Life strategy states a renewed and refreshed commitment to human rights and acknowledges the importance of SNAP. Of the fifty two recommendations, two have a particular human rights focus – one of which is around the delivery of Equality Impact Assessments, whilst the other focuses on involvement in localities.

SCLD recently coordinated a group of people with learning disabilities over the course of a year to produce a report to feed into monitoring of the UN Convention on the Rights of Persons with Disabilities (UNCRPD). They focused on particular articles related to equality, accessibility, independent living, employment, standard of living and adequate protection. They were pleased that the UNCRPD was mentioned in the Keys to Life but felt that it didn’t “make rights real”. This presents a challenge as to how the delivery of the strategy can keep human rights at its heart.

People with learning disabilities and family carers are at the heart of the implementation of the Keys to Life and that provides a challenge around adopting human rights based approaches – by making it part of the ongoing scrutiny and evaluation processes.
Cathy Asante, Legal Officer, Scottish Human Rights Commission (SHRC), leads the Commission’s approach to human rights based approach to health and social care. The Care about Rights project is an interactive training and awareness programme, focused on care homes and care at home services for older people which was launched by the SHRC in 2010. The three essential strands to this project are:

- Empowering people to know and act on their rights. To strengthen this, events took place across Scotland and around 80 people were involved in those sessions.

- The ability of authorities and staff to know when to adopt human rights based approaches. The Care about Rights package was sent to every registered care provider in Scotland, “Training for Trainers” sessions were held and tailored sessions established for medium and large providers across the country. Around 1,000 care staff and managers have been trained since 2010.

- Increasing accountability for delivering human rights. The project worked with operational teams from the then Care Commission (now the Care Inspectorate) to ensure staff were aware of the project and how human rights can apply to scrutiny and employ them in what they were looking for from services.

Taken together, the three strands aimed to foster a common understanding across people involved in health and social care to understand their rights and responsibilities.

The Care about Rights package includes:

- Explanation of the background to human rights – including what human rights are and where they have come from.
- Key rights most regularly applied in care settings.
- Provide examples of how human rights based approaches can apply in practice through films and written case studies.
- How human rights have links to other pieces of legislation (e.g. mental health and adults with incapacity).

The project was independently evaluated and it found that 99% of participants now understood what human rights are and how they relate to their work (compared with just over 50% before the training). Participants also identified that they could more strongly explain the role of human rights to others, better understood the links to
other legislation and thought that it would help to develop positive relationships with people who use support and services and their families.

They also found that the FAIR framework provided a rationale for supporting people to balance risk and resolve conflict and increase confidence of others to challenge when they felt rights were not being met. The Scottish Human Rights Commission has developed the ‘FAIR’ approach to help apply the standards and principles of human rights in practice,

Cathy’s presentation is available to view online.

Initial reflections from delegates

Delegates were asked for their initial reflections on what they were heard in order to identify any particular challenges that the Action Group should focus on in future.

Culture change

Responses from delegates highlighted the need to challenge existing cultures and attitudes towards rights, rather than placing an emphasis on process. For example:

- Supporting people to understand and claim their human rights should be a priority.
- Public understanding of the rights agenda is critical to a supportive and more equal society.
- Shifting the agenda is not necessarily about resource, but about a change in attitudes.
- We need to make politicians care about human rights.

Delivery of a rights based approach

Some delegates felt that the structure we have in Scotland was right but that there is a disconnect between how action plans and strategies view the world and the practical implementation. It was felt that service delivery was an area where this was particularly prevalent:

- People “at the top” are often risk averse. This has to be challenged.
- Services are often overly prescriptive.
- We need to move from treating the condition before the person.
- How do we use a human rights based approach to challenge the way things are in existing organisations, systems and processes?

1 http://www.scottishhumanrights.com/eqhria/eqhriatrainingfair
Delegates recognised that there was a challenge in the way we debate, discuss and analyse rights and their embodiment in the outcomes people see from health and social care services. They posed the question - how do we marry these things up?

**What support do people need to implement human rights based approaches?**

Much of the discussion focused on how staff could be supported to apply human rights at a practical level. At present there are lots of assumptions and different understandings amongst staff about what a human rights based approach is. A common language cascaded throughout policies, organisations and support for individual understanding is necessary.

Delegates also felt that there was a lot of work to do in order to ensure that existing structures were changed to allow for a greater focus on a human rights based approach. Often there is too strong a focus on staff, but not on the boundaries within which staff are forced to operate. For example:

- Influencing and changing the structures for planning statutory services need to be integral to our future approach. This will enable modelling of human rights behaviours from top down. Budgets setting, resource allocation and allowing personal outcomes to be key performance measures were identified as particular missed opportunities at present.
- Human rights based approaches are not yet seen as being as influential or important as HEAT targets.
- All impact assessment should include a basis on which to consider human rights.
- Organisational structures need to promote good news stories about human rights rather than focus on it as a challenge.

**What I will do?**

Delegates identified a number of actions they would undertake following the event. These included:

- Facilitating the sharing of good practice in co-production to strengthen its role in supporting human rights based approaches
- Consider how to find good news stories and where to share them
- Influence local planning for health and social care integration with regard to a human rights based approach. One delegate identified that they would seek to reinforce the PANEL and FAIR approaches in ongoing partnership development and support of Joint Strategic Commissioning
- Making explicit reference to human rights based approaches in communications materials
- Embedding human rights based approaches throughout education and induction processes
Shaping the Action Group

Margaret Burns, Chair, NHS Health Scotland, and Co-Chair of the Scottish National Action Plan on Human Rights (SNAP) Health and Social Care Action Group asked delegates to consider what should happen beyond strategies and plans. SNAP offers us a building block on which the Action Group can take forward progress.

Alan Miller, Chair of the Scottish Human Rights Commission, had submitted a filmed introduction to the Action Group identifying how it links with the wider work on the Scottish National Action Plan for Human Rights. Alan said that health and social care was one of the most important areas of SNAP because of the ability it had to impact on the lives and dignity of so many people. Laws and policies are strong in Scotland but there needs to be a shift in culture, with a particular focus on workforce development, and the work of this Action Group can support that. Alan’s full introduction is now available on YouTube.

Pam Duncan-Glancy had also submitted a video on the PANEL approach, a practical approach to making an impact through human rights based approach. In the film, Pam focused on the particular gains that could be made in social care for both people who use support and services and the workforce by focusing on each of the PANEL principles:

- **Participation** – involving people and their organisations in the design, delivery and eligibility for the commission of social care.
- **Accountability** – ensuring that social care is accountable to the people who the system should work for.
- **Non-discrimination and Equality** – social care is crucial part of helping people to participate in society and should be an outcome of social care, helping people who use social care support and services to ensure they can participate on an equal basis to others.
- **Empowerment** – particularly empowering people and their organisations to impact on how policies and practices are developed and building their capacity to do so.
- **Legality** – not just protecting people’s legal rights but going beyond that and striving to get to a position where people who use social care support and services are equal participants.

The full film is now available to view on YouTube.

Margaret Burns posed a number of questions – based on the PANEL approach – for delegates in order to help establish the best way to organise the future work of the Action Group to ensure real change. These are detailed below along with a range of responses from delegates:
Participation: Who needs to be involved?

Delegates suggested that the Action Group should focus on working with the following groups of people in order to influence the agenda:

- If people understand their right and routes to participate it will help us move forward in the right way. The voices of lived experience, particularly disabled people and people living with long term conditions. They should be supported to be involved from an early stage and come up with their own ideas. We need to consider creative ways of doing this.
- Representation should come from both rural and urban conurbations.
- Shadow Health and Social Care Integration Boards – particularly organisational development leads and Joint Accountable Officers.
- A cross-sector approach that involves NHS, social work and social care staff. Frontline practitioner involvement will be key.
- Politicians, with a particular focus on health and social care.
- Equality Impact Assessment Lead Officers across health and social care to influence change and redesign processes.
- COSLA, Third Sector Interfaces, Disabled People’s Organisations and National Carer Organisations should also be involved.
- Raising public awareness is very important.

Accountability: How do we make sure those with responsibilities to deliver on SNAP are accountable?

Delegates expressed the view that integration offered opportunities for ensuring accountability. This could potentially be achieved through inclusion in, and influence over, the new integration schemes and Joint Strategic Commissioning Plans, which will have to be developed by Health and Social Care Partnerships, and the new Health and Wellbeing Outcomes.

Other suggestions included:

- Joint Accountable Officers will need to be engaged in this.
- Building support at senior level with strategic leaders in the NHS and local authorities.
- Working with the Scottish Health Council to embed human rights in the participation standards and the Scottish Public Service Ombudsman around complaints.
Non-discrimination and Equality: How do we make this process /group inclusive?

Strengthening engagement with membership/network organisations was seen as a key process – particularly where this enables the action group to work directly with rights holders to nurture a social movement around human rights a tool for change. The Equal Partners in Care (EPIC) learning resource² was highlighted as one practical example of inclusivity.

Empowerment: How can having this action group help empower people to know/access their rights?

Delegates highlighted a number of key priorities for the Action Group to consider taking forward:

- Extending the messages of SNAP, firstly through participants in this session. Awareness and empowerment should be the initial focus.
- Map what already exists to avoid duplication.
- Consider use of social media sites like Twitter and a SNAP app to spread key messages.
- Focus on key policy areas nationally – targeting people who are more aware of human rights approaches but have the power to change things (e.g. Equality Impact Assessment leads).
- Raise the profile and business case of human rights with the developing Shadow Health and Social Care Partnership Boards.
- Embed human rights in primary training at universities.
- Evaluate our approach in two years’ time – focused on the awareness of SNAP and human rights based approaches.
- The case studies showed that empowering people who use support and services to influence the change was more powerful than just the workforce. This can often result in a better solution.
- It takes resources to empower people. We need to map the kinds of organisations who are already in existence and are already doing that work. This should also look at where there are no organisations in particular areas.
- Often officers in different agencies aren’t empowered themselves. It’s difficult for them to make the changes they would like to.

Legality: Are there particular frameworks we need to link into for this action?

- National inequality frameworks and performance measures.

• Performance frameworks of human and social care partnerships must reflect a human rights based approach to have a particular influence on integration authorities.
• Equality structure to include human rights remit.

**Focusing the Action Group**

Delegates were asked to consider more closely where the Action Group can add best value. Margaret Burns, NHS Health Scotland, identified that SNAP offered a significant opportunity to highlight that health inequality is fundamentally a human rights issue, about the fundamental right to health and access to the things that enable good health.

NHS Health Scotland feel that SNAP offers a series of opportunities, including placing a duty on statutory partners to address health inequalities within their core responsibilities, defined leadership and accountability responsibilities for Health and Social Care Partnerships to address health inequalities and a more central role for communities in contributing to decision making about service development.

Delegates identified a range of particular opportunities and suggestions for future approach:

• Less concerned about the how of the group and more about what is done and achieved in its name.
• A small core group could be established that is well linked to wider networks. This could involve a range of satellite groups, e.g. the workforce, person-centred, asset-based approaches, co-production, complaints, early years, sensory impairment, learning disability, mental health, carers etc.
• All groups must involve mix of rights holders and duty bearers.
• Any group should be tasked with establishing and sharing core and key messages with a common language.
• We should ensure that duplication is avoided and we use the networks and resources that already exist, for example Health Boards equality outcomes work.
• The work of the Action Group needs to have a strong link with the concepts and language people are already using, for example co-production and person-centeredness.
• A series of learning events may be helpful that take a closer look at some of the stories – what happened in significant detail in the Care about Rights work and give opportunities for others to learn and explore how to implement a similar approach.
• Internal guidance within the Scottish Government recent stated that all policy should focus on improvement, co-production and asset-based approaches… SNAP is an opportunity to help put that into practice.