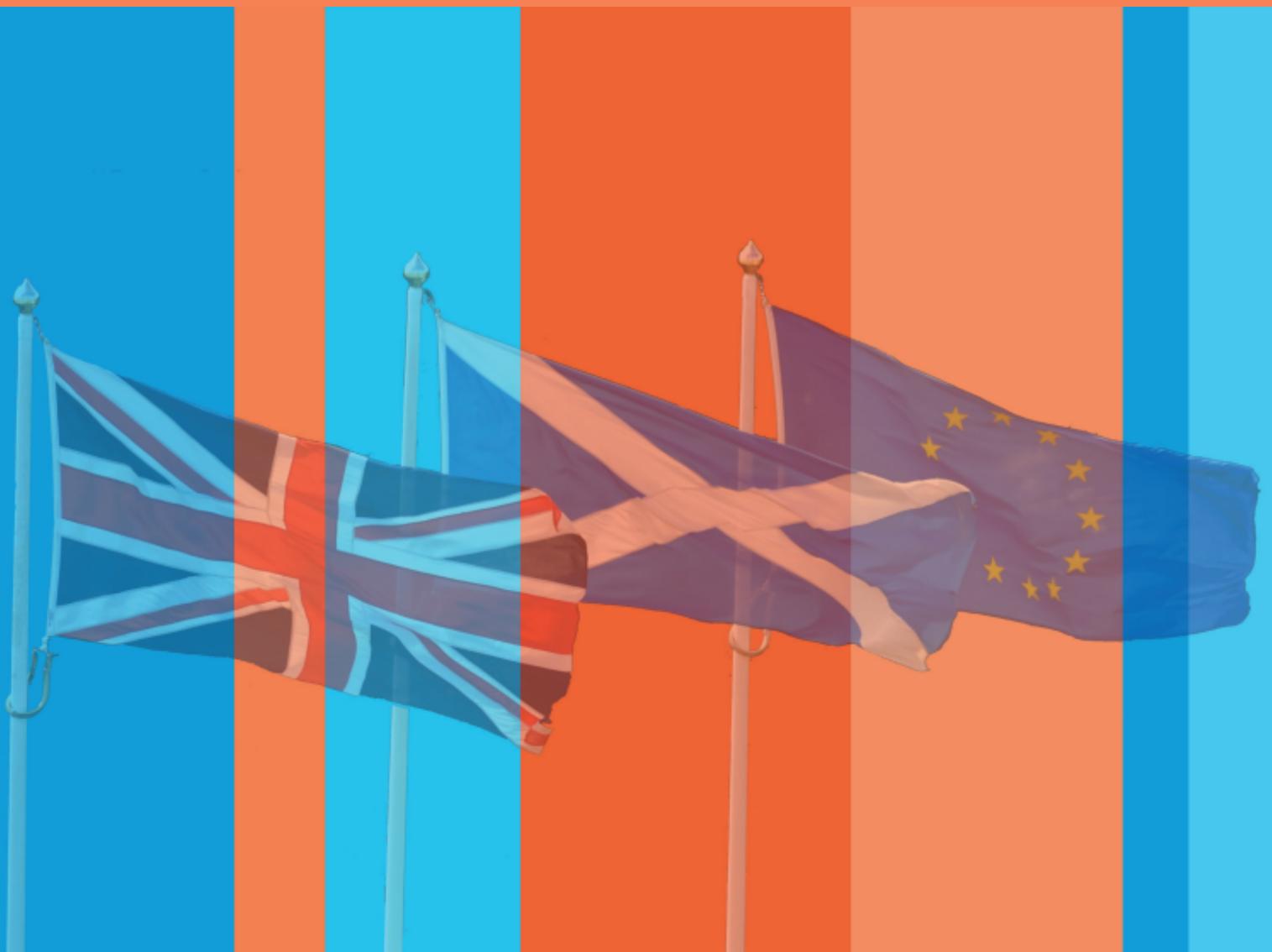




Independent
Living in Scotland
Part of Inclusion Scotland

Plotting a course: Brexit and disabled people's rights in Scotland

A statement of principles



Brexit and disabled people's rights in Scotland

Brexit, the UK's decision to leave the EU, will have significant consequences for the 1 in 5 of us in Scotland who are disabled; however, to date, our interests as disabled people have been 'nowhere in the room' in the major debates over Brexit.

During the run-up to the referendum almost nothing was made publicly available to disabled people about the possible impact of the vote. And, following the vote, there was not a single mention of disabled people or disability in the UK government's White Paper on Brexit or in its position papers on Brexit negotiations.

In this context we saw a need for Disabled People's Organisations in Scotland to work together with others to plot a course towards protecting and promoting our rights now and in the future as they are affected by Brexit.

We need to ensure that the rights we have as disabled people which originate from EU law, keep up with future progressive changes made by the EU, and that they are not diminished, 'frozen in time' or indeed withdrawn altogether.

Our hope is that this statement of principles will help this effort and that it will stimulate engagement, enrich debate and support disabled people and decision-makers to positively influence disability rights post-Brexit.

A statement of principles

We believe that the following 5 key principles are essential to avoid or minimise harmful impacts of Brexit to disabled people in Scotland as well as to make the most of opportunities to enhance our rights.



Our 5 key principles are as follows:

1

Ensure disabled people have a voice in the Brexit debate

- The UK and Scottish Governments should address the chronic lack of accessible information available to disabled people about the process and implications of Brexit.
- The UK and Scottish Governments must actively seek to involve and inform Disabled People's Organisations in stakeholder engagement about the process and implications of Brexit.

2

Non-regression: disabled people's equality and human rights must be explicitly safeguarded and not eroded as we leave the European Union

- All EU-based disability rights existing at the time the UK leaves the EU should be maintained and transposed into UK law. Equality and human rights laws in UK secondary legislation that are derived from EU law, such as those on accessible transport for disabled people for example, should only be amended by procedures which allow for rigorous parliamentary scrutiny, such as the super affirmative procedure. Delegated legislation powers should only be used to make EU law functional in UK law.
- The Scottish Government should honour the First Minister's pledge regarding the principle of non-regression in relation to human rights by ensuring that the rights of disabled people in Scotland are not diminished due to Brexit and that they do not fall below the standards enjoyed by those in the EU following the UK's departure.

- The UK Government should ensure Court of Justice of the European Union (CJEU) case law, which is in place at the point of Brexit, continues to apply in the UK, and consider how to ensure UK courts keep up with future case law developments at the CJEU.
- To avoid diminution of our rights from other sources the UK should remain a member of the Council of Europe and a committed party to the European Convention on Human Rights (ECHR) so as to protect the mechanisms that allow individual disabled people to seek redress for an infringement of their rights.

3

Advancement: disabled people's equality and human rights are enhanced as we leave the European Union

- The Scottish Government should explore the possibility of incorporating the UN Convention on the Rights of Disabled People (UNCRPD) into domestic legislation. This would send a clear message to disabled people in Scotland that the Scottish Government is committed to protecting and enhancing disabled people's human rights after Brexit.
- The UK should ratify Protocol 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, which would replace the right to non-discrimination in Article 21 of the EU Charter of Fundamental Rights in the event that the Charter is not retained post Brexit. This would provide the UK's own guarantee of equal treatment, and ensure that a free standing right to non-discrimination is enshrined in domestic law after we leave the EU.

4

Inclusion: Disabled people's right to Independent Living must be recognised across the debate about freedom of movement, immigration or reciprocal agreements

- The impact of the loss of the EU workforce on disabled people's independence and the threat of re-institutionalisation, in particular due to restrictions on the recruitment of Personal Assistants, must become part of the debate on freedom of movement alongside the importance of staffing in health and social care more broadly.
- The UK Government should equality impact assess the implications for independent living for disabled people of any plans to leave the single market, and to restrict freedom of movement, immigration and reciprocal agreements.

5

Funding for Disabled People's Organisations must be maintained

- The UK Government must ensure replacement funding for Disabled People's Organisations from the European Union's Structural and Investment Funds. The new funding should also provide opportunities to make the application processes more accessible.

We would encourage disabled people and their organisations across Scotland to promote these principles and policy asks in their work on Brexit in order to promote and protect disability rights.

For more information about Brexit and disability rights see:

**Independent Living in Scotland Project (2017) The Solutions Series:
Plotting a course: Brexit and disabled people's rights in Scotland**

Plain English version link: <http://bit.ly/ILiSBrexit>

Easy Read version link: <http://bit.ly/ILiSBrexitER>

**Disability Rights UK (2017) The implications of Brexit for disability rights:
Influencing future debate and policy**

<http://bit.ly/DRUKbrexit>

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