



Justice Disability Steering Group

BEMIS Involvement Event

Wednesday 23 September 2009



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1. Background to the event

The Justice Disability Steering Group (JDSG) was set up in 2007 by the organisations representing the justice sector in Scotland. It is comprised of the Scottish Government, the Association of Chief Police Officers in Scotland, the Crown Office and Procurator Fiscal Service, the Scottish Court Service, the Law Society of Scotland, the Scottish Legal Aid Board and the Scottish Prison Service.

The aim of the JDSG is to develop ways in which disabled people can be involved in helping to improve access to services across the justice system in Scotland and to draw on their skills and experience to improve the Scottish justice sector for all. The JDSG contracted Capability Scotland to manage a project of involvement events to find out from disabled people the barriers they encounter in accessing justice. Capability organised seven public involvement events across Scotland in Autumn 2009 in partnership with other disability and race organisations.

On Wednesday 23 September BEMIS (the Black and Ethnic Minority Infrastructure in Scotland) hosted an involvement event in partnership with Capability. This event took place at the Glasgow Centre for Integrated Living and was attended by 11 disabled people. The group was diverse both in terms of experience of disability, in ethnicity and in terms of experience of the justice system. The group included people with sensory impairments, wheelchair users, people with hidden impairments, and people with experience of mental ill health.

Experience of the justice system within the group included being called for jury duty, being interviewed by the police after theft of personal belongings and reporting sexual harassment to the police.

2. Results of the discussions

The involvement day was designed around four key discussion areas:

- Physical access and legal aid
- Information barriers
- Communication barriers
- Attitudinal barriers and rights

Scenarios were used for each area in order to prompt discussion and bring the issues to life. Participants talked in four discussion groups about their experiences and perceptions in each area and then reported back on their main areas of discussion and suggestions for change. The key areas of concern and ideas for action are detailed below.

2.1. Physical access and legal aid

Physical barriers remain a big issue for disabled people

Participants shared their experience of being denied access to education, employment and goods and services due to physical barriers in buildings and in the transport infrastructure.

Some participants also had direct experience of physical barriers in the justice system, including a participant was interviewed by the police after a theft of money from her in the kitchen of the police station because she could not access the interview room.

Ideas for Action:

• Justice sector organisations that provide a service to the public should be based in accessible premises.

Disabled people often experience physical barriers to jury service

Participants shared experiences of being called for jury service and encountering physical barriers. One participant, who uses a powered wheelchair, had a negative experience when she was called for jury duty. She phoned the court to ask about access and instead of being told about access she was told that she could apply for exemption. But the lady did not want an exemption. She wanted to take part in jury duty and she resented the implication that just because she is disabled she would not want to attend. She felt that the person she was speaking to was implying that her contribution would not be valuable. When she got to the court she was told that she would have to sit next to the jury box because the jury box itself was not accessible. She was not happy about this and did not feel a part of the jury.

Ideas for Action:

• The Scottish Court Service should take action to tackle physical barriers in courts, including the jury box.

The Equality and Human Rights Commission needs to do more to enforce the Disability Discrimination Act

Participants stated that there is not enough pressure from the Equality and Human Rights Commission (EHRC) to make service providers make reasonable adjustments. Participants felt that organisations often got away with disability discrimination by arguing that an adjustment was not reasonable or by "hiding behind building regulations relating to historic buildings".

Ideas for Action:

 Justice sector organisations should work with the EHRC to promote the requirements of the Disability Discrimination Act to all partner organisations in the justice sector.

There is a shortage of lawyers with disability discrimination and human rights expertise

Participants spoke of their experiences of struggling to find a lawyer who had a good understanding of disability discrimination and human rights issues.

Ideas for Action:

• The Law Society could take action to encourage more solicitors to train in discrimination and human rights law.

Disabled people should be able to enter buildings through the main entrance

Participants discussed frustrations at being asked to use the rear door, often the goods entrance, to a building in order to gain access to a building.

Ideas for Action:

- Justice sector organisations should ensure that their main entrance is accessible and that disabled people are not required to use a separate entrance.
- The Law Society should inform solicitors' offices of the importance of their main entrance being accessible and that a rear entrance should only be used if no reasonable adjustment can be made to make the front entrance accessible.

There should be more access auditing by disabled people

Participants felt that justice sector buildings should all be audited by disabled access auditors. It was felt that many architects do not have the experience required to perform access audits and that many do not have an understanding of the British Standards in relation to building accessibility.

Ideas for Action:

• Justice sector organisations should contract disabled access auditors to ensure the accessibility of their buildings and highlight necessary improvements.

Disabled people need a greater awareness of legal aid

Participants felt that there is a general lack of knowledge about what people can get legal aid for, with several participants being surprised by the story in the scenario where the man had been denied legal aid because his case was a small claim under £5,000.

Ideas for Action:

 The Scottish Legal Aid Board should provide more information about the circumstances in which legal aid is available and consider and awareness raising campaign.

The legal aid small claims exclusion prevents many disabled people exercising their rights under the Disability Discrimination Act

Participants felt that far more disabled people would exercise their rights under the Disability Discrimination Act if they were able to access legal aid for Disability Discrimination Act cases. It was felt that legal aid should at least be available for cases likely to set a legal precedent that would benefit all disabled people.

Ideas for Action:

• The Scottish Legal Aid Board should consider working with the Scottish Government to reform the legal aid system so that more disabled people were able to exercise their rights.

2.3. Information barriers

Information barriers remain a big issue for disabled people

Participants shared experiences of struggling to get even standard print information about their rights and the service provided in the justice sector. Participants who require accessible information or information in a minority ethnic language spoke of additional barriers. Participants agreed that they often had to wait an unacceptable length of time to obtain information. Participants felt that getting accessible information in a timely manner was especially important when the issue is as important as those covered by justice sector organisations. One participant said that "You can only access justice when you know your rights so it is important to have the information."

Participants spoke of being able to get information on the internet but others argued that not everyone has access to the internet or is computer literate.

One participant spoke of getting conflicting information about her rights from two different sources and being put off taking her case any further because of this.

Ideas for Action:

- Justice sector organisations should implement accessible information policies and provide guidance to staff on what to do if they receive a request for an alternative format.
- The Law Society should encourage solicitors to also implement an accessible information policy.
- Justice sector organisations should ensure that public information is consistent across organisations

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There is a need for greater availability of disability related information in minority languages

Participants discussed the lack of information in minority languages that is specifically targeted at disabled people. Participants agreed often only the very basic information is available in minority languages. This means that family members often have to translate the information, which is not always appropriate and they can manipulate the information or hide information.

Ideas for Action:

- Justice sector organisations should review the information they provide in minority languages to ensure that it is not only information about race equality issues that is available in minority languages.
- Justice sector organisations should communicate to all staff that it is not appropriate to rely on family members to translate information into a person's minority language.

There is a need for greater availability of accessible information in minority languages

Participants discussed the issues they had experienced trying to get minority language information in large print and on tape. One participant said that people are doubly discriminated against and have to wait twice the length of time when accessible information is needed in a minority language.

Participants agreed that information on tape in minority languages is particularly important as many disabled minority ethnic older people do not have great literacy skills having been taken out of school at a young age or not attended school at all. Also, Braille is not used in minority ethnic languages and therefore audio tape and electronic voice files are the main methods for providing information directly to blind ethnic minority people. Ideas for Action:

 Justice sector organisations should review their accessible information policies to ensure that accessible information in minority ethnic languages is covered so that staff know what to do if they receive a request for accessible information a minority ethnic language.

Translating disability-related words into minority languages impacts on the tone of the information

Participants discussed the negative impact of translating disability-related words into minority languages such as Urdu, Punjabi and Hindi. Terms such as 'disabled', 'independent living', 'blind' and 'Deaf' do not translate well. The equivalent words in the minority languages are very negative, for example, there is no word for 'wheelchair user', people are instead referred to as people who 'can't walk'. Visually impaired people are referred to as people who 'cannot see' and hearing impaired people are referred to as people who 'cannot hear'. The word 'disabled' translates as 'ill'.

The impact of this on minority ethnic disabled people cannot be underestimated. The disability rights movement in Britain has campaigned for years for only positive or neutral phrases to be used to describe disability. This has seen phrases such as 'wheelchair bound' and 'confined to a wheelchair' become less frequent in their usage. The words we use reflect our attitudes and perceptions and our attitudes, perceptions and behaviour can be influenced by the words we hear. One young Asian participant said that when she visits her family in India they treat her as if she is going to die because they think of her as being sick and ill.

Ideas for Action:

 Justice sector organisations should consider the issue of the negative effect of the direct translation of disability-related words when commissioning minority language translation and request that the translator takes action to mitigate the effects by using positive or neutral terminology wherever possible.

Family members of minority ethnic disabled people often act as gate keepers to information

Participants spoke of the shame that Asian families often feel about having a disabled relative. This is often linked to the religious belief that disabled people are being punished for sins committed in previous lives, which is a belief that several of the participants have encountered. This means that disabled relatives are often hidden from the external community.

Participants explained that Asian families are often reluctant to get external support for a disabled family member or seek out information for fear that this will bring shame upon the family. In this way the family itself becomes a barrier to information.

Ideas for Action:

 Justice sector organisations should be creative in getting information to black and minority ethnic disabled people by, for example, having disability equality/rights awareness days at places of worships and community centres.

There is a need to take account of minority ethnic disabled people's cultural needs

Participants discussed the 'white-centric' nature of many services in Scotland and their experiences of their cultural needs not being taken into account. This included Muslims being prevented form praying five times a day and dietary requirements not being taken into account for people who require halal food. There were also concerns that the modesty required by many Hindu women might not be respected by justice organisations that have to physically examine people.

A participant spoke of a negative experience she had when being cross examined by the procurator fiscal in a case that related to racially aggravated sexual assault. The procurator fiscal did not take into account her cultural needs and she was very distressed by the experience. Ideas for Action:

• Justice sector organisations should work together to ensure that the services provided are culturally sensitive and learn from one another's mistakes.

People need ongoing information about the progress of their case

Participants shared experiences of struggling to obtain updates from justice sector organisations about the progress of their case, including whether or not the police were going to report it to the Procurator Fiscal.

Ideas for Action:

• Justice sector organisations could build trust with the public by being forthcoming with information and keeping people informed about progress.

All public information should be written in plain language

Participants agreed that all publications produced by justice sector agencies should be written in plain language as standard. Jargon and acronyms should be avoided as much as possible. This is true for information in minority languages as well as information in English.

Ideas for Action:

 Justice sector organisations should implement a plain language policy across their agencies so that every public document produced is clear, concise and avoids jargon, acronyms and complicated language, especially legalese.

2.3. Communication barriers

Communication barriers remain a big issue for disabled people who speak a minority language

Participants concentrated on communication barriers in relation to minority ethnic languages as none required British Sign Language interpretation.

Participants stated that provision of interpretation services in the justice system is insufficient, especially in emergency situations such as being arrested by the police.

Participants stated that it is important to obtain the services of an independent interpreter and not use a member of the disabled person's family. It was felt that it is often not appropriate to use a family member because the family member might add their own agenda onto what is being discussed or edit what the disabled person is saying. This is a particular risk in Asian families where being disabled is still often seen as a matter of shame.

Participants talked about the issue that it is common for older generations of Asian people to have poor English, or any English at all. Participants felt that this could be an issue if a family member became involved in the criminal justice system. Participants felt that it was important that the relatives of a minority ethnic person should be communicated with is an appropriate manner and kept up to date with what was happening with their relative. This is particularly the case in instances where the relative is not able to communicate directly with the family member.

Ideas for Action:

- Justice sector organisations should recognise the importance of the provision of minority ethnic interpretation.
- Justice sector organisations should ensure that all staff know that family members of minority ethnic people should not be used as a substitute for contracting the services of a professional independent minority language interpreter.

Disabled people should be open about their requirements

Participants agreed that although it is important for the justice sector to make efforts to be aware of people's requirements, there is also a responsibility on disabled people.

Several participants discussed the availability of alert cards that can be shown to police officers and other members of staff in the justice system to communicate that the person has an impairment and may require support in certain circumstances.

Ideas for Action:

• Justice sector organisations should make staff aware that disabled people might carry an alert card.

2.4. Attitudinal barriers and rights

Attitudinal barriers are the biggest issue for minority ethnic disabled people

Participants spoke of extensive experience of attitudinal barriers, both as a result of being disabled and also as a result of being minority ethnic.

Participants discussed the importance of recognising a person's dual identity – their identity as a disabled person and their identity as a black or minority ethnic person. It was agreed that it is important that people do not overly concentrate on one area over the other. Participants agreed that they were more likely to be thought of as a minority ethnic person first and a disabled person second.

Participants shared experiences of people making assumptions about them because they are disabled, particularly assumptions about their intelligence.

Participants discussed being treated differently when wearing the hijab, the head covering traditionally worn by Muslim women. The participants talked about the assumption that women who wear the hijab are opressed.

Participants shared the view that justice sector organisations consider disabled people to be either above the law or below the law. When disabled people are seen as being above the law, it is when a decision is made not to arrest them or not to prosecute them because of being disabled. When disabled people are seen as below the law, it is when they are exempted from jury duty for being disabled or when a disabled person is not prosecuted or taken to court because of their impairment.

Female participants spoke of the triple discrimination that they experience due to being an Asian disabled woman.

Participants talked about their fear of racism in the police. It was felt that the police treat black and minority ethnic people more harshly than white people.

Participants felt that disabled people are not seen as experts in their own experience. It was felt that when professionals are brought in to make judgements about people's abilities and disability, that the professional often makes assumptions about the disabled person's ability and knowledge.

Participants suggested that justice sector organisations could conduct mystery shopping exercises to test the accessibility of their services.

Participants spoke of the shame that Asian families often feel when a family member is disabled. It was felt that Asian families are often reluctant to seek external support or counsel for a disabled family member because of the perception that this will bring shame on the family. This means that it is unlikely that Asian families would support a disabled family member to exercise their rights under the Disability Discrimination Act.

Participants said that "Family members are gate keepers preventing disabled people from accessing justice".

Ideas for Action:

- Justice sector organisations must recognise the potential for multiple discrimination against minority ethnic disabled people.
- Justice sector organisations should ensure that staff do not fail to take account of a minority ethnic disabled person's impairment or condition and focus only on their ethnicity.
- Justice sector organisations should provide race equality training or diversity training to all staff.
- Justice sector organisations should work together to ensure that disabled people receive full access to the justice system are not treated as either above or below the law.
- ACPOS should work to ensure that black and minority ethnic people are reassured that the police authorities across Scotland are not racist organisations.
- Justice sector organisations who engage the services of professionals to make judgements about disabled people should ensure that the disabled person has been given the opportunity to fully explain their situation so that assumptions are not made.
- Justice sector organisations should conduct mystery shopping exercises to test the accessibility of their services.
- Justice sector organisations should communicate directly with disabled people rather than through family members.

Disabled people need a greater awareness of their rights under the Disability Discrimination Act

Participants talked about not being secure in their knowledge of the Disability Discrimination Act and how it works. It was agreed that if disabled people had a greater understanding of the legislation they would be more likely to take cases to court.

Ideas for Action:

• Disability organisations and the Equality and Human Rights Commission should do more to raise awareness of the Disability Discrimination Act.

There should be more monitoring and publication of the results

Participants felt that all justice sector organisations should monitor their activities from a disability and black or minority ethnic perspective, especially any new initiatives.

It should be noted that gathering date in relation to disability is a requirement of the Disability Equality Duty.

An example given was how many cases the Procurator Fiscal takes forward broken down by disability and ethnicity and how many cases by disability and ethnicity that the Police do not report to the Procurator Fiscal.

Participants felt that justice sector organisations should be open with the results of the monitoring.

Ideas for Action:

• Justice sector organisations should set in place monitoring and evaluating processes and report on the results.

More advocacy services are required for minority ethnic disabled people

Participants felt that there are not enough advocacy services for black and minority ethnic disabled people to effectively exercise their rights. It was felt that if minority ethnic disabled people had access to good quality advocacy services that many more would exercise their rights.

Ideas for Action:

• The Scottish Government should consider awarding more funding for minority ethnic and disability advocacy services.

Sometimes disabled people feel that they are not being taken seriously

The participant mentioned earlier who money had been stolen from explained that although the police had evidence of who the perpetrator was, they did not report the crime to the Procurator Fiscal. She feels that they did not take her seriously because she is disabled.

The same participant spoke of reporting sexual harassment to the police that happened over a long period of time. Again the police had evidence of who the perpetrator was but again it was not taken forward. The participant felt that it was not recognised as sexual harassment because people assume disabled people to be a-sexual.

Ideas for Action:

• ACPOS and COPFS should work together to reassure disabled people that crimes against disabled people are taken seriously and will be investigated fully.

The justice sector should operate more as a system

Participants felt that it is not important to disabled people trying to negotiate through the justice system which organisation provides separate services, as long as the service is provided and is accessible. Participants felt that there should be a more joined up approach to service provision so as to provide a barrier free journey through the system.

Participants felt that this would be more user-friendly for everyone, not just disabled people. It would make is easier for people to exercise their rights.

It was felt that this joined up system should operate to best practice and should "uphold the spirit of the law rather than the letter of the law". Ideas for Action:

- Justice sector organisations should work together and with other agencies in the justice system to develop a more joined up approach to service provision.
- Justice sector organisations should be exemplars of best practice in disability equality.

More advocacy services are required for disabled people

Participants felt that there are not enough advocacy services for disabled people to effectively exercise their rights. Participants felt that even if legal aid was made available for Disability Discrimination Act cases, without effective advocacy there would still be few disabled people who would take a case to court due to the emotional strain and length of time that it takes.

Participants said that in many cases disabled people do not need advocacy support to "speak for them" but rather guide them through the system and explain the legislation and the organisations that the person needs to speak to. However it was also recognised that the more traditional understanding of 'advocacy' is also vital, especially for people with learning disabilities and mental ill health.

Ideas for Action:

• The Scottish Government should consider awarding more funding for high and low level disability advocacy services.

The justice sector should employ more disabled people and more minority ethnic people

Participants felt that if the justice system employed more disabled people then they would have a greater awareness of disabled people's requirements and fewer assumptions would be made.

Participants also felt that there is a lack of representation of black or minority ethnic people at high levels in justice organisations. This made participants think that justice organisations were institutionally racist which in turn means that many do not have confidence in the services they receive from these organisations.

Ideas for Action:

- Justice sector organisations should take action to increase the representation of disabled people in their workforce.
- Justice sector organisations should take action to increase the representation of minority ethnic people in their workforce.

Disability equality training and race equality training is needed to change people's attitudes

All participants agreed that there is a real need for disability equality training and race equality training for people working in the justice sector. This should be for all staff, with an emphasis on people who come into contact with the public as part of their job.

Participants felt that the training should cover best practice in dealing with people with hidden impairments because organisations often don't know how to manage people's needs when the adjustment is not as obvious as just putting a ramp in.

It was felt that the roll out of disability equality training and race equality training to all staff could be supplemented by the provision of basic guidance to staff on disability equality issues. It was felt that this could take the form of FAQs (frequently asked questions). This would ensure that staff had some guidance even if they had to wait for a place on the training.

Ideas for Action:

• Justice sector organisations should provide disability equality training and race equality training to all staff. This should be tailored to the specific organisation and the role of the delegates.

• Justice sector organisations should develop disability equality guidance in partnership with disabled people and their organisations in order to complement the disability equality training.

3. Summary of ideas for action

Physical access and legal aid

- Justice sector organisations that provide a service to the public should be based in accessible premises.
- The Scottish Court Service should take action to tackle physical barriers in courts, including the jury box.
- Justice sector organisations should work with the EHRC to promote the requirements of the Disability Discrimination Act to all partner organisations in the justice sector.
- The Law Society could take action to encourage more solicitors to train in discrimination and human rights law.
- Justice sector organisations should ensure that their main entrance is accessible and that disabled people are not required to use a separate entrance.
- The Law Society should inform solicitors' offices of the importance of their main entrance being accessible and that a rear entrance should only be used if no reasonable adjustment can be made to make the front entrance accessible.
- Justice sector organisations should contract disabled access auditors to ensure the accessibility of their buildings and highlight necessary improvements.
- The Scottish Legal Aid Board should provide more information about the circumstances in which legal aid is available and consider and awareness raising campaign.
- The Scottish Legal Aid Board should consider working with the Scottish Government to reform the legal aid system so that more disabled people were able to exercise their rights.

Information barriers

 Justice sector organisations should implement accessible information policies and provide guidance to staff on what to do if they receive a request for an alternative format.

- The Law Society should encourage solicitors to also implement an accessible information policy.
- Justice sector organisations should ensure that public information is consistent across organisations
- Justice sector organisations should review the information they provide in minority languages to ensure that it is not only information about race equality issues that is available in minority languages.
- Justice sector organisations should communicate to all staff that it is not appropriate to rely on family members to translate information into a person's minority language.
- Justice sector organisations should review their accessible information policies to ensure that accessible information in minority ethnic languages is covered so that staff know what to do if they receive a request for accessible information a minority ethnic language.
- Justice sector organisations should consider the issue of the negative effect of the direct translation of disability-related words when commissioning minority language translation and request that the translator takes action to mitigate the effects by using positive or neutral terminology wherever possible.
- Justice sector organisations should be creative in getting information to black and minority ethnic disabled people by, for example, having disability equality/rights awareness days at places of worships and community centres.
- Justice sector organisations should work together to ensure that the services provided are culturally sensitive and learn from one another's mistakes.
- Justice sector organisations could build trust with the public by being forthcoming with information and keeping people informed about progress.
- Justice sector organisations should implement a plain language policy across their agencies so that every public document produced is clear, concise and avoids jargon, acronyms and complicated language, especially legalese.

Communication barriers

- Justice sector organisations should recognise the importance of the provision of minority ethnic interpretation.
- Justice sector organisations should ensure that all staff know that family members of minority ethnic people should not be used as a substitute for contracting the services of a professional independent minority language interpreter.
- Justice sector organisations should make staff aware that disabled people might carry an alert card.

Attitudinal barriers and rights

- Justice sector organisations must recognise the potential for multiple discrimination against minority ethnic disabled people.
- Justice sector organisations should ensure that staff do not fail to take account of a minority ethnic disabled person's impairment or condition and focus only on their ethnicity.
- Justice sector organisations should provide race equality training or diversity training to all staff.
- Justice sector organisations should work together to ensure that disabled people receive full access to the justice system are not treated as either above or below the law.
- ACPOS should work to ensure that black and minority ethnic people are reassured that the police authorities across Scotland are not racist organisations.
- Justice sector organisations who engage the services of professionals to make judgements about disabled people should ensure that the disabled person has been given the opportunity to fully explain their situation so that assumptions are not made.
- Justice sector organisations should conduct mystery shopping exercises to test the accessibility of their services.
- Justice sector organisations should communicate directly with disabled people rather than through family members.

- Disability organisations and the Equality and Human Rights Commission should do more to raise awareness of the Disability Discrimination Act.
- Justice sector organisations should set in place monitoring and evaluating processes and report on the results.
- The Scottish Government should consider awarding more funding for minority ethnic and disability advocacy services.
- ACPOS and COPFS should work together to reassure disabled people that crimes against disabled people are taken seriously and will be investigated fully.
- Justice sector organisations should work together and with other agencies in the justice system to develop a more joined up approach to service provision.
- Justice sector organisations should be exemplars of best practice in disability equality.
- The Scottish Government should consider awarding more funding for high and low level disability advocacy services.
- Justice sector organisations should take action to increase the representation of disabled people in their workforce.
- Justice sector organisations should take action to increase the representation of minority ethnic people in their workforce.
- Justice sector organisations should provide disability equality training and race equality training to all staff. This should be tailored to the specific organisation and the role of the delegates.
- Justice sector organisations should develop disability equality guidance in partnership with disabled people and their organisations in order to complement the disability equality training.

4. Continuing involvement

Participants were keen to remain involved in the work of the JDSG and felt that continuing involvement would be crucial to the success of the project.

Participants felt that not enough public bodies carry out meaningful involvement with disabled people despite this being a requirement of the Disability Equality Duty.

Participants felt that Justice sector organisations should continue to involve disabled people at each stage in the process and should consult with disabled people before new initiatives are put into place, not afterwards.

Participants also felt that the JDSG should always communicate to them what the result of their involvement had been so that they know their points are being taken on board.

BEMIS is setting up a disability group to enable black and minority ethnic disabled people to input into policy work and be consulted by public sector organisations. Participants felt that the best way to stay involved in the work of the JDSG was through the BEMIS group.

Ideas for Action:

- Feed back to participants at the events what action is going to be taken as a result of their involvement.
- Keep participants informed about the progress of the project.

This report is available in a variety of accessible formats. To discuss your requirements please contact the communications team at Capability Scotland on 0131 347 1055 or <u>communications@capability-scotland.org.uk</u>.

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