

Karen Adam MSP
Convenor, Equality, Human Rights and Civil Justice Committee

Via ehrcj.committee@parliament.scot

Date: 6 March 2026
Our reference: SHRC202606

Dear Ms Adam,

Equality, Human Rights and Civil Justice Committee Legacy Report

As we approach the end of this Parliamentary session, I am aware that the Equalities, Human Rights and Civil Justice Committee (EHRCJ Committee) will be reflecting on its programme of work and its recommendations to the next Parliament. I am writing to share the perspective of the Scottish Human Rights Commission (SHRC) in the hope that this helps to inform those discussions.

The SHRC has welcomed the focus of the EHRCJ Committee on human rights in a range of contexts. We are grateful for the level of informed engagement we have had with the Committee both through formal accountability processes such as the Committee sessions on our Annual Report as required by the Scottish Commission for Human Rights Act 2006, and through more collaborative engagement with yourself, Members of the Committee, and clerks, to share insights and views about how best to progress human rights on the basis of SHRC evidence through its human rights monitoring and advice to Parliament on legislative reforms.

We were particularly pleased to see the Committee's use of the SHRC's work on economic, social and cultural rights in the Highlands and Islands as a "key reference point" for its inquiry on human rights, equalities and access to services in rural areas of Scotland. This issue is a continued priority for the SHRC, and we are currently undertaking the next phase of our local human rights monitoring work, in the South of Scotland.

We also welcomed the reflection of the SHRC's serious concerns about the Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill, in particular Part 2, in your Committee's Stage 1 report.

Importantly, the SHRC was pleased to prompt serious discussion at Committee and across the Parliament in the current session about real challenges in access to justice for human rights violations, including as a result of limitations in the SHRC mandate, the challenges of the legal aid system, and gaps in human rights protections for some groups, in particular older people and disabled people, as evidenced by calls for new Commissions/ers to be established to uphold those rights. The SHRC first raised these issues in June 2023 via its 'Crossroads' paper.

In June 2025, Parliament accepted the recommendation of the SPCB Supported Bodies Landscape Review Committee not to create new office-holders of the Scottish Parliament. This was accepted alongside the recognition that with the appropriate powers and resources, the SHRC as Scotland's NHRI would be even better equipped to protect the rights of those groups, as well as to hold duty-bearers in Scotland to account for the realisation of human rights more broadly. Specifically, the Committee stated that it "believes there is a case for a wider review of the remit and powers of the SHRC" ([SPCB Supported Bodies Landscape Review Report](#), 19 June 2025, p.31)

As this session of Parliament draws to an end, it is important that the momentum to strengthen the SHRC to better uphold the human rights of everyone in Scotland is not lost. The SHRC remains of a view that there is more to be done, and that Parliament has the evidence base needed for a review of our powers and mandate. We are of the strong opinion that this need not depend on, or be delivered by, the proposed Human Rights Bill, and that a Committee of the Parliament could take the lead on progressing with such a review. As our lead Committee, the SHRC would welcome inclusion of a review of its mandate and resource as a recommendation of the EHRCJ Legacy Report as a Committee priority, regardless of the status of a Human Rights Bill.

I have appended to this letter a short briefing note setting out the SHRC's view on what a strengthened NHRI would look like, based on existing materials on the matter. The SHRC will publish an updated paper to inform discussions in the next session of Parliament.

That aside, I am sure that the Equality, Human Rights and Civil Justice Committee will also reflect on the continued delays to the long-awaited Human Rights Incorporation Bill as it impacts on improving human rights realisation for the people of Scotland. The SHRC continues to support the incorporation of human rights treaties into Scots law. However, this must be done in a way which ensures it

provides genuine access to justice for Scottish rights-holders, and improves accountability for planning, resourcing and decision making for duty-bearers on their human rights obligations. There are important lessons to be learned from the implementation of the UNCRC Act in how to ensure such legislation has the intended impact. The SHRC looks forward to working closely with the EHRCJ Committee in the next session of Parliament to guide its scrutiny of the proposed Bill should it be lodged by an incoming Scottish Government.

A final reflection on parliamentary scrutiny concerns the need for human rights considerations to be much more clearly centred across the work of all Committees within the parliament and not only contained with the EHRCJ Committee. As the legislative programme in this parliamentary has evidenced, there are human rights considerations at the core of housing, social security, health and social care, budgets and economic policy, digital inclusion, equalities and inclusion, and many other areas where committee scrutiny and Chamber engagement on human rights could have been stronger, and we hope to see greater engagement across parliament in the forthcoming session. The SHRC would be keen to support the Parliament in fulfilling such a role, subject to resourcing.

Looking ahead, it is clear that national Governments across Europe, including the UK Government, are reconsidering their support for the integrity of the international human rights legal framework. I would like to thank you and your Committee for its contribution to the work to ensure Scotland remains robust and unequivocal in its support for human rights and the rule of law. Moving into the next Parliament, it will be paramount that the Committee plays a clear role in building consensus on this matter, both for the delivery of a Human Rights Bill and for the wider protection and promotion of human rights in Scotland.

The Scottish Human Rights Commission looks forward to working with the Equality, Human Rights and Civil Justice Committee in the 2026-2031 session of the Scottish Parliament to promote the human rights of everyone in Scotland.

Yours sincerely,

Angela O'Hagan
Chair, Scottish Human Rights Commission

Annex: Strengthening the Scottish Human Rights Commission

1. Introduction

Established by the Scottish Commission for Human Rights Act 2006, the SHRC is Scotland's National Human Rights Institution (NHRI). We are an independent public body, accountable to the people of Scotland through the Scottish Parliament. Our role is to promote awareness, understanding and respect for human rights in Scotland.

We have been exercising this duty, and the powers and functions that sit alongside it, for 18 years. However, the context in which we do so has changed significantly in that time. Over the past eight years there have been a number of reports, consultations, reviews and inquiries which have called for a strengthened NHRI for Scotland; an NHRI that has the powers, the mandate and the resources necessary to champion rights in Scotland and hold those in power to account.

Most recently, we welcomed the conclusions of the 2025 SPCB Supported Bodies Landscape Review Committee) that SPCB supported bodies—including the SHRC—fulfil “a vital function in safeguarding public trust, institutional integrity and democratic accountability in relation to our public institutions and elected representatives.” ([SPCB Supported Bodies Landscape Review Report](#), 19 June 2025, p.28)

The SHRC also welcomes the Review Committee's proposal to explore expanding both the powers and the mandate of the Commission. It is our strong view that Scotland needs strong human rights protections now more than ever, and that Scotland has the clear evidence base and Parliamentary appetite to strengthen its NHRI. We call on the Scottish Parliament to make this a priority - whether through a Human Rights Bill or via other legislative measures - in the next session of Parliament..

2. Background and evidence base

Parliamentary and Scottish Government support

In its 2018 Getting Rights Right report ([Getting Rights Right: Human Rights and the Scottish Parliament | Scottish Parliament](#)), the Equalities and Human Rights Committee of the Scottish Parliament stated:

“The Scottish Human Rights Commission (SHRC), as an NHRI, holds a unique position within the human rights framework. It is an expert in its field and it is therefore essential that the Parliament [...] recognises its role in holding the

Government, and the Parliament, to account on human rights issues in Scotland in accordance with the Belgrade Principles [...] We intend to deepen our connection with the SHRC and ask other committees to strengthen their relationships with the SHRC too.”

The Committee further noted that: “The Parliament has a fundamental role in the creation and maintenance of the effective functioning of bodies and institutions for the protection and promotion of human rights [...] we have considered the adequacy of certain aspects of Scotland’s current human rights structures.”

The Parliament indicated that between 2018 and 2021 it would consider ways to strengthen Scotland’s human rights institutions, including reviewing the SHRC’s powers and the resources required to fulfil its mandate. Seven years on, this work has yet to take place.

During the SHRC’s evidence gathering to inform “A Stronger Human Rights Commission for Scotland”, key human rights organisations such as the Human Rights Consortium Scotland highlighted that the SHRC “does not currently have sufficient powers or resources to hold Government and public authorities accountable on their human rights obligations. Scotland needs its National Human Rights Institution to be authoritative and fit for purpose.” ([A Stronger Human Rights Commission for Scotland](#), p.4)

The Scottish Government has also acknowledged broad and consistent support - from civil society, public bodies, local authorities, scrutiny bodies, the Law Society of Scotland, the Faculty of Advocates, and rights-holders - for expanding the SHRC’s powers. In its July 2026 Human Rights Bill for Scotland: Discussion paper ([Human Rights Bill for Scotland: discussion paper - gov.scot](#), para. 2.1.1), the Scottish Government set out that:

“We are proposing to increase the powers of the SHRC [...] so that [they] can effectively support increased legal and practical accountability for human rights delivery in Scotland. There has been consistent, broad support across civil society, local authorities, public bodies, scrutiny bodies and individuals for the SHRC [...] to be given enhanced powers under the Bill.”

The UN and National Human Rights Institutions

The United Nations recognises National Human Rights Institutions (NHRIs) as the cornerstone of domestic human rights protection systems and a vital link between international human rights norms and the state.

The SHRC, as Scotland's NHRI, has a general duty to promote awareness, understanding, and respect for human rights. To fulfil this mandate, the SHRC:

- Publishes advice and guidance
- Conducts research
- Delivers education and training
- Reviews laws, policies, and practices
- Issues recommendations
- Conducts inspections of places of detention
- Undertakes inquiries
- Intervenes in civil proceedings in certain circumstances

Unlike the NHRIs in the other UK jurisdictions, however, the SHRC has not, until very recently, have powers to raise legal proceedings in its own name or provide advice to individuals. The UNCRC (Incorporation) (Scotland) Act 2024 grants limited power to raise proceedings—but only in relation to that Act. This means that the SHRC cannot raise court proceedings on human rights violations in the public interest for any rights which are not protected under the UNCRC Act.

The SHRC's mandate and resources have not been significantly revisited since 2006. The UN Secretary-General has consistently called on states to ensure that NHRIs are given a broad mandate and adequate investigative powers. The UN High Commissioner for Human Rights, Volker Türk, has emphasised that: "National Human Rights Institutions are key to making human rights a reality... But for this, NHRIs need greater funding and full independence in line with the Paris Principles."

This has also been highlighted by the United Nations accreditation body for Independent National Human Rights Institutions, the Special Committee for Accreditation (SCA) as recently as 2021:

The SCA recommends that the SHRC advocate for appropriate amendments to its enabling law to include a more expansive definition of human rights and to extend to acts and omissions of private entities. The SCA refers to Paris Principles A.1, A.2 and A.3 and to its General Observation 1.2 on 'Human rights mandate'.
GANHRI Sub-Committee on Accreditation Report – June 2021 p33

Analysis and evidence-gathering by the SHRC

The SHRC has repeatedly stated that it lacks both the powers and the resources needed to fulfil its full mandate. It is also small when compared with NHRIs in countries of similar size

The SHRC aspires to fully meet its role as Scotland's NHRI and to contribute effectively to identifying and addressing human rights challenges across the country. A priority for the SHRC is to ensure more effective access to justice and realisation of human rights denied for many across Scotland, and we therefore encourage Parliament to consider act on commitments to strengthen the NHRI at pace.

Over the past five years, the SHRC has undertaken extensive work to assess its current powers. This has included:

- Interviews with NHRIs worldwide;
- Roundtable discussions with rights-holders and civil society;
- Engagement with public authorities and scrutiny bodies;
- Engagement with MSPs and the Scottish Government;
- Engagement with the Faculty of Advocates and the Law Society of Scotland;
- Discussions with international experts and academics;
- Engagement and discussions with the UN Office of the High Commissioner for Human Rights; and
- A detailed literature review scoping comparative legislation, practice, policies and academic articles.
- The SHRC is accredited as an "A" status National Human Rights Institution through the UN process, due for reaccreditation in April 2026. As part of the process, the SHRC has evidenced the growth in activity and profile, organisational development, and impact with rights holders and Parliament. We addressed the issues raised previously by the Sub-Committee on Accreditation in relation to Member numbers, pluralistic approach, and sustainable resourcing levels
- Key to our "A" status is our independence from government, as an officeholder of the Scottish Parliament. Ensuring full powers for the SHRC would further protect this status and bring greater rights protection for people in Scotland.
- The SHRC has a strong reputation internationally as a small but authoritative NHRI. Because Scotland has an independent National Human Rights Institution within the UK framework, rights holders in

Scotland have a direct route to international treaty frameworks. The SHRC has reported to Scottish Parliament on international treaty monitoring activity, informed by our domestic monitoring and rights 'Spotlight' work, which is especially important in the absence of domestic incorporation.

The SHRC has published several papers on this work, including Building a New Human Rights Framework for Scotland: Key Legal Features (2022); At a Crossroads: Which Way Now for the Human Rights System in Scotland? (2023); and A Stronger Human Rights Commission for Scotland (2023).

Based on this analysis, the SHRC considers that, at a minimum, the Scottish Commission for Human Rights Act 2006 should be amended to provide the following powers.

Power to Provide Advice to Individuals

The SHRC is currently prohibited from giving advice to individuals, leaving people in Scotland without support from their NHRI. This contrasts sharply with the powers of the NHRIs in Northern Ireland, England, and Wales.

Amending the 2006 Act would expand access to justice and align Scotland with international best practice.

Power to Raise Legal Proceedings

With the exception of UNCRC matters, the SHRC cannot bring legal proceedings to challenge potential human rights breaches by the Scottish Government, local authorities, or other public bodies. Both the NHRIs for other jurisdictions in the UK - the Equality and Human Rights Commission (EHRC) and the Northern Ireland Human Rights Commission (NIHRC) - have these powers; the SHRC does not.

Granting this power would strengthen accountability for human rights failures. A power to raise proceedings should be introduced in any legislative proposal that seeks to incorporate international human rights into Scots Law. Further, the SHRC would be significantly strengthened if it was able to raise proceedings under the Human Rights Act 1998. Discussions with the UK Government will therefore be needed to enable the SHRC to raise proceedings under the Human Rights Act.

Power to Require and Compel Information

The SHRC's ability to scrutinise duty-bearers is limited when information is withheld or unavailable. Drawing on the model provided by section 15 of the Victims,

Witnesses, and Justice Reform (Scotland) Act 2025, the SHRC should be granted the power to require any information relevant to human rights compliance.

This would enhance transparency and enable more robust reporting to Parliament.

Power Of Entry

People in institutional settings (such as prisons, state hospitals, or care homes) must be able to have their human rights concerns heard directly by the SHRC. Explicit statutory authority for unaccompanied, unannounced visits would strengthen protection for these groups. This is a best practice for some National Human Rights Institutions, which allows them to detect difficult to reach groups.

Power to Conduct Investigations

While the SHRC can conduct reviews under its section 4 powers, the SHRC requires a clearer statutory basis for investigations, including a duty on public authorities to respond to its findings, similar to the powers recently granted to the Victims Commissioner for Scotland.

Expanded Powers to Conduct Inquiries

Whilst the SHRC has the power to conduct inquiries, in reality, this power is difficult to use, insofar as it has been constructed to require the SHRC to approach such a task through the lens of all duty bearers of the type in question. That is, it could not conduct an inquiry into the practice of one local authority or one health board for example, it would need to include all local authorities or all health boards in the scope of the inquiry. This would be a significant undertaking and impact on the Commission's ability to service other elements of its mandate.

Greater flexibility is needed to ensure that inquiries can be deployed where they are most needed.

3. Ways Forward

The SHRC considers that it is within the gift of the Scottish Parliament to strengthen Scotland's NHRI. This could be achieved by incorporating proposals from the Scottish Government to amend the Scottish Commission for Human Rights Act 2006. While this could be done through a future Human Rights (Incorporation) Bill in the next parliamentary session, it is important to note that a stronger NHRI and a stronger human rights legal framework are complementary but distinct objectives. They do not need to necessarily be legislated for together. Parliament could also

choose to strengthen the SHRC, for example, through a legislative proposal brought forward directly by the Equalities, Human Rights and Civil Justice Committee.

Extensive evidence already exists—from the SHRC, the Scottish Government, and broad public consultation—as reflected in the Government’s recent Discussion Paper on a proposed Human Rights Bill for Scotland.

Notwithstanding legislation during the next parliamentary session, Parliament could also consider enhancing the SHRC’s resources as a route to further strengthening the NHRI. Increased resources would enable the Commission to undertake more reviews, improve its monitoring work, issue guidance, expand human rights education, and strengthen engagement with the Parliament, thereby ensuring more meaningful human rights scrutiny and support.