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Ruth Maguire
Convenor
Equalities and Human Rights Committee
Scottish Parliament

By email

15 April 2020

Dear Convener,

I thought it would be helpful to update the Committee on some of the work being done by the Scottish Government to ensure that human rights and equality continue to inform our response to the threat posed by Covid-19.

These are unprecedented times and, as the Committee is aware, the nature of the current public health emergency has required both government and the Parliament to implement a range of measures which are themselves unprecedented in peace-time. Significant pressures are also being experienced by public authorities across Scotland, not just in the health service but also across social care, policing, local authorities and in relation to the maintenance of essential public services in general. Huge efforts are also being made by the Third Sector and wider civil society, as well as by community groups and individual volunteers throughout the country. All of that work is vital to ensuring that Scotland is able to respond successfully and collectively to the current challenge, and in a way that ensures no member of our society is left behind.

I therefore want to assure the Committee that human rights and equality are central to our Covid-19 strategy and to the practical actions we are taking.

As members know, the “Stay at Home” policy adopted last month has been underpinned by new legislation which has major (albeit temporary) human rights implications. This legislation includes unprecedented enforcement powers which enable action to be taken to restrict the exercise of fundamental freedoms and to impose penalties where the actions of individuals or groups present a threat to public health and to the rights of other members of society. That is not a step which either government or the Parliament have taken lightly and both the necessity for, and the use made of, these powers is being kept under close review. I have no doubt that other committees within the Parliament such as the Justice Committee will also wish to ensure that democratic scrutiny of these measures is both robust and effective.

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In my capacity as the portfolio Cabinet Secretary with responsibility for human rights and equality I am satisfied that the restrictions which have been imposed are compatible with our obligations not just under the European Convention on Human Rights, but also in relation to our wider international human rights treaty obligations. I am also clear that the actions we are taking have had appropriate regard to our equality duties, including the requirements of the Equality Act 2010. In order to ensure a whole-of-government approach to the challenges we are facing as a nation there has been close liaison between Justice, Communities and Local Government and Health and Sport, alongside other portfolios.

Central to our approach is a resolute focus not just on the necessity and proportionality of the measures being taken, but also on the overriding duty to uphold and protect human dignity. One of the most fundamental tests for the functioning of an effective, democratic society is the way in which it looks after the rights of the most vulnerable and marginalised in times of crisis.

I therefore want to be clear with the Committee that, as a matter of fundamental principle, all lives matter. No-one is somehow of lesser value. Every policy must “see the individual” and must focus on respecting, protecting and fulfilling the rights of everyone, without discrimination.

The implementation of that approach is what informs the careful balance struck between the temporary restriction of some fundamental civil liberties, such as the right to freedom of assembly, and the need to protect public health in a way that seeks to ensure that the right to life and the right to the highest attainable standard of health are secured for all. That has been the correct approach to take in the current circumstances and one which recognises our collective responsibility to protect the rights of all, including in particular those who are at greatest potential risk from Covid-19 both within the general population and in delivering front-line healthcare.

It also directly informs our approach to the care and treatment of the most vulnerable within Scottish society. The Committee will be aware of recent commentary in the media in relation to the treatment of older people and those with disabilities should they contract Covid-19. This is a matter on which we have been actively engaging with the Scottish Human Rights Commission and civil society partners and we welcome continuing dialogue and advice in this important and sensitive area.

I similarly want to assure the Committee that we are continuing to undertake Equality Impact Assessments and other impact assessments (including Children’s Rights and Wellbeing Impact Assessments) during the current emergency. Indeed, we are clear that the effective prediction and evaluation of impacts is, if anything, of even greater importance at a time when there is significant disruption to normal business. Recent impact assessment activity has explicitly included the new emergency legislation and will cover any future adjustment or extension of these measures.

In order to further embed our human rights and equality focus within the Scottish Government’s Covid-19 response, I have recently written to ministerial colleagues and to Directors-General to re-emphasise our commitments, and the Permanent Secretary has also underlined the importance of our human rights and equality approach in a message to staff across the whole of the Scottish Government.

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Officials supporting my own portfolio will continue to liaise closely with counterparts across Scottish Government to ensure that a human rights and equality approach is at the heart of the review, monitoring and reporting framework for current legislation and executive measures, as well as scrutinising further legislative proposals as they emerge.

Finally, I do want to make special mention of the importance we attach to the expert and informed commentary and advice which the National Human Rights Institutions and civil society organisations have been providing in recent weeks as we work together as a nation to confront new challenges.

The Minister for Older People and Equalities and I have benefitted directly from that expertise and insight, as we have held a series of virtual 'roundtable' events with stakeholders, across protected characteristics including race, gender, disability and age. We have also had specific focused discussions in relation to violence against women and girls.

That close engagement with stakeholders has also meant that we have been able to quickly direct additional funding to organisations working with equality groups, from the £350 million fund announced to Parliament by the Cabinet Secretary for Communities and Local Government, meaning that they can immediately boost their work to support their communities in the face of the current challenges.

Scotland has a proud tradition of embedding a human rights and equality approach across its legislation and policy. As a government, we are working to ensure that those values of fairness, equality and dignity continue to underpin public policy decisions. But our decisions both in government and in the Parliament are inevitably stronger and more robust when they are subjected to effective scrutiny and are informed by active and open dialogue which brings together different perspectives and expertise from across Scottish society as a whole. I know that appreciation of the wider community effort is also shared by ministerial colleagues and I wish to take this opportunity to thank all those who have been contributing so constructively to debate in a range of areas over recent weeks.

I will be happy to update the Committee on further developments in due course.



SHIRLEY-ANNE SOMERVILLE