

Supplementary evidence from Deaf Scotland (formerly, Scottish Council on Deafness), the Glasgow Council for the Voluntary Sector, the Jimmy Reid Foundation and the Campaign for Freedom of Information in Scotland

7th November 2018.

To:

Members of the Equalities and Human Rights Committee,
The Scottish Parliament,
Edinburgh,
EH99 1SP.

Dear Colleagues,

Inquiry: Human Rights and the Scottish Parliament

We are writing to you in advance of the meeting on 8th November at which you will consider a draft report on your inquiry into 'Human Rights and the Scottish Parliament'. We note that the report was originally scheduled for publication at the end of June 2018 and we realise that the terms of your inquiry as well as the range of oral and written submissions, presented a huge amount of work. However, we also believe that there are many issues of common concern and a consensus about the best way forward. Therefore, we hope that your analysis and recommendations will lead to significant change in the visibility of human rights law across services funded by public money in Scotland, and in how people experience their human rights being respected on a daily basis.

In the sectors within which we work, and the people and organisations we work with, there is mounting frustration about the gap between high level political commitments on human rights and in people's actual experiences in communities and in frontline services such as in health and social care. The frustration increases as we move from one pilot project to another, with little tangible evidence that human rights are being mainstreamed. For example, in designing services, the benefits of Equality and Human Rights Impact Assessments are clear but have not taken off despite the pilots in 2012 – 2014 supported by a range of local authorities and agencies <http://eqhria.scottishhumanrights.com/> . On delivering individual rights, the right to respect for 'home' under Article 8 of the ECHR and the right to adequate housing under Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) is again the subject of a pilot rather than clear and specific practice <https://www.scottishhousingnews.com/24297/human-rights-body-could-expand-successful-leith-housing-rights-project/> .

As we have observed the undertaking of the Inquiry as well as the flurry of reports and comments on human rights, we remain perplexed about the lack of consequences for human rights law being routinely ignored. Therefore, we would urge you to make robust recommendations that are SMART, and to establish a review process so that it is easy to assess if and what impact your Inquiry Report will make. We would also urge the Committee to be specific on training for duty bearers as well as rights holders as people need to understand the nature of their obligations as well as their rights so that Scotland is a human rights respecting society with systems in place to deliver existing rights and responsibilities.

Despite clear UK law on human rights under the Human Rights Act 1998 as well as in Scottish specific legislation such as the Social Security (Scotland) Act 2018 with its principles including 'social security is itself a human right and essential to the realisation of other human rights', there is much work to be done to ensure that human rights have the same visibility, with the public and within services, as data protection, health and safety and freedom of information. Working together to achieve change is key to the success and we look forward to working with the Committee to ensure change happens. One barrier to civil society engagement on human rights has been the lack of funding for mainstream groups to initiate engagement and knowledge sharing within their existing networks. Therefore, we hope the Committee will recommend that civil society needs to build its expertise from within rather than funding single focus organisations. Such a funding strategy will also ensure that the language of human rights is accessible and appropriate and avoids the ongoing problems of being too legalistic and abstract.

The Scottish Parliament has shown its commitment to human rights in motions debated, in laws passed and in the funding of £10 million already invested in the work of the SHRC. We are keen that existing expertise and structures are effectively used for both the public and the staff of services funded by public money.

Given the above, and drawing on our practice and experience, we believe the key areas to focus on closing the gap between rhetoric and practice are:

- Enabling and promoting a shared understanding of human rights law – shared by duty bearers and rights holders.
- Acceptance that equality law is different from human rights law.
- Agreement that human rights cover economic, social, cultural, civil, political and environmental rights.
- Promoting and supporting inclusive communication to reach people equally and to achieve change.
- A practical understanding by duty bearers of what legal compliance with human rights law looks like, on a daily basis in Scotland.
- Recognition that denying people their human rights causes problems such as poverty, poor mental health, isolation and exclusion.
- Consequences for duty bearers when human rights are ignored.
- Effective enforcement mechanisms for people and communities across Scotland – right up to seeking remedies in court in the most extreme human rights cases.
- A drive within publicly funded services to use existing tools to promote, respect and deliver best practice on human rights law.
- Oversight of human rights practice, annually, such as by Audit Scotland.
- Understanding that human rights apply to the private sector too, based on the 31 UN Guiding Principles on Business and Human Rights, and integrating this agenda within the public procurement system in Scotland. It is noted that the UK 'National Action Plan on Business and Human Rights' adopted in 2013 and updated in 2016, does apply to Scotland and the repeatedly promised Scottish version is not yet drafted.

We wish the Committee well in its deliberations and happy to answer any further questions you may have.

Yours sincerely

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