



OFFICIAL REPORT
AITHISG OIFIGEIL

Equalities, Human Rights and Civil Justice Committee

Tuesday 14 January 2025

Session 6



The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 14 January 2025

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EQUALITIES, HUMAN RIGHTS AND CIVIL JUSTICE COMMITTEE
1st Meeting 2025, Session 6

CONVENER

*Karen Adam (Banffshire and Buchan Coast) (SNP)

DEPUTY CONVENER

*Maggie Chapman (North East Scotland) (Green)

COMMITTEE MEMBERS

*Pam Gosal (West Scotland) (Con)

*Marie McNair (Clydebank and Milngavie) (SNP)

*Paul O'Kane (West Scotland) (Lab)

*Evelyn Tweed (Stirling) (SNP)

*Tess White (North East Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Professor Angela O'Hagan (Scottish Human Rights Commission)

Jan Savage (Scottish Human Rights Commission)

CLERK TO THE COMMITTEE

Euan Donald (Scottish Parliament)

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Equalities, Human Rights and Civil Justice Committee

Tuesday 14 January 2025

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Karen Adam): Good morning, and welcome to the first meeting in 2025, in session 6, of the Equalities, Human Rights and Civil Justice Committee. We have received no apologies.

Our first agenda item is a decision on taking item 3, which is consideration of today's evidence session, in private. Do we agree to take that item in private?

Members indicated agreement.

Scottish Human Rights Commission

10:00

The Convener: Our second agenda item is our annual evidence session with the Scottish Human Rights Commission. I refer members to papers 1 and 2. I welcome, from the commission, Professor Angela O'Hagan, its chair, and Jan Savage, its executive director.

I invite Angela O'Hagan to make a short opening statement, after which we will move to members' questions.

Professor Angela O'Hagan (Scottish Human Rights Commission): Thank you very much, convener. It is a huge pleasure to present the Scottish Human Rights Commission's annual report to the committee for the first time since I became chair of the commission. I took up the post at the end of August, and it has been a privilege to enter the organisation and to front the excellent work programme that I inherited and the strategic plan, as presented and reflected on, in part, in our most recent annual report.

At the Scottish Human Rights Commission, we continue to focus on delivering our strategic plan, which was submitted to the Parliament in 2024, and on our work in our key priority areas: poverty, places of detention, access to justice and the rights of specially protected groups. We do that work guided by the core principle in our strategic plan of recognising the human standing beside you, as well as by our core values of accessibility, independence, universality—with everyone's rights being upheld—education and engagement, and being an authoritative, expert and trusted organisation through our strategic objectives of purpose, people and performance.

We are a small, dedicated team of commissioners and staff, and it is our collective privilege to serve the people of Scotland in securing their rights and contributing to advancing a human rights culture in Scotland.

Our annual report for 2023-24 covers the transition from the hope of advancement of human rights incorporation to the disappointment about the Scottish Government's decision not to introduce an incorporation bill, despite the years of stated commitment and the huge levels of engagement from civil society organisations and technical advice from the commission. Following the decision on the bill, we gave evidence to this committee and met the First Minister and other cabinet secretaries. We copied our letter to the FM to you, convener, to share the range of proposals for action beyond a singular focus on an

incorporation bill, as we believe that the incorporation project is wider than that.

The 2023-24 annual report covers a period of significant development and reset for the commission. New commissioners, who acted as rotational chairs throughout last year in addition to carrying out their own roles, have been settling in, and I record my personal appreciation of their work and achievements. Commissioners, staff and the Scottish Parliamentary Corporate Body have committed to the recommendations and onward change programme set out in the governance review, and the SPCB has shown its confidence by resourcing our next steps in that regard. The commissioner code of conduct and code of governance have been formulated and approved, and both are fundamental to the effective governance and operation of any organisation, especially a national human rights organisation that acts in accordance with its domestic mandate and international principles. We have also had positive engagement from our independent chair of the audit and risk committee, a clean and commended audit and positive engagement with the Parliament's independent evaluator.

Our 2023-24 annual report gives a glimpse of the huge range of work that is conducted by the commission, including pre-legislative scrutiny, international and domestic treaty monitoring and growing our evidence base on rights denials for rights holders and persisting accountability gaps for duty bearers. The report highlights the impact of our spotlight work, which was initiated in 2024, with reporting through 2024-25. Our work on economic, social and cultural rights in the Highlands and Islands has generated huge public and media interest, as well as political engagement, including through a members' business debate this week.

I still feel very new in post and my induction is on-going, but I am clear that I have come into a vibrant and purposeful organisation that is committed to rights realisation for all and to building our reach and capacity for that purpose. We have many challenges ahead this year, but we are in a strong position to respond positively to them and to proactively advance our strategic objectives, as agreed by the Parliament. We look forward to continuing that relationship with the committee.

The Convener: Thank you very much. We will move to questions. You touched on a few of your priorities, but what are the commission's top priorities for 2024-25, and on what basis were they set?

Professor O'Hagan: Our priorities are set out in our strategic plan covering 2024 to 2028, which we produced last year. In generating the evidence base that informs our policy positions and our

legislative and pre-legislative analysis and scrutiny, we are continuing our focus on access to justice. In July last year, we produced our places of detention report "Review, Recommend, Repeat", which highlighted that, over a 10-year period, international treaty monitoring and domestic monitoring bodies had come up with a set of 29 recommendations for action, 24 of which remained outstanding. We continue to press for change and action on those recommendations relating to places of detention.

Flowing from our other research work and analysis, and through our work with rights holders and their families, we are exploring further questions about the efficacy of, and the justice that is delivered through, the fatal accident inquiry system. We are having a considered look at orders of lifelong restriction, and we will shortly produce a set of prison rules for prisoners. Therefore, we are continuing our focus on access to justice across a range of places of detention and other settings, as well as providing information and advice on access to justice.

Our spotlight work is continuing, and our priority is rolling out our work on economic, social and cultural rights in the Highlands and Islands. We plan to revisit communities across the Highlands and Islands—that will involve the chair and commissioners as well as staff—in the next couple of months. On the basis of the framework that we have developed, with a particular spotlight focus on economic, social and cultural rights, we will roll out that programme and approach to research throughout the south of Scotland.

We are scoping out our next spotlight report, which will be on poverty, and we are thinking about how we encompass our other strategic objectives on addressing the conditions of particularly marginalised groups, including disabled people and Scottish Gypsy Travellers. We have a separate piece of work that is looking at the cultural identity of Scottish Gypsy Travellers and, in particular, the long tail and harmful legacy of the tinker experiment, as it was called.

Our priorities encompass a range of rights, and we are working through them in order to generate an evidence base for you, as parliamentarians, to use in upholding, interrogating and promoting human rights. We are building that evidence base as part of our domestic monitoring and to inform our international monitoring.

The spotlight approach is a dual-track approach. Whether it is our work on places of detention or our report on moving towards deinstitutionalisation, with a focus on the experiences of people in long-term care—which we will launch in a couple of weeks—we use recognised international rights frameworks to assess, through a diagnostic framework, the

extent of current practice, the gaps in duty bearers' practice, the gaps for rights holders and what duty bearers can do to improve the situation. We constantly take that dual approach, because our mandate is to raise awareness and to promote and educate people on human rights in order to bring about transformational change in rights realisation for all.

Those are the priorities that stem from our strategic plan. We have external priorities that require us to be agile and responsive to parliamentary business, including committee inquiries, and we have the external cycle of our reaccreditation through the Global Alliance of National Human Rights Institutions.

Our strategic priorities were set through a series of public engagement and public consultation events throughout 2023-24. Therefore, those priorities were informed by the experiences of rights holders and the evidence base that we are generating and which is available to us on rights gaps in Scotland, and they were set in consultation with members of the Parliament and members of duty bearer organisations.

Jan Savage (Scottish Human Rights Commission): Angela O'Hagan has eloquently captured the commission's human rights outputs. We continue to strengthen the operations of the commission as a well-functioning public body and an effective national human rights institution. The committee will be aware that we commissioned and concluded an independent governance review in 2023, and about 80 per cent of the review's recommendations have been implemented. The development of the code of governance, which is now published on our website for full transparency, was one of the review's primary outcomes, as was the recruitment and induction of our new chair.

A few elements require to be prioritised, including structural elements relating to leadership in the commission and the completion of our leadership team. With the support of the SPCB, we have secured some additional contingency funding on an interim basis to take us forward this year and allow us to—for the first time in about 17 years—look at the commission's structure, operation and skill set, so that we can deliver the new strategic plan.

As Angela O'Hagan said, the shift in the strategic plan was informed by in-depth and detailed engagement with rights holders, communities, civil society and the Parliament. There will be a shift from focusing on raising awareness of human rights, which the commission has done very successfully since its inception, to focusing on the accountability gap and how the commission's powers and functions can be greater utilised to assist in that regard. That requires us to

look again at our structure and how we operate. That is the final part of the delivery of the governance review, which we are on schedule to conclude.

The final part of strengthening our operations is about participation and creating the conditions for people to engage with and inform the commission's priorities. We will shortly publish a new participation strategy, which has been informed by people, and we are piloting mechanisms to make good on meaningful participation opportunities through the commission's work. For example, we are piloting a payment for participation scheme for individuals with direct experience of the rights violations that we are exploring. They will work alongside us and inform our monitoring work and our recommendations for duty bearers on what could be improved.

Quite a lot of transformation in the commission is coming good, and we will continue to focus on those areas in the next 12 months.

Tess White (North East Scotland) (Con): I have three questions on the top priorities—two for Professor O'Hagan and one for Jan Savage. It was good to hear you say, Professor O'Hagan, that, in your work, you are responsive to parliamentary business. I see this meeting as a check-in point with this important committee.

In the past, you have spoken about the importance of having

"a safe home ... decent food and good health and social care".

Those are some of the key and important themes that we have been working on as a Parliament. However, given that we have the worst statistics on record for homelessness and poverty, with 40,000 homelessness applications in 2023 and 2024 and more than one in five Scots currently living in poverty, and given that hundreds of thousands of people are languishing on national health service waiting lists, is Scotland moving backwards on human rights?

Professor O'Hagan: In our spotlight report "Economic, Social and Cultural Rights in the Highlands and Islands", we highlighted the extreme conditions that individuals across the remote and rural parts of our country experience. We covered the huge distances involved, the interrelationship between housing, employment opportunities, available healthcare and so on, and the impact that all that has on building family life, as well as economic security for communities and individuals.

In our submission earlier last year to the Council of Europe on the cost of living crisis, we highlighted a range of ways in which individual

incomes are not keeping pace with rising costs, the impacts of the cost of living crisis and the challenges faced by people in that regard, as has been extremely well documented by disabled people's organisations. We have expressed, including to this committee, the challenges for people in making decisions between eating and heating.

10:15

Is Scotland getting worse? The answer is partly emerging in our evidence base and as we take a human rights-based approach. That has been possible for a long time, but neither the Parliament nor the commission has approached it in the way that we are approaching it now, which is to say, "These are the requirements of the International Covenant on Economic, Social and Cultural Rights, as supported by other conventions, and these are the ways in which those rights are not being met."

We are looking at the adequacy, availability, affordability and quality of housing, access to food and clothing and so on, and we find those elements of individual rights to be lacking in a number of areas. The Highlands and Islands report has spotlighted that very effectively, and we hope that members will engage in highlighting that and addressing the issues, and that members will make proposals on how to reverse some of the issues in the debate in the chamber on Thursday.

As I said in my opening statement, we will be scoping our next spotlight project, which is on poverty. We are currently working through how we will approach that work and considering whether it is on a thematic or geographic basis or in relation to particular groups or particularly marginalised individuals. It may well be a combination of those things. In doing that, we will consider our strategic aims and purposes and where we can add value by producing evidence that is framed in a way that maybe has not been done previously. We will also consider what legislative or other policy opportunities there are in the remainder of this parliamentary session, although our poverty spotlight will not be published until the end of the year or into next year, so we will be looking to the next parliamentary session in that regard.

In the remaining period of the current session, there is a lot that the Parliament could continue to do, such as looking at legal aid and looking across the budget at where resources are being allocated in a way that respects, protects and fulfils individual rights and addresses the gaps in those rights that our spotlight reports and other evidence continue to address.

Tess White: So, safe homes, decent food and health and social care are still in your top priorities.

Professor O'Hagan: Absolutely, yes.

Tess White: The point about the study that you did leads nicely on to my second question. As a north-east MSP, I am especially interested in rural proofing, and the committee has discussed that issue at length. When Dr Alison Hosie represented the SHRC at a meeting of the committee in October last year, she spoke powerfully about the issue. Your work in the Highlands has identified significant gaps in the realisation of economic, social and cultural rights. Dr Hosie highlighted big issues around access to healthcare, for example. It is clear that a lack of rural proofing by decision makers in Edinburgh is having a hugely detrimental impact on rural communities.

Will you say a bit more about the SHRC's work in this area and the engagement that you have had with the Scottish Government on the importance of rural proofing?

Professor O'Hagan: The spotlight report "Economic, Social and Cultural Rights in the Highlands and Islands" takes the requirements of the International Covenant on Economic, Cultural and Social Rights and sets out the framework of what is required in those rights. That is applicable not just in rural areas but, as you well know, in rural areas there are additional dimensions.

In discussion with duty bearers, including the Scottish Government, we very often get the response, "Well, there are additional complexities and challenges in a rural area." However, if you take a human rights-based approach from the outset and set out the absolute minimum that people need to have, that has to be your starting point, rather than taking a one-size-fits-all approach and then retrofitting some access to rights, or wringing your hands and saying, "I'm sorry, but we can't do any better with the resources that we have."

If you take a human rights-based approach to policy making and resource allocation, you set out to respect, protect and fulfil the rights of everyone. That requires a significant change in how our public authorities—who are duty bearers—think about service design and delivery and how they engage with people. It means understanding that meeting and realising rights for everyone across our remote and rural communities will require differences of approach. We hear from other members who represent rural and remote constituencies that they have been making representations on the issue to Parliament and to the Scottish Government for some time.

There is a disconnect between different levels of Government, but there is also a clear absence of what we would call a golden thread running through levels of Government around awareness-raising on rights and accountability. With our

evidence, we are providing greater accountability and pointing to where the Parliament and the committee can make other duty bearers more accountable for how they think and where the absences are in their thinking that mean that they fail to address and put front and centre the realisation of people's rights. That is the approach that we advocate.

Tess White: I will come back quickly on that point before I go on to my third question. On primary healthcare, under the 2018 general practitioner contract, rural areas are massively negatively affected. I raise that issue because of the huge number of practices that are closing, threatening to close or handing back their contracts. Primary healthcare is at the front end of our health and social care system. Do you have any comment on that?

Professor O'Hagan: The report on the Highlands and Islands highlighted the effects of closing practices when GPs retire or when health boards are unable to recruit GPs. That has an effect on people moving into or being able to stay in the areas. Just by coincidence, we launched our Highlands and Islands report on the same day that the Scottish Government was talking about sustainable communities.

There is a need to see those communities in the round and to understand that healthcare, access to economic and educational opportunities and appropriate, adequate and accessible housing are all part of the package. That means duty bearers having to think about things differently. As I said to the committee prior to taking up my role at the commission, over the piece of devolution, despite the existence of a range of public sector equality duties and of conventions, which existed even without the incorporation legislation, there has not been that practice of human rights assessment. That is why we see things such as the closure of maternity services in the far north, which has huge effects on women's health and healthcare.

If practice were improved in the approach that duty bearers take to policy making and to carrying out human rights impact assessments and human rights analysis, and if they saw the obligations as enablers that frame how policies and services can be designed in the first instance, we would see a very different approach to policy making, resource allocation and resourcing requests.

Tess White: My final question is for Jan Savage. The SHRC's annual report highlights evidence that, after experiencing violence,

"women's experiences of accessing support are falling short of the national strategy and undermine Scotland's compliance with international human rights obligations."

Will you expand on that observation? How will the SHRC work to ensure that survivors of violence

are not being failed by the Scottish Government and the system that is supposed to support them in their time of need?

Jan Savage: The evidence base for that statement has arisen from our monitoring of the Convention on the Elimination of All Forms of Discrimination Against Women, as part of our international treaty monitoring approach. This past year, as part of the new participatory approach in the commission, our staff team worked alongside individual female survivors and services that provide support and took a deeper dive into what the lived experience is really like and what the experiences are. On that basis, set against the international obligations, we made the assessment that informed that statement.

Our role is to highlight that, as we have done, through an increase in accountability structure. Through our monitoring role, we continue to raise that issue with Government and committees of Parliament, and we continue to monitor that. As a commission, we do not have the bandwidth to make the change, but we have the role and remit to continually assess against the international human rights standards and obligations. Increasingly, the way that we do that is through direct conversation with individual women and communities who are affected. If we do not see sufficient progress, that will inform future priorities and would be a matter for the commission to consider.

Tess White: It sounds as if it is a huge crisis now and women feel that they are being let down. Monitoring is very important, because you cannot manage what you do not measure, so you are measuring, but how are you making sure that the issue is front and centre as one of the Scottish Government's top priorities?

Jan Savage: We want on-going engagement with the Scottish Government on the implementation of recommendations. There are two routes for us to do that currently. One is through the concluding observations in the international human rights monitoring system. The recommendations there are more general and are for state parties. In this case, that is the United Kingdom Government but, in Scotland, those responsibilities are discharged by the Scottish Government. We monitor that.

We also have regular conversations at official and commission level with cabinet secretaries and team officials on progress. Increasingly, we would like to take the human rights monitoring frameworks that you see through our monitoring and work directly with committees of Parliament, to ensure that there is robust and transparent accountability on what progress is being made. If sufficient progress is not being made, our strategic priorities have created flexibility for the

commission to decide where rights may be most at risk and then, under the spotlight model that we have developed, to go into further detail. That is not to say that the spotlight programme will focus on that issue, but there is latitude and space for the commission to consider that on an on-going basis.

Tess White: Professor O'Hagan has indicated to the convener that she would like to come in. One of the issues that has been raised with the committee is legal aid, and we are considering the Regulation of Legal Services (Scotland) Bill. That issue is front and centre as well.

Convener, can Professor O'Hagan come in?

The Convener: I am happy for Professor O'Hagan to come in.

Professor O'Hagan: I just want to make a small point about the recommendations of the 2023 strategic review of services, and the financing of services, relating to violence against women and girls, of which I was a member. The review made a series of recommendations about funding, the shape of services and the process by which services are provided for a range of victims of sexual violence. That strategic review took a human rights-based approach, saying that it was a matter of the realisation of rights from a universal, non-discrimination and non-regression perspective.

Those recommendations were made to the Scottish Government in 2023. Although the review group does not exist any more as a strategic advisory body, the individual members have nonetheless kept up an interest in the extent to which the Scottish Government has engaged with and progressed the recommendations in the report, and the commission also has a watching brief on that. It is fair to say that progress has been slow and limited at best.

That is another case in which a road map for improvement in service delivery has been provided, and where we have engaged the good will and experience of a number of individuals and rights holders, but where we see progress stalling.

Evelyn Tweed (Stirling) (SNP): Good morning. Thanks for all your answers so far—they have been very helpful.

I want to build on some of the points that Tess White asked you about in her quite wide-ranging questions. How does the commission currently measure success across its outcomes? I know that you are looking at the theory of change tool, but what difference will that make when it comes in?

10:30

Professor O'Hagan: Thank you very much for your question. I will turn to my notes to ensure that I do not get anything wrong.

There are lots of ways in which we measure our success and impact. I will come on to the theory of change, which you mentioned, but, as you would expect, we have a range of management tools and matrices. We have a whole set of key performance indicators, for example, and we also have the oversight of the commission itself, with regular meetings at which we consider a range of standing reports on our performance against strategy and against our objectives. We have a quarterly review of that. We also have an audit and risk committee that maintains oversight of our risk register but that also looks to audit our performance in relation to our resources as well as against strategy.

I will let Jan Savage talk about some of the next steps with the theory of change, but I think that it is a very innovative approach for an organisation such as ours. Our vision is of

"A fairer Scotland where human rights are respected",

protected and fulfilled, and our rationale for taking a theory of change approach comes back to our commitment to measuring our contribution to human rights in a very complex institutional environment, as well as examining where the duties land and lie. We worked with an external consultancy to come up with our own theory of change, but the idea behind it is all about looking at how we connect our actions to our outcomes. Is what we are doing making a difference? What difference are we making in realising human rights in Scotland? The approach provides a framework for monitoring our progress in that respect.

As I have said—again, Jan Savage will talk about this—we have a whole range of ways in which we record our engagement, our conversations and the changes that we are or are not seeing against particular policy asks, legislative changes and so on. We are asking whether we are seeing a difference in how people are talking about human rights, how they are engaging, who is engaging with us and whom we are engaging with. How are we recording that? Are we seeing a change in the numbers of inquiries to us or, indeed, our coverage in the media and other outlets?

I will let Jan Savage talk about the operation of that, if that is okay.

Jan Savage: As Angela O'Hagan has said, we have a number of metrics for monitoring not just how we are progressing with delivering our planned outputs but what is happening as a result, aligned with the vision in the new strategic plan. Over the past year, we have been focusing not

just on what has been delivered but on how it has been developed. Has our work been informed by people and their experiences? Do those people feel better informed and empowered about their own rights, so that there is greater agency among communities and people to act as human rights defenders in their own right? What level of engagement has there been, particularly with the duty bearers who are required to make the change happen? What has happened in Parliament as a result of our evidence?

Those are the sorts of things that we look at. We monitor how often Parliament references our evidence and work, and we are pleased to see an increase in that over the past 12 to 18 months, particularly as we have been producing more domestic human rights monitoring work to assess what is happening on the ground and, in turn, to inform parliamentary debate. That all happens on an annual, business-as-usual basis.

As a public body with a long timeframe, we have invested this year in the development of a theory of change, which is all about taking a much longer-term look at culture change and how human rights in Scotland are being respected, protected and fulfilled at all levels. Indeed, we are committed to that approach, having been investing in it for a number of years now.

The process that sits underneath it is quite exciting if you are into technology, which not everyone is. We now have a stronger system that will allow the team to constantly record impact and to make all this just part of the conversation in the commission. We are encouraging feedback from all our stakeholders about how they are receiving our work. Is it more accessible? Is it useful? Has our evidence given some detail on accountability? Not only that, but how useful are these frameworks proving to be? After all, it is a new approach for the commission to take international standards and apply them to a framework that can be utilised. First, is that approach making sense, and secondly, is it being used and will we see a difference along the way?

The theory of change will be a public document that will be published either at the end of this financial year or possibly at the very start of the next. We do produce an annual report, but increasingly that report will draw its data from the evidence base provided through the theory of change tool.

It is a different approach. We are very interested in it, and we will continue to provide evidence on that basis to the committee.

Evelyn Tweed: That is great. Thank you.

What would you say your biggest successes have been in the past year?

Professor O'Hagan: Oh, how long have we got? [*Laughter.*] I think that there have been a lot of internal wins that are perhaps not immediately visible. Again, Jan Savage will come in behind this, but it is very important that our national human rights institution is a robust, high-performing and vibrant organisation where people want to be and work.

We have seen a lot of change. Jan Savage mentioned the governance review, which marked a moment in time. We have changed significantly over the past year; indeed, from the few short months that I have been in this post, I can tell you that one of the things that is changing—and not just because I am out and about as much as I am; it has been a very busy few months—is that our work programme is really biting when it comes to our external presence and profile, our engagement with rights holders, our engagement in consulting with duty bearers and, in turn, their positive response to our work. We have had very positive responses from duty bearers across the Highlands and Islands, for example, who have been saying, “We recognise the state of affairs that this report has highlighted, and we want to work with you on how we can improve, how we can get things right and what we need to do.” That will be a big part of our focus in our visits across the area in February and March.

As for our big successes, I would highlight our spotlight reports, which colleagues presented to the committee this time last year as the programme of future work. They are being delivered across our legal, policy, monitoring, research and communication teams in a way that is encouraging new ways of working within the commission. Colleagues see the impact of their work when rights holders are communicating directly with us, saying that they feel listened to, heard and seen and that we are amplifying their voices. For me, that is one of our biggest measurements of success. I talked in my opening remarks about recognising the human standing beside you. That must be the guidepost of the way in which we work as the national human rights institution—that we stand alongside, bear witness and amplify voices—and I think that the spotlight reports show that.

We have published reports on places of detention and economic, social and cultural rights in the Highlands and Islands, and, in a couple of weeks' time, we are publishing a report on deinstitutionalisation and coming home for people with long-term care needs who have for a long time been experiencing care in inappropriate settings. Again, we are challenging the process of the coming home fund and the efficacy, appropriateness and adequacy of care settings.

That way of working, with a group of human rights defenders involved in shaping that research project and measuring the change, has been a fundamental shift for the commission. Our working with people experiencing care, their carers and family members as well as service providers and other human rights analysts and activists marks a very important shift, and I would count all of that among our big successes.

Evelyn Tweed: As part of your work, you have been setting the agenda by communicating human rights issues in Scotland across TV and radio as well as online. How are you measuring the impact of that on public awareness and the understanding of rights? I know that it is probably not that easy to answer that question.

Professor O'Hagan: I will let Jan Savage speak to this, but we do have our own benchmark baseline data on public awareness. The level of such awareness is not where we would want to see it, but we are absolutely engaged with the issue and, indeed, want it to be a collective endeavour with Parliament, as the ultimate guarantor of human rights, to promote awareness of human rights and their being about everyday experience.

Perhaps I can explain some of this with an anecdote. When we launched the Highlands and Islands spotlight report, one of the first questions I was asked on national media was, "Why are you looking at human rights in the Highlands and Islands? Normally people think of human rights as being remote, far away and even a bit exotic. It all seems a bit mundane to talk about food and clothing." We need to realise that, when we talk about human rights, we are talking about people's everyday lives and the conditions in which they live them. If people cannot access food, clothing and housing in Scotland in 2025, that is a serious human rights issue.

That has to be amplified. As the NHRI, our role is to amplify the voices of people who are experiencing those human rights denials; however, Parliament, too, has a role in setting that agenda, in being more challenging and in demanding that, in whatever comes through it, rights are being respected, protected and fulfilled. Jan Savage can talk about this in more detail, if that is okay, but in our management matrices as well as our public research, we do, as you would expect, engage in a lot of media monitoring.

Jan Savage: I will be very brief. We do monitor that, and we have been very pleased with the indicators that are coming through. For example, our metrics tell us that the media coverage that the Highlands and Islands report has generated has been beyond anything that we have experienced in the commission before. I am talking about not just the coverage that the report and its findings

has received, but the discussion pieces, the editorials and the self-generated content that it has prompted at a United Kingdom level. Indeed, national outlets such as Channel 4 News and *The Spectator* have picked it up and done pieces on it. Those are places where human rights in the Highlands and Islands of Scotland would never have been discussed or even considered before.

We have also seen the impact that the report has had in this building, which is an important indicator for the commission. It has been raised by numerous MSPs on a cross-party basis at First Minister's question time, with a debate in the name of Rhoda Grant scheduled for later this week.

For us, that is a very strong indicator of the commission's first strategic priority with regard to its purpose. As an SPCB-supported body, our role is to provide such evidence through a strong and solid human rights framework for Parliament then to take forward as the ultimate guarantor of human rights. It is still early days, but that is the exciting thing about this new strategic plan; we can monitor impact in those specific ways, and the early indicators this year are positive.

Evelyn Tweed: It is very positive to hear that, because of this work, people are thinking about human rights in a different way. They are not something far away, as you have said; they are really basic and are all about, say, food, poverty and other obvious things. It is therefore great to hear what you have just said.

You have touched on this already, but my final question relates to your comment that you are going through a period of transformation. You have a new chair in Angela O'Hagan; indeed, she has been in post only since August, so she is actually very new. Has that had any real impact on your future priorities, or are you just working through all the various changes that you have talked about?

Jan Savage: In 2023, the commission took the decision to engage on, develop and then stick with a timeframe for developing a new strategic plan, with the aim of laying it before Parliament by 31 March 2024. It then went through an extensive and rigorous process, engaging with a variety of different stakeholders, and that has led us to where we are with the priorities that have been achieved. The policy environment has been quite turbulent and febrile, too, which has presented some challenges for us to navigate.

I would say that, since I joined the commission and under the current set of commissioners, the commission's vision has been emerging from as far back as 2022-23, and we have been progressing with exploring and examining the shift from awareness raising and then education, which have been critical functions, towards

accountability. That has been a constant theme, and our on-going work to shape the commission's limited resources for investment in the necessary skills, training and resources is now paying off. The staff team have been engaged in the commission's vision, and there has been a whole-commission approach to deliver on that shift. Of course, the commission, led by Angela O'Hagan, can at any time decide to have another look at the strategic priorities, although we already review them on an annual basis.

Angela can provide her own reflections on this, but the vision has been consistent thus far. We have been reassured by the evidence that we are receiving from people and the Parliament. Indeed, as you have just said, it is good to hear that people are responding well to the type of work that the commission is delivering, the way in which we are delivering it and the usefulness of our outputs. As long as that evidence continues to come through to the commission, it will continue to inform our priorities.

10:45

Professor O'Hagan: Since I came in, things have been very busy. We have had to respond to the human rights bill—or no human rights bill—situation and acknowledge the immense efforts of civil society organisations, which were hugely involved in that process. We have seen some of the impacts on civil society, too.

As far as our own organisation is concerned, it is always an extra stretch for the staff team to support a new chair through their induction in the middle of a very busy delivery programme. However, there is a sense of excitement and vibrancy in the commission, because of the nature of this work. Our work is still absolutely guided by the delivery principles of being ambitious, curious and accessible, but we are now seeing its effects and impact. Colleagues who were the lead researchers on the Highlands and Islands project or on the towards deinstitutionalisation and coming home project really feel that their work is making a difference.

As for sticking with our strategic priorities, we have, as we have already discussed this morning, various mechanisms to ensure that we are working to our resource base, which is limited. We are also working within the limitations of our mandate in relation to providing individual advice; we cannot provide or offer individual legal advice, and our powers of inquiry and intervention are limited. As a result, our strategic priorities, as Jan Savage has said, run from awareness raising through to accountability.

Something that always guides our work is the “so what” question. In other words, you might have

a series of recommendations and some legal analysis, but the question is, what difference are they going to make? What actions will be required of Government or other duty bearers? Who needs to do what? It is all about bringing it back to accountability. Indeed, I hope that that is what you, in Parliament, are seeing.

We need to be agile and responsive to the external environment while holding true to our own mandate and our own principles. We set our own agenda—it is not set by Government or, indeed, by Parliament—but we need to be agile and responsive to any changes and opportunities that arise.

Maggie Chapman (North East Scotland) (Green): Good morning. Thank you for joining us and for your comments so far. Just so that everybody is aware, as a member of the Scottish Parliamentary Corporate Body I am familiar with some of what has already been talked about.

I will follow on from Evelyn Tweed's questions about the shift that you talked about from awareness raising and education to accountability. Angela, you came in a few months ago to a set but new strategic plan. Were there things that you looked at and thought that the commission still needed to do—perhaps things that it had been doing previously or things that just had not been done? In the on-going review of priorities, how do you make sure that you are capturing the stuff that you would have put in the strategic plan had you been chair when it was developed?

Professor O'Hagan: I am smiling because I am thinking of the looks on people's faces when I say, “What about this and what about this?” Of course, a new person comes in with external, fresh eyes and enthusiasm and drive, but I came in to a new strategic plan that was covering many bases. The way of working in the strategic plan is so much more than the areas of our strategic priorities, which, in and of themselves, are robust, well-informed and evidenced. So no, I probably would not have changed them, because we need to take an intersectional, analytical approach and an evidence-informed approach to all those things. In terms of poverty, we are exploring with and for the rights of disabled people, the rights of women and the rights of racially marginalised individuals. We have done a lot of that through the international treaty monitoring work. Again, that is generating the evidence base.

What changes might I have made? In all honesty, I think that there is so much to do in the strategic plan that was agreed, and, at a time of organisational change, it is important, as the chair, to bring not more disruption but more stability to an organisation that is in change. As I said, our delivery principles are about being ambitious and curious and about ensuring accessibility and that

we are respectful of the institutions that we work with to change on behalf of rights holders.

One area where we look for more change is around our mandate and powers and the use of our existing powers. As we are working through what we have as our established strategic priorities, we are, of course, as a commission—myself and the other commissioners, with the support of the staff team—thinking about how we are making best use of our existing and limited resources and limited powers. Yesterday, the commission had a lively and engaged discussion around our next steps, thinking through our powers of intervention and what they might look like and what they might mean. We are certainly very limited in terms of powers of inquiry and investigation, so the question is how best we can use our limited resources with a very small staff team and in a way that is not overburdening that team at the same time as we are going through changes. There is a lot in the mix. Coming in as chair, it was important to be steady as she goes, but that does not mean that we lack ambition, vision and curiosity.

Maggie Chapman: Thanks for that. You talked about mandate, and there are some questions on your existing mandate and powers. The commission has previously said that there is very limited use of powers of inquiry, both in terms of whether the commission has used them and also what you could do with what is there. I do not think that you have done very much litigation work in recent times. Could you give us a sense of how the work that you have been able to do, particularly the spotlight work, relates to and opens up the possibility of our thinking more broadly around your mandate? Obviously, we want to have that discussion as part of the human rights bill, but are there things that we could push to the boundaries of what exists, to make sure that, either through litigation or through inquiry, the excellent work that you have done—such as the spotlights or the work on prisoner rights—can follow through to something meaningful and with that strand of accountability running through it?

Professor O'Hagan: Those are very live issues for us. The revision of our mandate to ensure that our powers are those required of and necessary for an effective and robust NHRI, as set out in the Paris principles and as set out in the accreditation process, and the need to retain and maintain our A status as an NHRI are very front of mind as our accreditation cycle rolls around this year into next.

In the past, questions have been raised about the extent of the mandate as contained in the legislation and the extent to which that is effectively resourced. We are working within that mandate and limitations in the powers of inquiry and investigation and the resourcing structure that

is at odds with the very expansive nature of the powers of inquiry and investigation. I suppose that it could be explained by saying that the requirements somewhat dwarf what we are able to do with the staff team and resources that we have, because “inquiry and investigation” has a very particular meaning in the act and would be a very expansive and inclusive approach.

You used the phrase “pushed to the boundaries.” It is as though you have been part of our internal thinking, because that is absolutely where the spotlights take us. They take us right up to the edge of a full-blown inquiry into individual organisations. Turning a spotlight on how rights are being realised or not for particular communities takes us into the territory of touching on and highlighting the responsibilities of duty bearers, but without investigating individual organisations.

Our strategic litigation and intervention powers are quite limited. I cannot comment on why the commission did not previously use them, but it is certainly a live issue for us, for me as the new chair and for my fellow commissioners. As I said, just yesterday we had a very lively discussion about types of intervention and what our strategic decision-making process is around intervention. We also have limitations on where we can intervene. We have to ensure that there is no duplication, if others are intervening in relation to human rights matters, and, indeed, that it is not a devolved matter. There are certain limitations around intervention that we are well aware of and that require careful navigation. We are in the process of working through our decision-making framework for ensuring that we can be agile and responsive, because, as much as we can horizon scan and see what is emerging from others, opportunities for intervention often arise quite quickly. We are very engaged in how to ensure that we are agile and responsive to what opportunities arise and what opportunities we can engage with.

Maggie Chapman: Jan, do you want to say something about the historical use of litigation and where it might be useful in the coming months or years?

Jan Savage: Absolutely. I have been with the commission for just two years. Those powers of inquiry certainly have not been used in the commission's history and there has been limited exploration of the potential of the strategic litigation opportunities. However, the commission has now taken a strategic shift to be more focused on accountability, and the evidence base that is coming through the spotlight programmes in particular is creating opportunities for those papers, as they did yesterday, to go to the commission to say, “What next?”

Yes, we can continue to monitor and we can establish what progress the state has made in response to our recommendations and our evidence, but, ultimately, if sufficient progress is not made or if our spotlight programme is uncovering violations that we believe to be completely egregious, it would be beneficial for the commission to have a broader suite of powers to enable it to take action. For example, own name litigation powers would mean that the commission, on behalf of an individual affected by an issue, could raise court action against the Scottish Government or other duty bearers to test the law. That would not need to be done frequently. It may not need to be done at all if everyone knows that that is an option, but it is not currently an option for the commission. As a result, the legal system in Scotland and the commission have not really tested the potential of that as fully as it could be tested.

I would point to the forthcoming report on deinstitutionalisation and the progress that Scotland has made—or otherwise—towards that. We know that there are individuals who have been in state detention for reasons of social care not having been provided for decades, in some cases. If the commission is concerned about that, there is very limited action that it can take through its current mandate beyond advising the Parliament of the matter. Even our powers of inquiry are quite limited in that scope and not particularly useable. In short, we continue to monitor, and the active direction of the commission is to look at that and to consider how far the current mandate could be utilised to test those cases and issues through the court system.

We also continue to highlight where the gaps are in the mandate, and there are live opportunities for the Parliament to consider that through the inquiry and potentially through a forthcoming human rights bill in the next parliamentary session. A bill is one of the critical routes that the Parliament could consider to improve human rights realisation in Scotland, undoubtedly.

Maggie Chapman: That is helpful. In some ways, there is quite a big conversation around the litigation powers, particularly if the non-overlap remains, because obviously there need to be mechanisms of communication and information-sharing with other organisations, whether they are commissions or have responsibility to check or bear duties. There is quite a complex system that we maybe have not got to grips with yet, so that is an on-going conversation.

My next question is about Scotland's national action plan 2. I know that Scotland's national action plan for human rights runs to 2030 and that the Scottish Government owns that. Tell us a little

bit about what role that plays. You have spoken already this morning about ensuring that you are responsive and that you scan potential issues. How do your strategic priorities fit in and dovetail with SNAP 2? Where are the points of friction, if points of friction exist? I do not know who wants to take that first.

11:00

Professor O'Hagan: I can start and Jan Savage will come in with the detail, I am sure. Members will be familiar with SNAP and its multiple recommendations, which dovetail effectively with our own strategic plan and strategic objectives.

The momentum of SNAP 2 has dissipated significantly, and only in recent months has there been renewal of activity in and around SNAP 2. SNAP is another area where the Scottish Government has sought to lead the agenda-setting process. That was done through a process of extended engagement with rights holders and duty bearers, informed and developed by civil society and people's everyday experiences, as well as some support from the commission, in so far as the commission previously hosted the secretariat for the SNAP process and commission staff members were involved in various bits of the infrastructure of the SNAP process. We stepped back from being co-chair of the process a while ago—that predates certainly me and possibly Jan—around the time of other changes within the commission.

It depends on what you mean by friction. Friction can be confrontation or it can be positive engagement. We look for that positive engagement. SNAP 2 dovetails and overlaps with our own strategic objectives, which, of course, are in those areas of the accountability of duty bearers and the completion of actions pending—so, back to accountability. Many of the actions in SNAP 2 continue to apply to duty bearers across the public sector.

In terms of how legislation and policy are produced, it is about what participation, engagement and consultation there is. The actions in SNAP 2 mirror our own ways of working as well as how we shift our ways of working and how we seek to encourage the Scottish Government and others to ensure that serious and continued engagement with civil society and rights holders is not extractive of people's experience but transforms policymaking. Jan is better placed to talk about the actual structures, our engagement and where the pinch points are.

Jan Savage: Yes, absolutely. The SNAP 2 action plan is independent of the commission. It is owned by the SNAP 2 leadership panel, which is

facilitated by the Government and others. As part of the evidence base that we looked to in the development of the commission's strategic plan, we—of course—looked at the priorities that had been identified by the SNAP 2 leadership panel. Among other evidence, that informed some of the emergence of strategic priority focus areas for the commission. As we have emerged, the focus on places of detention, ESC rights, progress towards the ending of deinstitutionalisation and the cultural rights of the Gypsy/Traveller community, which is part of our on-going spotlight programme, are all priority areas that have been identified within the SNAP 2 list of 50-odd actions and priorities that had been identified at that time.

We have had engagement with the officials leading on SNAP 2, as with the leadership panel. Our hope and intention is that, this year, the commission can go in and present not only our findings on a contemporary assessment of the status of rights in each of those four areas, because we have that evidence now, but also the monitoring tools and the frameworks that we have developed, which have not been developed before in Scotland. Now, we want the Scottish Government and other duty bearers to take them forward and apply them.

We quite often get asked what a human rights-based approach looks like. Here is a framework that shows you; here are the things that should be in place; here are the questions that you should be asking to demonstrate progress; here is how you do on-going monitoring of that. Our offer into that programme is that we have now provided specific frameworks aligned to each of those groups of rights and potential rights violations that should demonstrate a human rights-based approach across policy areas and across directorates within the civil service and across cabinet. That should promote action and provides us all with a shared baseline to monitor improvements in the future.

Maggie Chapman: The opportunity for reciprocity is quite exciting—not overlapping, but using each other to the benefit of citizens in those targeted groups across Scotland. I will leave it there, thank you.

Marie McNair (Clydebank and Milngavie) (SNP): Good morning. You are aware that Parliament recently agreed a moratorium on new commissions and a root-and-branch review of existing commissions. What are your thoughts on that position? I will go to Jan Savage first, because she is nodding her head.

Jan Savage: In 2023, in the annual report cycle that we are considering, the commission published a crossroads report that looked at the emerging trend around the progression of asks for new public bodies to uphold human rights of different groups of people through new commissions and

commissioners. First, we considered that from the perspective of rights holders. We asked what is going on and why people feel so frustrated around access to justice that they feel that that is the only route through this. We encouraged Parliament to take a more strategic look at that emerging landscape, and we are pleased with the committee inquiry and the subsequent strategic look at the landscape.

It seems sensible to us to have a moratorium to enable a deeper look at making better use of the existing commissioner landscape at this moment in time. Does that remove the challenges experienced by individuals—disabled people, women, older people or people experiencing food insecurity—around access to justice? No, it does not. What is important now is that the next phase of the inquiry proceeds at pace and that the commission is open to conversations about how stronger partnership working across the existing office-holder landscape can, ultimately, secure better outcomes for people.

We are mindful of the fact that a moratorium will delay development and access to justice for individuals, whether that is through new public bodies or an expansion of powers for organisations such as the commission. However, as long as the timeline progresses quickly and Parliament is prepared to take action as a result of the forthcoming inquiry, it has the potential to deliver better outcomes for human rights in Scotland.

Marie McNair: Thank you. That is helpful to the committee. Professor O'Hagan, do you have anything further to add?

Professor O'Hagan: Yes, thank you. Jan Savage is absolutely right about the commission's role in, to some degree, setting an agenda. For a number of years, the commission has discussed the questions that we are discussing today around powers and mandate, which has maybe contributed to and also aligned with the Parliament's interest in the area.

At times, some of the language is unhelpful. Talking about proliferation and a root-and-branch review suggests a negative starting point, whereas we are absolutely open to new opportunities for more effective shared services and more streamlined management functions in the requirements of reporting, audit and so on, as required by the Parliament and the SPCB.

We should also be mindful of the fact that the Parliament created these structures in response to either different legislation or legislative and structural opportunities, so the structures have been varied—we are not all the same. The Scottish Human Rights Commission is a commission with a chair and commissioners,

which is a very different structure from the Children and Young People's Commissioner Scotland, which again is a different structure from the Scottish Biometrics Commissioner and so on. It is important that, in analysing the functions, efficacy and impact of these organisations, we recognise that their structures, their mandates and the limitations of those mandates are significantly different.

The final point that I want to make is about the language of the committee in its report that has led to the inquiry committee. Talk of a root-and-branch review suggests that it is coming from a place of concern about conduct. For us, root and branch means human rights: human rights are rooted in the realities of people's lives and the branches are in all the aspects of our lives that we have touched on today, including violence, transport, healthcare and social care. Those are all branches of our lives. For us, a root-and-branch review that takes a human rights-based approach would be welcome in ensuring that the branches are the delivery through the duty bearers. Through that lens, it is about how emerging from this inquiry and the conversation around root-and-branch issues helps the Parliament to think about itself as a guarantor of rights, how it helps duty bearers to think about what they need to do and how it helps the Parliament to think about what it needs from independent institutions such as an NHRI to support the delivery and security of those rights through Parliament.

Marie McNair: Those are helpful comments that the committee will take away.

Going back to the discussion about powers, in your earlier responses to Maggie Chapman it sounded as though the commission is seeking further powers. Is that the case? You spoke about having limited resources as well. Do you feel that you are adequately resourced to fulfil your duties?

Professor O'Hagan: I will start on powers and will let Jan Savage talk about resources.

As we have articulated this morning and as we set out in the crossroads report, there has been an on-going conversation about what is required of an NHRI in relation to our mandate as compliant with the Paris principles for NHRIs and our accreditation as an A-status organisation. Do we have the powers and are they useable? The long-running conversation about the commission's powers is about the extent to which they are useable in their current form and the limitations on securing rights realisation without the power to offer advice to an individual to take legal action in their own name. That restricts the conversion from a conversation about rights to rights realisation and impactful and lasting change.

The commission has navigated carefully within the discussion, and we have been, and are, respectful and appreciative of those who are making, and have made, calls for additional commissions or commissioners. Our response has always been that those calls come from a place of need and evidence where rights are not being recognised, so we need a systemic response to those systemic violations of rights. Some of that can be addressed by having a national human rights commission that has the capacity and potency to realise those rights in the way that the UN and other systems would expect.

I will leave the matter of resources for Jan Savage to talk about.

Jan Savage: Resource-wise, the commission is a small public body and our headcount is 15. From inception until 2023-24, we had a relatively static budget. Over 2023-24, we saw a slight increase in our non-salary overhead budget, which was deliberately to enable us to deliver more of the work that we have discussed today. That requires getting out of Edinburgh, going into communities, travelling, meeting with people, publishing our findings, considering accessible versions of those—easy-read versions and British Sign Language versions—and all that stuff. It costs a wee bit more to deliver all of that, so that increase has been there.

This year, we will see a further increase as a result of two adjustments. One is the negotiated settlement with the Scottish Government around the new powers that we have as a result of the UNCRC act, which gives us increased powers of strategic litigation through intervention and, for the first time, the potential for own-name litigation powers related to the UNCRC act in particular. We have a lot of work there, and, because this is new and untested, we have agreed that we will recruit on a two-year, temporary basis to allow Parliament, the commission and the Government to assess the impact of those powers. We need to work through how we deliver that and how we work in partnership with the children's commissioner on those areas. So, there will be an increase there.

The second increase will also be temporary. It is the investment that SPCB has agreed with us to allow us to have a look at our skillset structures, to enable the commission to move towards better decision making around the use of its existing mandate on accountability.

11:15

You will not see—we have never seen—in the commission's core budget the costs of legal proceedings or the costs of running an inquiry. That is a deliberate decision, given that it is

difficult to predict those costs. It would be quite counterintuitive to say that we think we will be sufficiently concerned about an issue next year that we will want to run an inquiry or that we will want to take something to court. It would not be right for us to budget and to target on that basis—to say that we want to be in court twice a year and we know that it will cost us. It does not work that way. Parliament will need to consider how to resource that through the CRC process negotiations, and we hope that the committee inquiry will consider that, because it will be applicable across multiple office-holders.

Should the commission get to that tipping point, because of the evidence that comes through its spotlight monitoring, and should we think that there are grounds for an inquiry or that we would like to progress with strategic litigation or own-name litigation, we will need to come to Parliament with a contingency bid on that basis. That is a new way of working relationally with the budgeting process of the commission and the SPCB, and it is something for the new committee's inquiry to consider. We certainly do not build our core budget on that basis.

In theory, you could say that we are not resourced to deliver, but that is deliberate. It is something that we will need to get to grips with between the SPCB, the office-holder landscape committee and the evidence base, because it is largely untested.

Marie McNair: Thanks. That information was helpful.

Paul O'Kane (West Scotland) (Lab): Good morning. I want to follow up on the commissioner piece that we have been discussing. The committee will seek to influence colleagues and help to shape some of what is looked at within that, and it is important that we give the various stakeholders the opportunity to do that. My sense, from the discussion, is that we want to take a broader look beyond the mechanics of commissioners and the financial implications. Angela O'Hagan's points about the root-and-branch approach are important.

We have heard—because we have a duty to consider commissioners' proposals, which often come before us—that access to justice is missing. We have touched on that already today. Do you want to see your piece of work on access to justice for everyone form the basis of conversations and recommendations within that wider piece of work? Do you want to highlight, on the record, anything specific in that at this stage?

Jan Savage: Absolutely. Going back to the commission's evidence base in the 2023 crossroads paper, our assessment at that time was that the driving force behind many of the calls

was, exactly as you have outlined, the need for access to justice. Advocacy elements are separate. The commission wants to focus on how, as a body—as an organisation—it can be developed so that it has those powers and potentially resources to better deliver access to justice for everyone. For example, the commission would, as a minimum, look at removing the restrictions on its providing advice to individuals, which we are prevented from doing by our current legislation. We would not seek to provide advice to everybody in Scotland, but it would be helpful for us to have that restriction removed when an individual has approached us with an issue that is sufficiently egregious to be tested through the courts.

We would like the power to raise own-name litigation in respect of human rights cases. That builds on the incorporation project that has been started under the UNCRC act. We need to keep an eye on that as it progresses, but that would be useful for everyone. We also potentially want to have powers of investigation, to give the likes of our spotlight work a more statutory footing, and, as part of the development of that work, to be able to compel evidence and information from duty bearers and public bodies. We cannot do that currently. We can ask, and we can go on the information that is available to us publicly, but it would often be helpful if we were able to compel the information that we need, and we currently cannot do that. Those amendments to our legislation would enable the development or the evolution of a human rights commission that could deliver greater access to justice for everyone, including all the groups that have called for new public bodies.

The commission could potentially do more in respect of representation and its membership. Currently, our legislation restricts membership of the commission to four part-time members plus a chair. That is quite a small number of individuals to enable the commission to have a rounded perspective and to enable the principles of pluralism that are enshrined in the Paris principles, which guide the development and the structure of NHRIs. That number is set by international bodies such as the UN, and we have no power to change that currently, so we would appreciate that. That might give us the opportunity, depending on how the commission would wish to deploy those powers and how Parliament would wish to consider the recruitment, to bring in more diversity of experience and ensure the visibility of different groups and different experiences informing the work of the commission.

The principles of access to justice, visibility and representation absolutely could be a greater focus of the existing committee's inquiry, with a view to

informing the development and evolution of a human rights commission that can do more.

The final part of that would be monitoring work. As Angela O'Hagan and I have outlined, our resources are small—we have a team of 15, some of whom work in non-expert roles, and the number of people who do the monitoring in the field is even smaller. Our legal and policy team has eight folk. We want the commission to do more regular monitoring of specific human rights treaties, like the Convention on the Rights of Persons with Disabilities, the Convention on the Elimination of All Forms of Discrimination Against Women and the International Convention on the Elimination of All Forms of Racial Discrimination. We could do that work, but we need to build a stronger and larger monitoring team that, ideally, would be able to get out of Edinburgh more and into communities to provide stronger evidence. We absolutely could do that work already—it does not require legislative change—but we would require the resources to enable us to do it.

The two different routes through this are legislative change and more powers, with a strengthening of the monitoring role of the commission. However, an increased monitoring capacity without those enhanced powers to shift the dial and move things forward is not necessarily what we would advocate for.

Paul O'Kane: That is helpful to the committee in thinking about how we engage. I am grateful.

Pam Gosal (West Scotland) (Con): Good morning. Thank you for your opening statements and for all the information that you have provided so far.

I want to move on from my colleague Paul O'Kane's questions. The state of the nation report provides an assessment of how civil and political rights are met in Scotland. In fact, the commission found that human rights failings occur across Scotland, specifically in places of detention and across rural communities. Extensive barriers were also reported in justice, which you have mentioned—you have talked about the monitoring. How has that report been received? What feeling do you get that the Scottish Government and public authorities are going to address those failings? You have mentioned the monitoring, but will they address those failings?

Professor O'Hagan: Thank you. I hope that, in the first instance, you all find the state of the nation report useful and a helpful summary of some of the more pressing areas of civil and political rights failures.

It is the first time that the commission has produced a report of that kind, framed as the state of the nation. The civil and political rights focus follows on from our access to justice focus and the

evidence from our places of detention report "Review, recommend, repeat". In the parliamentary debate on 10 December on international Human Rights Day, we saw, for the first time in a while, an increase in references to the commission's evidence and position. We would encourage the committee to think about framing an annual Human Rights Day debate around the state of the nation on particular rights. Our state of the nation report this December will be on economic, social and cultural rights, given that we submitted our evidence to the Committee on Economic, Social and Cultural Rights yesterday and we will give evidence in Geneva in February. Our spotlight work on economic, social and cultural rights will continue throughout the year and across the country.

We have engaged with the First Minister and a number of cabinet secretaries on the findings presented in the state of the nation report and on places of detention, and we will be engaging on deinstitutionalisation and coming home. The recommendations are clear and set out the required responses, as Jan Savage has said several times, so they also provide a basis for scrutiny by parliamentary committees of the actions that are being taken by the Scottish Government and by duty bearers.

That role of Parliament and parliamentary committees flows from what we hope to have further conversations with this committee and others about in relation to the Belgrade principles of how parliaments should engage with NHRIs and with their recommendations. The principles require parliaments to engage with the recommendations made by NHRIs and address the actions that governments and parliaments are taking to respond to those recommendations. We are fulfilling our duty in enabling greater accountability of, and scrutiny by, Parliament by providing you with this information through the state of the nation report and the spotlight reports.

I do not know whether Jan Savage wants to add anything.

Jan Savage: Thank you very much for the question and for raising the state of the nation report with us. It is the first time that the commission has produced such a report, and it was one of the first commitments in the new strategic plan, as part of the shift in accountability, to provide an annual report to Parliament on the state of a particular group of human rights. This time, the focus was on civil and political rights.

The feedback that we have had and the reception of the report so far by MSPs have been positive, as was indicated by its consideration in the chamber. However, we are interested in exploring with the committee and with the Presiding Officer how we can fulfil our duty as an

NHRI—as the Human Rights Commission and a part of the parliamentary system—to make that a regular part of our business. It gives some direction and a framework for the annual debate that goes beyond thematic priorities and the theory of human rights to what is really happening in people's lives. It also provides an opportunity for the Scottish Government to give a transparent response on an annual basis. We would be grateful if we could consider how to continue those conversations.

Other work is on-going as part of the programme of work that the Scottish Government has now committed to instead of a human rights bill, including work on a human rights tracking tool. The commission continues to engage in those conversations to consider, in the longer term, the evidence base that will inform the continued development of the state of the nation model. It was our first time, and we will continue to evolve it. We would appreciate your feedback as a committee and as committee members, because you are the audience—it is for you—and we would be grateful to be able to explore how it can become part of a shared platform of work.

Pam Gosal: Thank you. Angela O'Hagan, you said that you spoke to the First Minister. You may not want to divulge what was said, but were your recommendations and your considerations well received? As you say, it is good that there was a debate on the report, but was it received well?

Professor O'Hagan: We met with the First Minister ahead of the publication of both the Highlands and Islands report and the state of the nation report. That was very much part of me, in my new role as the new chair, and the new First Minister resetting relationships at a political level, recognising that it had been some time since the head of the Government had met with the head of the NHRI. Following that meeting, as I mentioned in my opening statement, we wrote to the First Minister—we copied that letter to you—setting out much of what has formed the content of this morning's conversation on actions in the non-legislative space. Many recommendations are coming forward for the time remaining in the current parliamentary session, and we could see action from committees and from the Government across the range of rights that we have been spotlighting.

We were well received. We have reset that relationship and look forward to biannual meetings with the First Minister and more regular meetings with the Minister for Equalities and the relevant cabinet secretaries. Since coming into my role, I have met with the cabinet secretary for justice—I did so just the other day, on our places of detention report—and with Shona Robison, through the equalities and human rights budget

advisory group work that we do. We have also had two meetings—I think—with Shirley-Anne Somerville on the human rights bill, the tracker tool and other work in what the Scottish Government is terming the pre-implementation phase.

11:30

Across all those meetings, we have been pointing out what it is possible to do in the non-legislative space, whether in relation to our efficacy and powers, which we have discussed this morning, or the many recommendations on places of detention, or in relation to the legislative deliberations around, for example, legal aid and legal aid reform. We are having the same conversations with the Government as we are having with you today.

Pam Gosal: Thank you. I have a supplementary, and then I will ask one more question.

Even to this day, women are still at a disadvantage compared with men, and that is especially true of women in custody. Two years ago, a male double rapist was briefly put into a women's prison simply because he had claimed that he was a woman. That put many vulnerable women at risk. Do you recognise the importance of single-sex spaces and services, especially when it comes to vulnerable women such as women in custody or in rape crisis centres?

Professor O'Hagan: Yes, we absolutely recognise the importance of ensuring that the rights of all individuals are upheld and protected, whatever the space. The principles of universality and non-discrimination must apply in any context in which an organisation sets its operational policies.

The commission has had conversations—this predates my time as chair—with the Scottish Prison Service and others with a view to ensuring that their policies are compliant with the Council of Europe guidance and other guidance and that the rights of anyone in a vulnerable situation are upheld. In our work across access to justice, we have successfully spotlighted the fact that, whether we are talking about children, people with learning disabilities, women, women in prisons or, indeed, transgender prisoners, a universal and non-discriminatory approach must be taken that does not roll back on the rights of all.

Pam Gosal: You will be happy to hear that this is my last question. What more can MSPs do to ensure that the Parliament is effective as a human rights guarantor? Earlier, you mentioned some of the monitoring stuff that you want to do. Would there be any benefit in your doing further work with members and committees? What planning should

be in place to prepare for the next parliamentary session?

Professor O'Hagan: We could have a whole session on that. We have a big, long list, which I will try to cut through.

Leadership—both of this committee and of members of Parliament individually and collectively—is essential. Human rights are not an add-on. People have to have a human rights frame of mind when it comes to how legislation is made and how public bodies, as duty bearers, are scrutinised. Human rights are not marginal to the shared ambition of this Parliament, which is about the conditions and wellbeing of people who live in this country. Taking a human rights-based approach should enable parliamentarians to avoid trade-offs and to avoid thinking about winners and losers. When a human rights-based approach is taken that puts basic rights to dignity, autonomy and respect for individuals front and centre, there should be no losers.

In order to achieve those fundamentals through the legislative process, some practical activity needs to be undertaken to build the knowledge base of parliamentarians, researchers and staff, and to build their confidence in, and make them more comfortable about, not just using the language but conceptually applying human rights when they think about everyday settings. That will mean that they are also better equipped to carry out more effective legislative scrutiny and more effective scrutiny of and engagement on the budget at all stages.

As I have said, Parliament has an opportunity to lead the public conversation on human rights. As part of that, members need to be prepared to challenge one another more in the parliamentary space and to ask for human rights analyses and assessments of legislative and budgetary proposals. They also need to challenge one another on the extent to which human rights have been considered.

That process will also involve engaging with a wider range of rights holders and perspectives and experiences in committee sessions. We would welcome an opportunity to discuss directly with the committee and other committees actions that they might consider for any legacy reports. A number of the points that we have made today point to what could be the business and priorities of Parliament in the next parliamentary session.

As we have indicated previously to the clerking team, we would also be happy and willing to discuss and support some of that knowledge and capacity building with this committee and with future committees. That could include taking a refreshed look at what the Belgrade principles mean, at the extent to which Parliament is

currently carrying out its function as intended under those international principles and at where there is room for development in the next parliamentary session.

However, between now and then, members have a lot of proposed legislation in front of them, and I encourage them always to scrutinise that from a human rights perspective.

Pam Gosal: I would like to ask one more question. You mentioned the rights of women, the rights of people with a disability and the rights of people from black, Asian and minority ethnic communities. The committee has heard evidence that it is sometimes challenging to reach out to and engage with certain communities, especially ethnic minority communities. Have you had any problems in that regard? You said that you did some work in that area. What gaps did you notice? What more can we—or you—do to reach out to those communities?

As someone who comes from a BAME background, I know that there are certain things that I would find it difficult to do—whether in a job or anything else—not only as a woman, but as a member of an ethnic minority living in a different culture. There are some things that you would probably take for granted that you do every day, but which I would find difficult because of the cultural aspect surrounding that. Could you shed a bit of light on that?

Professor O'Hagan: Again, we could have a whole other session on that. Our participation strategy formalises our approach. As I said at the beginning, that involves recognising the human who is standing beside you. That includes recognising difference, including difference of experience, and not making assumptions about people's knowledge base or their experience. The same level of information needs to be provided, and there needs to be the same level of engagement. It is a case of ensuring that, collectively, we speak to the public in a way that makes people feel valued and that their opinions and experiences matter and that they are not just extractive bits of evidence but are about trying to make a difference to people's lives.

There are various procedural elements that support the process of ensuring diversity and ensuring that a range of evidence is taken and that a range of individuals come before not just this committee but committees across Parliament. How accessible is Parliament? How well resourced is it? We know that the education and participation support from Parliament is not terribly well resourced.

As I said a moment ago, there also needs to be a collective vision and a collective conversation about why human rights matter and about the fact

that human rights are everyone's rights and that it is okay to talk about rights. I certainly grew up in a culture in which you were seen as bold and an upstart to talk about rights, which were seen as an importation of other ideals, but rights are about our everyday lives. They are about the conditions that we want to live in and those that we want our loved ones, our families and our neighbours to live in—we want them to live without discrimination, without a lack of dignity and with real autonomy in their lives. Who does not want that?

That is the conversation that we need to have, and it is from that mindset that your procedures and processes will flow, whether those are to do with who is talked to, in what way, what information is provided, how accessible the environment is, how often this committee or other committees leave the parliamentary environment and go to where people are, and to what extent the Parliament expects people to come here.

Coming here is a big challenge for many people. I say that as someone who recently tried to organise—I did this with the Scottish Women's Budget Group and the Glasgow Disability Alliance, separately from my role at the commission—as part of the women's economic empowerment project, a visit to the Parliament by a group of disabled women. It proved quite a challenging endeavour to bring a small group of disabled women to the Parliament. Although we have a lot of collective ambition, we have a lot of collective action to take in that area.

Pam Gosal: Jan, do you have anything to add?

Jan Savage: On the more specific issue of the commission's approach to engaging with communities, in the past year the commission engaged in the monitoring cycle on the International Convention on the Elimination of All Forms of Racial Discrimination. As far as we are aware, it was the first time—certainly in the recent past—that the commission had engaged in that treaty monitoring cycle. That presented us with challenges in ensuring that we were informed by people's experiences, in line with our strategy. Our approach was to work in partnership with civil society networks as best we could, so that we could reach people directly and hear from them in that way.

We learn as we go. As a commission, we realised that we did not have the connections and the profile with those communities because it was the first time that we had engaged in that work. I wanted to mention the fact that we are aware that there is a gap there, and we are working through that.

My final reflection in respect of the commission is about representation. Perhaps the committee could feed that issue through into the SPCB

network when it comes to recruitment of members of the commission to ensure that that is front and centre when consideration is given to the size and scale of the commission, now or in the future, when we might look to have broader representation through a greater number of commissioners.

The Convener: We have a question from Tess White.

Tess White: I have a question and a follow-up, convener. The committee will be considering the Scottish budget in February. Do you have any comment to make on the Scottish Government's approach to human rights budgeting and on the scrutiny of the budget by parliamentary committees?

Professor O'Hagan: We do, indeed. You mentioned Dr Alison Hosie and her evidence earlier. Ali Hosie is our research officer and has been one of the leads on this piece of work, along with myself in my capacity as the independent convener of the equality and human rights budget advisory group—EHRBAG—prior to taking up this role.

A human rights-based approach to resource allocation and revenue raising has been an area of focus for us at the commission for a number of years. That is the golden thread that joins the dots between policy and political ambitions and how they are resourced. Are they being resourced in a way that respects, protects and fulfils human rights, and is the resource that is being made available ensuring that those ambitions and obligations are met?

When it comes to scrutinising the draft budget, as well as during the pre-budget stage over the summer, committees and individual parliamentarians are engaged in considering whether the budget has been formulated from a perspective that is concerned with rights realisation and the guarantee of access to rights. Are resources being raised in such a way that they are compatible with human rights? That means maximising available resources for the progressive realisation of rights.

I can see Tess White nodding away. You have heard that phrase before. I used to say that I wanted it printed on a T-shirt, which I would wear all the time. It is about raising resources for a purpose, and that purpose is the shared vision of Parliament with regard to the conditions in which people live their lives.

Over two budget cycles, we have engaged with the Scottish Government on the open budget survey. We have certainly seen progress made on some of the procedural and documentary elements of the budget process, but there is still a

way to go on transparency, particularly around changes to in-year spend.

11:45

The draft budget will be scrutinised as it comes through Parliament. Again, I say this as a former member of the budget process review group that introduced the pre-budget scrutiny step in the budget process. The intention was for Parliament to look back and forward. What commitments have been agreed to in the life cycle of the Parliament? Are those outcomes being realised? If so, is the way in which those are being realised protecting, respecting and fulfilling those rights, or does the funding pot or the policy objectives and intentions need readjusting from a human rights perspective to inform the next cycle of the budget round?

Parliament can be engaged in that in a number of ways. That is also about the questions back to, and the scrutiny of, Government on how the process of budget formulation has been arrived at; the extent to which analysis goes on within directorates and the quality of that analysis; and the level of comfort in individual directorates—that is, how satisfied senior managers in directorates are and how satisfied ministers and cabinet secretaries are with the human rights analysis that has informed particular budget decisions. Parliament has a role to play in providing greater scrutiny in that regard.

Tess White: I am nodding my head because, for three decades before I became an MSP, my role was to look at spend and whether it was delivering the intended outcomes.

It seems as though we go into this budgeting round with an intersectional disconnect. Again, I will quote Dr Hosie. She said in her evidence session to us that the Scottish Government's approach to massive in-year spending cuts

"was not a very satisfactory process, and it was not transparent."—[*Official Report, Equalities, Human Rights and Civil Justice Committee*, 29 October 2024; c 40.]

Our committee has been looking at a number of issues. We know that a huge percentage of women with learning needs—90 per cent—have been sexually assaulted. We know that inoculation centres are centralised in rural areas, so we are not surprised that our hospitals are facing a huge issue with flu because people cannot get their jabs. We have mentioned the GP contract for maternity services, and Professor O'Hagan mentioned women giving birth by the side of the road. I have two more examples. We are aware that an increasing number of over-50s with hypothermia are presenting themselves in hospitals. Finally, there has not been a single conviction for female genital mutilation.

I appreciate that you are new to the role—thank you for this helpful session today—but what can we, as a committee, and the Scottish Government do more of to ensure that a human rights perspective is applied to, and overlayed on to, the budgeting process, given that that does not happen right now?

Professor O'Hagan: I completely agree with Dr Ali Hosie's comments. There are more of them. Yesterday, we published the third in a series of blogs from Ali and from the commission, looking at what we think are deficiencies in the allocations and in the process that informs those allocations. There is poor use of evidence and decision making. The starting point needs to be to ask what currently happens. What is the need? What interventions are necessary and therefore what resources are needed? Sometimes, the starting point is the other way round, with consideration being given to what resources are available or what resources can be cut.

For a number of years, Audit Scotland has been clear that it is imperative that, in areas where spending is being reduced or withdrawn, the implications of that are properly identified—that is, how will individuals be affected and what will the cost effects of that be on other areas of services and public resources?

I think that Ali Hosie was referring to the emergency budget cuts when she last gave evidence. Our position at the commission was that we felt that there had been limited human rights and equalities analysis of those cuts, which resulted in, for example, the withdrawal of the pilot on asylum seeker transport. We are engaged with the Scottish Government on that point to try to better understand why that policy was announced and then immediately reversed. We need to know what thought process went into that. I know that officials have been working hard on that for a long time, but we need greater scrutiny by committees—and greater demands from committee scrutiny—on the decision-making process and the analytical process that lead to decisions that ministers come to Parliament with. The process side needs to improve. How much time are officials given in which to do robust analysis? What data is available to them? How is it used to ensure robust analysis? What evidence are they using?

You rightly ask us what our evidence is for our outcomes, how we measure our success and how we inform our priorities. Those same questions need to consistently be asked of the processes around resource generation and resource allocation in relation to budgetary decisions. How effectively do those decisions support the intended outcomes? Are those outcomes being achieved? If not, why not? Is it a question of insufficiency of

resource or of inappropriate or unsuccessful policy efforts? What is the analysis of the implementation of policy, and how is it evaluated? Are policy objectives evaluated in terms of the extent to which they secure the realisation of rights? If not, is that about the policy design or about an insufficiency of resources? That takes us back to the obligation on all state parties to ensure that resources are maximised in such a way that they secure the progressive realisation of rights.

Tess White: Is it too late to do that now? We are late in the process. You met Shona Robison. Will we see a human rights overlay on the budgeting process?

Professor O'Hagan: At this stage, committees and the Parliament have to demand it. We have made our position clear. We have been working to support the improvement of the process through EHRBAG. If it does not happen now, it will be a significant disappointment.

In 20 years of trying to support that process, I have got quite used to being disappointed when it comes to budget matters, but there is an opportunity here and you should never say never. It has been a long process of education and awareness raising involving people quite simply getting their heads round the relationship between human rights and public finance. However, we see it as an obvious and immediate relationship.

If it does not happen this time round, there is the opportunity to challenge. At the moment, one more budget remains in this parliamentary cycle. There is a body of evidence to tell Parliament how to do it better and how to get it right in the future, whether that comes from the open budget survey work that we have done or from all the human rights budgeting analysis and guidance that we have produced over the years.

Tess White: The jury is out and it is not happening, but you have hope.

Professor O'Hagan: We must have hope.

The Convener: We have had a full and detailed session. It has been extremely informative, and I am grateful for that. I want to finish with one last question. We have spoken a lot about resources. On that topic—I will ask it straight out—do you have enough resource and staffing to fulfil your duties, particularly in the light of your new powers under the UNCRC act?

Professor O'Hagan: Do we have enough? How much is ever enough? We do what we can with the resource that we have. We have indicated where we need more and where we need different powers and different resource to be able to use those powers more effectively.

We are aware of the climate at the moment, not just in terms of public finance but with the inquiry

committee. Parliament and the inquiry committee are focused on how public resources are currently used. For 28p per head of population, we are extremely good value at the commission, but whether that resource is enough and whether that is what Parliament thinks is enough to see rights realised in Scotland is also a question for you.

I am sure that Jan Savage has more detail on that.

Jan Savage: Yes. The commission's priority is to make the best use of the resource that we have and to maximise the impact of our small budget, which was £1.3 million in the year that the annual report covers. With the adjustments that we have described, that takes us up to slightly more than that.

The commission could always do more within its existing mandate, whether that is more education or awareness raising. We are mindful that an impact of our priority on accountability is that we do not have the capacity to go out and deliver a proactive education programme on human rights. How can we better ensure, and how can we be satisfied, that those who make decisions on and are signing off budgets have the skills to apply, and are applying, a human rights-based approach to their budgetary decisions? That is a programme of work, and, as such, it would require planning and resourcing.

The commission could always deliver a lot more. Our job just now is to maximise what we currently have.

We have additional resource coming in to service the UNCRC requirements, and we will establish over the next two years whether that is sufficient. With the support of the SPCB, through that contingency funding, we will look at our structure and operation. The outcome of that will be taking the current mandate and the strategic plan and doing a horizon scan of what else we could do, so that we have a costed model of what servicing the existing mandate of the commission could look like. We will always need to prioritise, and those priorities must be guided by our strategic plan. That is the process that we will go through. We have undertaken quite a significant exercise in which we have looked at the requirements for the potential expansion of the commission's mandate in that costed model, and we have figures associated with that.

I have explored before the value of the commission getting out of Edinburgh and going up to the 20 communities in the Highlands and Islands, and we are going back again in February and March. It would be wonderful to do a lot more of that. Communities, duty bearers and people living in those communities would value that, but it would require resourcing.

There is never enough resource. We can—absolutely—do more, and we are live to those conversations, but what we do will go through an evidence-based process.

We are about to be re-accredited by the UN as an A-status human rights institution. That status gives us the latitude to report independently without fear or favour to the UN and the Council of Europe on the status of human rights enjoyment in Scotland. The more that we can do to have a robust evidence base that is informed by people's lived experiences, the better. We will always be clear that, with that mechanism, additional resource would be welcome. It might well be that that recommendation comes out of the re-accreditation process. We will continue to keep the committee informed of that.

The Convener: That is great. Thank you both very much. That concludes our formal business. We will go into private session to discuss the final items on our agenda.

11:57

Meeting continued in private until 12:43.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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